

## Deepening Democracy

In a democracy people elect a government to serve their collective needs and to provide us common services ranging from public order, rule of law, health care and education. The citizen is the true and ultimate sovereign and the true measure of a government's functioning is a citizen's satisfaction. A government accountable to the citizens who are its true masters; and public servants responsive to the needs of the taxpayers who are their paymasters are the essential elements of a democracy.

However, with decades of socialist mindset, the public servant has become dispenser of government patronage, and the citizen has become a mendicant seeking a license, permit, quota or subsidy. The working of administrative apparatus in India has made the government employees the true master. Corruption seeped in. The extraordinary degree of lifetime security given to a bureaucrat at every level, with virtually no chance of being brought to book, made it impossible for any government to enforce accountability.

As a consequence, any citizen who approaches any government agency for any service to which s/he is entitled faces hostility, humiliation, harassment, delay, inefficiency, corruption, apathy and integrity. As a result, we have citizens everywhere who are afraid of police constables, people who cannot gain access to a government office without a bribe, parents who cannot get decent education for their children in government schools, consumers who do not get provisions in a ration shop, citizens who cannot vote freely, children who do not get immunization in health centres, farmers who cannot sell their products in fair markets, commuters who cannot reach destination on time, public utilities that overprice services without amenities, and litigants who cannot get justice for years.

The freedom of a citizen is imperiled by arrogant governments and inefficient public servants. Self-governance is a mockery if the citizen is a passive spectator of the misdeeds and inefficiency of those who are paid to serve him. True, in a democracy the citizen can punish the government in periodic elections. But in India, elected governments are elected out of office with unfailing regularity. About 50% or more of the incumbent legislators are not reelected in any election. And yet, even as there is frequent change of players, the rules of the game remain unaltered.

**Lok Satta** is a non-partisan people's movement for governance reforms. Our mission is to promote peaceful, democratic transformation of the Indian governance process to enable India and all Indians achieve full potential through good governance; to establish a citizen-centered, genuinely democratic governance with clear linkages between vote and well-being of citizen, taxes paid and public services received, and authority and accountability of those in office. We aim to strive for a governance system that can create the necessary conditions for a civilized democracy, viz: liberty, rule of law, basic infrastructure and economic opportunities, universal access to primary health and school education, and speedy and efficient justice.

**Lok Satta's** key reform goals are

- Comprehensive electoral reforms
- Empowerment of local governments
- Instruments of accountability
- Speedy and efficient justice

All reforms goals should conform to the basic principles of liberty, self-governance, empowerment of citizens, rule of law and self-correcting institutional mechanisms.

### **Activities and Achievements Over the Years**

The last one-year has been the most productive in terms of furthering the democratic reform agenda, and generating a serious debate. Not all changes are positive or flawless, but cumulatively they all certainly help improve the situation, illustrate the serious concern of political parties about the need to address the electoral and governance reform issues, and presage more fundamental, durable and far-reaching changes in the electoral system in coming years. Let me now outline a few of the recent developments briefly, and make a few remarks about their implications:

### **Candidate Disclosure**

The March 13 2003 Supreme Court (SC) verdict on candidate disclosures declared Section 33B of the “*Representation of the People (3rd Amendment) Act, 2002 (Amendment Act)*” illegal, null and void, and reiterated its earlier judgment on May 2, 2002. On May 2, the SC held that citizens have the fundamental right to know the antecedents of candidates for elective office, as part of freedom of expression guaranteed under Article 19(1) of the Constitution. But Section 33A of the Amendment Act provided for disclosure of only part of the criminal record. No other disclosure including assets and liabilities of candidates was required.

Section 33 (B) specifically sought to nullify the Court judgment of May 2, by declaring, "Notwithstanding anything contained in any judgment, decree or order of any court or any direction, order or another instruction issued by the Election Commission, no candidate shall be liable to disclose or furnish any such information, in respect of his election, which is not required to be disclosed or furnished under this Act or the rules made there under". It is this provision whose constitutionality was challenged. The Supreme Court on March 13, 2003<sup>1</sup> declared that obtaining relevant information about the candidates is indeed a fundamental right under Article 19 (1), and as the Parliament had no power to make such a law abridging fundamental rights [Article 13 (2)], such a law is void.

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<sup>1</sup> The key provisions of the judgement include candidate’s disclosure of his/her:

1. Criminal antecedents
2. Assets and liabilities
3. Educational qualifications

With the final judgment of the Supreme Court in place, disclosures are now mandatory and irreversible. The Election Commission has issued a revised notification removing the power of Returning Officers rejecting nominations on grounds of false information.

It has been proven by Lok Satta's activism that civil society groups, with media support, by publicizing information and putting pressure on the political parties, can improve candidate choice in the long-term. Lok Satta's experience shows that major parties will refrain from nominating new candidates with criminal record, provided people's movements are strong enough to make candidate choice a key issue. However, financial disclosures will continue to be flawed, given the pervasive culture of black money. In a few glaring cases of suppression of information, the election should be challenged on grounds that the nomination is defective. Successful unsettling of a couple of legislators on this ground will encourage truthful disclosures. In addition, civil society organizations should research the disclosures on sample basis and establish the accuracy of the information published. Such a sustained effort will eventually force better disclosure practices, and may even make a dent in our black economy.

### **The Election and Other Related Laws (Amendment Bill, 2003) (Funding Reform Bill):**

Accountable and legitimate political party expenditure and campaign finance is at the heart of the fight against corruption. A law to this effect having far-reaching consequences has seen the light of the day. The Election and Other Related Laws (Amendment Bill, 2003) (Funding Reform Bill) was a crucial change proposed in the Indian electoral process. Lok Satta, CSDS and Lok Niti had been advocating funding reform and direct state funding in elections<sup>2</sup>. Except for public funding, most of the key provisions proposed by civil society groups found place in the Bill introduced first in Lok Sabha on 19<sup>th</sup> March 2002, and the revised Bill was introduced in Parliament on 13 May 2003, after incorporating changes recommended by the Parliamentary Standing Committee on Home Affairs. The Election and Other Related Laws (Amendment) Bill, 2003 (Bill No. 18 of 2003) was approved by both Houses of Parliament in August 2003, and became law in September with the assent of the President. The law has following key provisions:

- Full tax exemption to individuals and corporates on all contributions to political parties.
- Effective repeal of Explanation 1 under Section 77 of The Representation of the People Act 1951 – expenditure by third parties and political parties will now come under ceiling limits. Only travel expenditure of leaders of parties is exempt.
- Disclosure of party finances and contributions over Rs 20,000

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<sup>2</sup> The May-June 2001 issue of Lok Satta Times examined the issue of political funding and detailed proposals had been put forward for reform. Presentations were made to ministers, leaders of opposition and key officials.

- Indirect public funding to candidates of recognized political parties – including free supply of electoral rolls (already in vogue), and such items by the Election Commission as are decided in consultation with the Union government.
- Equitable sharing of time by the recognized political parties on the cable television network and other electronic media (public and private).

Impact:

- It will help bring funding into the open.
- It will help raise resources for legitimate campaign expenditure.
- The free airtime in private and public electronic media will radically transform the nature of election campaign in the medium and long term, and will cut costs.

Deficiencies:

- No penalties for donor for non-disclosure of funding.
- Auditing by a chartered accountant from a panel approved by CAG has been deleted (from the earlier draft)
- No direct public funding to candidates or parties.

**Amendments to the Tenth Schedule (Anti-defection law changes):**

Till recently, the provisions of the Tenth Schedule <sup>3</sup>essentially disqualify a member elected on a party symbol if he voluntarily gives up membership of that party, or if he votes, or abstains from voting in the legislature contrary to any direction ('whip') issued by his party. But, if one-third of the members or more stray from the party line, and claim that the legislature party has split, and they constitute a new group, then disqualification does not apply. The presiding officer of the house concerned is the final authority to determine disqualification. All disqualification proceedings are deemed to be proceedings of the legislature under Articles 122 and 212, and therefore no court shall have any jurisdiction in respect of such matters.

However, anti-defection provisions failed to prevent defections. The only novel feature of these provisions was that individual defections used to invite disqualification, while collective defection was treated as perfectly legitimate and is amply rewarded! As a result splits were engineered, and constitutional coups were planned with meticulous precision, and careful conspiracy. Several parties 'split' even in Parliament, and as the JMM case testifies, the defecting members benefited immensely.

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<sup>3</sup> Chairperson Shri. M. N. Venkatachaliah, NCRWC report from Ministry of Law, Justice and Company Affairs, was set up vide Government Resolution dated 22 February, 2000. The Commission submitted its report in two volumes to the Government on 31<sup>st</sup> March 2002. The question of defections and the Tenth Schedule was identified in the report.

In an effort to rectify the above distortions, the 97<sup>th</sup> Constitutional Amendment has been enacted. This amendment not only makes it mandatory for all those switching political sides – whether singly or in groups – to resign their legislative membership and seek re-election, but also bars legislators from holding, post-defection, any office of profit. Now that the tenth schedule has been amended, the opportunity must be utilized to remove the distortions in our party system. While defection by one or many should incur disqualification, three safeguards are needed to ensure healthy parliamentary debate, and curtail autocratic tendencies of party bosses.

First, party whip, and disqualification for violation must apply only for a vote affecting the survival of government – money bills, and confidence or no-confidence motions. On all other issues, members should have freedom of vote. Second, there should be recognition of legitimate splits in a party. If party bosses are utterly autocratic, or if their policies are blatantly unconstitutional, then the members must have an opportunity to rebel, and even split the party. On such occasions, the split should first take place in the party fora in a transparent and public manner after a statutory notice of, say at least a month, and after the members or delegates are allowed a free vote. A resultant split in the legislature wing should be recognized irrespective of the proportion the splitting members constitute.

Third, past evidence clearly suggests that a partisan presiding officer loyal to the government cannot be trusted with the power to decide on disqualification. That power rightfully belongs to the Election Commission.

### **Limiting the Size of Council of Ministers**

The 97<sup>th</sup> Constitutional Amendment Act also restricted the size of the Council of Ministers at the union and state level to 15% of the strength of the lower house. The impact of the Act will be smaller cabinets, more cohesive governance and reduction of unnecessary expenditure. This law will also have an impact on alliance politics, as the parties will now be constrained in doling out ministerial positions for assurance of support. However, this law does not address the following questions:

- Sharing of spoils for survival of government.
- Cannot prevent other forms of patronage – corporations, offices with cabinet rank etc.
- Does not prevent legislators functioning as disguised executives.

### **Changes in Rajya Sabha Election:**

The Union Parliament has also amended the laws pertaining to Rajya Sabha elections through Representation of the People (Amendment) Act, 2003. The amendment made two important changes:

- It removed the domicile requirements for election to the Upper House from a state
- The elections to the Rajya Sabha will be carried out through an open ballot system.

Critics argued that the amendment violated our federal character. Rajya Sabha is the Council of States, and permitting non-residents to represent a state in the Upper House denies the state legitimate representation. However, major parties including BJP and Congress have supported the amendment. They argued that parties need talented and respected people in Parliament and government. Election to Lok Sabha is often not dependant on the merit or competence of a candidate. The party's support base in the state, local caste and other factors, and the candidate's money power play a significant, and very often a decisive, role. With domiciliary requirements, desirable candidates are forced to go through the farcical process of registering themselves as voters in a state where they do not reside, and resort to undignified subterfuge. The fear of parties nominating all members representing a state from outside is largely hypothetical. Political realities and local sentiments being what they are, parties will nominate only a few senior functionaries for election from another state, and such a flexibility is needed to strengthen legislature and council of ministers.

Regarding open ballot, critics argued that it violates a fundamental democratic principle. But supporters argued that secret ballot in Rajya Sabha election has only led to selling of votes to the highest bidder, and party discipline is breaking down. For over two decades, money has been changing hands in Rajya Sabha elections. Sometimes parties are paying their own MLAs to vote for the official party nominees!

All these argument favouring and opposing the Act do not address the real crisis affecting our legislatures. The problem is elsewhere our elections have become big business. Only those willing to, and capable of, spending vast and unaccounted sums illegitimately have a realistic chance of being elected to Lok Sabha or State Assemblies in most cases. Highly competent and respected citizens are repelled by this process, and turn their backs to politics. As long as competent and public-spirited candidates cannot be elected to the Lower House by fair means, the demand for Rajya Sabha nominations will continue to grow. The recently enacted act will only enhance the bargaining position of the party leaderships, and jack up the price for a party nomination! Removal of residential requirement and voting secrecy is a short-term, knee-jerk response to a complex crisis. Party leaderships will become more powerful and less accountable by these amendments. However, it cannot be denied that this law, unanimously approved by Parliament, does reflect the yearning of all parties to address the growing malaise in politics.

### **Post Office as nodal agency for voter registration:**

Voter registration process, though impeccable on paper is inaccessible to the citizen and ineffective in correcting flaws. LOK SATTA's massive sample survey proved this. The survey, carried out in 1999, covering 57 rural and urban polling station areas shows the problem is bigger than we had expected. The survey reveals that there are 15% errors in rural areas and 44.8% in urban areas. As a consequence false voting by personation is

rampant and many decent candidates are at a disadvantage, when compared to those who muster money and muscle power, and with trained cadres. Moreover the massive irregularities in voter registration that have come to light during the 2004 elections reinforces Lok Satta's argument that voter registration process requires immediate corrective measures. To quantify the increased magnitude of the problem, Lok Satta is carrying out pre poll and post poll surveys during the 2004 elections. Maybe the magnitude of the problem can better be comprehended when we realize that the 500 votes in Florida that decided the US Presidency are only 1 out of 200,000 votes cast (.0005%).

Happily voter registration flaws can be corrected to a large extent by making the process open, verifiable and accessible to citizens. Keeping in mind especially the rural populace, Lok Satta suggested to the Election Commission that the citizen friendly neighborhood post office be made nodal agency in voter registration.

Post office as a nodal agency <sup>4</sup>- some important functions:

- Display of rolls
- Sale of rolls of local polling stations
- Sale of statutory forms
- Receipt and verification of applications for additions, deletions and changes for a fee (if EC accepts the procedure)
- Registration and changes at post offices with provision for appeal (if EC accepts and rules are amended)
- Assistance to the Election Commission during revision of rolls by verifying addresses etc. (if EC seeks it)

The recent furor over lakhs of people with voter identity cards being disenfranchised in many states shows how deep rooted the problem is. The US, Australia, New Zealand, Hong Kong and Fiji are among the countries which register voters in post offices. The post office is one government institution which is trusted, citizen friendly, accessible and generally corruption free. This simple reform will help improve voter lists, which are at the heart of the electoral process.

The recent directives of the EC to utilize the post offices in the voter registration process is a significant step forward in making the voter registration process accessible to all citizens. In time, this will be a watershed in voter registration. The EC's initiative must succeed, and the people must derive full benefits of this landmark decision. The following additional steps should be taken to make this initiative successful and durable:

1. The current EC's directive provides for displaying the voter rolls in the post office. But the voter lists for each polling station be also offered for sale at a price

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<sup>4</sup> The Election Commission and the postal department met at the urging of Lok Satta, and decided in principle to provide access to voter lists and statutory forms through the 250000 post offices in India and progressively make the post office as the nodal agency for voter registration.

higher than the cost of printing. This will enable the cash strapped postal department to make some money and provides incentive to the post office to be involved in this work. It will also provide the citizens access to the electoral rolls at their doorstep. Inadequate access is the single biggest problem in voter registration. Post offices can in fact build on this model, and provide a variety of services and raise revenues. For instance, a voter's name can be verified in electoral rolls by the post office for a fee, and a slip containing the name, serial number, polling station etc. given.

2. As many citizens don't know under which post office their polling station will fall, we have suggested that each delivery post office display a list of polling stations that come under its jurisdiction.
3. This significant initiative by the EC hasn't received much media attention and as a result the public at large are not aware that they can use the post office for voter registration. The EC should undertake a mass communication campaign to make the citizens aware of this process. Short, interesting films of 30-60 sec duration could be produced and telecast in all government and private channels.

#### **Right to Information Law:**

- Provides for right to information to citizens

##### *Current status:*

- Union law enacted, but rules not framed, and law has not been notified
- Several states enacted laws of varying quality; but in general they have not been effectively implemented

##### *Impact:*

- Transparency and greater accountability

##### *Deficiencies:*

- Loose time frame (30 days)
- No penalties for non-compliance

##### *Correctives:*

- Some improvements possible through rules at national and state levels – as this is an enabling law giving effect to a fundamental right under Article 19

#### **National Judicial Commission**

##### *Key provisions:*

- Appointment of higher judiciary by a five-member body – 3 judges of Supreme Court, Law Minister, and Prime Minister's nominee
- The Commission to have a say in removal of judges

##### *Status:*

- Bill amending constitution introduced in Parliament

##### *Impact:*

- Better appointment of judges
- Greater accountability of judiciary



- Restoration of balance between judiciary and executive

*Deficiencies:*

- Opposition should have been represented
- Executive and opposition should have a majority
- Does not address the issue of competence of judges
- Does not go far enough to enforce accountability

While some of the reforms proposed could be improved, it is clear that the flurry of legislative and executive action indicates a broad awareness that status quo cannot be sustained forever. This awareness and the cumulative impact of these changes will lead to major systemic reform.

We should also take note of two difficulties faced by the parties and Parliament, which illustrate the difficulties with status quo, and presage fundamental changes. First, reservation of legislative offices for women is facing rough weather, and introduction of the Bill has been stalled once again. While a search for an alternative model is on, the difficulties encountered so far clearly demonstrate to parties and the public that our first-past-the-post (FPTP) electoral system cannot ensure fair representation to all sections. Second, the difficulties encountered in delimitation of constituencies again exposes the inadequacies of FPTP system. Therefore the Eighty-fourth Amendment enacted in 2001 had to be replaced by the ninety-sixth Amendment in May, 2003. But the respite is temporary, because the real problems of delimitation of constituency boundaries and allocation of reserved seats to the satisfaction of all remain unaddressed. In addition, the changes in Rajya Sabha election requirements are an admission by parties that they are no longer confident of getting honest and competent persons elected to Lok Sabha in the present FPTP system; nor are they sure that their own party legislators will vote for their candidates.

As can be seen, these recent developments give us a sense of rapid change, and offer us hope that our governance system is on the verge of major transformation. Some of the changes on the anvil, for instance, the political funding reform, are potentially far-reaching, and would be regarded as revolutionary in any democracy. But given the complexity of our crisis, such reforms are significant milestones in our evolution, but do not really change the nature of our troubled politics.

Allow me to briefly state the nature of the crisis, so that we can focus on the next steps with clarity and resolve.

### **Distortions of power**

The distortions of our political process have significantly eroded the state's capacity for good governance. First, the positive power to promote public good has been severely restricted; while the negative power of undermining public interest is largely unchecked. Authority is delinked from accountability at most levels, and in respect of most functions. As a result most state functionaries have realistic and plausible alibis for non-performance. Second, while the electoral system has demonstrated great propensity to change governments and politicians in power, the rules of the game remain largely

unchanged. Increasingly, honesty and survival in political office are incompatible. Third, all organs of state are affected by the malaise of governance. Political executive, legislators, bureaucracy and judiciary – no class of functionaries can escape blame. For instance, 25 million cases are pending in courts, and justice is inaccessible, painfully slow and costly. Fourth, at the citizen's level there are no sufficient incentives for better behaviour. Good behaviour is not rewarded sufficiently and consistently, and bad behaviour is not only not punished consistently; it is in fact rewarded extravagantly. As a result, deviant and socially debilitating behaviour has become prevalent, and short-term individual interest has gained precedence over public good.

### **Nine Interlocking Vicious Cycles**

In a well-functioning democracy, the political process ought to find answers to governance problems. Every election holds a promise for peaceful change. People in India have been voting for change time and again. But the political process is locked into a vicious cycle, and has become a part of the problem. There are nine factors complicating the political process, perpetuating status quo. First, election expenditures are large, unaccounted and mostly illegitimate. For instance, expenditure limit for assembly elections in most states is Rs. 10,00,000. In reality average expenditure in most states is several multiples of it, sometimes exceeding Rs.10 million. Most of this expenditure is incurred to buy votes, bribe officials and hire musclemen. Such large, unaccounted expenditure can be sustained only if the system is abused to enable multiple returns on investment. Rent seeking behaviour is therefore endemic to the system. Most of this corruption is in the form of control of transfers and postings, which in turn sustains a system of retail corruption for a variety of routine services, regulatory functions and direct transfer of resources through government programmes. Large leakages in public expenditure, and collusion in contracts and procurement are extremely common. The economic decision-making power of the state is on the wane as part of the reform process. But as the demand for illegitimate political funds is not reduced, corruption is shifting to the core areas of state functioning, like crime investigation. Robert Wade studies this phenomenon of corruption, and described the dangerously stable equilibrium which operates in Indian governance. This vicious chain of corruption has created a class of political and bureaucratic 'entrepreneurs' who treat public office as big business.

Second, as the vicious cycle of money power, polling irregularities, and corruption has taken hold of the system, electoral verdicts ceased to make a difference to people. Repeated disappointments made people come to the conclusion that no matter who wins the election, they always end up losing. As incentive for discerning behaviour in voting has disappeared, people started maximizing their short-term returns. As a result, money and liquor are accepted habitually by many voters. This pattern of behaviour only converted politics and elections into big business. As illegitimate electoral expenditure skyrocketed, the vicious cycle of corruption is further strengthened. With public good delinked from voting, honesty and survival in public office are further separated.

Third, this situation bred a class of political 'entrepreneurs' who established fiefdoms. In most constituencies, money power, caste clout, bureaucratic links, and political contracts

came together perpetuating politics of fiefdoms. Entry into electoral politics is restricted in real terms, as people who cannot muster these forces have little chance of getting elected. While there is competition for political power, it is often restricted between two or three families over a long period of time; and parties are compelled to choose one of these individuals or families to enhance their chances of electoral success. Parties thus are helpless, and political process is stymied. Absence of internal democratic norms in parties and the consequent oligarchic control has denied a possibility of rejuvenation of political process through establishment of a virtuous cycle.

Fourth, in a centralized governance system, even if the vote is wisely used by the people, public good cannot be promoted. As the citizen is distanced from the decision-making process, the administrative machinery has no capacity to deliver public services of high quality or low cost. Such a climate which cannot ensure better services or good governance breeds competitive populism to gain electoral advantage. Such populist politics have led to serious fiscal imbalances.

Fifth, fiscal health can be restored only by higher taxes, or reduces subsidies or wages. The total tax revenues of the union and states are of the order of only 15 percent of GDP. Higher taxation is resisted in the face of ubiquitous corruption and poor quality services. Desubsidization is always painful for the poor who do not see alternative benefits accruing from the money saved by withdrawal of subsidies. A vast bureaucracy under centralized control can neither be held to account, nor is wage reduction a realistic option.

Sixth, elected governments are helpless to change this perilous situation. As the survival of the government depends on the support of legislators, their demands have to be met. The legislator has thus become the disguised, unaccountable executive controlling all facets of governments functioning. The local legislator and the bureaucrats have a vested interest in denying local governments any say in real decision making. The vicious cycle of corruption and centralized, unaccountable governance is thus perpetuated.

Seventh, the FPTP system underrepresents scattered minorities and overrepresents concentrated social groups. This results in marginalization and ghettoization of excluded groups, and promotes insecurity and encourages strategic voting and vote bank politics. In such a situation, obscurantists become interlocutors of the excluded groups, drowning voices of reason and modernity, and politicians pander to fundamentalists and sectarianism. Countermobilization of other social groups based on primordial loyalties then becomes inevitable, leading to communal polarization, sectarianism and strife.

Eighth, with need for money power, caste clout, and muscle power dominants for success in constituency elections, honest and decent elements have little chance of getting elected through honorable means. This results in bad public policy and incompetent governance, deepening the crisis.

Ninth, in FPTP system, only a high threshold of votes for a party ensures victory or success in representation. Significant, but scattered support to a party or individuals does not pay electoral dividends. Therefore voters prefer other “winnable” parties and

candidates. National parties and reforms are thus marginalized increasingly in many parts of India. The polity is thus regionalised, and status quo is perpetuated.

### **Fierce contention in states**

As union-state relations are more balanced, and as the role of the state is more focused with the advent of economic reform process, most of real governance is now at the state level. Public order, justice, rule of law, school education, health care, most of the road network, electrical power, agriculture, rural development, urban planning and local governments – all these are essentially state subjects. Given the primacy of states in addressing citizens' concerns, most political contention is centered around the states. The national electoral verdict is often an aggregate of the verdicts in states, with electorate utilizing every opportunity to pass a judgment on performance of state governments. Though voting irregularities are rampant, a system of compensatory errors and the tradition of neutrality of officials in election process ensures that the people's will is broadly reflected in electoral verdicts. But as parties are compelled to choose among local political lords, the verdict does not alter the status quo.

### **Three Systemic Reforms**

Given this complex nature of our crisis, many of the reforms in the pipe line are necessary, but not sufficient. Apart from reforms in local governments, judiciary and bureaucracy and effective instruments to enforce accountability and check corruption, we need to pursue systemic reforms changing the nature of elections and process of power. In my considered judgment, there are three such reforms required.

#### **1. Mixed Compensatory Proportional Representation**

##### Key Features:

- 50 % members elected from territorial constituencies as now
- Balance 50 % drawn from party lists and allotted on the basis of the proportion of total votes obtained by a party state-wise.
- The total representation in legislature reflects the party's vote share
- Electors will have two votes – one for the constituency, another for the party
- A reasonable threshold would be necessary – say, 10 % of votes in a major state, to be eligible for allocation of seats based on proportional votes. This is to prevent fragmentation of our polity, and to discourage small caste-based parties

##### Advantages:

- Incentives to buy votes in a constituency will disappear
- Interests of a powerful local candidate will run counter to party's need to maximize overall vote share
- Voting will be based on party image and agenda, not local expenditure or feudal control
- Scattered minorities and ignored sections will find voice and representation
- Will give voice to small parties and reform groups, forcing pace of change
- National parties will not be marginalized in states where their voting share falls below a high threshold (currently around 35-40 %)

- Representation for women and minorities, and election of competent and honest candidates would be easy

## **2. Clear Separation of Powers at the State and Local Levels Through Direct Election of Head of Government**

### Key Features:

- The head of government will be directly elected by the people
- He or she will form a cabinet drawing members from outside legislature
- The government and legislature – both will have a fixed term
- A person cannot be elected as chief executive for more than two terms
- Strong legislative committees will exercise oversight functions

### Advantages:

- Elections will be much cleaner, as no one can buy a whole state electorate
- Image and agenda of leadership will determine electoral outcomes
- With Separation of powers, there will be no incentive to overspend for legislative office
- As government will have a fixed term, honesty and political survival will be compatible
- At the state level, there will be no fear of authoritarianism as the Union, Election Commission, Supreme Court etc will act as checks against abuse of authority.

## **3. Political Party Regulation by Law**

### Key Features

- Free and open membership with no arbitrary expulsions
- Democratic, regular, free, secret ballot for leadership election; and opportunity to challenge and unseat leadership through formal procedures with no risk of being penalized
- Democratic choice of party candidates for elective office by members or their elected delegates
- Full transparency in funding and utilization of resources

We are thus moving into a critical phase in our democratic reform efforts. As the relatively simple electoral and other governance reforms are in place, the focus will shift to the larger systemic reforms which will alter the very nature of our political process. Our future activities and advocacy efforts must be based on this clear analysis and definition of goals.