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## GOLDEN JUBILEE Special Number on GOVERNANCE FOR DEVELOPMENT

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## GOOD GOVERNANCE: RELEVANCE OF SOCIO-ECONOMIC RIGHTS

T.S.N. SASTRY

*Social and economic rights are the vital components for sustainable development of a nation. The development of a people revolves round the promotion, protection and augmentation of these rights in their true perspective. The Constitution of India also exactly advocates the same. But unfortunately even after five and half decades of independence we have miserably failed in understanding the aspirations of the Constitutional framers and still remain only as a developing state. This is because of the sectarian policies pursued by the political parties for their own survival and a lack of commitment on the part of successive governments towards the concept of good governance. As a result the polity is found grappling with rich variety of poverty related problems. An attempt is made in this article to comprehend the significance of social economic rights in realising aspirations of the constitution through the concept of good governance. An attempt is made in this article to comprehend the significance of social economic rights in realising the aspirations of the Constitution through the concept of good governance.*

THE FOCAL point for the development of a nation mainly depends upon the realisation of rights guaranteed to its citizenry. The free achieving exercise of rights by the people of a state richly helps to evaluate in the status as a developed or developing nation. Hence rights based approach certainly constitutes an important approach to achieve the concept of 'Good Governance'. Accordingly, rights based approach means that upholding of human rights, equity, equality, equal justice and the accommodation of diversity must be central to the conceptualisation, design, implementation, delivery, monitoring and,

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<sup>1</sup>Report of the NCRWC 2002, Vol.II, Book I, p.86.

evaluation of entire developmental process.<sup>1</sup>

Development of a nation in its true perspective is more than the achievement of economic growth and beyond per capita income. Strictly speaking, the development of a nation has to be measured in terms of human development. Human development is critical to the process of development and needs to be promoted and protected by assuring human dignity and life and liberty of the individuals. Thus, human development can be realised only upon the realisation of social-economic rights that are guaranteed by international law of human rights and nurtured by the municipal law of a state through its constitution.

The Indian Constitution being a mid-20th Century document, the framers of the Constitution too responded positively and reposed their faith in the concept of good governance through the medium of human rights. Accordingly, the Constitution of India firmly rests on the principles of liberty, equality, fraternity and justice. The Constitutional scheme of India is a synthesis of an uncompromising respect for human dignity, an unquestioning commitment to the realisation of social-economic rights agenda which comprises of both justiciable (Fundamental Rights) and non-justiciable rights (Directive Principles of State Policy). The Fundamental Rights are the basic human rights which are inalienable and could be realised only through the medium of Directive Principles which are primary in the governance of the state.

Certainly, we have progressed economically and developed technologically and are able to manage the economy with an impressive performance in raising the Gross Domestic Product (GDP), Gross National Product (GNP), Net National Product (NNP), than what it was in the 1950's.<sup>2</sup> But in achieving the goals of the Constitution and in realising the vision of the Constitutional framers we have miserably failed in wiping out the miseries, tears and sorrows of millions of people in assuring the dignity of the individual in its true perspective. After 56 years of independence, we still remain well below the 100th mark in the Human Development index of the world despite a sustained economic growth.<sup>3</sup>

#### DEVELOPMENT AND GROUND REALITY

The Constitution has entrusted the primary responsibility to the state for achieving the social-economic progress and the well being of

<sup>1</sup>Report of the NCRWC 2002, Vol.-II, Book-1, pp, 123-24.

<sup>3</sup>Human Development Report of the United Nations 2003.



the ruled through the Directives under Part IV of the Constitution. Though the Directives are non-justiciable and cannot be challenged in a court of law for their operation, they constitute the hub of the governance. Extending its support to the Constitutional scheme, the judiciary has held that the effective exercise of fundamental rights mainly depends only upon the attainment of social and economic rights in their fullest extent and constitute as a fundamental source of law for a welfare state. From the Unnikrishnan's case onwards, as an activist and champion of human rights and social justice prudence, the apex court in the last two decades has declared that the various social and economical rights are enforceable as an integral part of the fundamental rights of right to life and liberty and right to equality.<sup>4</sup>

Guided by the Directives, the Union and the states have done their best to implement them to the fullest extent. The Parliament of India has brought in several amendments to the Constitution in order to effectively implement the social, economic rights considering them as fundamental to the governance. Accordingly, the government abolished the privy purses, hereditary proprietors, *jagirdari* system, replaced the right to property as a fundamental right etc. The Five Year Plans have been directed towards the enlistment of the people. A number of progressive schemes have been introduced in various fields like education, health, employment, poverty alleviation, trade, science and technology, mass communications and various other social, economic and public sectors. In order to fulfil the dreams of Gandhi's gram swaraj concept, through 72nd and 73rd Amendment Acts to the Constitution, the government has extended Constitutional entity to democracy at the grassroots level.<sup>5</sup> Many welfare legislations have been passed to regulate the problems of labour in various sectors, to eliminate the child and bonded labour exploitation and abuse of women and children and weaker sections of the society.

Though much has been done, millions of citizens are well below

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<sup>4</sup>For a detailed discussion on the view of the Supreme court on various aspects Social-economic rights see, S.P.Sathe, "Enlarging the Fundamental Rights" in Festschrift: Constitutional Jurisprudence and Environmental Justice, D.S.prakasa Rao, (ed.) 2003, pp57-86; Atul M.Setalvad, "The Supreme Court on Human Rights and Social Justice: Changing Perspectives" in Supreme But not Infallable, B.N. Kripal et.al., (eds.,) 2000, pp.232-55; also see: Justice P.B. Sawant: Socio-Economic Rights: Aspects of Human Rights, Third Justice MRA Ansari Memorial Lecture, 1995.

<sup>5</sup>For an elaborative discussion on the concept of gram swaraj and the constitutional amendments see T.S.N.Sastry: "Strengthening of Panchayati Raj: Need for Constituioanl Reforms" in T.S.N.Sastry (ed.,) "Fifty Years of Independence and the Polity" 2000, pp.157-68.

the poverty line leading their lives in most awkward and drudgery conditions. The low level of life expectancy, high rate of infant mortality, child malnutrition, inadequate sanitation, lack of proper health care, high rate of hunger deaths, inadequate food, clothing, shelter, high rate of illiteracy, unemployment, gender based discrimination and violence, child abuse and exploitation, lack of access to information, entrenched social customs, ineffective use of science and technology and many more, are still daunting certain pockets in the country to varying degree thus presenting a bleak picture of developmental scenario.

The above scenario of the polity has mainly resulted out of sectarian policies pursued by the political parties to continue in power by hook or crook. The grim situation prevailing in the country certainly raises the eyebrows of many, as to what went wrong? Where the fault lies? Why are we still in a despotic condition having a Democratic, Republican Constitution? How long should we continue to suffer in a majoritarian democracy? How to achieve the goals of the Constitution in overcoming the hurdles to human development? How could we make progress to tinsel India as a vibrant sustainable developed nation in the galaxy of nations? What is the need of the hour? So forth and so on.

#### *Government vs Governance*

Even after five decades of Independence, we still continue to be in the colonial hangover of 'ruler' and 'ruled'. Being a welfare state we have relegated the importance of people's involvement in the governance to a secondary position. The state instead of steering the people towards prosperity and social progress by assisting wherever it is necessary, it became the main actor in determining the fortunes of the people. In order to achieve the tasks ahead, the need of the hour is to radically redefine the concept of governance in its entirety to change the mind set of 'rulers' and the executive heads at the helm of affairs to achieve the path of 'Ram Rajya' or the ideal of 'Good Governance'.

In a generic sense governance commonly refers to the task of running a government. Accordingly, very often, the phrase governance has been used interchangeably for the term government. However, strictly speaking, governance transcends the state to include civil society, organisations, and the private sector.<sup>6</sup> In other words, governance is about the relationships of power, and authority within

<sup>6</sup>Jim Armstrong: "Executive Agencies and Good Governance", Draft Discussion Paper of Governance Net Work, 2001, p.3.; also see S.K.Sharma, "Governance and Global Sustainability" People First, India May 2000



one organisation but notably also about how the private sector, public sector and civil society relate to one another which is otherwise popularly referred to as good governance. But at the same time, it is difficult to specify a common definition for good governance and it needs a number of common parameters for assessing the good governance of a state.<sup>7</sup> The parameters are essentially a reform package to good governance which calls for engaging the citizens, reallocating power, partnerships among institutions and various sectors of public and private organisations and participatory practices. In a simple and plain language good governance is all about coherent and effectively equitable government that promotes rule of law.

From the above definitions, it is clear that in a healthy democratic society, the government is only a participant in the service of the people and not the sole proprietor of administration of a state as is followed in many nation-states in the world without exception including that of ours. The need of the hour is for an overhauling of the entire management of the need and to re-orient itself in promoting the concept of good governance. In order to achieve the objects of good governance the following few aspects need a meritorious consideration in realising the socio-economic objects and the social justice philosophy of the framers of the Constitution.

1. The state has to take speedy and necessary steps for the propagation and promotion of human rights, education and Constitution as a part of the curriculum at all levels of education and in the society.
2. There is an urgent need to establish human rights courts parallel to the existing judicial setup from the Taluk level onwards as advocated by the state in the Human Rights Act 1993 instead of District level. Apart from the jurisdictional aspects prescribed in the Act, they should be augmented with a restrictive Writ jurisdiction confining to Writs of *Habes corpus* and *Quo warranto*. To include these changes necessary amendments be made to the Act at the earliest. Further, there is a need to incorporate provisions to resolve the disputes within a stipulated time frame.
3. Though the Union of India has drafted the best labour welfare legislations, they became ineffective in view of lack of

<sup>7</sup>To assess the concept of good governance a number of strands have been prescribed by NCRWC to measure the good governance of a State. For the various parameters of good governance, see *supra* n1, at 143-44; also see V.A.Pai Pananiker and Subash C.

comprehensive definitions such as defining the terms 'workmen' and 'Wage' etc. Like the French Labour Laws, a uniform definition of 'workmen' and 'wage' is the need of the hour to cover all types of labour, which includes both organised and unorganised labour such as industrial, agricultural, sex workers, domestic servants, and construction labourers etc.

4. All the legislations should be redrafted in a plain and simple language understandable to common man. Further, the government should take immediate steps to translate all the social welfare legislations into the various regional languages of the nation for a wider circulation in order to realise the aims and objectives of the respective legislations.
5. In future while framing any legislation and policy formulations the views of the citizens need to be obtained by gearing up the administrative machinery through conducting seminars, symposia, public debates through mass media etc. It is important that the policy-makers should realise that the success of any policy or programme mainly depends only when people are involved and their cooperation is sought instead of thrusting the views and ideas of a group of people which may not be cherished universally.
6. The state has to initiate urgent steps in rationalising the huge and unnecessary expenditure of the government machinery. If the wastage, corruption, leakage, inefficiency is reduced, certainly it will have a profound impact on poverty alleviation programmes.
7. Women, children, and weaker sections need to be empowered economically and socially. To achieve this women and weaker sections need to be involved in policy making bodies and in administration.
8. As rightly suggested by the NCRWC, a high power 'National Science and Technology Commission' need to be constituted so that all the scientific and technological organisations can be brought under one umbrella instead of looked after by various Ministries. Such an integration will certainly go a long way not only in securing greater coordination in financial, organisational, managerial and administrative aspects, but also eliminate the bureaucratic hurdles in the effective use of scientific and technological benefits to alleviate poverty ridden policies.
9. The government has to seriously think of the ways and means to achieve excellence in various fields like education,



improving the quality of basic health services, poverty alleviation policies etc. In this regard, apart from the various suggestions and methods expressed by the NCRWC, the participation of the civil society need to be recognised as a paramount aspect.

10. Last but not the least, the employees of the government need to be sensitised to respond positively to the needs of the society especially that of the women, children and weaker sections. If any person is not able to get the benefits of a policy or scheme an effective redressal mechanism need to be established as recognised by the Constitution under Art. 350. It is the public servants who constitute as the heart and soul of the government in carrying its business. They need to be trained to reorient themselves as people friendly in shaping the destiny of this ancient civilized country as a developed nation as envisaged by the government in its vision 2020 document.

One may conclude with the hope expressed by Justice, H.R. Khanna:

"In India today I feel that the work that confronts us is even more difficult than we work which we had when we were engaged in the freedom struggle. We did not then have conflicting claims to reconcile no loaves or fishes to distribute, no power to share, we have all these now and the temptations are really great. Would pray to God that we shall have wisdom and the strength to rise above and to serve the country which we have succeeded in liberating"?