

# Governance Reform - Vital First Steps

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## Flawed elections

1. Elections are the very lifeblood of a democracy. Honest and capable citizens freely chosen as their representatives and servants by voters in a fair election process constitute the essence of good governance. An election is therefore about 'who' get elected, 'how' the election is held and 'what' they do after the election. India is singularly fortunate in being able to fulfil the four essential conditions for being categorized as a liberal democracy, as outlined by Myron Weiner.
  - 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.
  - iii. Governments defeated in elections step down; losers are not punished by winners; 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 figure-heads, 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 standards only a few nations - largely belonging to North America and Western Europe - can be classified as functioning democracies without interruption over the past fifty years. India belongs to this select group, and we can be justly proud of that achievement.

2. However, there is much that is wrong with our elections. Flawed electoral rolls have become a menace. About 40% errors are noticed in electoral rolls in many urban areas, and bogus voting in towns exceeds 20%, making our elections a mockery. Purchase of votes through money and liquor, preventing poorer sections from voting, large scale impersonation and bogus voting, purchase of agents of opponents, threatening and forcing agents and polling personnel to allow false voting, booth-capturing and large scale rigging, bribing polling staff and police personnel to get favours and to harass opponents, large scale violence and use of criminal gangs, stealing ballot boxes or tampering with the ballot papers, inducing or forcing voters to reveal their voting preferences through various techniques including 'cycling' etc, illegally entering the polling stations and controlling polling process - all these are an integral part of our electoral landscape.
3. Many scholars wonder how, despite such massive irregularities the electoral verdicts still seem to largely reflect public opinion, and how parties in power often lose elections. The answers are simple. Happily for us, though parties in power are prone to abusing authority for electoral gains, there has never been any serious state-sponsored rigging in most of India.

The irregularities are largely limited to the polling process alone, and most of pre-polling activity including printing and distribution of ballot papers, and post-polling activity including transport and storage of ballot boxes and counting of ballots are free from any political interference or organized manipulation. That is why parties in power have no decisive advantage in manipulating the polls, and electoral verdicts broadly reflect shifts in public opinion. However, the massive irregularities in polling process make sure that candidates who deploy abnormal money and muscle power have a distinct advantage. Sensing this, most major parties have come to nominate 'winnable' candidates without reference to their ability and integrity. Thus, the use of money power and muscle power are sanctioned by almost all the parties, and often they tend to neutralize each other. The net result is that candidates who do not indulge in any irregularity have very little chance of being elected. Election expenditure - mostly for illegitimate vote buying, hiring of hoodlums and bribing officials - is often ten or twenty times the ceiling permitted by law. Criminals have a decisive or dominant influence on the outcome in many parts of India, and have often become party candidates and won on a large scale.

4. Active monitoring and campaigning by non-partisan citizens' initiatives is critical to check the malpractices and bring in simple, but effective reforms. Inclusion of names of eligible voters in electoral rolls and deletion of ineligible names is, for instance, a simple, easy and remarkably effective measure within the existing law, through people's involvement. Minor procedural improvements like making available electoral rolls in every post office, and using them as centres for enrolling and deleting names will make a vast difference. Bringing pressure on political parties to select candidates through a democratic process involving members' voting, screening of candidates for criminal record or corruption and publicizing the findings, campaign for simple procedural changes like mandatory identity cards as a precondition for voting, and mandatory repolling if the tendered votes (sure proof of rigging) exceed a certain number or percentage, making information about candidates public, common platforms for candidates' public interaction facilitating probing questions, campaign to promote enrollment and voting and people's vigil on polling day are some of the citizens' initiatives necessary to cleanse our electoral process.

## **India at crossroads**

5. Indian republic is now fifty years old. Let us have a glimpse of the Indian State today, in order to have a better understanding of the constitution in actual operation. India today is at the crossroads. The most likely topic of conversation when any two Indians meet at leisure is the decline of civil society and the condition of the Indian state. The Indian state has become too big, all-pervasive and yet soft, inefficient, and effete. In large parts of the country there is breakdown of order. Virtual lawlessness and anarchy are prevailing. A citizen, whose dignity and self-reliance are paramount for the survival of democracy, is made more and more dependent on the state. The situation is aggravated by competitive populism, a dangerous permissiveness that tolerates criminalisation of our polity and society, ever-growing nexus between money power, muscle power, and political power, increasing centralisation in a vast and diverse polity and serious erosion of the legitimacy of authority — all of which have become characteristic of the Indian state. In the light of this, we should examine where

exactly our democratic model of governance has gone wrong. We all accept that democracy is the best and humane form of government. Modern history has also taught us that democracy is the most successful form of government in terms of economic growth, national power, and human welfare.

### **Constitutional values vs. colonial instruments**

6. This crisis resulting from the many deficiencies noted in our democratic system leads us to the inescapable conclusion that our democracy is extremely flawed, and its poor design ensured the eventual breakdown. The preamble, the fundamental rights and most of the directive principles reflect universal human democratic values of modern civilization. However, the antiquated instruments of governance are largely unsuited to the challenges of today in a vast, developing nation with high proportion of population oppressed under the weight of poverty, drudgery and illiteracy. In the early year after independence, this conflict between constitutional values and colonial instruments of governance was camouflaged. The euphoria accompanying the transfer of power led to a general belief that the moment Indian leaders acquired power, things would automatically improve even with the old instruments of governance. However, the subsequent events belied these hopes. In the first two decades after independence, the aura of freedom struggle, the towering stature of the early leaders associated with that struggle, the hope of better things to come, and the inadequate understanding of the loopholes in the mechanics of governance ensured a certain measure of stability, hope and harmony. As all such hopes are dashed, and as persistent rejection of the parties in power does not seem to result in any significant, tangible improvement, people are increasingly sullen and resentful.
  
7. It is very easy and tempting for us to blame any particular segment of our polity or governance structure for this unhappy state of affairs. There are many among our governing classes who were, and are, honourable. It would be cynical and dangerous to condemn ourselves and assume that we, as a people, are incapable of self-governance. The Indian people are in no way inferior — they are as good as any other people. Our governing classes are no more venal than in any other society. Our people are no more capricious than those elsewhere. We have the same sense of values and capabilities that made other nations great. The real problem is that our governance apparatus tends to suppress the best and bring the worst out of us. The state structure has been increasingly incapable of rewarding good behaviour or correcting bad behaviour. Power has two manifestations — positive and negative. Positive power can be defined as the power to influence events, resources or human behaviour to promote public good. This positive power is severely restricted in our governance structure. The high and mighty of the land — be it the prime minister or chief minister or other ministers or high officials — have very limited positive power. The outstanding among these functionaries shine by comparison, as they perform several notches above the average. However, even the best performance is far short of what is possible in a well-designed governance structure and what is necessary in a well-run civil society. In the process, every functionary in our constitutional and legal scheme of things has a perfectly rational and plausible alibi for non-performance. However, the negative power which is manifested in pelf, privilege, patronage, petty tyranny or plain nuisance value is more or less

unfettered and limitless. Every one of the 18 million public servants, including all elected politicians, appointed public officials and employees of all public sector undertakings, enjoys this negative power in abundance. Understandably, the vast majority of them choose to exercise it, given the climate in which good is not rewarded and bad is not punished. The few who wish to exercise positive power find themselves in shackles and wield limited influence at best. The resultant imbalance has caused incalculable damage to our polity and society, hurtling the Indian nation into a grave crisis. As a consequence, the great institutions of state have all but collapsed, and the crisis of governability is deepening by the day.

8. In the judgement of the people, no arm of state escapes the blame — whether the political class or the bureaucracy or judiciary. The politicians are much more reviled and blamed, because in their case the imbalance in exercise of power as well as the incompatibility between honesty and survival are far more clearly evident. In this demonology, the bureaucracy comes next because in its case there is life-time security irrespective of performance and therefore it is possible to be honest and yet survive. Judiciary is last in vilification, since it is largely immune from the vagaries of politics and there is less interface with the general public on a day-to-day basis. However, judiciary is no less culpable, to the extent that there is gross inefficiency, delay and inaccessibility, almost amounting to miscarriage of justice in most cases. As the old adage goes, the loser in a civil suit laments publicly in court, and the winner sheds tears privately at home. The root of the problem, in a large measure, lies in the governance structure we adopted and not in our people and politicians or officials or judges. It is easy and fashionable to blame the political class or bureaucracy or judiciary for all our ills. This demonising may find scapegoats but will not help in retrieving the situation, unless we identify the root causes and eliminate them.

### **Political process**

9. Political and electoral systems have played havoc with people's lives and governance process. Political parties are totally unaccountable to people in their organisational functioning. It is impossible for any serious candidate for elective office to get elected without mobilising unaccounted funds and violating law. The people or the members of the political parties have no role whatsoever in the selection of candidates nominated by the parties. In most cases, even a list of members of the political parties is unavailable. There is no internal democracy in political parties. As a result, organisations that function wholly undemocratically and are totally unaccountable are expected to govern the nation democratically! The behaviour of the electorate is increasingly plebiscitary in nature. However, the Westminster model adopted by us recognises only power by acquiring legislative majority by means fair or foul, without reference to public opinion or people's mandate. As people's mandate and power are easily divorced, the rulers are increasingly obsessed with survival in power at any cost. As a result, it is now axiomatic that integrity in public life and survival in public office are no longer compatible.

10. In this milieu, the vote, instead of being an unifying, cleansing and energising tool, has become a divisive force, or at best a means for expression of anger and frustration. The electoral behaviour in most parts of the country over the past 25 years clearly shows that the dominant mood of the electorate is to reject the party in power. Often this rejection is despite the perception of the elites that the government has performed creditably, and the alternative chosen by the people is even less attractive on careful analysis. Obviously the voter perceives the issue differently. As far as he is concerned the government of the day failed to fulfil his expectations. Even populist governments, which successfully transferred assets and resources to the people through direct subsidies and welfare schemes, incurred the wrath of the people as much as those governments that had long-term perspective. This only shows that people are disgusted with the political process itself, and there is deep-seated resentment and unrest about the exercise of power, the imbalance between the exercise of positive and negative power, marginalisation of their own role in the governance process and their disempowerment.
11. This rejection of the governing class by the voter can be construed to be both positive and negative. The positive significance is the demonstration of the voter's yearning for a comprehensive reform and rejection of status quo. The negative impact is the increasing instability and fear of the ruling classes to face the electorate. All these maladies constitute a first class recipe for corruption, greed, and short-sightedness on the part of those in authority. Corruption has become endemic and is widely perceived to be an ubiquitous feature of our governance. No class of public servants is exempt from this. People who are victims of this day-to-day corruption do not have effective institutional mechanisms for resisting it, and therefore succumb to it. Those who have the will to resist do not dare to do so for fear of greater personal loss than the potential gain resulting from resistance. As a result, it is more convenient and less cumbersome to become a part of the process, than to fight against it. Every individual in this vicious cycle therefore prefers the status quo either to maximise personal gain or minimise personal pain, even as the society at large loses more than individual gain, and is increasingly debilitated. To explain this phenomenon, Robert Wade coined the expression, 'dangerously stable equilibrium'.
12. The nature and magnitude of our crisis are undoubtedly daunting and we are witnessing the collapse of the Indian republic. However the Indian crisis is by no means intractable or immutable. The resolution of this crisis lies in the recognition that what we need is not merely a change in players, but a fundamental transformation of the rules of the game. Such a reform process should encompass several spheres of governance ranging from political parties to justice system.
  - Democratization of political parties to enable our best men and women to participate actively in the political process
  - far-reaching electoral reforms to ensure free and fair elections enabling the best leadership to emerge, democratic decentralization and empowerment of citizens to an extent that the relationship between the citizens vote and their welfare, between the tax collected and public services provided is clearly established
  - a public service reform to make bureaucracy an effective instrument of good governance

- greater separation of executive from legislature to make honesty compatible with survival in public office; a speedy, efficient, accessible justice system and
- institutional self-correcting mechanisms and safeguards against abuse of public office — all these should be integral components of our governance reforms.

In this all-pervasive crisis of governability, the only practical realistic realisable way out is a peaceful, democratic, holistic transformation of the Indian governance structure. The people are ready and impatiently waiting for a change. The time to change is now before the all-pervasive restlessness is transformed to revolution or resignation. The meaning of the people's verdicts over successive elections is clear. The ball is in the court of politicians and public opinion makers. The task is difficult, but vital; the struggle is hard, but necessary; the risks are high, but cannot be avoided. The time for concerted action is now.

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