**An honest and competent machinery of government at all levels**

Swarna Bharat Party’s policy on reforms of the machinery of government

*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.*

We recognise the dedication of many honest and competent public servants in their thankless task of implementing poorly drafted or open-ended legislation. We recognise teachers, policemen and armed forces, the firefighters and a wide range of public servants doing their best in deplorable conditions and with limited support.

However, the Indian system of governance is fundamentally ill-designed and must be reformed. We will bring world-class governance to India through actions aimed at ensuring total accountability from all those paid by taxpayers. While recognising that some public servants fail to perform their jobs effectively, and that many are now widely considered to be corrupt, we do not – in the initial stage – intend to launch a witch-hunt to identify individual cases of failure (extreme cases of corruption, will, of course, be investigated from the very beginning). However, we’d expect all public servants to strictly abjure any corruption and to perform their role competently from the word ‘go’. The system change will start grinding the moment our government is elected to power, and anyone caught out by the system will be processed accordingly.

## New structure to deliver government responsibilities

If elected, our government (at Cabinet) will closely monitor and keep the people informed about our progress in achieving committed objectives, including in relation to governance system reform. The key steps we will undertake to change the system are outlined below.

### Step 1: Freedom Department

A Freedom Department will be created within the first ten days to serve either the Prime Minister (or – if independent charge is created for this portfolio – a Freedom Minister who ranks next to the Prime Minister) along with a Minister of State for Cabinet (to whom the Cabinet Secretary will report), charged with, among other things:

* promoting the freedoms of the people;
* coordinating the delivery of commitments in this manifesto, within committed timeframes;
* setting all personnel and appointments policies (and coordinating all senior appointments);
* establishing all economic, fiscal and social policy and regulatory frameworks and ensuring compliance; and
* advising Cabinet on the extent to which any proposed law or regulation is compatible with freedom.

It will also deal with matters that fall across more than one department, and all subjects not specifically allocated to other departments.

The department will establish Key Performance Indicators (KPIs) for each commitment in this manifesto, and ensure regular reporting on these commitments to the people.

While this agenda will alleviate most restrictions on freedom, the Freedom Minister will commission a Freedoms Inquiry led by a team of competent thinkers committed to freedom, to review all legislation and identify provisions that unreasonably encroach upon people’s freedoms.

Given that the Prime Minister will be served by the Freedom Department, the PMO will be subsumed under the Freedom Department.

#### India Policy Office

An India Policy Office (IPO) will be established in the Freedom Department, comprising policy professionals with demonstrated capability to analyse policy in relation to economic impacts and impacts on our freedom.

The IPO will mainly hire new analysts through open competition, including Indians currently teaching economics and finance in the world’s top universities (they may initially be hired on short or medium term contracts and paid salaries comparable to what they currently draw abroad). This office, headed by an economist with deep understanding and experience of governance systems, will retain significant independence in its advice.

#### Surveys on level of corruption

The Freedom Minister will commission systematic surveys through independent private organisations with proven credentials to assess citizens’ perception and experience of corruption and service quality in various departments and agencies. The results of these surveys will inform performance reviews of Ministers and Secretaries by the Prime Minister. Significant underperformance will be a cause for termination of executives and replacement of Ministers.

### Step 2: Structural and strategic review

The Freedom Minister will conduct and complete the first phase of a strategic review in the first 100 days to deliver the high-level plan for a new-look government machinery, to be bedded down within a maximum of three years.

#### Review of functions

All key functions of government will be reviewed and non-essential functions – including redundant ministries, departments and organizations – dissolved in a high level plan to create a modern system of government. The review will ensure that no staff is adversely affected, and any permanent staff made redundant is redeployed elsewhere, such as in the core functions of security, justice, and infrastructure.

#### Reducing government to 20 portfolios and 10 departments

It is expected that as a result of this review, the number of departments in the Government of India will be brought down to ten, with around 20 Cabinet ministerial portfolios and 20 Ministers of State. The structure will be announced immediately after this first phase review and fully bedded down (based on more detailed strategic reviews) within a total of three years from the date our Government is elected to power.

Each portfolio will be served by one of the ten departments. The number of secretaries in the Government of India will be reduced to ten. Apart from the newly created Freedom Department, other departments (after the review and restructure) are expected to be:

ii) defence,

iii) justice and internal security (including police, consumer protection and support to the judiciary),

iv) foreign affairs,

v) public finance,

vi) free enterprise (including regulation of industries, agriculture and commerce),

vii) physical infrastructure (including transport, energy, water, telecom and internet),

viii) social infrastructure (e.g. public health, poverty elimination through negative income tax, and the regulation - not direct management - of educational and medical facilities),

ix) social capital and community (voluntarism and registration of charities, conducive social relations in the community and national integration, including regulation of sports, archaeology, museums, historical and cultural aspects), and

x) sustainability (natural resources and the environment).

### Abolition of concentrated extra-constitutional power

It is inappropriate for highly centralised bureaucratic and extra-constitutional power to be part of the governance system. The restructure by the Modi Government of the Planning Commission into the Niti Ayog has led to some reduction the complete dissolution of such extra-constitutional power. We will absorb any remaining extra-constitutional policy functions in the India Policy Office.

### Permanent senior positions to be made contractual

Within the first 100 days, while the structural review is in progress, all Secretary-rank officials will be asked to resign from any tenured service (such as the IAS/ IPS/ IFS – excluding the armed forces) and choose a three year contract (since after three years, secretary positions will reduce to ten). Those who decline will be compulsorily retired or (initially) sent to their home cadres. Detailed transitional systems will be announced separately but will include global open market recruitment for all officials in the rank of Joint Secretary and above within three years. All appointments below the Secretary will be made by the Secretary or his delegate. (Global competition will not apply to defence, justice/internal security and foreign affairs departments).

All such contractual senior executives will be paid very well (comparable to salaries drawn by senior private sector executives), but will be liable to immediate termination without notice (they will get four months salary in lieu, in such a case) for any failure to deliver results, including any corruption in their department, or if their role becomes redundant and they cannot be absorbed elsewhere.

In due course, subject to an appropriate Constitutional amendment, tenured senior civil services will be dismantled and replaced entirely with open-market recruitment.

### Market based pay at all levels, with rewards for results

The pay system for public servants should be sufficiently flexible to reward those who innovate (and embed a culture of innovation), reduce overhead costs, optimize processes and reduce red tape. This means paying public servants wages comparable with private sector wages for similar jobs at *all* levels, and linking a part of the pay at contractual (senior) levels with performance, even as contracts incorporate a clause for immediate termination for performance failures. The wage structure of the entire bureaucracy will be reviewed and brought on par with market rates within five years. All public servants will come under standard labour laws applicable to all, with no special category of service rules exclusive to government employees.

### Freedom for the bureaucracy increased

New Conduct Rules will allow public servants to speak out and participate in debates on governance (*excluding* in the specific area for which they are directly responsible). Further, should they wish to contest elections, they will be given three months leave without pay to do so, after which they will be able to return to their job (without the leave period being counted towards any service benefits). A wide range of other reforms, including the end of all pensions and replacement with general contributions to a public superannuation scheme, will be introduced. Transitional arrangements and grandfathering clauses will ensure that no current entitlement is reduced.

### Rewards for whistleblowers

We oppose any political pressure on officials that deflects them from the unbiased and honest discharge of their duties. Public servants will be empowered to confidentially report to the Lokpal any misdemeanours of politicians or any senior bureaucrats, and any corruption they observe. The Lokpal, upon successful validation of the allegations, will be empowered to recommend a significant reward for such employees.

## [Example] Ensuring zero corruption in the bureaucracy

We expect a precipitous fall in corruption in India immediately upon our government being voted to power. This will be significantly supported by the contractual Secretaries appointed within the first 100 days, who will be given a free hand to put an end to any inefficiency and corruption in their departments. This section illustratively brings together policies that will eliminate corruption.

### Reduced opportunities for corruption

Policies and principles outlined elsewhere in this manifesto to reduce unnecessary government intervention in the lives of citizens will reduce opportunities for political and bureaucratic corruption.

### Incentives to reduce corruption

#### Reward

As indicated earlier, competitive salaries (and rewards for performance) will ensure that bureaucrats’ incentives for corruption are dramatically reduced. Further, rewards to whistle-blowers will help unearth any hidden corruption.

#### Punishment

Failure to bring an end to corruption in their department (as assessed by independent surveys) after six months of the contract will be cause for termination of the Secretaries. As this contractual system expands over three years to all senior executives, this will ensure that only the honest remain. Termination will also be made easier at lower levels once constitutional protections for public servants are removed and all employees treated equally under the law, regardless of whether they work in the public or private sector. In addition, severe punishments will be imposed in cases of proven corruption.

### Audit and monitoring of government by citizens

As indicated elsewhere, increased monitoring of government through a duty to publish, Local Boards, online Citizens’ Governments and strong local governments, will increase the monitoring of government by the people at all levels, exposing any residual corruption.

## Professional local government institutions: Poorna Swaraj

*Poorna Swaraj* involves democratic responsiveness and accountability. But this can only be achieved through a professionally competent support system. Excluding any private cities which will be managed by private entities (as discussed later), we will transform and modernise local government (parishads, including municipalities) institutions through a new *Local Government Act*. This will involve a number of reforms, such as those outlined below.

### CEOs and staff fully accountable

Local government staff will be made fully accountable to elected councillors through a CEO hired by the council (not state government) on a contract at market-based salaries. As with the governance reforms outlined earlier, council CEOs will be empowered to hire and fire council staff, to ensure accountability of outcomes to the elected body.

### Manageable size

In parallel, States will be funded to restructure local councils into a manageable size (currently most municipalities/ authorities are too large). The ratio of elected local representatives to citizens would be brought in line with international best practice. For instance, Delhi will get around 300 elected councillors (including mayors or pradhans) in around 60 independent councils (unaccountable authorities like the Delhi Development Authority etc. would thereafter be abolished).

### Transfer of some state level functions

Some state level functions such as the food inspectorate (and a partial role in urban planning), will be transferred to the councils, being required to undertake risk-based approaches. These changes would lead to fewer but far more competent and locally responsive inspectors.

### Local taxation powers

Local governments will be responsible for ensuring world-class civic amenities (sanitation, drainage, local roads and parks) and managing local libraries and community halls. Councils will be empowered to set rates based on market-valuation of properties, and set user-charges for any services provided. A level of specific purpose grants will also be provided for specific projects on a per capita basis, such as to support council professionalisation and local infrastructure.

We will ensure that councils are held legally liable for any public safety failures, such as any open drains or large potholes that endanger the health and safety of people. They will be liable to be sued for any civil and criminal negligence.

Councils will independently determine the level of amenities they provide. Thus, councils that want to attract wealthier residents will focus on better infrastructure while charging higher rates. This will allow citizens to vote with their feet and move to the better managed councils.

### Efficiency of council management

Costs will be kept down due to competition between councils. However, we will require a price regulator, in addition, to benchmark and evaluate council costs; and if necessary, to advice on the reasonableness of any increase in rates. Councils will be encouraged to adopt world-best procurement practices and, on the model of Singapore, encouraged to privatise as many of their functions as practicable. Through this process, world-class services at low cost will become the norm in India’s cities.

### Role of panchayats

The village level panchayat system will be the eyes and ears of parishads (councils), and also act as a decision making body for minor matters (including some minor civil and criminal justice issues, subject to appropriate constraints in the use of this power). We will link panchayats with Local Boards, so there is direct monitoring of the work of government agencies at the grassroots level.

Panchayats will have powers to raise local rates for purely village level infrastructure (e.g. very small internal village roads and public toilets). Raj Samadhiya village in Gujarat is perhaps India’s cleanest village. Nobody throws any paper on road or dirties common lands or water. That is because incentives work. It follows a draconian (almost Singaporean) law that those who litter are fined Rs.1000. We will empower and encourage such forms of local self-management.[[1]](#footnote-1)

## [Example] A sparkling clean and shining India

The Modi Government has introduced a Swachh Bharat campaign to clean India. Unfortunately, it is not premised on, nor involves, any system reforms. That’s a guarantee for its failure. To clean India the following reforms, detailed elsewhere in this document, will be needed:

**Step 1: Basic reforms of the system**

As mentioned elsewhere, key reforms needed, include (but are not limited to):

* *electoral system reform* to ensure honest politicians at all levels. If not, they’ll make money from every project and every opportunity;
* *bureaucratic system reform* to ensure we get a competent and accountable bureaucracy. Bureaucrats at all levels will have no tenure, and their contracts will ensure performance; and
* *local government reform* to allow elected councillors to hire and fire their own CEO, with capacity to raise rates to fund their work.

These basic reforms are essential to even start a meaningful Clean India movement. Without systemic reforms all such efforts will fail, as they have for the past 67 years.

**Step 2: Ensure that cleanliness is a Key Performance Indicator (KPI) in the contracts of municipality CEOs**

Once corruption is eliminated and a modicum of efficiency prevails, cleanliness in public spaces can be inserted into the contracts of CEOs. They will themselves work out innovative ways to achieve these KPIs, or risk being sacked.

**Step 3: Local governments to establish a constructive compliance strategy**

One of the innovative strategies that the CEOs might consider could involve constructive compliance:

* ensuring waste bins are installed at strategic places and are regularly cleared;
* ensuring well-equipped (e.g. with cameras) compliance officials who impose on-the-spot fines on those found littering the city (such fines often exist in statute books but are not enforced). An example of the use of fines is the previously mentioned Raj Samadhiya village in Gujarat;
* ensuring professional cleaning services (for streets, etc.) procured through open tender, with successful bidders held to account through stiff penalties for failure to deliver;
* establishing incentives for private investment in recycling factories to automatically sort out the rubbish and recycle it, as appropriate, before it goes to landfill; and
* ensuring international standards are met regarding the kind of waste that enters landfill (to avoid polluting underground water).

This is an outline. It illustrates that with system reform, India will become a beautiful nation, again. Indeed, beautifying India can become one of the largest jobs-generating programmes in our history.

### An end to open defecation

India is the global capital for open defecation. This leads to the spread of disease and is also linked with sexual assault on women. Changing it requires significant awareness building through civil society initiatives. Each gram panchayat will be expected to enforce a ban on public defecation, in a manner similar to a ban on littering. Local governments (e.g. panchayats) could give land on long lease to privately owned and managed public toilets.

Our government will not, however, build or subsidise toilets in people’s homes. Unless people pay for installation of toilets in their own homes, they are unlikely to use them.

## Governance principles, frameworks and incentive mechanisms

Regulations tell us (citizens, businesses and workers) what we are expected to do to ensure that we protect other’s life and liberties as we go about our everyday business. Regulation should be easy to understand, not complex or daunting or merely punitive. As James Madison said: ‘It will be of little avail to the people, if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood’. Today, regulation with legislation and its associated amendments, rules, bylaws, ordinances and notifications are voluminous and scattered. Not even experts are authoritatively sure of the legal position in particular cases. How, then, can an ordinary citizen be sure that he is abiding by the law?

A reputation for safety and quality counts most for business success, so a level of self-regulation is natural. Indeed, large food businesses across the world take more care of food safety and quality than any government inspector can. However, self-regulation is insufficient in *some* (a very few) cases, when formal regulation becomes necessary.

But as with all public policy, good intentions alone don’t lead to good results. Well-intentioned regulation can have serious job-crippling effects if it badly designed or is excessive in any way. We must not forget that regulation can tie down the majority of businesses that are intrinsically good and would have done no harm even without a regulatory requirement. There is a huge cost of compliance, which is a deadweight loss to society. Also, excess regulation and reporting acts as a stealth tax, as the compliance costs are necessarily passed on to consumers.

Over-regulation is endemic in India. While difficult to estimate compliance burdens in India, we know that in many Western societies, compliance burdens have reached a crippling 4 per cent or more of GDP. India’s burdens are likely much higher. The heavy hand of the Indian government – with extremely prescriptive (not performance, risk-based, or incentive-based) regulation, including the license-permit-inspector raj, has produced a legislative jungle. The common man lives in a state of uncertainty. Given India’s corrupt incentives, these regulations are also used by bureaucrats and politicians to extort and blackmail businesses and citizens. As a result, there is also endless and costly (but often infructuous) litigation.

India’s notorious red tape is mainly responsible for our 142nd rank (among 189 countries) in the World Bank’s Ease of Doing Business report. On ease of starting a business, India ranks even lower: at 166. The report says that 35 permissions or procedures are required to construct a warehouse, which takes an average of 168 days. Small businesses, too, face frustrating hurdles: for instance, to open a bar & restaurant in Maharashtra, 38 licences are required, many of which date back to colonial times and are outright bizarre.

Why should it be so hard to start a business? We need to protect our environment and ensure safety, but that should not be used as an excuse to delay hundreds of projects. Businesses provide jobs, create wealth and generate revenue for defence and essential public infrastructure. There’s a crying need to drastically reduce the number of permissions required, to set a tight time limit for them to be granted (if all the paperwork is in order) and penalize bureaucrats who take longer than they should. The entire system should be online and transparent. There must be no delay in starting a business, and business name must be available online instantaneously upon uploading basic documentary proofs.

If we wish India to become a Sone Ki Chidiya, we must be minimalist about regulations, especially those imposed on small businesses. We must regulate only when essential, no more.

### World-best policy and regulatory frameworks

Members of a free society have a right to know the reasons for specific government policies and regulations. It is not enough for the government to issue an ‘order’ and to expect the people to obey. The order must be supported by a rigorous and competent justification. We will require publication and consultation on a policy/ regulatory impact statement (RIS), including cost-benefit analysis, prior to making any new policy or regulation.

The India Policy Office will design and issue such frameworks that are consistent with liberty and minimal regulation. For instance, all policy statements will be required to provide detailed answers to the following questions:

|  |  |
| --- | --- |
| Q1 | What would happen without any role for government? |
| Q2 | Identify problem/s with the base case and explain why these are problems |
| Q3 | First principles test (should government intervene at all?) |
| Q4 | What can government do about the problem/s? |
| Q5 | Freedom test |
| Q6 | Strategic gaming test |
| Q7 | Government failure test |
| Q8 | Real experience test |
| Q9 | Cost benefit test |
| Q10 | Transition path |

More details on these questions are available at: <http://sonekichidiya.in/publications/policy-framework/>.

#### Regulatory gatekeeping and review organisation

We will convert the Productivity Council into an independent Policy Review & Efficiency Commission that reports to the Freedom Minister, and acts as a gatekeeper for policy/regulatory impact analysis of all policies of the Indian Government. The Commission will be serviced by the India Policy Office. State governments will be funded to establish similar bodies and processes.

#### Reducing regulatory costs to business by 50 per cent

We will reduce red tape imposed by the Government of India on the community (including on businesses and NGOs) by 50 per cent within five years. For this purpose, red tape includes not just administrative and compliance costs (and fees), but also the cost of delays. Indirect economic costs will be excluded for purposes of this initiative. The measurement of red tape will be conducted through the Regulatory Change Measurement methodology, independently assessed (and results published) by the Policy Review & Efficiency Commission.

#### Licensing review: Enterprise and occupation as a matter of right

The very concept of licensing/ permissions needs to change, with business having a right to enterprise and occupation, subject to demonstrating compliance with the law. Not licensing, but validation of compliance through a ‘certificate of compliance’ after a business is fully operational (business activities would not be hampered by any delay in government in issuing such certificate) should be the standard. Citizens would have the right to build on their property or start a business subject to notifying the government and complying with the laws. The government could object within a statutory period, and specify any compliance matters that require to be addressed. Projects would no longer get held up, saving delay costs. This would also reduce corruption since no one could hold up a project.

#### Plain language laws in half the number of words, and repeal of unnecessary laws

All Central regulation (including tax laws) will be reviewed and simplified with a view to bringing down the substantive regulation to half its current number of words (excluding Definitions Act and any Schedules or Attachments to be hyperlinked, separately). Such simplification will also be a goal of sunset reviews (discussed later).

Opportunities to introduce risk-based regulation, incentive regulation and mechanism design will be considered. The India Policy Office will coordinate these reviews, aligning them also with any new legislation that is separately to be introduced.

In doing so, laws that serve no purpose (unenforceable or redundant), harass honest citizens or help criminals will be repealed, and the burden of any laws that need to continue, reduced. As the first cab off the rank, we’ll review the Jain Commission recommendation to repeal over 1,300 central laws (including 11 British statutes), and similar recommendations from the National Law Commission.

We will also fuse as many (of the necessary) regulatory requirements into a single window clearance.

Through such initiatives, we will ensure that India’s Ease of Doing Business rank rapidly moves towards the top.

### Regulation to sunset every 10 years, and legislation every 30 years

We will legislate sunset requirements that force reconsideration of out-of-date regulations from first principles. All legislation would sunset after a period no greater than 30 years. All regulation (subordinate rules) will be allocated a sunset date no greater than 10 years, when it will come to an end. This will require any necessary regulation to be remade. This will apply to all existing regulation, which will therefore mostly disappear from the records without a countervailing law. We will extend the life of all existing regulation to five years, during which it should be reviewed from first principles and re-made (if necessary).

### Other best practice frameworks

We will implement other cutting-edge governance frameworks, such as a stronger competition policy (that does not fixate on bigness ofbusiness size or ‘monopoly’, but focuses on eliminating barriers to entry), competitive neutrality, lifecycle management and commissioning for infrastructure, and price regulation of privatised sectors.

The government’s role should increasingly move towards one of procurement, commissioning and verification: establishing the right targets and incentives to achieve outcomes, and working with markets (whether they are public, private or non-profit) to ensure services are delivered by providers best placed to produce the best possible outcomes, at the most competitive prices.

### E-governance

We will heavily restrict the mandate of the National Informatics Centre, which currently provides uniformly poor quality e-governance service. The quality of its websites and services is often amateurish. Instead, most e-governance requirements will be outsourced to competent world-best IT sector Indian companies, so we are able to get citizens the services they need, with support for projects such as Citizens’ Government that enable them to hold governments to account.

We will create platforms for citizens to connect seamlessly with the government. They should be able to open a single account with the government, with all their interactions stored for ready recall. Citizens do not need to know the names of the specific government agencies that deal with their needs. They need, instead, a single window to the government.

We will examine successful e-governance models such as the Estonian model, which is managed through a public-private partnership, to ensure a model that achieves the best possible e-governance outcomes. We will also promote the use of smartphone apps to record and report crime and interact with the government.

To ensure better e-governance, we support (in principle) the *Electronic Delivery of Services Bill, 2011* and the *Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011* (Citizens Charter). We will further improve and refine relevant laws to align them with liberty and best practice frameworks.

1. <http://www.divyabhaskar.co.in/news/100126040310_story_on_raj_samadhiya_village.html> and <http://www.sristi.org/hbnew/editorial_pdf/24-4-editorial.pdf>. [↑](#footnote-ref-1)