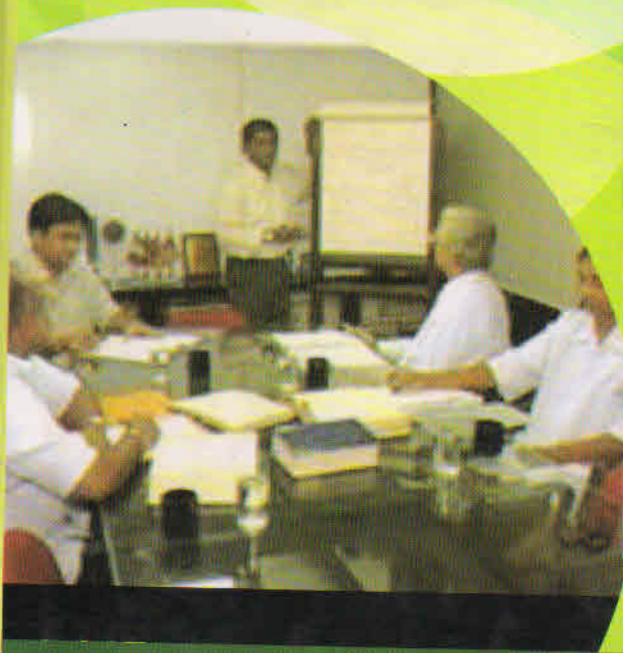


# Good Governance and Development

An Indian Perspective



Kanak Kanti Bagchi

Good Governance and Development

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**PART - III**

**SUNDRY EXPERIENCES AND ISSUES**

15. Good Governance and Decentralisation: 279  
An Evaluation of the Panchayat Raj  
Institutions With Special Reference to  
Participation of Women  
—*Shiva Kumar Lal*
16. Good Governance and Women 297  
Empowerment  
—*C. Gnanapragasam*
17. Perspective of Information Technologies 314  
(ICTs) for Social Development  
—*M. Senapathy & Samwel Kakuko Lopoyetum*
18. The Level of Working of E-Governance: 328  
An Empirical Analysis  
—*P. Sakthivel*
19. Good Governance and Right to Information 341  
—*S. Marcelin Pushpa*
20. Right to Information: A Distant Reality to 359  
Good Governance  
—*G. Rajasekar*
21. Good Governance and Right to Health 370  
—*T.S.N. Sastry*
22. Good Governance for Safe Drinking Water 387  
Supply  
—*K. Dhanasekaran and R. Ganesan*



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## Good Governance and Right to Health

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T.S.N. SASTRY

### Introduction

No doubt, in the last six decades we have achieved progress in many fronts. But at the same time, we could not meet the expectations of the Constitution in raising the socio-economic standards and in providing the concept of social security<sup>1</sup>. The Constitution being a document of modern era laid its emphasis on the spectrum of human needs and wants and imposed a responsibility on the State to guarantee the fundamental human rights of equality, liberty, freedom and justice through the prism of Directive Principles of State Policy.<sup>2</sup> In order to augment the goals of the constitution many policies have been penned down by the state<sup>3</sup> to raise the standard of living and to augment the significant right of health. However, even after six decades of independence majority of the populace of the country are not having enough and easy access to exercise their basic right to health which is coupled with that of the fundamental right to life and liberty under Article 21 of the constitution.

The low level of life expectancy, high rate of infant mortality and maternal death and poor nutritional adequacy have kept the status of the country well below the 100th mark in the human index of the UNDP. The recent report of the Save the Children's organization statistics amply reveals the shameful state of affairs of the polity in augmenting the most essential right of the people of India in the eyes of the comity of the nation-States.<sup>4</sup> According to the report, India ranks 27th along with that of the Ghana and Eritrea in providing basic health care to children. The sentiments expressed by the Prime Minister Manmohan Singh<sup>5</sup> about the state of affairs of health in the country during the convocation address of the All India Institute of Medical Sciences in 2005 amply testifies the grim picture of the people of a developing nation in having access to their basic right to health.

### **Policy Perspectives of the State**

The basic foundation for health care in India for a healthy health policy was laid down by the Bhore Commission in the year 1946. Basing on the recommendations of the Committee, in the beginning the State had laid its emphasis on the primary health care system. After this till the year 1983 the state has not laid down any explicit policy perspectives for the development of public health. However, over a period of time it has built up vast infrastructure policies for the promotion of health under the aegis of the government, voluntary and private sector under the supervision of the Ministry of Health and Family Welfare, Planning Commission and other Committees and Commissions.

The first National Health Policy of 1983 aimed to achieve the goal of "Health for All" by the year 2000 through the provision of comprehensive primary health services. It laid its emphasis on building up primary health care; close co-ordination with all players in the health related services and activities such as nutrition, drinking water supply and sanitation; and active involvement of



the voluntary organizations; the provision of essential drugs and vaccines'; qualitative improvement in health and family planning services; and need to develop training and research in the medical field. Though many developments have taken place in the field of medicine and health facilities, the Government did not frame another policy perspective until the year 2002. The revised National Policy of Health of 2002 has set the goal that by the year 2015 all the population should have adequate health facilities and the expenditure of the State should increase substantially from the present 0.9 % of the GDP to at least 2% of the total GDP of the country and laid down many policy perspectives as the indicators for the State to augment to the needs of the people.<sup>6</sup>

Health being a subject of the Concurrent List of the Constitution, the responsibility to formulate policy formulations need to be shared by the Union, State and the Local Bodies of the country. Accordingly in the year 1994 through the 92nd and 93rd constitutional amendments, the local bodies have been delegated with many aspects in promoting the health care of the people. Though there exist a clear demarcation of policy perspectives, over the years the contribution of the public sector gradually declining in the health sector and private sector and out of pocket expense system has emerged as the focal point of system in many urban areas of the country. This because the contribution of the State to the health sector has slipped largely and the contribution of private sector has increased in alarming proportion up to 75% of the health needs of the country.

### Health Resources

Over the years a good number of measures have been initiated both by the Union and States such as recruiting doctors on contract employment, compulsory rural posting for certain period, earmarking certain percentage of seats in medical colleges for doctors who serve in the rural areas, open University system of education, promotion

of traditional medical courses such as Ayurveda, Siddha, Homeopathy, Unani and other indigenous medical systems. In fact India stands at a very unfavorably low standard compared to that of the world levels including that of low income countries in providing human resources. For example, per every 10,000 population the number of physicians for the world is 1.5, where as in India it is 7 which are at par with low income countries. In the public sector the figure stands at a paltry 2. Similarly, number of nurses per 10,000 populations in India is 8 while it is 33 for the World and 16 for low income countries.

Though a good number of colleges both in Modern System of Medicine and Indian System of Medicine are there and producing nearly a 75,000 medical doctors per year, nearly 1/3 of them especially in the modern system of medical education are going abroad. In the remaining two thirds a majority of them are settling in cities and towns and no body bothers to work in villages. Of late, many of the medicos are started agitations not to go to villages and work. Apart from this, in other technical posts in various hospitals a good number of vacancies are continued to exist due to lack of resources allocated by the Governments. Overall, the human resources position with respect to health sector is far from satisfactory in the country which is an important impediment in rendering proper health care services to the masses of the country.

### Financial Resources for Health

The total financial expenditure of the health Sector is around 10% of the GDP. In this the expenditure of the public sector is only 25% and the Private sector has the lion's share of 75%. That means the total spending of the State is only account for less than 2% of the GDP. Though the Common Minimum programme of the present UPA Government has identified the necessity to increase the public expenditure on health not much has been done



over the years. According to the Report of the National Commission on Macro Economics and Health, 2005, households under took nearly three fourths of all the health spending in the country. The public spending is accounted for less than 5% of the total expenditure of the health sector.

The exceptionally placed burden on the house hold clearly indicates the wide gap that exists in the quality of health services. The external grant for high intensity diseases like HIV/AIDS though increased over the years, it accounts only 3%. Well there is no doubt that over the years, the Government both at the Union and States have initiated new initiatives such as private public partnerships. Voluntary and community health insurance, income tax exemption to set up private hospitals in rural areas and to encourage private and NGO partnerships in promoting health care facilities in rural areas. However, majority of them have not yielded results due to corruption and other frauds. Even the World Bank it self pinpointed the corrupt practices involved in implementing the various projects funded by it and IMF<sup>7</sup>.

Well across the globe the expenditure on health sector is highly varied and unequal. As a common phenomenon, developed countries spend a high percentage of amounts on health compared to other countries across the globe. For example the OECD countries accounted for less than 20% of the world's population in the year 2000, but were responsible for almost 90% of the world's health spending. Similarly, the expenditure of the USA is account for 13.9% of the GDP. The other regions especially in African and Latin America account for only mere 2% of their GDP on health sector, though they are account for 25% of the global burden of diseases.<sup>8</sup>

No doubt, there exists a wide gap across the globe in public and private spending on the health sector. But compared many countries in the world, especially that of the under developed and other developing countries, the expenditure spent in India by the State is almost

abysmal. The less expenditure of the state is certainly having a huge impact on low infant mortality, nutritional distribution among the population and account for highest amount of diseases including that of the most common diseases like anemia, water borne diseases, influenza etc. Many a times a great majority of the population are deprived of basic drugs and pushed to spend huge sums of money as out of pocket expenditure and grappling them with diseases and poverty forever.

### **Economic and Social Conditions**

Compared to yester years, no doubt the country achieved a growth rate of 9% continuously. However, in the human development index and in Gender development we stand near the 100th mark in the world. At the same time, the expenditure in social sector is considerably reduced over the years. Compared to 19.5% in 200-04 it is now standing around 16% which much less in any standard. But a glance in the defense budget of the country is increasing alarmingly high and were rank in the top ten countries in the defense expenditure is concerned. In view of lack of much focused attention of the government on the economic and social fronts which are of vital importance for the sustainable development of the a nation we are still surrounded with a huge number of problems, such as poverty, infant mortality, food and nutritional deficiency, lack of proper medicines, education, imbalanced demographic situations, mass rapid development urbanization, proper and hygiene sanitation facilities, adverse environmental affects, lack of proper drinking facilities, reduction in agricultural production, research and development etc.<sup>9</sup>

The literacy rate has increased to around 70% compared to 53% in the 90's. But unfortunately, the speed with which the country is progressing in rapid urbanization, industrialization and the liberalized economic policies has severe impact on the social conditions, especially on the family front. The growing nuclear family



setup and the fast changing life styles are also exposed to severe economic and social restraints. The traditional system of help and sharing responsibilities and the built in mechanism of economic and social security in the joint family system are evaporating quickly. Further, the economic and social constraints of the nuclear families in view of the grappling cost of living, the rich life styles of the urban areas have left a well marked scratch on the health and nutritional development of children especially that of girl children and children of below poverty line families and middle class. The above aspects have become the significant causative factors in contributing for the increase of high vulnerable diseases like HIV/AIDS, Cancer, Tuberculosis, etc.

### **Right to Health and Judiciary**

Many international instruments defined "health" as a complete state of physical, mental and psychological wellbeing and not merely the absence of disease or infirmity. The same philosophy has been recognized and advocated by the Indian Judiciary. Health being as an essential component of the basic right to life and liberty, the judiciary has time and again advocated that right to health is a basic concept of the constitutional jurisprudence; it is the prime duty of the State to take adequate measures to enhance the quality of life for the all round sustainable development of polity.

Interpreting Article 47 of the Directive Principles of State Policy which has casted the primary responsibility of the State in a welfare state, the judiciary in no uncertain terms spelt out that providing adequate medical facilities for the people is an essential part of the obligation undertaken by the government at all times. Emphasizing the primary the duty that has to be affectively discharged by the State on the improvement of public health and prohibition of drugs injurious to health in *Vincent V. Union of India*,<sup>10</sup> the court has observed:

".....maintenance and improvement of public health have to rank high as these are indispensable to the very physical existence of the community and on the betterment of these depend the building of the society of which the constitutional makers envisaged. Attending to public health, in our opinion, therefore, is of high priority-perhaps the one at the top."

Taking into consideration of the philosophy and the spirit with which Chief Justice Marshall of USA observed<sup>11</sup> that the Constitution was made for ages to come, and consequently had to be adapted to meet growing exigencies of human affairs, the Supreme Court of India gave ample testimony to right to health which has imposed a duty on the State through the non-justice able rights (Directive Principles of State Policy) as an invisible fundamental right of the basic right of Life and Liberty. The Indian judiciary taking into consideration of the spirit of the constitution in a right direction showing their keen concern in augmenting the right to health of the people of the polity all the three estates of the state; namely, the Executive, Legislature and Judiciary have a onerous responsibility without any resort to solace or to show an indifferent attitude.<sup>12</sup>

In *Pt. Pramanand Katara V. Union of India and others*,<sup>13</sup> the court giving wide interpretation to the legislative provisions through article 21 of the constitution held that whether a patient is innocent or a criminal liable to punishment under the law, it is obligation of a doctor at the government of hospital positioned to meet the constitutional obligations directed on the state under Article 21 of the constitution to preserve the life a person should be the utmost responsibility.

As clearly enunciated by Justice Ranganath Mishra in *Vincent's case*<sup>14</sup>, the right to life and liberty could be enjoyed only when a person is hale and hearty and could ably discharge the public and private duties without any deviation. In a number of cases, the judiciary has highlighted the significance and the probable duty that



has to be discharged by the State without any delay or deviation in uplifting the right to health which is the basic right among all the rights. However, the improbable resource crunch faced by the state has off late mitigated the tone and tenor of the judiciary to a certain extent in vehemently insisting for the public expenditure on health sector<sup>15</sup>.

### Good Governance and Right to Health

In a generic sense governance refers to the administration of various organs and to attend to the needs of the people of a polity according to the priorities that are set by the executive of a State. This means in every sector including that of service sectors, the state has the sole control over planning and finances and the role of the private sector and direct public participation in decision making is limited. According to the United Nations Development Programme<sup>16</sup> Governance means:

"Governance can be seen as the exercise of economic, political and administrative authority to manage a country's affairs at all levels. It comprises the mechanisms, processes and institutions, through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences".

With the advent of science and technology particularly information technology on the forefront cutting edges across the globe, it has become inevitable for many developing states including that of India started opening up their financial and service sectors for private players including the global investment agencies such as multinational corporations in a number of fields. In view of the liberalized policy of the state, the state has been forced to abolish quota systems, permit and license raj; reduction of import export and excise duties; lowering income tax and interest rates; considering disinvestment in public sector undertakings, etc. This has mitigated the concept of governance to a greater extent. Of late, the role of state became a facilitator instead of regulator.

According to the Economic Survey (2003-2004) the changed paradigm of the public sector now is in providing public goods and services without necessarily producing them<sup>17</sup>.

The contemporary scenario of changed parameters of governance clearly brings the point to the fore that the future sustainable development of the state mainly depends upon the collective co-operation and participation of individuals, non-governmental organizations, and private sector including that of the global partners. The role of the State became a facilitator than a core administrator. This means the State has a more focused responsibility to gauge the situation constantly and enlist its services more in the social sector such as providing health care, education, upliftment of the disadvantaged groups of people, etc. This is otherwise referred to as good governance or partners in progress.

The concept of good governance clearly elucidates, the direct participation of all the players such as private, public sector organs, NGO's and direct participation of the people in the decision making bodies at all levels and allows free infrastructural investments by private partners and renders a transparent and responsible governance without any inclination towards the one-upmanship of the State. Apart from the above, it ensures that political, social and economic priorities are based on broad consensus in society and that the voices of the poorest and the most vulnerable are heard in decision-making over the allocation of resources for the developmental activities. A number of parameters have been prescribed to assess the governance<sup>18</sup> by various bodies. Among the various parameters, the ones prescribed by the UNDP are more complementary and are applicable universally. They are legitimacy and voice; direction; performance; accountability; and, fairness. The above parameters<sup>19</sup> consists various other sub parameters which are need to be adopted at all levels in order to access the performance of good governance.



The approach paper of the IX Plan document of the Planning Commission of India in no uncertain terms advocates the importance of promotion of good governance and drives home the point that both the Union and the States have an onerous responsibility to reduce the discretionary power of the government, and, should ensure greater transparency and accountability, and create awareness among citizens<sup>20</sup>.

### Suggestions and Conclusion

From the above it is imperative that an onerous responsibility is there on the shoulders of both the Union and the States to evolve a comprehensive policy to manage the health sector involving all the players of good governance. This brings the point that the state has to adhere to the conceptual framework of the health system framed by the WHO. According to the policy, the WHO has identified four important policy formulations—stewardship, financing, resource creation and service provision which need to be adopted<sup>21</sup>. These formulations coupled with good governance certainly have many advantages for the state and the people to achieve the targets well in time intone with the policy objectives.

Despite many studies and projects focused on many aspects of good governance, the literature on health and health management system of good governance is still scanty. Though the Government of India has framed a number of policies to cater to the needs of the health sector, majority of them proved to be either inadequate or failed due to various causative factors such as, excessive redtapism; administrative hurdles; inadequate funding; lack of proper coordination between the various organs among the Union and the States and local bodies. Over the years many suggestions have been rendered to equip the health for all slogan. The need of the hour demands that in order to achieve the objectives of the constitution and as well that of the concept of good governance apart

from the various suggestions render by several researchers, activities and NGO's etc, the following points need a meritorious consideration.

- Well over the years number of policy formulations, organizations which structural patterns have been adopted. Many a times lack of coherence between various policies and health being a concurrent subject it hasn't received the due attention that is needed. Hence there is an urgent need that the Union of India has to formulate a comprehensive policy consisting of inter-sector cooperation; organization of health system; health information system; community action; allocating health resources and technology.
- The Union should establish an Apex National Health and Policy Organization brining in all the existing bodies functioning under different ministries for an affective planning and administration of health policies. The body should consist of the Prime Minister as Chairman, Minister of Health of the Union of India as the Vice-Chairperson, the Ministers of Social and Family Welfare, Finance and the Ministers of health of all the States and Union Territories should be the members. This body should meet at least twice a year to discuss the important policy formulations allocation of resources, and the implementation of the policy formulations framed by the body relating to all the aspects of health including the management of educational institutions of health.
- There is an urgent need to focus on the health education and communication. Health education<sup>22</sup> being a fundamental aspect of community health, every branch of the society has to be nurtured only through proper health education and information. It is the health education that motivates, informs people to adopt and maintain healthy life style practices, and brings in



environmental changes as needed to facilitate to achieve the goal of good health.

- There is an urgent need to enact a comprehensive legislation to regulate the health and drug policy of the Union and the States. Since there exist a number of legislations many a times it poses severe problems to the state and to the administrative bodies which one to follow. Such legislation should create the above proposed Apex National Body on Health.
- Health planning and management is a concept of recent origin, in order to achieve affective economic utilization of material, man-power and financial resources there should be clear structural demarcations with proper responsibilities to each level need to be planned. Well one may argue that there exist a number of structural patterns which are already in existence from the national level to the village level. However, since there is no proper coordination, due to inadequate funding and lack of long term policy perspectives their existence has almost become meaningless.
- The present medical education of modern and traditional systems needs to be toned up according to the changed circumstances. Many a times the text books contain only theoretical perceptions and lack of practical orientation. Since the technology is developing in leaps and bonds, the educational policy of medical sciences need to be toned up. At the same time, they need to be taught value based education.
- There is an urgent need to increase the number of medical educational institutions in the country. At present barely only around 500 medical institutions are offering the medical education. In these many of them are private funded and highly expensive, which makes many a times the affluent class are only affordable to join in the programmes.

- The Government should establish more research labs to promote research both in modern and traditional medical systems of the country. In fact, many a times, it is the traditional system of medicine alone is able to cure many diseases where in the modern system fails to do so. However, lack of adequate research facilities and information system of community and health education, several people are exploiting the situation and experimenting with the lives of the people. This is more so in the case of rural and semi urban towns of the country.
- The Government has to increase the present expenditure ratio of GDP and evolve more people friendly health policies and regulate the insurance sector to cover all types of diseases and all ages. At present, many insurance companies do not cover even the common minimum diseases and doesn't extend their policies beyond 65 years of age. Thanks that the Supreme Court of India very recently addressed the age factor. However, it is for the State to take steps to regulate the insurance companies.
- The Government should bring in strict rules and regulations to the medicos who aspire to join in the medical colleges that they have to compulsorily practice in India and should practice in the villages. As health being an important aspect and the people involved in this sector should bear in mind there are accountable to the society as they consume a good proposition of the tax payer's money. Even in ancient India it was insisted that a physician should necessarily work in villages.
- The licenses given to the physicians need to be renewed regularly. Their activities need to be monitored. In the present situation once a doctor get a degree and the certificate of Medical Council of India they are rest assured till to their death



or able to practice no body could touch them. Even a doctor gives a wrong treatment to complain to the higher authorities many a times the other doctor's does not cooperate. In order to eliminate the fraudulent tactics of selling drugs to private people, and other numerous nefarious activities committed by some of the doctors, it is better there should be a through check and renewal of certificate's periodically. This system was highly in vogue in ancient India<sup>23</sup>.

As rightly observed by none else than the Prime Minister Dr. Manmohan Singh that "We recognize health as an inalienable human right that every individual can justly claim. So long as wide health inequalities exist in our country and access to essential health care is not universally assured, we would fall short in both economic planning and in our moral obligation to all citizens", the need of the hour demands in no uncertain terms that the State should come forward to implement its policy perspectives and enhance its financial share to achieve the basic right to health which is highly taken care even in our neighboring countries.

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