

UNIT 9 BUREAUCRACY, POLICE AND ARMY

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9.1 INTRODUCTION

Police, Civil Service and Military are a part of coercive apparatus of any state. Modern state is different from the medieval state in terms of making laws which can control the activities of these forces. A democratic state is a constitutional state. Constitutional laws guide the actions of each organ. To keep a check on the misuse of power by any organ of the state, there is a balance of powers. Executive, judiciary and legislature are three organs of the state which balance each other to bring unity of purpose. If any organ goes outside the laws of the state, it can come under the scrutiny of law by another organ. It regulates the relationship between each organ and citizen. If a citizen feels that he or she is discriminated by any organ

of the state, he can resort to judicial review of the state action. Check and counter check help to keep the functioning of the state within the rule of game. A democratic state has to respect the human rights of each citizen and social class and groups. The state has enough space for the movement of each social group. Each group is allowed to protest against the state actions in a peaceful manner. Laws of the state are supposed to protect the rights of a citizen and social group. Democratic state is a limited state vis a vis a citizen and social group. Each social group, be it dominant or subaltern, is protected by the state. A state is basically a limited state except in an unusual situation in a nation's life, such as emergency because of war or internal trouble. The state has laws to restrict the rights of a citizen. In such circumstances the police, civil servants and military have immense powers. These three forces are part of an Administrative State. Moreover they are a permanent part of the executive whereas the political executive is a temporary one. Though they are the subject of control by the political executive, the action of each force can come under scrutiny by the judiciary. In this unit, the relation of each of these forces with the judiciary and legislature, is being analysed.

9.2 POLICE

Police is a part of the ancient Indian history. The Mauryan empire did have a police force. During the Moghul period, the Kotwali system monitored the activities of citizens. The British rule created a modern policy by creating a Police Act of 1861. The colonial state allowed the operation of police in a legal manner. They could investigate the criminal case as per the law of the time. The colonial state created a legal framework which limited the police action. Though they served the interests of the colonial masters, at the same time, the laws of the state gave them autonomy. Even the British citizens came under their control to some extent if they committed crimes which were listed by the Police Act. It is wrong to presume that the Police Act served the interests of colonial masters only. This Act is serving the needs of the Post Independent Indian State. Some of the provisions have been amended, but in essence, the Act has been kept intact. Though the National Police Commission (NPC) has suggested for a new police Act, the democratic government has not felt the necessity of scrapping the old Act.

9.2.1 Reasons Behind the Expansion of Police

The activities of police have got expanded with the changes introduced by the modern society of India. The Indian society is no more an agricultural society though majority of people live in the villages. But in terms of contribution to the national income, the share of agriculture has declined drastically. The contributions of industry and service sector have increased. This transition to an industrial and modern society has brought certain changes in the society. A transitional society has some peculiar problems which need to be tackled by the police. The Indian society is getting urbanised at a faster rate which creates some problems for the police. The problems of the industrial and urban society are different in nature from the rural society. The rural society has changed because of the social changes introduced by the green revolution and political democracy. The caste hierarchy has undergone a radical change. Land reforms such as the abolition of Zamindari system has changed the face of the rural society by removing the hereditary social leaders. It has led to a sharp competition among various caste groups for sharing the social power. The changing balance of social forces in rural society gets reflected in politics.

The democratic politics has brought some changes in the society. Electoral system has strengthened the democratic character of the society. This has led to sharp competition for political power among the social groups and classes of people. The entry of political parties into rural politics has strengthened the competition after leading to violence. Police intervention is sought in such a political situation, for tackling the criminal elements and gangsterism.

9.2.2 Challenges Before the Police Force

- 1) violent agitations by linguistic groups to redraw the political map of India, strengthening linguistic nationalism.
- 2) the tribal groups of the Central India and North Eastern India have organised themselves on ethnic lines.
- 3) movement for land distribution very often leads to violence between the rich and the poor in rural India.
- 4) agitations organised by the political parties to protest the displacement of people due to major environmental projects by the government or by a private party.
- 5) terrorism and militant movements.
- 6) growth of religious fundamentalism leading to violent conflicts.
- 7) caste clashes between the upper and the lower castes on such issues as access to common property or self respect movement.
- 8) violent conflicts between the rural rich and landless labour, on the issues of wages.
- 9) violent conflicts between the upper caste and lower caste in towns on the question of reservation of jobs on caste lines.
- 10) while social legislations are made by the state, the responsibility to execute those laws is given to the police. The tackling of crimes against children and women are a major responsibility of the present police.
- 11) introduction of IT has brought in cyber crimes which need to be tackled by the police.
- 12) the growth of underworld in metropolis has created problems for the police.

9.2.3 The Police Response

India is a federal state and the powers are distributed between the Centre and the States. The police administration comes under the purview of the state government. The problems affecting the state need special attention of the police administration. Very often, unable to handle such a situation, they depend on the Central government for help to maintain the public order. The Central government has Central Reserve Police Force and Border Security Force to aid the state governments. These central forces have specific duties but at the same time, they aid the state governments in the case of law and order situation. There are three groups of states that need special central help: (i) states like Jammu & Kashmir which have terrorist problems, need the assistance of the central police force. (ii) The other group of states is infested with Naxalism which also demand the central help for tackling the situation. (iii) The third group of states where a large-scale communal problem can cause an alarming situation necessitating the intervention of central forces. The central government has created a Rapid Action Force

(RAF) within the Central Reserve Police Force. The RAF is an emergency force that is normally airlifted to trouble spots so that quick action can be initiated to contain an explosive situation. Often the central police help in maintaining order during the elections times to the State Assemblies and Parliament. The Election Commission has a close interaction with the Home Ministry to call for the central forces to conduct free and fair elections. As there are some areas which are declared as disturbed, the state police try to handle the situation with the cooperation of the central forces. In a competitive political system, there is a large number of political leaders whose life is threatened by the terrorists and need protection by the state. The State has created a Special Security Force drawing from both BSF and CRPF to take care of the VIP movement.

9.2.4 Crime Records

From 1860 onwards, the Police Commission has been keeping the records on the reported crimes. In 1953, the central government introduced an annual publication *Crime in India*, with comprehensive statistics on all crime reported to the police in all States and Union Territories. Tackling crime in India is now, the responsibility of the National Crime Records Bureau of the central government. The study assesses crime rate i.e., offences per 100,000 people. The post independent state has recorded more crimes against women; infact rapes have doubled between 1985-1995. There is a manifold increase in the number of crimes.

9.2.5 The Police Role in Government

The use of police in India has been frequent and extensive. Very often their non partisan behaviour is questioned. The police is used by a political party or a coalition of parties against their political opponents. Often the police is accused of showing their communal bias while controlling the riot. Majority of them allegedly have caste and class bias and this has led to a negative public perception of the police administration. Various surveys conducted by some independent organisations found that the public do not consider the police as a friendly organ of the state. This perception affects the investigation of crimes. Criticism of the police by the executive, legislature and citizens is very common.

9.2.6 Relations with the Executive

During the emergency it has been observed by the Shah Commission that the executive, for its political ends, has used the police. This has led to the constituting of a National Police Commission under the chairmanship of Dharma Vira. The Commission has suggested measures seeking an autonomous status of the police. Two recommendations made in this connection - a fixed tenure of four years for the police chief and the constitution of a state security commission headed by the state minister in charge of the police also remain to be implemented. The political executive has to formulate public policy regarding the law and order situation. The transfer of the police officials must be decided by the state security council. This helps in reducing the day-to-day interference in the police administration and checking unfair practices at the time of transfer and posting. A level of transparency should be maintained in the above mentioned process.

9.2.7 Relations with the Legislature

The legislature is the supreme authority in a democratic system. It is endowed with certain privileges and facilities which need to be respected by the police force, without which the legislative committee of privileges can question and punish the latter. The police need to show due respect and honour to the MLAs and MPs during their visits to the Police Stations. The police administration's perception of undue demands from the legislative members, affects their reputation in the eyes of public. The countrywide police agitation in 1979 was triggered by a trivial altercation between a Haryana traffic policeman and a legislator. The relationship between the police and MLAs and MPs is extremely delicate, calling for great restraint on both sides.

9.2.8 Relations with the Judiciary

The police has a tenuous relation with the judiciary. The police feels that the courts lack faith in them. For example, the Indian Evidence Act lays down that no confession made to a police officer shall be admissible in evidence. This is a major source of discontent for police officers at all levels. There are many restrictions imposed by the judiciary on the police. No person can be arrested without a warrant and shall be held in police custody for longer than twenty four hours: he has to be produced before the concerned magistrate within this stipulated time. The Supreme Court and High Courts have imposed many restrictions on the power of the arrest vested in police officers. In *Joginder Singh v. State of UP* (1994), the Supreme Court stated that an arrest should be made merely because it was lawful to do so. The officer concerned should actually be able to justify such action. The judiciary is very much sensitive to the complaints of the human rights violations by the police. The formation of National Human Rights Commission headed by a former Chief Justice of India is in the process of making the police more sensitive to the human rights violations. The NHRC takes a very proactive position with regard to human rights violation by the police.

9.2.9 Relations with the Public

Democracy demands that the police needs to respect the citizens. They have to be helpful to them whenever they come to the police station for filing any complaint. This is the age of citizen friendly police administration. But there are many complaints against the police that an ordinary citizen may not be able to file FIR without offering a bribe to the police officer at the Police Station. The investigating officers use the force in dealing with crime suspects. The public often view the police with suspicion. To quote David Bayley, "the survey results demonstrate forcefully what many close observers of police-public relations in India have long thought namely that the Indian public is deeply suspicious of the activities of the police. A considerable proportion except the police to be rude, brutal, corrupt, sometimes in collusion with criminals and very frequently dealing unevenly with their clients." (The Police and Political Development in India, p. 203) This opinion is supported by the NPC report that the Commission expressed its anxiety over the poor state of police- public relations. (Vol. 5, p. 48) The police administration needs to be citizen friendly for bringing back its credibility before the public. In a democracy, the public evaluates the performance of each service. The police administration needs to reform its organisation by which the police officer are aware of the citizen's charter

and they provide quick and honest services to them. Credibility in democracy will be the biggest asset of the police.

9.3 CIVIL SERVICE IN DEMOCRACY

9.3.1 Pre Independence Era

The civil service in India has a long history. There was an organised administration during the pre British rule. It is interesting to note that the civil service for the public works started during the middle of 19th century. This was the time when the colonial state went for a permanent civil service based on merit. The modern education system, introduced by the colonial state, enabled the educated people to compete for various jobs of the state.

The Government of India Act of 1858 provided for a multi-tier bureaucratic authority which continued to exist upto 1947. These were:

- 1) the secretary of the state assisted by India office;
- 2) the viceroy and his executive council which constituted central government assisted by the central secretariat.
- 3) The Governor and his Council at the provincial level assisted by the Provincial Secretariat and
- 4) The District Collector assisted by other district officers.

Services were divided into three levels- the superior services (All India and Central Services), the provincial services, and the subordinate services. All India services were recruited by the Secretary of State to work in any part of India; as a rule, officers were assigned a particular province. By the Government of India Act 1919, other services were abolished but the India Civil Service and the Indian Police Service remained. These services were monopolised by the Britishers and gradually got Indianised. In 1923, the Government of India established Public Service Commission for the recruitment of persons with appropriate qualification. The Government of India Act of 1935 undertook some modifications.

9.3.2 Post Independence Era

There were several debates in the Constituent Assembly regarding the retention of the civil service. The Constitution has made specific provisions regarding the responsibilities of the civil servants. In a democratic system the political executive is the highest body assisted by the civil servants.

9.3.3 Civil Service and Legislature

The Distinctive Features of the Administrative Framework of the Country are:

- 1) The supremacy of the parliament over the executive and the right of Parliament to seek, receive and apprise information about governmental actions with a view to reviewing the

working of the administrative machinery.

- 2) The pre-eminence of the position of the Prime Minister in the Council of Ministers and in administration.
- 3) The collective responsibility of the Council of Ministers to the Parliament
- 4) The individual responsibility of each minister holding a portfolio to formulate the departmental policies. It is his or her responsibility of supervising the administration of these policies and other departmental works.
- 5) The obligation on the part of ministers and civil servants to uphold the Constitution and rule of law.
- 6) The obligation of every public servant to implement faithfully all policies and decisions of the Ministers even if these are contrary to the advice tendered by them.
- 7) The right of public servants to express themselves frankly in tendering advice to their superiors including the ministers.
- 8) The observance by public servants of the principles of political neutrality and impartiality and anonymity. (Administrative Reforms Commission (ARC), Report on Machinery of Government of India, p. 3).

Most of the posts below the level of Ministers in the Secretariat and in the field organisation are manned by the civil servants. Their work consists of assisting the political executive in policy formulation, programme implementation and administration of the laws of the land. They did contribute in policy making process actively as they are taken as the professionals who are competent to provide the inputs in the policy making process. The final touches are supposed to be given by the minister followed by the Council of Ministers. It is wrong to presume that the policy making is done by the political masters and the implementing agency is the civil service. They are responsible for implementing the policies. At the same time, they are not accountable to the Parliament. It is the ministers who are accountable to the Parliament and answer the questions related to the issues regarding the implementation of policies.

9.3.4 Constitution of India

The provisions of the Constitution have made it clear that they cannot be removed by the politicians. They retain their independence in the democratic system. Art 311 says that they cannot be removed from the job without a proper enquiry duly constituted by the President of India. This explains the peculiar position of the civil servants in our democracy. The reasons are given by some of the scholars that at the time of Independence there were violent conflicts between the Hindus and Muslims on one side and between the landlords and peasants on the other. The framers of the constitution realised the need for the independence of the civil servants from these social groups and made specific provisions for the civil service. The Constitutional Review Committee has suggested the removal of the provision. They can be controlled and managed by the Civil Service Commission like the French system. Art 309 gives powers to the central government to regulate the service conditions and recruitment

through an Act made by the appropriate authority. They are regulated by the Central Civil Service Conduct Rules, 1964. The Official Secrecy Act, 1923 provides for stringent action for unauthorised disclosure of information prejudicial to the interests of the State. They have been provided adequate security as they handle some of the important works of the government. If they shirk responsibilities they can be persecuted by the state under the various Acts of a State.

Often there is a complaint that they are prone to corruption and abuse of power and it is not easy to bring them under the Prevention of Corruption Act, 1947, as one needs the permission of higher authority for filing charges against the civil servants at the joint secretaries level and above.

9.3.5 Reforms are Overdue

The civil servants are assigned responsibilities in a particular state where the government of the state cannot persecute them. Often, they function as the representatives of the central government which goes against the spirit of federalism. A professional outlook, knowledge and management skills are required. The Administrative Reforms Committee (ARC) suggests that those departments in which technical qualifications are required, the IAS may not be posted there. Most of these suggestions have remained on the paper. Modern state and economy demand knowledge managers. With the introduction of IT, there is a demand for e-governance. This is the demand raised by Kurien who has managed successfully a biggest cooperative dairy development project.

The Alagh Committee suggests that the method of recruitment needs to be changed with an emphasis on knowledge.

9.3.6 Relations with Judiciary

The relations between the Judiciary and civil service have not been cordial. Some of the senior civil servants including the Chief Secretaries have already faced contempt of court cases and duly punished. They have to upgrade their knowledge of law and Constitution by which they can be friendly to Judiciary. They have to be sensitive to various issues and conduct themselves accordingly. They have to be citizen friendly and responsive to the needs of the public. The right to information has been passed by the state governments and the civil servants have to deliver the services in a quick and effective manner by which they are accountable to the public. With the introduction of management of Public Services, the Civil Service is accountable to both Public and Parliament.

9.3.7 Decentralisation

With the 73rd and 74th Constitutional Amendments the Panchayati Raj system has been strengthened. The government has accepted a three-tier administrative system. At every level there are public representatives who can help in making the public policies and supervise the administration of these policies. They have the powers of the District Collectors. They are known as the chief executive to the District Development Councils. This has changed the face of the District Collectors (DCs) and District Magistrates (DMs). In a democracy, the civil service has to modify its behaviour and style of functioning to complement the needs of

democracy.

As P.K. Mattoo says, “the establishment of the Panchayati Raj institutions on a country-wide basis and the transfer of some of the traditional functions of the civil service system to these newly established institutions constitute a new policy trend in the civil service system. The Government, as a rule, is committed to the principles of democratic decentralisation. Consequently, considerable stress is now being given to the introduction of a rural bias in administration” (p. 112).

9.3.8 Civil Service/Political Environment

The civil service system gets its nourishment from its political environment. It is not independent of the political executive. Their performance depends on the quality of the political executive. With a decline in the quality of political leadership, the democracy has suffered. The performance of civil service had declined. A reform in civil service is a continuous process. Evaluation of their performance needs to be measured both by the political executive and civil society. The public is recognising good and competent officers. This recognition motivates them to work better. They are also accountable to the political leadership. They have to perform in a neutral and objective manner. In an era of coalition politics, their non partisan role is going to strengthen democracy. They are getting pressurised by some vested interests in the name of politics. This nexus between the politicians and criminals and civil servants has been studied by the Vohra committee. This is a warning for both the democratic leadership and civil service. There is a demand by the civil service association for scrapping the Official Secrecy Act which can help them to be bold and fearless. With the introduction of citizen’s charter, there is a demand that their notings should be made to the public where their work can be evaluated in terms of value addition. These changes can help them to perform better in a democracy.

9.3.9 Relations with Political Leadership

Civil service and political leadership has a definite relationship in a democracy as they play an active role in the making of public policy. They give a clear direction to the civil administration for implementing the public policy and also make them accountable to the failures in implementing the policy. In the Indian democracy, one can find a high quality of leadership during Nehru and Indira Gandhi’s period, except during the emergency. During Nehru’s period India entered into a path of planned development. Any planned development demands that civil service has to fulfill the target fixed by each plan. This was possible because of the energetic leadership of Nehru and a high intellectual content in each plan which is based on ground reality. Mrs. Gandhi took the initiative to implement the policy of green revolution with the help of civil servants and scientists. She succeeded in making India a food surplus state. These are some examples which show the quality of leadership who can motivate the civil service to work with a passion and desire to serve the nation. The equation between the political leadership and the civil service has changed subsequently. Civil service is virtually dominating in these relationships. This does not augur well for the Indian democracy. In an era of globalisation, it has been found that the civil service is much more prone to implementing World Bank policies than follow the political leaders. It seems that in first decade of liberalisation from 1991 to 2000, the civil servants in some of the ministries who had a close association with the World Bank, have played a key role in making public policies. It affects the sovereignty

of a nation.

9.4 MILITARY IN DEMOCRACY

In the post colonial world, the Military is playing a decisive role in politics. Between 1960 and 1980 three quarters of the Latin American states, one third of Asian states and over a half of the African states experienced coups. The 1980s saw the trend continue strongly. It is a moot point of history that there has been a coup or an attempted coup in some parts of the world. From a World Bank study, one finds that since 1948 there has been at least one coup attempt per developing country every five years. (World Bank, 1991, p. 128).

9.4.1 Theories Behind Military Coups

The role of military in politics has been a subject of debate among the social scientists, especially the political scientists. Their classical theory says that military has no role in democratic politics. They maintain a distance from the civilian leadership. They do not directly take interest in politics. This is a medieval phenomenon. During the feudal period weak kings have been replaced by their Military Commanders. This does not happen in modern politics. Military has a constitutional role in a democracy. They are supposed to obey the civilian political leader. Facts disapprove the above hypothesis. There are various political theories in support of the Military taking over political power. The theory of modernisation says that in a traditional society, the military is a modernising force. They are educated people with a modern outlook. They know how to modernise a traditional society. This helps them to come to political power. Furthermore, they are organised people who have control over the weapons and military trained personnel. They got motivated to capture power against the civilian leaders. The civilian leaders do not always have the required modern organising skills nor do they have modern educated youths with them to compete for power. A group of political economists float a theory that a developing country, due to its meagre sources, cannot waste such precious resources in instituting political democracy. For them political democracy is a luxury for the poor. The poor is more interested in bread and not freedom. The third group of social scientists provide a cultural theory that most of the third world countries do not have the cultural tradition of democracy. They have an authoritarian approach to life. Their family is authoritarian in structure which supports the military rule. Very often a single religious group who is dominating a nation uses cultural nationalism to rule over a nation. The military represents the cultural nationalism of a dominant community. Further some of the political scientists feel that when a country experiences too much political instability because of fragmentation of political parties, this leads to intervention of military in the name of political stability. These societies feel that social and political order is more important than the political stability. Constitutional niceties such as parliamentary procedures, popular consent or political representation are ignored, because elected assembly is dissolved soon after the take over of power by the military. Elections get suspended and political parties get banned.

9.4.2 Military in Indian Politics

India being a third world country is having a stable political democracy. "Civil-military relations in post colonial India have been something of a model for the third world in that military capacity has been greatly increased without a major threat to civilian rule. The 50 years of postcolonial history reveal considerable tension between civil and military authority and policy debates during this period display a variety of conflicting views on the appropriate role for the

military in Indian life.” (Glynn L. Wood and Daniel Vaagenes, “Indian Defense Policy: A New Phase’ Asian Survey, vol. Xxiv, no. 7, July, 1984).

9.4.3 Relations with Political Leaders

Civil-military relations developed during Nehru’s Prime Ministership. He gave more priority to economic and human resource development of a society. He maintained India’s relationship with most of the foreign countries through an effective foreign policy strategy. His defence Minister VK Krishna Menon was able to handle the affairs in a competent manner. Menon became the “symbol of civilian control of the military during the Nehru years and a symbol of political intrusion into the military’s professional business.” (Wood and Vaagenes).

The Sino-Indian War of 1962 was clearly the watershed for the Indian military. The India Government of has started the modernisation of the Indian military, both in terms of the supply of arms and ammunition and training of the personnel. India has established its defense relations with both the USA and Soviet Russia. Its military process came to the fore at the time of the creation of Bangladesh when Mrs. Gandhi was the Prime Minister. The Indian military has played a decisive role in framing the defense policy. India has entered into the nuclear club as the sixth member with the testing of a nuclear device in 1974. India is pursuing its autonomous policy in nuclear development and has developed its own nuclear weapon.

9.4.4 Military Strength

The Indian Army is the fourth largest in the world after China, Russia and the US. The Air Force has acquired some of the sophisticated fighter planes. The Army and Air Force appear to have an integrated plan for India’s defence. During 1980s and 1990s, the Indian Navy also tread the path of modernisation alongwith its counterparts. The Indian Navy has got more than 100 ships, 150 air craft and thousands of highly trained man-power. Indian defence budget has increased since 1971, and touched almost 3 percent of its GDP. India’s strategic objectives and its inter-service ratio for defence expenditures have been relatively stable.

9.4.5 The Role of Military in the Decision Making Process

India is a regional power in Asia and is aspiring to be a permanent member in the UN Security Council. The Heads of the Army, Air Force and Navy have been playing an active role in formulating an effective defence policy. They are represented, in the cabinet meeting, by the Defence Minister. A concise policy draft is prepared by them with the help of the defence Secretary who is usually an IAS officer. They are members of the National Security Council. The Indian military is rarely used in internal politics except at the time of a large scale communal riot or ethnic conflict. They are not allowed to play an active role in the democratic politics. They are performing their constitutional role which is strengthening the Indian democracy.

9.5 SUMMARY

The coercive apparatus of the state is a part of ancient Indian History. In the modern state, constitutional laws guide the actions of each and every institution/organ, for an effective functioning of the state. Police, civil service and military constitute the core of the coercive apparatus. In this unit, these three organs are studied in detail. In the contemporary era, the state is infested with many a problem and the police force is faced with a number of challenges. Its relations with the legislature, executive, judiciary and public are studied in detail.

The civil service in India has a distinct record right from the pre-British era. Their work consists of assisting the political executive in policy formulation, programme implementation and administration thus contributing actively to the policy making process. Nevertheless, reforms are overdue with regard to this administrative machinery. Military, in the post colonial world, has been playing a decisive role. They have control over the weapons and military trained personnel. They are instrumental in formulating an effective defence policy. The above three have been playing an important role in strengthening the Indian democracy.

9.6 EXERCISES

- 1) What are the challenges the police face in balancing the social changes?
- 2) Summarise the role of police in its relations with the legislature, executive and judiciary.
- 3) What are the constitutional provisions enumerated for the civil services? What, in your opinion, will be the impact of reforms on this administrative system?
- 4) 'The classical theory says that military has no role in democratic politics'. Analyse briefly.
- 5) How does the coercive apparatus of the state ensure democracy?