REVITALIZING OUR DEMOCRATIC FABRIC

National Judicial Conference for High Court Justices

National Judicial Academy, Bhopal – 3rd Feb 2018

Presentation by

Dr. Jayaprakash Narayan



India is a successful functioning democracy

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

Two Spectacular Successes

- Managing unmatched linguistic diversity (compare with the challenges in Sri Lanka, Pakistan, Belgium etc)
- True Federalism in a continental nation



But there are Challenges...

- 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



The process should attract the best talent into public life

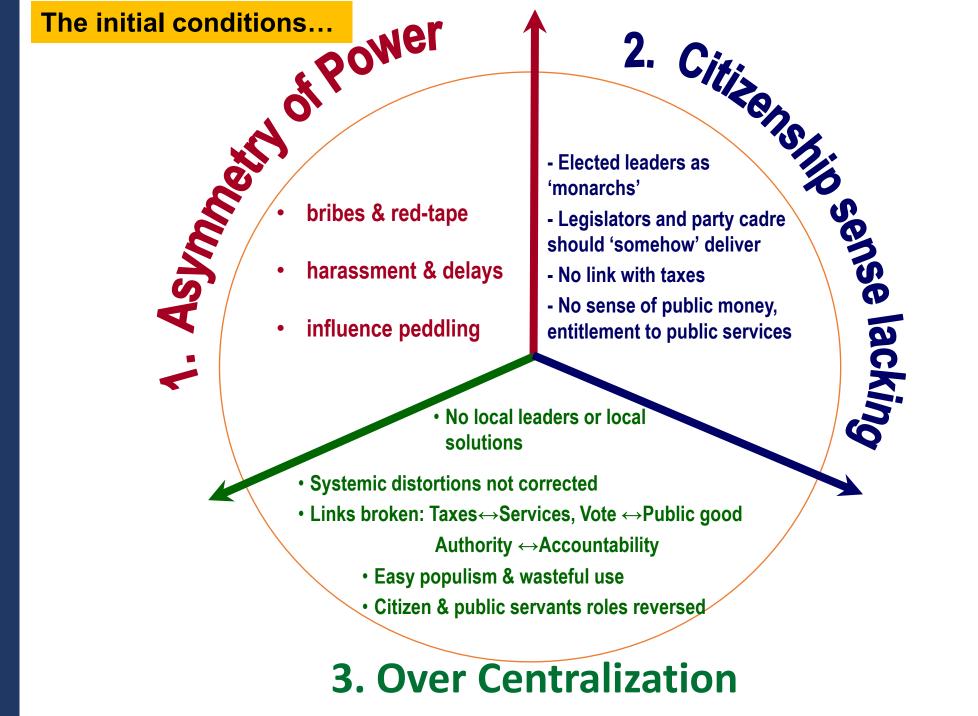
Public spirited, capable citizens should be electable through ethical means and rational methods

THE 4 PURPOSES OF POLITICS

There should be real choice to voters in terms of ideas and agenda

A government once in office should be able to deliver on the agenda







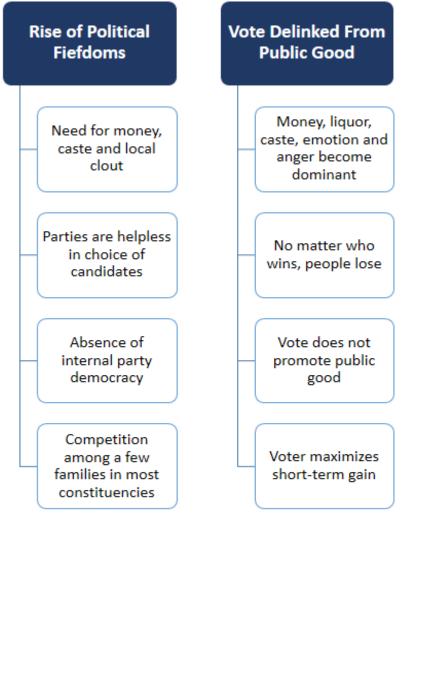
System Caught in Interlocking Vicious Cycles

Inexhaustible demand for illegitimate funds Most expenditure incurred for vote buying Rise of political fiefdoms Vote delinked from public good Taxes delinked from services Political survival and honesty incompatible Social divisions exacerbated



Inexhaustible Demand for Illegitimate Funds Corruption Illegitimate Money Power Political Power

Most expenditure is to buy votes Greater voter cynicism Voter seeks money & liquor More election expenditure Not spending large amounts almost guarantees defeat Greater corruption



Social Divisions

Exacerbated

Identity politics,

polarization and

strife

Marginal vote most

important

Strategic voting

and vote-bank

politics

Voices of reason

and modernity

drowned out by

obscurantists

Politicians pander to fundamentalists

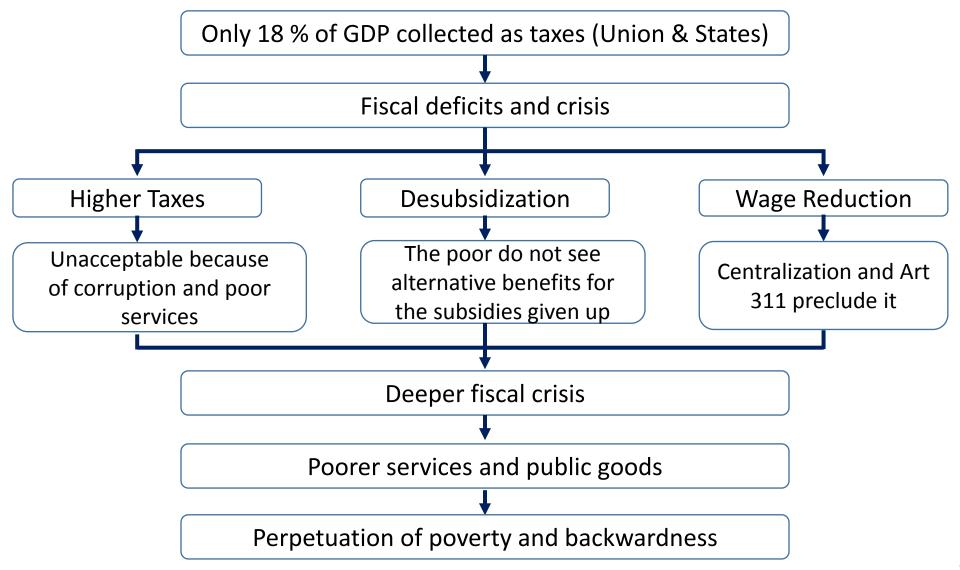
Countermobilization by other groups based on primordial loyalties



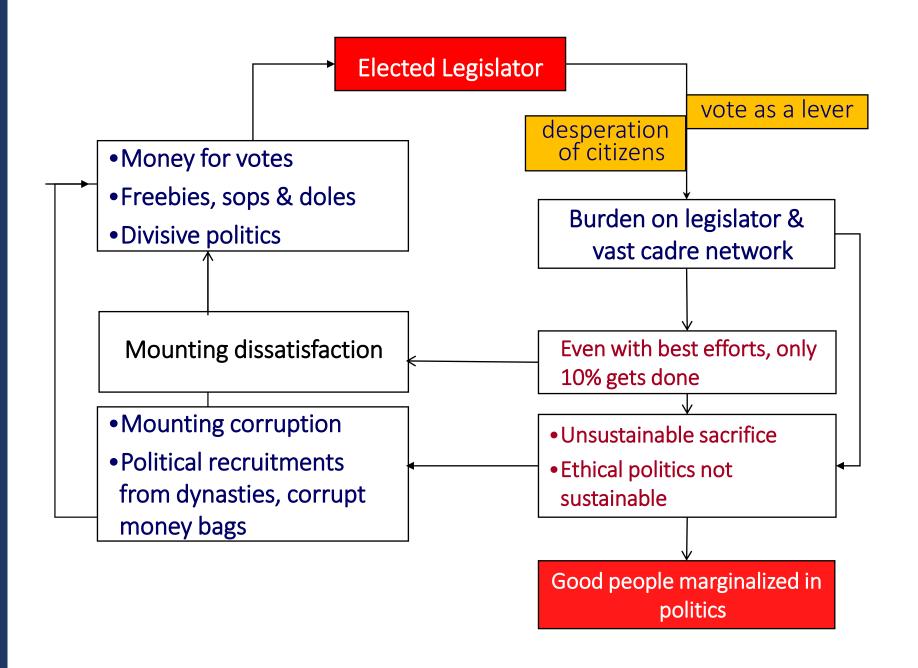
Vicious

Cycles

Taxes Delinked From Services









Importance of Rule of Law

Effective rule of law will accelerate change by:

- Enforcing accountability
- Preventing / checking abuse of authority
- Enforcing rights of the weak and poor
- Reducing incentives for criminals & corrupt to enter politics / capture the state
- Punishing corruption swiftly



Failure of Rule of Law

Police:	 Inadequacy of numbers – about 110 / one lakh population Crime investigation controlled by political partisanship Lack of professionalism Use of torture as an instrument of investigation & extracting confessions Near absence of forensic infrastructure
Prosecution:	Weak, politically controlled and with little say in investigation
Court system:	 Inadequate number (13 / million population) Inability to attract talent in trial courts Dilatory procedures



Why State matters?

State is critical for citizens' welfare:

- rule of law
- basic amenities and services
- land management
- quality education and healthcare
- ease of doing business



Electoral outcomes are often products of people's response to State government

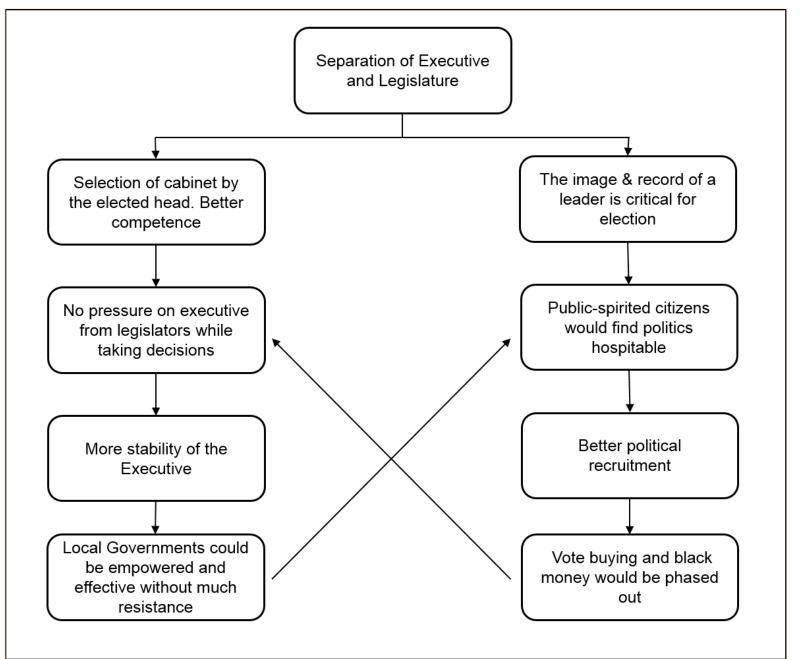
The purpose of a government is to make it easy for people to do good and difficult to do evil.

- William Gladstone



1. Direct elections to the executive in state to ensure:

- Clear separation of powers
- Fixed tenure and stability
- Cabinet chosen by the executive (outside the legislature)
- No nominated Governor
- No Article 356



Ahead, in our context

The Way



2. Proportional Representation

- State as unit for PR threshold
- Multi-member constituencies having 6 to 10 seats
- Each voter will have a single vote for a party of his/her choice.
- Each party will offer a list of candidates in order of preference
- Members are elected from party lists in each multi-member constituency
- Each elected member is allotted to an Assembly / Lok Sabha segment by preferential choice based on party vote share in the Multi-Member Constituency

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





3. Genuine Empowerment of Local Governments

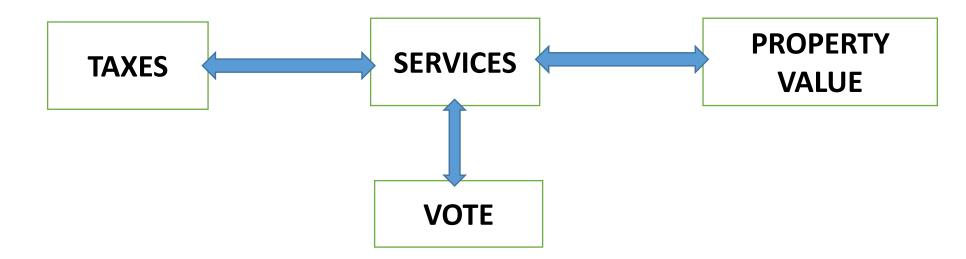
The Way
Ahead,
in our
context

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 & 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





The Way Ahead, in our context

4. Reforms in Rule of Law

- Separation of crime investigation
- Independent investigation commission under judicial supervision
- Independent District Attorneys drawn from trial court judges (Session Judges) on deputation for a fixed term
- Strong forensic infrastructure
- Increase number of judges / courts
- Indian Judicial Service
- Procedural reform for justice delivery



The Way Ahead, in our context

