Democratic Revival – Agenda for Electoral Reform

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- *by Dr Jayaprakash Narayan*

Introduction

Among the nations liberated after the Second World War, India has a unique record of successive elections and stable and peaceful democracy. Many countries, which emerged as nascent democracies with high hopes over the past fifty years, have fast succumbed to authoritarian impulses and army coups. The experiences of our own neighbours – Pakistan and Bangladesh – illustrate the difficulties in running a democracy. Indian democracy has shown refreshing capacity to adapt to conditions and uphold democratic institutions and practices. People have been voting in large numbers, and democracy has broadened its appeal, though it may not have struck deep enough roots. There is wider representation of various castes and social groups in legislatures. By all accounts, the bold experiment of universal adult franchise since the inception of our republic has paid off.

However, it will be useful to pause and examine the record of post-colonial India in the light of the democratic institutions and practices as commonly understood in contemporary liberal democratic world. *Myron Weiner* has listed four such institutions and practices as follows:

i) Government leaders are chosen in competitive elections in which there are opposition political parties.

ii) Political parties – including opponents of government – have the right to openly seek public support. They have access to press, freedom of assembly, freedom of speech and freedom from arbitrary arrest.

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iii)   Governments defeated in elections step down; winners do not punish losers; defeated leaders are not punished unless in the act of governance they have broken the law; their punishment is based on due process.

iv)   Elected governments are not figureheads; they exercise power and make policies and are accountable to the electors – not to the military, the monarchy, the bureaucracy, or an oligarchy.

Judged by these yardsticks, many countries, while having elections, fail to qualify at varying periods of time as true liberal democracies. Zambia and Argentina had for some time, competitive elections for public office, but gave unlimited power to elected leaders. In Argentina for some time there was also limited electoral competition with major political forces banned. In apartheid South Africa and white-dominated Rhodesia, while there were regular elections, large sections of people were forcibly prevented from participating in them. In fact, even in the Southern states of the United States, the blacks, while legally permitted to vote, were in practice denied the franchise until the Civil Rights Movement of the 1960s. In countries like Mexico for decades, and in Pakistan and Bangladesh often, there was theoretical electoral competition, but massive state sponsored rigging was practiced. In Turkey, Pakistan, Bangladesh, and Philippines periods of electoral competition are interspersed with authoritarianism. In Algeria and Burma there was electoral competition but the winning parties were prevented from assuming office, and are in fact persecuted. Erstwhile Soviet Union, and most of the Eastern European countries until their adoption of democracy about a decade ago, had authoritarian communist regimes in which only one party could control government. China continues to be under an authoritarian, one-party rule. Several South East Asian countries too have witnessed limited electoral competition or outright authoritarianism for decades.

Judged by these standards, as *Myron Weiner* points out, "India is one of a handful of post-colonial countries that could be regarded as having a stable democratic regime. The list is very small and one could quarrel with the inclusion of several of the countries in it: Malaysia, Sri Lanka, Jamaica, Trinidad / Tobago, Papua New Guinea, and a

variety of mini-states: Bahama Islands, Barbados, Botswana, Gambia, Mauritius and Surinam. In the main, post-colonial regimes have been one-party states, military bureaucracies and dictatorships, communist, or personalized autocracies. The new regimes typically restrict opposition parties, limit freedom of assembly and freedom of the press, do not permit competitive elections, restrain the judiciary from performing an independent role, and limit freedoms of their citizens in a variety of ways – to speak out, to travel abroad, to criticize the regime and to change the government peacefully. In most post-colonial regimes, political participation is restricted and leaders are not held accountable; and, in the worst cases, governments are tyrannical. India, along with a handful of smaller countries, is a notable exception."

Electoral Reforms in India

Undoubtedly, Indian experience with democracy has been a remarkable success story. Never before did a poor, largely illiterate, extremelydiverse society dare to accept universal adult franchise, liberty and rule of law as the guiding principles of its nation-state. Not only did democracy and liberty endure in India, but the nation also achieved several notablesuccesses.   The largely peaceful integration of over five hundred princely states of every conceivable form of diversity into the Indian Union is an unmatched accomplishment in human history. In a world in which most nation-states are struggling with multi-lingual societies, India built a stable framework for coexistence of eighteen languages, and linguistic reorganization of states proved to be a greattriumph of common sense and pragmatism. While India was only quasi-federal in the early years of the republic, a true federal republic has been built over the past two decades, with states coming into their own. All these have been accomplished while preserving liberty, peace and harmony. At the same time, modest economic growth was witnessed, though we continue to perform below our potential.   All these are significant successes in the working of our democracy.

Distortions of Democracy and Growing Crisis

Nevertheless, there are many distortions increasingly evident in our democracy which are undermining our accomplishments and impeding the twin national goals of poverty eradication and rapid economic growth. The most glaring distortion relates to the deployment of vast sums of money in elections illegitimately. While the legal ceiling on election expenditure incurred by a candidate is Rs16 lakhs for State Legislative Assembly in most large states, and Rs 40 lakh for Lok Sabha, the actual expenditure often reaches twenty to thirty times the limit. In many states an expenditure of Rs 5 crore (50 million) is quite commonly incurred by candidates of each major party for State Assembly. Most of this expenditure is to buy the vote with money, liquor or other inducements. Increasingly money is lavishly distributed to a large proportion of voters. Voters take money from all the major candidates, and vote for whomever they want. What it means is large expenditure for vote-buying does not guarantee victory. But if a candidate does not spend money lavishly to buy the vote, there is very little chance of his being elected! Large expenditure may not ensure victory; but non-expenditure guarantees defeat! Huge investment in elections has thus become an entry fee to have a realistic chance of success. Rich man's money is thus chasing poor man's vote, and whoever gets elected then controls the levers of state and earns multiple returns. Land, mining, other natural resources, contracts, police cases, transfer of officials, government approvals and clearances – all these become sources of making money once elected. A vicious cycle of vast expenditure to control levers of power, and abuse of power and corruption to earn multiple returns is established. As people see more corruption and abuse of office, they become even more cynical and demand more money at the time of election. Honesty has become increasingly incompatible with survival in office. A dangerous equilibrium of money power, electoral success, monopoly over state resources and corruption has been established and perpetuated. While the unscrupulous practitioners of power politics benefit hugely, the poor are lulled into complacency through short term freebies that mitigate the pain of poverty without actually enhancing incomes and ending poverty. Short-term palliatives like employment

guarantee, subsidized food etc. have become a substitute to quality education, healthcare, skills, jobs and incomes. Not surprisingly, in a 2009 survey of educational outcomes of fifteen-year olds among 74 countries (PISA – Programme for International Student Assessment), India stood 73rd, just one rank above the lowest ranked Kyrgyzstan republic! This plunder can be perpetuated only by undermining rule of law, and by short-term freebies at the cost of real empowerment, incomes and economic growth. The state's primary role of "improving" rule of law, infrastructure, basic amenities and human development have been largely neglected in the quest for votes, short term populism and plunder of state resources.
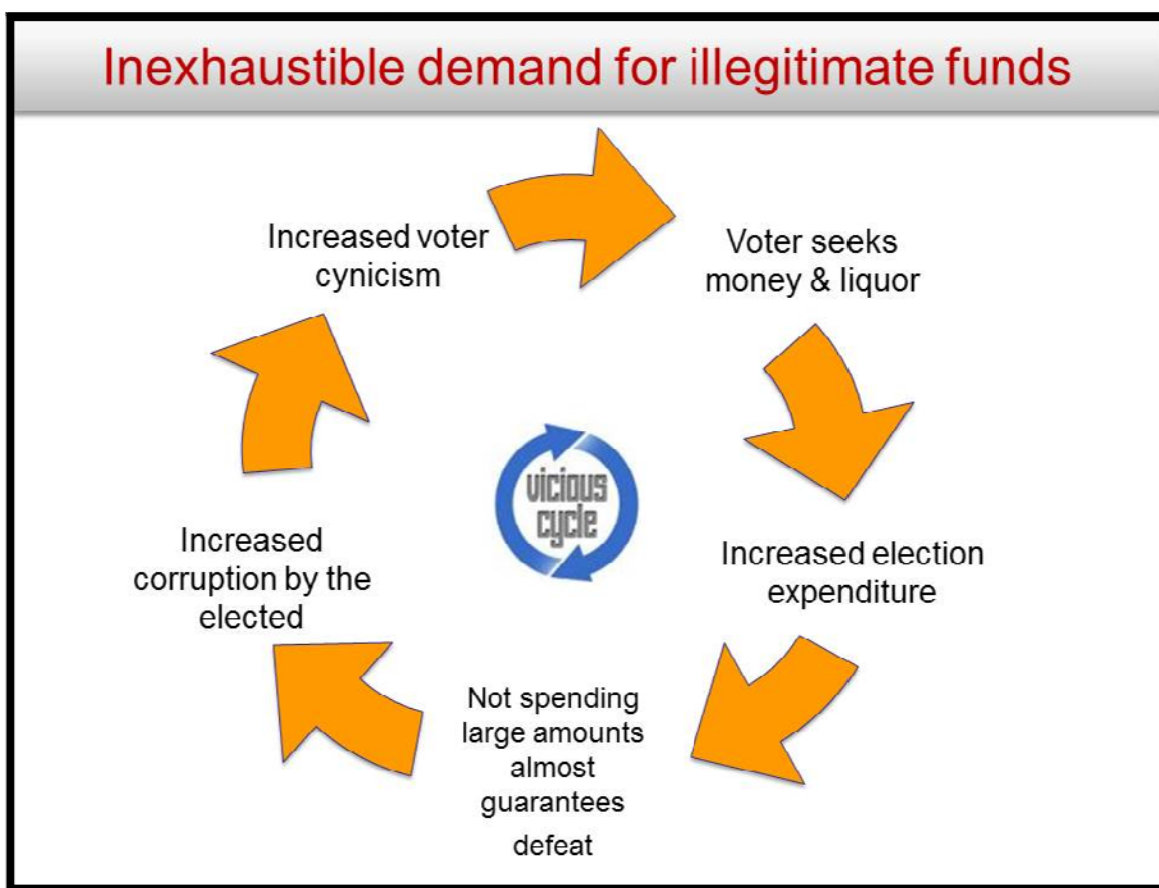
*Source: FDR/Lok Satta Research and Documentation Unit*

In this climate, a class of political entrepreneurs has emerged. Politics has become big business for the bulk of these individuals. The truly public spirited citizens who want to make a difference find politics increasingly inhospitable, and are relegated to the

background in most cases. In place of them, political fiefdoms have emerged in most constituencies.Unscrupulous individuals commandeering vast, often ill-gotten resources has established strong local networks of patronage and caste, and made themselves very powerful and increasingly indispensable to the political parties. These status-quoist, wealthy individuals seek access to state power and resources at any cost. Parties and ideologies are inconsequential to them. Not too long ago, they depended on a party for their political future. Increasingly the parties depend on them for vote mobilization, and they make or unmake a party's political fortunes as they switch their loyalties with consummate ease. This shift of power from parties to locally powerful individuals is the key feature of politics in recent years.

This behaviour of powerful individuals is further complicated by the rise of primordial loyalties for political gain. In the early decades of our republic, parties and leaders have consciously built the idea of India and promoted harmony. But now, promoting loyalties and animosities based on caste, region, religion or language has become increasingly acceptable in the quest for votes and political power. Instead of mobilizing people for fulfilling legitimate aspirations, 'the other' is sought to be portrayed as the enemy, and a feeling of separate identity is deliberately promoted for gaining votes. Politics of zero-sum game, in which the gain of one group is always seen at the cost of another group, has gained ascendancy, fragmenting our society and polity increasingly. This made our political system increasingly fragile and fragmented, and harmonious reconciliation and interest aggregation have become more and more difficult. Political fiefdoms and primordial loyalties have together accentuated political volatility.

As a result, the national parties are declining continuously for over two decades. As a few powerful individuals leave a national party in a state, or a caste or religious group switches loyalties on account of a single, emotive issue, the major national parties suddenly fall below a threshold of vote required in the state to be politically viable. Once a party's vote share falls below the threshold, it gets far fewer seats than vote

share. Once people realize that the vote for a party does not translate itself into seats, the vote share plummets, and the party is marginalized in the state.
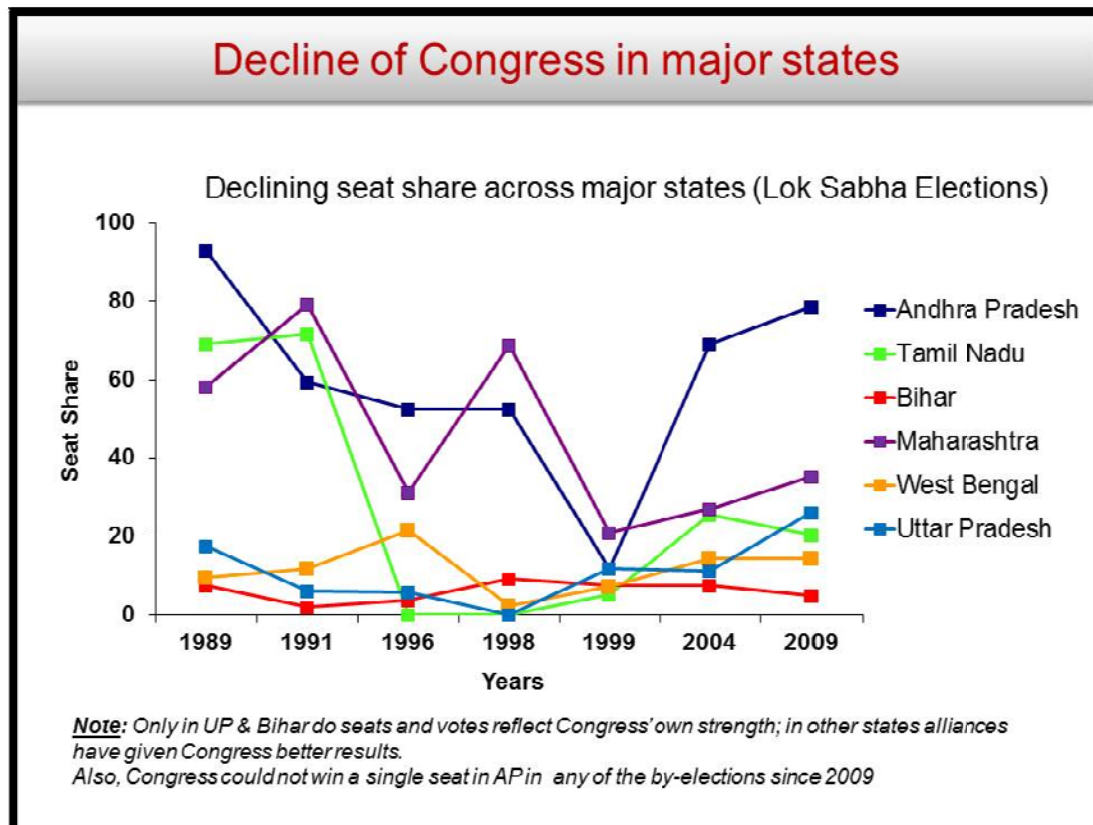
Source: Graph based on Election Commission of India data
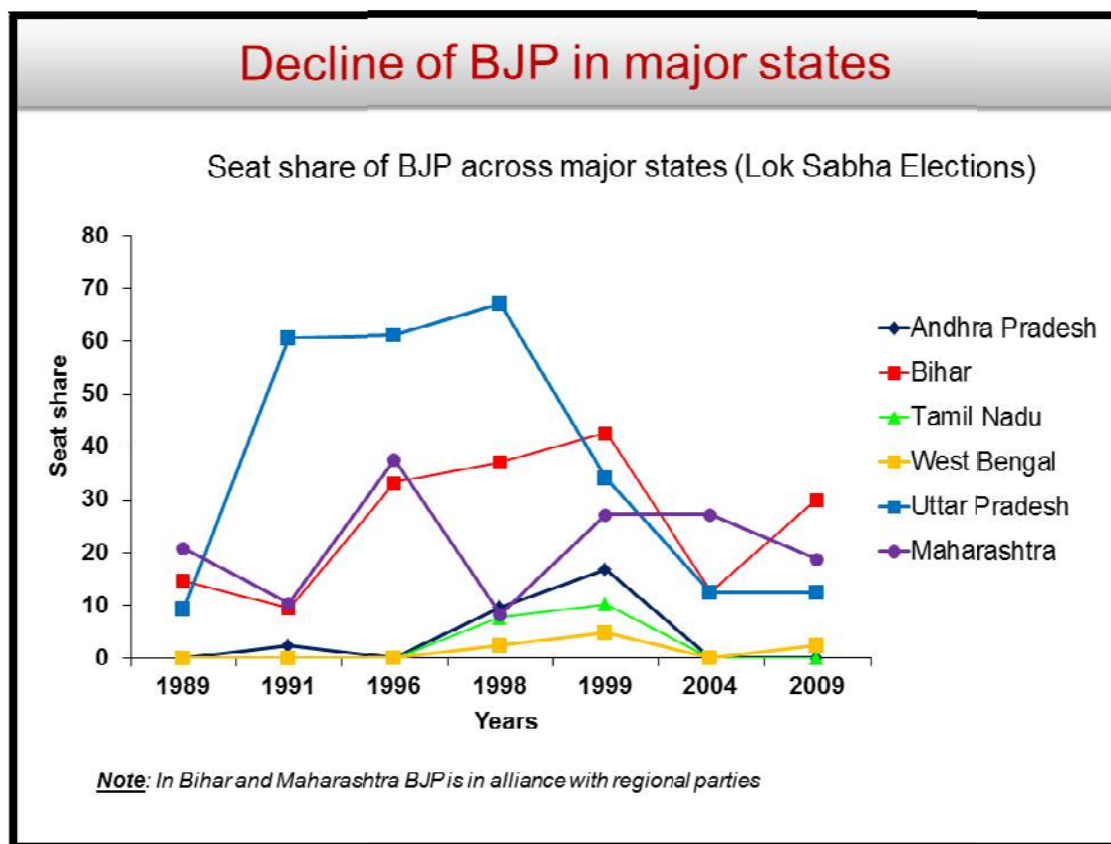
Source: Graph based on Election Commission of India data

This process has been at work for the large national parties in many large States. Both Congress and BJP are increasingly marginalized in Uttar Pradesh, Bihar, West Bengal and Tamil Nadu. In Andhra Pradesh BJP has a marginal presence, and as per current indications, with the rise of YSR Congress, Congress is marginalized at least for the time being. In Maharashtra both Congress and BJP rely on their allies – NCP and Shiv Sena – for political viability. These six largest States account for 55% of our population, and 292 of the 543 Lok Sabha seats in India. In Karnataka, Yedyurappa's departure has seen the decline of BJP inthe only major state in which a national party gained significantly in the last decade. Increasingly the familiar pattern of decline of national parties, and rise of regional or sub-regional political outfits based on individual ambitions or primordial loyalties are visible in most parts of India. In the world's most diverse and complex society, the political idea of India seems to be in retreat.

All these factors are leading to increasing delegitimization of the Indian state, and alienation of the youth, middle classes, farmers, dalits, adivasis and other sections of the population. Defiance of authority, street marches and protests, ready recourse to abuse of politics and politicians, assertion of narrow groups at the cost of the whole society, intense unsustainable populism– all these have been recurring features of the Indian street. The street is pitted against the state, and governance has become more and more difficult.

As imperatives of political survival gain precedence over good governance, corruption has become ubiquitous, rational public policy has become a casualty, and poverty eradication and long-term economic growth have been neglected at the altar of short term political expediency.   As education, skills, infrastructure and sound policies for job creation have been neglected, and economic growth itself is in jeopardy, leading to more volatility in the midst of rising expectations and satellite television.

Recent Democratic Reforms

In the face of this mounting crisis, there have been concerted attempts over the years to improve things. While these reforms are inadequate to address the growing challenges, they do indicate that the political parties, legislature and constitutional authorities are alive to the need for reforms. Not all changes are positive or flawless, but cumulatively they certainly help improve the situation. A brief outline of some of these developments will be of value in understanding the present situation.

The Seventy Third and Seventy Fourth Amendments enacted in 1993 are ambitious in scope, and were aimed at creating the third tier of federalism. While the intention was sound, unfortunately these amendments ended up creating over-structured, under-powered local governments. The net result is, we have elected local governments without real or substantive devolution of powers and resources. In a few States like Kerala there is more genuine devolution, but in most States the legislators and bureaucracy forged a formidable alliance to resist decentralization. Increasingly, the state legislator became the disguised executive taking control of all local issues. This exercise of power without authority undermined local governments, made bureaucracy unaccountable, and rendered service delivery ineffective.   As a result, public dissatisfaction, and in large parts of India, public disaffection, continue to mount.

Years of civil society activism and judicial pronouncements finally made it mandatory in 2003 for candidates for elective office to disclose their antecedents, including education, financial information and criminal record, if any. Experience of disclosures for about a decade shows that constant public pressure on political parties can improve candidate choice in the long term. Established politicians with criminal record have struck deep roots in politics, and have successfully erased their criminal record using a pliable system.   But major parties do refrainfrom nominating new candidates with criminal record, provided citizens' movements are strong enough to make candidate choice a key issue.

The year 2003 saw a significant improvement in political funding. The law now provides for full tax exemption to individuals and corporates on political contributions to parties. Thus an incentive is now provided for legitimate funding of political activity. All contributions over Rs. 20,000 should now be disclosed along with a party's annual accounts. The law also provide for equitable sharing of time by recognized political parties on the cable television network and other electronic media (public or private). This last element has not yet been implemented as rules have not been framed. Once this law is implemented in full, in the long term, a robust and viable mechanism would be in place to meet the legitimate campaign needs of political parties. However, as most contributions are in cash and unaccounted, and as most expenditure is for illegitimate purposes like vote-buying, mere campaign finance reform is not sufficient to change the nature of politics.

Through the 91st amendment to the Constitution, the size of the Council of Ministers in the Union and States is now restricted to 15% of the strength of the lower house. The days of jumbo-jet cabinets are now gone. With smaller cabinets, parties are now constrained in doling out ministerial positions in return for political support.

The anti-defection provisions of the X Schedule have been strengthened considerably, and 'splits' and group defections are no longer possible. A defecting member is now compelled to resign from the legislature and seek reelection. This has certainly brought greater stability and reduced defections. However, as party whip is not limited to a vote affecting survival of the government – money bills and no-confidence motions – and therefore healthy debate and legitimate dissent are stifled. Also past evidence shows that partisan presiding officers loyal to the government cannot always be trusted with the power to decide on disqualification.

In 2003, the Parliament amended the Representation of the People Act removing domicile requirements for election to the Rajya Sabha from a State, and mandating an open ballot in Rajya Sabha election. While critics argued that removal of domicile

requirement violates federal character, many observers felt that the parties have tacitly acknowledged the need to get competent persons elected to Rajya Sabha, as Lok Sabha elections have been beyond the reach of all but a few very wealthy candidates. Removal of domicile requirement enables parties to get desirable candidates elected from states where they have strength, and open balloting eliminates horse-trading. While these changes in Rajya Sabha election do not address the real crisis affecting our legislatures, they are nevertheless real, short-term responses to growing problems of governance.

In 2005, the Parliament enacted the landmark Right to Information Act, strengthening accountability and empowering citizens.   Similarly, the Election Commission has improved voter registration over the years, making the system cleaner and more accessible. However, there still is no permanent, citizen-friendly, transparent, verifiable mechanism for voter registration. If post office becomes a permanent nodal agency for voter registration, things will improve considerably. The 2009 law on Gram Nyayalayas now makes justice delivery in simple cases accessible, inexpensive and citizen-friendly. However, many states are slow to creating local courts despite central assistance. The 97th amendment to the Constitution, enacted in 2012 has now protected the citizens' right to form and run cooperatives as a fundamental right without undue interference from governments.

In recent months, the Lokpal Bill and Service Guarantee Bill providing for time limits for service delivery and compensation for delays are two robust responses improving accountability. Similarly, a National Judicial Commission and an Indian Judicial Service are in the pipeline to improve the quality of higher judiciary.

All these reform initiatives indicate that our political and governance system is alive to the challenges and capable of addressing them. But these responses are insufficient to address the underlying structural problems deepening the political crisis.

Structural Challenges to the Political System

There are many in India who are deeply distressed about the nature of our politics. There is growing revulsion of politicians, parties and the political process. Much of our public discourse is dominated by the popular distaste for politics. But this deeply anti-political attitude assumesthat our political crisis is an issue of morality and values. Most of the middle classes and youth have developed contempt for the politicians, and blame all those who are part of the political process for our current ills. Revulsion of politics, a daily dose of protest, a perpetual anti-establishment approach, the ubiquitous notion that defiance of law and authority is somehow heroic and noble, a mindset that those who are elected can do nothing right, and a belief that the citizen is always right when he shows contempt for law and due process – these features of our contemporary society are making India increasingly ungovernable. Rise of anarchy and failure of rule of law are making the poor, the weak and the underprivileged ever more vulnerable.

But even a cursory examination will reveal that this contempt for politics is a flawed approach. During freedom struggle and in the first few decades after independence, our political process threw up some exceptional men and women into positions of leadership. Public life and politics were marked by nobility and passion for public good and nation-building during those decades. Even today there have been, and continue to be, great leaders who made a phenomenal contribution to public good at various levels in many sectors. It would be absurd to assume that everyone in public life is a scoundrel, and all those who eschewed politics are angels. Clearly there are deep-rooted structural issues which have led to the political and governance crisis in India in recent decades. In fact, many mature democracies did go through a difficult period of transition. It took a civil war and massive bloodshed to accept that slavery was immoral, despite the fact that the American founding fathers passionately believed that all men are created equal. The machine politics of Chicago, New York and Philadelphia took decades of reformist zeal and relentless struggle to clean up. Britain took many reform efforts, notably by the great liberal Gladstone and his successors, to clean up the

'rotten boroughs' and make politics a respectable and noble endeavour in the public eye.

In many ways, the travails of Indian democracy are by means unusual, except that India's republican era coincided with a period of breath-taking technological and economic revolution. The industrial revolution in Britain witnessed an average annual growth rate of about 1% and in an era of centuries of stagnation, that steady growth was seen as a miracle. But now 5-6% growth rate in India is seen as failure. Clearly, Indian democracy does not have the luxury of many mature democracies which had decades and centuries of time to improve institutions and meet emerging challenges successfully. Therefore the notion that our democracy has failed is erroneous. We only need to rapidly internalize the lessons of the past seven decades, and correct the distortions.

In order to understand the nature of our crisis and resolve it, we need to focus on our unique initial conditions when democracy and universal adult franchise were institutionalized in India. No other nation before us dared to embrace the revolutionary idea of total equality of all citizens across caste, region, religion, language, gender, class, education, status and wealth from its very inception. That we succeeded as well as we did under the circumstances is nothing short of a miracle. But certain institutional and cultural flaws which are inimical to democracy have not been adequately corrected during our republican journey, and the resultant distortions have undermined our democratic process.

There are three crucial initial conditions which, uncorrected had grievous consequences. The first is the asymmetry of power between the colonial subject and an all-powerful bureaucracy. Our public servants were never taught humility, and they never saw themselves as individuals who delivered services to the people, the tax payers. Even the lowliest public servant was more influential, economically more secure, and more powerful than the vast majority of the people, who were the notional masters in a democracy. In this climate, getting even a simple service like a birth

certificate, a land record or a water or electricity connection was then an excruciatingly painful and difficult process. Without red-tape and bribes, harassment and delays, and without influence-peddling and *sifarish* of some big wig, almost nothing got done. With some improvement of literacy and economic status of sections of people, and with the advent of technology, there is some improvement in delivery of services; but even now for most basic services and amenities most people continue to rely on bribes and *sifarish*. This sense of abject helplessness and dependence is accentuated by an intrusive state in a socialist era. Citizens had to approach the state functionaries for practically everything – a ration card, sugar, kerosene, cement, telephone, electrical connection. The state monopoly combined with inefficiency and corruption made the public servants even more powerful and unaccountable in independent India than during the colonial era.
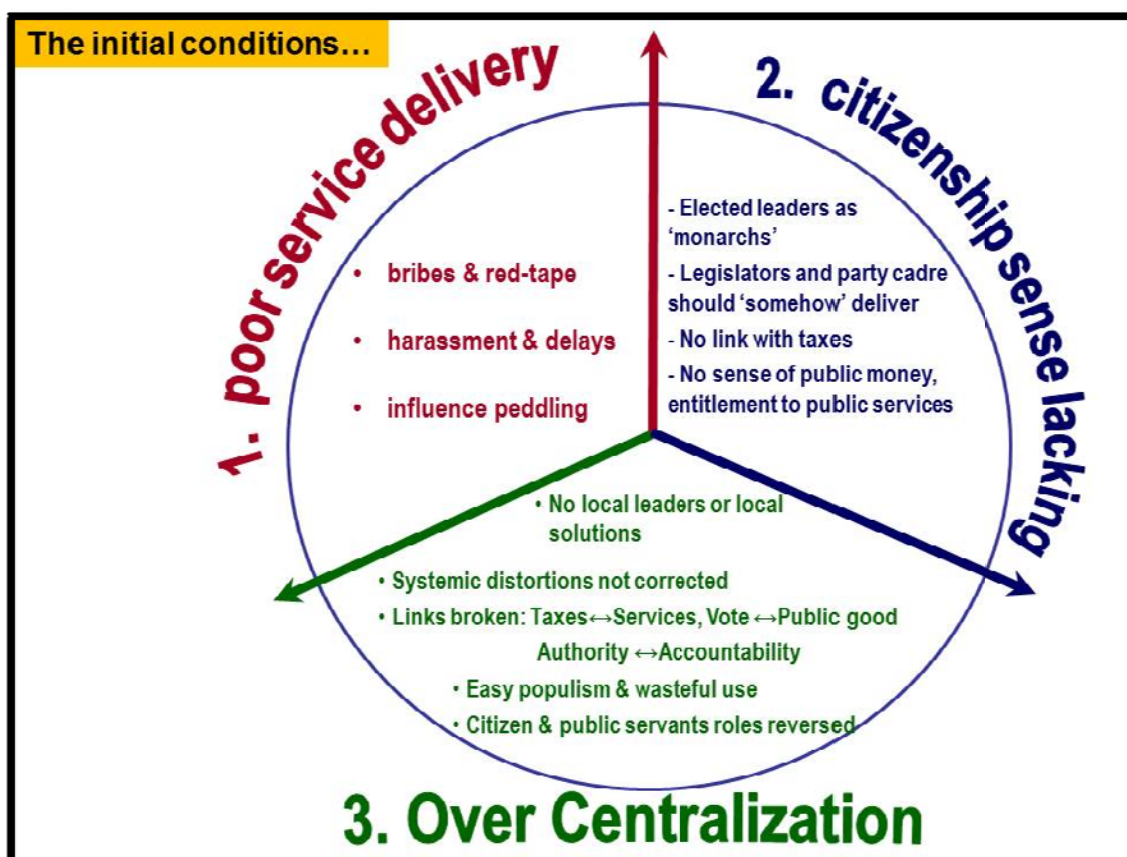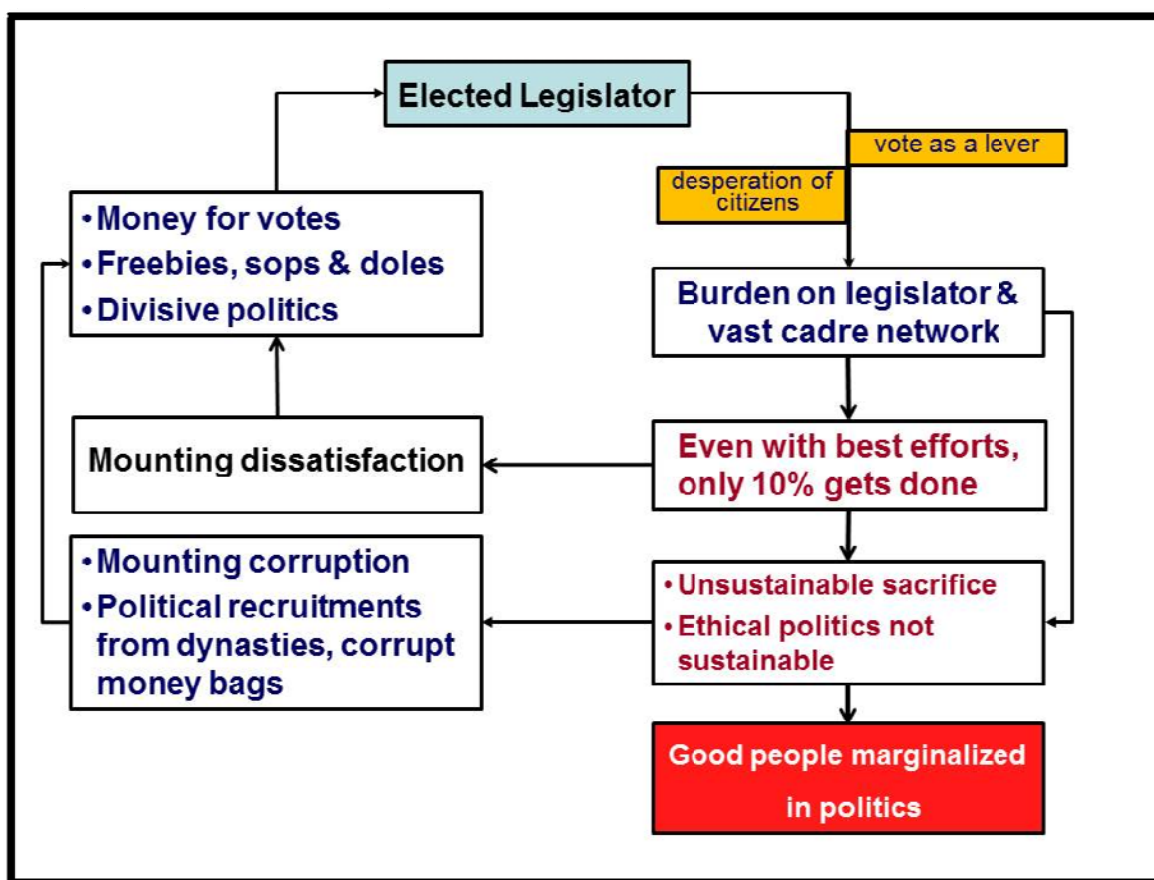

Source: FDR/Lok Satta Research and Documentation Unit

The second complicating factor was the absence of the notion of citizenship. After centuries of oppression most people saw themselves as subjects, not citizens. While universal franchise and liberty were real enough in democratic India, they were merely superimposed on the existing notions of authority and power. While earlier hereditary maharajahs and colonial masters were the unchallenged rulers, in the new era the elected leaders and high officials became the new 'monarchs'. Just as a monarch's word was law, and complete surrender and appeal to his mercy was the safest option in the earlier era, the elected monarchs would 'somehow' fulfill all their needs and expectations. We were never enabled to realize that there is a link between taxes we pay and services we get, and that public money is meant for public goods and services. By some magical process called the 'election', and the 'ballot box', the new maharajahs are chosen with our vote; and now these legislators and their party cadres would 'somehow' deliver everything we need. In this climate there was no space for the notion of rule of law and due process to take roots. Everything is linked to an individual's access to those in power, particularly the legislator who sought your vote, and therefore is beholden to you, and is more accessible than the aloof, arrogant bureaucrat.

This over-reliance on the elected legislator and party cadre to deliver in a dysfunctional and recalcitrant system imposed an enormous burden on them. A vast parallel party bureaucracy had to be built to address people's needs and grievances. During freedom struggle many, many people sacrificed their time, energy and resources willingly in the service of the nation. The romance of freedom struggle, an idolatrous sense of patriotism, and the relatively low opportunity cost in a stagnant, agrarian economy made such sacrifice relatively less painful. But to expect a similar sacrifice in the mundane task of day to day service delivery in a free republic would be unrealistic. This is especially true when many are feathering their nests in the newly emerging license-raj. As the agrarian stagnation is giving way to modest economic growth and therefore the opportunity cost of giving up a career is very high, such sacrifice is highly unsustainable. The new-found power over levers of state and arbitrage of license-permit raj gave many opportunities for the elected legislators and party cadres to secure their own economic future. The legislators who chose to adhere to the values of sacrifice and morality of the

freedom struggle were either marginalized in time, or chose to leave politics. Abuse of office, corruption, politics and service delivery, based on a patron-client system have been institutionalized for years. Even as license-permit raj is dismantled to some extent, the rise of populist culture of transferring individual benefits to the poor and not so-poor ensured that political patronage networks are intact.

Source: FDR/Lok Satta Research and Documentation Unit

But there are two problems with this form of service delivery. First, there was no effort to make bureaucracy more effective and accountable. Therefore despite the most strenuous efforts of legislators and party cadres, the service delivery was inadequate and very unsatisfactory. This led to mounting dissatisfaction, and the voters are increasingly sullen and resentful at the time of election. Second, the system is sustained by massive corruption and abuse of office. Transfers and postings, licenses and permits, contracts and tenders, land grants and mining, police cases and file movements – everything is greased by corruption. This again eroded the legitimacy of

both the politician and bureaucrat, and made people ever more mistrusting of the politicians and the system.

The third distortion was centralization of power. While half-hearted efforts were made to involve the local communities in some decision making for sometime, in general the post-independence Indian state is highly centralized with little local initiative and empowerment. There was no link between taxes and services. Everything is based on the patronage and good will of the players in the centralized state. There is no link between vote and public good. In a wooden, inflexible, centralized system, no matter who is elected, nothing really changes. Therefore vote ceased to have a positive value. Authority is totally divorced from responsibility. Therefore, a system of realistic and plausible alibis has come into being, in which most things fail, but nobody is held accountable. Once the possibility of emergence of local leadership and implementation of local solutions is denied, the centralized government had to resort to either easy populism and wasteful use of resources to retain the loyalty and vote of people, or coercion and control to keep them in line. Either way, the roles of citizens and public servants are reversed, and people became mendicants.

These three initial conditions – poor service delivery, absence of citizenship, and over centralization – led to many familiar distortions of democracy. Increasingly vote had a price, and people are enticed to vote for money and liquor. In many states, it costs about Rs 2-6 crore for every major party candidate to be able to seriously compete for a Legislative Assembly seat. Increasingly, more and more voters are seeking money and other inducements from all candidates. Large expenditure is a necessary condition for serious competition, but does not guarantee victory. More expenditure complicated by paid news and other pernicious practices, results in more corruption, more cynicism and even more vote-buying. The best and brightest individuals increasingly shun politics, and they are seen as unelectable. As all mainstream parties are indulging in vote-buying, more is needed to get votes: a culture of reckless, competitive populism and endless freebies at the cost of the essential functions of government has now become endemic. Rule of law, justice, infrastructure, basic amenities, education, and healthcare

have been largely neglected in favour of direct, individual, short-term benefits. Most of these benefits are transient, and they neither enhance the capacities of the poor, nor empower them. Therefore poverty is perpetuated, and with failed public services, the poor who depend on government infrastructure and services disproportionately suffer the most.

As most parties resort to populism for votes, even that has become an equalizer. Therefore, wherever possible, parties skillfully fomented divisions in a disparate society, and fashioned vote banks based on primordial loyalties of caste, region, religion and language. Money for vote, freebies and divisions became the three most common currencies for vote, fragmenting our polity, undermining growth and harmony, and debasing our democracy.

All these tendencies have been accentuated by the dependence on the marginal vote in our first-past, the post (FPTP) system. In FPTP system, the winner-takes-all, and one more vote means victory, and one less vote means defeat. In such a system, the marginal vote a candidate or party gets is all important. Decades of democratic reform, robust internal democracy, decentralization, strong systems of accountability and a spirit of public service pervading society and politics ensured that FPTP served the needs of society well in countries like Britain.   No system is in itself good or bad; it is the initial conditions and accompanying institutions and practices which will determine the outcome. In Britain, competent and honest citizens are put up as candidates by parties; parties offer clear alternative agendas; elections are clean without vote buying, inducements, freebies or divisions; voters generally respond to politics of individuation rather than primordial loyalties; and elected governments set out to implement their declared agenda. The key functions of framing policies and choosing leaders are well-served in FPTP system under British conditions.
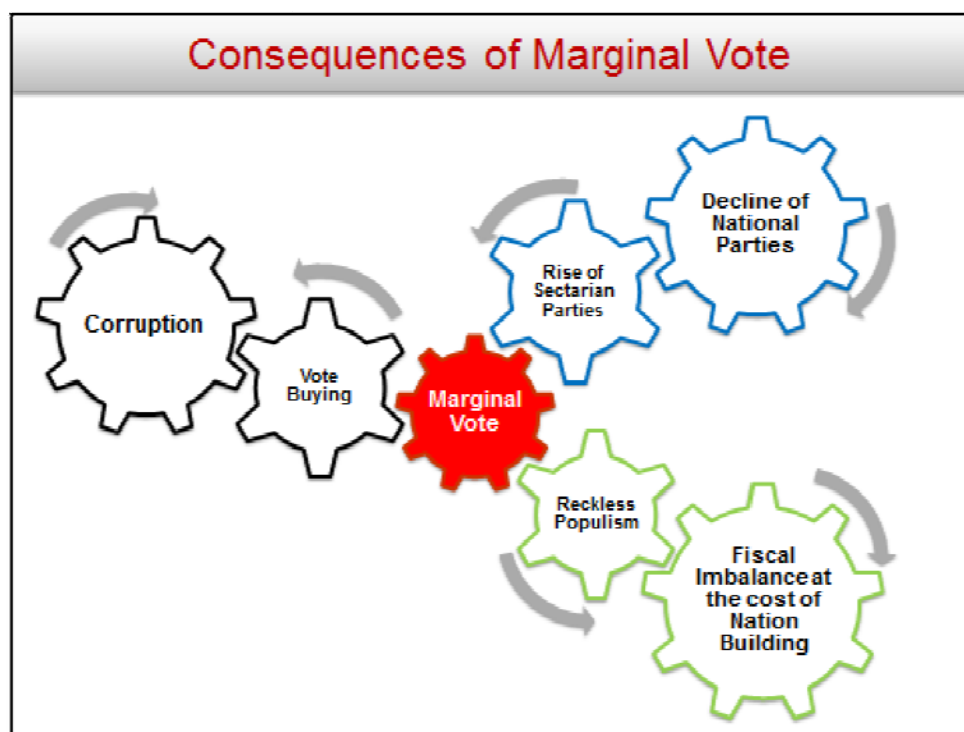
Source: FDR/Lok Satta Research and Documentation Unit

But given the different initial conditions and the trajectory of politics and society, FPTP and dependence on marginal vote have had radically different consequences in India. Dependence on marginal vote in our conditions led to vote buying, phenomenal corruption and abuse of office, and marginalization of the best and brightest elements in the political process. Again imperatives of marginal vote forced almost all parties to overemphasize freebies and reckless populism at the cost of rule of law, infrastructure, education and health care, resulting in deepening fiscal crisis and erosion of nation-building and economic growth. Fear of losing marginal vote, and loss of power also made most parties embrace sectarianism and policies to pander to narrow primordial loyalties. This led to fragmentation of the polity, erosion of national ethos, and decline of national parties. Loss of support of a few individuals or caste groups could easily upset the balance of power, and both parties and governments have become increasingly fragile and volatile. Society is more and more polarized as vocal minorities vociferously promote sectarian agenda in their efforts to browbeat the political parties and governments into submission.

Electoral systems have profound consequences in the evolution of politics in a society. The exact consequences may vary depending on the nature of a society, level of democratic maturity of institutions of governance, the political culture, and the practices internalized in a society and polity. Members of the Constituent Assembly were aware of the importance of electoral systems, and several of them felt that a proportional representation system was better suited for India. Two members, Mahboob Ali Baig Sahib Bahadur and Mohamed Ismael Saheb (3rd January, 1949), quoted Lord Howard of Penrith and Sir Samuel Hoare in support of proportional representation by means of the single transferable vote in India. Mohamed Ismael Sahib argued. "It is said that this (proportional) system of election will lead to fissures and divisions amongst the people. But, in reality, it would not be leading to that result or effect at all, because people know that under this system of election every group of people has got an effective say in the election. Therefore every group will be drawn towards the other group.   It will make each group seek the franchise of other people. Therefore it it would really work for unity rather than for disunity". On 4th Jan 1949, Kazi Syed Karimuddin (CP & Berar) moved an amendment incorporating proportional representation (PR) with multi-member constituencies by means of cumulative vote.

But much of the debate on electoral systems was largely centered round the issue of reservation of elective offices. Dr Ambedkar opposed proportional representation: "I think, it might be said that one of the disadvantages of proportional representation is the fragmentation of the legislature into a number of small groups". Then Ambedkar cited the British Parliament's rejection of a Royal Commission recommendation in 1910: "The reason which was given for not accepting it was, in my judgment, a very sound reason, that Proportional Representation would not permit a stable government to remain in office, because Parliament would be so divided into so many small groups that every time anything happened which displeased certain groups in Parliament, they would, on that occasion, withdraw their support from the Government, with the result that the Government losing the support certain groups and units, would fall to pieces …. I am therefore, very hesitant in accepting any system of election which would damage the stability of government".   Dr Ambedkar also argued against Proportional

Representation on the ground that it may not accommodate reservation of seats for Scheduled Castes and Scheduled Tribes. He argued: "I submit that this proportional representation is really taking away by the back-door what has already been granted to the minorities by this agreement, because proportional representation will not give to the minorities, namely, a definite quota. It might give them a voice in the election of their representatives. Whether the minorities will be prepared to give up their quota system and prefer to have a mere voice in the election of their representatives, I submit in fairness ought to be left to them". The amendment on Proportional Representation was thus negatived.

As E Sridharan pointed out, *"both the traditional justifications for the FPTP system, in general and in India, including in the Constituent Assembly debates …, which are namely that it produces stable single-party majority governments, and that its aggregative imperative leads to national integration as against splitting the party system along 'ethnic' (broadly defined, including religio-communal, cast, regional-ethnic, cultural etc.) lines, have been belied in practice for a decade now"*[1],. Sridharan summed up, "The single-member constituency, FPTP system was adopted in the Constituent Assembly and early Parliamentary debates, not so much from a focused debate on the merits of alternative electoral systems as regards their effects on the representation of parties and social groups, but from a default assumption that the FPTP system was somehow natural, carried forward largely unconsciously from British and British colonial practice since 1935".

It is ironic that in today's India, both the justifications for FPTP – stable majority governments, and aggregative imperative leading to national integration transcending ethnic differences – proved to be unfounded. The political fragmentation and inherent instability of governments over the past two decades, and the proliferation of parties with a narrow social base, appealing to primordial loyalties based on caste, region and religion were clearly not anticipated by the Constituent Assembly while adopting FPTP system.

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[1] E Sridharan, 'The Origins of Electoral System' in Zoya Hasan, E Sridharan, R Sudarshan (eds), *India's Living Constitution: Ideas, Practices, Controversies*, Permanent Black, Delhi 2011, p. 348.

Even then, interestingly, Article 81 (2) (b) of the Constitution permits Proportional Representation through cumulative vote in multi-member constituencies. The Article says in respect of Lok Sabha: "Each State shall be divided into Territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it is, so far as practicable, the same throughout the State…" A similar provision exists for elections to Legislative Assemblies under Art 170(2). In fact in 1951 and 1957 Parliamentary elections, there were several multi-member constituencies for Lok Sabha to accommodate reserved seats. In the first Lok Sabha, out of the 401 constituencies, 314 were single-seat constituencies (304 general, and 10 ST seats), and 86 were double-seat constituencies, with the second seat reserved for SCs (71 constituencies) and STs (15 constituencies). There was also one triple-seat constituency in West Bengal, with a seat each for General, SC and ST categories. Thus, while there were 401 constituencies, there were 489 seats filled in the election. Similarly in 1957, (Second Lok Sabha), there were 312 single-seat constituencies (296 general and 16 ST seats) and 91 double-seat constituencies (in 76 of them second seat reserved for SCs, and in 15 of them for STs). Thus 494 seats were filled from 403 constituencies. Multi-member constituencies with proportional representation are permissible in the Constitution, and only the law and rules need to be amended to facilitate proportional representation, provided there is political consensus.

Given the fact that the FPTP system did not result in the two advantages of governmental stability and national integration promoted by the aggregative imperative, we are saddled with FPTP for no sound reason except tradition and habit. While the benefits of FPTP did not flow to us as a nation, the disadvantages of seeking marginal vote in a poor and largely illiterate country of India's complexity have now remained with us. Rise of abnormal and illegitimate money power in elections and the phenomenal corruption, the un-electability of enlightened, competent and public-spirited citizens, the decline of national parties in large parts of India, the fragmentation of polity, the reckless populism and freebies culture at the cost of core functions of state, the rise of primordial loyalties and divisive politics for short-term political gains, and increasing erosion of

state's authority – all these can be directly traced to FPTP system under Indian conditions.

It is in this context that we should examine closely alternative electoral systems capable of addressing our challenges. In the Indian situation, given the vastness, diversity and complexity of our society, a parliamentary system of election with executive drawn from, and accountable to, the legislature seems to be the best available option. There is a broad agreement that a directly elected executive for the whole nation, and embodying all executive authority, may not be acceptable in India, given the deep fissures on account of religion, language (Hindi *vs* Non-Hindi) and region (North *vs* South). But within the parliamentary framework, we need to design a system best suited to our conditions, and capable of overcoming the many distortions and dysfunctional features that have crept in over the decades.

Both proportional system and FPTP are parliamentary systems with the executive drawn from the legislature. However, FPTP system is essentially candidate-based and constituency based. FPTP demands a high threshold of voting requirement in a constituency. Even parties and candidates with very narrow social or political base can succeed in constituencies, as long as they can get a high vote share locally. Equally, for broad-based parties, the threshold requirement in a state is very high, and a party will not achieve significant success unless it can command a high vote share and is one of the top two parties. As a result, marginal vote becomes all important in electoral success. But Proportional Representation, however, does not reward a large, but narrow base in a constituency. It rewards a moderate base in a whole state. The threshold requirement in a whole state is moderate, and local candidate strength and marginal vote become unimportant.

As threshold requirement varies and marginal vote becomes unimportant, the electoral outcomes and incentives change considerably in the PR system. As marginal vote is not critical, there is far less incentive to buy the vote. Competent, honest and public-spirited politicians with good image become electoral assets. Rational, long-term,

policies can be pursued by parties in PR system without yielding to the temptation to resort to short-term populism for fear of losing marginal vote. National parties, and parties with a broad, non-sectarian political agenda become viable in PR system even with moderate base and voting support across a whole state. Once voters realize that their vote will translate into seats for a party of their choice, there is much less tactical voting. In FPTP, tactical voting is common as a preferred party orcandidate may not have a high percentage of votes, and therefore vote for such candidates or parties is 'wasted'. Therefore most voters vote for one of the two top parties, often with an intention to deny victory to party they dread most. But in PR, there is no need to vote 'against' a party;instead, the voter can much more freely exercise her choice with the secure knowledge that her vote will be translated into seats, and her voice is represented and vote is not wasted. As a result of broader choice, in PR systems the voter participation is generally significantly higher. In FPTP, national parties are often compelled to forge alliances at the cost of party's long term viability, in order to maximize the short term gains. As a result, national parties, once they fall below a high threshold of vote in a state, get increasingly marginalized.   PR prevents this fragmentation and marginalization of national parties, because with a moderate share of vote, a party is viable in pursuit of its goals.

Clearly, in a suitably designed PR system, most of the distortions of FPTP system can be overcome. The challenge lies in retaining the best features of both FPTP and PR systems, and avoiding the pitfalls of both. In PR system, there are certain concerns which need to be addressed. The foremost concern in a very complex, heterogeneous society is the danger of further political fragmentation as each caste/ethnic group forms its own political party, and seeks vote on the basis of a primordial divisive agenda. This tendency is already pronounced in FPTP system in India, and the design of PR should address this problem. The solution to such a problem lies in imposing a reasonable threshold requirement of voting, say 5-10% of the vote in a large state, as the minimum required vote to give the party seats in Legislature from the state. Such a threshold has to be at state level, since a national threshold of even 2-5% will exclude most established regional and other recognized parties from the contest. But a state level

threshold of 5-10% of the vote is reasonable, will protect the interests of all recognized parties, and is at the same time difficult to achieve unless a party has a wide base, and can appeal to various interest groups. The imperative of vote aggregation is preserved, and the temptation to play to primordial loyalties will be resisted.

The second major concern in a list-based PR System is that the link between the voter and the elected legislator will be broken. In a constituency-based FPTP election, the voters depend on the local legislator for intervention on their behalf. The ideal solution to this problem is effective empowerment of local governments, so that voters approach local governments for most things that matter to them. However, with feeble local governments, most voters depend on the local legislator to act as disguised executive and to ensure delivery of simple services and to address grievances. This felt need should be addressed in PR system. A simple solution to the problem would be formal allocation of a territorial seat to each elected legislator in the PR system, so that that member would be accessible to local voters and address their problems. This allocation of a territory to the elected members in a multi-member constituency can be made on the basis of the vote share of a party, and the preference of the members elected on behalf of that party.

A third concern relating to PR is the stability of governments. It is true that FPTP did not ensure stability, especially at the national level. It can be argued that in PR system there is greater stability in coalitions, as parties are much more secure in their support base, and volatility of a small segment of voters would not grievously affect the electoral prospects of a party. However, when electoral system is sought to be improved, we need to make it more stable to the extent possible. There are two institutional measures which will enhance stability of governments in PR System. First, a provision can be incorporated to the effect that a government cannot be voted out of office on the floor of the House unless an alternative government with majority support is in place. Article 67 of the German Basic Law provides for such Constructive No confidence: "The Bundestag can express its lack of confidence in the Federal Chancellor only by electing a successor with the (support of the) majority of its members". Spain and Hungary too

have similar provisions.   In addition, a second measure which facilitates filling of vacancies in legislature without having to resort to by-elections will greatly enhance stability of governments and continuity of policies.   Article 48 of the German Federal Electoral Law states that if a vacancy arises in Bundestag, "the vacant seat shall be filled by an appointment from the Land (State) list of that Party for which the departed member stood for election".   These two provisions of Constructive No-Confidence, and filling vacancies in legislature from the Party list without resorting to by-elections will greatly enhance stability of governments.

A simple PR model with these safeguards should eliminate the need for marginal vote and propensity to buy the vote or resort to reckless populism or divisive politics.   Such a model would have the following features:

- State as a unit for PR threshold for State Assembly and Lok Sabha
- About 5-10% minimum vote for the Party in the State to be eligible to have its members in the legislature from that State.
- Multi-member constituencies, each having 6 to 10 seats.
- Each voter will have a single vote for a party of her choice.
- Each party will offer a list of candidates for each multi-member constituency in order of preference.
- Parties get seats in proportion to their votes in a State, provided they cross the minimum required vote, of say 5 or 10% of the total vote.
- Required number of SC/ST candidates and women candidates will be elected as per reservation by suitable adjustments in the lists.
- Each elected member is allotted to an Assembly /Lok Sabha segment by preferential choice based on party vote share in the multi-member constituency.

No electoral system in itself is a panacea in any society. Ultimately the suitability of a system depends largely on the nature of society, and the context in which it operates. In a perfect world of moral giants and men and women of virtue without vice, any system will work well. But in reality there are no guarantees everin any society that only moral giants and men and women of unimpeachable integrity with an eternal sense of

public purpose will always occupy public offices. Therefore wisdom demands that a set of rules and institutions is designed to ensure that persons with right qualities will operate the Constitution and once they ascend to public office they will function within certain parameters without over-stepping the limits of their authority. If a Constitution is merely a declaration of good intentions and has no role in shaping the nature of the state, then such a Constitution is a worthless scripture. Thomas Jefferson is closer to reality when he argued that Constitutions are living documents. "Some men look at Constitutions with sanctimonious reverence and deem them like the Ark of Covenant, too sacred to be touched. They ascribe to the men of the preceding age wisdom more than human and suppose what they did to be beyond amendment.... laws and institutions must go hand in hand with the progress of human mind.... As new discoveries are made, new truths discovered and manners and opinions change with the change of circumstances, institutions must advance also and keep pace with the times". Each generation has the benefit of experience of the past and should have the capacity and the right to build upon the foundations of this experience.

A dispassionate and objective examination of the evidence of the past six decades leads us to the conclusion that our democratic institutions have performed creditably, but they are increasingly finding it difficult to cope with growing challenges. We need to learn from past experience and strengthen our institutions, and where necessary, reform our system to ensure the best outcomes possible. Proportional representation system with suitable safeguards and sensible design to suit our requirements offers us a great opportunity for democratic revival. The opportunity is immense, and the risks are minimal. But we must realize that while a change in the electoral system will improve the outcome that alone is not sufficient to address our political and governance crisis. Proportional system of representation should be accompanied by two far-reaching, long-overdue reforms. First, the local governments should be substantially empowered in a manner that the third tier of federalism becomes a reality. Such empowerment with accountability at the local level will unleash the energies of our people, and generate new leadership which can innovate, inspire and transform our society. Second, accountability must be institutionalized by a series of measures

including strengthening rule of law through police and judicial reforms, an effective service guarantee law backed by delivery mechanism and penalties for delays to enable citizens to reclaim the republic they have lost, and several institutional measures to curb corruption and prevent abuse of office at every level.

Indian republic had embarked on democracy project in unusual circumstances, and we achieved a fair measure of success. Now is the time to improve our institutions and practices to suit our changing requirements. With the right kind of incentives and well-designed system, our people are capable of overcoming all the great challenges we face, and build a great future for the next generation. As Gladstone said, "the purpose of a government is to make it easy for people to do good, and difficult to do evil". The eternal challenge of human history has been to find the balance between liberty and order, and freedom and discipline. A few sensible changes with adequate safeguards and checks and balances will radically alter our future and India can find her destiny. Status quo is not an option. History beckons us!

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