

Governance and Human Rights in India: Issues and Challenges

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ABSTRACT

Governance plays a vital role for the progress and sustainable development of any country of the world, and India is no exception. To put it further, it acts as a catalyst for fulfilling the democratic objectives of a country and also the welfare of the people as a whole. On the contrary, bad governance is a major obstacle on the way to political stability as it leads to corruption; undermines the rule of law, and efficiency in the service delivery system. In real sense, governance and human right issues are implicitly or explicitly interlinked with each other. In the case of India, issues of human rights have gained ground for the last several decades. Though India has put its best feet forwards to grapple with the challenges of human rights, it has not succeeded much in its noble aim. Corruption, criminalization of politics, lack of transparency and accountability in government affairs are some of the major challenges of human right issues in India. In effect, people face a lot of day to day challenges of human right problems in the country. The paper studies the linkages between governance and human right issues in India, identifies the major problems in the implementation of good governance in the country, and focuses on the current debate on good governance and human rights in the Indian context. The paper finally concludes, inter alia, with suggestions that strong leadership and good governance are essential prerequisite to cope with the challenges of human right problems in the country.

Key Words : Governance, Human Rights, Rule of law, Corruption, India, Transparency

INTRODUCTION

Though the concepts of governance and human rights have been existing since time immemorial, they have gained ground in the political affairs in the recent time. In real sense, good governance and protection of human rights are key aspects for the progress and development of any country of the world. After the independence India in 1947, the country adopted a democratic form of government. On positive note, human rights have got constitutional provisions as a form of Fundamental Rights and Directive Principles of State Policy. Despite such provisions, the country is faced with a lot many problems of good governance and human rights, and above all the sanctity of human life.

India is the second largest populated country of the world. It is a multi-religious, multi-lingual, and multi-cultural society. Along with the Hindus, a number of minority groups live together. Ethnic conflict, communal violence, caste war, human right issues etc. are the order of the day that create barriers to orderly execute good governance in the country.

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To maintain the plural ethos of the country, protection of minority rights as well as human rights for all is a major question. Good governance introduced in 1989 by the multi-lateral organization like World Bank. Only those countries are getting aid by World Bank that those who had liberalized, privatized and given entry to multi-corporation, for trade and investment into their own country sometimes their assets were more than a nation-states. When a country opens their economy to the foreign market and a competitive era begins within the country, so now the state job was not only to maintain law and order, including work for democracy, welfare of the people, development and to maintain the good record to human rights.

Concept of Good governance :

The concept of 'governance' is not new. It is as old as human civilization. In broad generalities, simply put 'governance means 'the process of decision-making and the process by which decisions are implemented (or not implemented)'^[1]. Governance can be used in several contexts such as corporate governance, international governance, national governance and local governance.

In 1989 the term 'governance' was first used to describe the need for institutional reform and a better and more efficient public sector in Sub-Saharan countries. In accordance with the former president of Senegal, *Abdou Diouf*, Africa requires not just less government but better government.

The Africa-study defined governance as 'the exercise of political power to manage a nation's affairs'. The concept of governance was further developed in the Bank's 1992 publication 'Governance and Development'. In this publication, governance was defined as 'the manner in which power is exercised in the management of a country's economic and social resources for development.'^[2]

The 1989 study on Sub-Saharan Africa introduced governance without explicitly referring to the connotation 'good'. It was only in the foreword, that former World Bank president *Conable* used the term 'good governance', referring to it as a 'public service' that is efficient, a judicial system that is reliable, and an administration that is accountable to its public.

According to the World Bank, *governance* refers to the 'process through which power is exercised to manage the collective affairs' and economic and social resources of a country, nation, community or economy (World Bank). Good governance, in terms, refers to the propriety of the manner in which this process is executed. Leading in the assessment of this execution are the World Bank's governance indicators. Good governance has eight important characteristics.

Participation:

Participation is one of the key points in good governance, where citizens are always supreme. Participation of both men and women through direct or indirect in decision making fulfills the philosophy of democracy.

Rule of Law:

The crux of rule of law means no one is above the law and everyone is equal before the law. So there needs an impartial judicial system and police, by this the protection of minorities or vulnerable section should be ensured.

Consensus Oriented:

To make the governance better, a lot many actors such as market, civil society, NGOs, etc. Play a vital role in decision making over broader interests of the larger community.

Equity and Inclusiveness:

A society's well being depends on ensuring that all its members feel that they have a stake in it and do not feel excluded from the mainstream of society. This requires all groups, but particularly the most vulnerable have equal opportunities to improve or maintain their well being.

Effectiveness and Efficiency:

Good governance means, all the institution produced result so, the needs to be meet. The concept of efficiency in the context of good governance also covers the sustainable use of resources so that in spite of present future generation would also benefit.

Accountability:

Accountability is ne of the key features of good governance. Not only a private actor but also a civil society organization must be accountable to people as well as other stake holders. It is important to note that accountability should be fixed, otherwise the efficiency will be hampered.

Transparency:

There needs a greater transparency in decision making and its enforcement. Every decision should be in a public domain so that affected people may have easy access to the information.

Responsiveness:

Good governance requires institutions and processes to serve all stakeholders within a reasonable timeframe.^[3]

Human Rights :

Human rights are rights inherent to all human beings, irrespective of our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. Everyone is equally entitled to human rights without discrimination. These rights are all interrelated, interdependent and indivisible.

The term 'human rights' means 'right to life with dignity'. In fact, dignity is a very essential condition for realization of a person as human being. Right doesn't mean only survival like animal. It should always be with dignity, which means, being a men he/she must avail, right to quality of food, clean drinking water, quality of education and clean environment etc. Human right is a modern concept. The first legal definition was internationally stated by Universal Declaration of Human Rights (UDHR) in 1948.^[4] Every member country of the signatory of UDHR is bound to incorporate UDHR as well as two optional protocols *i.e.* International Covenant on Civil and Political rights and International Covenant on Economic, Social and Cultural rights into their own constitution at the same time. India is a also signatory of UDHR as well as optional protocols. After UDHR and Optional protocol, several other treaties and conventions also have covered human rights provisions in details. Due to international commitment India has incorporated all international human rights law, treaties and conventions into their own constitution as a form of Fundamental Rights under Articles 12 to 35 and Directive Principles of State Policy under Articles 36 to 51. Fundamental rights are justiciable rights which mean that if any individual rights are violated, he/she can move to the Supreme Court and High Court to restore his/her rights under Articles 32 and 226, respectively, while Directive Principles of Sate Policy are non-justiciable in nature meaning thereby that they are not legally enforceable by the courts by their violation. ^[4] In spite of these international provisions,

the government of India has shown commitment of UN human rights provision and established separate statutory body called 'National Human Rights commission' which came into existence under the Protection of Human Rights Act, 1993. The record of National Human Rights Commission has been up to mark since its very existence to the present time.

Co-relations between Good Governance and Human Rights :

Good governance and Human rights are co-related with each other. Every responsible country is judged by the performance in context of its good governance and protection of human rights. The concept of good governance and human rights reinforce each other. Both are premised on core principles of participation, accountability, transparency and state responsibility. Human rights require a conducive and enabling environment, particularly in appropriate regulations, institutions and procedures framing the actions of the State. Human rights provide a set of performance standards against which Governments and other actors can be held accountable. At the same time, good governance policies should empower individuals to live with dignity and freedom. Although human rights empower people, they cannot be respected and protected in a sustainable manner without good governance. In addition to relevant laws, political, managerial and administrative processes and institutions are needed to respond to the rights and needs of populations. There is no single model for good governance. Institutions and processes evolve over time.

The frameworks of good governance are strengthened by human rights. They require: going beyond the ratification of human rights treaties and integrating human rights effectively in legislation and State policy and practice. They also require establishing the promotion of justice as the aim of the rule of law.

Issues and Challenges to Good Governance and Human Rights :

India is faced with a lot many challenges of good governance and human rights.

Corruption:

According to Transparency International, India ranks 81 in the corruption perception index among a group of 180 countries. Even the record of 2017 in corruption perception index was the worst in the Asia Pacific region. Corruption is a major obstacle in governance, and development project as well as service delivery system.

Criminalization of Politics:

Another biggest challenge is criminalization of Indian politics. People with criminal background become politicians and are elected as members of state assemblies and parliament. Roughly 20 per cent members of 16th Lok Sabha have several criminal cases pending against them, including murder, kidnapping, rape, extortion, robbery charges etc. Consequently, the criminal activities put negative impact on policy making, transparency and accountability in governance as well as efficient public delivery system.

Unemployment:

Unemployment is one of the biggest challenges in almost all the developing countries of the world, and India is no exception. The situation of unemployment in India is much alarming. It is reported that more than 50 per cent of the working population of India is jobless. It is expected that this percentage will continue to rise up to 60 per cent by the year 2050. A fast growing working

population will have more workers, which need more savings and more investment.^[5] Unfortunately the unemployment in India has increased from 17.7 million 2016 to 17.8 million in 2017 and it is projected that it will reach 18 million this year. In percentage terms, unemployment rate will remain at 3.4 per cent in 2017-18.^[6] This recent trend of unemployment is a major threat on the way to progress and development of the country.

Service Delivery System:

The implementation of policies and programmes of the country is based upon the effective service delivery system made by the central and state government. These policies and programmes often fail to meet their objectives due to ineffective delivery mechanism of the country. To make the service delivery system efficient, the three institutions, namely the judiciary, the media, and the civil society have played a greater role.

The independent judiciary has consistently played a positive role in service delivery system. Whenever the service delivery system of the country fails, the judiciary actively tries to intervene for the correction of the executive. Similarly, NGOs and individuals use Public Interest Litigation (PIL) as a tool for corrective measure in service delivery systems. Likewise the role of media as pressure groups has been never forgotten. The media whether print or electronic often exerts pressure on public officials as well as institutions to make the service delivery system effective. The third most essential institution is the civil society organization, which is considered as the third most important sector in governance, which works as checks and balances in order to make the service delivery system effective and efficient.^[7]

Current Debate on Good governance in Indian context :

Good governance came to the limelight again due to the famous slogan '*sabka saath sabka vikas*' given by the BJP under the leadership of prime ministerial candidate Shri Narendra Modi. This slogan became famous among the people during the Lok Sabha General election in 2014. Consequently, the BJP government came to power with huge mandate. After that, Modi's slogan '*maximum governance and minimum government*' widespread in India.^[8] India is the only country in the world that celebrates 'Good Governance Day' on 25th December each year on the birth anniversary of former prime minister of India Shri Atal Bihari Vajpayee.^[9] Modi government has always reiterated that 'good governance' means 'pro people and pro active, but the sad reality is that the core agenda of the government to bring good governance and over all development has not come into reality. It seems that all the promises and slogans made by the BJP government are nothing but 'political jumlas'.

Conclusions and Recommendations :

On the basis of above entire narratives good governance and human rights are very predominant aspects of every society. In spite of maintaining peace and harmony in India, these two most essential concepts need to be prioritized equally. Without the execution of good governance and protection of human rights the social equilibrium of the country would not be possible. India is a democratic country. The responsibility of the government is not only to make a balance between governance and human rights, but to equally focus on them in order to check the existing issues and challenges.

To meet the challenges of governance and human rights issues, corrupt persons should be punished. Human rights agencies and organizations need to be strengthened. Victims of human

rights violations should be provided with some monetary compensation. Police and enforcement agencies should be sensitized. Fair and speedy trial must be implemented in time. Nexus between criminals and politicians should be separated. Transparency and accountability of the actors in governance need to be ensured.

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