

# Constitutional Voice for Good Governance in Bangladesh

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## ABSTRACT

Good governance is a real drive behind a country's development. It protects the human rights, ensures the justice, maintains law and order and provides equal opportunities to the masses. It provides the fruits of progress and development to all and sundry. Participation, transparency and rule of law, are some essentials of good governance. It is a vital aspect at all levels of society and state. It makes the system of the state effective and efficient. Good governance is not well rooted in Bangladesh due to some challenges. Civil society is trying to focus the concept for smooth development and stability of a country. Because, people of the country enjoy equal rights where there is good governance. Minorities live freely and exercise their religion. Therefore, a welfare state can only exist if there is good governance.

Keywords: Human Rights, Good Governance, social equality, Democracy, Rule of Law and Transparency

**JEL Classification Code: K1**

## INTRODUCTION

Good Governance has become a parameter to show the rule of law, democracy and level of development. It brings a standard in the enjoyment of civil, political, economic and social rights of the citizen the country. There are a number of factors to ensure the enjoyment of citizens' rights, but Good Governance is in the apex of them. Because good governance is a cohesive term includes many factors to be ensured in the country. There is a well-cited quote by former UN Secretary-General Kofi Annan that "good governance is perhaps the most important factor in eradicating poverty and promoting development". The term good governance is being increasingly used in development literature (World Bank). Major donors and international financial institutions are increasingly basing their aid and loans on the condition that reforms that ensure 'good governance'. Good governance is also a crucial discussion in, but the concept has not been well rooted in Bangladesh. Scholars and civil society are firmly trying to ensure good governance in Bangladesh but at a little effort in focus. Absence of good governance has vitiated the core enjoyment of constitutional rights of the citizen.

## OBJECTIVE OF THE STUDY

The main object of the study is broadly analyzing the constitutional basis of good governance in Bangladesh and to find out the legal lacuna and loopholes thereby. The additional objectives of the study are- to find out mechanisms to ensure good governance, to identify the compliances of the domestic laws with good governance and to render some recommendations for establishing good governance in Bangladesh.

## METHODOLOGY

The research is a qualitative study. The general methodological approach of this study is theoretical approach based on data and information systematically gathered and analyzed both from the primary source and the secondary source. The constitution of the peoples' Republic of Bangladesh has taken as the primary source. The second sets of data and information are from specific records, official desk reports, Article, surveys, newspapers, electric media, magazines and journals. Acknowledgement has been made all the sources wherefrom information is taken either directly or indirectly. The study was conducted by the authors within October'2012 to December'2012.

## DEFINITION OF KEY TERMS

### Governance

The concept of "governance" can be tracked to the human civilization. Simply "governance" means: decision making and implementing process (Moore 2001). Governance is applicable in several contexts such as corporate governance, international governance, national governance and local governance. Since governance is the process of decision-making and implementing, an analysis of governance focuses on actors involved in decision-making and implementing the decisions (Laporte, 2000). Government is the main actor among other actors in governance, and civil society plays an important role thereby.

### Good Governance

There has no uniform definition of good governance rather prescribing the criteria to justify the level of good governance. Good governance means competent management of the country's resources and affairs in a manner that is open, transparent, accountable, equitable and responsive to people's needs. The World Bank and other multilateral development banks on good governance address economic institutions and public sector management, including transparency and accountability, regulatory reform, and public sector skills and leadership (Onli, 2007).

## ESSENTIALS OF GOOD GOVERNANCE

Good governance has eight major characteristics. They are- participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follow the rule of law (Gp Governance pro). It assures minimizing corruption and considering the minorities' views in decision-making process. It is also responsive to the present and future needs of society. The essential discussions are in below.

### Participation

Participation by both men and women is a key cornerstone of good governance. Participation could be either direct or through legitimate intermediate institutions or representatives. It is important to point out that representative democracy does not

necessarily mean that the most vulnerable in society considerably takes part in making decision. Participation needs to be informed and organized which requires freedom of association and expression on the one hand and an organized civil society on the other hand.

### **Rule of Law**

Good governance requires fair legal frameworks to enforce law impartially. It also requires full protection of human rights, particularly those of minorities. Impartial enforcement of laws requires an independent judiciary and an impartial and incorruptible police force.

### **Transparency**

Transparency means the decisions making and enforcement processes are in the manner that follows rules and regulations. It also means that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement (Wikipedia). It also means provides enough information in easily understandable forms and media.

### **Responsiveness**

Good governance requires that institutions and processes try to serve all stakeholders within a reasonable timeframe.

### **Consensus Oriented**

There are several actors and as many view points in a given society. Good governance requires mediation of the different interests in society to reach a broad consensus in society on what is in the best interest of the whole community and how this is achievable. It also requires a broad and long-term perspective on what is needed for sustainable human development and how to achieve the goals of such development (World Bank, 2000). The understanding of the historical, cultural and social contexts of a given society or community is also part of consensus orientation.

### **Equity and Inclusiveness**

A society's well being depends on ensuring that all its members feel that they have a stake in it and do not feel excluded from the mainstream of society. Inclusiveness requires all groups, but particularly the most vulnerable, have opportunities to improve or maintain their well fare activities (CSS Forum).

### **Effectiveness and Efficiency**

Good governance means that processes and institutions produce results that meet the needs of society while making the best use of resources at their disposal. The concept of efficiency in the context of good governance also covers the sustainable use of natural resources and the protection of the environment (Iftekharuzzaman, 2007).

### **Accountability**

Accountability is a key requirement of good governance. Not only governmental institutions but also the private sector and civil society organizations must be accountable to the public and to their institutional stakeholders. Who is accountable to whom varies were depending on whether decisions or actions taken are internal or external to an organization or institution. Generally, organization or an institution is accountable for any

detriment caused by its policy and action and this accountability is enforceable without transparency and the rule of law.

## **CONSTITUTIONAL PROVISIONS FOR GOOD GOVERNANCE**

### **Equal Participation**

Good governance requires the participation of both men and women in every sector of life. The constitutional provisions in Bangladesh also require this aspect. Article 27 provides that all citizens are equal before the law and are entitled to equal protection of the law. Article 28(2) provides that Women shall have equal rights with men in all spheres of the State and public life. Article 29 mentions that there shall be equality of opportunity for all citizens in respect of employment or office in the service of the Republic.

### **Independence of Judiciary**

Judiciary enjoys full freedom under good governance. The constitution of Bangladesh also guarantees the issue. Article 22 of the constitution says that The State shall ensure the separation of the judiciary from the executive organs of the State.

### **Supremacy of Constitution**

Good governance endorses the supremacy of the constitution. The constitution of Bangladesh prescribes very strictly for constitutional supremacy. Article 7 of the constitution provides that the Constitution is the solemn expression of the will of the people and the supreme law of the Republic, and if any other law is inconsistent with this Constitution shall be void.

### **Rule of Law**

Good governance maintains the rule of law in the country. The preamble of Bangladesh constitution says for rule of law. It provides that it shall be a fundamental aim of the State to realise a society free from exploitation in which the rule of law, fundamental human rights and freedom, equality and justice, political, economic and social, will be secured for all citizens.

### **Democracy**

Good governance guards democracy and guarantees political stability in the country. Article 11 of the constitution states about democracy. The Article provides that the Republic shall be a democracy in which fundamental human rights and freedoms and respect for the dignity and worth of the human person shall be guaranteed (News beat).

### **Social Equality**

Equal distribution of resources among the federating units of the country has to be made possible in a country having good governance. There should be social equality for all citizens. Article 19 of the constitution provides that The State shall endeavor to ensure equality of opportunity to all citizens. The State shall adopt effective measures to remove social and economic inequality between man and man and to ensure the equitable distribution of wealth among citizens, and of opportunities in order to attain a uniform level of economic development throughout the Republic.

## **CHALLENGES FOR GOOD GOVERNANCE IN BANGLADESH**

There are a number of challenges to ensure good governance in Bangladesh. The major challenges are as follows:

## Independence of Judiciary

Absence of independent judiciary is also hampering Bangladesh's way towards achieving good governance. Delayed justice is due to poor governance. Justice delayed is justice denied, which directly contributes to powerlessness of the poor. Incompetent judges have also acutely hampered the timely administration of justice, hence made the judiciary weak (Shelley, 2000). When the grievances of the masses are not redressed, they resort to violent solutions of their problems. This state of condition results in the deterioration of the rule of law.

## Economic Disparity

There is a great economic disparity. The rich are getting richer, and the poor are becoming poorer. Owing to the fragile economy, FDI is shrinking on account of terrorism and political instability. Another major problem is Bangladesh's huge debt and its continued dependence on financial aid.

## Lack of Accountability

Accountability that is the key aspect of good governance lacks in our country. No one in our country seems to consider him accountable to the law. Everyone whatever illegal he does thinks it as his right. It is a sort of deluge that is engulfing our country and giving rise to many problems.

## Corruption

Corruption has become rampant in our society. It has become so common that no one from clerical staff to high officials is free from this disease. Transparency International (TI) has ranked Bangladesh in ten most corrupt nations in the world. Corruption hurts economy by raising transaction costs. It also depresses economic growth by lowering public investment (Rahman, 1996). Only a part of the amount of budget is spent on public projects. The rest is embezzled by government functionaries and contractors.

## Mismanagement in Implementation Process

Mismanagement of funds and government's incapacity to maintain the prices of basic commodities is increasing inflation and poverty. Poverty crushed people are further crushed with inflation. Purchasing power is decreasing day by day and people are unable to make their both hands meet (Alan Doig, 1998). Grain is getting beyond their reach. Along with it, unequal distribution of cultivated land, unfair distribution of income and increasing population are also responsible for this predicament.

## Poverty and Unemployment

Poverty and unemployment are pushing our country into the swamp of illiteracy. Because of poverty, the poor cannot afford to send their children to schools. And due to unemployment many people think, "What is the benefit of that education that cannot provide any respectable livelihood."

## RECOMMENDATION

- There should be a balance between all the institutions of the country. All institutions must work within the boundary of their limit. It will ensure the proper functioning of the governmental machinery.
- Equal distribution of natural resources should be ensured. Provinces must be given right and due share over their natural resources.

- Justice is indispensable to good governance. Access to cheap and quick justice be made possible for everyone. Dispensation of justice must be irrespective of class, creed and religion.
- Economic policies should be revised. They must be reformed to meet the demands of the poor masses. Agricultural and industrial sectors must be revolutionized to attract investment and boost the economy.
- Cut-down of extra expenditure by down-sizing the administrative setup is the dire need of the hour. It would be greatly helpful in reducing debt burden from our country.
- All the institutions responsible for maintaining authorized accountability. Legislation be enacted to improve accountability. It must start from the top. Everyone, no matter how powerful is he, must be brought to book.
- Anti-corruption courts should be established. All the cases of corruption are decided on the basis of priority to check the wheel of corruption.

## CONCLUSION

In this gloomy scenario, good governance is the dire need of the hour. Though good governance has always been a dream for our country yet, this dream can be transformed onto reality. Sincere and dedicated government can make this dream come true. But it cannot be achieved in a wink of an eye. It requires a great toil and sacrifice. The civil society can play a significant role in this regard. Now, it is very easy to raise public opinion for good governance through the use of electronic media. The meetings and rallies are also very essential means to bring the trend of good governance on the right track.

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