**Getting honest political leaders**

Swarna Bharat Party’s policy on political system reforms

*These policies should be seen in the context of the broader reform agenda outlined in* [*SBP’s manifesto*](http://swarnabharat.in/)*. Free markets require strong and effective governance. Without governance reforms detailed in the manifesto, that will build capacity and honesty in the government machine, the policies detailed below will not deliver the expected results.*

The Westminster system of democracy, along with a First Past The Post(FPTP) voting methodology that India has adopted, is a proven system that has worked well for many countries – in some cases for hundreds of years. FPTP is responsive and effective, provided the underlying incentive structure is sound.

India, in its amateurism (and perhaps hypocrisy), has distorted the underlying incentives to the extent that today, many people – otherwise careful in their thought – have started believing that the FPTP system itself a problem. They recommend throwing out the baby (FPTP system) with the bathwater (corrupt politicians). What we need, however, is to fix the system’s incentives: something that requires detailed and careful consideration; and this same system will start operating wonderfully. Chronic incompetent system design capability is leading to dysfunctional ‘reform’ ideas.

No Indian baby is born corrupt. Indians were known for impeccable integrity when the British came to India. Even today, Indians in the West are valued for their character. It is badly designed systems, with wrong opportunities and wrong incentives that motivate even the honest to become corrupt. Nothing wrong with Indians, *per se*.

So why have so many Indians chosen to become corrupt? The answer is two-fold. Our system creates:

a) **opportunities** **for corruption**. Our government directly engages in business (which is not its business). It builds and manages infrastructure and services directly, which it should procure or privatise. It interferes unnecessarily in a vast range of occupational, production and trade decisions. The discretionary regulatory environment in which the government has a finger in every pie, has allowed politicians and bureaucrats to indulge in world-highest levels of corruption, thereby corrupting the entire country; and

b) **incentives for corruption**. In our badly designed electoral system, politicians lose a lot of money when they contest elections. They must therefore (an invariant law of nature) *necessarily* recover their costs after they are elected: with interest. On top of this, we pay our politicians and bureaucrats poorly.

We have created a perfect storm of opportunities and incentives for corruption. And then we blame our politicians for being corrupt.

Simplistic solutions (e.g. Jan Lokpal) do not address incentive design challenges. Yes, there must be stern punishment of the corrupt, but such punishment can only form a small part of an overall, well-thought out system. Incentives involve not just the stick, but also the carrot. More importantly, we need to eliminate opportunities for corruption. Numerous countries have very low levels of corruption without having any Lokpal. Punishment is relevant only after opportunities are eliminated and positive incentives applied.

## Reducing opportunities for corruption

The first part of the solution is about ‘drying up the swamp’: dramatically reducing (if not eliminating) opportunities for corruption. This involves a completely revamped focus on core functions and high quality (but minimal) regulation of the free market. Details on how we will reduce opportunities for corruption are provided mainly under the second part (pillar).

## Incentives to bring in the good, and keep out the corrupt and criminal

The second part of the solution involves rewarding competence and honesty by minimising politicians’ losses in elections and paying them well. Only then should penalties and punishments apply, for the few that may still choose to be corrupt.

### Positive incentives: Open the gate to good people

#### Taxpayer (state) funding of candidates on per-vote basis

Electoral expenditure is never the only determinant of electoral success. However, good candidates – out-spent by criminal candidates who use crores of rupees of black money – are often defeated even before they start. Some people have objected to state funding of candidates, suggesting that politics is a social service. It is preposterous to suggest that those who offer their service to us as electoral representatives should be required to lose their lifetime’s savings for the thankless privilege of representing us. The current system effectively prevents honest people from contesting elections by forcing them to lose their entire lifetime savings.

A solution, used successfully in some countries, is for taxpayers to acknowledge the cost of contesting elections and to reimburse a flat amount per vote polled to all candidates. We propose to reimburse Rs.15 per valid vote cast, up to a maximum of Rs. 70 lakhs per candidate. With around 15 lakh voters in an average parliamentary constituency, of which around 65 per cent vote, a candidate who secures half the valid votes cast would receive the maximum entitlement (Rs. 70 lakhs). This calculation can be refined, but the principle remains.

Along with this, the security deposit will be increased significantly to ensure that only serious candidates contest elections.

This will allow good candidates to (if necessary) borrow funds to contest elections in anticipation of (at least) partial recovery of their electoral costs. Even though corrupt candidates will probably still outspend honest candidates through underhand means (although a very strong focus on accounting will significantly increase their risk of being caught), good candidates will at least not go bankrupt if they lose the election: hence will participate in greater numbers than they do today. This reform would meet what is called in economics as the ‘participation constraint’.

Today, we pay a far greater cost – of large-scale corruption and chronic bureaucratic incompetence – by saving this reimbursement to candidates. But such a payment is excellent value for taxpayers, as it will enable ‘butterflies’ to ‘breed’ and compete with the mosquitoes. This system won’t throw up only honest representatives in the first electoral cycle, but as the other checks and balances are embedded, the proportion of honest representatives entering parliaments in India will dramatically increase.

#### Competitive salary for elected representatives, linked with performance

It is penny-wise pound-foolish to pay elected representatives, judges and public servants poorly and then expect them to rise above temptation or provide competent governance.

Chanakya knew this well. The higher positions require great knowledge and good judgement. The best talent is needed at these levels. So, the *Arthashastra* specifies that the highest public servant’s salary should be 800 times that of the lowest. As the saying goes, ‘if you pay peanuts, you get monkeys’.

The responsibility of our representatives is arguably much greater than senior private sector executives, for they establish the rules of the game and manage the country on our behalf. But their salaries are extremely low as compared to senior private sector executives. As a result, competent people avoid elected roles and seek a respectable living elsewhere.

As an immediate step, we will increase the salaries of elected representatives very significantly, while eliminating all perquisites such as free travel, telephones, furnishings, vehicles or loans. All future pension schemes for legislators will also be abolished (existing commitments will be honoured).

However, to ensure that all aspects of the question are properly considered, we will establish an independent Political Representative Incentives Commission to make binding recommendations regarding the compensation package for representatives which should be linked with performance. For instance, performance bonuses for MPs and MLAs (and particularly Ministers) could be linked to national economic growth and benchmarks of integrity.

#### Freedom of expression, with stringent disclosure of accounts

Given the population and geographical spread of Indian legislative constituencies, communicating one’s message to voters can be very costly. Electoral expense limits that restrain such costs distort democracy and violate freedom of speech in a basic way. If someone believes in a particular idea, he or she must be free to promote it through legitimately acquired and transparently disclosed resources.

We oppose restrictions on Indians’ commitment to their ideals. We trust the voter to listen to competing messages and decide what is right.

Imposing limits can lead to underhand expenditures. It is almost certain that the use of black money in elections can be attributed at least in part to such limits. Candidates use subterfuge, such as paying for ‘news’ (which need not be disclosed) in lieu of advertisements. This falsification misleads the voters and embeds a culture of corruption.

There is a further discrepancy in our laws. Political party candidates effectively face no spending limits (since political parties can spend without limit), but independent candidates are constrained. This violates the principle of equality of treatment under the law. It must stop.

We will entirely scrap electoral limits. We will focus, instead, on accountability and total disclosure of receipts and expenditures to ensure that no black money is used during elections. Honesty in the parliament cannot even begin with our dishonest laws and electoral processes.

#### Political donations by unions and companies

We will require expenditures by unions on political work (such as donations to political parties) to be approved by a formal vote by its members, equally as such donations by companies will need formal, specific company shareholder consent.

#### Stringent audit of electoral expenses

The main issue of public interest in relation to electoral expenditures is their disclosure. Currently, many candidates lodge a false declaration of electoral expenses. We will require the Election Commission to conduct a stringent audit of all electoral expenses, with non-discretionary prison sentences (and forfeiture of seat, if elected) for false declaration of receipts and expenditures.

We will also empower the Election Commission to dissolve political parties that do not disclose donations and expenses comprehensively. Foreign funding will invite penalties and dissolution, as well. Feeble penal provisions (such as a fine of Rs. 500 for illegal elections expenses under Section 171-H of the IPC) will be significantly strengthened and linked with the consumer price index (CPI) through a penalty unit system.

#### Public disclosure of assets of elected representatives

All elected representatives will be required, within 30 days of being elected, to publish their income tax statements for the past five years and a full list of assets of their immediate family. Thereafter, they will be required to publish annual returns of income and assets. The Election Commission will be asked to scrutinise the assets of elected representatives to verify that any growth in assets is consistent with known earnings and investments. Where necessary, the elected representative will be asked to provide a public explanation or face penalties, including confiscation of property and forfeiture of seat.

#### Reducing the cost of elections for candidates

We will examine the feasibility of Returning Officers organising a video-debate between all candidates in a constituency, with the debate then relayed to all towns and villages in the constituency through local TV channels, DVDs, or mobile TV vans. This will allow all candidates to reach out to voters without having to visit all booths. This will reduce the disadvantage of less well-funded candidates and provide people with better options.

### Negative incentives: Deterrence. Shut the gate for bad people

To make politics a realm of wisdom and statesmanship, we need to expel the criminals and corrupt who flourish in India’s politics today. Key measures to shut the gate on such people, and to deter them from entering politics in the future, are outlined below.

#### Fast-track courts to deal with corruption/ criminal charges against MPs

When lawmakers are themselves charged with breaking the law, our constitutional system loses its sheen, even though some of them may ultimately be found innocent. We will amend the ROP Act to ensure that corruption and criminal cases against MPs and MLAs are fast-tracked, to be completed within one year of their being elected.

The Election Commission of India (ECI) will be asked to coordinate corruption and criminal cases against elected MPs (or MLAs), in consultation with the Supreme Court, to ensure that these cases are prioritised and heard without break until completed. The ECI will be provided with resources to support the investigative/court system where needed. It will also be empowered to enforce tight judicial timelines (through the Supreme Court) and to directly punish non-judicial officials who cause unnecessary delays.

#### A strong Lokpal for Prime Minister and Chief Ministers, and independent CBI

A Lokpal can form part of an overall reform package. We will, however, limit the focus of the Lokpal to senior politicians and civil servants (including the CBI itself, and the Prime Minister).

To ensure independent inquiry into allegations, the CBI will be converted into an autonomous Central Investigation Commission (CIC), with its head appointed by the Lokpal and all other staff appointed by the head. It will be mandatory for all organisations and residents in India to comply with inquiry demands of the CIC and/or Lokpal.

#### Severe punishment for corruption at the higher levels

Corruption in India starts from the top. We will make laws to punish any Prime Minister or Chief Minister found guilty of serious corruption with capital punishment. When the chief defender of the public trust himself steals public funds, then the nation must impose the harshest penalty. Ordinary ministers and senior officials found guilty of bribery would be punished through rigorous imprisonment of not less than five years. The assets of those found guilty of serious corruption will be confiscated.

#### Publicising any criminal background of candidates

These measures will be supplemented by other systemic reforms.

Every citizen must be presumed innocent in law, until proven guilty. Being charged with a criminal offence is not a conviction. Only when someone is convicted for a major crime should the person be prevented from becoming (or continuing to be) an elected representative.

However, in the court of public opinion, judgements are made on the balance of probabilities. The public do not need to take chances with someone. They should know about all charges.

We will encourage informed decision making by voters by making it mandatory for details about any criminal cases against candidates, as declared by them in their nomination form, to be widely publicised by Returning Officers. Any candidate who does not disclose full details about such matters will forfeit his seat (if elected) and/or be required to return any state funding received.

#### Video surveillance at polling stations

We will place all polling stations under closed circuit TV surveillance to prevent booth capturing and intimidation (without reducing the secrecy of voting). Significant penalties will be imposed on those subverting the law. A complete video recording of the polling day will be maintained for future audits. This process will also help identify impersonations and any other suspicious incidents.

#### Bringing all political parties under RTI

We will amend the ROP Act to make it mandatory for all registered parties to comply with RTI requirements. We will move, further, to a ‘duty to publish’ regime, so political parties would be required to publish all receipts and expenses on their website.

#### Highest standards followed by members of Swarna Bharat Party

Swarna Bharat Party’s elected representatives will abide by a world-best Code of Conduct that forbids gift taking of any sort, and includes stringent requirements to disclose and/or avoid conflict of interest, as appropriate.

## Strengthening and reforming electoral democracy

In addition to fundamental system reforms outlined above, a number of steps are needed to strengthen and streamline India’s FPTP system.

### Phasing out the illiberal anti-defection law

The intent of the anti-defection law (52nd Constitutional Amendment) was to deter defections by legislators motivated by the lure of office or money. But this law is fundamentally flawed, being focused on the symptoms, not underlying incentives.

Anti-defection law has given legal and moral sanction to defection (provided it is done on a large enough scale). It has strengthened a High Command culture in parties and disempowered our representatives, lowering their independence and intellectual standard. Instead of being a forum for serious debate, meaningless aggression and shouting has become the norm in the legislatures. With the final outcome known in advance, speeches on the floor of the house have lost their importance.

A public representative is a leader, not a party minion. MPs/MLAs must have the right to conscience voting on ordinary bills. An exception could be critical finance bills, no-confidence motions or bills deemed ‘critical for the party’ (such as election commitments, hence binding on the party), in which case a Party Whip can be issued.

We commit to repealing the anti-defection law within three years, after embedding the more urgent electoral and governance reforms. These initial reforms will reduce the corrupt MPs and MLAs who hanker after office or money, making anti-defection law unnecessary – even as a symptomatic solution. We will also amend the ROP Act to ensure that parties allow greater freedom (conscience voting) to their MPs and MLAs. This will make representation of the people meaningful, once again.

### Equalisation of the value of each vote

One person-one vote is a fundamental premise in democracy. Each vote must have equal value. However, in 2004, the parliamentary constituency with largest number of electors had 33,68,399 electors and the lowest had only 39,033. Except for a few hilly states/areas, the principle of equal value of the vote must be applied, with the number of voters per representative being equalised. Such delimitation will be undertaken every ten years.

### Permitting people to contest elections in any State

Currently, under s.5(c) of the ROP Act, a person must be an elector for any Assembly constituency in a state in order to contest elections in that state. This is unnecessarily restrictive, given the geographical mobility of the educated classes today. We will amend this section to allow people to contest from any state once they are registered as a voter anywhere in India.

### Costing election commitments of political parties

All parties should publish their detailed policies before elections, and these should be costed by an independent agency. We will enact a law to require all registered political parties to get their election commitments costed by the India Policy Office in the Freedom Ministry (described in detail, later). While such a restriction cannot be imposed on independent candidates who are unlikely to have a comprehensive policy agenda, they too could get their policies costed by the Freedom Ministry if they wish. This process will allow voters to know what they are being offered, at what cost, and how it will be funded.

### Performance monitoring of parties and MPs/MLAs

We will implement a range of performance monitoring and reporting systems for parties, MPs and MLAs. At a minimum, the voting records of MPs/MLAs on each Bill will be published, to allow citizens to determine whether their interests have been adequately safeguarded by their representatives. This is particular pertinent where parties allow MPs/MLAs a conscience vote (as they should in most cases).

### All eligible citizens to be enabled to vote

Eligible Indian citizens – even those with valid voter ID cards, and who have voted in the past – sometimes find their names missing from the voters list. Inaccurate voters list are a significant barrier to democracy. All means, including consideration of online registration and voting, will be deployed to ensure that everyone eligible to vote is able to do so.

#### Online voting by defence and police personnel

Security forces help conduct elections but do not always get the chance to vote. We will examine options other than the postal ballot (which often does not reach the Returning Officers in time) to ensure they get access to the vote. Secure internet-based voting systems could be piloted.

#### NRIs’ right to vote

Indian citizens living abroad (NRIs) have the same right to vote in national elections as citizens living in India. We will examine secure and low-cost options for NRIs to vote. If necessary, a fee-based voting system could be rolled out, to meet the costs.

#### Ensuring ballot access for the disabled and elderly

While it is not practical to arrange for all the disabled and elderly to reach the polling booth, we will consider ways to enhance such ballot access, including through mobile pooling booths, voting-in-advance options, postal ballot, and secure online systems.

### Inquiry into the feasibility of a right to recall

The right to recall has been promoted by some people, but without a practicable operational proposal. It also fails to address any of the fundamental incentive problems found in the Indian electoral system today. We will commission an inquiry into this proposal and commit to implementing it, if there are viable and cost effective methods to implement it, consistent with liberty.

### Inquiry into alternative voting methodologies

Many eminent thinkers wrongly blame the FPTP system for our ills. Nevertheless, we will commission an inquiry into alternative methodologies of representation, including proportional representation and the presidential system. The inquiry will identify key criteria (mainly protection of life and liberty) and evaluate the performance of various systems in relation to these criteria. The inquiry will be required to focus on the design details, not on any superficial similarities between different countries’ systems. In the case of governance, it is the details and incentives that matter. Minor changes in incentives radically change behaviour – and outcomes.