

Good governance principles



Governance is the deliberate and conscious management of regime structures for enhancing the public realm. Governance can be viewed from social, political and economic perspectives. Indeed, good governance is pivotal to the development process. Development linked governance has been an issue much debated in the contemporary world. The term ‘governance’ has taken a much wider meaning and is no longer restricted to ‘rule’ or ‘administration’ but is used in a broader sense to imply the manner in which power is exercised. Since power can be exercised in any manner as desired, certain principles would be required in order to judge whether the discourse of the power has been made as per certain standards and norms. Such judgment can be based on several criteria – participation of citizens, upholding the rule of law, transparency of the system, responsiveness of the authority, consensus oriented policy, equity and inclusiveness of the policy, accountability of the system, strategic vision of the authority, etc.

At the end of the Cold War era, the term ‘good governance’ came into circulation which signified the prescriptions by donor agencies for carrying out economic and political reforms by the recipient countries. These prescriptions were presented by international donor agencies as ‘conditionalities’ and were expected to be met with compliance.[4]

The World Bank defines good governance as –

“.. the one epitomized by predictable, open, and enlightened policy-making, a bureaucracy imbued with a professional ethos acting in furtherance of the public good, the rule of law, transparent processes, and a strong civil society participating in public affairs. Poor governance (on the other hand) is

characterized by arbitrary policy making, unaccountable bureaucracies, un-enforced or unjust legal systems, the abuse of executive power, a civil society unengaged in public life and widespread corruption.”[5]

The Government of Maharashtra Report on Good Governance sought to elucidate on the concept of good governance.[6]At the outset in the ‘ Mission Statement’ of the report, it clarified that the concept of good governance was much larger than mere administrative reforms as understood in the conventional sense of the term as it covered more ground and substance. Good governance has much to do with the ethical grounding of governance and therefore must be evaluated with reference to specific norms and objectives as may be laid down. Apart from looking at the functioning of the given segment of the society from the point of view of its acknowledged stakeholders and beneficiaries and customers and incorporating these perspectives in the course of its actions, it must have firm moorings to certain moral values and principles.

As a concept, good governance applies to various and distinct sections of the society; the government, legislature, judiciary, the media, the private sector, the corporate sector, the co-operatives, societies, trusts, organizations and even non-governmental organizations.[7]After all, public accountability and transparency are equally relevant for each one of these institutions on which the society derives pillar-strength. Furthermore, only when all these and various other sections of the society conduct their affairs in a socially responsible manner can the objective of achieving larger good for the largest number of people in the society be realized.

It must also be mentioned that the foremost test of good governance is the respect for the rule of law. As the often quoted saying goes, the law is supreme and above all its subjects. Governance must always be based on rule of law. Every lawfully established government must govern according to the laws of the land and all its actions must uphold the rule of law and any effort to take the law in one's own hand or to undermine the law by anyone, howsoever high and mighty he may be, must be dealt with speedily, decisively and in an exemplary manner. The Report goes on to observe that it is a matter of great concern that despite over five decades of Independence, it cannot be said with conviction that our governance is based on the rule of law.

CHAPTER 2:

PRINCIPLES OF GOOD GOVERNANCE

2. 1 Principles of Good Governance

The pillars of governance include accountability, transparency, predictability and participation these are universally applicable regardless of economic orientation, strategic priorities, or policy choices of the government in question. However, their application must be country-specific and purely based on the economic, social and administrative capacity of the country. The universally accepted characteristics of good governance include participation, rule of law, transparency, responsiveness, equity, inclusiveness, effectiveness, efficiency and accountability.[8]

The following text shall cover the principles which may be considered as the key principles of good governance in the opinion of the researcher. These

key elements have been listed out by the researcher based on their relevance and contribution towards establishing an efficient and objective driven governing authority, covering socio-political and economic considerations. The determinative role that these principles play are supported by the various texts of international governing authorities, like the United Nations, as well as the emphasis laid upon them by the Constitutions of various countries including India. Therefore, these principles are covered not only by ‘hard-law’ provisions, i. e. legislations, treaties, etc. which make the compliance to such principles mandatory, but also ‘soft-law’ provisions, i. e. declarations, policies outlining desirable targets, etc. which reflect the consensus of countries and their convergence in thought process vis-à-vis these principles.

(1) Free and Fair Elections

Since good governance emphasizes on the significance attached to the right people being involved in the decision making process, a democratic setup where the representatives of the people are in control of the power, ensured by free and fair elections, holds importance towards ensuring good governance. Free and fair elections ensure that the citizens are able to exercise their right to elect their leaders and hence participate in voicing their interests through these leaders. However, such an election process must be free and fair, where the voters have a choice amongst the candidates and the right to the relevant information concerning the candidates in order to elect the leader who according to them could best serve the government. Such elections are open to all persons without

discriminating on sex, race or ethnicity and are without interference or coercion by the government..

The right to vote is a constitutionally safeguarded right and is the cornerstone of a democratic society. However, other factors which discussed below are essential to ensure that elections are a means to a democratic society, and not an end by themselves.[9]

(2) Independent Judiciary & The Rule of Law

A crucial aspect of the constitutional mechanism is a system of checks and balances that is imposed upon the different organs of the State. While power is granted to the government, its use is overlooked and kept within acceptable limits by the constitutional limits like periodic elections, guarantees of rights, and an independent judiciary which permits the citizens to seek protection of their rights and redress against government actions. In this way, one branch of the government is able to provide accountability for the actions of another.

The value attached to an independent judiciary cannot be neglected due to its role in preserving the rule of law.[10]The rule of law binds the branches of the government together. It also lays the foundation for the sound establishment of the healthy economic, social and political life. The Courts must uphold the rule of law in the State, fairly and without discrimination, providing equal protection for women and minorities and allow open and fair access to judicial and administrative systems. Political or civil rights must not be denied by reasons of sex, race or ethnicity. Justice should be available for all sections of the society.

Good governance requires fair legal frameworks that are enforced impartially. It requires full protection of human rights, particularly those of the minorities. Impartial enforcement of laws requires an independent judiciary and an impartial and incorruptible police force.[11]

(3) Freedom of Speech & Press

To function efficiently, a democratic society based on justice must not restrict the free exchange of ideas and information. To achieve this, free and open press and the freedoms of speech and expression are constitutionally safeguarded rights as well to cultivate effective governance. We live in an information driven society, and the access to information provides a vital tool to the public to make informed choices regarding their day to day lives and enables them to participate in the governance process. Such freedoms also serve as a check on the accountability for the government and lets the citizens redress the government for its actions. It facilitates the exchange of political discourse, creating a marketplace of ideas where no view is stifled and the best are chosen.[12]

(4) Elimination of Corruption

Good governance also translates into the elimination of corruption to preserve the integrity of democracy. Governments must strive to rid themselves of bribery as corruption damages economic development and reform, and is an obstacle as far as the ability of developing countries to attract foreign investment is concerned while also hindering the growth of democratic institutions, and concentrating power in the hands of a few. The best way to combat corruption is for governments to be open and transparent. While in certain cases governments have a responsibility to

retain secrecy and confidentiality, democratic governments must be sensitive to the citizen's right to know. Strong laws against corruption and the presence of law enforcement agencies that work against corruption demonstrate a government's commitment to this principle.[13]

(5) Investment in People

Reaping maximum benefit and managing the limited resources before the country is a task which must be performed by the administration. While following good governance practices, the government must invest in the people to cultivate a human resource base. This means that ample resources must be devoted to preserve the welfare of the citizens, without discrimination, and provide health care, education, etc., and an environment where political, economic and social well being, peace and justice can be achieved.[14]

(6) Legitimacy & Voice

All citizens, men and women, must have a voice in the decision making process in good governance compliant State. This may be direct or through legitimate intermediate institutions. Such broad participation is made possible by the freedom of association and expression. Of the principles enumerated thus far, the principle of legitimacy and voice has the strongest claim to universal recognition based on over a half century of United Nations accomplishments in the field of human rights.[15] Another facet of good governance is the intention to act on consensus and not on the will of a few, whether strong or weak. This mediates the differing interests to reach a broad consensus on what is in the best interest of the entire society. A long term perspective giving due regard to the holistic effect on the society must

be undertaken before the governing authority envisages on a path and focus on sustainable human development. This may include better understanding the historical, cultural and social contexts of the given society.[16]

(7) Direction

The leaders in particular and the public in general should have a broad and long term perspective on good governance and human development, accompanied with a strong sense of the historical, cultural and social complexities in which that perspective is grounded.[17]

The leaders and the public should have a broad and long-term perspective on good governance and human development, along with a sense of what is needed for such development. There is also an understanding of the historical, cultural and social complexities in which that perspective is grounded.

Governance is thus a checklist of criteria of managing public affairs. As Lewis T. Preston, the World Bank president, categorically stated in his foreword to *Governance and Development*,

Good governance is an essential complement to sound economic policies. Efficient and accountable management by the public sector and a predictable and transparent policy framework are critical to the efficiency of markets and governments, and hence to economic development.[18]

(8) Performance Orientation

While good governance necessitates the consideration of several other factors, achieving the targets set forth by the government cannot be overlooked. These institutions and processes must attempt to serve all the

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stakeholders, and produce results that meet the needs while making the best use of the resources.[19]The work should always be oriented towards achieving optimal performance. Performance can be divided into two categories – responsiveness of the government, and the effectiveness and efficiency of the government. Good governance calls for serving of the stakeholders within a reasonable timeframe which would ensure trust and acceptance of the public. Responsiveness of the government can only be tested if there exists meaningful and serious civil society engagement in the public affairs of the State.[20]The concept of efficiency in the context of good governance also covers the sustainable use of natural resources and the protections of the environment.

(9) Accountability

“ Information is also associated with the power government exercises. By restricting information, people within government become more powerful than those who are without it. Thus, demand for transparency and information is also about sharing of power. It is possible to misuse power when it is concentrated rather than when it is shared among a broader stream of people. As information grows, the arbitrariness of government tends to reduce.”[21]

Good governance entails the accountability of those who have been entrusted with certain duties and powers. Since the public participates in the decision making through the elected representatives and through the appointed decision makers, these decision makers are accountable to the public for the use of their powers. The level of this accountability may

however differ in accordance with the organization in question and the nature of the decision.

The private sector and civil society organizations must also be held accountable to the public and their institutional stakeholders. In general, an organization or an institution is accountable to those who will be affected by its decisions or actions.[22]

Accountability cannot be enforced without transparency and the rule of law. Transparency refers to the taking decisions and enforcing them in accordance with rules and regulations and making the information with regard to such actions accessible for scrutiny by those the decisions affect.

In simplistic terms, it means also that sufficient information is provided and that it is provided in easily understandable forms and mediums.

[23]Transparency depends on the building of a free flow of information.

Processes, institutions and information are directly made accessible to those concerned with them and enough information is provided to understand and monitor them.[24]

(10) Fairness

There must prevail a sense of fairness emanating from the decisions of the governing body. The members of the society should feel as equal participants in the society. All persons should be regarded as equals, and certain rights which are considered inalienable to humans must be respected. Discrimination of any kind such as race, color, sex, language, religion, political or other opinion, etc. must not be condoned. Equal opportunity must be given to everyone to improve or maintain their well

being. At the same time, certain protected sections of the society must be given special attention if there exists a need for the government to help alleviate their economic, social or political standing.

CHAPTER 3

Good Governance in the Indian Context

“ Life of the law is not logic, but experience.”[25]

2. 1 Good Governance: Recent Initiatives

The pre dominant theme in contemporary debate over administrative reforms in India has been the target of achieving objectives under a regime of good governance. This implies a broader outlook towards management of such matters without exclusively restricting it to public administration. It is suggested that this idea stems from the concept of liberalization which places the individual over collective preferences, and the State shrinks to give place to the market that demands economic efficiency.[26]

The contemporary efforts towards administrative reforms are not directed against an autonomous State, but instead a bureaucracy that is coming to grips with the changing role of the State. The bureaucracy is itself under an attack; on account of its inefficiency and also because of its association with a political system which has failed to perform, a system which deprived the citizens of their legitimate rights in decision making for far too long.

[27]Another striking feature of these reforms is their tendency to be more ideologically oriented than before.

This context must therefore be kept in mind while debating over the reform initiatives in recent times. The change in the context is primarily seen as an

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induced effect of the demand generated by the people's struggle to make the government accountable. It is a change spearheaded by the efforts of the people. It is not a deliberate attempt by a benevolent government to come clean. Kuldeep Mathur makes an interesting observation that the government while reacting to this demand raised by the people has in fact met with resistance from within its own members.[28]

The Conference of Chief Secretaries on effective and responsive administration in November 1996 gave birth to certain recommendations which were later converted into an Action Plan by the Department of Administrative Reforms and Public Grievances, which also included brainstorming by the Prime Minister, Cabinet Secretary, Chief Ministers and the Chief Secretaries. The Action Plan intends to introduce accountable administration which is effective and speedy in redressing public grievances, empowerment of local bodies, decentralized delivery system, review of laws, transparency and the right to information, code of ethics for civil servants, anti-corruption policies, etc. The central idea behind the action plan seems to be efficiency.[29]

The Central Government had setup the Working Group on Right to Information and Promotion of Open and Transparent Government in 1997, which observed –

“ democracy means choice and a sound and informed choice is possible only on the basis of knowledge.”

It went on to argue that transparency and openness in the functioning of the government shall have a cleansing effect on the operations of public

agencies and approvingly quoted the saying that sunlight is the best disinfectant.[30]

In May 1997, at the Conference of Chief Ministers, transparency in the government was discussed and a statement issued which provided for an Action Plan for Effective and Responsive government at the Central and State levels, while conceding that the secrecy and lack of openness in transactions had led to widespread corruption. The statement attracted much praise also because it set upon the government 3 months time to ensure easy access to information for the people vis-à-vis information relating to government activities and decisions, except information which was sensitive in nature. Soon thereafter, political events took over and no progress was made for nearly a decade, much over the 3 month deadline that had been set.[31]

While the Right to Information Act was introduced in 2005, continuous efforts are underway to introduce more accountability and transparency in the system. While most of the principles of good governance are found in the Indian legal framework in the form of constitutionally guaranteed safeguards, the governance needs to involve the civil society more actively in the decision making and establish the norms of redressal. The lack of transparency, prevalence of corruption, inefficient working and lack of responsiveness continue to be the grey areas.

2. 2 Conclusion

As a developing country emerging as an economic superpower, India needs to get its act right. Without certain optimum standards of efficiency, the

principles of good governance cannot be attained. The people's movement demanding good governance in India co-relates to the growing unrest in the civil society frustrated with the inefficiency and the opaqueness in the system.

The only solution was to “re-invent” the government, and thus started a chain of events which included the passing of the Right to Information Act as recently as 2005. With the Indian economy's growth story making headlines, the country has awakened to the need of the hour on its path to development. The insistence of international institutions like the World Bank that developing countries comply with the principles of good governance has only worked to India's advantage.

While some progress has been made, a lot more still needs to be done. Imbibing the principles of good governance shall ensure that India continues to march towards development, while effectively managing its resources and providing the socio-politico-economic rights that the citizens of this country are entitled to. However, just how effective this approach proves to be shall be determined by the response of the civil society which started this reform movement.

CHAPTER 3

CONCLUSION

The study of governance opens up new avenues – it enables us to wander into intellectual space where we can search for solutions to the problems that have haunted us for far too long. The primary objective of governance is to discuss the role of the government in coping with the public issues and to

tackle the myriad predicaments and difficulties that arise from these transactions. It teaches us that means must not be the ends, and both – the means and the ends must be duly understood. The study of governance also enables us to effectively factor in the role that must be played by the other ‘players’ in the arena of governance – the role that must be played by the civil society groups and institutions.

Governance is an exercise of economic, political and administrative authority for efficiently managing a country’s affairs, at both micro and macro levels, which includes the mechanisms, processes and institutions through which the citizens and civil society groups are able to communicate their interests, make use of their constitutional and legal rights besides meeting their obligations and mediating their differences.[32]It is not only desirable, but imperative that governance for development be accountable, participatory, responsive, effective and efficient for promoting the rule of law, safeguarding the interests of citizens and marching towards a holistic development.

The principles of good governance are a set of principles which have gained popularity in an almost dogmatic sense. The universal applicability and acceptance of these principles have seen their application reach a new height and there is now a global pressure to conform to these common minimum standards of governance. These principles envisage a model of governance on which the developing countries, which are fast realizing the link between development and efficient governance, seek to fashion their governance on.

The driving force behind this changing scenario have been the international institutions pressing for compliance, and the rising people's movements demanding their legitimate rights to competent governance in an accountable manner. There is a growing sentiment that the convergence over these principles will result in the governments rising above the challenges before them.

At the same time, there is caution in the wind. These principles must not be followed as diktats. Their application must be tailored to the specific needs of governance, sensitizing them to the local conditions. This is on account of the socio-politico-economic values that are affected by these principles. Their introduction as a localized experience prevents the alienation of the very people who must reap benefits.

Practicing these principles of good and just governance results in a free and open society where people can pursue their hopes and dreams in a healthy and conducive environment. Moreover, robust and open economies would follow which can be trusted by the investors and financial institutions alike, and development shall flourish. It is a matter of strengthening what our Constitution endeavored to provide us. Respecting the human rights; a fruitful partnership between the government and the civil society; efficiency, accountability and transparency in the machinery; performance orientation with strategic vision; useful use of the human resource base and a strong and independent judiciary – together they shall prove to be the desired shot in the arm for a re-invented and rejuvenated system of governance. The governance needs to be carried out in a manner that invokes trust and confidence, a manner which convinces the citizens – the country's biggest

resources – to come forward and fully participate in an enterprise to secure the objectives of development and progress.

In the light of what has been discussed above, with special focus on the realization to introduce changed governance practices and the increased restlessness amongst the people in India, it is almost as if a new governance philosophy has emerged. Unlike the traditional public administration systems that focused on bureaucracy and the delivery of public services, the governance model envisages public managers as entrepreneurs of a new, leaner and increasingly privatized government adapting to the practices and values of private businesses.[33]The ‘mantra’ to be followed by the new governance model would be to transform civil services, underlining the reforms as means to (a) reorganize and downsize the government, (b) set-up a performance based organization, (c) adopt private sector management practices and (d) promote customer-orientation of administration.[34]

For the developing world which is in the grip of serious debt crisis, the World Bank’s ‘good governance’ solution with its accompanying micro and macro-accountability formula hold much promise. Institutional capacity building has been the central point of discussion and promotion of sound development management by removing, as far as possible, the possibilities of ‘capture’ of benefits by the socially powerful is underway.[35]

There is today an increasing pressure on our political system and the administrative apparatus generated by civil society organizations to share information and make the process of decision-making transparent. There is a shift towards responsive governance. This can be made practically feasible

only if the mindset of the politicians and the bureaucrats undergoes a change, and they are receptive to the initiative of sharing information as well as power with the people.[36]