

REVITALIZING OUR DEMOCRATIC FABRIC

National Judicial Conference for High Court Justices

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Presentation by

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India is a successful functioning democracy

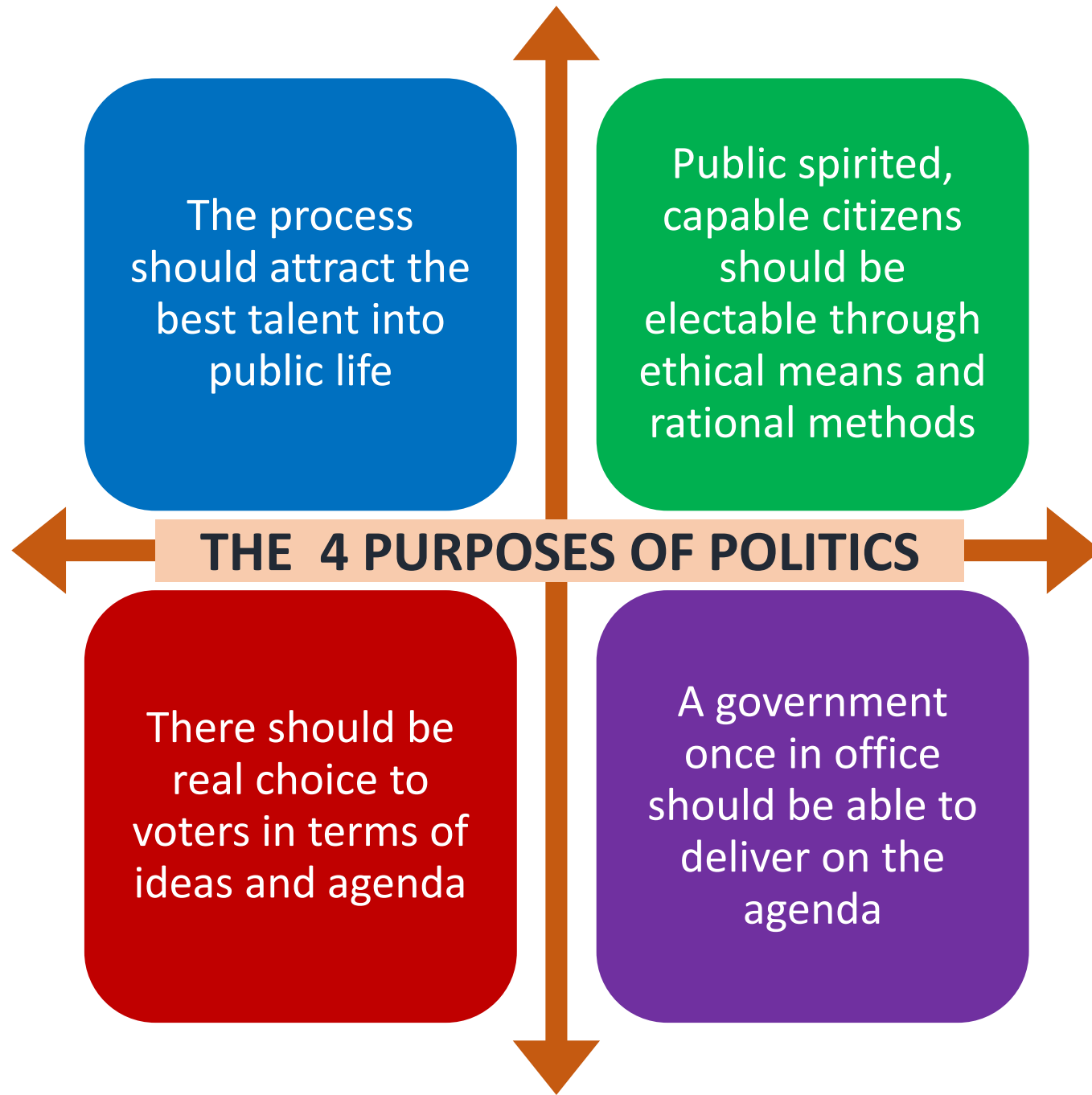
- Competitive elections
- Political freedoms for all
- Peaceful transfer of power and no retribution
- Real power with elected governments

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



Our delivery is appalling !

Out of 49 large economies(GDP>\$200 bn), India ranks 45th or lower on every parameter of development in the company of Pakistan, Bangladesh and Nigeria.

Rank	GDP Percapita (PPP)	Life Expectancy	IMR	MMR	OOP Expenditure in Healthcare	EYS (Expected Years of Schooling)	MYS(Mean years of Schooling)
40	South Africa	Venezuela	Peru	Colombia	Indonesia	Malaysia	Turkey
41	Peru	Bangladesh	Egypt	Peru	Iran	Egypt	Thailand
42	Egypt	Egypt	Philippines	Venezuela	Philippines	South Africa	Brazil
43	Indonesia	Russia	Indonesia	Philippines	Singapore	Indonesia	China
44	Philippines	Indonesia	South Africa	Indonesia	Egypt	Vietnam	Colombia
45	India	Philippines	Bangladesh	South Africa	Pakistan	India (45)	Egypt
46	Vietnam	India (46)	Iran	India (46)	India (46)	Philippines	India (46)
47	Nigeria	Pakistan	India (47)	Bangladesh	Venezuela	Bangladesh	Nigeria
48	Pakistan	South Africa	Pakistan	Pakistan	Bangladesh	Nigeria	Bangladesh
49	Bangladesh	Nigeria	Nigeria	Nigeria	Nigeria	Pakistan	Pakistan

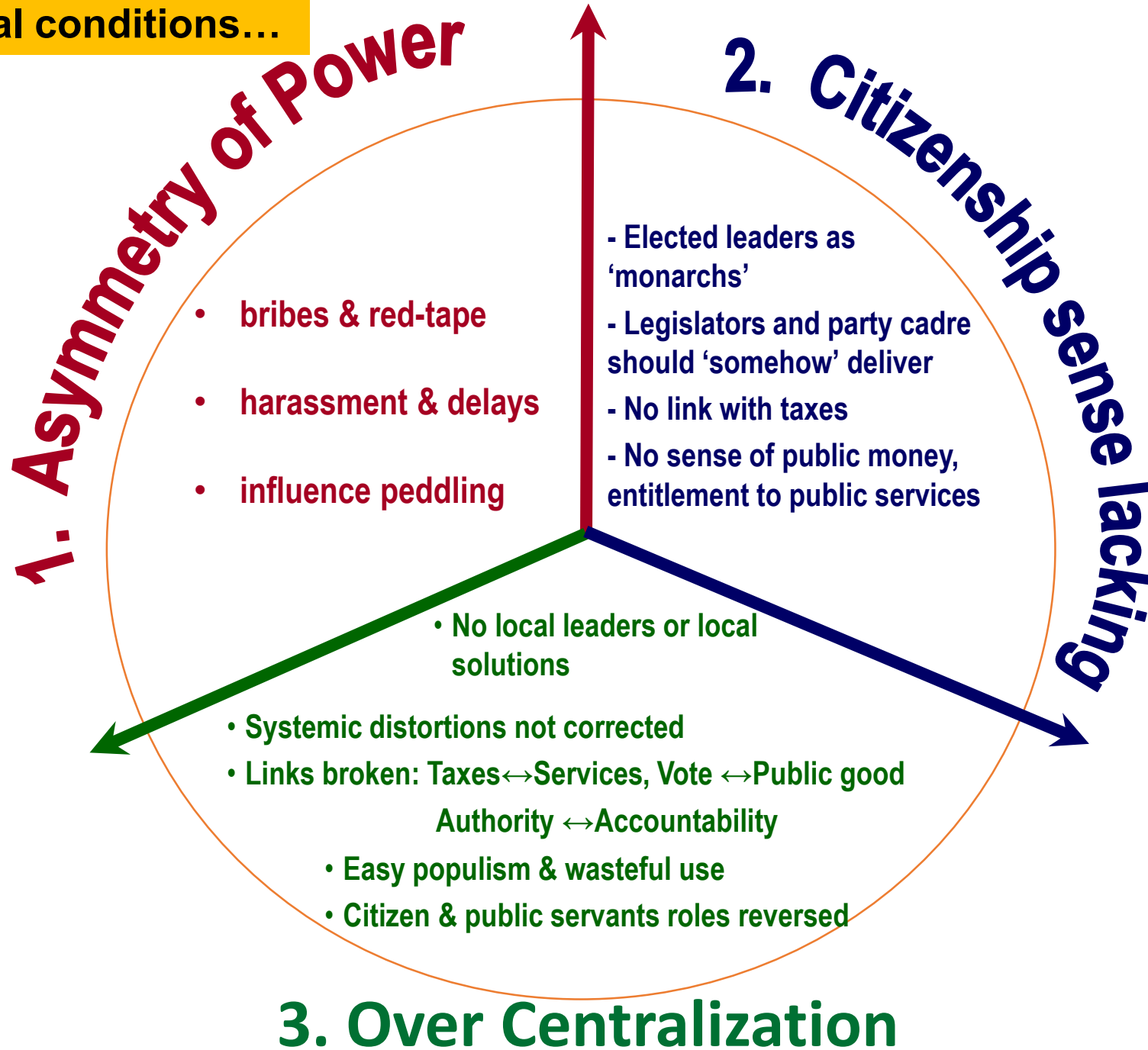
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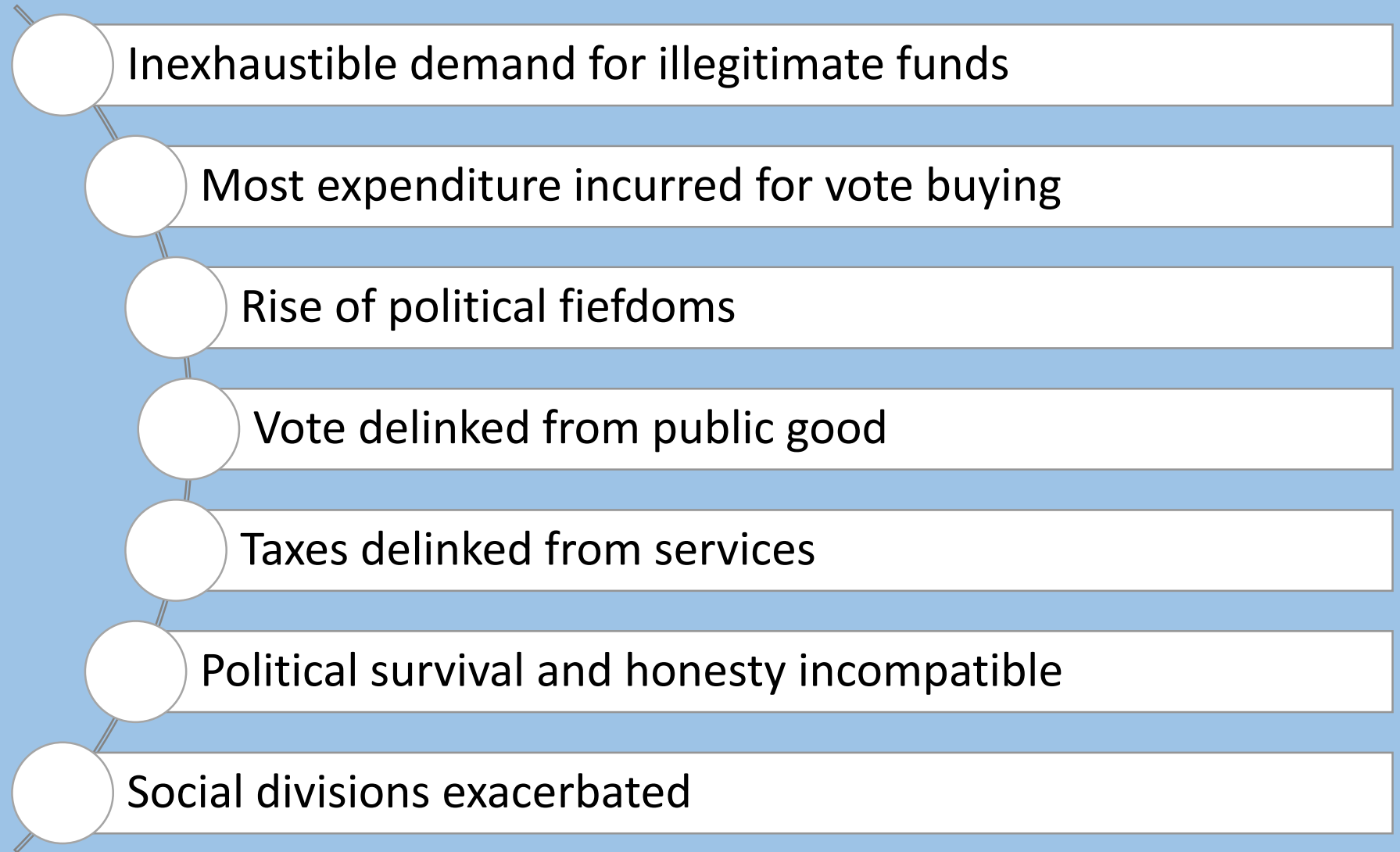
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Rank	HDI	Power Consumption (Kwh Per capita)	Percentage of population employed in Agriculture	LFPR (Labour Force Participation Rate) -Women
40	Colombia	Egypt	Egypt	South Africa
41	Egypt	Vietnam	Nigeria	Bangladesh
42	Indonesia	Peru	China	UAE
43	Vietnam	Colombia	Philippines	Italy
44	Philippines	Indonesia	Thailand	Turkey
45	South Africa	India (45)	Indonesia	India (45)
46	India (46)	Philippines	Vietnam	Pakistan
47	Bangladesh	Pakistan	Pakistan	Egypt
48	Pakistan	Bangladesh	Bangladesh	Saudi Arabia
49	Nigeria	Nigeria	India (49)	Iran

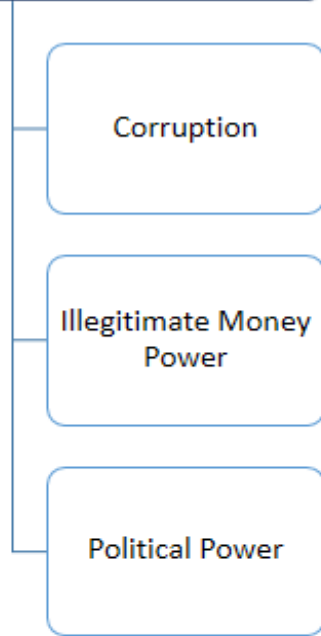


System Caught in Interlocking Vicious Cycles

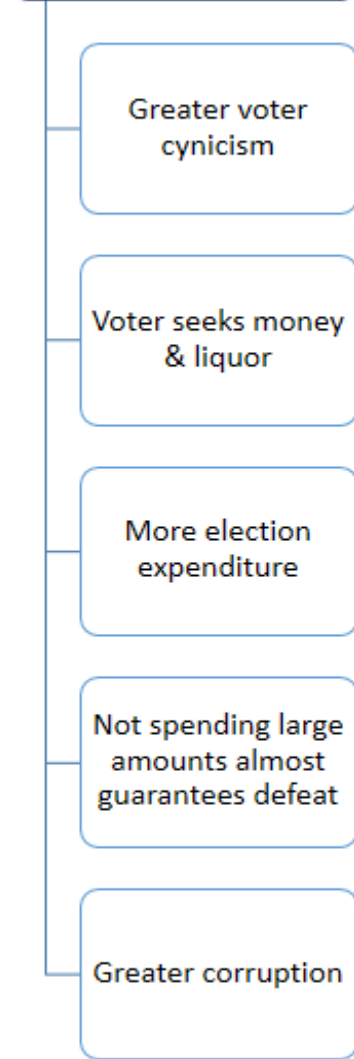


Vicious Cycles

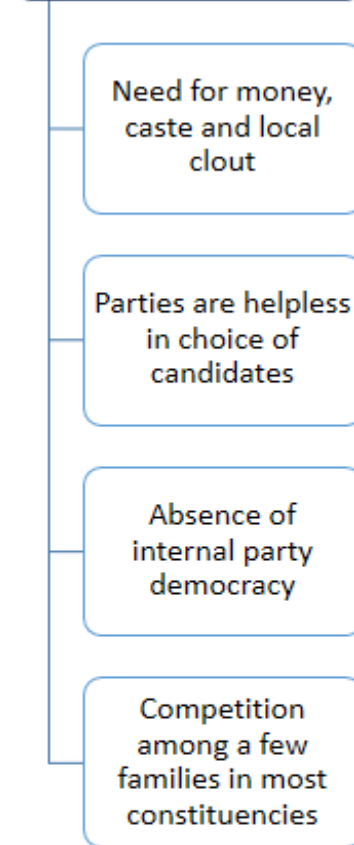
Inexhaustible Demand for Illegitimate Funds



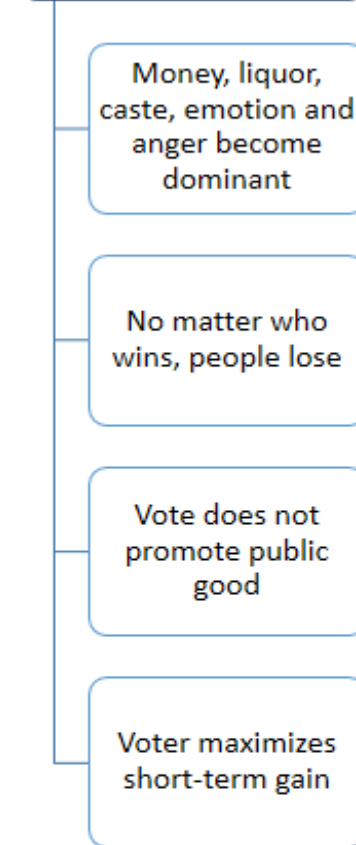
Most expenditure is to buy votes



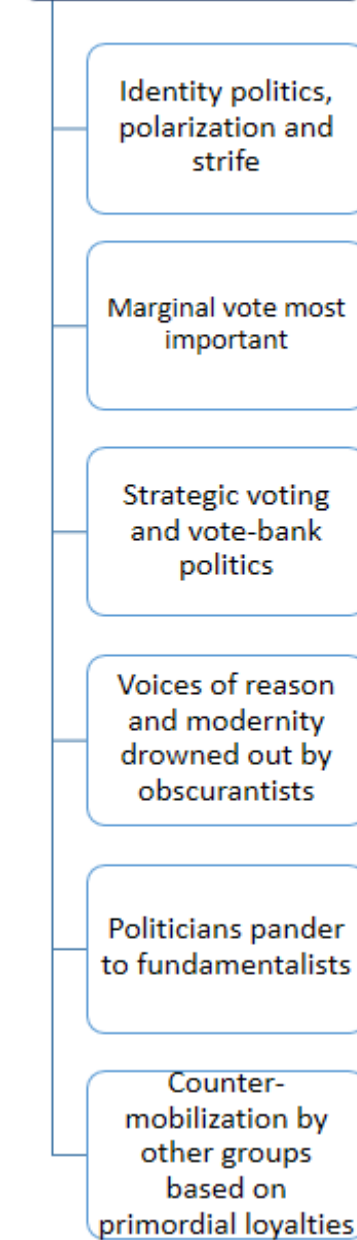
Rise of Political Fiefdoms



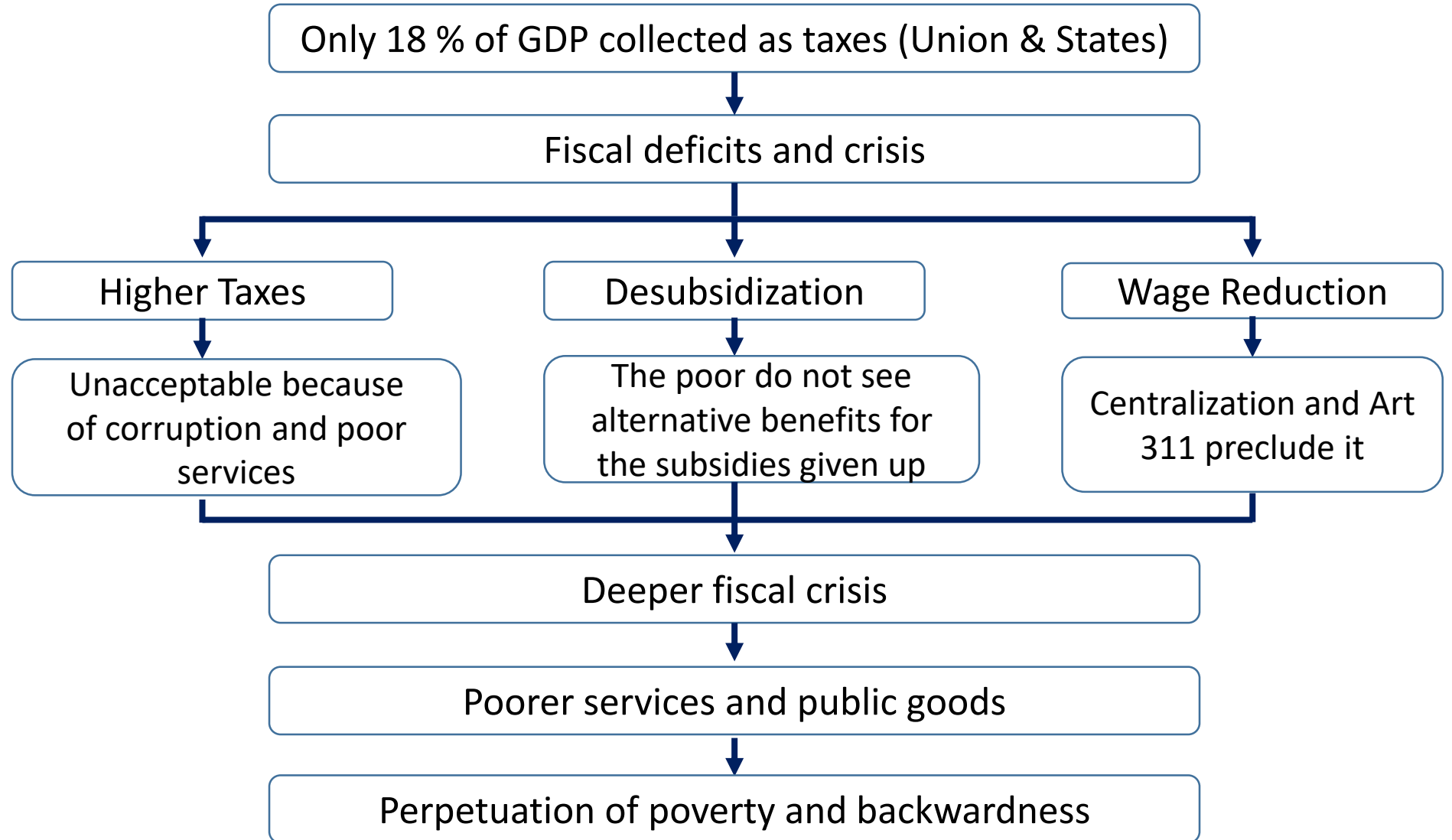
Vote Delinked From Public Good

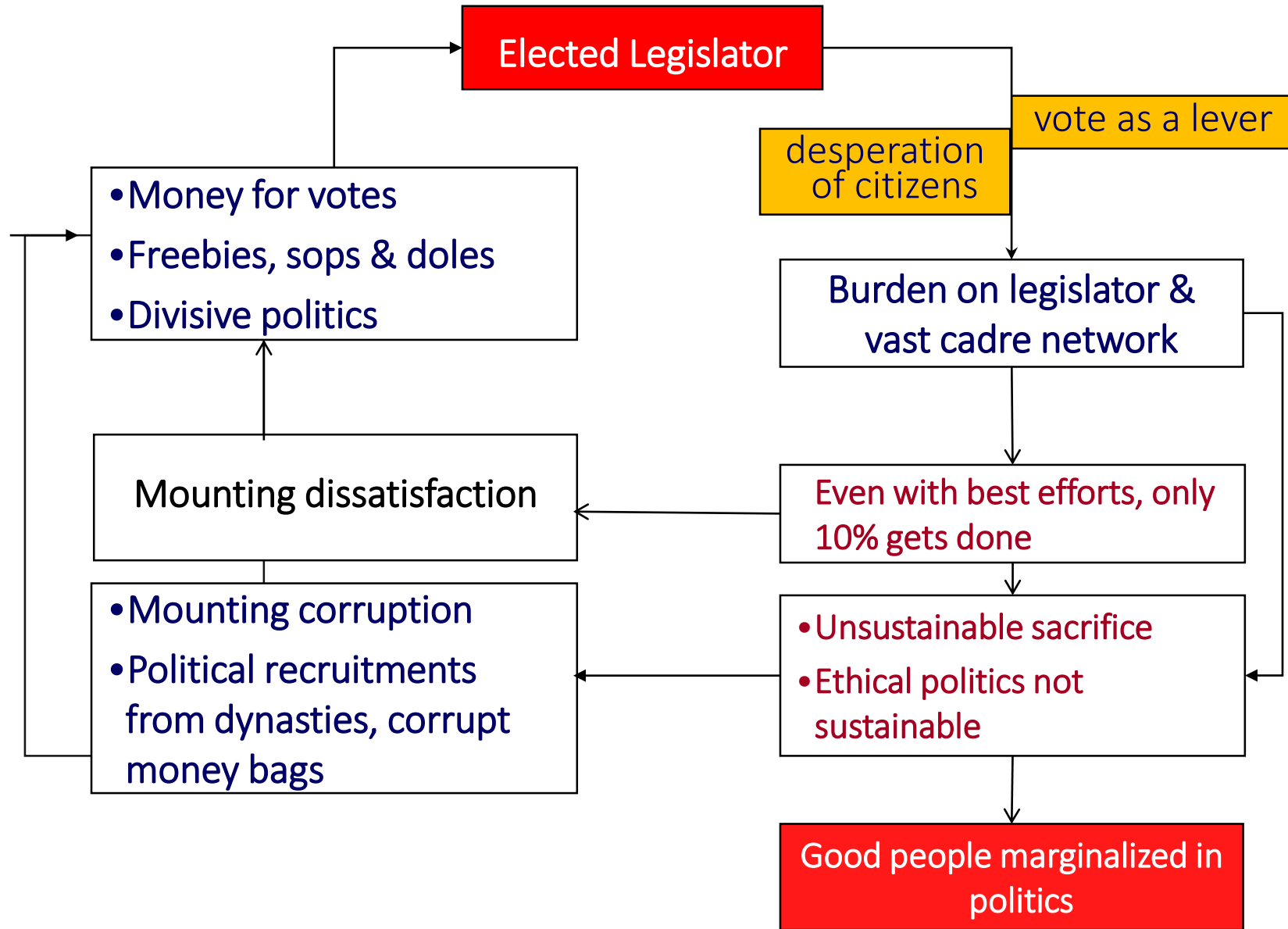


Social Divisions Exacerbated



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:	<ul style="list-style-type: none">▪ 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:	<ul style="list-style-type: none">➤ Weak, politically controlled and with little say in investigation
Court system:	<ul style="list-style-type: none">❖ Inadequate number (13 / million population)❖ Inability to attract talent in trial courts❖ Dilatory procedures

Why States matter?

State is critical for citizens' welfare:

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

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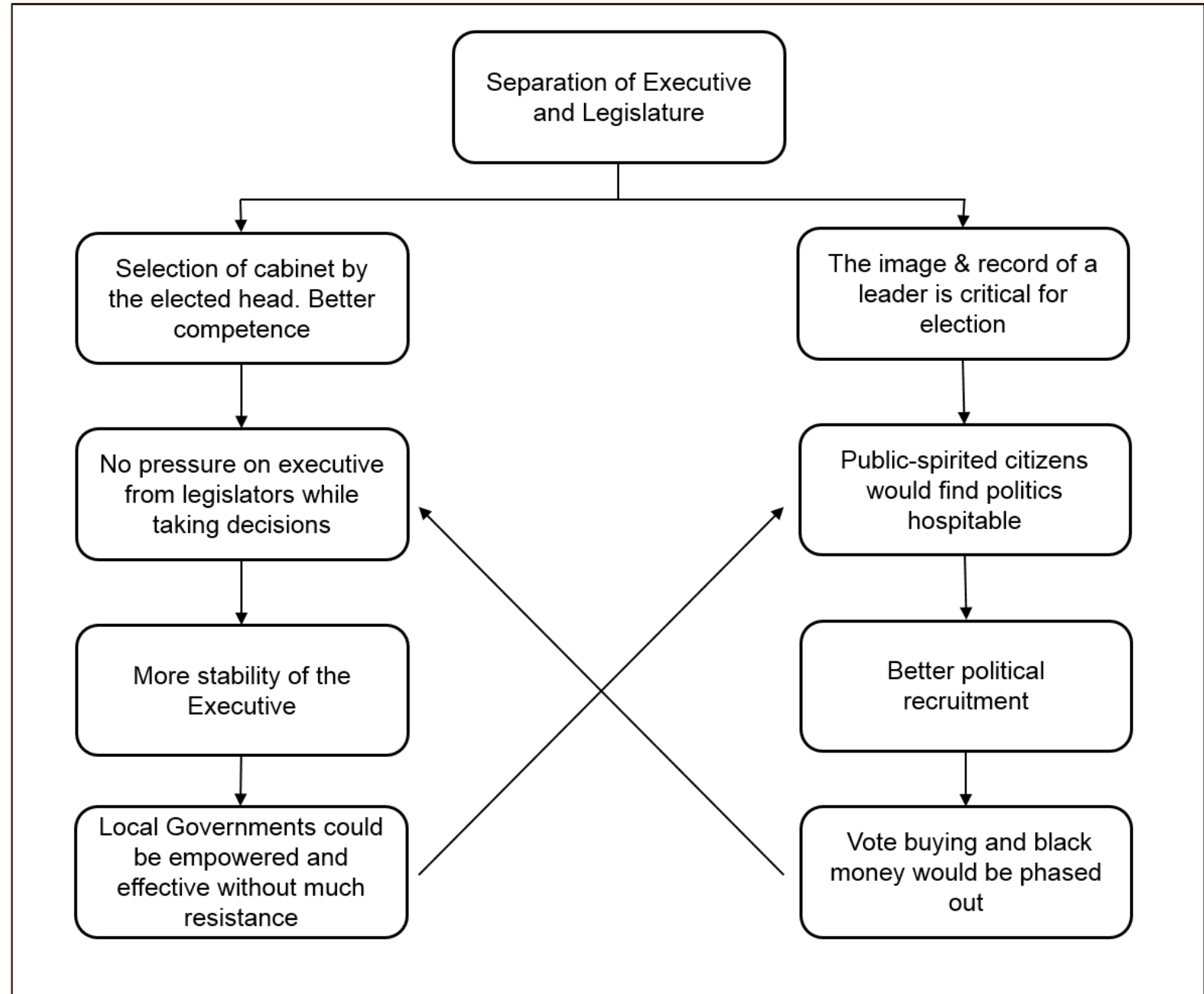
Electoral outcomes
are often products
of people's response
to State government

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



The Way Ahead, in our context

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

**The Way
Ahead,
in our
context**

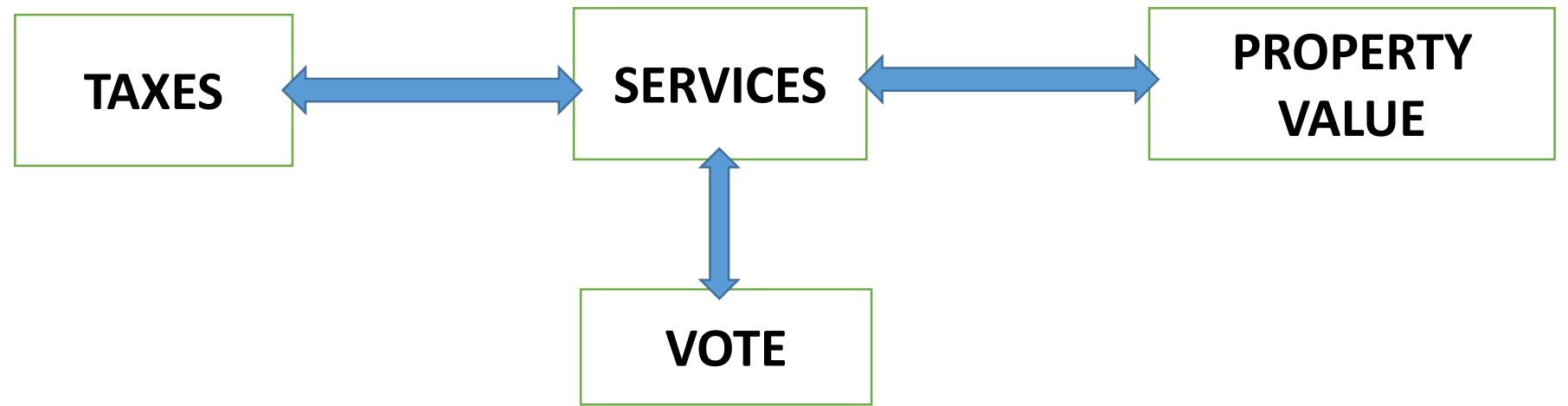
3. Genuine Empowerment of Local Governments

VOTE	<ul style="list-style-type: none">➤ Public Good➤ Reduced role of vote buying➤ Participation of enlightened citizens
TAXES	<ul style="list-style-type: none">➤ Services➤ Better Public policy➤ Focus on infrastructure and nation building➤ Better fiscal management
AUTHORITY	<ul style="list-style-type: none">➤ Accountability➤ Better service delivery➤ Greater legitimacy and democracy

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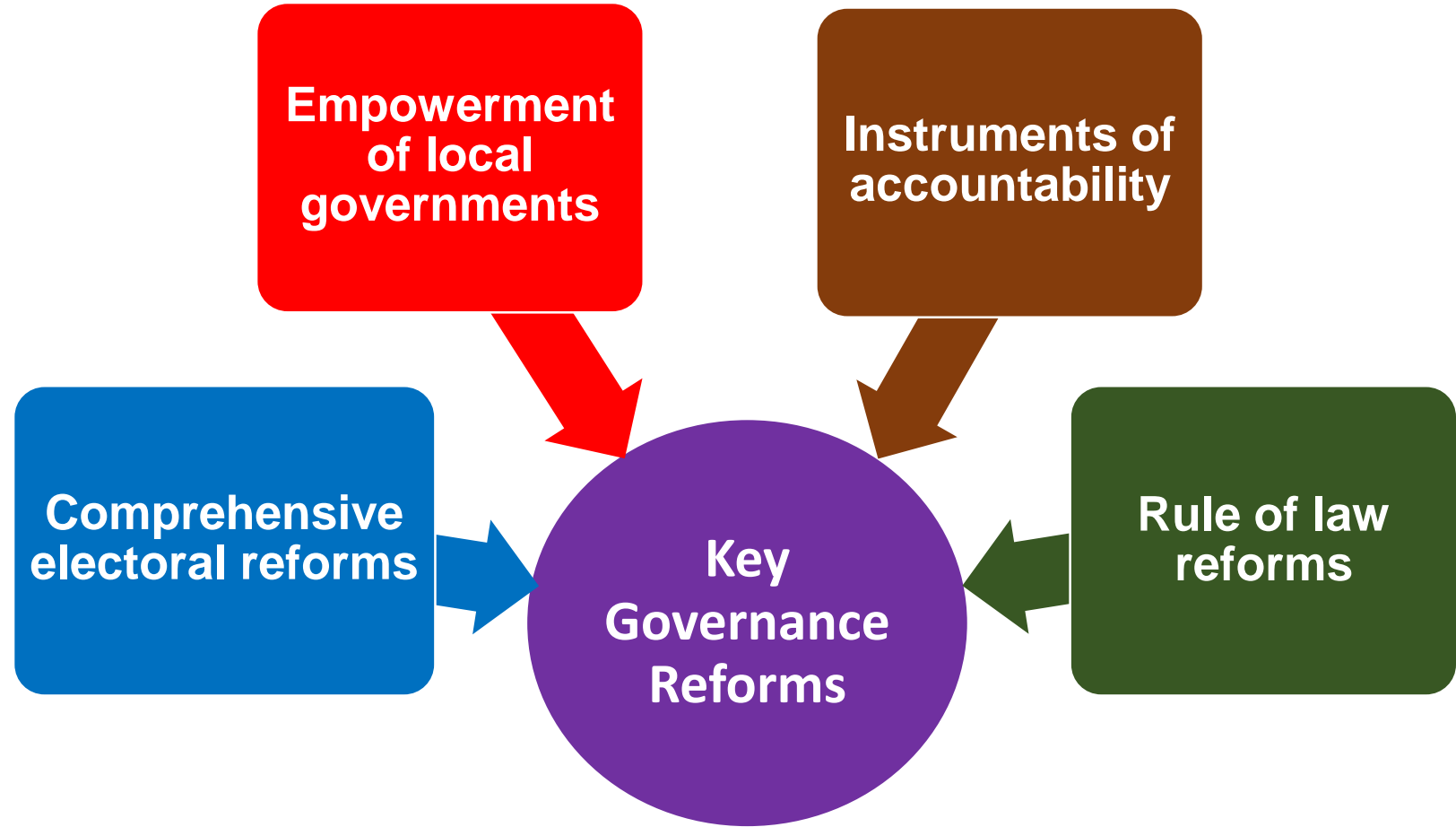
- Sunnyvale & Cupertino are two cities in Bay Area of California on either side of Homestead Road
- Through all conditions are similar, property values of Cupertino are 40 – 50% higher
- Reason: School District in Cupertino has good reputation for outcomes. Only local residents (tax payers) can send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



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,
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End of Presentation