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## **GOOD GOVERNANCE AND HUMAN RIGHTS**

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### **ABSTRACT**

The significance and influence of good governance is not only limited to the extent of corporation and similar operating firms. In order to ensure the protection and respect of human rights with strict adherence to the international standards, several international instruments have been developed. They have attempted to inculcate the good governance by establishing the obligations for the member states to stick to its grounds and develop the national entities to assure accountability and transparency on its rectification to national level. The paper have analyzed all such instruments and actions of international community to integrate the concept of good governance and legal pluralism in human rights.

## 1. Introduction

The formation of the United Nations (U.N) and the subsequent formulation and rectification of the Universal Declaration of Human Rights (UDHR) marked milestones achievements in the history of human rights.<sup>1</sup> However, their legitimacy in the international medium with inclusion of world citizens was not an automatic result.<sup>2</sup> The passing of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) by GA on 16 December 1966 developed the legally binding obligations of international human rights.<sup>3</sup> Thus, the political, moral, and normative contention in regards to the states in the UDHR was ultimately established as a legally enforceable right in the form of these international instruments.<sup>4</sup>

## 2. Good Governance in the International medium.

In 1960, the ECOSOC passed a resolution establishing the role of states in protection and promotion of human rights, further encouraging the establishment of National Human Rights Institutions (NHRIs).<sup>5</sup> The combined effort of UN and HNRI resulted in organization of workshop in 1990 with active participation of national and regional organs. The workshop was aimed to review the cooperation between national and international entities and factors for improving the effectiveness of NHRIs which is now known as Paris Principles of 1991.<sup>6</sup> It was the first systematic international effort defining the responsibility of NHRIs. NHRIs act as the dominant body in ensuring the regulatory function is in conformity to international standards and, changing the identity of societal factors as constitutive body. Although the Paris Principles has attempted to preeminently address the functions of NHRIs, it is significant to hold NHRIs as an eminent body incorporating human rights as a part of good governance institutionalization.<sup>7</sup>

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<sup>1</sup> Universal Declaration of Human Rights, G.A. Res. 217A(III), U.N. GAOR, 3d Sess., at 71, U.N. Doc. A/810 (1948).

<sup>2</sup> Hurst Hannum, *The Status of the Universal Declaration of Human Rights in National and International Law*, 25 GA. J. INT'L & COMP. L. 287, 290 (1996); arguing that the UDHR remains the primary source of global human rights standards and is the basis for most human rights instruments.

<sup>3</sup> James Thuo Gathii, *Good Governance as a Counter Insurgency Agenda to Oppositional and Transformative Social Projects in International Law*, 5 BUFF. HUM. RTS. L. REV. 107, 147-55 (1999); explaining that international human rights principles will play only a marginal role in the World Bank's good governance agenda unless those principles are functionally defined.

<sup>4</sup> Thomas M. Franck, *The Emerging Right to Democratic Governance*, 86 AM. J. INT'L L. 46, 47;.

<sup>5</sup> Governance for Sustainable Human Development, A UNDP policy paper UNDP., (1997) 2-3

<sup>6</sup> UNDP Report, *Governance for Sustainable Human Development* (1997).

<sup>7</sup> UNDP Report, *Supra note 6*.

### 3. Components and significance

The United Nations Development Programme (UNDP) views governance as the exercise of economic, political and administrative authority to manage a country's affairs at all levels. It comprises mechanisms, processes, and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations, and mediate their differences.<sup>5</sup> According to the UN High Commissioner for Human Rights, the true notion of good governance is the degree of its due adherence and respect to human rights including the civil, cultural, economic, political, and social rights.<sup>7</sup> The resolution 2000/64 of Commission on Human Rights have expressly stated the good governance as an enabling environment conducive to the sustainable development of human beings and protection of the enjoyment of human rights.

The concept of good governance and human rights are thus essentially connected with the concept of democratic government, rule of law, and pluralism.<sup>8</sup> The Charter of Paris, for instance, have stated that the free will of individuals, exercised in democracy and protected by the rule of law, forms a necessary basis for successful economic and social development.<sup>9</sup> Hence, Good Governance and human rights principles strengthen each other. Human rights principles and standards lay out a set of guidelines and frameworks for the organization, social actors, and other stakeholders concerned. It also provides a mechanism through which these actors can be held accountable and responsible for their actions and conducts.

The United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) observed that eight major characteristics constitute good governance.

#### 1. Participation:

It mandates involvement and participation from all the groups, especially vulnerable and minorities to have a direct representative and access to the system, which represents a strong civil society that promotes the freedom of expression of its citizens. As a result of increasing participation, it manifests our law and system as an inclusive and integrated system.

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<sup>8</sup> Yubaraj Sangroula, *Concept Of Rule Of Law, Human Rights Good Governance: Mutually Reinforcing Concepts* (2018) 20.

<sup>9</sup> Conference on Security and Co-operation in Europe, Charter of Paris (1990), <https://www.osce.org/files/f/documents/0/6/39516.pdf>

2. Rule of law:

Rule of law is a principle that enumerates everyone as equal before the eye of law. Impartial enforcement of the law, fair judiciary, and fair and uncorrupted bureaucrats are the backbone of this instant principle. It advocates for a fair and impartial system that would enshrine the rights of citizens.

2. Transparency:

Transparency is a state where all the citizens have access to the decisions formulated effortlessly, especially if they are affected by such decisions. This mechanism will ensure that all the decisions that are formulated adhere to the due process and are for the best interest of society and people.

3. Responsiveness:

It simply requires all the institutions to respond to the stakeholders within a reasonable time frame to ensure that the institutions are prioritizing the rights and interests of the concerned stakeholders.

4. Consensus-oriented:

Society is composed of diverse people having diverse perceptions and opinions, which may result in conflict or any sort of disagreement. Good Governance requires the mediation of such conflict of interest through a consensus-oriented. The main objective to follow a consensus oriented method for the mediation is to ensure the best interest of the society that would reflect the cultural, social, historical background of that specified society.

5. Equity and inclusiveness:

All the citizens of a state shall enjoy the rights and benefits granted by the state without any sort of discrimination and prejudice. In order to do so, the society needs to adopt the principle of equity and inclusiveness where, all the members of the society believe that they are equal, empowered, and can create an impact on the decision-making process. By ensuring equity and inclusiveness, the principle of equality is being enshrined.

6. Effectiveness and efficiency:

The main objective of good governance is to maximize the satisfaction of the citizens by mobilizing a limited number of resources. It also promotes the principle of sustainable development.

#### 7. Accountability:

Accountability is the backbone of good governance. All the institutions regardless of public or private, stakeholders involved shall be accountable for their actions.

In pursuant to all of these broad meanings of Good Governance and the resolutions passed by the international institutions of the UN, we can conclude that the establishment of NHRIs in every state party for promoting and implementing international HRs standards is the most prominent strive to maintain the good governance of human rights.

#### 4. Measuring Good Governance:

Measuring good governance is a very complex and difficult task as different states have different laws and principles, which may be in conflict with each other. Some of the prominent indicators to measure good governance are the World Bank's Worldwide Governance Indicators (WGI), the Index of Public Integrity, and Freedom House's Freedom in the World report. Even if measuring good governance in different countries is very subjective but the world bank and other indexes has set out some indicators to measure it. The Worldwide Governance Indicators (WGI) project reports aggregate and individual governance indicators for over 200 countries and territories over the period 1996–2020, for six dimensions of governance:

- Voice and Accountability
- Political Stability and Absence of Violence/Terrorism
- Government Effectiveness
- Regulatory Quality
- Rule of Law
- Control of Corruption<sup>10</sup>

Hence, by adhering to the standards set by these indexes and reports, we can measure good governance in a country. After measuring the good governance we can analyze the

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<sup>10</sup> Daniel Kaufman, *Worldbank governance indicator* (1996), <http://info.worldbank.org/governance/wgi/#home>

status quo of a country and take initiatives for the enhancement of the society and public. As a result, it would harmonize the relationship between state, private and society, which would be reflected in the economic, social and scientific and other development of a country.

## 5. Conclusion

Human rights must be mainstreamed in order to stabilize all civil and political rights through economic, social, and cultural development. Mainstreaming human rights refers to the concept of enhancing the human rights program and integrating it with a broad range of United Nations activities, including development, governance, and administration of the states.<sup>11</sup> In addition to this, the inclusion of a more participative, accountable, and transparent approach in the state's implementation mechanism of HRs can enhance the promotion of the Good Governance agenda for human rights.

Therefore, the establishment of NHRIs, Judicial bodies and such HRs monitoring body can cooperate with both the national and international community in maintaining good governance for human rights along with the strict adherence to its international standards. However, NHRIs and Judicial bodies must be performing separate and independent functions with the concept of pluralism. Civil society can play an important role in such platforms in establishing a healthier relationship between the government and such bodies.

In conclusion, human rights and good governance promote greater transparency and accountability, which may provide more effective communication and engagement between governments, civil society, NHRIs, and victims of human rights violations.

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<sup>11</sup> U.N. Office of the High Commissioner for Human Rights, *Mainstreaming Human Rights (describing the concept of mainstreaming human rights)*, ( Accessed on 17 May 2022) <http://www.unhcr.ch/development/mainstreaming-01.html> Accessed on 17 May 2022) .