

Freebies to the poor: Are they bad?
What about freebies to corporates?

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The Prime Minister had recently cautioned the people against what he called a “*revadi* culture” of offering freebies for votes and said it would be “very dangerous” for the development of the country (<https://www.tribuneindia.com/news/nation/revadi-culture-dangerous-for-development-of-country-says-pm-modi-urges-youth-to-guard-against-it-413011>). One wonders whether his own party has digested what he has said, to stop offering freebies to voters from now on.

PIL on “freebies”:

On a PIL on the subject filed before the apex court, the Centre is reported to have taken the stand that “*distribution of freebies inevitably leads to future economic disaster*” (<https://www.news18.com/news/india/pil-to-revadis-this-petition-started-debate-on-parties-freebie-culture-is-creating-buzz-ahead-of-guj-polls-5683441.html>). One is not sure whether the Centre's stand is only on freebies for the poor, or on freebies given to big businesses also, which are far more disastrous for the economy. One can only hope that the discourse around freebies does not miss the wood for the trees.

Cut throat competition in electoral politics in India:

Electoral politics in India have become overly competitive with political parties vying with one another to woo voters, not only by offering freebies at the cost of the public exchequer but also splurging money on lavish election campaigning, showering promises which are difficult to fulfil and often resorting to bribing the voters in cash and even inebriating them with liquor, if possible, as elections have become a lucrative business proposition, as they allow parties to wield authority, both legal and illegal, that opens opportunities for corruption, nepotism, suppression of dissent, self-glorification and a host of other evils associated with it.

ECI guidelines:

At the instance of the apex court in 2013, the Election Commission of India (ECI) held consultations with the political parties and framed guidelines on election manifestos to be made a

part of the Model Code of Conduct. According to the apex court's observations and the ECI guidelines, the manifesto of a political party should not contain anything repugnant to the Constitution and it may make promises, strictly in line with the State's welfare obligation as envisaged in the Directive Principles. A manifesto should not be such that it exerts undue influence on voters and unduly tilt the level playing ground with respect to the other parties. Of course, whatever a political party promises should be such that is fiscally sustainable and implementable. The ECI guidelines require the political parties to release their manifestos in advance, a condition laid down in the Model Code of Conduct.

Whether a promise made in a manifesto is doable or not is always a debatable question.

Freebies & manifestos:

In its 2019 manifesto for the Parliament elections, the Congress promised a universal Minimum Income Support Programme, the feasibility of which, the other political parties questioned. Similarly, BJP in its 2019 manifesto promised “the rising neo-middle and middle class with taxable income upto Rs. 5 lakhs no longer need to pay income tax”, a promise that remains unfulfilled till date.

The political parties occasionally strayed from the *lakshman rekha* of the manifesto, by making off-the-cuff promises, such as the one made by the BJP prior to the 2014 general elections that the Indians' money illegally stashed away in foreign accounts would be brought back and deposited in the citizens' accounts, each citizen getting Rs 15 lakhs. For a long time, many voters hopefully believed it would happen and eagerly supported the party in one election after the other, without knowing that it would remain only a pipe dream.

In reality, freebies could be both monetary and non-monetary. They could be free rations for the low-income households, subsidised fertilisers, electricity, water and loan waivers for farmers, free land for landless cultivators, free drinking water and electricity for the urban poor, subsidised interest rates on loans for small businesses etc. Such freebies are considered by many as “objectionable” as they impose an undue burden on the tax-payer. If not duly supplemented by matching capacity building measures, as for example, by providing an income-yielding asset for a poor family to promote self-reliance, such freebies could push the beneficiaries into a subsidy trap,

which forces the family to become indefinitely dependent on State munificence. This is certainly not a desirable proposition.

The overall perspective:

Subsidies promised and delivered to disadvantaged sections of the society need to be considered in their overall perspective.

Millions of families in India, subject to discrimination for generations, stand deprived even today of access to nutritious food, healthcare, education and so on, which are the basic requirements that would have allowed them to live in dignity. The apex court has, time and again, interpreted the “right to life” under Article 21 to mean the right to access to basic amenities such as these, which implies that providing such amenities to the disadvantaged families is more an obligation to be necessarily fulfilled by the political executive, than a matter of choice.

On the other hand, concessions for profit-earning businesses, such as tax exemptions, concessional land allotments, subsidised water and electricity, which impose a comparable or even heavier burden on the public exchequer, could also be described as “freebies”, though some economists consider them to be “desirable incentives” for promoting investment and employment opportunities. There are other concessions given to big businesses, which are not necessarily monetary in nature but they help the latter to profiteer at the cost of the public exchequer. For example, most political parties assure private businesses that they would create a “*business-friendly*” environment and promote “*ease of doing business*”, which are nothing but verbal ploys for tweaking the laws, regulations and procedures in their favour and condoning their misdeeds.

When we consider the desirability or otherwise of political freebies, there is no reason as to why the focus should only be on subsidies to the poor, not on the concessions given to big businesses.

Good freebies vs bad freebies:

As unambiguously emphasised by the apex court in their 2013 direction to the ECI, the acid test for determining the permissibility of a freebie is to see whether it is in compliance with the

Constitutional provisions or not. Subject to this condition, perhaps, the political parties should have the freedom to frame their respective manifestos in accordance with the governance agenda they lay down for themselves.

On the basis of the apex court's observations and on the foregoing discussion, the following principles should perhaps be kept in view, while determining whether a political freebie is permissible or not

- Whether it violates any provision of the Constitution or any law of the land?
- Whether it runs counter to the “welfare” obligations of the State, as envisaged in the Directive Principles?
- Whether it is consistent with “right to life” under Article 21, as interpreted by the apex court?
- Whether it is consistent with the concept of compensatory discrimination, as provided in Articles 15 & 16, read with the norms laid down by the apex court in that context?
- Whether it is fiscally sustainable?
- Whether it adversely affects long-term sustainable development?
- Whether it disturbs the level-playing ground for the other political parties?

The freebies which are questioned before the apex court apparently revolve around subsidies for the poor, on the ground that they are fiscally unsustainable. If that is so, it will lead to a highly fragmented, misleading view of the issue, as the term “fiscal sustainability” has more than one dimension.

Fiscal sustainability & the budget:

Fiscal sustainability depends a great deal on the manner in which the ruling political executive prioritises its expenditure, takes a critical look at its tax revenues and balances the budget. Confining one's attention to the expenditure part of the budget will give a blinkered view of the ways and means of balancing the budget.

On the expenditure side, there are many items which are inessential, unproductive and avoidable. For example, expenditure on symbolic structures and schemes, incurred more for sentimental and emotional reasons than for promoting public welfare, could be dropped altogether. There are several other items in the case of which there is scope for reducing inefficiencies in the use of public funds.

There is also scope for changes in the pattern of expenditure that yield savings. For example, investing on measures to reduce environmental pollution that damages people's health can reduce pollutant-related diseases and the corresponding expenditure on curative healthcare programmes, in a significantly more cost effective manner, resulting in net savings. Unfortunately, the budgeting exercise, year after year, is carried out in a routine manner, without focusing attention on exploring ways to improve the physical outcomes, with higher expenditure efficiencies. Such measures will create enough space for accommodating both subsidies and the matching capacity building schemes for the needy.

Expenditure on such welfare schemes should strictly be viewed as expenditure on “entitlements”, not “subsidies”, as it is consistent with the welfare mandate spelt out in the Directive Principles [Article 38(1): “*The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life*”].

While examining the question of fiscal sustainability, the receipts side of the budget becomes equally important, as it not only provides scope for generating higher revenues but also permits the government to deploy taxation as an effective instrument to fulfil two crucial parts of the welfare mandate, namely, “*minimising income inequalities*” [Article 38(2)] and “*minimising concentration of wealth*” [Article 39(c)]. The tax priorities as they stand at present are not necessarily in tune with either of these two requirements, as explained below.

A cursory look at Table 5 of Annexure 7 of the 2022-23 Union Budget shows that tax concessions for private corporate taxpayers added upto Rs 1,03,285 Crores for 2020-21 which, by no stretch of imagination, is insignificant, from the point of view of fiscal balance. For the sake of comparison, the subsidy on fertilisers for the same year, which was imperative for maintaining food security of the country, amounted to Rs 1, 27,922 Crores.

In addition to the above cited tax concessions, there are many other concessions extended to profit-earning, private corporates, which impose both direct and indirect costs on the public exchequer. They include subsidies on land, water, electricity etc., which add to corporate profits at the cost of the public exchequer. As already indicated, in the guise of promoting “ease of doing business”, the political parties have also been instrumental in tweaking the laws, the regulations and the procedures to suit the interests of the corporates. In addition, it is in the public knowledge, how the

errant corporates are condoned, when they fail to invest on pollution containment facilities and cause damage to the environment, which indirectly imposes a heavy health cost on the society. All these help the corporates to profiteer at the cost of the people. Thus, such concessions adversely impact the people, widen income inequities in favour of the corporates and accentuate concentration of wealth, running counter to the letter and the spirit of Articles 38(2) and 39(c). These should also be deemed to be political freebies, which cause more economic disaster than any other freebie.

The political parties, if they stand committed to the welfare obligation cast on the State by the Directive Principles, should review all such objectionable concessions to the corporates, promise the people that they would do away with them and, instead, introduce a redistributive taxation system that catalyses a progressive reduction in both income inequities and concentration of wealth, which will not only generate additional revenues but also enable the government to fulfil the welfare mandate envisaged in Articles 38(2) and 39(c). Indirectly, by reducing the threats to the environment, it will also enable the government to fulfil its obligation under article 48A [“*protect and improve the environment and to safeguard the forests*”] and lead to savings in environmental costs.

Interestingly, the redistributive taxation system referred above implies not only lower taxes on the low-income groups but also a negative tax on the most deprived, for example, by way of a guaranteed annual income, as promised by one of the political parties, which fits admirably into the scheme of a welfare State.

Political parties rarely refer to corporate freebies in their discourse, as they do not wish to do anything that might alienate the corporates.

Freebies to corporates:

In the recent tirade against the *revadi* culture in reference to subsidies for the poor, there was no mention whatsoever to concessions given to corporates. To appreciate the reason for this, one has to review the strong bond of mutual dependence that exists between political parties and big businesses, a bond that has evolved and flourished over the years, as a part of evolution of independent India's political economy (<https://countercurrents.org/2022/02/the-political-economy-of-cpse-disinvestment-has-national-wealth-been-put-on-a-distress-sale/>)

Contrary to the scheme of governance based on a Parliamentary democracy envisaged in the Constitution, accountable to no one other than the people, what has emerged post-Independence is a warped political system in which most political parties looked upon elections as a five-yearly golden opportunity to wield authority, both legitimate and illegitimate, and stick to it at any cost. Wooing voters through outright bribery became the rule, rather than an exception, and capturing institutions, the media and so on, became the means to stick to power. Intimidation of voters by holding lavish election rallies became a part of expensive electioneering. To sustain this, the political parties needed a ready source of funds, which big businesses were willing to make available, of course, in return for *quid pro quos*.

As a result of a tacit understanding arrived at between political parties and big businesses, the former created innovative avenues for big businesses to channel contributions to their coffers and, in return, changed laws and regulations to suit the interests of big businesses, a cosy win-win situation for both. This has helped political parties to splurge money lavishly on electioneering. As a result, electioneering became an expensive proposition, excluding ordinary, socially conscious citizens from contesting elections. With the adoption of more and more innovative ways to win elections and remain in power, the need for funds increased in leaps and bounds. Today, instead of going through the more arduous way of bribing individual voters, or individual sections among them, the parties have found ingenious ways to buy elected legislators to split the winning parties, if necessary, by entertaining and extending lavish hospitality to large groups of legislators in star resorts. It was only a few days ago that the citizens across the country saw on their TV screens how a large group of legislators of one State were gleefully enjoying five star hospitality in a different State, ravaged at that time by devastating floods. The lavish expenditure on this was evidently borne by one big corporate or another, though indirectly. It was the public that is at the receiving end. The sole aim of this expenditure was to bypass the anti-defection law, split the party in power, bring it down and grab power.

Such profligacy in expenditure would not be possible unless there are ways to meet it. New avenues, hitherto not deployed, for channeling corporate funds into the political parties' coffers need to be opened up. This explains how the NDA regime at the Centre found ingenious ways to widen opportunities for big businesses to provide funds to political parties, without disclosing the source, in violation of the norms of transparency mandated in Article 19, which in turn were reinforced by the apex court from time to time. The NDA government thus introduced far reaching statutory amendments in quick succession to remove the ceiling on company donations under the Companies Act, introduce a highly non-transparent scheme of Electoral Bonds to keep the voter in the dark about the antecedents of the donor and further open the floodgates to foreign donations through

retrospective FCRA amendments, all such extra-ordinary legislative measures taken up through the back-door of the annual Finance Bills, to bypass any full-fledged discussion in both Houses of the Parliament. While these legislative measures have provided greater opportunities for political parties to receive corporate donations, what concerns the ordinary citizen is that these were hastily enacted at the cost of transparency and public accountability. Amendments to the FCRA and the resulting inflow of foreign funds to political parties could impact national security (<https://thewire.in/politics/fcra-reviving-lapsed-law-amending-retrospectively-trumps-ethical-legal-barriers>).

Against this background, it is clear that the political freebies given to corporates are an outcome of the symbiotic relationship that has grown in strength between political parties and corporates. They have tainted the electoral system, at the same time damaging the economy in many ways and posing a threat to national security. They are far more toxic compared to any other freebie. Any discussion on political freebies would remain incomplete, if those freebies are conveniently ignored.

Role of the ECI:

One can only hope that the ECI, which derives its authority from Article 324, while stating its stand before the apex court on the implications of “freebies” as understood in common parlance, would also apprise the apex court of the wider implications of political freebies arising from the unholy nexus between political parties and corporates and its deleterious consequences for the integrity of the electoral system, its long-term economic implications and its adverse implications for national security.

Centre's role:

One feels surprised and somewhat distressed at the reported somewhat inane but misleading stand taken by the Central government in its counter affidavit filed before the apex court. It apparently made no reference to the kind of corporate freebies discussed above.

In this connection, it is important to recall the observations made by the apex court in their landmark order of 2013, the extracts of which are reproduced below.

“Although, the law is obvious that the promises in the election manifesto cannot be construed as ‘corrupt practice’ under Section 123 of RP Act, the reality cannot be ruled out that distribution of freebies of any kind, undoubtedly, influences all people. It shakes the root of free and fair elections

to a large degree...We also record the need for a separate legislation to be passed by the legislature in this regard for governing the political parties in our democratic society”

Even without a special legislation, nothing stops the Centre from realising its obligation to cleanse the electoral system by withdrawing the regressive legislative measures on ceiling on company donations, on the questionable Electoral Bond scheme and the FCRA amendments.

Any enactment on manifestos as proposed should necessarily be based on a review of the unhealthy nexus between political parties and corporates, simultaneously making it necessary to prohibit company donations altogether under the Companies Act, an outright revocation of the Electoral Bond scheme and a similar revocation of the regressive FCRA amendments.

It is hoped that the Centre will heed to the apex court's orders from time to time and introduce electoral reform measures on these lines, if it really cares for rooting out corruption in elections.