

## *An Emerging Need of Good Governance in Post-Independence India: An Analysis*

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### **Abstract**

India has a very long colonial history and after the independence, we have opted a parliamentary form of governance with democratic set-up. Proper functioning and success of democracy like ours highly depends on good governance. The basis prerequisite of good governance are efficient and effective administration. Much of the common people's distress and helplessness is traceable to lack of access to information and knowledge in decision making process. Good governance creates an enabling environment conducive to enjoyment the basis human rights and prompts the growth and sustainable human development. Formulation and implementation of policies following the principles of participation, consensus oriented, accountability, transparency, responsiveness, efficient and effectiveness, equitable, inclusive and rule of law is the basic tenant of good governance. In present system the corruption, nepotism, favoritism, and red-tapism are the major hindrance in the growth of our system. One side where good governance help in securing the overall human well being and sustainable development, same its opposite side could erode individual capacities as well institutional and community capacities to meet the sustenance needs. Good governance is very crucial to achieve the plan and targets. Policy and procedural reforms will be most effective and task of development administration will be easier when the governance will be good governance.

**Introduction:**

*"The concept of governance is as old as human civilization. What is "Governance"? It simply means the process of decision making and the process by which decisions are implemented".<sup>1</sup>* The term governance can apply to corporate, international, national, local governance or to the interaction between the sectors of society.

"Speaking on basis of experiences of medieval period and the times of colonial rule in particular in the continents of Africa and Asia, some political scientists would use sarcasm in describing the system of governance one such scientist (William H. Borah) said: *"the marvel of all history is the patience with which men and women submit to burdens unnecessarily laid upon them by their governments."* Yet others would not mince words in describing the business of governance thus<sup>2</sup> : *"So they (the government) go on in strange paradox, decided only to be undecided, resolved to be irresolute, adamant for drift, solid for fluidity, all powerful to be important."*<sup>3</sup>

The term 'governance' was first used in the sense in which it is deployed today- by the World Bank in a 1989 report on Africans economies. Trying to account for the failure of its Structural Adjustment Programme (SAP), the World Bank put the blame on a *"Crisis of governance"*. But the crisis of governance does not convey much unless one defines 'governance'.<sup>4</sup> The World Bank in its document *"Governance and Development 1992"* defined governance as the matter in which power is exercised in the management of a country's economic and social resources for development.<sup>5</sup> This early definition is quite indicative of the animating logic and future discursive career of governance: It is silent on the legitimacy or otherwise of the political power in question. So whether the Bank's Client was a democracy or a dictatorship did not matter. What mattered for governance is that efficient management must trump politics. Efficient management, just to be clear, means the withdrawal of the State in favour of the market. Over the years, the World Bank expanded its 'governance' model

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<sup>1</sup> Justice Y.K. Sabharwal, Chief Justice of India, "Role of Judiciary in Good Governance," <http://www.supremecourtindia.nic.in/speeches-2006>, accessed on 13.10.2015.

<sup>2</sup> Sir Winston Churchill, former Prime Minister of England, in an Address on 12<sup>th</sup> Nov. 1936

<sup>3</sup> Justice Y.K. Sabharwal, Chief Justice of India, "Role of Judiciary in Good Governance," <http://www.supremecourtindia.nic.in/speeches-2006>, accessed on 13.10.2015.

<sup>4</sup> G.Samath, "why everyone loves 'good governance', The Hindu, dt. 6.7.2015.

<sup>5</sup> Kulamani Padhi, "Strategies in Good Governance" A case study of Karnataka, Kerala and Orissa, Orissa Revi-ent-2005 <http://www.Odisha.gov.in/strategies-in-good-governance-ACSOKKAO-pdf>. Accessed on 19.10.2015

to include elements of a liberal democracy, such as a legal framework for enforcement of contracts, accountability, and so on. At the same time, it brokered on a marriage between governance and development. Nations deemed to be in need of 'development' could now be told that the only way to get '*development*' is through '*governance*' - that is, by embracing the free market.<sup>6</sup>

#### **Evolution of Good Governance:**

The world has come a long way since the medieval period and the times of colonial rule. The majority of the member states of the comity of nations today are founded on the principle of "*Welfare State*", run with full participation of their respective inhabitants, striving to achieve the common good and in the process affording optimum opportunity and involvement for growth of the individual so as to sub-serve the societal interests. This has led to evolution of "*Good Governance*", as opposed to mere governance, as the umbrella concept encompassing within it a system of governance that is able to unequivocally discover the basic values of the society where standards concern economic, political and socio-cultural issues including those involving human rights, and follows the same through an accountable and upright administration.<sup>7</sup>

#### **Historical Perspective of Good Governance:**

**Kautilya** in his treatise *Arthashastra* elaborated the traits of the king of a good governance state as "*in the happiness of his subjects lies his happiness, in their welfare his welfare, whatever pleases himself, he doesnot consider as good, but whatever pleases his subjects he considers as good*".<sup>8</sup> Plato is credited with developing the concept of the philosopher king as the ideal ruler. Aristotle was perhaps the first political theorist to deal with the term 'governance', when he classified political organizations by indicating the manner in which they were ruled by a kind of numerical court of rule by one (dictatorship), a few (autocracy), or many (democracy) (Sinclair, 1962).

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<sup>6</sup> G. Sampath, "why everyone loves good governance" The Hindu, dt. 6.7.2015.

<sup>7</sup> Justice Y.K. Sabharwal, Chief Justice of India, [http://www.supremecourtindia.nic.in/ Speeches-2006](http://www.supremecourtindia.nic.in/Speeches-2006) accessed on 12.10.2015

<sup>8</sup> Sharma L.N. and Suohmita Sharma, 1998

Kautilya mentions the following few imperatives of good governance for a king (Sharmasastry, R. 1229):

- Merge his individuality with his duties.
- Guide administration.
- Avoid extremes without missing the goal.
- Lead a disciplined life with a code of conduct.
- Pay fixed salaries and allowances.
- Maintain Law and Order.
- Stress on Lekhas (writers)
- Carry out preventive/ punitive measures against corrupt officials.
- Replace bad administrators by good ones.<sup>9</sup>
- Emulate administrative qualities.

In modern era, the *World Bank* has defined 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 process and a strong civil society participating in public affairs. Poor governance (on the other hand) is characterized by arbitrary policy-making, unaccountable bureaucracies, unenforced or unjust legal, a civil society unengaged in public life and widespread corruption. It identified the following three distinctive aspects of good governance:

1. The form of the political regions, military or civil, parliamentary or presidential, authoritative or democratic.
2. The process by which authority is exercised in the management of a country's economic and social resources for development.
3. The capacity of governments to design, formulate and implement policies and to discharge government functions.<sup>10</sup>

As per the *United Nations' Commission on Human Rights*, the key attributes of good governance include transparency, responsibility, accountability, participation and

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<sup>9</sup> Kulamani Padhi, "Strategies in Good Governance: A case study of Karnataka, Kerala and Orissa," Orissa Review, May 2005. [http://www.odisha.gov.in/.../strategies-in-good-governance-ACSOKKAO\\_pdf.](http://www.odisha.gov.in/.../strategies-in-good-governance-ACSOKKAO_pdf.), accessed on 19.10.2015

<sup>10</sup> Justice Y.K. Sabharwal, Chief Justice of India, "Role of Judiciary in Good Governance". <http://www.supremecourtindia.nic.in/Speeches-2006>, accessed on 13.10.2015

responsiveness to the needs of the people. Good governance is thus linked to an enabling environment conducive to the enjoyment of Human rights and promoting growth and sustainable human development

The views evolved in *U.N. Economic and Social Commission for Asia and Pacific* are almost identical. It holds that "*Good Governance has 8 major characteristics. It is participatory, consensus-oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. It assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making. It is also responsive to the present and future needs of society.*"

The characteristics of good governance laid down by United Nations Development Programme (UNDP) are as follows:

- a. Participation
- b. Rule of Law
- c. Transparency
- d. Responsiveness
- e. consensus Orientation,
- f. Equity.
- g. Effectiveness and Efficiency,
- h. Accountability and
- i. Strategic vision<sup>11</sup>

**Good Governance Standards of United Nations<sup>12</sup>:**

According to United Nations, Good Governance has eight characteristics: Good Governance is (i) Consensus oriented, (ii) Participatory, (iii) following the Rule of Law, (iv) Effective and Efficient, (v) Accountable, (vi) Transparent, (vii) Responsive (viii) Equitable and Inclusive.

**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

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<sup>11</sup> Kulamani Padhi, "Strategies in Good Governance: A case study of Karnataka, Kerala and Orissa, Orissa Review - 2005 [http://www.odisha.gov.in/.../strategies\\_in\\_good\\_governance\\_ACSOKKAO\\_pdf.](http://www.odisha.gov.in/.../strategies_in_good_governance_ACSOKKAO_pdf.) , accessed on 19.10.2015

<sup>12</sup> <http://www.Global Connect.inc.globelaijesus.com> accessed on 13.10.2015

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, 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."<sup>13</sup>

The concept of good governance often emerges as a model to compare ineffective economics or political bodies with viable economies and political bodies. The concept centres around the responsibility of governments and governing bodies to meet the needs of the masses as opposed to select groups in society. Also, good governance is about the process for making and implementing decisions. It's not about making 'correct' decisions, but about the best possible process for making those decisions.

*"Good governance requires foresight and master planning..... In a democracy many changes can be achieved if people fight for it collectively. According to me, good governance is our fundamental right."*<sup>14</sup>

In *A.P. Pollution control Board vs. M.V. Nayudu*,<sup>15</sup> the Supreme Court held that:

*There is a need for modification of our statutes, rules and notification by including adequate judicial and scientific inputs. Good Governance is an accepted principle of international and domestic law. It comprises of the rule of law, effective*

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<sup>13</sup> "Good Governance and Human Rights", Office of the United Nations High Commissioner for Human Rights, accessed from [http:// www.ochr.org](http://www.ochr.org), dt. 13.10.2015

<sup>14</sup> Justice N. Santosh Hegde (Retd.), former Supreme Court Judge, delivering 12<sup>th</sup> Nani Palkhiwala memorial lecture on the Topic "Is Good Governance a Right of a Citizen in Democracy". The Hindu, dt. 3.9.2015

<sup>15</sup> AIR 1999, S. 812.

*State institutions, transparency and accountability in public affairs, respect for human rights and the meaningful participation of citizens- (including scientists) - in the political processes of their countries and in decisions affecting their lives.*<sup>16</sup>

In *Pukhrem Sharatchandra Singh vs. Mairembam Prithviraj*,<sup>17</sup> the Supreme Court cited the previous Judgment of this Court in *Manoj Narula vs. Union of India*<sup>18</sup> where it was held that:

*"Democracy, which has been best defined as the government of the people, by the people and for the people, expects prevalence of genuine orderliness, positive propriety, dedicated discipline and sanguine sanctity by constant affirmance of constitutional morality which is the pillar stone of good governance."*

**The Application of the Principle of Good Governance:**

**(1) In the field of Administration:**

**(A) A Centre Level Reforms:** One of the major legacies of the British rule was the strong bureaucratic structures and personnel manning them. The emphasis in the post-independence period was on nation building. The "*public*" remained elusive. With a view to transform the country from a Police State to Welfare State and to serve the aspiring people, it was felt to reform the existing bureaucratic structure, so that the bureaucracy can be designed to serve as the vehicle for ushering in good governance. Thus, in the beginning, the first phase of reforms in the post independence period was led by the United States Foreign Aid objectives. Modernization became the ideology for the development model.<sup>19</sup>

Several committees devoted attention to the structures and machinery of government such as the N. Gopaldaswami Ayyangar report (1949), which recommended that the central ministries be clubbed into a bureau of natural resource and agriculture, bureau of industry and commerce, bureau of transport and

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<sup>16</sup> Report of the Secretary- General on the work of the organization, official records of the U.N. General Assembly, 52 session, Suppl.1 (A/52/1), Para 22.

<sup>17</sup> 2015 SCC online SC 873

<sup>18</sup> (2014) 9 SCC1

<sup>19</sup> Sujata Singh, "Reforms in Governance: Six Decades of Administrative Reforms, Indian Institute of Public Administration, 2009, p.2



communication and bureau of labour and social services.<sup>20</sup> Other committees such as the Gorwala Committee appointed by the Planning Commission focused on the efficient Conduct of Public Undertakings.<sup>21</sup>

An important landmark in the area of administrative reforms goes back to Paul H. Appelby's two reports on Indian Administration. The survey of Public Administration (1953) made a general survey of public administration in the Country. Appelby's second report a reexamination of India's Administrative system with special reference to the administration of the government's industrial and commercial Enterprises was submitted in 1956. The Indian institute of Public Administration was set-up to serve as a "*Think Tank*" to the Government of India. The Department of Administrative Reforms was established in March 1964.

A major effort towards reforming governance was made in 1966 when the Administrative Reforms Commission (ARC) was set-up. The ARC in turn set up 20 study teams, 13 working groups and 1 task Force. In all, it submitted 20 reports to the government, making a total of 581 recommendations, in a period spread over 1966-70. As the ARC reports indicate the thrust of the reforms was on organization and functioning of ministries and departments as also on reform in Civil Services. ARC was assisted by three study teams focusing on personnel management, namely, the Thorat Committee, Nagarkatti Committee and the Patil Committee. An important recommendation of the ARC was accepted by the government when it created the Department of Personnel in August 1970 and placed it in the Cabinet Secretariat.

The Second ARC submitted 16 reports. The 13<sup>th</sup> report of the Second Administrative Reforms Commission focuses on the organizational structure of the Government of India. The report examines the issues of reorganization of ministries and departments by revisiting and redefining the role of ministries and departments in view of the evolving role of governance.

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<sup>20</sup> Ayyangar, N. Gopaldaswami (1949), Report on the Reorganization of the Machinery of the Government, Govt. of India, cited in Sujate Singh, "Reforms in Governance: Six Decades of Administrative Reforms., Indian Institute of Public Administration, 2009, p.3

<sup>21</sup> A.D. Gorwala (1951). Report on Public Administration, Planning Commission, Govt. of India, cited in Sujate Singh, "Reforms in Governance : Six decades of Administrative Reforms, Indian Institute of Public Administration, 2009, p.4



The economic crisis saw a renewed focus on the need to downsize. Among the prominent Committees that examined this issue are The Economic Administrative Reforms Commission (1983) headed by L.K. Jha, the Fifth Pay Commission and the Expenditure Reforms Commission.

The Economic Reforms Commission headed by L.K. Jha, a retired ICS Officer, submitted 37 reports covering: tax administration; economy in public expenditure; the relationship between government and public enterprises etc. It recommended slashing down government activities; change in the style of governmental functioning; minimize harassment to citizens and delays to business and industry.<sup>22</sup>

The Fifth Pay Commission, which was set-up in 1993, submitted its report in 1997. The commission emphasized steps for delayering so as to reduce delays and computerization of office's work, besides many other recommendations pertaining to financial aspects of the governmental functioning.

The Expenditure Reforms Commission was set-up in February 2000 under the Chairmanship of Sri K.P. Geethakrishnan. It submitted ten reports. The focus was on downsizing.

**(B) State level Reforms:**

The first ARC recommendations so far as the state administration are concerned were basically on the same lines as those made for Government of India. This includes its observations on oversized ministries and a proliferation of personnel under the State Governments that had to be checked. The Second ARC's Recommendations on state Level Reforms were also more or less on the same lines as those for the central government. This was specially the case so far as rationalization of the number of the secretarial departments in the state governments.

**(C) District Level Reforms:**

The institution of the District Magistrate as an essential ingredient of the Indian governance and polity has been embedded in the Indian psyche for over a century and a half. The institution was able to give an impression that it would dispense justice ('insaf') fairly and evenly. The basic features of this highly personalized bureaucratic

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<sup>22</sup> L.K. Jha (1983), Economic Administrative Reforms Commission, Report on Economy in Public Expenditure, Department of Administrative Reforms and Public Grievances, Govt. of India, Cited in Sujata Singh, Reforms in Governance : Six Decades of Administrative Reforms, Indian Institute of Public Administration, 2009, p. 24

structure were laid-out in the scheme of governance promulgated in the Government of India Act, 1958. This structure was custom designed to build a coercive power of the state of a very special kind. After independence, Jawahar Lal Nehru and his successors did not and, perhaps, could not change the structure of the district administration which was too deeply entrenched in the countryside to be dislodged easily. The dichotomy between a vibrant democratic system at the centre and the State headquarters and the non-accountable and non-responsive autocratic district administration still continues to be an unsolved conundrum in the Indian polity and governance. The 73rd constitution amendment undertaken in 1992 introduced institutions of self-government in three tiers from the *village panchayat* to the *district Panchayat*. The 73<sup>rd</sup> amendment had, in reality, introduced a diarchy in the system of district administration. The relationship between the collector and *Zila Parishad* and that between the similar offices and panchayats at lower level remain highly nebulous resulting in a statement in the functioning of both the developmental and regulatory functions of district administration. This is detrimental to good governance, the lack of which is manifested in various forms of local militancy to push forward demands originating from perceived economic, linguistic or ethnic injustice. The Administrative Reforms Commission should look into this issue with a fresh mind and instead of attempting to fine tune a system with its basic anti-democratic bias and structure, the commission should suggest its total and frictionless integration with three tiers of the panchayats. A serious study of local governance in other erstwhile British colonies which did not have this or equivalent system like government agents in the old Ceylon (Sri Lanka) would be worthwhile, in order to suggest a new system of representations, responsive and responsible district governance.<sup>23</sup>

**(c) Recent Public- Centric Initiatives:**

Among the various public-centric initiatives taken by the Government of India, three stand out- (1) the 73<sup>rd</sup> and 74<sup>th</sup> Amendments providing Constitutional status to local governance; (2) The Right to information Act, 2005, promoting transparency in

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<sup>23</sup> D. Bandyopadhyay, "Is the Institution of District Magistrate Still necessary"? Economic and Political weekly, November 25, 2006

administration; (3) The Mahatma Gandhi National Rural Employment Guarantee Act, 2005, which aims to provide social security to the rural poor and (4) Governance.

***(1) Panchayati Raj System and Decentralized Governance:***

The evolution of the Panchayati Raj system can be traced to the community Development Projects inaugurated on 2<sup>nd</sup> October, 1952. However, when the Community Development Projects and the National extension Service failed to take off, a committee under the chairmanship of Sri Balwant Rai Mehta was appointed to pinpoint the causes of failure of these institutions. The lack of community participation was held responsible for the failure of the Community Development Projects. The Balwant Rai Mehta Committee recommended a three-tier Panchayati Raj system- the Zila Parishad at the District level, a Panchayat Samiti at the Block level, and a village Panchayat at the village level. There was direct election only at the village level.

The Panchayati Raj system produced mixed results in that no real powers were given to these institutions; elections were not held regularly; and government officials continued to dominate elected functionaries. In some states the District Collector, was the ex-officio Chairman of all the Standing Committees.

The 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendments, 1993, seek to give more powers to local bodies. Elections have been made mandatory and 1/3 seats reserved for women. However, the functioning of these institutions has not been uniformly satisfactory. States like Kerala and West Bengal appear to be doing much better than the other states. The reservation of seats for women remains a farce in the backward northern states where the husband or son exercises the power on behalf of the women.<sup>24</sup>

***(2) The Right to Information Act, 2005:***

The Right to information Act is perhaps the single most important mechanism designed so far to ensure the accountability of administration. The main aim of the Right to information Act, 2005 is to provide a regime of right to information for citizens to secure access to information under the control of public authorities, with a view to promoting transparency and accountability in the working of every public authority. It envisages the constitution of a central Information Commission and State

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<sup>24</sup> Sujata Singh, "Reforms in Governance: Six Decades of Administrative Reforms," Indian Institute of Public Administration, 2009, p. 34.

Information Commissions. The Act states that every public authority should make a constant endeavour to provide information to the public at regular intervals through various means of communication, including the internet, so that the public have minimum resort to the use of the Act to obtain information.

The Right to Information Act (RTI) covers central, state and local governments, and all bodies owned, controlled or substantially financed, directly or indirectly by funds provided by the appropriate Government. Thus, it covers the executive, judiciary and the legislature. The Act is a major improvement on the Freedom of Information Act, 2002, which never came into force. The RTI was passed on May 12, 2005. However, intelligence and security agencies like the IB, RAW etc. are outside its purview.

*"Information"* has been defined as any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, and data material in any electronic form. No fee is to be charged from people falling below the poverty line (BPL).

Information is to be provided within 30 days; 48 hours where life or liberty is involved, 40 days where a third party is involved and 45 days for human rights violations, information from listed security/ intelligence agencies. There is also provision for penalties for unreasonable delay, which is Rs. 250 per day up to Rs. 25000.<sup>25</sup>

The second Administrative Reforms Commission, in its first Report titled *"Right to information: Master key to Good governance"* has recommended that the Official Secrets Act, 1923 be repealed and substituted by a chapter on the National Security Act. It also suggested that the Indian Evidence Act, 1872 be amended to be in consonance with the R.T.I. Act, 2005 with regard to evidence derived from official records. It pointed-out that the manual of office procedure be revised in the light of the provisions of the RTI Act, 2005 with regard to *"Communication of official information."* It further highlighted the need for amending the Manual of Departmental Security Instructions in order to provide a

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<sup>25</sup> Sujata Singh, Reforms in Governance: Six Decades of Administrative Reforms, Indian Institute of Public Administration, 2009, p. 37-38

system of classification of documents, which is in consonance with the RTI Act. The ARC also suggested that members of Parliament and Members of State Legislature should be declared as "**Public Authorities**" under the Right to Information Act, except when they are discharging legislative functions.<sup>26</sup>

A study conducted by *RTI Assessment & Analysis group (RAAG)* and *National Campaign for People's Right to Information (NCPRI)* covered over 35,000 people in villages, towns and cities across ten states and Delhi. Also, 1027 public authorities offices were inspected both in the rural as well as urban areas. The study reveals that an estimated 400,000 applicants from the villages of India filed RTI application in the first two and a half years of the RTI Act. At the same time an estimated 1.6 million applications were filled in urban areas in the first two and a half years of the RTI Act. Among the participants, above 30% of the rural sample applicants and 15% of the sample applicants belonged to the economically weaker sections of society, having a below poverty-line (BPL) or *Antyodaya ration card*. Nearly 65% of rural and 85% of urban had above poverty line (APL) cards.

The major findings of the survey indicate:

- (i) Over 40% of the rural respondents and nearly 15% of urban respondents stated that the most important constraint they faced in exercising their right to information was harassment and threats, non-cooperation from officials.
- (ii) Nearly 30% of the villagers filing RTI applications reported that they were discouraged by the PIO from filing the application.
- (iii) They found it very difficult to get addresses of PIOs, especially for district and sub-district levels.
- (iv) It was found that there are 88 different sets of RTI rules in India but they are not all available at one place. Differing rules mean differing amounts of fee to be paid, different modes of payment and even of filing applications.

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<sup>26</sup> Right to Information: Master Key to Good Governance, Second Administrative Reforms Commission, First Report, June 2006, cited in Sujata Singh, Reforms in Governance: Six Decades of Administrative Reforms, Indian Institute of Public Administration, 2009, p-38.

- (v) Some states insist on sending even letters in the state's language, making it impossible for people from other states to access information (despite section 4(4) of the RTI Act).

The study highlighted that though data supplied by the government indicates a success rate of 70/100, with a full mark for providing complete information and half a mark for part information, their own experience with the RTI applications, success rate becomes 55/100. Whereas government claimed that 90% of the time information was provided in time, their own experience suggested 40%.<sup>27</sup>

The Right to information Act, 2005 was passed by the Rajya Sabha on May 12, 2005, but it came into force on Oct. 12, 2005. Speaking at the 10th Annual convention of the Right to Information Law, *Prime Minister, Mr. Narendra Modi said that "his government's Digital India initiative was complementary to RTI, because putting information online brings transparency, which in turn builds trust. RTI has become a tool for good governance. The RTI Act should not just be limited to a citizen's right to know but it should empower everyone to hold truth to power."*<sup>28</sup> Meanwhile, Rajasthan Information Commission is working on having online process of RTI in collaboration with State's information and Technology Department.<sup>29</sup>

### **(3) Mahatma Gandhi National Rural Employment Guarantee Act, 2005:**

The U.P.A. government's flagship Rural Employment Programme, under the *Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA)*, 2005 has emerged as the world's largest public wage programme. During 2006-07 and January 2013, the Central government spent close to Rs. 200,000 crore on the programme or about Rs. 83 lakh for every panchayat.<sup>30</sup>

The Act was notified in 200 districts in the first phase with effect from February 2<sup>nd</sup>, 2006 and extended to additional 130 districts in the financial year 2007-2008 and 17 districts in U.P. were notified with effect from May 15<sup>th</sup>, 2007. The remaining districts have been

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<sup>27</sup> Safeguarding the right to information, Report of the People's RTI Assessment 2008, RTI Assessment and Analysis Group (RaaG) and, National Campaign for People's Right to Information (NCPRI), July 2009, cited in Sujate Singh, "Reforms in Governance: Six Decades of Administrative Reforms, Indian Institute of Public Administration, 2009, p. 39-40.

<sup>28</sup> The Hindu, dt. 17.10.2015

<sup>29</sup> The Hindu, dt. 15.10.2015

<sup>30</sup> "The measure of a Scheme", State of India's Environment, 2014, A "Down to Earth" Annual, p. 52

notified under the *MNREGA* with effect from April 1, 2008. Thus, the scheme covers the entire country with the exception of districts that have a hundred per cent urban population.

***Salient Features of the Act:***

- a. Adult members of a rural household, willing to do unskilled manual work, may apply for registration in writing or orally to the local Gram Panchayat.
- b. The Gram Panchayat after due verification will issue a Job Card within 15 days of application.
- c. Employment will be given within 15 days of application, for work, if it is not then daily unemployment allowance as per the Act, has to be paid liability of payment of unemployment allowance is of the states.
- d. At least one-third beneficences shall be women who have registered and requested work under the Scheme.
- e. The shelf of projects for a village will be recommended by Gram Sabha and approved by the Zila Panchayat.
- f. Permissible works predominantly include water and soil conservation, afforestation and land-development works.
- g. Social audit has to be done by the Gram Sabha.
- h. Grievance redressal mechanism have to be put in place for ensuring a responsive implementation process.
- i. All accounts and records relating to the Scheme should be available for public scrutiny.
- j. Wages are to be paid according to piece rate or daily rate and according to the minimum wages Act, 1948 for agricultural labourers in the state, unless the Centre notifies a wage rate which will not be less than Rs. 60 per day. Equal wages will be provided to both men and women.
- k. The *MGNREGA* marks a paradigm shift from previous employment programmes either planned or implemented in India's history. *MGNREGA* is unlike any other in its scales architecture and thrust. It has an integrated natural resource management and livelihood generation perspective. The transparency and accountability mechanisms under *MGNREGA* create



unprecedented accountability of performance, especially towards immediate stakeholders.

***Impact on Poverty and Deprivation:***

*MGNREGA* has provided around Rs. 1, 10,700 crore (66 percent of the total expenditure of around Rs. 1, 66,000 crore) as worker wages from financial year 2006 upto financial year 2011-12. Studies note a positive impact of this transfer on household income, monthly per capita expenditure, food security and health of the beneficiaries, Overall, while there are several indications of the significant impact of the scheme, it has even greater potential in terms of poverty alleviation at scale, that can be realised.<sup>31</sup>

Five years of experience has exposed fault lines in the public wage programme. The first is lack of planning. Village plans are not prepared before works are taken-up. Without advance planning, procedures such as administrative approvals and technical sanctions add to delays. The panchayats have not been trained to run the programme. Perspective plans are mostly prepared at the district level, so there is a disconnection between what is planned and what people need.<sup>32</sup>

In general, the implementation of *MGNREGA* in a state can be expected to depend on the quality of governance. States with better systems of governance and administration are more likely to have the ability to run complex programmes more effectively.<sup>33</sup>

**(4) E-Governance :**

***Information Technology and Its Impact on Good Governance:***

Information Technology (IT) is emerging as a major instrument in administrative reforms. Public Administration as a discipline has been overly concerned with making it scientific and rational to enhance its legitimacy. The IT revolution once again highlights the importance of universal application of technology. The Government of India as well as the State Governments has been in forefront in

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<sup>31</sup> "Income and Livelihood Security", MGNREGA SAMEEKSHA An Anthology of Research studies on the MGNREGA Act, 2005, 2006-2012, Ministry of Rural Development Govt. of India, P.5

<sup>32</sup> "The measure of a Scheme," State of India's Environment, A Down to Earth Annual, p. 54

<sup>33</sup> P. Dutta, R. Murgai, M. Ravallion and W.V. Dominique, "Does India's Employment Guarantee Scheme Guarantee Employment?" Policy Research Paper, Washington. D.C.: World Bank, 2012, cited in MGNREGA SAMEEKSHA, An Anthology of Research studies on the MGNREG Act, 2005, 2006-2012, Ministry of Rural Development, Govt. of India, p. 54

bringing about the IT revolution. The objective is to empower the citizens as well as the administrators.

**(a) National e-Governance Plan:**

Over the years, e-Governance has come to be looked upon as a key enabler for good governance. A major initiative taken by the Government for working in e-governance on national scale, called *National e-Governance Plan (NeGP)* was approved on 16<sup>th</sup> May, 2006. The NeGP consists of 27 mission mode Projects (MMPs) encompassing 9 central MMPs, 11 State MMPs and 7 integrated MMPs that span multiple backend ministries/ Departments. It also includes 8 programme support components aimed at creating the right governance and institutional mechanisms, core infrastructure, policies and standards and the necessary legal framework for adoption of e-Governance in the Country. It is implemented at the Central, State and Local Government levels. The government has also approved the scheme for establishing *State Wide Area Networks (SWAN)* across the country in 29 states/ 6 UTs.

**(b) Digital India Programme:**

Digital India, a flagship programme of the Government of India, aims to transform India into a digitally empowered society and knowledge economy. This programme Centres on three key vision areas of "*infrastructure as a Unity to Every Citizen,*" "*Governance and Services on Demand*" and "*Digital Empowerment of Citizens*". This programme has been launched on 1<sup>st</sup> July, 2015. In the endeavour to bridge the digital divide between the government and the citizens, numerous innovative initiatives have been conceptualized and initiated under the Digital India programme including Digital Locker, eSign, Jivan Praman, MyGov, eVisitor, MeghRaj and Biometric Attendance System that have caused seminal improvement in the transparency and accountability in service delivery process across the country. The Aadhaar enabled Biometric Attendance System has improved the productivity in offices while myGov has been able to foster intimate partnership between government and citizens.

In order to showcase the progress of e-governance, the Uttar Pradesh model is being reproduced as such.<sup>34</sup>

**Good Governance and the Constitution of India:**

"*Good governance*" often refers to the task of running the Government in an effective manner. It is qualitatively and conceptually superior to a mere good government. It depends on various factors. A Government, in discharge of its sovereign functions, has to discharge many constitutional obligations and towards fulfilling these obligations it should be capable of enabling, enhancing and deploying the power of the state for sustainable human development. It is essentially a mechanism to strengthen the institutions of Government and civil society with the objective of making the government more accountable, open and transparent by ensuring participatory democracy.<sup>35</sup>

(a) Part IV gives sufficient indication as to how good governance is to be maintained by the state. All governments have been given sufficient constitutional backing by these provisions to ensure good governance for the people.

(b) Art. 31-A of the constitution is another facet of good governance. The state has been given wide powers for acquisition of any property for public interest in order to secure proper, management of public affairs. Moreover, such action shall not be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by Article 14 or Article 19. The state can also interfere with private rights under Article 31-A, 31-C clause (a) to (e). Needless to say, these powers have to be exercised very carefully and under extraordinary circumstances. Nevertheless, if used reasonably, they form an important facet of good governance, in so far that the exercise of such powers is sometimes necessary in public interest.

(c) Furthermore, under Article 39, the State is required to direct its policy towards securing equitable distribution and control of the material resources of the community so as to serve the common good. At the same time, it is to be

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<sup>34</sup> " Uttar Pradesh: Focusing on Rural e-Governance', <http://www.informatics.nic.in>, January 2015 accessed on 18.10.2015

<sup>35</sup> K.G. Bala Krishnan, Chief Justice of India, Sri Chitira Thirumal Memorial Lecture, 29<sup>th</sup> December, ' <http://www.supremecourtindia.nic.in/speeches-2007> accessed on 13.10.2015.

ensured that wealth and means of production do not lie in the hands of a few, but are shared by all. Other obligations include equal pay for equal work, ensuing just and humane conditions of work, protecting children from all forms of abuse so as to develop their faculties in a healthy manner and in conditions of freedom and dignity. Local self governance as an essential aspect of good governance has also been enshrined, and the state is obliged to take steps to organize village panchayats. The constitution also addresses the all important facet of nutrition and standard of living, which must be continually enhanced, especially for those who are economically, socially and educationally backward. By 42<sup>nd</sup> Amendment, fundamental duties were added to ensure that citizens play an important role in the democratic process.

(d) Ensuring education for all is a significant task for the State, and an important tool for furthering good governance. Article 21-A, inserted in 2002, includes the Right to Primary Education as part of the fundamental rights.

(e) The Founding Fathers were aware of the dangers of excessive powers which could undermine the entire democratic setup and hinder the process of social change. Therefore, a judicious system of balance has been provided in the Constitution, such that each arm of governance functions within assigned parameters, complementing each-others' efforts. The Parliament enacts the law, the Executive implements them and the Judiciary interprets them, as an arbiter. This idea of separation of powers is an essential facet of good governance and consequently the rule of law.

(f) In *Keshavanand Bharati's* case, the Supreme Court reinforced the supremacy of the Constitution, and restricted the power of Parliament to amend the constitution, alienating the "*basic features*" of the Constitution from such power. Thus, through this stellar judicial pronouncement, the Rule of Law through a system of good governance was given a clear and coherent meaning, which guides us to this day.

(g) Another important facet of good governance is protection to fundamental rights. In India, Article 21 stands at the fulcrum of this facet. Article 21 confers

positive rights to life and liberty, which goes beyond mere animal existence. It has been given a multidimensional interpretation by the Supreme Court.

(h) The rule of law, through effective governance, was also furthered through what may be termed as "*environmental activism*". Though under Article 48-A of the constitution of India, the state is obligated to protect and improve the environment and to safeguard the forest and wildlife of the country little that was done by the states. However, the Supreme Court, over the years, has ensured that people live in a pollution-free and healthy environment. This is the foremost example of giving the Rule of law a practical meaning which is oriented towards social good and forms the cornerstone of good governance.

**Law Commission Report and Good Governance:**

(i) In the two Hundred Twenty-third Report of Law Commission of India on Need for Ameliorating the lot of the Have-Nots-Supreme Court's Judgements, April 2009, Chairman Dr. Justice Ar. Lakshmanan, it has been opined in Para 1.16 as such:

“From the human development perspective, good governance is democratic governance, meaning:

- People's rights and fundamental freedom are respected, allowing them to live with dignity;
- People have a say in decisions that affect their lives;
- People can hold decision-makers accountable;
- Inclusive and fair rules, institutions and practices govern social interactions;
- Women are equal partners with men in public spheres of life and decision-making;
- People are free from discrimination based on ethnicity, gender, any other attribute;
- The needs of future generations are reflected in current policies;
- Economic and social policies are responsive to people's needs and aspirations-

(ii) In the Law commission of India- Report No. 230 (August, 2009), Reforms in the Judiciary- Some Suggestions, Chairman Dr. Justice Ar. Lakshmanan, it was opined as such:

**Governance:**

The term “*governance*” is derived from a Latin term that literally means steering. It refers to the processes and systems by which an organisation or society operates; the processes by which decisions are made that define expectations, grant power, or verify performance.

The ideal concept of public officer, expressed by the words “*a public officer is a public trust*”, signifies that the officer has been entrusted with public power by the people; that the officer holds this power in trust to be used only for their benefit and never for the benefit of himself or of a few; and that the officer must never conduct his own affairs so as to infringe the public trust.

Citizens have legitimate expectation that the public servants will serve the public interest with fairness and manage public resources properly on a daily basis. The increased democratization and globalization has resulted in increased visibility of public officials. Critical questions are nowadays asked about the way in which cases have been dealt with, the justice of the decisions, the exercise of discretions, and the morals of public servant. Leaders are increasingly being called upon to account for their actions by the communities affected by those actions.

**Conclusion:**

From the above mentioned narrative on the good governance in Indian Context, it can be said that our policy-planners have tried to explore the new ways and means to deliver better results while not disturbing the old system much. In this connection, there is one more pertinent point to be noted. For nearly a decade now, India has been experimenting with a rights-based approach to governance. In general terms, this is an approach that turns basic entitlements of a citizen into legal rights. Under it, the development needs of the people are treated as rights instead of as doles from the government through various programmes or schemes. Since 2004, Indian citizens have become legally entitled to a host of things- information, employment, elementary education, food security and settlements in

forest lands. Some more entitlements in the pipeline include basic minimum land for habitation, drinking water and time-bound delivery of government services.

These have been done through specific laws enacted by the Parliament, such as the *Right to Information (RTI) Act*, the *Forest Right Act (FRA)* and the *National Food Security Act (NFSA)*. More than providing access to some basic amenities, such laws are supposed to empower the people.

One can say that in the last one decade, the government's vocabulary of governance has undergone a change. What used to be the monopoly of non-governmental organizations and international agencies has become a trademark in official Jargon; the government now uses '*rights-based approach to development*' more often, rather as a guiding principle. Many developing countries have adopted this approach, particularly in Latin America and Africa. Globally, the approach gained currency after the end of the cold war in 1990s. In 2005, the UPA government started its new experiment with the enactment of the RTI Act. Considered as one of the best such laws in the world, the Act gave a general sense of empowerment to people. In the same year, the *Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA)* came into effect. After 30 years of strident demand for such a legislation and various experiments with wage programmes, the *MGNREGA* guarantees every rural household 100 days of manual employment on demand. The *National Food Security Act* entitles people to subsidized food grains, usually procured earlier from public distribution shops. Since the 1980s, the Supreme Court has been giving orders interpreting socio-economic rights-such as rights to employment or to education-as being integral to the right to life under the Constitution.

But the question is whether such laws which are supposed to empower people have done so? Are they effective? Do people feel a difference in service delivery after these laws came into force? If we look closely, we realize that while the government triggered a sense of empowerment, it failed to create the right institutional mechanisms to deliver the legalized services. For example, in the case of the Right to Food Security, the decision to deliver it through the extremely inefficient and corruption- riddled public distribution system (*PDS*) dug its grave.



One of the essential requirements of good governance is the absence of corruption. But unfortunately, corruption has struck deep-roots in our society, including its administrative apparatus. At every rung of the administration, whether at the Centre or in the States, there are corrupt elements who are causing immense loss to the State and the Nation and the public interest.<sup>36</sup>

Fighting corruption is one of the facets of promoting good governance. But governance issues are far much broader than anti-corruption alone.<sup>37</sup> The only point of satisfaction is that successive governments at the centre and State level are contributing their bit to better the good governance model which they have inherited. But the implementation machinery and the process of implementation need to be geared-up in totality. Also, the system of checks and balances has to be strengthened in fair measure. Lastly, a constant vigil on what is going on from the people's side is a must in a vibrant democracy. After all, democracy is for the people, by the people and of the people! In recent Judgment of the Allahabad High Court dated 14.10.2015 in Public Interest *Litigation (PIL) No. 29323 of 2015 vs. Dr. Anil Kumar Yadav, Chairman UPPSC Allahabad & ors*, the Court referred the case of *Central Electricity Supply utility of Orissa vs. Dhobei Sahoo*, in which the Supreme Court held that:

*"....the Court is required to see that the larger public interest and the basic concept pertaining to good governance are not thrown to the winds."*

What the apex Court of the Land ordained for the court is also true for all citizens. This is the bounden duty of every citizen of this country to ensure that for robust running of democracy, the basic concept of good governance is not thrown to the winds, neither today nor in the future.

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<sup>36</sup> Law Commission of India- Report No. 166 (February 1999) (Para 1.3)

<sup>37</sup> Law Commission of India- Report No. 230 (August, 2009) (para 1.35)

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