

Democratic Revival – an Agenda for Action

Presentation to
Law Commission of India

by

Dr. Jayaprakash Narayan

Lok Satta / Foundation for Democratic Reforms

Flat No. 801 & 806, Srinivasa Towers, Beside ITC Kakatiya Hotel,
Begumpet, Hyderabad – 500016 Tel: 91-40-23419949; fax: 23419948
email: drjploksatta@gmail.com

The purpose of a government is to make it easy
for people to do good and difficult to do evil.

William Gladstone

Democracy – Myron Weiner's Four Conditions

- Competitive elections
- Political freedoms for all
- Peaceful transfer of power and no retribution
- Real power with elected governments

Distortions of state power

- Positive Power restricted
Negative Power unchecked
- State organs are dysfunctional
- A system of alibis
Victims of vicious cycle
- Change of players
No change in the rules of the game
- Political process ought to be the solution
But has become the problem itself

Indian democracy is a work in progress

Policymakers have responded to emerging challenges :

- 73rd, 74th Amendments – Local Governments(1993)
- Voter registration and electoral process reforms (past 15 years)
- Mandatory disclosure of candidates antecedents (2003)
- Political funding reforms (2003)
- Strengthening anti-defection law (2003)
- Limiting size of cabinet (2003)
- Rajya Sabha elections reforms (2003)

Contd...

Indian democracy is a work in progress

Policymakers have responded to emerging challenges :

- Right to Information (2005)
- Gram Nyayalayas Act (2009)
- 97th Amendment – Right to form Cooperatives (2012)

In the pipeline

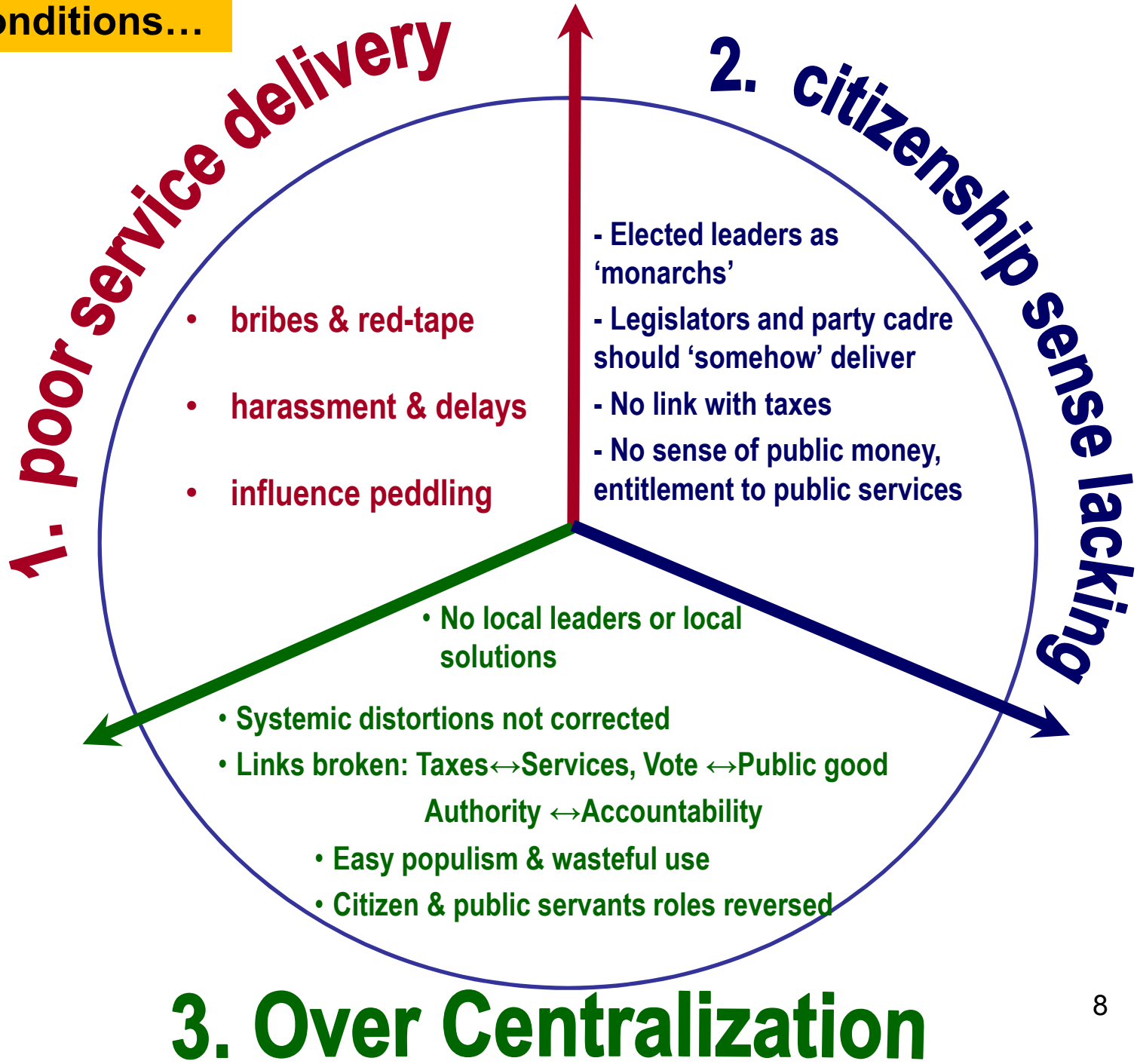
- Lokpal Bill
- Service Guarantee Bill
- Judicial Standards & Accountability Bill

Under consideration

- National Judicial Commission
- Indian Judicial Service

However, much remains to be done.

To understand nature of crisis and resolve it, we need to focus on the initial conditions.



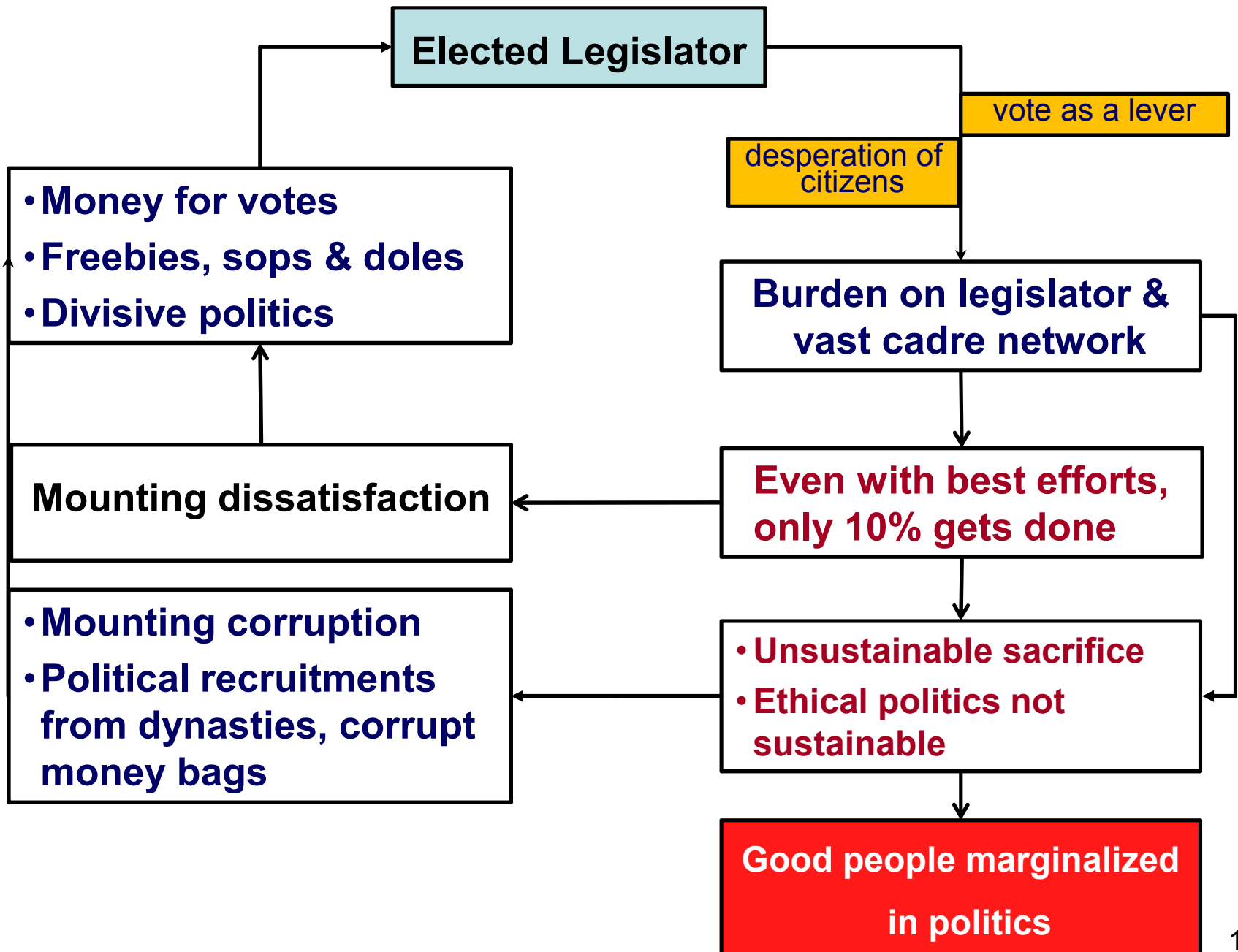
As a consequence...

excessive dependence on
elected legislators

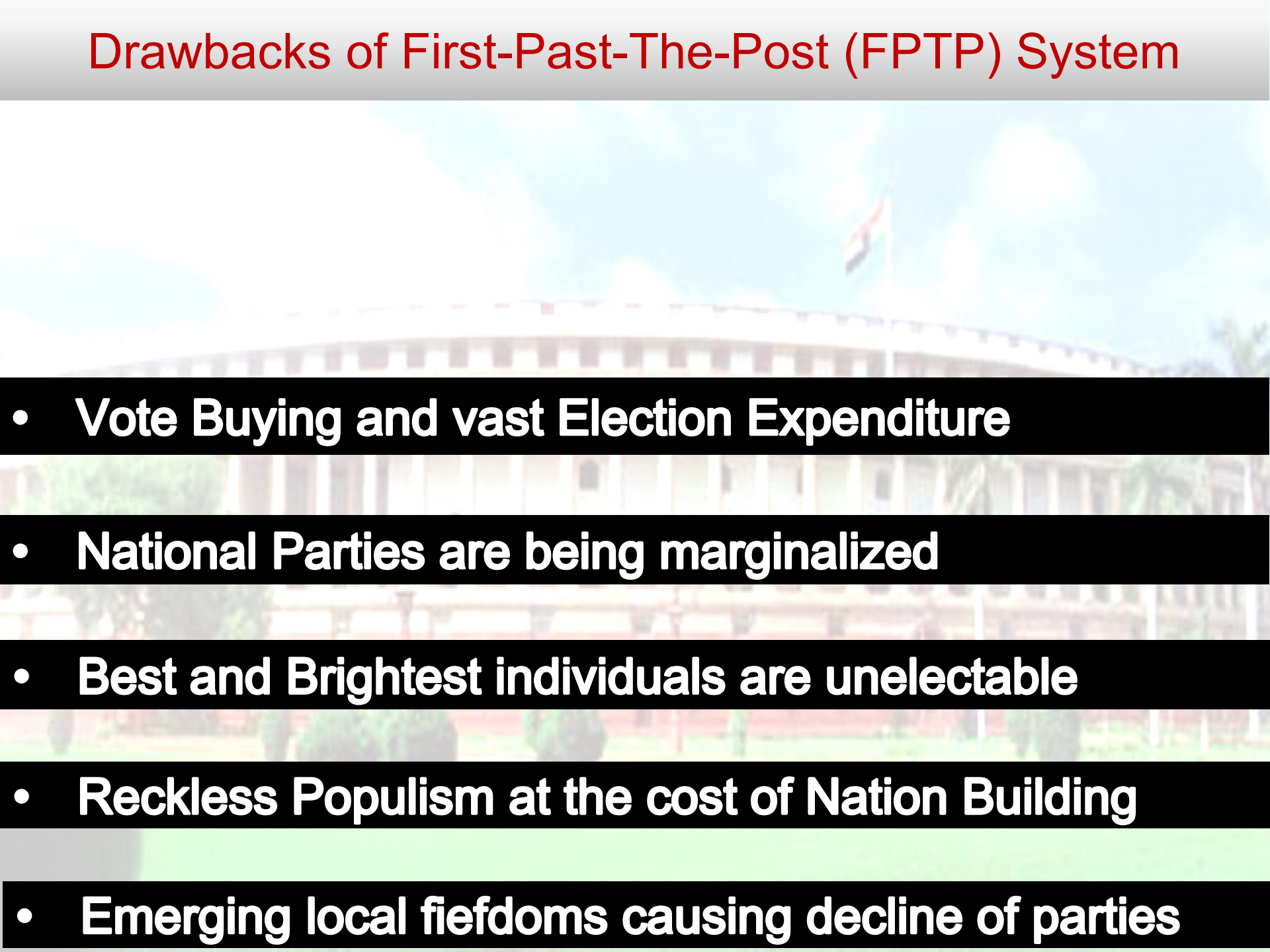
vote as a lever for getting
even the smallest thing done

party cadres have to devote
vast amount of time at local level

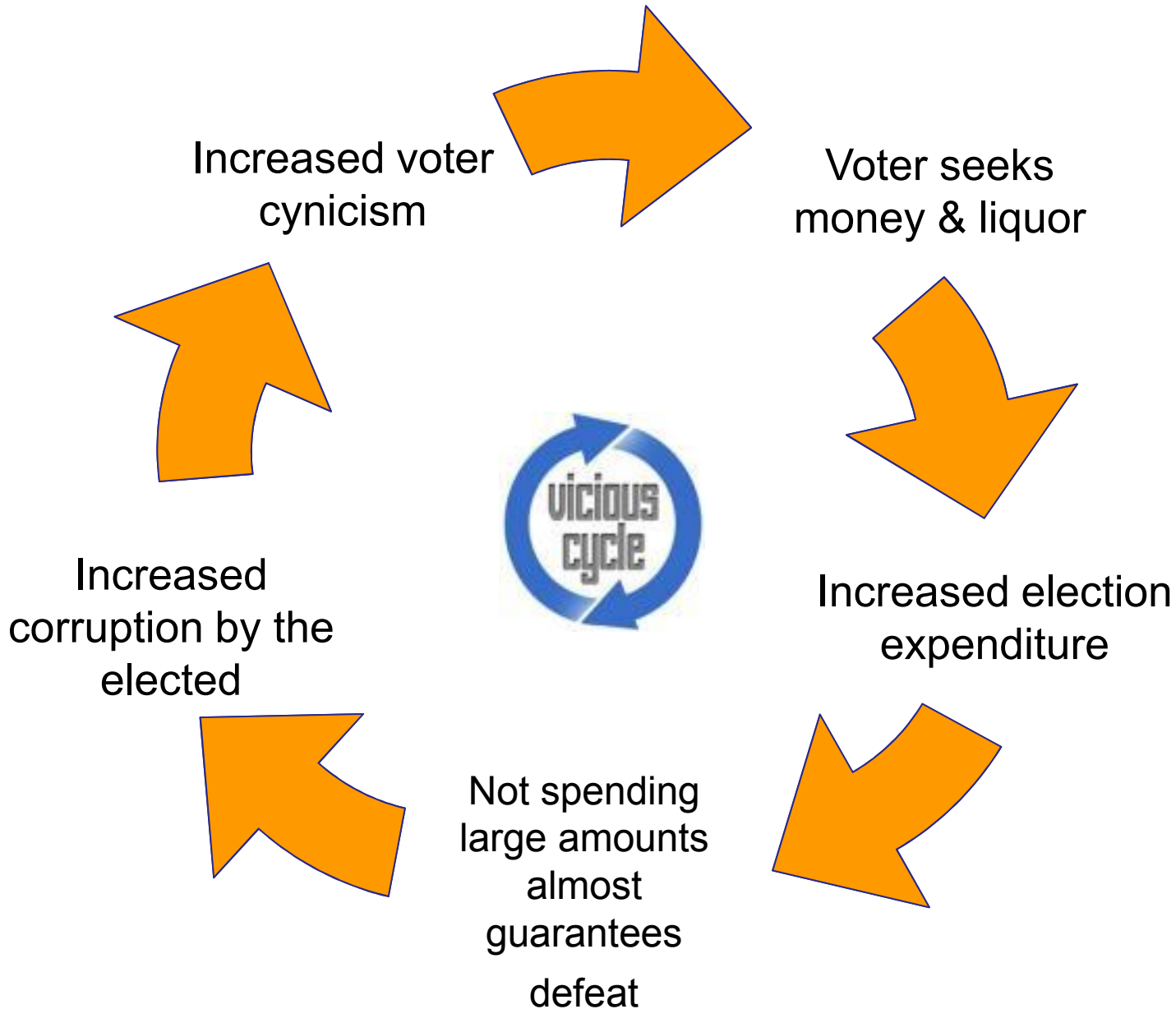
great sacrifice expected from
legislators and political workers



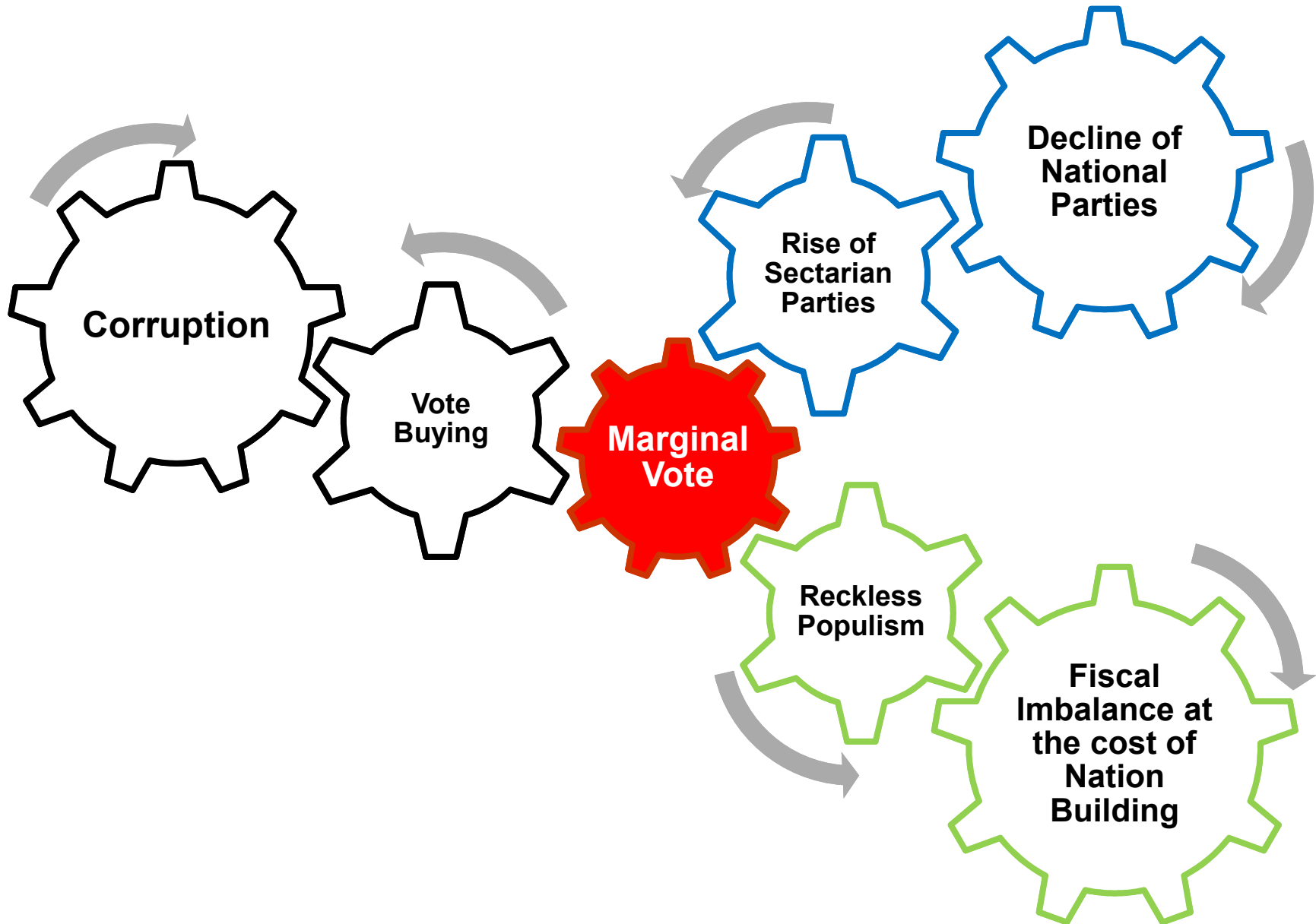
Drawbacks of First-Past-The-Post (FPTP) System

- 
- **Vote Buying and vast Election Expenditure**
 - **National Parties are being marginalized**
 - **Best and Brightest individuals are unelectable**
 - **Reckless Populism at the cost of Nation Building**
 - **Emerging local fiefdoms causing decline of parties**

Most election expenditure is to buy votes



Consequences of Marginal Vote



BJP & Congress do not matter

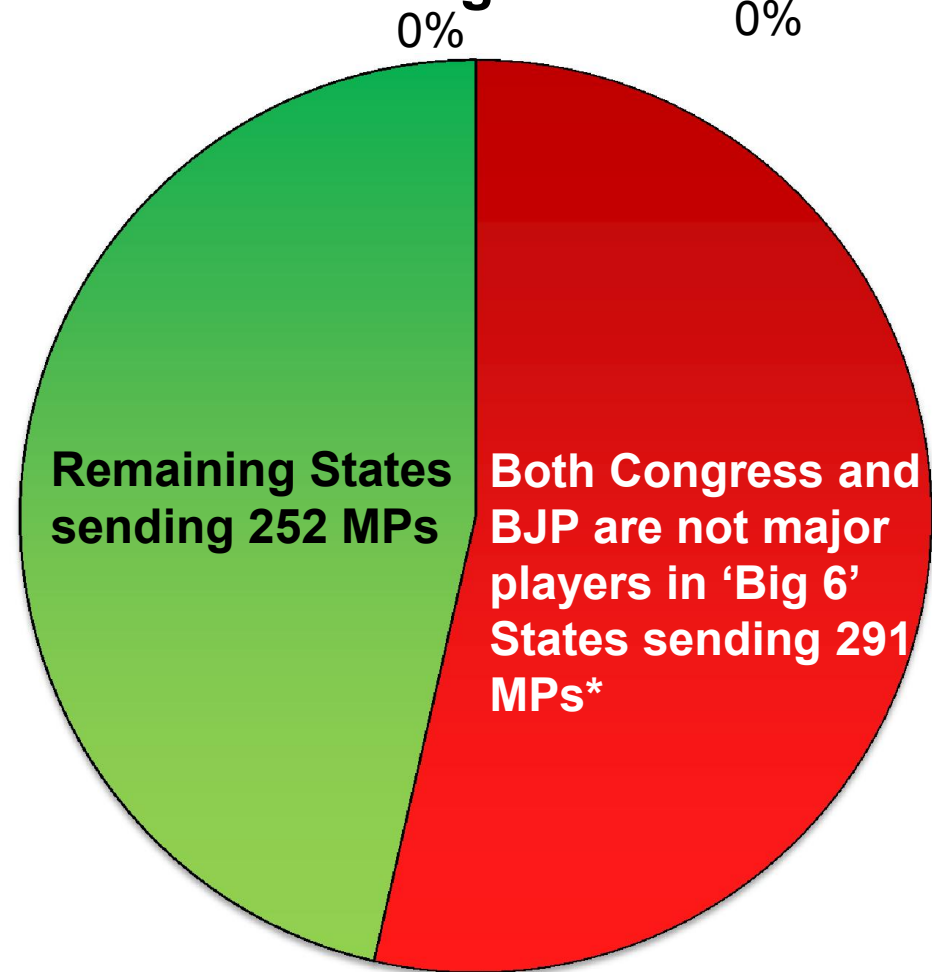
... in more than half of India

Lok Sabha - Big 6 States

Total Seats in Lok Sabha	: 543
Halfway Mark	: 272

'Big 6' States	: 291 Lok Sabha Seats

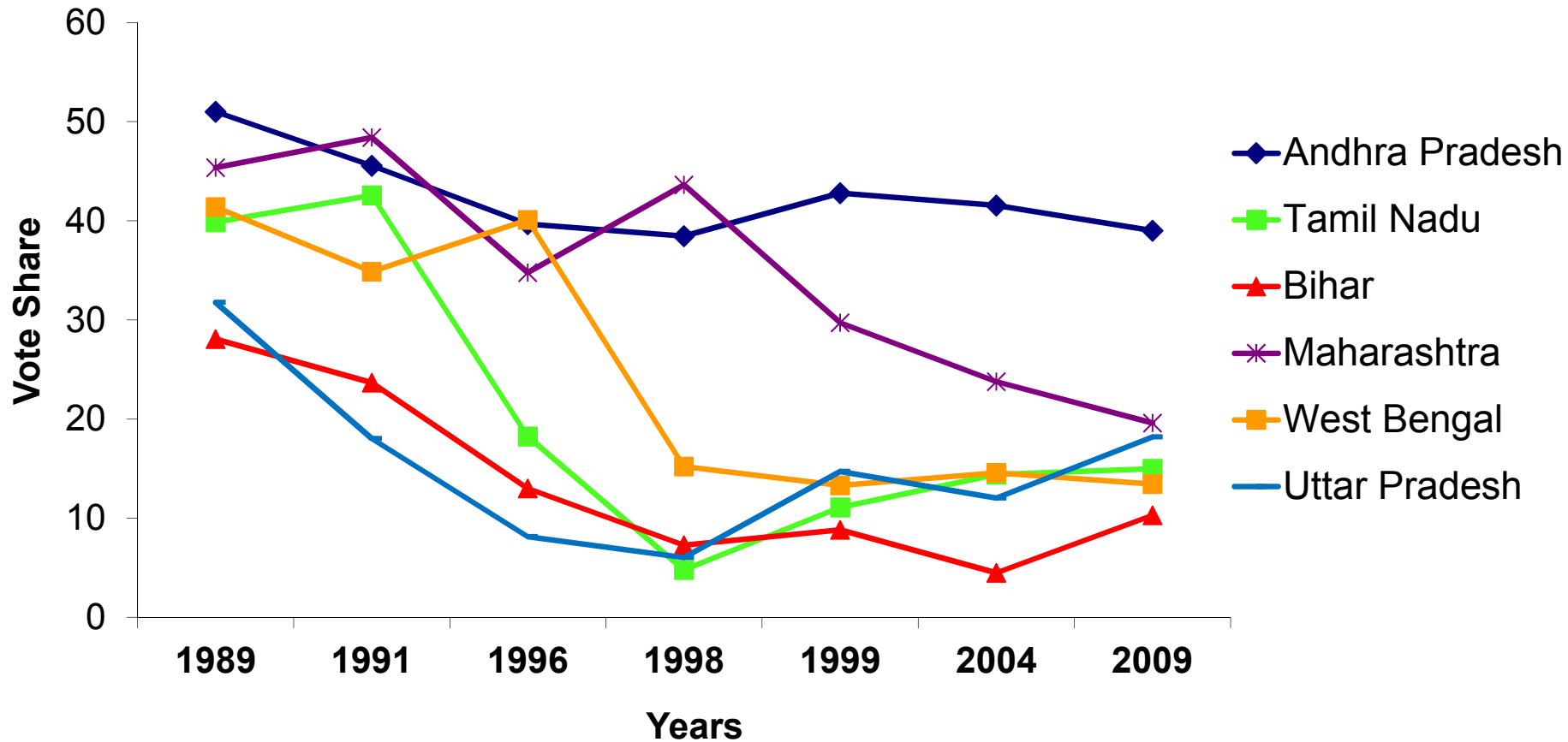
Uttar Pradesh	- 80 Seats
Maharashtra	- 48 Seats
West Bengal	- 42 Seats
Andhra Pradesh	- 42 Seats
Bihar	- 40 Seats
Tamil Nadu	- 39 Seats



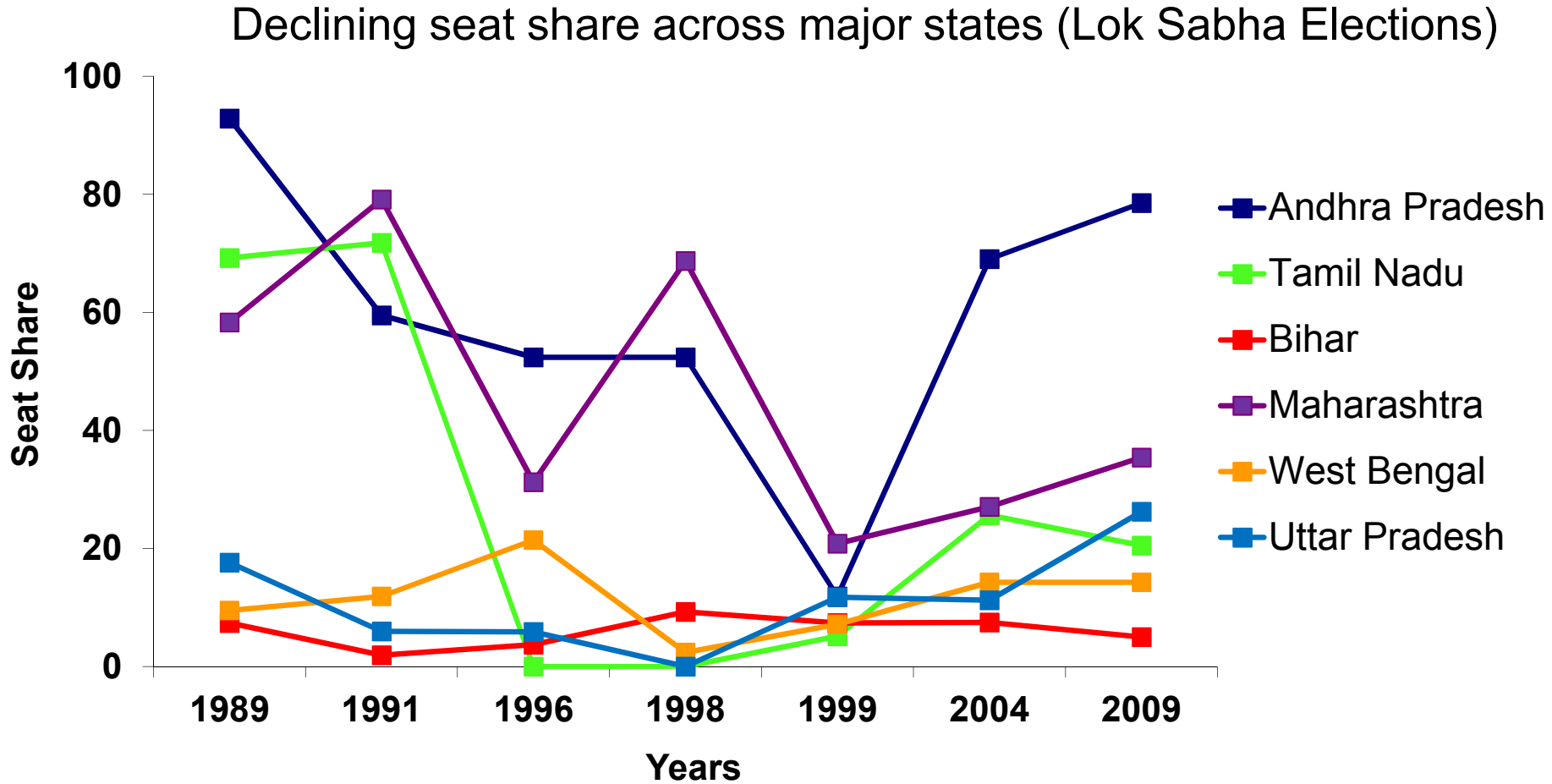
* AP included as Congress could not win a single seat in any of the by-elections since 2009

Falling vote share of Congress since 1989 ...

Declining vote share across major states (Lok Sabha Elections)



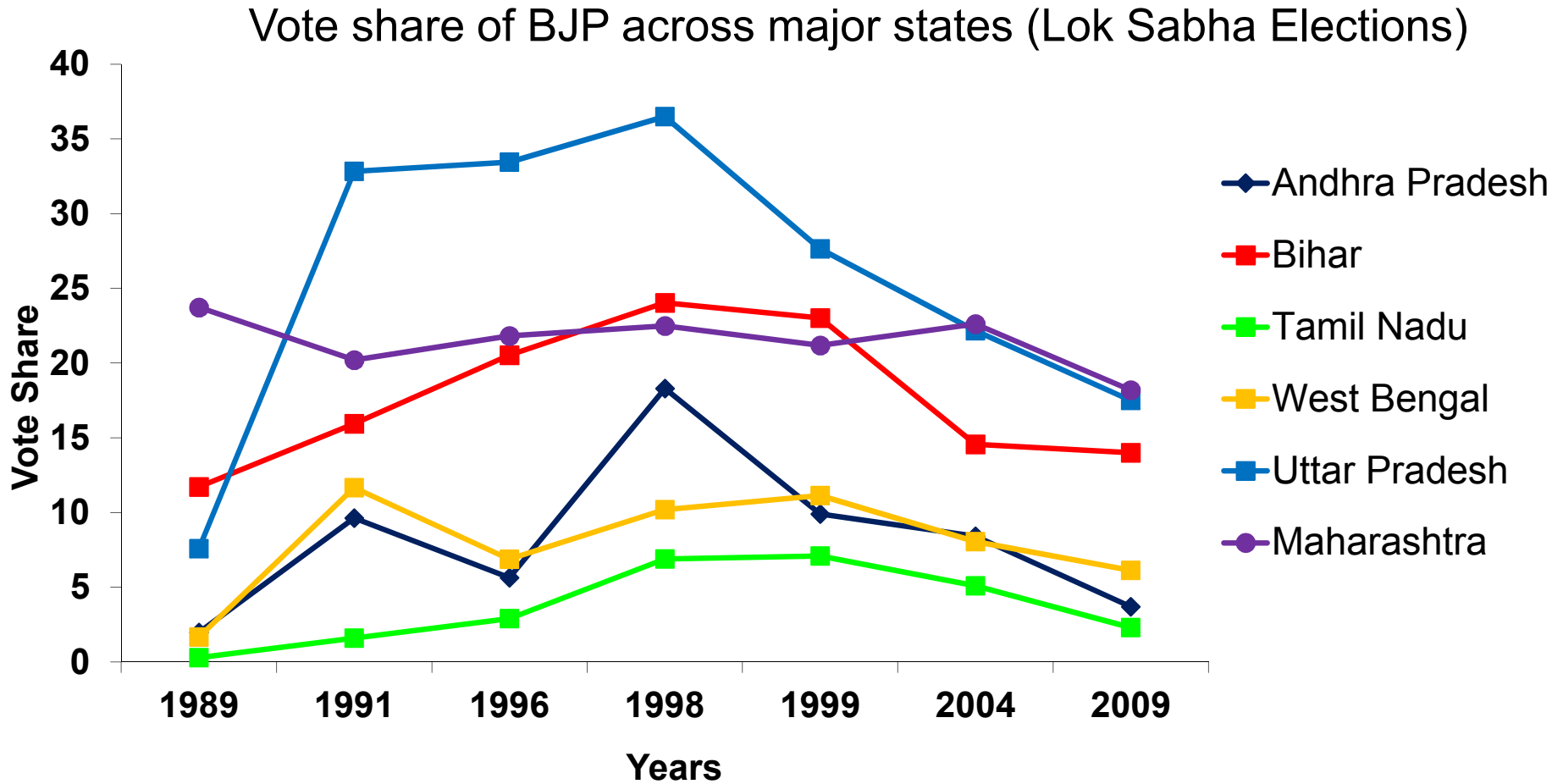
... Consequent decline in share of seats for Congress



Note: Only in UP & Bihar do seats and votes reflect Congress' own strength; in other states alliances have given Congress better results.

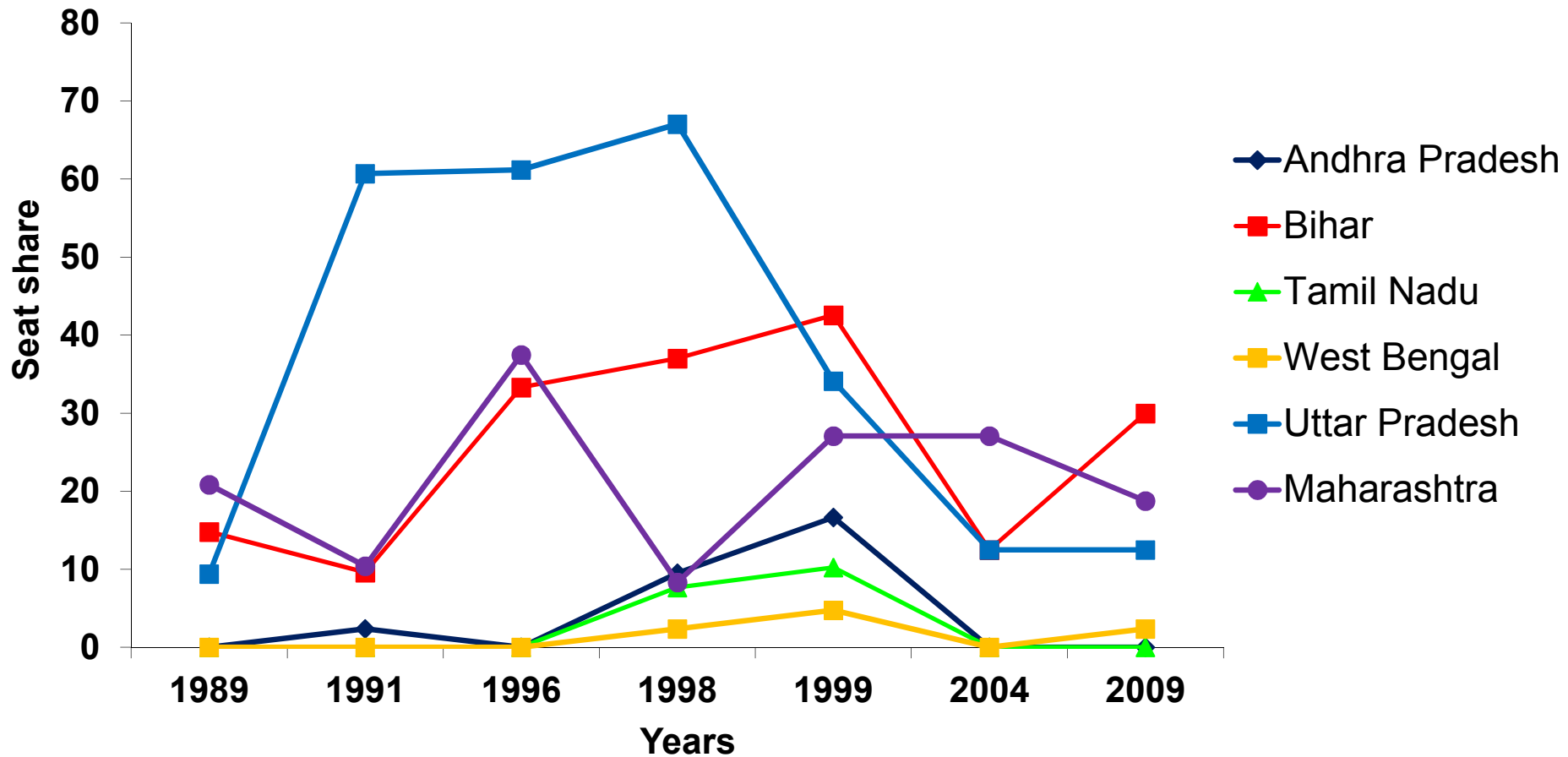
Also, Congress could not win a single seat in AP in any of the by-elections since 2009

Falling vote share of BJP in the major states since 1989 ...



... Consequent decline in share of seats for BJP

Seat share of BJP across major states (Lok Sabha Elections)



Note: In Bihar and Maharashtra BJP is in alliance with regional parties

Vote Share - Seat share disproportionality

Experience from Uttar Pradesh Assembly Elections

SAMAJWADI PARTY (SP)			
Year	Vote share %	Seat share %	Actual number of seats
2007	25.43	24.07	97
2012	29.13	55.58	224

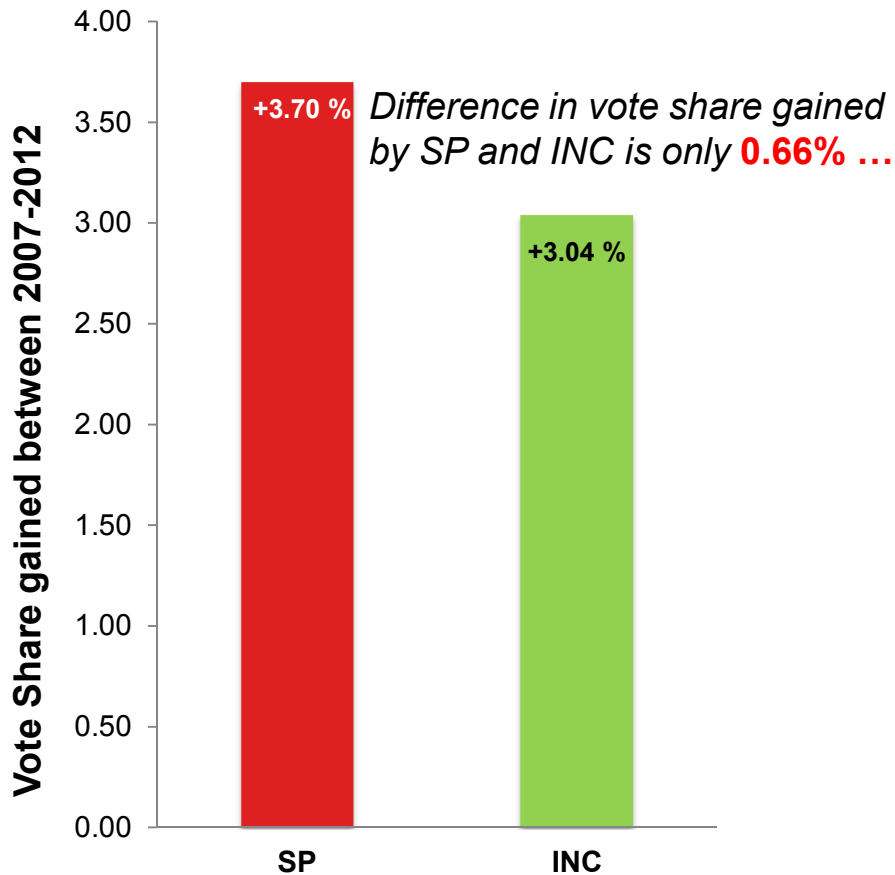
INDIAN NATIONAL CONGRESS (INC)			
Year	Vote share %	Seat share %	Actual number of seats
2007	8.61	5.46	22
2012	11.65	6.95	28

Gain in vote share and seats Between 2007 and 2012		
Party	Gain in Vote share	Gain in Seats
SP	+3.70%	+127 Seats (31.51%)
INC	+3.04%	+6 Seats (1.49%)

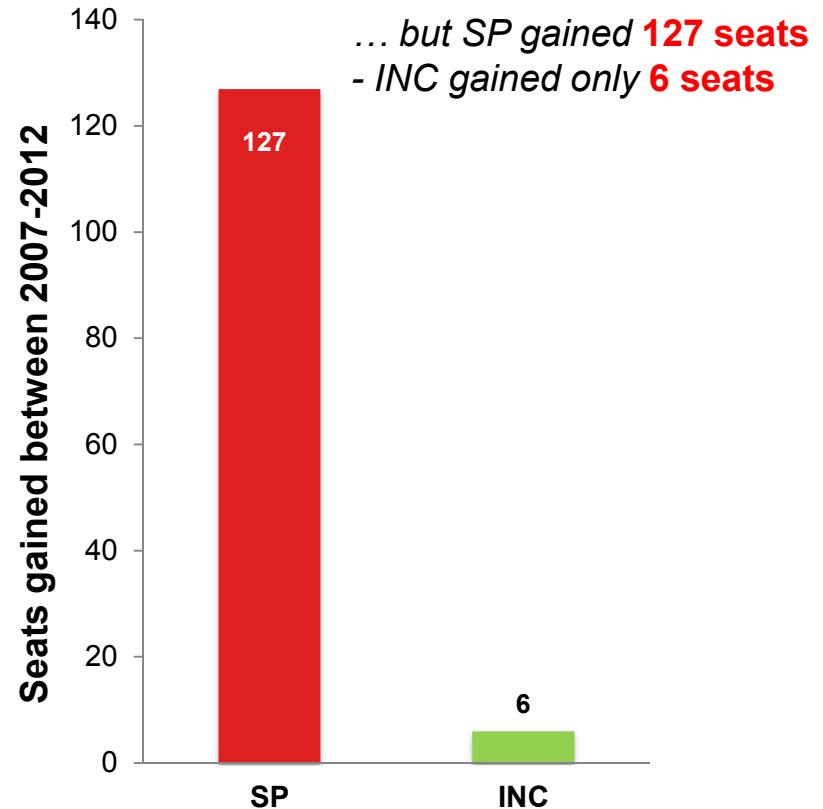
SP vs. Cong in Uttar Pradesh:

Similar gain in vote share ... but huge difference in seats gained

Difference in Vote Share between 2007 and 2012 Assembly Elections



Difference in Seats gained



Best & brightest are unelectable in FPTP

- In most major states, it costs Rs. 2-6 crores to seriously compete to be an MLA & Rs.10 crores or more to be MP
- Most money is for vote-buying and has to involve law-breaking and black money
- Big money, muscle power and criminal nexus, caste base and entrenched personal following are often prerequisite for electoral success
- Absence of internal democracy in parties, and weak local governments make it even harder for enlightened citizens to participate in politics

Populism and Fiscal Imbalances

- Reckless populism to gain marginal vote hurting the exchequer
- Fiscal deficits are not under control
- Skewed priorities – populist schemes instead of education, healthcare and infrastructure

Parties are in decline

Parties often at the mercy of local strong men...

- with abnormal money power, patronage networks and caste connections
- built impregnable modern fiefdoms without legitimate democratic mandate... operating entirely outside party
- weaken the party when they switch sides

Politics at the cost of nation-building

- Parties, in the quest for marginal vote, are compelled to offer short-term freebies
- This is often resulting in competitive populism and serious fiscal deficits
- Even major parties behave differently while in power and opposition. Instability is the consequences; and national interest is the casualty. ex: Petrol price hike, FDI, nuclear agreement
- Even when parties know the consequences, they are helpless; a slight fall in vote share eliminates them from the race to power
- Much of this problem is because of parties' fear of losing marginal vote

Distortions of FPTP - Summary

- National Parties marginalized in most large states
- Political fragmentation
- Money power for marginal vote leading to corruption
- The best and brightest shun elections and politics
- Politics of fiefdoms has taken root .. Parties in decline
- Competitive populism to attract marginal vote
- Divisions exacerbated for local political gains
- Political recruitment flawed, to 'somehow' win constituencies
- Tactical voting because of 'wasted' votes
- Voter apathy and cynicism

Need for an alternative electoral system

That is ...

1. Fair
2. Broadly Acceptable
3. Easy to Accomplish
4. Corrects Most of the Present Distortions
5. Minimal Negative Impact

Proportional Representation (PR) instead of FPTP

FPTP

Candidate
Based

Constituency
Based

High
Threshold
for Success

PR

Party Based

State Based

Moderate
Threshold
for Success

Merits of PR

- Vote buying diminishes as marginal vote is not critical
- Competent and honest politicians with good image become electoral assets
- Rational, long-term policies can be pursued as marginal vote is unimportant
- National parties will be viable in all states
- Vote reflects voters' views
- Greater voter participation
- Voice and representation to all segments and views

Altered Incentives & Outcomes for **PARTIES**

... under FPTP

Dependence on marginal vote

Contest is constituency-based; therefore need for 'strong' candidates with money power & entrenched network

National parties are not viable in states where they fall below 30-35% vote share

Electoral alliances marginalizing national parties over time

... under PR

Dependence on overall vote share in each state

Contest is state-wide; therefore need for clean and credible candidates and leadership

National parties viable if they have a reasonable vote share of even 5-10%

National parties can contest on their own and retain footprint; can have post-election alliance

Altered Incentive & Outcomes for **CANDIDATES**

... under FPTP

Dependence on vote-buying to get marginal vote

Entrenched networks of patronage and corruption to sustain election machine

Adversarial approach and extreme partisanship to deny space to opponents

Only candidates with huge money power and caste base can survive. Entry barrier for clean, credible citizens

... under PR

Incentive to enhance voting share through image and credible campaigns

Quality leadership and delivery to sustain image

Conciliatory approach and harmony to enhance electoral appeal

Clean candidates with good image and ability will thrive

Altered Incentives & Outcomes for **VOTER**

... under FPTP

Vote has a price;
Marginal vote forces vote
buying.
“Take money from all candidates
& vote for one of your choice”

A ‘good’ & clean candidate
cannot win – therefore vote for
him is wasted

A totally undesirable candidate
may win. Therefore tactical
voting for any ‘winnable’
candidate to defeat him

... under PR

Vote has value;
It becomes a means for
improving governance

All votes have value.
No vote is wasted

Voting for party of your choice.
No need for tactical voting

Altered Incentives & Outcomes for **VOTER** (contd...)

... under FPTP

Vote for a 'good' party is futile as its vote share is not high enough

No matter who wins, nothing much changes

“My vote does not matter – therefore I stay away.”
Many abstain from voting

... under PR

Vote for a party that represents your views and concerns

Electoral verdicts can change outcomes

“My vote matters – therefore I will vote.”

Concerns about PR

Issue	Solution
<ul style="list-style-type: none">• Political fragmentation as each caste/group floats a party	<ul style="list-style-type: none">• Reasonable threshold level of, say, 5% vote in a large state – as required for representation, in and from, that state
<ul style="list-style-type: none">• Link between vote and legislator	<ul style="list-style-type: none">• Allocation of each constituency to a member on agreed basis. A member will represent an area within a larger multi-member constituency

Concerns about PR

- At first glance, FPTP favours several groups to come together
- In reality, the local caste group or other identity dominates in many constituencies
- FPTP is constituency-based election; favours sectarian politics
 - Eg: MIM in parts of Hyderabad
 - PMK – with Vanniar vote in North Tamil Nadu
 - Local Caste domination – Lingayat, Vokkaliga, Maratha, Reddi, Kamma, etc..

But, PR allows parties to reconcile conflicting interests for maximum acceptance – State-wide appeal matters; not local domination

Concerns about PR (contd...)

Therefore,

FPTP

- Constituency based
- High barrier for winning
- Difficulty in entry

As a consequence, status-quoist leaders seeking ego-gratification tend to dominate. Political fiefdoms and corruption predominate.

PR

- State based
- Moderate / reasonable threshold for winning
- Wide support base needed

As a consequence, relatively easy, wide acceptance of national parties...

Will PR affect stability?

- At national level, we already have coalitions. Governments in PR countries are more stable
- At the state level, there may be fewer instances of single party rule under PR. This may be a small price to pay. Alternatively, we can combine PR for legislature with direct election of executive only at the state level
- Evidence shows that there is greater policy continuity in PR governments as opposed to FPTP governments

Stability – Constructive No Confidence

- Germany, Spain and Hungary have provisions for Constructive No Confidence.
- Art 67 of German Basic Law. “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”.
- A similar provision can be incorporated to promote stability in India at both national and state levels.

Stability – filling Vacancies without by-elections

- Art 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.”
- Such a provision can be incorporated in law along with PR, so that frequent by-elections can be avoided
- Constructive no confidence and filling vacancies without frequent by-elections will enhance stability of governments

Constitution allows PR - No amendment needed

Art. 81(2)(b) of The Constitution Of India

For elections to 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...

Similar provision exists for elections to Legislative Assemblies under Art. 170(2)

Only Representation of the People's Act needs to be amended

A simple PR model for India

- State as unit for PR threshold (for State Assembly & Lok Sabha)
- Multi-member constituencies 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 in order of preference.

A simple PR model for India (contd...)

- Parties get seats in proportion to their votes in a state, if they cross the minimum required vote of, say, 5% in a large state
- Members are elected from party lists in each multi-member constituency
- Required number of SC / ST 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.

LOCAL GOVERNMENTS

Local Governments

VOTE

- Public Good
- Reduced role of vote buying
- Participation of enlightened citizens

TAXES

- Services
- Better Public policy
- Focus on infrastructure and nation building
- Better fiscal management

AUTHORITY

- Accountability
- Better service delivery
- Greater legitimacy and democracy



SUNNYVALE

This is an aerial photograph showing the border between Sunnyvale and Cupertino. The top half of the image is Sunnyvale, and the bottom half is Cupertino. A major road, Homestead Rd, runs horizontally across the middle. Other streets shown include Lachine Dr, Lowell Ct, W Homestead Rd, Noranda Dr, and Dr. Tang Acupuncture Clinic. The word 'SUNNYVALE' is written in large white letters across the top Sunnyvale section, and 'CUPERTINO' is written in large white letters across the bottom Cupertino section.

CUPERTINO

Lachine Dr

Lowell Ct

W Homestead Rd

Homestead Rd

Homestead Rd

Homestead Rd

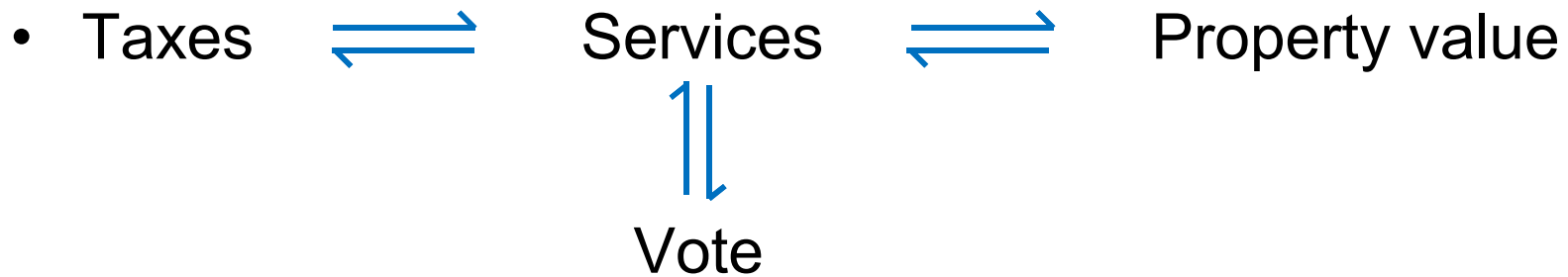
2104

Noranda Dr

Dr. Tang
Acupuncture
Clinic

Local Government – Cupertino vs Sunnyvale

- Sunnyvale & Cupertino are two cities in Bay Area of California on either side of Homestead Road
- Through all conditions are similar, property values of Cupertino are 40 – 50% higher
- Reason: School District in Cupertino has good reputation for outcomes. Only local residents (tax payers) can send kids to local public schools. Hence, greater demand for houses in Cupertino



Local Government - J&K experience

- It was a vote for self-governance, *not* self-determination
- **79% of voters** came out to exercise their franchise in the party-less election for local self-government institutions and elected some **33,000 representatives in 4,200 panchayats**.
- This election result gave India a priceless opportunity in a militant-plagued state
- If funds are devolved with powers at **Rs.1000/capita to every panchayat and municipal ward**, people would be involved in things that matter in their lives.
- Terrorism and secessionism would recede with people's participation and satisfaction in outcomes.

THANK YOU