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A Historical Perspective on Civil Services and Legal Protection to Civil Servants – An Analysis

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ABSTRACT

Civil services have been a fundamental part of governance for centuries, evolving from early bureaucratic systems to modern administrative frameworks. The term "civil servant" was first used in 1854 when Sir Charles Trevelyan borrowed it from the British administration in India and applied it to English conditions. It originally referred to a professional body of officials employed by the state in non-military and non-judicial services. Generally, the term "civil servant" is also referred to as "government servant," which is defined under Section 2(h) of the Central Civil Services (Classification, Control, and Appeal) Rules, 1965. Civil servants are appointed by the government to various posts, where they discharge specific duties and responsibilities related to different departments under the Union of India as well as state governments. This research article aims to analyze the historical development of civil services, examine the role of civil servants in governance, and explore the legal protections available to them in different legal systems. Additionally, it seeks to provide recommendations for reforms in civil services based on secondary sources. By studying existing literature and legal frameworks, this paper highlights the significance of civil services in maintaining an efficient and impartial administrative system while suggesting improvements to enhance their effectiveness.

INTRODUCTION

Civil Servants are considered as the back bone of the administration. In order to ensure the progress of the country it is essential to strengthen the administration by protecting civil servants from political and personal influence. The Administration of the Union and the States has to be carried on

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through the agency of large number of persons employed in various services and posts under the Union and the States. The work of the Government would never be done if there are only ministers to do it. The real work of administration is done by the permanent members of the Government who are called as Civil Servants. It is known that each department, in a Parliamentary form of Government is headed by a Minister. But it is not his business to run the Department independently. Those who actually run the Department and implement the policies of the government are the servants of Union or the States. The Civil Servants are the Reservoir of knowledge and experience. A country without efficient civil service cannot progress in the administration of the Government. Understanding the evolution and legal framework of civil services is essential for strengthening administrative efficiency and ensuring good governance in modern democracies.(O'Brien et al., 2016)

CIVIL SERVICE BEFORE EAST INDIA COMPANY

A. Mauryan Period:

The King was fountain head of all governmental activities. India had a vast empire under the general authority of the Mauryan King. This naturally necessitated an efficient administrative set-up. It required a big staff of efficient servants for the purpose of administration. The Arthasastra points out that, the Mauryans had full-fledged and well developed secretariat. Further the Administration was divided into departments which were connected with each other.

Kautilya's Arthasastra stipulates Seven basic elements of administrative apparatus. These elements are embedded in the doctrine of pakrits. They are as follows: Swamin (the ruler), Amatya (the bureaucracy), Janapada (the territory),Durga (the fortified capital), Kosa (the treasury), Danda (the army) and Mitra(the ally).

The higher bureaucracy consists of Mantrins and Amatyas, while the Mantrins were the highest advisors to the King, the Amatyas were the civilservants. There were three kinds of Amityas, the highest, the intermediate and the lowest based on the qualification possessed by the civil servants. The main important civil servant was the samahatra, who prepared the annual budget, keeps accounts and fixed the revenue to be collected. The other important servants were the samindhatr, who keeps records of taxes realized and was in- charge of the stores. The Amityas were almost like the Indian civil service during British period.

The civil servants during the Mauryan period held office at the will of the Monarch. The service of civil servants could be terminated at any time at the pleasure of the king without assigning any reasons and without providing any opportunity to defend them (Razzaqov, 2022)

B. Gupta Period:

King continued to be the center of administrative powers. All civil officers were appointed by the King and were directly responsible to the king. The members of the superior civil service known as "Kumaramatyas" were more or less corresponding to the present Indian civil services. During this period, there was ample provision for the efficiency of the Government and for the continuous good behavior of its servants including the highest officials of the ministerial cadre, but no protections were provided to the servants and their services were terminable at the pleasure of the Monarch.(Aylmer, 2019)

C. Mughal period:

The administrative system was centralized. No distinction was made between the civil and military administration. The Mughal administration in India, presented a combination of certain features of Arabic administrative system with certain classical Indian administrative practices. Therefore, during the Mauryan, Gupta and during Mugal period though the civil service was established for the better administration, during those periods the administration was carried out strictly but there were no symbolic and significant protections to the civil servants traced. The administration during those periods

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proved to be efficient but without assurance of the protection and were under the control of the King, the rights of the civil servants were not given prominent nor protected. The pleasure of the Kings was predominant over the civil servants, but the civil servants did not enjoy the powers or privileges independently. It is sometimes the civil servants were saved from the arbitrary actions of the kings in the Kingdom.(Ghulam Haider, 2024)

CIVIL SERVICE UNDER THE EAST INDIA COMPANY

The earliest organized civil service in British India was the covenanted civil service, which constituted a group of men carried on trade of east India company were known as civil servants. The servants of the company was purely commercial agents, known as 'factors' and were in-charge of the trading station which were established along with sea coasts. In the year 1675, the East India Company established a regular gradation of posts' where in young men were recruited first as an 'apprentice' later become a 'writer', and after serving in a capacity as a writer for five years, could be promoted as a 'factor'. The factors after putting three years of service could be promoted as 'junior merchants' who usually after three years of service could become 'senior merchants'.(ní Fhlathúin, 2020)

Under the various Charters in relation to the East India Company, The East India Company sent to India its own servants and so did the Crown, from the earliest times. The Crown could at its pleasure remove any person holding office, whether civil or military under the East India Company. The Court of Directors of the Company had also the power to remove or dismiss any of its officers or servants not appointed by the Crown. Section 35 of the charter Act, 1973 made it lawful to or for the Kings Majesty, his heirs and successors by any writing or instrument under his or their sign manual, countersigned by the president of the Board of the Commissioners for the affairs of the India, to remove or recall any person holding any office, employment or commission, civil or military under the East India Company.

The civil servants under the East India company had no right against arbitrary dismissal or removal .No safeguards were available to the civil servants during the company's rule against the arbitrariness of their action. The civil servants have to work under the mercy of East India company.(Ward, 2024)

CIVIL SERVICE UNDER THE BRITISH CROWN

The East India Company's rule comes to an end in 1858 and on termination of Company's government, the Indian Administration came directly under the control of Crown. The Government of India Act 1858, under which transfer of power from Company to the Crown took place. The Queens's proclamation of 1st November 1858, clearly shows that the 'pleasure' as a Royal prerogative was asserted in the Royal proclamation. The Macaulay Committee which gave India its first modern civil service in 1854 recommended that the patronage system of East India Company should be replaced by a permanent civil service based on merit system. Though the appointment to the Indian civil services were made on the basis of merit as recommended by the Macaulay committee but with regard to the safeguards to the civil servants are concerned, no remarkable development has been made to protect the interest of civil servants.

The fact that the English 'Doctrine of pleasure' has been adopted without any exceptions in India. This can be illustrated by the decision of high court of Calcutta in **A.C.Voss vs. secretary of state**(Fearon et al., 2003)**,** The plaintiff an Indian had been appointed as a clerk in the foreign office. The term of the employment was that the plaintiff should not be dismissed arbitrarily except for good cause and in accordance with the orders, rules and regulations of the Government. The service of the plaintiff was terminated and the plaintiff was refused to accept the termination of his service and showed he is ready and willing to serve. The Hon'ble High Court of Calcutta upheld the preliminary objection of the Secretary of the State that a contract of service with the Crown was terminable at the will of the Crown.

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Thus, from the above decision of the Hon'ble high court it clearly shows that, 'Doctrine of pleasure' has been fully adopted without any exceptions or limitations. Therefore, the power of the crown to dismiss a civil servant was unfettered.

CIVIL SERVICE AND PROTECTIONS TO CIVIL SERVANTS UNDER GOVERNMENT OF INDIA ACT, 1919

The Secretary of State in India issued the declaration on 20th August 1917,in the House of Commons, announcing the new policy of British Government relating to increasing association of Indians in every branch of administration, development of self-governing institutions, with a view to the progressive realization of responsible government in India as an integral part of British Empire. In 1918, Montague and Chelmsford, in their joint report on Constitutional changes expressed supplementing the recruitment to the civil services in England by fixing the definite percentage of recruits from India.

The Constitutional Reforms recommended threefold classification of services into (a) All- India (b) Provincial and (c) Subordinate. All the imperial services functioning earlier on the provinces whether in the reserved or transferred department were designated as the All India Services.

Further the Government of India Act, 1919 provided provisions enabling the Secretary of the State to make rules for regulating the classification of the civil services in India, the method of their recruitment, their conditions of their services, pay and allowances and discipline and conduct etc. Further the Act provided such rules might, to such extent as might be prescribed, delegate the power of making rules to the Governor General in Council or to a local Government or authorized the Indian legislature o local legislature to make laws.

The Secretary of State in exercise of powers conferred under section 96-B of the Government of India Act 1919 framed the rule known as the civil services (Governor's provinces) classification rules 1920. The Rule prescribed a procedure for holding departmental enquiry in all cases of dismissal, removal or reduction in rank of any civil officer. The Civil Service (Governor's province) Classification Rules, 1920 was modified and was named as Civil Services (classification, control and Appeal)Rules 1930. These rules provided for punishment that could be inflected for good and sufficient reasons on civil servants. The security of the Civil Servants was further sought to be enhanced by statutory recognition of set of rules framed by the Secretary of State under the Government of India Act 1919. These set of rules were called as 'Fundamental rules', ("Federal Courts. Rules of Civil Procedure. Secretary of Air Force Subject to Discovery in Suit under Federal Tort Claims Act," 1952)

Therefore, the Civil Service (Governor's province) Classification rules, 1920,Civil Services (classification, control and Appeal) Rules 1930 and Fundamental Rules are the some of the Rules framed under the power conferred under section 96-B of Government of India Act 1919.

CIVIL SERVICE AND PROTECTIONS TO CIVIL SERVANTS UNDER GOVERNMENT OF INDIA ACT, 1935

The Government of India Act 1935 introduced provincial autonomy under the responsible Indian ministers. The rights and privileges of the members of the Civil Services were carefully protected. The history of providing safeguards for tenure of the office of the Crown servants was considered and enlarged the scope of safeguards under the "Government of India Act 1935".

In this connection, the Judgment of Justice Kapoor in **Union of India V. Ramchand**(Shri Ved Prakash et al., 1993)observed that, in the Government of India Act 1919, Section 96-B was added which gave certain statutory protections to Civil Services and that was because some element of control over some Government Department was introduced by that Act. Whereas as per 1935 Act, much greater control was given to the ministers and therefore the Parliament thought it necessary for the protection of Civil Servants to introduce a greater measure of protection and Section 240 was introduced which placed restrictions and limitations on the exercise of the pleasure of the Crown. Thus, the Rule of

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English Law which had become the Rule of Indian law that the Civil Servants hold office during the pleasure of the Crown becomes very much restricted.

The Part X of Government of India Act1935, provided provision relating to the services of the Crown in India and the Act contemplated different kinds of tenure and different classes of Civil Servants. Chapter II of part X of the Act relates to civil services, and Section 240 of the Act dealt with "tenure of office of the civil servants" and Section 241 of the Act dealt with "conditions of services of civil servants.

The important protections to civil servants under Government of India Act, was provided was, no person in the service of his majesty would be dismissed or reduced in rank until he was given reasonable opportunity of showing cause against the action proposed to be taken against him. Therefore, it is an evident that there is a substantial expansion of safeguards under the Government of India Act, 1935.

CIVIL SERVICE AND PROTECTIONS TO CIVIL SERVANTS UNDER INDIAN INDEPENDENCE ACT, 1947

The political changes which came into force in India from 15th August, 1947, on the services of the persons recruited to the Secretary of State's Services known as the "Indian Civil Servants" was that while previously the Secretary of State's Services were under the Crown, means the ultimate authority and responsibility for these services was in the British Parliament and the British Government. From 15th August 1947, the authority and responsibility on Secretary of State's Services completely vanished as envisaged in the Viceroy's announcement of 30th April, 1947 as specifically affirmed in section 7(l) (a) of Indian Independence Act. Some changes were also made in sec.240 and 47 of Government of India Act,1935, relating to conditions of service of civil servants serving under the government of India.("Extracts from Central Civil Services Conduct Rules with Decisions of Government of India on Important Provisions of the Rules," 1990)

CONSTITUTIONAL ASSEMBLY AND PROTECTIONS TO CIVIL SERVANTS

The Constituent Assembly met on December 9th, 1946 and began its deliberations. It is clear from the deliberations of the Constituent Assembly that to establish a welfare State in India, for the purpose of establishment of welfare State it was obvious that administration would have to play a vital and constructive role in realizing the objectives of the welfare State. The Union Constitution committee included the specific recommendation that there should be All India Services whose recruitment and conditions and service would be regulated by Federal law.(*The Framing Of India's Constitution A Study : B. Shiva Rao : Free Download, Borrow, and Streaming : Internet Archive*, n.d.)

The Proposal of Union Constitution Committee was accepted and Shri.B.N.Rau, the Constitutional advisor, was entrusted with the task of laying down preliminary principles relating to the Constitution to be framed by the Assembly. Shri, B.N.Rau., made a complete provision in his first draft for regulating recruitment and conditions of service of members of various public services .

The provisions of the draft consist of two chapters, one dealing with defense services and other with civil services. The chapter on Civil Services contained three clauses. The first clause enabled the President by order to create such All India Service as he might consider necessary. It also lay down that the recruitment and conditions of service of persons appointed to these services would be regulated by or under Acts of the federal Parliament and, till such Acts were passed, by the rules made by the President. The second clause dealt with recruitment and conditions of services of the other civil services. It provides that recruitment would be an executive responsibility and accordingly laid down that all appointments were to be made, in case of federal services and posts, by the President or by such person as he might direct and in the case of Provincial Services, by the Governor or by such person as he might direct. Similarly, the conditions of services were to be regulated by rules made, in case of federal services and posts, by the President or by such person as he might authorize and in the case of Provincial Services, by the Governor or by such person as he might authorize. There was also a provision

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empowering the appropriate legislatures to make laws regulating conditions of service. Such laws could supersede the rules made by the President or the Governor.

The task of laying down the preliminary principles relating to the Constitution was entrusted to B.N.Rau, the Constitutional Advisor. The draft submitted by the Constitutional Advisor contained nothing about the protections of the tenure of services. The Drafting Committee framed a new draft after considering the B.N.Rau's draft. For the first time regulations for the safeguards to the civil servants were, laid down in the draft. The important safeguard was, for providing reasonable opportunity to the civil servants before infliction of major penalty.

Sardar Vallabhbhai Patel, The Deputy Prime Minister, highlighted the importance of the civil services and he stressed upon the importance of including the basic protections to the civil servants in the Constitution of India. He strongly advocated the importance of the civil service and protections to the civil servants for better administration and his efforts bore fruit. Finally the Draft was placed for discussion in the Constituent Assembly by Dr. B.R.Ambedkar. The members of the Constituent Assembly suggested many important amendments. However, all the amendments suggested were negative by the Constituent Assembly. The Constituent Assembly passed the draft placed before it by Dr B.R.Ambedkar. Finally at the revision stage the Articles on the services were renumbered as Articles 308 to 314. Article 311(1) and (2) of the Constitution contains the safeguards against dismissal, removal and reduction in rank. Therefore, The civil service and protections to civil servants are traced from Mauryan period (CA 323- 185 BC) ,Gupta Period(322 - 542 CE), Mughal Period 1526 - 1757), during East India Company and British period in1858 & Government of India Act,1935 in all subsequently the discussions were laid down in Indian Constituent assembly debates and was carried in the constitution.(Jamshed, 2021)

ISSUES IN CIVIL SERVICES

Despite being a crucial pillar of governance, civil services face several challenges that impact their efficiency and effectiveness. Some of the key issues include:

1. **Political Interference** – Frequent transfers, promotions based on political favouritism, and undue pressure from political leaders hinder the independence and impartiality of civil servants. This often leads to a lack of efficiency and accountability.
2. **Bureaucratic Red Tape** – Excessive rules, lengthy procedures, and rigid hierarchies slow down decision-making and implementation processes, leading to inefficiencies and delays in governance.
3. **Corruption and Lack of Transparency** – Cases of bribery, favouritism, and misuse of power have led to a decline in public trust in civil services. The absence of strict anti-corruption measures weakens accountability.
4. **Inefficiency in Performance Management** – The existing performance evaluation system does not effectively assess the efficiency and contribution of civil servants. A lack of incentives for good performance and insufficient disciplinary action for inefficiency further weakens productivity.
5. **Lack of Technological Adaptation** – Many administrative processes still rely on outdated methods, leading to inefficiencies and delays. Slow digital adoption in governance reduces the effectiveness of service delivery.
6. **Overburdened Workforce** – Many government departments suffer from staff shortages, leading to excessive workload on existing employees. This results in burnout and inefficiencies in public administration.
7. **Legal and Job Security Issues** – While civil servants have legal protections, instances of arbitrary suspensions, dismissals, or political retaliation continue to pose challenges. The fear

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of sudden transfer or removal often discourages officers from making bold and impartial decisions.

8. **Lack of Public-Centric Approach** – Many civil servants remain disconnected from the needs and expectations of the public, leading to inefficient service delivery. There is often a gap between policy formulation and its practical implementation.

SUGGESTIONS

To strengthen the civil service system and ensure effective governance, the following suggestions can be considered:

1. **Merit-Based Appointments and Promotions** – A transparent and merit-driven recruitment process should be reinforced to eliminate favouritism and political influence. Regular training and skill development programs should also be introduced to enhance efficiency.
2. **Strengthening Legal Protections** – While existing laws safeguard civil servants, further measures should be taken to prevent undue political interference and protect bureaucrats from arbitrary transfers or dismissals. A stronger legal framework ensuring job security and accountability is essential.
3. **Performance-Based Evaluation System** – Introducing a structured performance assessment system can enhance productivity and motivation among civil servants. Clear key performance indicators (KPIs) should be set to measure efficiency and effectiveness.
4. **Technological Integration in Administration** – Digital governance should be promoted to streamline administrative processes, improve transparency, and minimize bureaucratic delays. E-governance can also help in reducing corruption and increasing public trust in civil services.
5. **Ethical and Anti-Corruption Measures** – Stronger anti-corruption mechanisms should be implemented to maintain the integrity of civil services. Ethical training and accountability frameworks can help ensure impartial and responsible governance.
6. **Public Service Orientation** – Civil servants should be encouraged to prioritize public welfare by promoting a citizen-centric approach. Regular interaction with the public and addressing grievances efficiently can enhance trust and effectiveness in governance.

CONCLUSION

Civil services have historically played a vital role in shaping governance and ensuring administrative stability. From their origins in ancient bureaucracies to modern-day governance structures, civil services have evolved to become an indispensable part of government functioning. However, challenges such as political interference, inefficiency, and corruption continue to hinder their effectiveness. Article 308 to 314 of the constitution deals with the services under the union and the states. Article 310 of the Constitution of India embedded the Doctrine of Pleasure and Article 311(1) and (2) of the Constitution provides for the safeguards against the dismissal, removal and reduction of rank of civil servants serving under the Union and the State. The Constitution of India reposes great trust and confidence in the civil services and gives the civil servants a security of tenure and conditions of service and in turn expects an honest and sincere service from the members of the civil services for providing to the peoples of India an efficient, honest, polite and incorruptible administration. It is the duty of every person appointed to the any post under the Union or the State to discharge his duties and responsibilities according to the expectations of the Constitution. Security of employment is the basic element of good and efficient administration. Hence, the constitutional of India guaranteed the most notable protections to the civil servant in its Article311(1) and 311(2). The Supreme Court of India and the High Courts in its landmark judgment's further provided the protections guaranteed to the honest and impartial civil servants. Therefore, it has been concluded that "No other Constitution in the world appears to contain these kind protections, than the constitutional law of India confers the protections to

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the permanent Civil servants of the State". But these protections provided under the Constitutional law are not adequate to meet the requirement of the civil servants and need to enact the laws for the protection of the civil servants who are considered as the back bone of the Indian Administration.

By analyzing the historical evolution, legal protections, and challenges faced by civil servants, this study highlights the need for comprehensive reforms. Strengthening legal safeguards, ensuring transparency, integrating technology, and promoting ethical governance are key measures that can enhance the efficiency of civil services. A well-functioning civil service system is crucial for achieving good governance, social justice, and economic development. Through continuous reforms and policy improvements, civil services can effectively contribute to a more accountable and efficient administrative system, ultimately benefiting the nation and its citizens.

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