

as rapid improvement in the outer formations and echelons: the pack of cards is there and contains all the tricks; all that is needed is to build it up into appropriate suites and play the cards discerningly. I believe it can be done not only at the Centre but all over the administrative field; and the broad masses of Indian humanity who have just woken up to a dawn after a long, wearisome, oppressive night and would be the direct beneficiaries of such a transformation, deserve no less."

We can count on some invaluable blessings on our side. The immense patience and goodwill of the Indian people and their resources of the spirit are one such important asset. The fundamental unity that binds the country together, despite many surface cracks and distempers is another invaluable resource. India's cultural tradition and its ancient virtues of piety and mutual tolerance are a bulwark and a safeguard against the doctrines of horror and terrorization.

Here are all the elements which can furnish good government to a seventh path of the human race and could turn the greatest challenge of human history into the greatest opportunity for Indian statesmanship. If only we will!

5

IN DEFENCE OF BUREAUCRACY AND AN AGENDA FOR REFORMS

L.M. SINGHVI

ON this day we should perhaps recall with thanks giving the past forty years in the life of IIPA but should also reflect on the next forty years, and that reminds me of the famous song of Harow, which is called "Forty Years on", a song which I believe was sung together once Pandit Jawaharlal Nehru and Sir Winston Churchill in a spirit of loyalty to their common almatater. The refrain of that brave song is, "Follow up! Follow up! Follow up" That refrain also carries a poetic signal to our bureaucracy which ought also to heed the clarion call of the song "for old hopes to be mended with new faiths". I would like to see not only old hopes to be mended with new faiths but old as well as new hopes to be mended with old as well as new faiths. The catch of the song of Hanow is Wafted to us today for this fortieth anniversary occasion from the country where I temporarily reside. I quote a few *lines* from the song in defence of Bureaucracy, even though I do not belong to it, and I am sure you will not fail to read between the lines of the song also:

*"Routs and discomfitures, rushes and rallies,
Bases attempted, and rescued and won,
Strife without anger, and art without malice,
How will it seem to you, forty years on?
Then, you will say, not a feverish minute*

Lecture delivered on 29 March 1995

Strained the weak heart and the wavering knee,
 Never the battle raged hottest, but in it,
 Neither the last nor the faintest, were we :
Follow up ! Follow up ! Follow up !"

Let me now revert to forty years ago when the Institute was founded. The transfer of Power had taken place eight years earlier. Accession of Princely States and their integration had been achieved under the leadership of Sardar Patel. We had already enacted, proclaimed and given unto ourselves a great Constitution which was meant to be the witness of our tryst with destiny as envisioned by Pandit Jawaharlal Nehru and which contained a model blueprint for our parliamentary system of governance, rule of law and a responsible and responsive public administration. We had already held the first general elections based on universal adult franchise and we had begun a serious engagement with the problems of administration. We were in the process of a serious reconsideration of the reorganization of States on a linguistic basis. We were about to flag off the ascent of the State to the commanding heights of our economy. It was in the setting that IIPA was established to give institutional expression to the need for intellectually purposeful national introspection.

One of the greatest achievements of India after the transfer of power, in my opinion, was to establish a fair and secure equation for the place of bureaucracy in the scheme. It is to the statesmanship of Pandit Jawaharlal Nehru and Sardar Vallabhbhai Patel that we owe the easy and somewhat routine transitional normalization of the relationship between the new political executive and the services more or less on the model and pattern of the British system of parliamentary government and civil service administration. The contradictions in the Indian Public mind which often manifested themselves in a love-hate relationship with the bureaucracy and the bureaucrats did not suddenly disappear, nor did the colonial attitudes of mind and mores of administration vanish by the magic wand of new dispensation. What happened was that the process of reorientation and readjustment had begun in the right earnest. Meanwhile, there was a revolution of rising expectations, to use Adlai Stevenson's famous phrase. There was also a burgeoning proliferation and profusion of programmes and projects all around.

The civil service was presumed to be capable of doing anything and everything, an illusion which the services did nothing to dispel. The transformation of a colonial administration into a ubiquitous handy man was naturally riddled with many horns and many dilemmas. The tasks were stupendous and the civil services were not quite equipped to cope with those tasks. They managed as best as they could, sometimes heroically whistling in the dark, at other times playing it by the ear and finding their way, and occasionally taking every one for a ride and getting away with it. To begin with, the civil service had its own anxieties and the political leadership had its own apprehensions. As we went along, things began to fall into place with public administration in India alternating between inherited models of British bureaucracy and innumerable modifications brought about by new challenges and by a process of indigenisation both of personnel and of a combination of different contextual determinants and concomitants.

During the forty years from now and even after IIPA celebrates its centenary in the second half of the next century, these contextual determinants and concomitants will, in all probability, continue to be in a state of dynamic flux and might well be a great deal more radical, strange and unanticipated than those we found during the last forty eight years.

The years after our Independence were marked by three broadly chronologically classifiable phases: Firstly, by the transfer of power consequent on the advent of our Independence and promulgation of the Constitution in 1950; Secondly, by the reorganization of States, rise of different political parties, introduction of Panchayati Raj and block development, adoption of the Industrial Policy enabling the State and Public Sector undertakings to attempt to scale the commanding heights of the economy; and lately, lastly and thirdly, the retreat and withdrawal of old-style socialism of nationalization, State of regulation economy and selective State monopoly in the wake of the new phase of liberalization and economic reforms.

I am not a professional futurologist and conjectural quackery is not my favourite (pastime) but I think it is possible to foresee without being a futurologist or a quack that the concepts and structure of power as well as the manner and mode of exercising

power will change considerably during the forthcoming forty years. There will perhaps be less power to exercise and fewer administrators to administer or deal with the citizens. The true shock of the 21st century to the administrators of the 20th century may well be that all the files, paper-work and pen-pushing will quietly disappear one fine morning and the human face and the human hands will be replaced by computerized responses. The thought might entertain the administrator of today but I would not be surprised if the administrators of the mid-twenty first century might be so exasperated by the reality of it, that he or she will quit either along with his colleagues or some of them might protest by smashing and throwing a few computers out of their windows (if there will still be windows in administrative buildings in the mid-twentyfirst century) mainly to show that it is not the computer but the administrator who is the boss. Obviously, by that act of desperation, the administrator, would only have proved the opposite of what he or she might have in his or her mind and the computer lying on the pavement will perhaps have the last laugh. By way of a footnote, I might be permitted to visualize a little red tape bound as an armband by the bureaucrat who will throw the first computer out of the window to signify the return of the good old days!

Before I begin to defend bureaucracy as I promised to do in the caption of my lecture, I should tell you that I do so because I have been a lawyer all my life and I believe in fair trial, I believe that everyone is entitled to a day in court and I believe that no one should go undefended and unheard. Perhaps also because at the moment, by my own volition, I am quite briefless.

Is bureaucracy really on trial? It would take a real full-blown ostrich to answer that question in the negative. The bureaucracy may not think so but the public does. The question then is: does it deserve to be defended? I am sure the bureaucracy thinks so as I do, but, by and large, the public in general does not appear to agree. I do not mind defending an unpopular cause if it deserves to be defended. Judging from the daily trial by press to which bureaucracy is subjected, I know that defending bureaucracy is an unpopular cause and a fair trial would require an exceptionally independent group of member of the public (who are not swayed by prejudice) to sit in judgement. Where would one find anyone who has never

felt wronged or irked by a bureaucrat's bureaucratic attitude? These sporadic individual bureaucratic wrongs rankle and are not easily forgotten or forgiven. But then my brief is not to defend every bureaucrat under the sun. All I am attempting to do is to defend bureaucracy. We must draw a line between bureaucracy as an institution and the individual bureaucrats, and one this is done, the burden of defending the institution of bureaucracy becomes easier to discharge and the public expectation of efficiency and accountability on the part of bureaucrats individually can be more adequately fulfilled.

I do not subscribe to the "Golden Age" utopia of Public Administration and cannot accept the nostalgic panegyrics and glorification of a Golden Age which never was. On the other hand we cannot omit to audit standards of honesty, probity and efficiency critically and constantly. Eternal vigilance is not only the price of liberty but also that of honesty, probity and efficiency. I believe that standards of efficiency do not stand still. They either improve or deteriorate. If they are not improved, they would inevitably deteriorate. What is more, there is always a certain wear and tear in the system which calls for careful repair and refurbishment as well as painstaking maintenance from day to day, situation to situation and from one stage of evolution to another.

A process of enlightened, well-informed and rational reform in public administration is thus necessitated, not merely for the sake of cosmetic window-dressing but for securing greater functional efficiency and recognizing and rewarding real merit, honesty and probity and taking effective measures to curtail, correct, discipline and punish the inept, the dishonest and the self-serving public-servants. Reforms have also to be aimed at accelerating the development for resolving the problems and redressing the grievances of the public in a just and fair manner and for creating a responsible and responsive system of public administration in the hope of maximizing public satisfaction. These I regard as the basic nuts and bolts of the public policy for public administration, but I believe that public administration has to provide two other most vital inputs for sound governance; objective and perceptive analysis and constructive and impartial advice. I do not think that our system of governance puts a high enough premium on objective and

perceptive analysis and constructive and impartial advice as the basis of policy-making or of the reform process. We have had some brilliant strokes of inspired policy-making from time to time but they were more intuitive and individual in their genesis and timing rather than systemic, institutional and professional.

I believe that the system of public administration in India ought to have a sophisticated inbuilt information technology providing a reliable database offering policy indicators and options, analyzing primary field information including the feed back and evaluating primary field information including the feed back and evaluating legislation, administrative methods and institutions and procedures. No doubt we will still need the mature and mellowed wisdom of seasoned politicians, administrators and experts to make the choices, but those choices would be made on a less impressionistic, *ad hoc*, fortuitous and impulsive basis and a more informed, realistic, transparent, substantive and scientific basis.

It is integral to my defence of bureaucracy that making bureaucracy a whipping boy and a scapegoat is a travesty of justice and fairplay and in any case serves no useful purpose. I contend in defence of bureaucracy that we must carry out a thorough reform of the system before we can fault it for every thing that goes wrong. It is also my emphatic view that we must provide the necessary conditions to secure an optimum performance. It is about time, the ultimate masters, the people of India, and the immediate political masters, the Members of Parliament and Ministers realized that a good workman must avoid quarreling with his tools. What he must do is to have the best tools, hone and sharpen them, maintain them in a good shape, and replace them when they are no longer good enough.

Obviously Lord Haldane's dictum that in the sphere of civil government there is a duty of investigation and thought, as preliminary to action holds good today as much as it did when that outstanding lawyer – politician – philosopher was called upon to inquire into and report on the machinery of Government after the first World War. I refer to Lord Haldane's dictum in support of my proposal firstly to underline the importance of the dimension of research and investigation for streamlining decision-making procedure, secondly to highlight the need for systematic and

coordinated modernization of Government's database and of policy-making sub-systems and thirdly, and most importantly, to propose that we need once again a new National Administrative Reforms Commission to look into the entire system of the public administration in our country afresh. The last Administrative Reforms Commission under the chairmanship of Shri Morarji Desai and Shri Hanumanthaiyya successively did a great deal of very useful work but its reports and recommendations are now dated and have passed into the limbo of official oblivion and its work which was of great value has been overtaken by events. In my opinion the country also needs a Parliamentary Reforms Commission. We should begin to explore the feasibility of two commissions – one on parliamentary reforms and the other on administrative reforms or of a single commission covering both areas. I am glad I have the ear of the Home Minister today and I hope this suggestion will receive his consideration.

Another suggestion I would like to make is that a rational restatement and codification of administrative procedure should be attempted in the form of an Indian Administrative Procedure Code on the analogy of our Indian Criminal Procedure Code and Indian Civil Procedure Code. The idea of these Codes has stood the test of time and I think an Indian Administrative Procedure Code will be a useful body of norms and a source of reference for citizens as well as administrators. Such a code will establish greater transparency, a larger measure of uniformity and consistency, and clearer accountability.

In this respect we would find a useful model for our consideration in the Code of Administrative Procedure in the United States of America. Our Code would of course have to be a comprehensive manual of Indian Standards and procedures and a restatement of Indian judicial decisions on different aspects of administrative hearings and decision-making.

During the last forty five years, there has been an endless explosion of Administrative Law in India, which is a dimension of rule of law in its protection of individual rights vis-à-vis the authority of the State. In India we have also developed a most elaborate version of the law of master and servant called Service Law which grew out of the constitutional limitation of the pleasure doctrine

and the countless rules and regulations governing conditions of employment. Equally noteworthy is the jurisprudence developed by different administrative and specialized tribunals which provide an added though distinct tier of judicial administration. The recruitment, training and appellate evaluation and monitoring should be regarded as an important part of our justice system.

A closer review of delegated legislation should be regarded as an area of high priority. I know from personal experience as a Member of Parliament in the ancient days of the Third Lok Sabha (and things have not changed very much since then), that Parliament has neither the time nor the inclination to look at the mass of delegated legislation put on the highly congested Tables of the Houses. The only way to resolve this problem would be to hold public hearings before delegated legislation comes into operation.

I have another far reaching suggestion which would lead to the improvement of the quality of service rendered by the civil servant and which will make the accountability of public servants clear and explicit. Today the citizens does not know what to expect and the civil servants does not know the precise standard he or she must meet. Vague notions and general propositions do not assist either the citizen or the civil servant. On the other hand, exaggerated expectations and a certain lack of awareness of citizen's rights and his or her legitimate expectations lead to ill-tempered tirades and indignation.

In this context I find the British scheme of The Citizen's Charter extremely valuable and quite adaptable. The rationale of the idea is simple: Public services are vital to the life of the community. They are paid for by the taxpayer. Therefore we must ensure that the services give good value for money. In his Foreword, Prime Minister John Major said "Through the Citizen's Charter I want to give more power to citizens to get the quality of service they deserve. The Charter is not about more state action. It is about the right of citizens to be informed and to choose for themselves." The Charter not only tells people what standards of service to expect but also what they can do if those standards are not met. There are about 38 published charters setting out detailed standards based on the accepted principles of public service such as standards and quality of service, information and openness, regular and systematic

consultation with users, courtesy and helpfulness, swift and effective remedies including an apology, and value for money.

A citizen's charter in India covering all major public services would be fair to all concerned and will provide a customer orientation and managerial outlook to public services. It would be an innovate – which could be a notable catalyst for quality. To make the citizen's charter more effective and credible, I would suggest that the charter may either be linked to the hierarchy of Consumer Form or a Separate Ombudsman like authority for the citizen's charter may be appointed for redress of grievances.

A word about the crucial importance of recruitment, training, disciplinary action, transfer and promotion of officers would not be out of place in an agenda for reforms, although the subject is so vast that it deserves a whole treatise. Very briefly, and without going to confusions, Thiruvalluvar and Kautilya, and without tracing the development of public services to ancient and modern India, the point I would like to make is that we have evolved a reasonably good system in India with independent Public Service Commissions at the federal level as well as the State level at the heart of the system. The system is however, being eroded and undermined by a combination of surrounding circumstances. The original premises and safeguards have yielded place to the force of those circumstances. Those original premises and safeguards are largely a legacy of the British experimentation and initiative in India. In fact the very terms "Civil Service" and "Civil Servant" were invented in India and travelled from India with the experience of the East India Company which suddenly faced the huge task of governance in a vast, strange and faraway land.

Modern civil service, both in British and India, was born as a child of protest against patronage and as a vote for meritocracy. Voices of Macaulay, Northcote and Trevelyan, each with Indian connections, can be heard as background music to our own constitutional provisions. Just as the principle of patronage had replaced the earlier principle of prerogative of births, the principle of patronage was dislodged by the more functional principle of merit based on competition and process of selection.

The meritocratic system is at present under seize. The very concept of merit is being challenged. It is my view that preferment

by nepotism in any form has to be strictly limited and minimized. Social Justice is no doubt an overwriting imperative for an egalitarian society, but prolonged discrimination, negative or affirmative does not provide a durable solution. Indeed it is my view that substantial resources should be allocated to impart to selected candidates from scheduled and backward classes quality education and to prepare them for competitive or other merit based examinations. Other appropriate strategies should also be adopted to accelerate the process of equalizing opportunities, so that the cause of social justice may be advanced and at the same time affirmative discrimination does not undermine the morale of the services.

In the matter of discipline in the civil services and in respect of security of employment, the Indian system appears to be in a pathological condition. Sir Walter Walker once said: "Britain had invented a new missile. It is called the civil servant – it does not work and it can't be fired". Our civil servants are in an even more privileged position than in Britain. In defending the idea and the institution of bureaucracy, I do not have to defend the excessive protection to the inefficient, the indolent and the unwilling individuals who may be the black sheep and who bring a bad name to the service.

The question of promotion is a vexed issue. I think we can no longer put a premium of inertia, lack of initiative and imagination and the mere sum total of time for which an individual has been in service. A shift of emphasis on performance is, I think, a matter of urgency, provided evaluation of performance is totally objective, and credible.

I may also add that we cannot afford to buy our civil servant cheap. Some two decades ago (1974) Sir Fred Catherwood MEP said in a speech to the Institute of Chartered Accountants: "We underpay all our public servants and we little deserve the honesty and integrity we get". I do not agree that dishonest individuals would necessarily become honest if they are paid better, but if we do not pay our civil servants well in comparative terms, we will have to settle for a very inferior quality of civil service. This can be disastrous in the long run and would be a classic example of penny-wise pound foolish. On the other hand, the output of the civil servant and its quality have to be strictly evaluated. We must get value for

money. We cannot countenance the spectacle of the large army of our work force indulging in uninterrupted tea breaks, perpetual gossip and salacious backbiting while a few officers devote themselves to their jobs with extraordinary dedication.

I cannot apply the guillotine on my agenda for reform without mentioning my proposal for ombudsman for which I happened to have coined the word Lokayukta in the first place in 1962 and 1963 when Pandit Nehru asked me to substitute a more intelligible nomenclature for the Scandinavian animal. He warmly supported the idea, liked my coinage of the word Lokayukta and encouraged me to continue to work at it with patience and perseverance. The idea did receive the support of the ARC and its committee headed by the late Shri MC Setalwad and its period of gestation was quite long. When it did materialize in some of the States, it was a mutilated version of my proposal and what is worse, the idea was fatally wounded by slings and arrows of hypertechnicality, unimaginative execution and lack of vision and dynamism. Last I heard of the proposal was when a Parliamentary Committee summoned me to give evidence before it, the paternity of the idea to me. The trouble with the idea is that it has failed to find a Government or Parliament which is willing to give birth to it and to nurse and nurture it. I do hope, however, that if and when the Lokayukta – Lokpal idea is implemented, we will take appropriate persons from the experience of the Lokayukta institutions in some of the States of the Union in which it has either been merely marginal and peripheral or a visible failure. That is what makes me apprehensive. A good idea is after all good only to the extent it does good and believe me when I say in deep anguish that there would be nothing more distressing to me than to see once again another dead body in our national graveyard of good ideas buried under the floral wreath of good intentions.

The main accusation against the bureaucracy throughout the world that it is generally dilatory, negative, indifferent, unimaginative, self-centred and inconsiderate. These are obviously stereotypes. Worse clichés have been used for the profession of law and politics to which I have belonged in the past and the profession of diplomacy which I entered more recently. These pejorative epithets may be deserved by a few but not by bureaucracy as an institution nor by most of those who belong to it. Baroness Shirley Williams once

said of civil service: "It is a beautifully designed and effective braking mechanism. It produces a hundred well-argued answers against initiative and change...If the positive forces – the forces of creativity and innovation and enterprise – were powerful it could be the best civil service that could be designed". I think on the whole one could say the same of the civil services in India with one qualifying caveat: if civil servants as a class were not constantly under a cloud with the needle of suspicion pointing at many of them most of the time. No doubt there is a lot of mud-slinging but there is no denying the fact that sleaze is widespread. This is something which has put a serious question mark on the professional integrity of civil servants and this inevitably rubs on bureaucracy as a class. Incompetence and ineptitude are bad enough but the cancer of corruption is intolerable. To protect the honest civil servant and every decent citizen, we must have a strict law of libel and defamation. On the other hand, there has to be exemplary system of prevention, detection and punishment in clear cases of corruption.

We cannot doze off while corrupt officials destroy the fabric of the societies. They are not the civil service. They are the worst enemies of the civil service. As Edward Hear once wrote, "There was an old man who supposed / That the street door was partially closed, / But some very large rats / Ate his coat and his hats / while that futile old gentleman dozed". The accusation of corruption against Bureaucracy as an institution is by no means proved but it may gain credence unless bureaucrats themselves do something about it.