Good Governance: Protection of Human Rights  
(Indian Perspective)  

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I. ABSTRACT & INTRODUCTION

Good Governance is associated with effective and efficient administration in a democratic framework, while governance refers to a political system whether democratic or not. The concept of good governance has been receiving considerable attention in recent years, not only in India, but also in large number of developed and developing nations. The meaning of good governance may vary for reasons, for a number of experts, Good Governance implies Rule of Law, Safeguarding of Basic Human Rights, presence of honest and efficient government, accountability, transparency and openness.

Thus the protection of human rights is one of the primary function of government and no government can hope to survive if it can not perform this role. In this context one can ask, what are these human rights? and why their protection is necessary for good governance.

From the very beginning, State is considered to be the oppressor of human rights, therefore it seems that individual had enjoyed total freedom and natural rights prior to the origin of state. In other words, the state of nature was both benevolent and peaceful however other disagreeing with it, says that it was nasty, poor, brutish, alone and short. Instead prior to the development of state in its full form, the human rights were not in existence since everyone was free to do what it liked.

But the State developed gradually, bringing an end to all this nasty state of natural freedom and enjoyed in return, certain rights guaranteed by the state. In the very dawn of humanity if the natural rights of life, liberty and property considered as human rights, there in recent times, emphasis has been pinned down on the protection of mankind's 'dignity' as the essential of human rights. In other words, whatever adds to the dignified and free existence of human being should be regarded as human rights.

Taking a creative view of (human) rights, Laski defines it as, 'those conditions of social life without which no man can seek, in general, to be himself at his best.' It may be noted here that in the ancient history of India references are there not only about the rights of mankind but also of birds and beasts. King Ashoka's inscriptions on the rocks and pillars are testimony to this. In the western world also, emphasis was given to the human rights. It goes back to the earliest reflection which may be viewed as being brought to a kind of moral focus in the writings of the Greek and Roman Stoics. But it was the Magna Carta of 1215 A.D. which speaks about certain basic rights of human being and their protection by the state. The Universal Declaration of Human Rights Charter in 1948 followed by Covenants on Political and Civil Rights and Social, Economic and Cultural Rights, tried to ensure human rights to the mankind of world in social-economic, Cultural and political field. Conceptually United States defined human rights in a policy document as late in 1978 stating that freedom from arbitrary arrest and imprisonment, torture, unfair trial, cruel and unusual punishment, invasion of privacy, right to food, shelter, healthcare and education and freedom of thought, speech, assembly, religion, press, movement and participation in government, all are considered as human rights.

However it is general observation that these rights are being trampled by the mighty individual, fanatic religious and ethnic groups and even by the state and its agencies time and again. In floundering the rights, it is the poor, weak and downtrodden who become the victims in the hands of high and mighty.

There is a fair amount of consensus that the protection of human rights of people is impossible without an effective democratic government. Moreover, the most important component of democracy are Rule of Law and Constitutionalism.

India is a democratic state based on these aforesaid norms. During the freedom movement with vision and far sight, Indian leaders included human rights agenda for post independent India. Thus free India addressed itself to the formulations of human rights through the legal instrument of the Constitution. The tryst to make this viable instrument to the Indian people's salvation, and to secure all person's basic human rights, is...
implicit from the preambular promise, fundamental rights and directive principle of state policy, besides this the special provisions are made for the weaker sections of the society that includes women, children, minority, the poor and disadvantaged people of the society.

Bearing the international experience upto mid 20th Century, the Constitution of India strikes a peculiar balance between individuals-political rights and socio-economic justice. It solemnly resolves to secure to all its citizens justice-social, economic and political. Attempts have been made to classify human rights with reference to personal liberty, basic economic needs and social-equality etc.

The Constitution of India is probably one the best written document of the world which has elaborately dealt with the dimensionality of human rights in the two separate Chapters Part-III (Fundamental Rights) and Part-IV (Directive Principles of State Policy). An integrating reading of the two parts along with the preamble of the constitution leads us to write that rights have been treated not merely as legal entitlements or claims of the people on the state, but they are intended to bring about structural changes in the graded society of India. Granville Austin has observed: "The Indian Constitution is the first and foremost a social document. The majority of its provisions are either directly aimed at the furthering the goals of the social revolution or attempt to foster this revolution by establishing the conditions necessary for its achievement. Yet despite the permeation of the entire constitution by the aim of national renaissance, the core of the commitment to the social revolution lies in Part-III and Part-IV, in Fundamental Rights and in the Directive Principles of State Policy. These are the conscience of the constitution".

The principle of protection of human rights is incorporated in the following stipulations of the Constitution:-

1. Equality before law (Art. 14)
2. Prohibition of discrimination (Art. 15)
3. Abolition of untouchability (Art. 17)
4. Protection in respect of conviction of offences (Art. 20)
5. Right to protection of life and personal liberty (Art. 21)
6. Protection against arrest and detention in certain cases (Art. 22)
7. Right against exploitation (Art. 23 & Art. 24)
8. Right to constitutional remedies (Art. 32)
9. Equal justice and free legal aid (Art. 39A)
10. Separation of judiciary from executive (Art. 50)
11. Assumption that a person is innocent till proved guilty.
12. Rule of open trails.
13. Need for expeditious trial.

The human rights have been referred to as fundamental rights in the constitution of India and whole of the part III is dedicated for this purpose. The right to enforce fundamental right itself has been made a fundamental right in Article 32. The supreme court of India has described this unique provision in the constitution as "The cornerstone of the democratic edifice" and the protector and guarantor of fundamental rights. Any person have the right to move the supreme court by appropriate proceedings for the enforcement of the rights conferred by this part is guaranteed.

The supreme court under art-32 shall have power to issue directions, order or writs, including writs in the nature of habeas corpus, mandamus, prohibition and certiorari which may be appropriate for the enforcement of any of the rights. Article 226 of the constitution also empowers citizens to seek remedy from the high court.

On the other hand, Directive Principles of State Policy broadly caters to the welfare and developmental rights of the people. This include : equal justice and free legal aid, right to work, right to education and to public assistance in certain cases like unemployment, old age, sickness and disablement, provision for just and women conditions of work and maternity relief, promotion of education and economic interest of the scheduled castes, scheduled tribes and other weaker sections of the society.

The Indian courts through judicial activism and other decisions have been able to bring astonishing results by vindicating the rights of the degraded bonded labourers, tortured undertrails, blinded prisoners, child workers, helpless prisoners, depressed women, physically disabled person etc.

In order to protect the human rights by forms of various violations, the government of India also taken measured steps in creating institutions and reforming laws with regard to safeguard the legitimate rights the people in general, the minorities, the dalits the backwards, the women and the children in particular. Establishment of separate institutions like National Human Rights Commission, National Minority Commission, the National Commission for Scheduled Castes, the National Commission for Scheduled Tribes, National Commission for Women etc. Apart from these governmental institutions, various Non Governmental Organisations have working for the promotion and protection of human rights.

II. CONCLUSION

Protection of human rights is the primary function of government and no government can hope to survive if it can not perform this role. In order to strengthen the governance and achieving the goal, clean, efficient, transparent and responsible government is the need of hour. The Indian government have taken many steps to strengthen constitutional and organisational effectiveness for protection of human rights, moving towards good governance.
REFERENCES