**Freedom and competition in business**

Swarna Bharat Party’s policies for businesses

*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.*

Anti-business governments have shackled India since independence. Even though the licence raj has slightly backed off, there is no way for entrepreneurs to succeed in India without bribing tens of corrupt government agencies and, often, corrupt Ministers. Further, successive governments in India, by imposing unnecessary rules, have blocked enterprising Indians from working and made India one of the world’s worst places to do business. But India is a land of entrepreneurship and *jugaad*. Only by unleashing the entrepreneur can India hope to become an innovative and prosperous nation.

## First step: Getting the government out of business

A government has no business to be in business. It should not produce shirts, fly airplanes or run public sector undertakings (PSUs). The poor man can’t enter Ashoka Hotel or an Air India jet, but has to pay for the losses these undertakings make. The poor man also pays for the import of coal because Coal India, due to its colossal inefficiency, sits on the world’s third largest coal reserves, but has made India the largest coal importer in the world.

While it is true that a (very) few PSUs have been generating greater than market return, due to a level of autonomy afforded to them, there is no justification for government to engage in any business, regardless of profitability.

We will bring to a halt all commercial or production roles of government, since the people can undertake all such activities. Privatisation will be at the centre of a programme to reclaim territory for Indian freedom. PSUs that operate hotels (e.g. Ashoka), telecommunications, media (television, radio, print, e.g. Doordarshan), metal production and associated industries, power generation and distribution, automobiles, cement industry, banking, insurance, travel (e.g. Indian Railways, Air India), fertilizer production, mining (e.g. Coal India), distribution of food, domestic and international trade, and tourism will be sold off in the marketplace. Large parts of defence production will be also privatised under regulatory control.

We disagree, however, with disinvestment methods that involve secret deals. Past disinvestments have been used by politicians to loot India’s wealth, instead of achieving fair market price. We will create transparent and arms-length methods using auction design principles to maximise the sale price of government businesses to the people of India.

## Well-regulated free markets

Successive governments in India have supported state-protected public and private monopolies and created crony capitalism, instead of a level playing field that enhances competition and productivity. The government should only establish and maintain rules for the functioning of competitive markets, enforce contracts, and regulate against fraud. It should be a neutral umpire of the market.

Markets are a process, a platform where citizens voluntarily bargain, trade and barter. Markets help determine the economic worth (to society) of the services and goods we may produce. Through such voluntary trade, no person is made worse off, while almost everyone is made better off (else trade will not occur), thus creating new wealth. Incentives for high quality, low cost production are inherent in a competitive market.

The best way for Indian industry to become globally competitive is by exposing it to ruthless international competition. We must grow by facing the competitive world, not by hiding behind false shelters created by the government. India has a long history of competitiveness and is well placed geographically to access the rapidly growing Asian market. Our businesses must rise to the challenge.

Indeed, Indian businesses which operate in world markets have learned to be competitive. However, businesses which operate predominantly in the domestic market have massive cost inefficiencies and are uncompetitive in the face of imports, due to government and union control and restrictive work practices. These businesses need to lift their game.

A few of the policies we will implement to create well-regulated free markets are outlined below.

### Unilateral free trade and removal of red tape

We will remove all unnecessary controls on production, trade and business. The infant industry argument is no excuse to shelter businesses, nearly seven decades after independence. Without facing global competition, Indians cannot become world-beaters. We will comprehensively liberalise trade and seek to abolish remaining import restrictions including any remaining customs duties and the negative (restricted) list. We will, in essence, introduce unilateral free trade. The medium and long term benefits of such a decision outweigh any short term losses incurred by terminally inefficient businesses.

### Regulation for competition, not against business size

Monopolies are almost invariably created by a government mandate that reduces competition. By allowing unfettered entry into most markets and focusing on competition, we will minimise government-created monopolies.

We will also empower an economic regulator to reduce barriers to entry and incentives for monopoly in areas where direct competition poses a challenge (such as with railways, energy transmission or water distribution). The regulatory laws will, however, be carefully crafted, to avoid any focus on business size or diversification. We disagree in principle, for instance, with regulatory options that do not permit newspaper owners to own TV channels, or ordinary private companies to own banks. We believe that the more the variety of competitive tension in an economy, subject to disclosure, transparency and accountability, the better are the outcomes for consumers.

### Single window approvals

Apart from significant reduction in licencing (discussed elsewhere) we will streamline approval/ compliance certification processes and establish a single window to facilitate an enabling business environment.

### Deregulation and decontrol of prices

Traders often get a bad rap when prices rise. This may well be deserved in a few cases, but in the vast majority of cases, higher prices for an extended duration are usually the consequence of bad policies that restrict market forces.

It is extremely difficult for governments to collate the detailed information necessary for the determination of an appropriate price (this is also a challenge for regulators in monopolistic industries like railways or water, where they need to take recourse to a range of carefully crafted approach to determine true costs). As a general rule, we will scrap most government-administered prices and let prices be determined by the forces of supply and demand. Prices of petrol and diesel come to mind as examples, but even gas, water and electricity need to be determined by the market, subject to scrutiny by regulators of the marginal costs. This also applies to interest rates, which are the price for the use of money. As indicated elsewhere, we will move towards full determination of interest rates through market competition between borrowers and lenders.

Maximum retail prices (MRP) are an imposition on the free market and prevent price discrimination, which is part of competitive pricing and tends to benefit the poorest the most by ensuring availability of products in all corners of the country. Removing MRP will see prices rise in up-market supermarkets but fall for the middle class. Prices in rural areas and small towns will take into account the smaller market size and distance involved. While producers will be free to state an MRP, this will no longer be mandatory.

As elsewhere indicated, an exception will be made initially for agricultural prices, which will then be incrementally deregulated after ensuring anti-poverty and crop insurance systems are fully functional.

### Open Foreign Direct Investment (FDI) – without exceptions

We believe in the capacity of Indians as a nation to deal with economic and political challenges. The fear that many Indians have of FDI echoes their fears of a repeat of the East India Company’s take over of India. But India is stronger today by an order of magnitude in comparison with condition prevailing in the dying era of the Mughal Empire. We do not fear FDI. We welcome it.

We will eliminate all restrictions on FDI, without exception. This will include the ability of foreign investors to purchase land, including agricultural land in India. India can only benefit from the cross-fertilisation of ideas that this will represent. The best technologies of the world will gladly come to serve our needs, instead of our having to buy them at great cost.

### Free labour markets (with regulated collective bargaining)

We are the party of every citizen, including of all workers. It is workers who, through their diligence and innovation, make India a country with grit, competence and ambition. Unfortunately, India’s 51 central and 170 state labour statutes, some of which pre-date independence, make it hard for firms with more than a handful of staff, to fire people. Our current labour laws are built for a system with lifetime jobs; thereby companies avoid hiring permanent workers. Nearly 90 per cent of our workers have ended up in the informal labour market. These laws also impede new investment, particularly in labour-intensive industries, and motivate firms to remain small[[1]](#footnote-1) – or worse, to undertake financial jugglery and corruption, for instance, by artificially breaking up a single firm into multiple companies.

A free market for labour (where employers can hire and fire, and freely exit the industry) is the best way to grow jobs and the economy. Such flexibility will give employers the confidence to take risks, add staff and increase production in response to market demand. To support labour market flexibility, we need to protect any laid off workers with a safety net – which we will provide through the social minimum (negative income tax).

Reforming labour laws to create a flexible labour market is a matter of utmost priority for India. We will modernise all labour laws and combine them suitably into two laws: occupational health and safety and industrial relations. Draconian laws such as the *Essential Services Maintenance* *Act* will be subsumed into the industrial relations laws, after reviewing the need for any draconian provisions. We will also replace the mandatory minimum wage for industry with a low ‘desirable’ minimum wage (this will, however, be mandatory for government programmes).

The skilled and semi-skilled youth of India will benefit the most through these reforms.

#### Collective bargaining

Working conditions of workers have advanced through the centuries through market innovation, competition, advances in technology, and the fight by classical liberals for health and safety policies, rather than through union activity. While workers must retain the right to bargain collectively, unions do not have a right to force workers of a factory to join them or impose unreasonable requirements during enterprise bargains. We will expect an independent industrial relations regulator to come down heavily on any industry-wide or nation-wide attempts by unions to force wage conditions through undue use of monopolistic power.

### Standardization and quality control

As umpire of the economic system, a government may have a role in co-regulating some measurements (weights and measures) and industry standards. We will work with industry standards bodies (national and international) to support standards that promote growth, without restricting innovative new approaches. For instance, standards for electric switches and outlets need to be radically improved in India, as these are often ill-designed and ill-fitting, imposing needless costs and safety risks on the community.

## No industry, innovation, or small business policy

We do not intend to have a specific innovation or industry policy, which is a euphemism for subsidies for industry and lobbying by industry associations for exemptions and shelter from competition.

Opportunities for lasting employment in all sectors of industry are best created through continuous tension between the forces of supply and demand. A government has no capacity, nor any reason, to pick winners among various options for industry development. To the extent that broad rules are ensured by the government, industry will advance at its optimal pace by catering to market demand.

### Abolition of reservations for small-scale industries

This also means that we will not have any regulatory exemptions based on business size. We will end all reservations for small-scale industries within three years and abolish subsidised programmes such as for khadi industries. The health and safety of workers is important equally for big and for the smaller industries, so also labour laws that assure minimal work conditions should apply uniformly regardless of business size. We will abolish the *Micro, Small and Medium Enterprises Development Act* to allow all businesses to compete on the same footing, thus enabling the most efficient businesses to flourish.

## Development of supporting markets

### Financial and capital markets

A government should help establish well-regulated markets. As alluded to earlier, we intend to support well-regulated forward, futures and derivatives markets for efficient management of risk. We will also endeavour to integrate the modern and traditional systems of Indian finance (such as *hundis*). Our traditional systems of finance, which operated though trust, were effective in ensuring commerce across vast distances. There is a place for trust-based systems even today, although the regulatory regime for such systems would need to be carefully reviewed.

We will enhance the transparency and accountability of listed companies and capital market intermediaries so that small investors are given the confidence needed to return to the capital market. By enabling the financial markets to create a variety of risk-bearing investments, the working capital and other credit needs of businesses, including in the small business sector, will be facilitated.

### Insurance markets

We will encourage all categories of private insurance, subject to prudential regulation. All limits on FDI in insurance will be removed.

## Environmental justice and natural resources

India is a land of extraordinarily beautiful landscapes. From lush tropical jungles and islands, austere deserts, huge rivers and deltas, to some of the world’s highest snow-capped peaks, there is little the Indian sub-continent does not have to offer. Our environment is one of our most precious assets, to be used and appropriately preserved for posterity.

But this is not necessarily a task for the government to directly manage (instead, there is a clear role for regulation). People best protect what belongs to them. This also applies to natural resources. There is no reason why the government should directly manage natural resources and the environment. The worst instances of environmental abuse usually occur under direct government control. Encroachment on government-managed habitats is the most common cause of animal and plant species becoming endangered. Our forests have been looted with the connivance of those charged by the taxpayer with preserving them. And our rivers, managed by governments, are dirty and dying. Private allocation of environmentally sensitive assets is the only sensible and proven way to ensure their conscientious stewardship and preservation.

The preservation of the environment is facilitated by strong economic growth. The poorest (or rather, primitive) and wealthier countries tend to have a clean environment. Rich nations have better governance systems and can pay for high quality regulation of the environment. We believe that the best technology must be used (often capital-intensive), while monitoring any ill-effects. Pushing the clock back to older technologies is not the answer. The most powerful environmental policy is liberty.

### Allocation of property rights to natural resources

Private owners of a resource directly bear the cost of their actions, while also benefitting from the resource, hence have an incentive to preserve (or extend the life of) the resource. One of the key reforms in environmental protection will be through well-defined rights to allow resources to be optimally harvested or used, even as key characteristics are preserved.

In recent years, the sale of government-controlled natural resources has become the new frontier of crony capitalism and corruption. We will ensure that the process of allocation of natural resources to the private sector is competent and transparent.

#### Converting national parks into regulated private spaces

We will amend our flora and fauna laws to create private property rights (e.g. through long term lease) in forests under regulatory control. All national and state parks will be leased on long-term basis, in a phased manner (starting with the less environmentally sensitive ones), with regulatory requirements to preserve indigenous flora and fauna and protect the traditional rights of indigenous forest dwellers. This will allow private parties to develop part of the parks for appropriate tourism and also allow private enterprise for the husbandry of specified wild animals.

This approach will create thousands of jobs, as forests are put to more valuable use, even as they are preserved through scientific approaches to impeccable sustainability standards.

#### Regulated commercial harvesting and other uses of endangered species

An ordinary example of a property rights-based solution is a tradable quota (Individual Transferable Quota) that vests ownership of a certain quantity of natural resources to the highest bidder: for example, the right to catch and market a quantum of fish. The quota, calculated scientifically, ensures optimal harvesting, even as the quota owner has can either harvest directly or sell the quota to a more efficient harvester. This ensures that a large fishery is harvested in a sustainable manner.

With endangered wildlife, the use of property rights is far more urgent. Wildlife gets endangered in two ways. One, if an animal is not of any ‘use’ to mankind. The other, when commercial demand for an animal product (e.g. crocodile/snake skin, rhino horn, ivory) is not being met through the open market. It is a very bad solution to ban these products. Instead, it is necessary to create regulated systems that allow appropriate levels of harvesting under *strict* regulatory oversight in suitable habitats and appropriate conditions (while also requiring habitat preservation). Market-based supply of such well-regulated and certified products will help eliminate poaching in preserved habitats (where no harvesting is permitted) and ensure the preservation of critically endangered species, while also creating numerous jobs and advancing scientific research.

#### Mines and minerals

General property rights relate to the surface of land. What lies above (i.e. air, space, electromagnetic spectrum) and below (i.e. minerals, water) belongs to the entire country. To ensure that these resources do not become the private property of any single individual, we will put in place allocation mechanisms that generate revenues for the Consolidated Fund through an appropriate combination of fee (for prospecting) and royalties.

A key allocation principle is the market transferability of licences, with licence duration determined according to world best practice for each category. Auctions would be considered where there is high level of certainty about a resource. We will aim to reduce uncertainty about a resource by commissioning ongoing professional mapping of resources with information published in the public domain.

Longer-term perspectives that foster development of healthy, competitive industries (e.g. coal/ gas/ telecom) while ensuring the rights of existing (including traditional) land owners need to be factored into the licensing process.

India’s land mass has much in common with Western Australia, which is rich in a range of minerals. By creating the right incentives we will motivate significant investment in exploration and extraction of mines and minerals, creating a vast number of jobs and reducing the need for mineral imports.

#### Underground water

Underground water resources need to be regulated by the state. We will support the latest technologies to monitor such use, and introduce market-based mechanisms to allocate such water. Appropriate private property models will be applied to underground water and other common pool resources, creating the right incentives to sustain our finite but renewable natural resources.

### Strong regulatory regime

In addition to the regulatory measures outlined above, we will significantly upgrade India’s environmental protection regime through a risk-based system. Sustainability and ecological impact analysis will be strengthened as part of assessment of infrastructure and industrial projects, with significant penalties for violations of mandated requirements. In some cases, stringent standards (e.g. for emission) will be established that force industry to innovate. ‘As a matter of right’ power to build will be allowed in most cases subject to compliance with the law (i.e. industries will be able to proceed to build without ‘licensing’, so long as they demonstrate compliance). Where any assessment requires a hold-up of the project, strict time limits will be imposed on such hold-ups.

The burden of environmental regulation needs to be streamlined, since cumulatively, such regulations could be imposing a net loss to society. We will require that cumulative burdens of new environmental regulation be assessed, and licencing be replaced with compliance certificate approach, to reduce delay costs.

Some specific environmental policies are outlined below.

#### Cost of cleanups recovered from polluters

To the extent that polluters can be individually identified, any clean-up costs (such as for toxic spills by ships) will be recovered from them directly. Deterrent penalties, including imprisonment, would apply in extreme cases.

#### Pigovian taxes for general pollution

Where polluters cannot be individually identified, Pigovian taxes will be imposed on proximal activities. Well-tested market-based solutions, such as trading of permits within limits to pollute, will be used to create incentives to reduce pollution. Funds raised from Pigovian taxes will never exceed the actual social costs imposed, and all such funds will be deployed purely to meet the costs of clean up.

#### Last resort direct management by government

After privatising (leasing) public land and water under regulatory control, there may still remain pockets of land and water that require direct management by government for *in situ* conservation of biodiversity. These pockets will necessarily be very small and manageable. Where doing so is absolutely unavoidable, competitively tendered expert organisations would be funded (not the bureaucracy) to directly manage such pockets and deliver measurable results.

## Examples of free enterprise

In addition to the specific industries discussed earlier, a few other industries are illustratively discussed below, with general principles of freedom of enterprise applicable to all sectors of the economy.

### Information technology sector

The information technology sector (cabling and uplinking, consumer electronics and semiconductor industries, communication satellites, internet telephony, etc.) will be fully thrown open to the private sector. Heavy license fees and the practice of earmarking of territories for companies (where such allocations are made by the government) will be scrapped.

### Housing industry

Some estimates of housing shortage in India are in the range of 20 million homes, or more. While home ownership is important, it is best fostered through private enterprise and consequent economic growth. The policies we have outlined elsewhere, including professionalization of local government and land records, will therefore allow people to purchase their own homes through a more flexible zoning system, and secure land rights. We expect housing to quickly become the largest jobs generating industry in India.

### Getting the sex industry out of the hands of the mafia

The current system of regulation of the sex industry in India is illiberal and seriously outdated. This has created significant risk of HIV and other disease. It also supports the vicious crime of human trafficking, attracts criminals and the mafia, and promotes anti-social collusion between corrupt officials, police and politicians.

India was once a world leader and innovator of sex industry regulation, as detailed in Chanakya’s *Arthashastra*. The entire society needs to move forward from the age of hypocrisy and underworld support for criminality, to an ethical and well regulated system. Only by recognizing, taxing, regulating, monitoring and providing healthcare for people stuck in this profession can those forced to enter this trade be rescued, while voluntary practitioners (and their children) are simultaneously protected. Without a proactive regulatory approach the criminal mess we see today will continue – in which police and racketeers (and, sometimes even some religious institutions) mint money from this occupation.

We will review sex industry regulation and create laws to achieve the key objectives of personal and public safety, prevention of human trafficking, prevention of disease and preservation of social decency, without forcing the industry (which is reputedly the world’s oldest profession) underground. This review would include consideration both of sex work and the production and distribution of associated (pornographic) literature, which will be tested on the touchstone of freedom of speech.

As a general principle, any prohibitions will be lifted so this sector of the economy is better monitored, allowing responsive policies to be innovated. Through this approach, decorum, peace and decency will be ensured even as significant revenues are generated through licensing/ compliance certification.

1. http://www.economist.com/news/briefing/21577373-india-will-soon-have-fifth-worlds-working-age-population-it-urgently-needs-provide [↑](#footnote-ref-1)