

**AN ADDRESS**  
**by**  
**Dr. Kenneth Ramsanta Lalla C.MT.(Gold) SC**  
**to the**  
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Mr. Chairman,

Distinguished guests, ladies and gentlemen.

It is indeed a pleasure and an honour to be one of your guest- speakers this morning and I thank you for your kind invitation.

### **Historical Review**

Over the centuries the world has witnessed human revolutions of one kind or the other, all in the name of freedom from feudalism, tribalism, slavery, communism and human progress. It will be shown that in every age of the world's history there have been those who have rebelled and continues to rebel against the evils and injustices of the day and who have been inspired by hope and faith in a new tomorrow in which social inequalities and economic injustices would find no place.

Although there have been those who might have sneered at this faith and idealism and this faith and belief in a more perfect humanity, it was that persistence of faith and idealism that witnessed the down fall of empires large and small, such as the British, French, German, Spanish and the Japanese and more recently those of Tunisia, Egypt and Lybia while the consequences of the struggle in Syria and Yemen are not unpredictable.

### **English Revolution**

The people's revolution in England in 1688 led to the promulgation of the Act of Settlement 1701 and the evolution of a monarchical or Westminster parliamentary system of government in which the people became sovereign with their King being relegated to the status of Head of State while the American Declaration of Independence in 1776 and the

French Declaration of the Rights of Man in 1789 established a republican system of government.

The functions of government under both the monarchical and republican systems have been divided into three broad compartments: the legislature with legislative function involving the enactment of laws determining the structure of public authorities and regulating the conduct of citizens and private organizations while the function of the executive has been the authority to govern and that of the judiciary to determine disputes of fact and law in accordance with the laws laid down by Parliament.

There has, however, also been established yet another body in the structure of governance and that is the civil service which although not a constitutional body is nevertheless a monolithic political structure and one of the bulwarks of democracy. While the executive is responsible for the management of the State, the executive and Ministers rely fully on the civil service to provide them with the necessary skills and expertise with background information, research and advice on the consequence of options.

Civil servants are experts in the areas of administration and accordingly advise Ministers on the formulation of policies which are implemented by civil servants. Accordingly Ministers have available to them at all times the collective knowledge, expertise and experience of the civil service

### **The English Civil Service**

The civil service is as old as governments and indeed predates the Parliaments in democratic and non-democratic societies. In England the civil service was the King's civil service and during the medieval era, the King employed persons to manage his administration and fired them at his whim. However, after the revolution of 1688 the King no longer governed his kingdom as King but did so through his duly elected Ministers. However, as the power of the government passed on to the people and the party system of government began to evolve it was established by convention that the British civil service was expected to give loyal service to whichever party that formed the government and of whatever political complexion. Accordingly to secure the impartiality of the civil service it was essential that appointments to it be made free from political influence, patronage and posturing.

A policy similar to that of the Kings of England with respect to the making of appointments to the civil service known as the "spoils system" was used by politicians in the United States. When politicians went to the polls they made lavish promises to their supporters and when they won an

election they fired government officials and rewarded their supporters with jobs. Various Presidents appointed their friends and incompetents to the civil service who were invariably members of their political parties.

What that meant was that political loyalties and patronage and not merit or competence was the criteria for government jobs. However, the "spoils system" was subsequently abolished and the United States and England following Prussia established independent Commissions in 1833 and 1855 respectively, to appoint and dismiss civil servants.

### **Political Neutrality and Anonymity of Civil Service**

Accordingly political neutrality and anonymity have been the hallmark of the civil service and it has always been expected to give loyal and impartial service to the government of the day, to facilitate governments to come and go at periodical elections with minimum dislocation and provide for continuity, good administration and governance. The civil service has therefore been one of the pillars of democracy and good and effective governance and has been essential for the effective operation of rule of law. The civil service has accordingly become a permanent instrument for good governance with its traditional notion of political neutrality, integrity and anonymity

### **Civil Service of Trinidad and Tobago**

When in 1950 the British Government granted to the colony of Trinidad and Tobago an advanced system of government, the British in recognizing the value and importance of an impartial civil service embodied in that Constitution a Public Service Commission to make appointments to the civil service free from political influence, patronage or interference.

When Trinidad and Tobago attained its independence in 1962 it opted to retain Service Commissions in its Constitution and also did so when it became a Republic in 1974. To insulate the independence of members of such Commissions from political influence and control, the Republican Constitution provided that all members of Service Commissions were to be appointed by the President after consultation with, and not on the advice of, the Prime Minister and Leader of the Opposition. All appointments to those Commissions were therefore those of the President and not the Prime Minister or the executive or the majority party in Parliament.

The powers of independent Service Commissions have been clearly defined in the Constitution and constitute power to appoint, promote, and transfer civil servants and to remove and exercise disciplinary control over them. These powers are indeed discretionary and quasi-judicial

which members are expected to exercise in accordance with the principles of fairness, reasonableness and even-handed justice and any one aggrieved by a decision of any one of the Commissions may seek redress on application for judicial review before the court.

The role and functions of Service Commissions are not managerial, but simply those of an arbiter determining specific issues between the Government as employer of public officers and public officers as employees.

### **The Executive as Employers of Civil Servants**

A clear distinction must therefore be drawn between the role and function of the executive as employer of public officers and those of the Public Service Commission, a distinction which would appear to delude many, and politicians are no exception.

The Police Service Commission, formerly a body independent of the executive was, however, replaced on the altar of political expediency by another Commission in 2006 to function as an arm of the executive. However, this new Commission has not only failed to move the police service forward but has led to its deterioration to such an extent that a call has been made for revamping them or either of them. It is indeed a notorious fact that politicians do not build institutions but destroy them.

### **No Code Governing Relationship Between Ministers and Civil Servants**

One of the areas of public administration that would appear to have been left in doubt, ambiguity and confusion since the independence of Trinidad and Tobago is the relationship between Ministers of government and civil servants or public officers.

The question what, if any, control a Minister has over civil servants in his Ministry is woefully unclear although section 85 of the Constitution provides that where any Minister has been assigned responsibility for any department of government, he shall exercise general direction and control over that department.

However, in the absence of such a code and since the system of government of Trinidad and Tobago is of the Westminster model, it would seem that the relationship between Minister and civil servants is largely influenced by British conventions which have established clear lines of demarcation between what a Minister may request a civil servant to do and what he cannot and should not do.

## **Management of Civil Service and Other Services**

Since the employer of civil servants and other public officers is the executive, the responsibility for the efficient and effective management of the respective services has always been the sole responsibility of the executive and not that of Service Commissions.

A civil servant has the normal obligation of an employee to his employer and is therefore obliged to give honest and faithful service to it; he must obey lawful orders of his employer and act in a manner consistent with the bond of trust and confidence between employer and employee.

On the other hand Ministers have a duty to give fair consideration and due weight to informed and impartial advice from civil servants, as well as to their considerations in reaching policy decisions. A Permanent Secretary is constitutionally subordinate to a Minister and as a consequence a Minister is not bound by the advice of his Permanent Secretary, although in practice he may accept it. Under the doctrine of ministerial responsibility it is the Minister who is answerable at the end of the day to Parliament for whatever decision he may take in respect of any matter in his department.

Moreover, a Minister may not be able to work with a Permanent Secretary or Head of Department for many reasons. The Minister may find that his Permanent Secretary is either too rigid or incompatible or tired or temperamentally unfitted to work with in which case the Permanent Secretary may be transferred to another Ministry or retired in the public interest by the Public Service Commission.

## **Low Level of Productivity**

One of the dominant concerns of the general public has been the low level of management of the civil service, low productivity and poor customer service which may be attributed to a multiplicity of factors such as; the lack of proper knowledge and understanding of the Constitution, statutes and regulatory procedures; poor systems and management culture; lack of dedication and commitment to service and the failure to effectively manage human resources.

Indeed a poor civil service has been attributed to the lamentable failure of Government to address inherent and perennial problems militating against an efficient and effective Civil Service such as failing to institute and establish proper management systems and effective monitoring mechanisms such as management audits.

One of the factors that impinges on the integrity of the civil service is the compromising by managers of the distinction between a political and an apolitical civil service and the establishment of partisan relationship with political parties. It is a notorious fact that the civil service was heavily politicized by one political party since the advent of the independence of Trinidad and Tobago and had accordingly undermined the traditional notion of political neutrality and anonymity of the civil service, a factor which had impacted adversely on the effective governance of the country upon a change of government in 1986.

One of the formidable problems that have plagued and undermined the efficiency and effectiveness of the civil service and the police service is the use of mechanisms for determining suitability for promotion, mechanisms that have been fraught with suspicion and lack of trust and confidence and notorious for favouritism, nepotism and political influence.

The civil service is a career Service and those entering into it do so with the hope and expectation of upward mobility. However when they are unfairly overlooked for promotion and given no reason for so doing it not unexpectedly leads to frustration, dysfunctionality, inertia and degeneration.

Not long ago the Public Service Commission had proposed to one of our Prime Ministers the promotion of two senior public officers, Feroza Ramjohn and Ganga-Persad Kisooson but the Prime Minister objected to the promotions. Both officers then challenged the objection by way of judicial review and the judge at first instance ruled in their favour.

However, the Prime Minister appealed against the court's decision to the Court of Appeal which agreed with the judge at first instance. But the Prime Minister being dissatisfied with those decisions appealed to the Privy Council which held that on the evidence the decision making process for the making of the promotions had been unfair to the officers since the Prime Minister had failed to provide a rational explanation objecting to the promotions and observe the rules of natural justice.

It is an irrefutable fact that Politicians regard the civil service as a drag on the implementation of their policies because of its bureaucracy and inefficiencies, real or perceived. In order to promote speed and efficiency in the execution of Government's policies, politicians have circumvented the civil service by embarking upon the establishment of state agencies or state enterprises or non-departmental bodies to function as private sector businesses.

However, historical and empirical evidence have established that politicians have misused and abused the purposes and objectives of such bodies and have used them instead for doling out jobs to political favourites and incompetents. More alarmingly, however, such bodies have become a haven for fraud and corruption and a burden to taxpayers.

Indeed the alleged payment of One Hundred and Fifty Million Dollars by a State enterprise to a contractor for doing nothing may be described as the epitome of political profligacy and the plundering of the people's treasury.

The establishment of quasi-governmental agencies or enterprises in England referred to as quangos, was described as the "escape" theory and deemed to have been created to avoid ordinary parliamentary checks and financial control. Quangos had been used to implement government policies which had been politically unpopular but which provided lucrative returns for those involved.

Such bodies had been held out to the electorate as commercially oriented, independent of politics and unencumbered by civil service practices and bureaucratic agencies that could best harness individual initiative and enterprise for public good. However, it has been established that the rationale underlying the conceptualization of such bodies was to avoid ordinary parliamentary scrutiny and financial control to which central government departments and local governments are subject. However, quangos and such similar agencies or enterprises have been described as the "poison chalice" and the "off loading theory" and "the greatest source of ministerial patronage."

Not surprisingly the proliferation of quangos in England was soon discovered to be used as a source of political patronage and the providing of jobs for party loyalists. The times described quangos as a bureaucratic waste of time. The Taxpayers Alliance in England considered them as a "jobs for the boys."

Qangos had become notorious for lack of accountability with a cloud of confusion hanging over them. Many politicians, both Labour and Conservative parties promised a bonfire of them. These quasi-non-governmental organizations have been viewed as a duplicate of costly services to the taxpayers. Some of the characteristics of quangos are that they are kept outside the ambit of the Auditor-General and parliament generally and loaded with political appointees.

In either system of government, be it Westminster model or republican the formulation of national social and economic policies are exclusively

those of the executive and such policies are largely designed to promote the image of government to win the next election.

In a democracy, the people are sovereign and they periodically elect persons to manage or govern their affairs. The members so elected constitute the government and consequently become the servants of the people. Ironically, however, upon the election of a government there is an automatic subversion of the political sovereignty of the people by the manipulation of the parliamentary sovereignty of Parliament thereby subjecting the sovereign people to a state of subservience to the government until the next elections.

Democracy therefore has many virtues but it also has many pitfalls.