



INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

Urban Good Governane And Fundamental Rights

Dr. Niti Nipuna Saxena

Head Of Department,
Institute Of Law & Legal Studies,
Sage University, Indore, Madhya Pradesh, India

Abstract: Urban good governance focuses on efficient city management, prioritizing transparency, accountability, and active citizen engagement. It aims to safeguard fundamental rights such as access to essential services, justice, and equal opportunities. This approach fosters inclusive urban growth, improving the overall well-being and living conditions of city inhabitants.

INTRODUCTION

"Good governance is arguably the most crucial element in eliminating poverty and fostering development."
-former UN Secretary-General Kofi Annan

Good governance is linked with efficient and effective administration within a democratic framework. It is often seen as administration that is friendly, caring, and responsive to citizens.

Good governance is regarded as a normative principle of administrative law, requiring the State to function in a way that enhances efficiency, integrity, and responsiveness to civil society.

The World Bank defines governance as "the manner in which power is exercised in the management of a country's economic and social resources for development." The UNDP, while defining good governance, places significant emphasis on sustainable human development, poverty eradication, and public administration.

According to the Oxford Dictionary, administration refers to:

- The management of a business, institution, or government agency.
- The management of public affairs, including governance.
- The administration of justice, among other things.

"Governance" or "govern" involves:

- Exercising authority or control.
- Directing the policy and affairs of governments and organizations.
- Influencing or determining a course of action.
- Acting as the prevailing influence or standard.
- Serving as a guiding principle or law.
- Controlling, especially emotions.

Adding "effective" or "good" enhances these qualities. In simple terms, effective administration equates to effective management, and good governance equates to good management in India.

Urban governance refers to the process by which governments and stakeholders collectively make decisions on how to plan, finance, and manage urban areas, taking into account principles such as transparency, accountability, efficiency, public participation, and social cohesion.

The concept of governance is deeply rooted in human civilization, representing the process through which decisions are made and implemented. Governance is defined as "the act, manner, or fact of governing" and refers to the function or authority involved in governance. Good governance encompasses the exercise of economic, political, and administrative power in managing a nation's affairs across all levels. It involves the mechanisms, processes, and institutions through which citizens and groups express their interests, exercise their legal rights, fulfill their obligations, and mediate their differences.

According to the United Nations Commission on Human Rights, the essential characteristics of good governance include transparency, responsibility, accountability, participation, and responsiveness to the people's needs. Thus, good governance is closely tied to creating an enabling environment conducive to the enjoyment of human rights, as well as promoting growth and sustainable human development. The concept of good governance gained prominence in the late 1980s as a response to the failures of development policies, often attributed to issues in governance, including the neglect of human rights.

The principles of good governance and human rights are interlinked and mutually reinforcing, both grounded in core values such as participation, accountability, transparency, and state responsibility. Human rights necessitate a supportive and enabling environment, particularly in terms of appropriate regulations, institutions, and procedures that guide state actions. These rights provide a framework of performance standards against which governments and other actors can be held accountable. At the same time, policies promoting good governance should empower individuals to live with dignity and freedom. Although human rights empower individuals, they cannot be fully respected and protected in a sustainable manner without the foundation of good governance. Drawing from pertinent international literature and empirical research on urban contexts, this article identifies and explores five fundamental values of good urban governance: responsiveness, effectiveness, procedural justice, resilience, and counterbalance. The pursuit of good governance can manifest in various forms, and this article specifically examines urban governance. It highlights four distinct shifts, placing greater emphasis on the real decision-makers or ordinary citizens, and focusing more on selective choice or integrative deliberation as approaches to urban governance. It is important to note that urban governance and good urban governance are not identical concepts. This article encourages critical reflection, urging readers to move beyond the performance-oriented bias that often accompanies governance reform.

Origins of Good Governance:

In ancient Indian scriptures, such as the Dharamshastra, it is emphasized that a ruler's duty is to be guided by the rule of law in every decision, whether significant or minor. This rule of law was to be enforced through a system of good governance. In India, the pursuit of good governance has been a declared objective of the government long before the country achieved independence.

The term "good governance" was first used in a 1989 World Bank report. The concept has since been widely embraced in international law, particularly in the context of human rights. In development literature, good governance is increasingly seen as a normative concept that emphasizes civil, cultural, economic, political, and social rights.

The United Nations High Commissioner for Human Rights (UHCHR) identifies five key characteristics of good governance:

1. Transparency
2. Responsibility
3. Accountability
4. Participation
5. Responsiveness

Governance, as a concept, is as old as human civilization and refers to the process of decision-making and implementation. The quality of governance largely depends on the cooperation of the governed.

Reflecting on the experiences of the medieval period and colonial rule, especially in Africa and Asia, some political scientists have critically described governance. One such scientist remarked, "The marvel of all history is the patience with which men and women submit to burdens unnecessarily laid upon them by their governments." Others, like Winston Churchill, have described governance as being paradoxically indecisive and inconsistent.

Today, however, most nations are founded on the principle of the "Welfare State," characterized by full citizen participation, aiming to achieve the common good. This evolution has led to the development of "Good Governance," a concept that encompasses economic, political, and socio-cultural standards, including human rights, and is implemented through accountable and ethical administration.

Good Governance and Fundamental Rights:

According to Hon'ble Mr. Justice N. Santosh Hegde, the Karnataka Lokayukta, good governance is a fundamental right in a democracy. It includes transparency, accountability, justice, and equity, ensuring that even the poorest citizens can live with dignity. Good governance is responsive to the needs of the people and involves framing and implementing appropriate laws and measures. It also includes strict accountability, ensuring that rulers are bound by accepted norms and controlled by institutions.

Good governance should be recognized as a fundamental right under the Constitution. Laws should be amended to ensure transparency and accountability, with penalties for officials who fail to comply. There should be provisions for compensating citizens who are wronged. The Lokpal institution, created through an act of Parliament, should be accountable to the Lok Sabha and the public.

According to the UN High Commissioner for Human Rights, the true test of "good" governance is its ability to deliver on human rights promises, including civil, cultural, economic, political, and social rights.

The Commission on Human Rights has clarified the concept of good governance. Good governance is an environment conducive to human rights and sustainable development. The UNDP Human Development Report 2002 further elaborates on the concept of 'democratic governance,' which promotes human development. Democratic governance emphasizes political freedom, human rights, and the removal of discrimination, aiming to build institutions that are efficient, fair, and developed through a democratic process. The UN Economic & Social Commission for Asia defines good governance as having eight major characteristics: participation, consensus orientation, accountability, transparency, responsiveness, effectiveness, efficiency, equity, and inclusivity. It assures that corruption is minimized, the views of minorities are considered, and the voices of the most vulnerable are heard.

Democracy, liberty, and the rule of law together form the foundation of civil society. Democracy represents government by and for the people, and the protection of individual liberties is a natural corollary of democracy. The rule of law ensures that laws are applied equally to all, regardless of status.

The Role of the Indian Judiciary:

The Indian judiciary has significantly contributed to good governance in areas such as the environment, human rights, gender justice, education, minorities, police reforms, and elections. In various landmark cases, the Supreme Court of India has upheld the principles of good governance by protecting human dignity, ensuring civil liberties, and holding the state accountable for its actions.

In "Prem Shankar Shukla", the Supreme Court ruled that using handcuffs on prisoners violates the constitutional guarantee of human dignity. In "Nilabati Behera", the Court held the state responsible for compensating the family of a person deprived of life due to wrongful actions by state officers, emphasizing the state's duty of care.

In Delhi Domestic Working Women's Forum, the Court asserted the importance of a speedy trial to ensure the equal protection of law, and in D.K. Basu, it condemned custodial torture, emphasizing that the state's actions must be just and fair.

In "Vishaka", the Supreme Court established guidelines for preventing sexual harassment in the workplace, asserting that gender equality includes protection from harassment and the right to work with dignity. The judiciary has thus played a crucial role in ensuring good governance by holding those in power accountable.

Characteristics of Good Governance:

- Participation: Everyone should have a voice in decision-making, either directly or through legitimate representatives, built on freedom of association and speech.
- Rule of Law: Legal frameworks should be fair and impartially enforced, especially laws on human rights.
- Transparency: Information should flow freely, and processes should be accessible and understandable.
- Responsiveness: Institutions should serve all stakeholders in a timely manner.
- Consensus Orientation: Good governance seeks broad consensus on what is best for the group and on policies and procedures.
- Equity: Everyone should have opportunities to improve their well-being.
- Effectiveness and Efficiency: Institutions should produce results that meet needs using the best resources available.
- Accountability: Decision-makers should be accountable to the public and stakeholders, with the nature of accountability varying based on the organization.
- Strategic Vision: Leaders and the public should have a long-term perspective on governance and human development, grounded in an understanding of historical, cultural, and social complexities.

Suggestions and Conclusion:

To improve governance, there should be a focus on decontrolling higher and technical education, while the government concentrates on basic education. The education system should be reformed to reduce the high dropout rate, and efforts should be made to ensure that funds meant for the poor reach their intended beneficiaries. Providing clean drinking water is also crucial to prevent diseases and promote public health. Although achieving good governance in its entirety is challenging, actions must be taken to work towards this ideal to ensure sustainable human development.

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