



CHALLENGES TO GOOD GOVERNANCE IN INDIA

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ABSTRACT

Governance is a system which is concerned with structure and processes for decision making, accountability, control and behavior at the top of an entity. A government is a machinery through which the duties and functions of the State is formulated, expressed, and realized. Relation between the State and government, execution of laws, role of government and nature of governance has also undergone a lot of changes with the passage of time. Good governance is related to institutional and political processes and results which are necessary to achieve the goal of development. Citizens of all the countries expect their nation-state and various organs of Government for governance that provide them with all the means to live a good life. In short, good governance, means securing justice, employment, empowerment and efficient delivery of services. When we discuss about governance in India, due to its huge size and heterogeneity, India is not an easy country to govern. Concept of ‘good governance in India’ has multiple aspects and challenges as well. Since we got Independence, India is facing many roadblocks on its way to good governance. Major roadblocks are criminalization of politics, terrorism, corruption, unemployment and poverty etc. In this paper, author has highlighted the challenges to good governance which India is facing, laws related to those issues in place in India and ways to minimize them.

I. INTRODUCTION

Generally, the terms “government” and “governance” are used interchangeably and signify the exercise of authority in a country, corporation, institution, or State. Government is the name given to the entity which exercises this authority. A government is a machinery through which the duties and functions of the State is formulated, expressed, and realized. But with changing scenario, relation between the State and government, execution of laws, role of government and nature of governance has also undergone a lot of changes. Governance has now become Good Governance. In the 1992 report entitled “Governance and Development”, the World Bank set out its definition of Good Governance. It defines ‘Good Governance’ as “the manner in which power is exercised in the management of a country’s economic and social resources for development.”¹ Citizens from all the countries look up to the nation-state

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¹Available at: <http://documents.worldbank.org/curated/en/604951468739447676/Governance-and-development>. (Last visited on August 1, 2021).

and various organs of Government for governance that provide them all the means to live a good life. In short, good governance, means securing justice, employment, empowerment and efficient delivery of services.

Due to its huge size and heterogeneity, India is not an easy country to govern. Concept of 'good governance in India' has multiple aspects and challenges as well. Since we got Independence, India is facing many roadblocks on its way to good governance. In his famous 'tryst with destiny' speech on 14 August 1947, Pt. Nehru articulated this challenge as 'the ending of poverty and ignorance and disease and inequality of opportunities'². In this Article, I will be highlighting major challenges to good governance in India.

II. MAJOR CHALLENGES TO GOOD GOVERNANCE

Criminalization of Politics

Criminalization of politics can be described as participation of criminals in the politics by various ways including contesting of elections, getting elected as members of Parliament and running the country. In India, criminalization of politics began in late 1970s. Criminalization of the politics and the unconsecrated nexus between politicians, civil servants and business houses started having an evil influence on formulation of public policy and governance. Criminalization of Indian politics has been pointed out by various committees formulated on political and electoral reforms.

The most frightening form of criminalization of politics is the substantial numbers of elected representatives in the Parliament with undecided criminal charges against them. Apart from it, booth capturing, intimidation of voters, proliferation of unworthy candidates etc. also constitutes major obstructions to good governance. The Vohra Committee on Criminalization of Politics³ submitted its report in October 1993 and identified the extent of political-criminal nexus. It also revealed how over the years' criminals have been elected to Parliament and State Assemblies. The Supreme Court made recommendation in *Shri Dinesh Trivedi, M.P. & Others. v. Union of India*⁴ for the appointment of a high level committee for ensuring an in depth investigation on the findings of the Vohra Committee.

²Available at: https://en.wikipedia.org/wiki/Tryst_with_Destiny (Last visited on August 1, 2021).

³Government of India, "Vohra Committee Report on Criminalization of Politics" (Ministry of Home Affairs, 1993).

⁴(1997) 4 SCC 306.

Laws in Place in India to Curb Criminalization of Politics

India does not have a specific law to prevent criminalization of politics. There are some provisions in various Acts and Rules which points out the measures taken to prevent the criminalization of politics. Section 4A of the Conduct of Election Rules, 1961 provides that an affidavit must be filed by each candidate who wants to contest election. The affidavit must have following details⁵:

- i. Details of pending case, if any, against the candidate which is punishable with two or more years of imprisonment and in which charges have been framed by the court.
- ii. Details of cases where a conviction for an offence is involved other than an offence that has been mentioned under Section 8 of Representation of the People Act, 1951 and includes imprisonment for one year and more.

Section 8 of the Representation of People's Act states that "a person who has been punished with an imprisonment for more than two years cannot contest an election for next six years after the term of his imprisonment has over."⁶ But we can't ignore the sad reality that the cases are continued for years in the courts which makes this provision useless in reality, because if a candidate is facing trial, no matter how gross the charges are against him, he can contest the election until the court pronounce its judgment.

The Supreme Court bench of Justice R.F. Nariaman and S. RavindraBhat on 13th February 2020 in the case of *Rambabu Singh Thakur v. Sunil Arora & others*⁷ ordered the political parties to publish criminal antecedents of their candidates for the Legislative Assembly and Lok Sabha elections. The court also ordered that the political parties have to within 48 hours of selecting a candidate with criminal background, publish a detailed reason as to what made them chose the candidates having criminal records over other candidates. Following are the information that needs to be disclosed:

- i. The crime that the candidate is accused of;
- ii. Number and nature of cases accused is charged with;
- iii. Name and number of the case along with name of the court;
- iv. Stage of the case;

⁵ Conduct of Election Rules, 1961, s. 4.

⁶The Representation of the People Act, 1951. s. 8(3).

⁷ W.P.(C) No. 2192 of 2018

- v. Why the other person without any criminal record can't not be selected as a candidate.

As per the order of the Hon'ble Supreme Court information must be uploaded on social media platform, one national newspaper, website of the party and one vernacular newspaper. Having criminals and musclemen as protectors and guardians of our country, is one of the most devious threat to our democratic governance. It is the time, we need to move further to debar criminals from contesting elections and to do that there is a need to amend Section 8 of the Representation of the People's Act 1951 in order to disqualify an individual against whom any case is pending related to the grave and heinous offences and corruption.

Terrorism

One of the most important functions of the democratic government is to provide security of life and property to its people. But the life and property of individual in India is in danger due to terrorism which is spreading like wildfire. Almost 150 districts from various States of India are affected by terrorism, insurgency and Naxalite movements.

Definition of terrorism can't be confined in the boundaries of words. Where some scholars and experts have chosen the open-ended definitions, others have outlined several different kinds of definitions, all exploring and endeavoring to incorporate all the elements that decide what terrorism is. In general, Terrorism is defined as an act of force or violence against persons or property in violation of laws. The main purpose of terrorism is to achieve some political aim.

Terrorism is one of the biggest threats not only to the good governance but to the humanity as well. India has witnessed many major terrorist attacks in which many people including our armed forces have lost their lives. The main support behind terrorism in India is foreign intervention and support from the neighboring countries. Neighboring countries like Pakistan, China, Nepal, Bhutan, Myanmar are constantly promoting and assisting terrorism in India.

Terrorism is not something that can be ousted by recourse to the ordinary laws of the land, there are many special laws in force in India to stop terrorism including Maintenance of Internal Security Act, Unlawful Activities Prevention Act, 2004, Terrorist and Disruptive Activities Act 1985, The Disturbed Areas Act, The Armed Forces Special Power Act 1958, National Security Act, Assam Preventive Detention Act, Armed Forces Jammu & Kashmir Special Powers Act and Essential Services Maintenance Act but as we know that though India has an absolute spectrum of draconian laws that are enacted in order to stop terrorism but are effectively used by state agents to abuse the legislative powers. Inability of the

agencies to act promptly and executives to properly implement the laws also contributed in the spread of terrorism.

Corruption

While anti-corruption laws in India are rigorous, corruption is very common in our country. Corruption in India has been widely alleged as one of the major obstacle in improving the standard of governance in India. The complex and nontransparent system of control, monopoly of the government as a service provider, immature legal agenda, lack of data, and the weak perception of citizens' rights have given ample backing to corruption in India.

The government has taken few steps by introducing several laws in order to curb corruption like creation on an independent ombudsman i.e. Lokpal to investigate and prosecute corruption charges against public officials including ministers. Lokpal and Lokayuktas Act, 2013 is the latest legislation that provides establishment of Lokpal at central level and Lokayuktas at the State levels. Lokpal and Lokayuktas appointed under this Act are independent from executive branch of the Government. They are given power to investigate complaints of corruptions against public and government functionaries including Prime Minister or other central ministers.

Apart from Lokpal India has Prevention of Corruption Act, 1988 (hereafter PCA) This Act criminalizes receipt of any 'undue advantage' by 'public servant.' Offence under Prevention of Corruption Act includes:⁸

- i. public servant obtaining any undue advantage with the intention, or as reward, to improperly or dishonestly perform any public duty;
- ii. Public servants obtaining any undue advantage without consideration from a person concerned in proceedings or business transacted either by the public servant to whom such public person is a subordinate and
- iii. Criminal misconduct by a public servant and a habitual offender.

Before 2018, Bribe-givers were brought within the ambit of the Act only through the charge of abatement of the offences mentioned above but the amendment of 2018 in PCA have expressly targeted bribe givers by criminalizing the act of providing or promising to provide a bribe to any person, whether public servant or not, to induce or reward a public servant to

⁸Prevention of Corruption Act, 1988.

improperly or dishonestly perform a public duty. Central Civil Services (Conduct) Rules, 1964, All India Services (Conduct) Rules, 1968, Foreign Contribution Regulation Act, 2010, Central Vigilance Commission Act, 2003, Right to Information Act, 2005 etc. contains various provisions aiming to tackle corruption in India

Despite all these legislations, Corruption is not ready to take its step out from Indian governance. Corruption is the result of lack of effective management by the government functionaries, unsupervised administration, lack of support from good leaders and lack of proper vigilance system in our country. Government should strive hard to eradicate corruption from government administration.

Employment and Poverty

Providing employment to the youth is the most difficult task faced by the Government of India. Unemployment refers to “a situation in which skilled or educated people are unable to find a job.” Youth of working age in India constitutes almost half of the population. A fast-growing working population will ensure more workers, more saving and hence more investment.

This robotic view of growth assumes that demography is the fate and that economic policies and programs play little or no role. If we fail to produce employment and prepare the youth with excellence education and skills, India’s demographic dividend could become a demographic liability. Employment growth accelerated to 2.6 per cent during 1999-2005 but the average daily status unemployment rate increased further to 8.3 per cent in 2004-05 as more persons entered market-seeking employment. This trend continues.

Good governance is important for fighting poverty. Governance is about politics or the relationship between Government and public. Good governance requires state capability, responsiveness, and accountability. It means making politics work for the poor. Countries got to do better at delivering security, incomes, and health and education for all. Security may be a precondition for development and requires effective states. Preventing conflict is best and more cost-effective than helping countries rebuild afterward. Growth is that the best way to reducing poverty and there must be better access to economic opportunities. Everyone must have access to four essential public services i.e. education, health, water and sanitation and social protection.

III. CONCLUSION

The effective functioning of governance is the prime concern of every citizen of the country. The citizens are ready to pay the price for good services offered by the state but what is

required is a transparent, accountable and intelligible governance system absolutely free from bias and prejudices. There is a need to reformulate our national strategy to accord primacy to the Gandhian principle of ‘Antyodaya’ to restore good governance in the country. India should also focus on developing probity in governance, which will make the governance more ethical. The government should continue to work on the good ideals that will lead to inclusive and sustainable development. Criminalization of politics should be stopped and a government must be an association of people who are not associated with any sort of criminal activities, whatsoever. There is a dire need to bring more stringent legislation to curb criminalization of politics.