GOOD GOVERNANCE AND HUMAN RIGHTS: IN INDIAN CONTEXT

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ABSTRACT

The human rights are indisputable rights of every human being that enable a person not only to live but also to live with dignity. But human rights invite a number of preconditions for the realization of the same. It is now being realized that protection of human rights at the domestic level is possible only when good governance prevails. The provision of good governance works as precondition for human rights’ protection and growth. Since good governance can help in the realization of different human rights from the right to life to the environmental rights and other economic, political and social rights, demand has been made to declare right to good governance as the most basic human right. The paper is an attempt to analyses the conceptual background of these two concepts disjointedly and how the two contribute to each other and the possibilities of the joint application of the two in general and particularly in a democratic country like India.

Key words: Rights, Democracy, law, Responsibility

1. INTRODUCTION

The term governance distinct from government implies the existence of the co-operation of people and civil societies with the government machinery. It denotes the condition of absence of any central authority. Governance may be taken as denoting how people are ruled and how the affairs of a state are administered and regulated. It refers to a nation’s system of politics and how this functions in relation to public administration and law.
Simply put "governance" means: the process of decision-making and the process by which decisions are implemented (or not implemented). Thus, the concept of governance goes beyond that of "government" where government constitute a part. Since governance is the process of decision-making and the process by which decisions are implemented, an analysis of governance focuses on the formal and informal actors involved in decision-making and implementing the decisions made and the formal and informal structures that have been set in place to arrive at and implement the decision.

2. WHAT IS GOOD GOVERNANCE?

There is no single and exhaustive definition of “good governance,” nor is there a delimitation of its scope, that commands universal acceptance. The term is used with great flexibility; this is an advantage, but also a source of some difficulty at the operational level. Depending on the context and the overriding objective sought, good governance has been said at various times to encompass: full respect of human rights, the rule of law, effective participation, multi-actor partnerships, political pluralism, transparent and accountable processes and institutions, an efficient and effective public sector, legitimacy, access to knowledge, information and education, political empowerment of people, equity, sustainability, and attitudes and values that foster responsibility, solidarity and tolerance.

However, there is a significant degree of consensus that good governance relates to political and institutional processes and outcomes that are deemed necessary to achieve the goals of development. It has been said that good governance is the process whereby public institutions conduct public affairs, manage public resources and guarantee the realization of human rights in a manner essentially free of abuse and corruption, and with due regard for the rule of law. The true test of "good" governance is the degree to which it delivers on the promise of human rights: civil, cultural, economic, political and social rights. The key question is: are the institutions of governance effectively guaranteeing the right to health, adequate housing, sufficient food, quality education, fair justice and personal security?

3. KEY ATTRIBUTES OF GOOD GOVERNANCE

The concept of good governance has been clarified by the work of the former Commission on Human Rights. In its resolution 2000/64, the Commission identified the key attributes of good governance:

- transparency
- responsibility
- accountability
- participation
- responsiveness (to the needs of the people)

By linking good governance to sustainable human development, emphasizing principles such as accountability, participation and the enjoyment of human rights, and rejecting prescriptive approaches to development assistance, the resolution stands as an implicit endorsement of the rights-based approach to development.
Resolution 2000/64 expressly linked good governance to an enabling environment conducive to the enjoyment of human rights and "prompting growth and sustainable human development." In underscoring the importance of development cooperation for securing good governance in countries in need of external support, the resolution recognized the value of partnership approaches to development cooperation and the inappropriateness of prescriptive approaches.

4. HUMAN RIGHTS

Human rights are those inalienable and essential rights which are universally possessed by each and every human being by virtue of being human. These are set out in the Universal Declaration of Human Rights of 1948 and codified and further spelled out in a series of international conventions. These lay down the minimum standards to ensure human dignity, drawing on the values found in different religions and philosophies. The states have identified these rights and protection and promotion of these rights are one of the major objectives of the democratic countries.

5. HOW ARE GOOD GOVERNANCE AND HUMAN RIGHTS LINKED?

Good governance and human rights are mutually reinforcing. Human rights principles provide a set of values to guide the work of governments and other political and social actors. They also provide a set of performance standards against which these actors can be held accountable. Moreover, human rights principles inform the content of good governance efforts: they may inform the development of legislative frameworks, policies, programmers, budgetary allocations and other measures. On the other hand, without good governance, human rights cannot be respected and protected in a sustainable manner. The implementation of human rights relies on a conducive and enabling environment. This includes appropriate legal frameworks and institutions as well as political, managerial and administrative processes responsible for responding to the rights and needs of the population. The links between good governance and human rights can be organized around four areas:

- **Democratic institutions**
  When led by human rights values, good governance reforms of democratic institutions create avenues for the public to participate in policymaking either through formal institutions or informal consultations. They also establish mechanisms for the inclusion of multiple social groups in decision-making processes, especially locally. Finally, they may encourage civil society and local communities to formulate and express their positions on issues of importance to them.

- **Service delivery**
  In the realm of delivering state services to the public, good governance reforms advance human rights when they improve the state’s capacity to fulfill its responsibility to provide public goods which are essential for the protection of a number of human rights, such as the right to education, health and food. Reform initiatives may include mechanisms of accountability and transparency, culturally sensitive policy
tools to ensure that services are accessible and acceptable to all, and paths for public participation in decision-making.

- **Rule of law**

When it comes to the rule of law, human rights-sensitive good governance initiatives reform legislation and assist institutions ranging from penal systems to courts and parliaments to better implement that legislation. Good governance initiatives may include advocacy for legal reform, public awareness-raising on the national and international legal framework, and capacity-building or reform of institutions.

- **Anti-Corruption**

In fighting corruption, good governance efforts rely on principles such as accountability, transparency and participation to shape anti-corruption measures. Initiatives may include establishing institutions such as anti-corruption commissions, creating mechanisms of information sharing, and monitoring governments’ use of public funds and implementation of policies.

6. GOOD GOVERNANCE AND HUMAN RIGHTS IN INDIAN CONTEXT

The idea of good governance even existed during the ancient and the medieval period in India in the religious scriptures like the *Mahabharata*, in the writings of Manu and Kautilya. It was mooted and advocated by the political philosophers who stressed the need of implementing this idea with a view to attain multipurpose development. India incorporated a number of basic human rights as guaranteed fundamental rights. Along with it certain ‘Directive Principles of State Policy’ which are instrumental for the protection of the fundamental rights as well as good governance in the country.

In so far as the Indian constitution is concerned, the “Preamble” to the Indian Constitution reflects broadly the goals and ideas of the Indian State to pursue for the well-being of its people. The most important goal is “to secure to all its citizens justice-social, economic and political”. This fact summarizes the very purpose of any state. The several aspects of this goal and the way to achieve them have been more explicitly spelt out in part IV of the constitution containing the “Directive Principles of State Policy” (Arts 37 to 51) Article 37 says that these Directive Principles, though not enforceable by any court, are nevertheless fundamental in the governance of the country and it shall be the duty of the state in the governance of the country to apply these principles in the making laws”.

Article 12 defines “The State” to include “The government and the Parliament of India and the Government and the Legislature of each of the states and all local or other authorities within the territory of India or under the control of the Government of India”.

The State was also directed:

- To promote the welfare of the people by securing and protecting a social order in which justice-social, economic and political shall inform all institutions of national life.
- To frame and adopt certain principles of policy towards securing.
- Right of men and women equally to an adequate means of livelihood.
• Equitable distribution of material resource to sub serves the common good.
• Deconcentration of wealth and means of production.
• Equal pay for equal work.
• Opportunities and facilities to children to develop in conditions of freedom and dignity and to protection of childhood and youth against exploitation and moral and material abandonment.
• Right to work, to education and public assistance in cases of unemployment, old age, sickness and disablement.
• Participation of workers in the management of undertakings, organizations in any industry.
• Free and compulsory education for all children until they attain the age of 14 years.
• Uniform civil code throughout the territory of India.
• Educational and economic interests of weaker sections of society, in particular, the Schedule Castes and Tribes (SC/ST) and their protection from social injustice and all forces exploitation.
• Organization and establishment of village panchayats to function on units of self-government.
• Protection and improvement of environment, forests and wild life.

India, with the enactment of the 73rd and 74th constitutional amendments gave constitutional status to the decentralized institutions like the panchayatiraj institutions in rural areas and municipal bodies in the urban. The vertical division of powers and to ensure the participation of the people at the grassroots level at the decision making and implementation process and to achieve good governance, these two amendments are an important step for India.

The concept of good governance stands for the prevalence of the rule of law and an independent judiciary. The rule of law, one of the most significant characteristics of good governance prevails in India where much effort has been taken to ensure independence of judiciary. The judiciary has been playing dynamic role for the protection of the basic rights of the people through the practice of Judicial Review resulting in Judicial Activism and Public Interest Litigation (known for its people-friendly procedures).

7. CONCLUSION

In India’s case, apart from the constitutional provisions, efforts have been taken in a number of states to reform the governance to ensure good governance so that economic growth can be accelerated and human rights can be protected. But due to various reasons, it is still remain a distant dream. Mismanagement, corruption, criminalization of politics, lack of co-operation between the people and bureaucrats, lack of awareness among the people etc. are responsible for it. But, if the human rights especially of the downtrodden groups are to be protected, India has to create necessary conditions to enjoy the rights and it can be provided only through good governance. So, juxtaposition between good governance and human rights is necessary.
REFERENCES


