

# IDEOLOGY OF GOOD GOVERNANCE AND THE ROLE OF THE SUPREME COURT IN THE IMPLEMENTATION OF GOOD GOVERNANCE

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## **ABSTRACT**

*Good governance, often synonymous with efficient government operations, encompasses several key principles essential for societal progress. It embodies the notion of a legitimate and authentic government, fostering a society where fundamental rights and the rule of law are paramount, alongside socio-economic fairness. The foundation of good governance rests upon various factors, including the fulfillment of constitutional duties by the government. It must possess the capability to promote proper human development, leveraging its authority effectively. Central to this concept is the creation of a responsible, participatory, and democratic government, ensuring transparency and accountability in its operations. A good government exemplifies stability and reflects the diverse voices of its populace. It is tasked with driving economic development and ensuring the well-being of all segments of society. Transparency is a cornerstone of good governance, facilitating open public participation in policy formulation.*

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*While this inclusivity carries the risk of distortion by certain interest groups, it remains a universally acknowledged principle for effective governance. However, accessibility to accurate information poses a challenge for many citizens, limiting their ability to engage meaningfully in the decision-making process. Transparency addresses this by providing free and direct access to government decisions and their implications. Ultimately, good governance entails an effective, efficient, transparent, and accountable government, committed to serving the interests of its citizens. By adhering to these principles, governments can minimize inconsistencies and foster a compassionate and responsive state, thus advancing the collective welfare of society.*

**Keywords:** *Governance, Law, Equality, Government, Legislature*

## **INTRODUCTION**

The term 'Governance' was first used in the 1989 World Bank study 'Sub-Saharan Africa - from Crisis to Sustainable Growth' with an aim to describe the importance and necessity of institutional reforms and an improvised and effective public sector in sub-Saharan countries. The study described governance as "the exercise of political power to manage a Nation's affairs".<sup>2</sup>

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<sup>2</sup>World Bank 1989, p. 55.

This definition did not speak about the connotation of "good". BarbrConable (1986- 1991), former World Bank president, mentioned the term 'Good Governance' in the foreword, indicating "a public service that is effective, an administration that is accountable and a judicial system that can be relied upon by the citizens" In World Bank's 1992 publication 'governance and development' the concept of governance developed even more. This publication defines governance as the way in which power is utilized in handling a country's social and economic resources for the betterment and development of the country. Further, in 1994, the World Bank enunciated the definition," governance is incorporated by open, predictable and uplifted policy making, which is transparent. Good governance demonstrates the values of recognition of the rule of law, transparency and accountability, legitimacy of the government, freedom of association and expression, etc. all these can be achieved only when the right to information is properly enforced. Right to information can be said to be the hallmark of good governance.<sup>3</sup>

Therefore, it can be concluded that good governance depicts a co-operative way of governing those affairs in a see-through, competent, and efficient way, on the basis of the capability, validity, and unanimity to promote the individual rights of the citizens and the interest of the public at large. Therefore, this appears a political agreement in order to ensure

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<sup>3</sup> B. PramelaKumari, Right to Information and Good Governance in India: A Critical Analysis, (Andhra University, Visakhapatnam) (OUP 2006).

the material betterment of society and social justice with sustainable development.<sup>4</sup>

## **IMPORTANT ELEMENTS OF GOOD GOVERNANCE**

Advancing National Outlook: Improving and sustaining a national outlook is the precondition in promoting good governance. It includes, as in civil and political service, the enthusiasm to accept and tolerate different opinions, cultures, work styles, the highest level of mannerism and performance of judgment and limitations in all the communication of views (public or private), any expression which can be inferred as intolerant, filled with prejudice or discriminatory (regarding religion, culture, regional or political interest) which the organization has met with, should be meticulously avoided. Need to reduce the rift between theory and practice: The Union and State governments promise many essentials of constitutional provisions, and administrative and enactment orders, but any of it is rarely gained in practice. Indiscrimination between politico-administrative authority: For good governance the first important characteristics needed and essential for the civil servants or fairness and perseverance in the public business transactions. Civil servants should be absolutely fair and unbiased in order to avoid corrupt activities; and should maintain the prestige and

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<sup>4</sup>Surendra, Munshi, Good Governance, Democratic Societies and Globalization, Sage Publications, New Delhi, 2000.

responsibility of the public office. They should scrupulously carry out the policies and programmes as given in the rules regulations and laws. Importance of politico-administrative authority in management: Good Governance is the important key factor for maintaining the balance and improvement of the country and the welfare of the people. Gathering from the history of many countries, it clearly appears that immense moral deterioration creates disputes, hardships, and even dissolution of the country. The rules of civil service need the servants to preserve purity and sincerity while discharging their duties. These are humans and not pieces of furniture, and they have problems and the servants are appointed to solve those problems. That authority is not given to sit back in comfort but rather to bear the burden of those responsibilities and to increase the awareness of the responsibilities of the chair. Necessity of protecting the people's interest: If the government is run keeping in mind the betterment of the people, then good governance can facilitate the welfare of the people. The main elements of good management for good governance are as follows:

- a. Frankness and wide contacts with people administered;
- b. Following the path of justice, parity, and nonpartisan while dealing with disputes.
- c. Sympathy and kindness to the feelings, aspirations, and urges of the commoners.

- d. Protecting the honor and morality of the humans, however humble they might be.
  - e. Humbleness, humility, and modesty in the people manning the administrative machinery and their convenience.
  - f. Making and maintaining an environment suitable for growth, development, and change in a social manner.
  - g. Being integral and honest in their actions and thoughts.
- 1) Necessity of injecting reformations and injections in the administrative system: Everyone should keep in mind the following aspects while promoting any administrative changes:
- a. A clear focus on the outcomes in terms of competence and capability and the quality of service.
  - b. Substituting highly centralized hierarchical organizational structures with decentralized management environments, wherein the selections on resource allotment and service delivery are considered closely from where feedback is easier to gain from the clients and other groups.

- c. There is a free and relaxed system that may give alternatives to public provisions, which may prove to be more cost-effective.
- d. New organizational administrative policies to facilitate more flexible employment of staff.
- e. Usage of various mechanisms for the betterment of performance such as performance contracting and invention of marketplaces that are competitive in and among the public sector associations.
- f. Motivation to enhance the performance by empowering organizations to maintain and preserve a part of the savings from the enhanced performance.
- g. Upholding vital capacities at the center to force the Government to react to external variations and various interests faster, with relaxation and at minimum cost but with more responsive and transparent features according to the requirements to give the results.<sup>5</sup>

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<sup>5</sup> “Department of Administrative Reforms and Public Grievances, Ministry of personnel Public Grievances, New Delhi, GOI, Document I, Action plan for an Effective and Responsiveness Government, IJPA, p. 628”.

## **THE CONCEPT OF GOOD GOVERNANCE**

Governance and good governance are frequently used nowadays in development literature. The increase in the evils in our society is the result of bad governance. International financial institutions and major donors like the International Monetary Fund (IMF) and World Bank have been aiding countries mainly to ensure good governance.

Governance and good governance are briefly explained in the following study. In recent times, the concept of good governance has gained much popularity in the fields of administration reforms and polity mainly due to the attention and priority given by the international community. Governance is somewhat synonymous with ‘sound development management.’ With the adherence to the rule of law, good governance emerged in the mid-1980s. After the breakdown of the Soviet Union and the resolution of the Cold War, governance came to be used as a reinvention of public administration in developing countries in order to make them more responsive and sensitive towards globalization and its needs. The concept of good governance is as old as the government itself. Those words have very similar meanings and have been derived from governance and government, French words that refer to the manner and acts of the government until the mid of 16th century, Government meant a system through which something is governed’ but it evolved in the early 18th century as a ‘governing authority’. As a result, the term



governance diminished by the 19th century, when it came to be known as ‘an incipient archaism’. It is assumed that in the coming 100 years it will rarely be used in terms of politics. Dictionaries would probably define government as an agency and method of governing or archaic or in terms of governing authority taking into account its institutional framework and its political order.

In the 1980s, after the economic reforms and globalization, the term governance became famous for its importance in the manner and process of governing under the concept of sustainable development. The international media, World Bank, NGOs, IMF, and the UN with its agencies started using the term ‘governance’ in various ways. Good Governance with its root word governance has become a trending word in the administrative reforms and polity in developing countries that rely on international developmental agencies.

## **CONCEPT OF GOOD GOVERNANCE IN INDIA**

The concept of good governance is as ancient as the Indian civilization. The rulers of the ancient times were restrained by the Dharma or more particularly the Raj Dharma, which aimed at ensuring good governance to and for the people. Although monarchy was followed at that time, there was no such theory that gave the kings any divine rights or power to rule arbitrarily. Raj Dharma means the code of conduct or the rule of law that was above the will of the ruler and controlled the entire king’s action. The ancient Indian Scriptures like the Jataka tales,

AitreyaBrahmana, Shukracharyas'sNitisar, Panini's Ashtadhyayi, Shanti Parva-Anushasanparva of Mahabharat, Valmiki's Ramayana as well as the Kautilya'sArthashastra describe good governance. Arthashastra states the principles of good governance, along with that it states "if the people are happy, then the king will be happy, and therefore, the king should do and accept those things that please his people and not alone himself".<sup>6</sup>

## **EQUALITY BEFORE LAW AS A MEANS OF GOOD GOVERNANCE**

The maxim *Rex Non-PotestPeccare* was never recognized in the Law of Antique India (Raj Dharma). The Dharma was deliberated as the Highest and the Base. The law had to be obeyed by the King. Brihdranyak Upanishadha is a principle that states that the Law is supreme and it is the King of the Kings<sup>7</sup> No man is above the law including the king. The weak become more powerful as compared to the strong when the supremacy of the king is combined with the Law. By stating that the law (Dharma) is the king of kings, it has been given a dignified position. It was also stated that the Dharma had control over the kings and that the kings had to perform their duties staying inside the structure of the Law (Raj dharma) and Legal Procedure (Vyavahar Dharma).

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<sup>6</sup>Arthashastra, Book I, Chapter XIX, p. 39

<sup>7</sup>Swami Sivananda. (1985). *The Brihadaranyaka Upanishad : Sanskrit text, English translation, and commentary*. Shivanandanagar, Distt. Tehri-Garhwal, U.P., India :Divine Life Society,

- No man is above the law (Dharma).
- Law and Government combined, make the weak persons stronger than the strong persons.

The concept behind this is the fact that all are equal in the eyes of the law and that the law will protect everyone whose rights have been infringed irrespective of their social strength. It is known that law alone cannot be of any use, it should be supported by the Government to be effective. As a result, as seen from our ancient history rulers were under the Dharma, but according to Western jurisprudence, law is deliberated as an order passed according to the rules to the persons in lower position by the persons in the higher position. But our jurisprudence does not accept that the superior is free from the clutches of the law. Contradictory to that, our principle states that the person who is politically superior is also controlled by the law which is supreme. It also states that it is the Government's duty to preserve the law's supremacy. In respect of this Atrismriti states that duties that are to be performed by the king include praising and respecting the noble persons, punishing the ones who have done wrong, tackling the litigants impartially, defending the nation, and increasing the funds of the government hence, it can be seen that all the basic rights and duties entrusted in the government have been stated by the shloka.

In Kautilya's Arthashastra it was recognized that the happiness of the king must lie in the welfare of his subjects and

that the king should do what is beneficial to the public at large rather than him alone.’<sup>8</sup>

## **GOVERNMENT AND GOOD GOVERNANCE**

Government refers to the actions taking place inside a formal legal system, whereas, governance includes the activities of a government together with the activities that are informal even beyond a formal government system that are formed to achieve ordinary goals. James Rosenau described the government as, ‘all those activities that are supported by formal authority, by the police to make sure that the constituted policies are duly implemented,’ while governance according to him means, ‘activities supported by the goals that are shared which may or may not be originated from legal and formally recommended duties and those not always depend on the police to survive defiance and obtain compliance’.

## **METHODS TO PROMOTE GOOD GOVERNANCE IN LEGISLATURE RESPONSIBILITIES**

Methods to promote Good Governance in Legislature responsibilities have two aspects, different and correlated at the same time. First is essentially political but in a parliamentary form of government like India, where the executive is obliged to give a report of its actions and duties performed to the parliament, and

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<sup>8</sup> *Kauṭalya. (1992). The Arthashastra. New Delhi ; New York, N.Y., USA :Penguin Books India.*

they have various contributions and devices to this goal. The second aspect is mainly majorly based on the administration wherein the executive holds the administrators responsible for various departments and public agencies for their actions in carrying out their obligations. Both these are interdependent on each other and together form the base of a responsible and accountable government.<sup>9</sup>

Thus, the parliament controls and keeps a check on the executive. It also has a whole bunch of activities and to that goal, it also has a set of immediate tools and opportunities, like the parliamentary questions, half-an-hour discussion, adjournment motions, zero-hour discussion, discussion on demands for grant, vote of no confidence, calling attention notice, etc. The different mechanisms and tools of implementation of the rules of responsibility fall into two different categories: the first category involves strategies that are converging and contemporary, and thus have everyday applications. Various opportunities related to the parliament such as discussion on demands for grants, 'zero hour' discussion, calling attention notice, interpellations, adjournment motions, vote of no confidence, half-an-hour discussion, etc. all fit into this category. Strictly speaking, this category of responsibility is under the nature of control.

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<sup>9</sup> S. R. Maheshwari, *Accountability in Administration: A Conceptual Framework*, July-Sep, 1988, IJPA, p. 460.

The second category of responsibility is post-facto in nature, i.e. it stimulates after some action is done. This can be said to be a post-mortem done by way of evaluation of the work under scrutiny. After the event has occurred and the core of this type of investigation is to know why and how a certain item of work has been carried out, an audit and the many committees of Parliament take control. It is more related to accountability and responsibility than control.<sup>10</sup> There is no alternative in the hands of the executive but to follow the policies laid down by the legislature to set up good governance for the citizens if these exercises are taken seriously. The effectiveness and efficiency of administration and good governance are dependent on the quality and adequacy of the control that the legislature enjoys over the administration. To maintain a consistent and systematic hold over the administration is the duty of the representatives in the legislature. It should be remembered that the executive needs to abide by the policies stated by the legislature. The legislature by way of many constitutional agencies keeps checking the operations of the administrative operations so that the executive might not deviate from the policies. These are as follows: 1) Public Service Commission's at the Union and State Levels. 2) Comptroller and Auditor-General of India 3) Election Commission.<sup>11</sup>

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<sup>10</sup> Ibid.

<sup>11</sup> S.L. Goel, Good Governance an Integral Approach, Deep & Deep Publications Pvt. Ltd., New Delhi, (2007), pp.61-62.

## **NECESSITIES TO PROMOTE GOOD GOVERNANCE AMONGST THE EXECUTIVE**

Belief and perseverance of the esteemed personnel in Good Governance- the essential ingredient of an organization to achieve success is its leadership in administrative as well as political aspects. In order to convert the inputs of a program to its outputs (goods and services), leadership is very important. It is said that if it places a good man in a bad situation, the person will find a way to make it better, but on the contrary it places a bad man in a good situation, the person will make matters worse. No methodology can enable administrators who have lost faith in their work and in its performance. Facilitating Good Governance by way of ensuring responsibility, accountability, and responsiveness to the citizens. Facilitating Good Governance by Integrating the Nation. Facilitating Good Governance by ending the corrupt activities in politics and infusing basic ethics. Facilitating Good Governance by putting in more hard work than just paper planning by the Executive. Facilitating Good Governance by encouraging the people's participation. Facilitating Good Governance by sustaining an alert and alive administrative system. Facilitating Good Governance, especially in Police personnel to preserve law and order which is very important for peace and prosperity.

## **INDIAN JUDICIARY AND GOOD GOVERNANCE**

The word 'judicial governance' by itself is controversial as the judiciary in no way can be associated with governance. Although, the effort of the judiciary of India to inculcate accountability in the working of the government institutions, and the development and growth of jurisprudence of human rights has depicted the fundamental importance the judicial governance. Also, the judiciary is enriched with the added responsibility of preserving the rule of law, as and when the organs fail to act in accordance with the judiciary, through the spirit of the Constitution. It only states that fast and cheap dispensed justice is the key ingredient of good governance along with a successful civil society.

## **GOOD GOVERNANCE AND JUDICIAL CONTROL**

George Washington said that the first pillar of good governance is the administration of justice. People should have faith in the judiciary on the basis of its functioning for good governance. According to Lord Denning justice finds its base in confidence and when people with the right mind go away thinking that the judge is partial, the confidence is destroyed. The judges should not be deflected from their applications by any external influence by any threat of penalties, or by any expectation of bonus, by congratulatory compliment, or by indecent disgrace.



People gain confidence in the judges only on the sure knowledge of all of these.<sup>12</sup>

The laws must safeguard domestic technologies and trade to such a limit that they influence the citizen's welfare, National interest, and living. Experts are needed in the judiciary as well as the bar to efficiently manage the legal system of various Nations and safeguard the interests of companies carrying out trade and business with those countries. The welfare and betterment of the people largely depend on impartial, timely, and speedy justice. Lord James Bryce says that the efficiency of a judicial system is the best test of the excellence of a government and the rights of the man are guarded by the judiciary and it safeguards these rights from all potential individual and public encroachments. It is said that it has lost its favour, if it fitfully and weakly enforced the intensity of punishment that the lawbreakers are repressed. The darkness would become greater if the lamp of justice goes out in the darkness.<sup>13</sup>

## **PROPOSITIONS TO SET UP GOOD GOVERNANCE IN THE JUDICIARY**

The right to a speedy trial is a constitutional right yet there are no guidelines for the same. Although such a right is nowhere directly present in the Constitution citing various cases of the

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<sup>12</sup> “Nigro, Felix, Public Administration-Readings and documents, Rinehart and Co. Inc. New York, 1951, p. 439”.

<sup>13</sup> Bryce, J., Modern Democracies, Valli, p.284.

Supreme Court it can be held the right of the accused to a speedy trial is implicit and flows out from Article 21 of the Constitution. Justice K. Venkatapathy, the Minister of State for Law and Justice said that each case needs to be examined based on its own facts and circumstances and that no fixed guidelines can be set by any court. Strict supervision is needed over the palace and lower courts and actions should be taken against corrupt policemen, judges, forensic experts, etc. Action needs to be taken against persons giving false witness. There is a need for laws that restrict witnesses from changing their statements and stories from time to time. Some of the people who died in the meanwhile case should be put behind bars so that in future cases people know that society will not tolerate murderers or liars. If middle-class anger is channeled in a systematic way, society can achieve a lasting and truly significant change in the society. Also changes in the system that make the police and courts more responsible will also prove beneficial to India as a whole. Changes in law are needed: K. N. Bhat's Article, "Manu's Crime and punishment-change the Law and save lives in the Tribune"<sup>14</sup> explicitly stated that the right people will at the right place and at the right time bring about the right changes which will further bring right results, even in the presence of an imperfect operating system. Although these miracles generally do not take place in real life. Murderers cannot be stopped, but how many of them are required to bring the concern into action, by amending the laws and making an efficient

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<sup>14</sup> "K. N. Bhat's Article, dated Dec. 23, 2006".

and meaningful justice system? In the guest column of the Times group under the Article, “Indian judiciary: Delay is thy name” by V. Ranganathan,<sup>15</sup> it was suggested that to take up only those many cases that the judge could hear.

Good Administration and the role of the apex court in India, are doing an in-depth study in examining the governance and approaches towards the management to demonstrate how it becomes unsuccessful. A good and better administration makes sure that there is transparency, accountability, responsibility, efficiency, rule of law, decency, participation of citizens, and efficiency in the system. The main objective is to provide a standard public service so that it can be an advisor so that whoever is bothered with the governance of civil services with a framework not only for apprehending but also for applying for ordinary postulates. It also makes sure that it assesses the austerity and deficiency of ongoing governance and makes desirable changes.

The Interim applications which have been filed which include Misc./ Applications in the Interim year 2016 turn out to be 91. The total no. of pending appeals in the year 2016 turned out to be 889. Thus all in all it showed that organs of the government have performed well. Policies are made for the public and the law-making power which has to be governed under the overall operations. The conclusion of the research is it gives or highlights

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<sup>15</sup> “In the guest column of Times group under the Article, “Indian judiciary: Delay is thy name” by V. Ranganathan 108”.

key points that have to be reviewed over a period of time to address issues such as e-governance, corporate governance etc. It also reflects on how effectively an organization will redress the issue; it will also add on how the further management of governance will take place. Hence the study will be focused on Good Administration and the role of the apex court in India. For the purpose of the study, need certain laws/Acts/ Regulation/ Reports etc.

- The Constitution of India 1950
- The International Covenant on Economic, Social, and Culture Rights. Jan, 3, 1976
- The Protection of Human Rights Act, 1993
- Rights to Information Act 2005
- World Development Report 2017
- World Bank Report 2017
- Annual report 2017-18
- Ministry of Power, Government of India 2017-18 Annual Report
- Business Report 2018
- United Nations Development Program
- Ministry of Law and Justice, Government of India, annual report 2014-15, 2016-17

On the 25th day of December 2014 in the remembrance of Atal Bihari Vajpayee who was the former Prime Minister of India

Good Governance Day is observed by enlightening masses to all sections of the society.

Another welcome move by the authorities is by e-governance. Such a welcome move was appreciated by all the administrative authorities, but later it had involved fundamental capacity. The move was such a hit in the era that administrative authorities in which they evolved various recommendations and other inputs were also added.

The main objective of Good Governance is for citizens to become aware of the administration becoming more and more transparent and bring in more accountability in the system. Needless to say, good governance also works on the enrichment of common citizens and to systemize the proper framework of the government. It also works on making effective policies in the system.

## **CONCLUSION**

In preceding chapters, an analysis has been conducted on diverse facets encompassing Good Governance, the stipulations delineated within the Indian Constitution, and pertinent case precedents. Similarly, an exploration has been undertaken regarding the principle of the Rule of Law alongside an examination of power distribution, checks, and balances. A thorough investigation has been conducted into the significance of the Judiciary and its role in fostering Judicial Activism. Presently,

the landscape of Good Governance is confronted with an array of challenges necessitating strategic resolution.

As per the mentioned in previous chapters and material collected during research work, I have arrived on certain conclusions basis which I would like to make Good Governance as necessary for the development and progress of a nation vis-avis its citizens. In democratic countries like India, the public plays a vital role in the law-making process. It has been seen that society changes the law and law changes the society. For example, the Atrocities Act, Anti-Dowry Legislation, Anti-Sati Practice Legislation, etc. Therefore, it is necessary to give legitimate power to people to some extent in the process of law-making.

Indian Constitution provides for the separation of powers between the Legislature, Executive, and Judiciary. It is expected that every organ shall function within its sphere and would not encroach upon the sphere of other organs. At the same time, it is expected that there must be some kind of cooperation between the organs within the ambit of Constitutional provisions. In other words, it can be stated that every organ should adhere to the concept of the Rule of Law in the Indian context. They should not work in a bias-based or whimsical manner. For the successful functioning of Democracy and Good Governance, it is necessary that citizens should know the actions or acts of Government by which they are being ruled. People have the right to acquire essential information from the Government. In my opinion, the

Right to Information Act is a welcome step in this direction. Under this Act, people can acquire essential data from the Government. At the same time, e-governance should be encouraged. For good governance, transparency is a must. Similarly, the media i.e. press should be given independence. Under Article 21 of the Indian Constitution, every citizen has right the to live a life with dignity. It is the duty of the nation to make legislation that provides opportunities for citizens to lead a life with dignity. It is the duty of the state to see that no citizen dies of hunger. They should be provided with sufficient food. To achieve this objective, it is the right of a citizen to get employment with proper wages for purchasing necessities of life, i.e., food, clothing, and shelter. In my opinion, the National Rural Employment Guarantee Act, of 2005, now named as Mahatma Gandhi National Rural Employment Guarantee Act is a good step towards the right to work and food. However, there needs to be more such schemes to uplift the standard of living, which would help in avoiding malnutrition and deaths due to starvation. Law-making power lies with the legislature; but the Indian experience shows that there is a nexus between politicians, police, and criminals. Therefore, it is said that lawmakers have become lawbreakers. Hence, it is the need of the hour that legislatures should make such legislation providing for transparency of government and its accountability to its citizens. People should feel that the era of good governance has begun in India. For the good health of people, a healthy environment is necessary. Hence, it is essential to control air and

water pollution. For this, measures should be made for sustainable transportation and legitimate controls should be imposed on factories.

India is a democracy with a written constitution, which provides for the supremacy of the constitution. Therefore, it is necessary to maintain the supremacy of the Constitution. It provides that administrative or legislative acts may be void if is violative of provisions of constitutions, especially Art 13, 14, 19, 29, 30 i.e. Articles of Part III of the Indian Constitution. It can be achieved mainly under Articles 32 and 226. It would not be out of place to mention that when Dr. Ambedkar was asked to name any one Article of the Indian Constitution which is of more importance, he replied with Article 32. It appears the importance of Judicial Interpretation and Judicial Review. The adoption of Public Interest Litigation is a welcome step in the direction of good governance as public vigilance. At the same time, it is necessary to see that it is not misused for self-gain or benefit. It is necessary to keep control of the misdeeds of Government machinery i.e. Government organs and its officials. To achieve this objective, Judicial Review is of utmost importance. As far as written constitutions are concerned, the concept of Judicial Review finds its roots in the American Judiciary, especially in the case of Marbury V Madison decided by Chief Justice Marshal in 1803, which thereafter followed by other nations by incorporating the concept of Judicial Review in their respective Constitutions. Judicial activism is a very essential part of good governance for a



successful democracy. The public looks to the Judiciary as a last resort to redress their grievances. Hence, it is expected that the courts need to work within its limits. They should not exceed their boundaries which would destroy the structure of the democracy built by the Constitution. Chief Justice Coke in 1607 rightly said that legal issues were to be chosen by Judgement, experience, and investigation of law and not by the regular brain of a man. Parliament has legislative powers to legislate and it is the duty of the court to interpret the laws made by the Legislatures. Article 368 of the Indian Constitution provides that parliament can amend any part of the constitution by following the procedure provided under the same. However, experience appears that sometimes there is a tussle between the parliament and the judiciary. It has been seen from the case of Sajjan Singh, Golaknath, KesavanandBharati, Minerva Mills, SR Bomai, etc. Besides constituent powers under Article 368, parliament also has a weapon of parliamentary privileges. As far as checks and balances and self-restraints are concerned existence of the upper House i.e. Rajya Sabha plays a very important role. A similar role is played by Upper Houses i.e. VidhanParishads in states. However, in some states, there is no upper house i.e. VidhanParishads. In some states where Vidhan Parishads were in existence, they have abolished their upper house. I am of the opinion that to keep check on the lower house there has to be an upper house in the states. In small states, due to its size, the upper house is not possible. Some kind of other machinery should be

formed to control the lower house. Sometimes, the legislature misuses its power of legislative privileges and courts also misuse their power of contempt of court. Hence, it is necessary to provide certain modifications in these provisions so that common people will not get frightened in challenging the authorities of the legislative and courts in the public interest by legitimate means. Children and women are weaker sections of society and hence they need special care and protection. Many times, women are sexually exploited even at the workplace. To protect women from sexual harassment in the workplace, the Supreme Court of India in the famous case of Vishaka issued certain directions to the government due to which the Protection of Women from Sexual Harassment at Workplace Act has been enacted. Every citizen of India, as per the Preamble has been given public, financial, and political equity, Liberty of thought articulation, conviction and confidence, fairness of chance and status alongside affirmation of poise to the individual and clique, solidarity and trustworthiness of the Nation. Part III which is Fundamental Rights and Part IV which is Directive Principles of State Policy guarantee these Rights. These rights realize central changes in the financial arrangement in the Public, Democratic, Sovereign, Secular, and Republic of India.

## **SUGGESTIONS**

On the basis of the present study of ‘Constitutional Philosophy of Good Governance and the Role of Supreme Court of

India' from the perspectives of analytical and Comparative study, and On the basis of studies in the foregoing chapters and material collected during research works and study of various case laws, I have arrived on certain conclusion on the basis of which I would like to make following suggestions –

- a)** Government is of the people, by the people, and for the people. Hence, people must have a voice in running the government and making laws. Their participation, especially in case of specialization in a particular field, is to be encouraged.
- b)** For successful democracy and good governance, the state should adhere to the concept of the rule of law.
- c)** To control maladministration and corruption, it is necessary to maintain transparency. To encourage transparency, the right to information of citizens must be protected and encouraged. Similarly, there should be judicial activism to maintain the supremacy of parliament and the rule of law.
- d)** The concept of public interest litigation should be strengthened. At the same time, it is necessary to see that it is not misused for one's personal benefit or as revenge against a particular agency or individual.
- e)** In law-making and decision-making, the views of people must be taken into consideration to enable them to move towards a welfare state and good governance.

- f)** The people must have faith and confidence in their government, hence it is necessary for the government to create a climate of trust and confidence.
- g)** It is the right of people to know about the actions of the government hence it is necessary to create independent and impartial media. It should not be measured straight or circuitously by the administration or its agents.
- h)** It is also noticed that sometimes the media tries some cases by publishing certain news items, which is commonly known as media trials. It has to be avoided.
- i)** If the people of the country are divided on the basis of religion, caste, and culture and are governed by different laws, it is certainly not good for a healthy democracy. Hence it is necessary and time has ripened that the state should endeavour to secure for the citizens a uniform civil code throughout the territory of India, which has been dreamed of by our constitution makers.
- j)** It is the right of the citizens to elect a government of their choice. It is done through the general election. However, it is noticed that the voters are bribed. Therefore, it is necessary to make stringent legislation providing punishments for both - the bribe giver and taker.
- k)** Every organ and agency of the government should be taught to observe self-restraints while performing public duties and functions.

- l)** While activating judicial activism the judiciary should not exceed its limits and do certain things which are favourable to the government or an individual for personal gains such as getting some posts after retirement such as Governor, President, seat at International Court, Chairman of certain Boards, or bodies of Government or appointment to Parliament i.e.Rajya Sabha, etc.
- m)** The institution of Lokpal is expected to work within the limits of the Constitution and function without fear and favour. Otherwise, it will lose its importance for which the people of India struggled for a long time.
- n)** It is utmost necessary to promote better participation of people in decision-making and law-making process o) All efforts are required to be made to achieve good governance in the country to make India a Welfare State.