

Good Governance in India: Problems and Prospects

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Governance means the process of decision-making and the process by which the decisions are implemented. Governance focuses on the process of governing, including interaction between formal and informal actors as well as influencing the policies and decisions that concerned public lives.

“Good Governance is associated more with an efficient and effective administration in a democratic framework.”¹ The term ‘good governance’ has been receiving considerable attention in political discourse in the last few years. The set of strategies to achieve good governance is being put forward by international leading agencies such as the World Bank, International Monetary Fund (IMF), etc., as also by our own government.

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.”² 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.

India has given the message of universal brotherhood and tolerance to the whole World in the past. After independence, the Indian Constitution has also been framed for securing justice, liberty, equality and empowering weaker sections. An efficient, effective and democratic government is the best guarantor of social justice as well as an orderly society. Similarly, there is also emphasis on the fact that the administrative system has to be country specific and area specific taking in view not only the institutions of governance and its legal and regulatory mechanisms but also its market, its civil society and cultural values of the people. The government would, therefore, have the

singular responsibility to create an enabling environment where development programmes get properly implemented and that creative minds do not get stifled or their energies diverted from undertaking new initiatives or enterprises. The principal response of the state, therefore, would be to facilitate, to enable, and to coordinate. Neither the market nor the civil society can perform this role as effectively as the government and thus they cannot become substitutes for the government.

India is not excluded from this global debate or transition from socialist order to capitalist growth models. Fortunately, the Indian State does not have the monopoly of the public sphere. The civil society is increasingly more concerned with public sphere issues and government intervention is considered necessary to provide welfare schemes to cover social safety needs, upgrade health-care to protect children, and help provide opportunities for women and the minorities. But Good governance does not occur by chance. It must be demanded by citizens and nourished explicitly and consciously by the nation state. It is, therefore, necessary that the citizens are allowed to participate freely, openly and fully in the political process. The citizens must have the right to compete for office, form political party and enjoy fundamental rights and civil liberty. Good governance is accordingly associated with accountable political leadership, enlightened policy-making and a civil service imbued with a professional ethos. The presence of a strong civil society including a free press and independent judiciary are pre-conditions for good governance.

Nature of Corruption in India

Under Indian constitution, the government consists of three branches: the legislative, the executive, and the judiciary with clear mandate for independent functioning of each branch. Therefore, for good governance each of these units must function with integrity and efficiency - this is the bottom line. The legislators or law makers are elected representatives of the people - their prime job is to frame clear, simple and effective laws. The executive branch consisting of ministers, bureaucrats, and the whole government machinery is

expected to implement the laws framed the legislative assemblies. The ultimate responsibility for running the administration rests with the elected representatives of the people which are the ministers. These ministers are accountable to the legislatures which are also elected by the people. The third segment, the judiciary, acts as an impartial watchdog to see if the people are governed as per the law. It lacks the power to frame any law; it can only interpret the laws passed by the law-makers under the constitutional framework and give its verdicts accordingly. But when corruption invades, governance begins to degrade – implying loss of integrity and efficiency both. Situation in India is obviously far from ideal.

Corruption in the Legislative Branch

The behaviour of Indian legislators both at the Centre and in the States leaves a lot to be desired. They betray their constituencies that elected them. Corruption in the assemblies as seen from this perspective implies floor crossing, cash-for-vote, taking money or other benefits to ask questions, framing rules under the influence of big corporate houses at the cost of common people, etc. As time is too short, much of the subjects which are put before parliament for discussion are guillotined. Criminalization of politics is yet another facet of corruption. Most of the corruption is done at the time of elections and votes are purchased, booth capturing, compulsory voting are also practiced by corrupt politicians to remain in power.” Corruption in the Executive Branch Ministers are at the top of the hierarchy of the executive branch”³. Bureaucratic corruption thrives on red-tape, complicated procedures, and discretionary power. Governance in India is characterized by a lack of transparency in rules, complicated procedures and a bureaucracy that enjoys broad discretionary power. There is an exclusivist process of decision-making, overly centralized government, and the absence of effective internal control mechanisms.

Major evidences of political and executive corruption are:

- 1) Mega Black Money Laundering Scam, Cost: Rs. 70,000 Crores,
Face of the Scam: Hassan Ali Khan

- 2) CWG Scam, Cost: Rs. 70,000 crores, Face of the Scam: Suresh Kalmadi
- 3) 2G Spectrum Scam, Cost: Rs 176,000 crore, Face of the Scam: A. Raja & M. K. Kanimozhi.
- 4) Adarsh Housing Scam, Cost: Rs 18,978 crores, Face of the Scam: Ashok Chavan
- 5) Scorpene Submarine Scam, Cost: Rs 18,978 crores, Face of the Scam: Ravi Shankaran
- 6) Stamp Paper Scam, Cost: Rs 20,000 crores, Face of the Scam: Abdul Karim Telgi
- 7) Bofors Scam Cost: Rs. 400 million, Face of the Scam: Ottavio Quattrocchi
- 8) Fodder Scam, Cost: Rs. 950 crores, Face of the Scam: Lalu Prasad Yadav
9. Hawala Scam , Cost: Rs. 80 crores, Face of the Scam: L K Advani/P V Narsimha Rao
10. Satyam Scam Cost: Rs. 14,000 crores Face of the Scam: B. Ramalinga Raju
11. Stock Market Scam Cost: Rs. 3,500 crores Face of the Scam: Harshad Mehta (“Big Bull”)
12. Madhu Koda Scam Cost: Rs. 4,000 crores Face of the Scam: Madhu Koda
13. Cement Scam Cost: Rs. 30 crores Face of the Scam: A R Antulay
14. Nagarwala Scam Cost: Rs. 67 Lakhs Face of the Scam: R S Nagarwala
15. Mundhra Scam (1957) Cost: Rs. 1.2 crores Face of the Scam: Mundhraive”⁴

Corruption in the Judiciary

Independence of the judiciary is guaranteed by the Constitution. However, political interference in judicial decisions involving powerful individuals, just as in investigation, is a sure possibility. In spite of the various legal provisions in place, the appointment of judges is not always free from political interference. High court and Supreme Court judges can only be removed through impeachment in

the parliament; this makes fighting corruption in higher judiciary rather impractical. Recent impeachment of Justice Saumitra Sen in the Rajya Sabha is a rare event.

There are other cases of corruption at higher level such as that of Justice Dinakaran of Sikkim High Court and justice Nirmal Yadav of the Uttarakhand High Court. The Judges (Inquiry) Act, 1968, prescribes judicial inquiry followed by impeachment. The huge backlog of cases (there are over 3 crore pending cases), slow and complicated court procedures are another course of corruption in the judiciary.

The role of Media

Media, is termed as the 'Fourth Estate' that is the fourth pillar (apart from legislature, judiciary and executive) of a Parliamentary democracy. It is expected to inform people to keep a careful eye on the doings of governments, institutions, public officials, corporates and individuals wilding power and influence and to promote accountability. It is perceived as a protector of public interest. But it seems the picture is not all that rosy and bright. The media appears to have diverted from their rightful path. Infact, media is working under the influence of political parties. News are projected according to the politicians. For the enhancement of TRPs, there is to be seen a hunger for scandals. The media need to introspect and recapture their 'lost soul' and their rightful role as a watch dogs of democracy.

Anti-Corruption Institutions in India

The 2005 Right to Information (RTI) Act represents one of the country's most critical achievements in the fight against corruption. Under the provisions of the Act, any citizen may request information from a "public authority" which is required to reply within 30 days. The Act also requires every public authority to computerize its records for wide dissemination and to proactively publish certain categories of information for easy citizen access. This act provides citizens with a mechanism to control public spending. Many anticorruption activists have been using the RTI to expose corruption. Lack of legal protection against whistleblowers, however, puts them in

risky situation and many RTI activists have lost their lives in last six years.

The Central Vigilance Commission (CVC) is the apex watchdog agency established in 1964. The CVC can investigate complaints against high level public officials at the central level not at the state level.

The Central Bureau of Investigation (CBI) is the prime investigating agency of the central government and is generally referred to as a credible and respected institution in the country. It is placed under the Ministry of Personnel, Pensions & Grievances and consists of three divisions: the Anti-Corruption Division, the Special Crimes Division and the Economic Offences Division. The Supreme and High Courts can instruct the CBI to conduct investigations.

The Office of the Comptroller and Auditor General (C & AG) is the apex auditing body. The C & AG has produced several reports on state departments such as railways, public sector enterprise, and tax administration. These reports have revealed many financial irregularities, suggesting a lack of monitoring of public expenses, poor targeting and corrupt practices in many branches of government. The most recent example is its report on Commonwealth Games that nailed the corrupt organizing committee members.

The Chief Information Commission (CIC) was established in 2005 and came into operation in 2006. It has delivered decisions instructing government, courts, universities, police, and ministries on how to share information of public interest. State information commissions have also been opened, thus giving practical shape to the 2005 Right to Information (RTI) Act. It is hoped that the CIC will help spread the culture of public seeking information under the RTI and expose wrong doings⁵.

E-Governance has considerably increased the speed of government services in a number of areas and reduced opportunities for bribery. A wide range of public services have been digitized such as obtaining licenses, paying taxes and clearing goods. The National

Portal of India (<http://india.gov.in>) was subsequently created and lists all the services that have been digitized.

Some suggestions are

1. Administrative procedure should be simplified and delays eliminated. We should have single window system and effective O and M machinery for governmental functioning.

2. Declaration of Assets Law should be passed to make it obligatory for all ministers, MPs, MLAs, all levels of public servants to declare their assets .

3. Investigating agency should have teeth and Autonomy. The present form of Central Bureau Investigation, Central and State Vigilance commission is not having proper autonomy to function effectively.

4. Separate Courts for Corruption Cases.

5. Improving good governance parameters.

6. Electoral Reforms.

7. Clean up of delivery systems which are subject to serious leakages and bribery cuts. Many of such deliveries are channelled through government agencies

8. Decentralization of Administration.

9. Strong Civil Society should takes initiative instead of depending helplessly on politicians and officials to fight against corruption.

10. To curb corruption, introduction of transparent system of decision-making, easy access to public information, open government and effective uses of Citizen Charters.

11. Creation of strong Public opinion against corruption.

12. Establishment of Strong, Efficient Lokpal at Centre and Lokayukta in States.

13. State funding of elections expenses may encourage honourable and well meaning individuals can enter into politics.

Summary

The assessment of the legal and institutional anticorruption framework points to a combination of robust institutions and lack of accountability in key areas. Some institutions such as the Supreme Court or the Election Commission have taken a stronger stance to combat malpractice in recent years, while key pieces of legislation such as the RTI Act promote greater bureaucratic transparency, granting citizens access to public records. Despite these emerging trends, however, the institutional anti-corruption framework generally suffers from a lack of coordination, and overlapping and conflicting mandates between institutions addressing corruption. Key institutions often lack the staff and resources to fulfill their mandate adequately and struggle to protect themselves from political interference. Often, they primarily focus on investigating alleged cases of corruption at the expense of preventive activities. Influential politicians and senior officials are rarely convicted for corruption, eroding public confidence in the political will to effectively tackle corruption.

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