

The Role of Good Governance in the Legal and Administrative Affairs of Pakistan

Amjad Hussain * S. M. Areeb Abdul Khafid Shah Bukhari † Aas Muhammad ‡

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Abstract *The law regulates administrative action, and the way it leads to success is called good Governance. Thus, good Governance may be said as the systematic execution of the laws of the land. The main object of the present research was to find out the essentials of Good Governance, which ensure the formation of a civilized, lawful, and progressive society in which rule of law is maintained in letter and spirit within the constitutional framework. The study also explains the future of good Governance for excellence through public administration while highlighting the deteriorated administrative conditions in Pakistan with historical perspective, its causes, and corresponding reforms. As Governance is related to the society and public thus, it must be open and known to all the public. Equality before the law and special privilege to no one is one of the principles which should be maintained at all levels of government. The research explains that good Governance aims to uphold the principles of confidence, reliability, validity, participation, fairness, accountability, transparency, efficiency, etc., while dealing with affairs of the state.*

Key Words: Administrative Law, Good Governance, Administration, Public Administration, Principles of Administration, State Affairs, Welfare State

Introduction

The state is run through the machinery of government which, academically and practically, is governed through laws. In a modern State, public law or *jus publicum* is said to be the amalgam of administrative law and that of constitutional law, and in such a state of affairs, public administration sparks over the rails of administrative law.

Administration denotes and symbolizes the functions of government on the day to day basis and is carried through the body of persons who represents the government in their respective capacities. Government is an engine for the implementation of laws and public policy. Here, the policy is meant to define and formulate a general course of action to achieve the common goals significantly while providing a general course of action for all the concerned quarters, including the government and the entities being governed.

The state is responsible for providing fundamental rights to its subjects. This idea is backed by the

* Assistant Professor, Department of Law, The Islamia University of Bahawalpur, Punjab, Pakistan.

Email: ahpanwar@iub.edu.pk

† (LLM), Advocate Supreme Court of Pakistan.

‡ (LLM), Department of Law, The Islamia University of Bahawalpur, Punjab, Pakistan.

philosophy of social contract as prevailed in political science. The role of the state is of a protector and at the same time guardian and custodian of human interests ([van der Meulen, 2011](#)). But on the opposite side of the coin, unhealthy and deleterious conditions of work by way of the industrial revolution led to slums, child labour which is the result of the exploitation of masses, and widespread poverty being the outcome of the accumulation of wealth in the hands of few persons are the reasons of the day. The state in such a situation has to commence its positive role for the preservation of the general interest of its public and has to assume a "positive role." Hence, it provides the concept of "social welfare state," which means the promotion of socio-economic welfare of the people within the resources of the state and in a manner of equitable distribution of the same among its units so that none could complain about the prejudicial attitude exerted by the state. Hence, it is the public administration by which a state equalizes the equilibrium of its resources and unified distribution among its subjects.

Since the concept of social welfare State has emerged, it has been proved to affect at a larger scale the concept of democracy, and it guides the practice of State activism for taking beneficial activities beyond the basic needs of the people ([Barr, 2020](#)) and corresponding assessment of the quantum of distribution mechanism. In such a manner, the area of state operation would be increased diametrically as the state has to take a lot of functions by itself, which generally are done by private enterprises. In the present time, functions of public administration by the State functionaries have been exceedingly enhanced ([Ocampo & Stiglitz, 2018](#)), now it has to provide the basic necessities of life, which constitutionally includes religious freedom, education facilities, assurances about job and employment, observance of the merit system, housing, clothing, food, leisure in human reach, transport, and postal services; positive and practical assurances of the uplifting of the living standards of the citizens, sports and health facilities, appropriate planning of socio-economic life of the community while reducing the possibilities of concentration of wealth detrimental to the public at large, look after the moral standards of the people as well, generation and equal provision of electricity which is by now considered within the sphere of basic necessities of life and livings. Therefore, public administration with constitutional backing recognizes the role of the state as a protector, entrepreneur, provider, arbiter, and economical controller ([Roy & Priya, 2016](#)). State as such reaches the idealistic position through a proper system of planning and organization, which is solely dealt by public administration keeping in view the welfare and betterment of socio-economic conditions and requirements of the people within a society.

Methodology of the Study

The instant research undergoes to adopt the qualitative approach as a research methodology with normative-cum-descriptive features enabling both the researcher and that of the reader to fully bring at home the importance of Good Governance. In preparation of this disquisition, the endeavour has been strived to collect the essential and relevant material, ideas, and data from the primary and secondary sources as contained in the classic works, statutes, research articles, books, newspapers, etc. The analytical approach has been adopted in accomplishing the instant research marking its end with the cogent, prudent, and sound epilogue, which would prove to be helpful in understanding the objectives of the research.

Good Governance

Centuries ago, social, political, and legal philosophers perceived the idea of the good life as the be-all and end-all of the State ([Rabbås et al., 2015](#)). The term "good life" or "good society" is a value-laden one. Being subjective, it has been conceptualized differently by different thinkers at different periods of history. Its meaning is bound to vary from person to person, society to society, and State to State, but all are agreed that its ultimate goal is to achieve "good governance."

Good Governance means efficiently handling the functions and calibrating the performance of the State apparatus ([Rotberg, 2014](#)). Good Governance is the practical outcome of a government's machinery as

well as the practical aspect of administrative laws. If the State institutions are stable, harmonious, functional, efficient, resourceful, meritorious, and under the complete compliance of the law of the land, then it is the stage of good Governance achieved by the State functionaries. Good Governance is the end achieved through the means of participation of State institutions, political forces, and the public on the page of the abidance of law ([Reif, 2000](#)).

Good Governance is dependent upon the growth and advancement of the institutions of the state. To nurture the institutions with the legal blood of sincerity and integrity is necessary because it is the developed and sustained public institutions which contribute towards good Governance ([Gisselquist, 2012](#)). Good Governance ensures the security and safety of the nationals being the subjects of the state, and it provides a conducive atmosphere that leads towards development and prosperity ([Goodpaster, 2003](#)). Bad Governance gives birth to crises and chaos. As a matter of fact, crises are controlled and resolved through good Governance. It is a matter of proven fact that where good Governance is exercised in a State, it becomes capable of facing any disaster even with limited resources. An administrative activity without having the backing of relevant law certainly fails to secure validity and legal effect/ authority. Good Governance eventually supports and sustains the entire State functionaries, whereas bad Governance ultimately destroys and destroys it.

The Domes of Good Governance

The domes of good governance are stated to be potential in every provisions of law because law is supposed to exist for the welfare of the society as well as for the well-being of the individual ([Shklar, 1987](#)). Participation, fairness, transparency, decency, accountability, efficiency, legality and effectiveness are the ingredients that are admitted to be the constituents of the domes of good governance ([Mazhar & Goraya, 2020](#)) which are as under:

- 1) **Judiciary:**
Where disputes are settled.
- 2) **Legislature:**
Where the laws representing the desire and requirement of the nation are promulgated.
- 3) **Government:**
The Executive custodian of the system.
- 4) **Bureaucracy:**
Which implement the policies.
- 5) **Civil Society:**
Organized, sincere and cultured community.
- 6) **Political Society:**
Refers to public affairs of a country in relation to its laws.

Here and now, a State witnessing good Governance cannot support rigid, arbitrary, reactive administrative functionaries. Nowadays administrative system of the state where good Governance is part and parcel of the government functionaries are consultative, flexible, proactive, result-oriented, and simultaneously supporting and encouraging innovation and creativity from the bottom-up in order to administer and facilitate the citizens strictly in accordance with the law. Good administration not only divulges and extends the scope of the rule of law but also implements the law ([Dezalay & Garth, 2010](#)).

Good Governance in a Modern State

In a society, everyone is not able to work and earn. Old and youth have limited capabilities to perform. Welfare, thus, serves as a way by which help and support are extended to those segments of the

community. The countries having welfare programs are called welfare States. However, it is believed that a welfare State is that place where good Governance is witnessed for every member of the society ([Salminen, 2008](#)).

The welfare state may be said as an incredible human accomplishment. In advanced States, a reasonable amount of income is regularly transmitted from the rich to the poor ([Sinn, 2002](#)). Word for word, welfare State measures are supposed to increase the security, income, social services, opportunities of advancement, leisure, food, clothing, shelter, protection against illegal acts, freedom, facilities, basic needs, schooling, etc. ([Lindbeck, 2004](#)). It is very clear that quality of life would be considerably poorer if there were no well-being at all. The main contributory benefits of the modern welfare state, which are the result of good Governance, are as under:

1. Retirement pensions;
2. Widow's benefits;
3. Part of the job seekers allowance;
4. Statutory allowances;
5. Incapacity grants;
6. Maternity benefits;
7. Old age benefit;
8. Scholarships schemes;
9. Free education;
10. Free medical, etc.,

Good Governance is the only tool that often hypothesizes the achievement of the cycle of welfare in the shape of welfare State as well as public welfare not in concept but in practical existence. It will certainly be capable of providing arrangements of public well-being and also to contribute as such for political and social stability, and that it will tend to favor the concept of rule and majesty of law with the sense and idea of equality before the law and equal subjection of all in the eye of the law of the land. Good Governance, in this sense, may be called the ideal and ultimate dream of law in every society because the law is deemed to address the general as well as the individual betterment, welfare, and well-being with the result of emergence or paving the way of establishing a democratic, modern and welfare State ([Harlow, 2006](#)) — where institutions run smoothly without biasness with the ability of automated continuity.

Good Governance and Public Welfare

To think about how to govern ideally is not a new thing for the state because it is the basic duty of the state to facilitate people to use their abilities to flourish in their lives. In fact, this concept strives the state to consider its responsibility towards the citizens in employing the modern concept of the state. Conventional wisdom in Governance is not developed a credible theory, but with trial and error, tradition-blessed familiarity and the dominance of either managers or management mentality provides the way to decide whether a State is providing a complete mechanism to govern the governed through a welfare cycle both for the subjects and the administrative agencies. Governance is a paradigm of concepts and principles applicable to any governing body, whether profitable or non-profitable, governmental or non-governmental.

Good Governance while addressing public welfare puts more focus upon the happiness of the individuals in the manner of equity and equality. If it fails, the whole structure of society, democracy, and even the scale of justice would certainly collapse like a house of cards. It is as a matter of historical the fact that civilization would collapse with the breakdown of the administration ([Cech, 2009](#)). The individuals in a lawful community are always concerned with the law regarding every act from life to death, and in this regard, law exerts its implementation through the process of the public administration even before the

individual is born by giving him the opportunity of recognition. Immediately after a person is born, his birth has to be registered with the public authorities, the maternity and child welfare center takes care of the baby and the mother during the first few weeks of the infant's life, and a public vaccinator treats him thereafter. When the child grows old, he goes to school for his education. After that, he enters his career, which is usually public employment or some other business, industry, or profession which is supposed to be regulated by the law.

The Picture of Governance in Pakistan

Pakistan suffers from many crises; each has a negative impact on society. But the most dangerous crisis faced by Pakistan is that of good Governance ([Adnan & Fatima, 2018](#)). It may be regarded as the basis of all the problems.

Good Governance is always founded upon certain laws recognized by society. The main aim of Governance is national development ([Boeninger, 1991](#)) by reducing national distress and increasing opportunities on the idea of welfare to all without any discrimination. Pakistan has, unfortunately, been involved in the jinx of bad Governance since its birth. Even after 75 years from its independence, the dreams of the Quaid-e-Azam Muhammad Ali Jinnah and many others still remain frustrated.

Pakistan suffers from a number of challenges. Every challenge has a negative impact on Pakistani society. The biggest challenge which Pakistan has been facing is Governance. It is true that Governance is an exercise of legal, constitutional, political, economic, and executive authority to administer the resources and affairs of the state. It is founded on the basis of certain laws ([Jordana & Levi-Faur, 2004](#)) established by the members of a society having constitutional backing.

Every time a new government is formed, it declares the old systems an anathema, throws it away, and establishes a new one. After so many experiments with the constitution as well as the set of subordinate laws of the parliament, still we have not been able to achieve the desired results, thanks to poor/bad Governance. Change in constitution and law makes little difference if these laws are not implemented in their true spirit. Good Governance as a soul of public administration helps to rectify the incidental problems that emerged in the proper implementation of law/s by diagnosis suitable action/redressal mechanism; otherwise incompetent officials with vested interests allow rabbleroising to the law, and even the best law becomes of no use.

The jinx of bad/poor Governance has enveloped the judiciary too. Most of the public has lost its confidence in the judiciary. Its performance has been damaged by the insufficiency and incompetency of the judicial officers and staff. In certain cases, the political intervention has also badly affected the quality of decisions. Delaying strategies have caused a massive backlog of cases which, as a consequence, delays the conclusion of the case. The courts are supposed to act as a watchdog to keep an effective check over all the State institutions. This task demands honesty and efficiency, but bad repute of courts encourages corrupt elements to violate the laws, which certainly decreases the utility of good Governance, and it will also be a permanent threat of bad Governance with all its repercussions.

Another detrimental effect of bad Governance has been the dominance of corruption which ultimately causes lawlessness. Unfortunately, corruption as a result of bad Governance has become a norm in Pakistan rather than the exception. In this country, it has invaded every department. Corruption left unchecked has grown like cancer. It has risen from petty corruption at lower levels in the 1950s to the highest levels at the present point of time. The result is that none of the three organs of the state (i.e., Executive, Legislature, and the Judiciary) act as a check on the misfeasance of the other two. The whole administrative system ignores the misuse, abuse, and excess of the authority so exercised by the public functionaries. The financial system has been burdened with unserviceable loans. Public lands have been doled out in response to political or financial favour, and as such, publicly controlled institutions are badly managed and respond

neither to citizens' needs nor to financial imperatives. Despite this perception about the quality of Governance, little action has been taken to improve the situation.

Another vilest result of the bad Governance, which cannot be ignored, is that it destroys the merit system. Merit and fairness of the system is the most essential element for the good Governance and both of them are the cardinal principles of law as well. Merit, good governance, and law support one another. Bad Governance also gives birth to favouritism and nepotism that is anti-thesis of justice and transparency.

The crisis of Governance has gripped every institution of the state. It has rendered the people and government devoid of initiative that is required for the solution. The absence of resolve is the bane that has prevented the nation from combating this menace. Every institution needs to be purged of the curse of bad Governance to create an ambience conducive for good Governance. For good Governance, rule and majesty of law are to be followed in every course of affairs of the state, and for proper implementation of laws, rules, and regulations, a great determination is needed on the part of the government. The Governance must be target-oriented and above the political considerations or vested interests. The role of the state in providing services should match its resources and capability. Unnecessary monopolies of the state should be done away with.

True good Governance is one that is not only people-based but owned by the people. The constituents of Governance must feel a sense of ownership, and the Governance should be accountable to them. It should have a touch of decency in which no individual feels humiliated. Hence good political Governance requires the rule of law ([Harlow, 2006](#)), which is a key to Good Governance. It implies that nobody is above the law, and the same law is implemented everywhere, both for the rulers and the governed. Laws are always formulated in the interest of society. It is only their proper implementation without any fear and favour that matters. Parliament should be sovereign and truly representative in a democratic republic as Pakistan. Law and good governance favour the separation of powers. Powers must be separated to impose a proper check on the ambitions of those who wield power. Accumulation of powers in one individual or group not only gives birth to corruption it also decreases the quality of Governance. In this sense, decentralization is also an important factor. The power must be decentralized and delegated to local levels along with the management of resources and the decision-making authority. This brings government to the doorstep of the people. Above all, accountability is essential for good political Governance. All power brokers should be accountable to the people. Accountability should be independent and across the board. The institution responsible for accountability must have a constitutional role and not dependent upon the executive. At the institution level, accountability should be initiated and local officials and community made responsible. No State can succeed without an efficient and capable bureaucracy. Civil servants should be both civil and servants in true sense. They must be paid adequately and trained to acquire required skills so that they are capable of delivering civil services in affordable cost. Proper training and regular appraisal of their services would keep them efficient. Good economic Governance implies the management of the economy by the government in such a manner to create an environment conducive for economic growth of all. There must be a level playing field and equal opportunity for all. Every constituent should feel safe and confident to earn to fulfil his general needs. Besides, investors should have confidence in the stability and continuity of the system. Good economic Governance is not only a panacea for economic ills but also a solution to other socio-political problems. State must ensure the provision of civic services to its constituents to bring enlightenment and prosperity. Educated, prosperous and well-informed people can play a very effective role in the progress of a nation. This is also the demand and objection of the Constitution of this State. In this manner, the organization of civil societies has to bring good civic Governance.

When all is said, it can safely be inferred that the crisis which is at the root of all other crises is that of good Governance. For half a century we have been dawdling on desultorily in the search of the best constitution. Hardly have we ever realized that the rub lines in the implementation of the established law.

For that purpose, the fundamental requirement is the determination on the part of power wielders. Proper execution of law followed by continuous check through transparent accountability is the recipe for good Governance.

Future of Good Governance for Excellence

In the administration of institutions, the 21st century is marked by a change of prominence from efficiency and adeptness (which is also simplified as downsizing, cost-saving and outsourcing) to effectiveness. However, in order for the government to perform and perform well, "capacity to govern" must also be developed. They include capacity relating to building capacity to implement policy, setting strategic direction and building new ways of public welfare and services prescribed by law.

The wisdom of managing States and communities is relied on multiple disciplines and sources of knowledge. The era of information and the massive technological advancement necessarily create advanced stages of availability, transparency and accessibility to the public. The advent of e-government and information technology with respect to the judicial working of the Courts are not a fanciful dream but a blatant reality.

Professionals in public service in the future are expected to think independently, be entrepreneurial in developing new services and innovative in developing new ideas or approaches in existing services. In facing new situations, a dynamic and proactive anticipated approach is to be followed because law is always deemed to be facilitative, assist clients/ subjects in terms of the needs and supportive and providing services within a definite and prescribed parameters and boundaries.

Conclusion

Law, politics and administration which constitute the pivot of socio-economic organization suffered the biggest setback in modern times because of stagnant law, corrupt politics and incompetent administration. The only solution seems to be proper implementation of law without any fear and favour and the fruits of administration can only be achieved through good Governance wherein devolution, decentralization and deconcentration of the authority is effected and it can only be achieved with honest, diligent and efficient administration strictly in accordance with law and law alone.

Hence, in the light of current research, it has become crystal clear that Constitution, law, public administration and good Governance are sine qua non and integral part of one another; success of any one of these ensures the victory of the other/s and failure of one of these certainly leads towards the collapse of the other/s because public administration for good governance functions within the constitutional framework of the land and it provides political development and welfare of the society as a whole while getting the support and aid of law. Good Governance in essence always coexists with the rule of law, justice, liberties and equal opportunities prevailing in the state without any discrimination.

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