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**ELECTORAL STRATEGY AND POLITICAL FUNDING  
IN INDIA: A CONSTITUTIONAL AND LEGAL STUDY OF  
ELECTORAL BONDS AND ELECTORAL REFORMS**

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I, **MEHAK BABBAR**, pursuing LLM IN CONSTITUTIONAL LAW from Amity Institute of Advanced Legal Studies, Amity Law School, Amity University Uttar Pradesh, do hereby declare that the Dissertation submitted by me of my Dissertation entitled “Electoral Strategy and Political Funding in India: A Constitutional and legal study of Electoral bonds and Electoral reforms” is an original work and has not been submitted, either in part or full anywhere else for any purpose, academic or otherwise, to the best of my knowledge.

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This is to certify that Ms. Mehak Babbar, Enrolment No. A0342629031, Program Name LLM(CL), Batch 2025-2026 of Amity Institute of Advanced Legal Studies, Noida has completed her NTCC for the Academic Session 2024-25 under my guidance and submitted the Dissertation titled “Electoral Strategy and Political Funding in India: A Constitutional and legal study of Electoral bonds and Electoral reforms” Her plagiarism is 4% her work has been submitted for further evaluation.

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## LIST OF ABBREVIATIONS

### S. NO. | ABBREVIATION | FULL FORM

1. **ADR** – Alternative Dispute Resolution
2. **BJP** – Bharatiya Janata Party
3. **BSP** – Bahujan Samaj Party
4. **CAG** – Comptroller and Auditor General of India
5. **CBDT** – Central Board of Direct Taxes
6. **CIC** – Central Information Commission
7. **ECI** – Election Commission of India
8. **EC** – Election Commission
9. **EVM** – Electronic Voting Machine
10. **FCRA** – Foreign Contribution (Regulation) Act, 2010
11. **INC** – Indian National Congress
12. **IT Act** – Income Tax Act, 1961
13. **LLP** – Limited Liability Partnership
14. **LS** – Lok Sabha
15. **MCC** – Model Code of Conduct
16. **NGO** – Non-Governmental Organization
17. **NOTA** – None of the Above
18. **PAN** – Permanent Account Number
19. **RPA** – Representation of the People Act, 1951
20. **RTI** – Right to Information Act, 2005
21. **SC** – Supreme Court
22. **SLP** – Special Leave Petition
23. **TDS** – Tax Deducted at Source
24. **UOI** – Union of India
25. **UPA** – United Progressive Alliance
26. **NDA** – National Democratic Alliance
27. **ED** – Enforcement Directorate
28. **CPI** – Communist Party of India
29. **CPI (M)** – Communist Party of India (Marxist)

30. **ECBS** – Electoral Bond Scheme, 2018

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19. Tehseen S. Poonawalla v. Union of India, (2018) 6 SCC 72.

## **ABSTRACT**

The integrity of electoral democracy depends not only on the conduct of free and fair elections but also on the transparency and accountability of political financing. In India, the increasing role of money in elections has fundamentally shaped electoral strategy, influencing candidate selection, campaign practices, and ultimately voter behaviour. Over time, political funding has moved from largely unregulated and opaque channels toward more structured mechanisms; however, this transition has also introduced new legal and constitutional concerns.

This study examines the evolving framework of political funding in India with particular focus on the Electoral Bond Scheme, 2018, and its implications for democratic governance. While the scheme was introduced with the stated objective of curbing black money and formalising political donations, it has simultaneously raised serious questions regarding anonymity, corporate influence, and the erosion of the voter's right to information. The research critically analyses how electoral funding mechanisms intersect with constitutional principles such as transparency, equality, and free expression, and evaluates whether existing legal frameworks adequately safeguard these values.

The dissertation further explores the relationship between electoral strategy and financial resources, highlighting how the availability and concentration of funds can distort electoral competition and create an uneven playing field. It also investigates the role of regulatory bodies, legislative amendments, and judicial interventions in shaping the current landscape of political funding. By examining key judicial decisions and statutory provisions, the study identifies gaps in enforcement, regulatory oversight, and disclosure requirements.

In addition, the research engages with broader reform debates, including state funding of elections, stricter disclosure norms, and enhanced institutional accountability. It argues for a more balanced approach that reconciles donor privacy with the public's right to know, while ensuring that electoral processes remain fair, inclusive, and transparent. The study ultimately proposes a rights-oriented and reform-driven framework aimed at strengthening electoral integrity and restoring public trust in democratic institutions.

### **KEYWORDS:**

Electoral Democracy, Political Funding, Electoral Bonds, Transparency, Right to Information, Free and Fair Elections, Electoral Reforms, Money Power, Corporate Donations, Democratic Accountability, Election Commission of India, Campaign Finance, Voter Awareness,

## **CHAPTER-1**

### **INTRODUCTION**

Democracy, in its truest sense, rests on the idea that political power flows from the will of the people. In India, this principle finds expression through a robust electoral system that has evolved over decades to accommodate a diverse and dynamic society. However, alongside this evolution, the <sup>1</sup>increasing role of money in elections has emerged as a significant concern. Electoral politics today is not merely about ideology, leadership, or public service; it is also deeply intertwined with financial resources, which often shape the strategies adopted by political actors.

Political funding forms the backbone of electoral strategy. From organizing large-scale rallies and media campaigns to managing grassroots mobilization, every aspect of an election requires substantial financial support. While funding in itself is not inherently problematic, the manner in which it is sourced, regulated, and disclosed raises important constitutional and ethical questions. Historically, political donations in India were characterized by opacity, with a considerable portion of funding flowing through unaccounted channels. This lack of transparency not only weakened public trust but also created opportunities for undue influence and corruption.

In response to these challenges, several legislative and policy <sup>2</sup>measures have been introduced over time to regulate political funding. Among the most debated of these is the Electoral Bond Scheme, introduced in 2018, which sought to formalize political contributions through banking channels. The scheme was presented as a reform aimed at reducing the use of black money in elections and ensuring cleaner financial practices. However, its design—particularly the provision of donor anonymity—has sparked widespread debate. Critics argue that anonymity undermines the voter's right to information and may enable disproportionate corporate influence over political decision-making, while supporters contend that it protects donors from political retaliation and encourages legitimate contributions.

The intersection of electoral strategy and political funding thus presents a complex legal and constitutional landscape. Financial <sup>3</sup>strength often determines the visibility and competitiveness of political parties, influencing not only campaign outreach but also voter

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<sup>1</sup> D.D. Basu, Introduction to the Constitution of India (LexisNexis, 2023) at 35.

<sup>2</sup> M.P. Jain, Indian Constitutional Law (LexisNexis, 2022).

<sup>3</sup> Devesh Kapur and Milan Vaishnav, Costs of Democracy: Political Finance in India (Oxford University Press, 2018).

perception. This raises concerns about the creation of an uneven playing field, where parties with greater access to resources may enjoy a significant advantage over others. Such disparities challenge the foundational democratic principle of equality in the electoral process.

Judicial intervention has played a crucial role in shaping the discourse around electoral transparency and accountability. The judiciary has, on multiple occasions, emphasized the importance of <sup>4</sup>informed voting and the citizen's right to know about candidates and their financial backing. These developments highlight the ongoing tension between competing interests—privacy of donors, transparency of political processes, and the need to maintain the integrity of elections.

At the same time, the broader electoral ecosystem has undergone significant changes. The rise of digital campaigning, targeted political advertising, and data-driven strategies has further amplified the role of money in elections. These emerging trends pose new regulatory challenges, as existing legal frameworks often struggle to keep pace with technological advancements and evolving campaign practices.

This study is situated within this broader context of legal, constitutional, and practical concerns surrounding electoral strategy and political funding in India. It seeks to critically examine the existing framework governing political contributions, with a particular focus on the Electoral Bond Scheme and its implications. The research also aims to analyse how financial resources influence electoral competition and whether current laws adequately ensure transparency, fairness, and accountability.

Ultimately, the purpose of this study is not merely to critique existing mechanisms but to contribute to the ongoing conversation on electoral reforms. By identifying gaps in the present system and exploring possible solutions, it aspires to suggest a more balanced and rights-oriented approach to political funding—one that strengthens democratic values while addressing the practical realities of electoral politics in India.

### **1.1 Background and Context: Evolution of Electoral Financing in India—From Opaque Donations to Institutional Funding Mechanisms**

The story of electoral financing in India is closely tied to the evolution of its democratic system. In the years immediately following independence, elections were relatively modest in scale, and political funding was largely and expansive, the demand for financial resources grew steadily, altering both the driven by individual contributions, party membership fees, and

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<sup>4</sup> Centre for Media Studies, *Poll Expenditure Report* (2024).

limited organizational support. Campaigns were less resource-intensive, and the role of money, although present, had not yet assumed the central position it occupies today. However, as electoral politics became more competitive nature and scale of political funding.<sup>5</sup>

Over time, the increasing costs of contesting elections—ranging from mass campaigning and transportation to media outreach and voter engagement—led political parties and candidates to seek larger and more consistent sources of funding. This shift marked the beginning of a more complex relationship between money and politics. A significant portion of political funding began to flow through informal and unregulated channels, often escaping public scrutiny. The absence of strict disclosure norms and effective monitoring mechanisms contributed to the growth of opaque financing practices, including the use of cash donations and unaccounted funds, commonly referred to as “black money.”

Recognising the risks posed by such opacity to democratic integrity, the legal framework governing electoral financing gradually began to evolve. Legislative measures introduced provisions for disclosure of donations, maintenance of accounts by political parties, and limits on election expenditure. These reforms aimed to bring a degree of transparency and accountability into the system. At the same time, institutions responsible for overseeing elections were given a more active role in monitoring compliance, although their powers remained subject to certain limitations.

Despite these efforts, challenges persisted. Political parties often relied on loopholes within the law to avoid full disclosure of their funding sources. For instance, donations below a specified threshold were not required to be <sup>6</sup>reported, which enabled the fragmentation of large contributions into smaller amounts to maintain anonymity. Corporate funding also emerged as a significant source of political finance, raising concerns about the potential for undue influence on policy decisions and governance.

In response to these continuing concerns, the government introduced the Electoral Bond Scheme in 2018 as a means of reforming political funding. The scheme was designed to channel donations through formal banking systems, thereby reducing the reliance on cash transactions. It allowed individuals and corporate entities to purchase bonds from designated banks and donate them to political parties, which could then encash them through their verified accounts. On the surface, this mechanism appeared to promote cleaner and more accountable funding practices by integrating political donations into the formal financial system.

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<sup>5</sup> Law Commission of India, Report No. 255 (2015).

<sup>6</sup> Kapur & Vaishnav, *supra* note 3.

However, the introduction of electoral bonds also marked a significant shift in the debate on transparency. While the scheme succeeded in moving donations away from cash-based systems, it simultaneously introduced a layer of anonymity by shielding the identity of donors from public disclosure. This feature has been the subject of intense debate, as it raises important questions about the balance between donor privacy and the public's right to know. Critics argue that such anonymity may weaken democratic accountability by preventing voters from understanding the financial interests behind political parties, while supporters maintain that it protects donors from potential political repercussions.

The evolution of electoral financing in India thus reflects an ongoing tension between the need for transparency and the practical realities of political funding. On one hand, there is a clear recognition that unregulated and opaque financial flows can undermine the fairness of elections and erode public trust. On the other hand, there are concerns about creating a system that discourages legitimate contributions or exposes donors to undue risks.

In recent years, judicial scrutiny and public discourse have further intensified this debate, highlighting the constitutional dimensions of political funding. The emphasis has increasingly shifted towards ensuring that electoral processes are not only free and fair in form but also equitable and transparent in substance. This has brought renewed attention to the need for comprehensive reforms that address both the sources and the regulation of political finance.

Against this backdrop, the evolution from opaque donation practices to more institutionalised funding mechanisms represents both progress and a continuing challenge. While formal systems such as electoral bonds signify an attempt to modernise and regulate political financing, they also reveal the complexities involved in designing a framework that balances transparency, accountability, and practicality. Understanding this trajectory is essential for evaluating the current state of electoral funding in India and for identifying pathways toward a more robust and democratic system.

## **1.2 Conceptualising Political Funding: Meaning, Sources, and Democratic Significance**

Political funding lies at the heart of any functioning democracy, yet it is often one of the least understood aspects of the electoral process. At its simplest, political funding refers to the financial and material resources that political parties and candidates require to carry out their activities.<sup>7</sup> These activities include contesting elections, organizing campaigns, communicating

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<sup>7</sup> Representation of the People Act.

with voters, maintaining party structures, and sustaining day-to-day political operations. However, beyond this basic understanding, political funding represents much more than the mere flow of money—it reflects the relationship between economic power and political influence within a democratic system.

From a conceptual standpoint, political funding can be understood as the lifeblood of electoral participation. Without adequate financial resources, even the most capable candidates or well-intentioned political movements may struggle to reach voters or effectively present their ideas. In this sense, funding enables political competition and facilitates the expression of diverse viewpoints. At the same time, the manner in which this funding is generated, distributed, and regulated has profound implications for fairness, equality, and democratic legitimacy.

Political funding in India originates from a variety of sources, each carrying its own set of implications. Traditionally, individual contributions have been an important source, reflecting citizen participation<sup>8</sup> in the political process. Such contributions, when transparent and voluntary, strengthen democratic engagement by allowing voters to support parties and candidates aligned with their beliefs. Corporate donations constitute another major source of funding. While they provide substantial financial support, they also raise concerns about the possibility of undue influence, especially when large contributions are made without adequate disclosure. In addition to these, political parties may receive funds through membership fees, fundraising events, and, in some cases, indirect or informal channels that operate outside the formal legal framework.

In recent years, institutional mechanisms have also emerged as part of the political funding landscape. These include structured instruments designed to channel donations through formal systems, often with<sup>9</sup> the aim of reducing reliance on unaccounted cash transactions. While such mechanisms represent an effort to modernise and regulate political finance, they also bring new challenges, particularly when they limit transparency or create asymmetries in access to information.

The democratic significance of political funding becomes clearer when one considers its impact on electoral competition. Ideally, elections should provide an equal opportunity for all participants to present their ideas to the electorate. However, disparities in financial resources can create imbalances, allowing better-funded parties to dominate public discourse through extensive campaigning, advertising, and outreach. This not only affects the visibility of

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<sup>8</sup> Electoral Bond Scheme.

<sup>9</sup> PRS Legislative Research, *Electoral Bonds Analysis* (2024).

candidates but may also influence voter perceptions and choices. In extreme cases, the concentration of financial power can undermine the principle of a level playing field, which is essential for free and fair elections.

Another important dimension of political funding is its connection to transparency and accountability. In a democracy, voters have a legitimate interest in knowing who finances political parties and candidates, as this information can reveal potential conflicts of interest or influences on policy decisions. When funding sources are opaque or inadequately disclosed, it becomes difficult for citizens to make informed choices. This lack of transparency can weaken public trust and raise doubts about the integrity of the political process.

At the same time, the debate around political funding is not without complexity. There is an ongoing tension between the need for transparency and the protection of donor privacy. While disclosure promotes accountability, it may also expose donors to political or economic repercussions, potentially discouraging legitimate contributions. Balancing these competing concerns is one of the central challenges in designing an effective regulatory framework for political funding.

In essence, political funding is not merely a technical or administrative issue; it is a deeply normative one that touches upon the core values of democracy. It shapes who participates in the political process, how elections are conducted, and ultimately, how representative and accountable governance becomes. Understanding its meaning, sources, and significance is therefore essential for any meaningful discussion on electoral reforms and democratic strengthening in India.

### **1.3 Theoretical Framework: Transparency, Electoral Integrity, and the Right to Information as Democratic Pillars**

Any meaningful examination of electoral strategy and political funding must rest on a clear theoretical foundation. In the Indian context, three interrelated principles—transparency, electoral integrity, and the right to information—serve as essential pillars for evaluating the legitimacy of electoral processes. These principles are not abstract ideals; they are deeply connected to the functioning of democracy and the relationship between the State and its citizens.

**Transparency** is often regarded as the starting point of democratic accountability. In the realm of political funding, transparency refers to the openness with which financial contributions to political parties and candidates are disclosed. It ensures that the flow of money into the political system is visible and subject to public scrutiny. When funding sources are transparent, citizens

are better equipped to assess whether political decisions are being influenced by private interests or are genuinely reflective of public welfare. In contrast, opaque systems create spaces where influence can operate without accountability, weakening trust in democratic institutions. Transparency, therefore, is not merely about disclosure; it is about enabling informed participation and fostering confidence in the electoral process.

Closely linked to transparency is the concept of **electoral integrity**, which encompasses the fairness, credibility, and reliability of elections as a whole. Electoral integrity goes beyond the mechanics of voting and counting; it includes the conditions under which elections are conducted. This involves ensuring a level playing field among political participants, preventing undue influence, and maintaining impartiality in the administration of elections. The role of money is particularly significant in this regard. When financial power is unevenly distributed or inadequately regulated, it can distort competition by giving certain parties disproportionate advantages. Such imbalances challenge the very idea of fair elections, where each participant is supposed to compete on equal terms. Electoral integrity, therefore, requires not only procedural fairness but also substantive equality in the conditions of political competition.

The third pillar, the **right to information**, provides the normative bridge between transparency and electoral integrity. In a democracy<sup>10</sup>, citizens are not passive observers; they are decision-makers whose choices shape governance. For these choices to be meaningful, voters must have access to relevant and reliable information. This includes knowledge about candidates, their backgrounds, and importantly, the sources of their financial support. The right to information empowers voters to make informed decisions and holds political actors accountable for their actions. It reinforces the idea that democracy is not limited to the act of voting but extends to the broader process of informed participation.

At a deeper level, these three principles are interconnected and mutually reinforcing. Transparency facilitates the exercise of the right to information by ensuring that relevant data is available. The right to information, in turn, strengthens electoral integrity by enabling citizens to scrutinise and question the<sup>11</sup> conduct of political actors. Electoral integrity relies on both transparency and informed citizen participation to sustain trust in the system. When any one of these elements is weakened, the entire democratic structure is affected.

However, the application of these principles is not without challenges. For instance, the demand for transparency may sometimes come into tension with concerns about privacy, particularly

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<sup>10</sup> Jain, *supra* note 2.

<sup>11</sup> Basu, *supra* note 1.

in the context of political donations. Similarly, ensuring electoral integrity in a complex and resource-intensive political environment requires constant adaptation of laws and institutions. These tensions highlight the need for a balanced approach that protects democratic values while addressing practical realities.

In the context of this study, these three pillars provide a framework for analysing the legal and constitutional dimensions of political funding in India. They offer a lens through which existing mechanisms can be evaluated, not only in terms of their formal compliance with the law but also in terms of their impact on democratic values. By grounding the analysis in transparency, electoral integrity, and the right to information, this research seeks to move beyond surface-level observations and engage with the deeper questions of fairness, accountability, and trust that define a healthy democracy.

#### **1.4 Statement of the Problem**

In recent years, the growing influence of financial resources in electoral politics has raised serious concerns about the health of democratic processes in India. While elections continue to be conducted regularly and peacefully, the increasing dependence on large-scale funding has created structural imbalances among political participants. Access to financial resources often determines the visibility, reach, and competitiveness of political parties, thereby affecting the fairness of electoral contests.

The introduction of institutional mechanisms such as the Electoral Bond Scheme was intended to address issues of unaccounted <sup>12</sup>money and bring greater formalisation to political funding. However, instead of fully resolving concerns around transparency, it has given rise to new challenges. The anonymity associated with such funding mechanisms limits public access to information about political donations, thereby restricting the ability of voters to make informed choices. This creates a tension between the objectives of financial reform and the constitutional principles of transparency and accountability.

Further, the existing legal framework governing political funding appears fragmented and, at times, inadequate in addressing contemporary realities such as corporate influence, digital campaigning, and indirect forms of expenditure. Regulatory bodies face practical limitations in monitoring compliance, while disclosure requirements are often circumvented through technical or procedural means. As a result, there remains a significant gap between the intended goals of electoral fairness and the actual functioning of the system.

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<sup>12</sup> Union of India v. Association for Democratic Reforms, (2002) 5 S.C.C. 294 (India).

The core problem, therefore, lies in the absence of a balanced and effective regulatory framework that ensures transparency in political funding without discouraging legitimate contributions. This imbalance not only<sup>13</sup> undermines electoral integrity but also weakens public trust in democratic institutions. The need of the hour is to critically examine whether existing laws and mechanisms truly uphold constitutional values or whether they inadvertently facilitate opacity and unequal political competition.

### **1.5 Research Questions**

1. What is the nature and scope of political funding in India, and how has it evolved over time?
2. To what extent does the current legal framework ensure transparency and accountability in political financing?
3. How does the Electoral Bond Scheme impact the voter's right to information and democratic participation?
4. In what ways does financial power influence electoral strategy and political competition in India?
5. Are existing regulatory mechanisms sufficient to prevent misuse of political funding and ensure a level playing field?
6. What reforms are necessary to strike a balance between donor privacy and public transparency?

### **1.6 Research Objectives**

1. To examine the concept and evolution of political funding in India.
2. To analyse the legal and constitutional framework governing electoral financing.
3. To critically evaluate the Electoral Bond Scheme and its implications for transparency and accountability.
4. To assess the impact of financial resources on electoral strategy and democratic competition.
5. To identify gaps and challenges in the existing regulatory framework.
6. To propose reforms aimed at strengthening transparency, fairness, and democratic integrity in political funding.

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<sup>13</sup> ADR Reports, supra note 14.

## 1.7 Hypothesis

This study proceeds on the hypothesis that while recent reforms in political funding, particularly the introduction of institutional mechanisms, were intended to promote transparency and reduce the use of unaccounted money, they have not fully achieved these objectives. Instead, certain features—such as donor anonymity—may have inadvertently reduced transparency and weakened the voter’s right to information.

It is further hypothesised that the growing influence of financial resources in electoral strategy has contributed to an uneven playing field, favouring well-funded political actors and potentially distorting democratic competition. Consequently, without robust disclosure norms and effective regulatory oversight, political funding mechanisms risk undermining electoral integrity rather than strengthening it.

## 1.8 Review of Literature

The question of political funding and its impact on electoral democracy in India has attracted sustained attention from scholars, policy analysts, and institutional bodies. The existing body of literature reflects a broad consensus that while financial resources are essential for democratic participation<sup>14</sup>, the manner in which they are regulated plays a decisive role in shaping the quality of democracy. At the same time, there is considerable debate on how to strike a balance between transparency, accountability, and practical considerations such as donor privacy.

Early academic discussions on political funding in India largely focused on the problem of opacity and the prevalence of unaccounted money in elections. Scholars examining post-independence electoral practices observed that the absence of strict disclosure norms allowed political parties to rely heavily on cash-based contributions. This lack of transparency was seen as a major factor contributing to corruption and the erosion of public trust. These works emphasised the need for stronger legal frameworks that would mandate disclosure and bring political funding within the ambit of formal regulation.

Subsequent studies shifted attention to the role of judicial intervention in promoting electoral transparency. A significant portion of the literature highlights how the judiciary has played a proactive role in strengthening the voter’s right to information. Analyses of landmark judgments underline the idea that informed voting is a fundamental component of democratic participation. Scholars argue that by mandating disclosure of candidates’ assets, liabilities, and

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<sup>14</sup> CMS Report, *supra* note 6.

criminal records, judicial decisions have expanded the scope of transparency beyond mere financial accounting to include broader aspects of political accountability.

Another important strand of literature examines the relationship between corporate funding and political influence. Researchers have pointed <sup>15</sup>out that the growing involvement of corporate entities in political financing raises concerns about policy capture and unequal influence. These studies suggest that large-scale donations, particularly when not subject to adequate disclosure, may create a perception that public policy is shaped by private interests rather than collective welfare. At the same time, some authors acknowledge that corporate funding, if properly regulated, can provide a stable and legitimate source of financial support for political parties.

The introduction of institutional funding mechanisms, especially the Electoral Bond Scheme, has generated a new wave of scholarly debate. A number of commentators have critically analysed the scheme, focusing on its implications for transparency and accountability. While some view it as a step towards formalising political donations and reducing reliance on cash transactions, others argue that the anonymity it provides undermines the very objective of transparency. This divergence of opinion reflects a deeper tension within the literature between the need to protect donors and the democratic imperative of public disclosure.

In addition to legal and constitutional analyses, several studies have explored the practical dimensions of electoral financing. These include examinations of election expenditure, campaign strategies, and the increasing role of media and technology in shaping electoral outcomes. Scholars in this area highlight how financial resources influence not only the scale of campaigning but also the methods used to engage with voters. The rise of digital campaigning and targeted political communication has further complicated the regulatory landscape, as existing laws often struggle to address these emerging practices.

Reports and recommendations by expert committees and public institutions also form an important part of the literature. These reports have consistently emphasised the need for comprehensive reforms, including stricter disclosure norms, caps on donations, and greater institutional oversight. Some have advocated for partial state funding of elections as a means to reduce dependence on private contributions and promote a more level playing field. However, the feasibility and effectiveness of such measures remain subjects of ongoing debate. Despite the richness of existing literature, certain gaps remain. Much of the scholarship tends to examine political funding either from a purely legal perspective or from a policy-oriented viewpoint, without fully integrating the two. There is also a need for more nuanced analysis of

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<sup>15</sup> PRS Legislative Research, *supra* note 13.

how electoral strategy and financial resources interact in practice, particularly in the context of recent reforms. Furthermore, the long-term impact of mechanisms such as electoral bonds on democratic accountability is still unfolding and requires continued examination.

This study seeks to build upon and contribute to the existing literature by bringing together constitutional principles, legal frameworks, and practical realities of electoral politics. By situating political funding within the broader context of transparency, electoral integrity, and the right to information, it aims to offer a more comprehensive understanding of the challenges and possibilities that define electoral financing in India today.

### **1.9 Research Methodology**

The present study adopts a **qualitative and doctrinal research methodology**, as it primarily focuses on analysing legal principles, statutory frameworks, and judicial interpretations relating to political funding and electoral strategy in India. The research is largely based on secondary sources, which include statutes, case laws, government reports, academic writings, and credible policy analyses. This approach enables a detailed examination of the legal and constitutional dimensions of electoral financing without relying on empirical fieldwork.

A significant part of the research involves **doctrinal analysis**, wherein relevant laws such as the Representation of the People Act, provisions of the Income Tax framework, and regulations governing political contributions are critically examined. Judicial decisions delivered by constitutional courts are also analysed to understand how principles such as transparency, electoral integrity, and the right to information have been interpreted and applied in the context of political funding.

In addition to doctrinal analysis, the study adopts an **analytical and evaluative approach**. It does not merely describe the existing legal framework but also assesses its effectiveness in addressing contemporary challenges. Particular attention is given to mechanisms such as the Electoral Bond Scheme, examining both their intended objectives and their practical implications. This allows the research to identify gaps, inconsistencies, and areas where reforms may be necessary.

The study also incorporates a **comparative perspective** to a limited extent, drawing on practices from other democratic systems to better understand alternative models of political funding. This comparative element helps in evaluating whether certain reforms could be adapted to the Indian context, while recognising the unique socio-political conditions of the country.

The overall methodology is thus designed to ensure a balanced and comprehensive analysis by combining legal interpretation with critical evaluation. The aim is not only to understand the current framework but also to contribute to the broader discourse on electoral reforms and democratic accountability.

### **1.10 Chapter Scheme**

The dissertation is organised in a systematic manner to ensure a logical flow of ideas and a coherent analysis of the subject. Each chapter builds upon the previous one, gradually developing the central theme of electoral strategy and political funding in India.

**Chapter 1 (Introduction)** lays the foundation of the study by outlining the background, key concepts, theoretical framework, research problem, objectives, and methodology. It sets the context for understanding the significance of political funding within a democratic system.

**Chapter 2 (Legal Framework Governing Political Funding)** examines the constitutional and statutory provisions regulating electoral finance in India. It analyses relevant laws and institutional mechanisms, including the role of regulatory authorities, to provide a comprehensive overview of the existing framework.

**Chapter 3 (Electoral Bonds—Constitutionality and Critique)** focuses specifically on the Electoral Bond Scheme. It explores its structure, objectives, and functioning, while critically evaluating its implications for transparency, accountability, and the voter's right to information.

**Chapter 4 (Electoral Strategy and the Role of Money Power)** shifts the focus to the practical impact of financial resources on electoral politics. It analyses how funding influences campaign strategies, voter outreach, and overall electoral competition, highlighting concerns related to inequality and undue influence.

**Chapter 5 (Electoral Reforms and the Way Forward)** discusses the need for reform in the area of political funding. It reviews past and ongoing reform efforts, evaluates their effectiveness, and explores potential solutions aimed at strengthening transparency and fairness in the electoral process.

**Chapter 6 (Findings, Conclusions, and Recommendations)** brings together the key insights derived from the study. It evaluates the research hypotheses, summarises the main findings, and offers policy-oriented recommendations for improving the legal and institutional framework governing political funding in India.

Through this structured approach, the dissertation seeks to provide a comprehensive and

coherent analysis of the complex relationship between electoral strategy, political funding, and democratic governance.

## CHAPTER 2

### LEGAL FRAMEWORK GOVERNING POLITICAL FUNDING

#### 2.1 Political Funding as a Constitutional Concern: Free and Fair Elections under Article 324 and Democratic Accountability

Political funding in India is not merely an administrative or financial issue; it raises fundamental constitutional questions about the nature and quality of democracy. The Constitution does <sup>16</sup>not explicitly provide a detailed framework for regulating political finance. However, the principles governing elections—particularly the requirement that they be free and fair—have been recognised as part of the basic structure of the Constitution. Within this framework, the regulation of political funding becomes essential to preserving the integrity and legitimacy of the electoral process.

**Article 324 of the Constitution of India** vests the superintendence, direction, and control of elections in the Election Commission. While the provision does not specifically address political funding, its broad language has been interpreted to include all aspects necessary for ensuring the proper conduct of elections. The role of the Election Commission, therefore, extends beyond logistical arrangements such as voter rolls and polling procedures; it also encompasses the responsibility to maintain a level <sup>17</sup>playing field among political actors. In this context, the influence of money on elections becomes a matter of constitutional concern.

The idea of **free and fair elections** lies at the heart of democratic governance. An election cannot be considered truly free if voters are subjected to undue influence, nor can it be regarded as fair if certain candidates or parties enjoy disproportionate advantages due to their financial strength. Political funding directly affects both these dimensions. When access to financial resources is uneven, it enables some participants to dominate the electoral narrative through extensive advertising, large-scale campaigning, and greater organisational capacity. This imbalance can distort voter choice by limiting the visibility of alternative voices, thereby undermining the principle of equality in electoral competition.

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<sup>16</sup> D.D. Basu, Introduction to the Constitution of India (LexisNexis, 2023) at 210

<sup>17</sup> M.P. Jain, Indian Constitutional Law (LexisNexis, 2022) at 735.

The constitutional concern becomes even more pronounced when political funding lacks transparency. In a democratic system, accountability is closely linked to the availability of information. Voters are expected to make informed decisions, and this requires knowledge not only about candidates but also <sup>18</sup>about the financial interests that may influence them. When the sources of political funding are concealed or inadequately disclosed, it weakens the ability of citizens to evaluate the motivations and independence of political actors. This opacity creates a gap between the formal conduct of elections and their substantive fairness.

Judicial interpretation has played a significant role in expanding the constitutional understanding of electoral transparency. Courts have repeatedly emphasised that the right to vote carries with it the right to make an informed choice. This principle has been used to justify the disclosure of candidate information, including financial and criminal backgrounds. Although these developments do not directly regulate political funding, they establish a broader constitutional commitment to transparency and accountability in electoral processes. By extension, the logic underlying these decisions applies equally to the funding of political parties, as financial influence can shape policy decisions and governance outcomes.

At the same time, the relationship between political funding and democratic accountability is not entirely straightforward. There are competing considerations that complicate the regulatory landscape. For instance, while transparency is essential for accountability, concerns about donor privacy and potential retaliation may discourage legitimate contributions if disclosure requirements are too stringent. Balancing these interests requires a nuanced approach that recognises both the need for openness and the practical realities of political participation.

Another dimension of democratic accountability relates to the role of institutions. The Election Commission, as a constitutional body, is entrusted with safeguarding the integrity of elections. However, its powers <sup>19</sup>in relation to political funding are not absolute and often depend on statutory provisions enacted by the legislature. This creates a situation where the effectiveness of oversight mechanisms may be constrained by the design of the legal framework. As a result, gaps in regulation or enforcement can persist, even when there is a clear constitutional mandate to ensure fairness.

The increasing scale and complexity of modern electoral campaigns further intensify these challenges. The use of digital platforms, targeted political advertising, and data-driven strategies has expanded the ways in which money can influence elections. These developments

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<sup>18</sup> Kesavananda Bharati v. State of Kerala, (1973) 4 S.C.C. 225.

<sup>19</sup> Jain, *supra* note 2, at 742

make it more difficult to monitor expenditure and ensure compliance with existing regulations. Consequently, the constitutional commitment to free and fair elections must be continuously reinterpreted in light of changing political and technological realities.

In essence, political funding operates at the intersection of constitutional principles and practical governance. It affects not only how elections are conducted but also how democratic accountability<sup>20</sup> is maintained. When funding mechanisms are transparent and properly regulated, they can support a vibrant and competitive political system. Conversely, when they are opaque or uneven, they risk undermining the very foundations of democracy.

This section underscores that the regulation of political funding is not an optional policy choice but a constitutional necessity. Ensuring that elections remain free and fair requires more than procedural compliance; it demands a substantive commitment to equality, transparency, and accountability. By situating political funding within the framework of Article 324 and democratic principles, this study highlights the need for a legal and institutional approach that aligns electoral practices with the core values of the Constitution.

## **2.2 Statutory Framework: Representation of the People Act, 1951; Companies Act, 2013; and Income Tax Act Provisions**

The regulation of political funding in India is not governed by a single, unified statute. Instead, it is shaped by a combination of laws that collectively seek to address different aspects of electoral finance. Among these, the Representation of the People Act, 1951, the Companies Act, 2013, and the provisions of the Income Tax Act form the core of the statutory framework. Each of these laws operates within its own domain, yet together they attempt to create a system of disclosure, accountability, and financial regulation in the political sphere.

The **Representation of the People Act, 1951 (RPA)**<sup>21</sup> serves as the primary legislation governing elections in India. While its central focus is on the conduct of elections, it also contains important provisions relating to election expenditure and financial transparency. Candidates are required to maintain and submit accounts of their election expenses within a prescribed period. This requirement is intended to ensure that campaign spending remains within legal limits and does not distort electoral competition. Failure to comply with these provisions can lead to disqualification, highlighting the seriousness with which financial accountability is treated under the law.

However, the regulatory scope of the RPA has certain limitations. While it imposes expenditure

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<sup>20</sup> Law Commission Report, *supra* note 14, at 32.

<sup>21</sup> Representation of the People Act.

limits on individual candidates, it does not place equivalent restrictions on political parties. This distinction has significant implications, as parties often undertake substantial campaign spending that falls <sup>22</sup>outside the direct purview of candidate expenditure limits. As a result, the overall financial influence in elections may not be fully captured through the existing framework. This gap has been widely noted in legal and policy discussions as a challenge to achieving comprehensive regulation of electoral finance.

The **Companies Act, 2013** plays a crucial role in governing corporate contributions to political parties. Corporate funding has become an increasingly important source of political finance, making its regulation essential for maintaining transparency and preventing undue influence. Under this framework, companies are permitted to make political contributions, subject to certain conditions. Historically, there were limits on the proportion of profits that could be donated, along with requirements for disclosure in financial statements. These provisions were intended to ensure that shareholders and the public were informed about the political affiliations and financial commitments of corporate entities.

Over time, however, amendments to the law have altered this landscape. Changes in disclosure requirements and the removal of certain caps on contributions have raised concerns about the potential for unchecked corporate influence in politics. When corporate donations are not adequately disclosed, it becomes difficult to trace the relationship between financial contributions and policy decisions. This lack of transparency can create a perception that economic power translates into political advantage, thereby affecting public confidence in the fairness of the system.

The **Income Tax Act** complements these provisions by addressing the fiscal aspects of political funding. It provides for tax exemptions to political parties, subject to compliance with specified conditions, such as maintaining proper accounts and filing returns. At the same time, it offers incentives to donors by allowing deductions for contributions made to political parties through recognised channels. These measures are designed to encourage the use of formal, traceable modes of funding and to reduce reliance <sup>23</sup>on cash-based transactions.

An important feature of the Income Tax framework is the emphasis on record-keeping and reporting. Political parties are required to maintain detailed accounts of their income and expenditure, which are subject to scrutiny by tax authorities. This requirement aims to promote financial discipline and ensure that political funding is brought within the ambit of formal

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<sup>22</sup> Centre for Media Studies, *Poll Expenditure Report* (2024) at 22.

<sup>23</sup> Basu, *supra* note 1, at 275.

economic activity. However, similar to other aspects of the statutory framework, the effectiveness of these provisions depends largely on the robustness of enforcement and the accuracy of disclosures.

When viewed together, these three statutes reflect an attempt to balance multiple objectives: enabling political participation, ensuring financial transparency, and preventing misuse of funds. Yet, the fragmented nature of the framework poses certain challenges. The lack of coordination between different laws can lead to regulatory gaps, overlaps, and inconsistencies. For instance, while one <sup>24</sup>law may emphasise disclosure, another may allow exceptions that dilute its effectiveness. This fragmentation can make it difficult to achieve a coherent and comprehensive system of political finance regulation.

Moreover, the evolving nature of electoral practices continues to test the adequacy of the existing legal framework. The increasing role of large-scale funding, corporate participation, and new methods of campaigning requires laws that are adaptable and responsive. Without periodic review and reform, statutory provisions risk becoming outdated, thereby failing to address contemporary challenges.

In essence, the statutory framework governing political funding in India represents a work in progress. While significant steps have been taken to introduce regulation and promote accountability, important gaps remain. Addressing these gaps is crucial for ensuring that political funding supports, rather than undermines, the principles of transparency, fairness, and democratic integrity.

### **2.3 Electoral Bonds Scheme, 2018: Structure, Operation, and Legal Architecture**

The Electoral Bonds Scheme, introduced in 2018, represents one of the most significant and debated developments in the regulation <sup>25</sup>of political funding in India. Conceived as a reform measure, the scheme aimed to shift political donations from informal, cash-based channels to a more structured and traceable banking system. At its core, the scheme sought to address concerns regarding the use of unaccounted money in elections while encouraging legitimate contributions through formal financial instruments. However, its design and implementation have also generated important legal and constitutional questions.

In terms of its **structure**, an electoral bond is a financial instrument issued in the nature of a

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<sup>24</sup> Basu, *supra* note 1, at 260.

<sup>25</sup> Electoral Bond Scheme, Gazette Notification, Jan. 2018.

bearer bond. These bonds are made available for purchase through designated branches of authorised banks within specified windows during the year. They are issued in fixed denominations, allowing donors to choose the amount they wish to contribute. One of the defining features of these bonds is that they do not carry the name of the donor, thereby maintaining a level of anonymity. Once purchased, the bond can be donated to an eligible political party, which can then encash it within a limited period through its verified bank account.

The **operation of the scheme** is designed to integrate political funding into the formal banking framework. To purchase <sup>26</sup>an electoral bond, a donor must comply with standard banking requirements, including identity verification. This ensures that the transaction is recorded within the banking system, even though the identity of the donor is not disclosed to the public. Political parties eligible to receive such donations are required to fulfil certain conditions, such as securing a minimum percentage of votes in previous elections and maintaining designated bank accounts for encashment.

From an operational standpoint, the scheme appears to create a controlled environment for political donations. It eliminates the direct exchange of cash between donors and political parties and introduces a time-bound mechanism for both the purchase and encashment of bonds. This structure is intended to reduce the circulation of unaccounted funds and promote a cleaner financial ecosystem within electoral politics.

However, the **legal architecture** of the Electoral Bonds Scheme extends beyond the scheme itself and is closely linked to a series of legislative amendments. The introduction of electoral bonds was accompanied <sup>27</sup>by changes to multiple laws governing political funding, including provisions related to corporate contributions, disclosure requirements, and financial reporting. These amendments collectively reshaped the regulatory framework, enabling the operation of the scheme while also altering existing safeguards related to transparency.

One of the most debated aspects of this legal architecture is the treatment of **anonymity and disclosure**. While the banking system retains information about the purchaser of electoral bonds, this information is not made available to the general public. As a result, voters are unable to identify the sources of funding for political parties. This has led to concerns that the scheme, while formalising the process of donations, may simultaneously reduce transparency by limiting public access to crucial information.

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<sup>26</sup> Ministry of Finance, *Explanatory Memorandum to Finance Bill (2017)* at 12.

<sup>27</sup> PRS Legislative Research, *Electoral Bonds Analysis (2024)* at 3.

Another important feature of the legal framework is the role of institutions in implementing and overseeing the scheme. The authorised bank acts as the intermediary for issuing and redeeming bonds, while political parties are responsible for maintaining compliance with eligibility conditions. However, the extent of independent oversight and public accountability within this framework has been a subject of discussion, particularly in light of the broader constitutional principles governing electoral transparency.

The introduction of the Electoral Bonds Scheme also reflects a broader policy approach that seeks to balance competing considerations.<sup>28</sup> On one hand, there is a clear attempt to curb the use of black money and bring political funding within the formal financial system. On the other hand, the emphasis on donor anonymity introduces a tension between privacy and transparency. This tension lies at the heart of the legal debates surrounding the scheme and raises important questions about the extent to which financial reforms can align with democratic values.

In practical terms, the scheme has had a noticeable impact on the patterns of political funding. It has provided a channel for large-scale donations through formal means, potentially increasing the overall volume of reported contributions. At the same time, the concentration of such funding and the lack of publicly available information about donors have raised concerns about the distribution of financial power within the political system.

In conclusion, the Electoral Bonds Scheme represents a complex and evolving component of India's political funding framework. Its structure and operation demonstrate an effort to modernise and formalise<sup>29</sup> electoral finance, while its legal architecture reveals the challenges of balancing regulation with constitutional principles. Understanding this scheme is essential for evaluating the broader issues of transparency, accountability, and fairness that define the discourse on electoral reforms in India.

#### **2.4 Amendments Enabling Electoral Bonds: Finance Acts and the Question of Legislative Scrutiny**

The introduction of the Electoral Bonds Scheme was not an isolated policy decision; it was made possible through a series of amendments to existing laws, primarily brought about through successive Finance Acts. These amendments altered key provisions governing political funding, thereby creating the legal foundation for the scheme's operation. Understanding these changes is essential to appreciating both the intent behind the reform and the concerns it has

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<sup>28</sup> Electoral Bond Scheme, 2018, cl. 2(a).

<sup>29</sup> Ministry of Finance, *supra* note 2, at 14.

generated.

One of the most significant aspects of these amendments lies in the manner in which they were enacted. Instead of being introduced as standalone legislation subject to detailed parliamentary debate, many of these changes were incorporated into Finance Acts, which are typically passed as Money Bills. This classification has important procedural implications, as Money Bills are subject to a more limited form of scrutiny in Parliament, particularly in relation to the role of the Upper House. As a result, provisions with far-reaching consequences for electoral transparency were enacted without the level of deliberation that might ordinarily accompany such reforms.<sup>30</sup>

Substantively, the amendments affected multiple areas of political funding. Changes were made to laws governing corporate donations, disclosure requirements, and financial reporting obligations of political parties. For instance, certain restrictions on corporate contributions were relaxed, and disclosure norms were modified in a manner that aligned with the anonymity features of electoral bonds. While these changes facilitated the smooth functioning of the scheme, they also altered the balance between transparency and privacy in political finance.

The question of legislative scrutiny therefore becomes central to the debate. Critics argue that reforms of such constitutional significance—impacting democratic accountability and electoral fairness—ought to have been subjected to rigorous parliamentary discussion and wider public engagement. The use of the Finance Act route, in this context, has been viewed as limiting institutional checks and reducing the opportunity for critical evaluation. On the other hand, supporters contend that the amendments were part of broader financial reforms and were necessary to address the urgent problem of unaccounted money in elections.

Ultimately, this issue highlights a deeper concern about the process of law-making in areas that directly affect democratic<sup>31</sup> governance. It raises the question of whether procedural shortcuts, even if legally permissible, are appropriate when dealing with matters that influence the core structure of electoral democracy.

## **2.5 Transparency vs. Anonymity: Legal Tensions in Political Contributions**

The regulation of political funding often involves navigating a delicate balance between competing values. Among the most prominent of these is the tension between transparency and anonymity. While transparency is essential for ensuring accountability in a democratic system,

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<sup>30</sup> M.P. Jain, *Indian Constitutional Law* (LexisNexis, 2022) at 890.

<sup>31</sup> PRS Legislative Research, *supra* note 3, at 18.

anonymity is sometimes defended as a means of protecting donors from potential repercussions. The challenge lies in reconciling these two objectives without undermining the integrity of the electoral process.

Transparency in political contributions serves a fundamental democratic purpose. It allows citizens to understand who is financially supporting political parties and candidates, thereby providing insight into possible influences on policy decisions. This information is particularly important in a system where financial power can shape electoral outcomes and governance priorities. Without adequate transparency, voters may be left unaware of the interests operating behind the political process, which can weaken informed decision-making.

On the other hand, the argument for anonymity is rooted in concerns about donor protection. It is often suggested that individuals and entities may hesitate to contribute to political parties if their identities are <sup>32</sup>publicly disclosed, especially in a politically polarised environment. Anonymity, in this sense, is seen as a safeguard that encourages participation in the funding process by reducing the risk of political or economic retaliation.

However, when anonymity is extended too far, it can create significant risks for democratic accountability. If large-scale contributions are made without public disclosure, it becomes difficult to detect <sup>33</sup>patterns of influence or assess whether certain actors are exerting disproportionate control over political outcomes. This lack of visibility may lead to a concentration of financial power, where a few contributors play a dominant role without being subject to public scrutiny.

The legal tension, therefore, arises from the need to strike a balance. A system that prioritises transparency at the cost of donor participation may discourage legitimate contributions, while one that prioritises anonymity may undermine public trust. The challenge for the law is to design mechanisms that ensure sufficient disclosure to maintain accountability, while also addressing genuine concerns about privacy.

In the Indian context, this tension has become particularly pronounced with the introduction of institutional funding mechanisms that emphasise anonymity. The debate continues as to whether the current balance adequately reflects constitutional values, especially those relating to the voter's right to information and the broader principle of democratic openness.

## **2.6 Role of the Election Commission and Regulatory Oversight Mechanisms**

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<sup>32</sup> D.D. Basu, Introduction to the Constitution of India (LexisNexis, 2023) at 275.

<sup>33</sup> Association for Democratic Reforms, Report (2024) at 14.

The effectiveness of any legal framework governing political funding depends largely on the strength of its enforcement and oversight mechanisms. In India, the Election Commission plays a central role in safeguarding <sup>34</sup>the integrity of elections. As a constitutional authority, it is entrusted with ensuring that the electoral process is conducted in a free and fair manner. However, its role in regulating political funding is shaped by both its constitutional mandate and the limitations imposed by statutory provisions.

The Election Commission is responsible for monitoring various aspects of electoral conduct, including candidate expenditure<sup>35</sup>, compliance with disclosure requirements, and adherence to the Model Code of Conduct. It also issues guidelines and directions aimed at promoting transparency and fairness in elections. Through these functions, the Commission acts as a key institutional safeguard against the misuse of financial resources in electoral politics.

Despite its broad mandate, the Commission's powers in relation to political funding are not absolute. Much of its authority depends on the legal framework established by Parliament. This means that where laws provide limited scope for disclosure or regulation, the Commission may find it difficult to enforce higher standards of transparency. For example, if certain forms of political contributions are legally permitted to remain undisclosed, the Commission's ability to intervene is correspondingly constrained.

In addition to the Election Commission, other regulatory mechanisms also play a role in overseeing political <sup>36</sup>funding. These include tax authorities, which monitor financial compliance, and auditing requirements imposed on political parties. While these mechanisms contribute to accountability, their effectiveness often depends on the accuracy of reported information and the extent of coordination between different institutions.

A recurring challenge in this context is the issue of enforcement. Even where legal provisions exist, ensuring compliance can be difficult in practice. Factors such as limited resources, procedural delays, and the complexity of modern electoral financing can hinder effective oversight. The rise of new campaign methods, including digital advertising and indirect expenditure, further complicates the regulatory landscape.

The role of the Election Commission, therefore, must be understood within this broader institutional framework. While it remains a crucial guardian of electoral integrity, its effectiveness depends on the support of a coherent legal structure and robust enforcement mechanisms. Strengthening these aspects is essential for ensuring that political funding does

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<sup>34</sup> Law Commission of India, Report No. 255 (2015) at 32.

<sup>35</sup> M.P. Jain, *Indian Constitutional Law* (LexisNexis, 2022) at 890.

<sup>36</sup> Jain, *supra* note 7, at 910.

not compromise the fairness and credibility of elections.

## 2.7 Case Laws and Judicial Interventions

Judicial decisions have played a decisive role in shaping the law on electoral transparency and political funding in India. Although the Constitution does not expressly regulate political finance, the courts<sup>37</sup> have, over time, read principles such as informed voting, accountability, and fairness into the electoral framework. Through a series of important rulings, the judiciary has expanded the scope of the voter's right to know and has attempted to curb the opacity that often surrounds political funding. These decisions provide the doctrinal backbone for understanding contemporary debates, including those surrounding electoral bonds.

One of the earliest and most influential decisions in this area is *Association for Democratic Reforms v. Union of India* (2002) 5 SCC 294. In this case, the Supreme Court recognised that voters have a right to know essential details about candidates, including their<sup>38</sup> assets, liabilities, and criminal background. The Court linked this right to the broader guarantee of freedom of expression, observing that meaningful participation in a democracy requires access to relevant information. Although the case did not directly deal with political funding, its reasoning laid the foundation for later arguments that financial transparency is integral to electoral fairness.

This principle was reaffirmed and further developed in *People's Union for Civil Liberties v. Union of India* (2003) 4 SCC 399. Here, the Court upheld the requirement of disclosure and emphasised that the right to information is a necessary condition for the proper functioning of democracy. The judgment made it clear that elections are not merely procedural exercises but involve informed decision-making by citizens. In doing so, it strengthened the constitutional basis for transparency in electoral matters, including financial disclosures.

The importance of voter choice was also highlighted in *People's Union for Civil Liberties v. Union of India* (2013) 10 SCC 1, commonly known as the NOTA case. The Court introduced the "None of the Above" option in electronic voting, recognising that the freedom to reject candidates is part of the democratic process. While this case did not address political funding directly, it reinforced the idea that electoral participation must be meaningful and based on informed preferences—an idea closely connected to transparency in funding.

In *Resurgence India v. Election Commission of India* (2014) 14 SCC 189, the Court dealt with

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<sup>37</sup> Constitution of India, art. 324.

<sup>38</sup> Jain, *supra* note 7, at 910.

the issue of incomplete disclosures by candidates. It held that furnishing false or incomplete information would defeat the very purpose of transparency and could not be permitted. This judgment underscored that disclosure requirements must be taken seriously and cannot be reduced to mere formalities. The reasoning is equally relevant in the context of political funding, where incomplete or absent disclosures can undermine accountability.

The relationship between money and elections was examined more directly in *Kanwar Lal Gupta v. Amar Nath Chawla* (1975) 3 SCC 646. The Court recognised that excessive expenditure in elections has the potential to distort the democratic process by giving undue advantage to wealthier <sup>39</sup> candidates. It observed that controlling election expenditure is essential to maintaining fairness and preventing the influence of money power. This early recognition of the dangers posed by financial inequality continues to inform contemporary debates on political funding.

Another significant development can be seen in *Common Cause v. Union of India* (2017) 7 SCC 158, where concerns were raised regarding transparency in political donations and the need for stricter regulatory mechanisms. The case contributed to the broader discourse on the necessity <sup>40</sup> of openness in political finance and highlighted the risks associated with opaque funding practices.

In *Lok Prahari v. Union of India* (2018) 4 SCC 699, the Court reiterated the importance of financial transparency by requiring elected representatives to disclose their sources of income. The judgment emphasised that public office carries with it a duty of accountability, and financial disclosures are an essential part of that obligation. This reasoning strengthens the argument that political actors must remain open about their financial dealings.

More recently, the debate surrounding political funding reached a critical stage with the challenge to the Electoral Bonds Scheme. In *Association for Democratic Reforms v. Union of India* (2024, Electoral Bonds Case), the Supreme Court examined whether the scheme's provisions on donor anonymity were consistent with constitutional <sup>41</sup> principles. The Court expressed serious concerns about the impact of undisclosed political contributions on transparency and the voter's right to information. It highlighted that when the identity of donors is not accessible to the public, it becomes difficult to assess potential influences on political parties and governance.

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<sup>39</sup> *Kanwar Lal Gupta v. Amar Nath Chawla*, (1975) 3 SCC 646 (India).

<sup>40</sup> *Common Cause v. Union of India*, (2017) 7 SCC 158 (India).

<sup>41</sup> *Association for Democratic Reforms v. Union of India*, Writ Petition (Civil) No. 880 of 2017, decided in 2024 (Supreme Court of India) [Electoral Bonds Case].

The judgment reflects a broader constitutional concern: that electoral processes must not only be formally fair but also substantively transparent. By questioning the compatibility of anonymous funding with democratic accountability, the Court brought the issue of political finance squarely within the framework of fundamental rights and constitutional values.

Taken together, these cases illustrate a consistent judicial approach that prioritises transparency, informed participation, and fairness in elections. While the courts have not created a comprehensive regulatory regime for political funding, they have established guiding principles that shape legislative and policy choices. The emphasis on the voter's right to know, the need to control the influence of money, and the importance of accountability continues to influence the evolving discourse on electoral reforms in India.

In the context of this study, these judicial pronouncements provide a crucial lens for analysing the legality and implications of political funding mechanisms. They demonstrate that issues relating to electoral finance cannot be viewed in isolation but must be assessed in light of the broader constitutional commitment to a transparent and participatory democracy.



## **CHAPTER 3**

### **ELECTORAL BONDS—CONSTITUTIONALITY AND CRITIQUE**

#### **3.1 Understanding Electoral Bonds: Objectives, Features, and Practical Functioning**

The introduction of electoral bonds marked a significant shift in the way political funding is

structured in India. Designed as a financial instrument to facilitate donations to political parties, electoral bonds were presented as a reform aimed at bringing greater order and legitimacy to the flow of money<sup>42</sup> in elections. To understand their impact, it is important to examine not only their stated objectives but also their defining features and how they operate in practice.

At the level of **objectives**, the primary aim behind electoral bonds was to address the long-standing problem of unaccounted money in political funding. For many years, a substantial portion of political donations was made in cash, making it difficult to trace the origin of funds or ensure compliance with legal requirements. By introducing a banking-based mechanism, the scheme sought to channel contributions through formal financial systems. This, in theory, would reduce the circulation<sup>43</sup> of black money and encourage donors to use legitimate and traceable means for political contributions.

Another objective often associated with the scheme is the protection of donors. It has been argued that individuals and entities may be reluctant to contribute openly to political parties due to the fear of political or economic repercussions. Electoral bonds attempt to address this concern by allowing donors to make contributions without their identities being publicly disclosed. This feature is intended to create a safer environment for political participation, particularly in a competitive and, at times, polarised political landscape.

In terms of **features**, electoral bonds are essentially bearer instruments that can be purchased from authorised banking institutions in specified denominations. They do not carry the name of the purchaser, which distinguishes them from conventional modes of donation that require disclosure. These bonds are available only during limited time windows, and once purchased, they must be transferred to an eligible political party within a fixed period. The receiving party can then encash the bond through its designated bank account.

Eligibility criteria also form an important part of the scheme's design. Only those political parties that meet certain conditions—such as securing a minimum percentage of votes in previous elections—are permitted to receive donations through electoral bonds. This requirement is intended to ensure that the benefits of the scheme are limited to parties with a recognised presence in the electoral system, thereby preventing misuse by non-serious or unregistered entities.

The **practical functioning** of electoral bonds reflects a combination of transparency and opacity. On one hand, the process of purchasing bonds involves compliance with banking

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<sup>42</sup>Electoral Bond Scheme, notified vide Ministry of Finance Notification S.O. 29(E), Jan. 2, 2018.

<sup>43</sup> Reserve Bank of India, *Annual Report* (2018) at 112.

regulations, including identity verification. This ensures that the transaction is recorded within the financial system, thereby <sup>44</sup>reducing the likelihood of entirely untraceable funding. On the other hand, the identity of the donor is not disclosed to the public, and in many cases, even the receiving political party may not have formal access to this information through official records. As a result, while the flow of funds is partially formalised, it remains shielded from public scrutiny.

In practice, the scheme has facilitated large-scale donations through formal channels, indicating a shift away from purely cash-based contributions. However, it has also led to concerns regarding the concentration of funding among certain political parties and the lack of publicly available information about donors. The absence of disclosure makes it difficult for voters to understand the financial relationships that may exist between political actors and contributors, raising questions about accountability and transparency.

Another practical aspect relates to the role of institutions in administering the scheme. The authorised bank acts as the intermediary, ensuring compliance with procedural requirements, while political parties are responsible for adhering to eligibility conditions and maintaining proper accounts. Despite this structured process, the broader issue of oversight remains complex, particularly when information about donors is not accessible for independent verification.

In essence, electoral bonds represent an attempt to modernise political funding by integrating it into the formal financial system. They address certain longstanding concerns, particularly those related to unaccounted cash transactions. At the same time, their design introduces new challenges, especially in relation to transparency <sup>45</sup>and public accountability. The scheme thus occupies a contested space within the broader discourse on electoral reforms, reflecting both progress and unresolved tensions in the regulation of political finance.

Understanding these <sup>46</sup>dimensions is crucial for evaluating the role of electoral bonds within India's democratic framework. It allows for a more nuanced assessment of whether the scheme advances the goals of clean and fair elections or whether it inadvertently creates new forms of opacity within the system.

### **3.2 Constitutional Challenges: Equality, Free Speech, and Voter's Right to Information**

The Electoral Bonds Scheme has not only altered the mechanics of political funding but has also raised serious constitutional questions. At the centre of the debate are three interrelated

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<sup>44</sup> Ministry of Finance India, *Memorandum Explaining Electoral Bonds* (2018).

<sup>45</sup> Electoral Bond Scheme, 2018, cl. 2(a), 3 (nature and issuance of bearer bonds).

<sup>46</sup> Association for Democratic Reforms, *Electoral Bonds Report* (2024) at 18.

principles—equality, freedom of speech and expression, and the voter’s right to information. These principles form the backbone of democratic governance, and any funding mechanism that affects electoral processes must be tested against them.

The first area of concern relates <sup>47</sup>to **equality**, which is a foundational constitutional value. In the electoral context, equality does not merely mean formal equality before the law; it also implies a level playing field among political participants. The introduction of electoral bonds has been criticised on the ground that it may indirectly favour certain political actors over others. Since the scheme allows large-scale contributions through formal channels without public disclosure, parties with greater access to financial networks may benefit disproportionately. This can lead to a situation where electoral competition is shaped not by ideas or public support, but by the availability of financial resources.

Another dimension of equality arises in relation to corporate contributions. The removal of earlier limits on corporate donations has enabled companies to contribute without a cap, potentially allowing entities with significant economic power to exert greater influence in the political sphere. This creates an imbalance between ordinary citizens and large contributors, raising concerns about whether all participants in the democratic process truly stand on equal footing. When financial power translates into political advantage, the principle of equal opportunity in elections is put at risk.

The second constitutional issue concerns **freedom of speech and expression**, which includes not only the right to express political views but also the right to receive information necessary for forming those views. Elections are a crucial moment for the exercise of this freedom, as voters engage with competing ideas and <sup>48</sup>make choices that shape governance. The ability to make an informed choice depends on access to relevant information, including the financial backing of political parties.

In this context, political funding is not merely a private transaction; it has a direct bearing on public discourse. Financial contributions often influence campaign narratives, policy priorities, and the visibility of political messages. If the sources of such funding remain undisclosed, voters are deprived of an important dimension of information that could affect their evaluation of political actors. Thus, restrictions on disclosure can indirectly limit the effective exercise of freedom of expression by constraining informed participation.

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<sup>47</sup> *Constitution of India*, art. 14.

(Equality before law and equal protection of laws—basis of level playing field in elections.)

<sup>48</sup> *Constitution of India*, art. 19(1)(a).

(Freedom of speech and expression, including the right to receive information.)

Closely linked to this is the **voter's right to information**, which has been recognised as an essential component of democratic participation. This right enables citizens to scrutinise candidates and political parties, ensuring that electoral choices are made with awareness and understanding. Judicial developments in India have consistently emphasised that democracy thrives on informed decision-making, and that access to information is a prerequisite for meaningful participation.

The Electoral Bonds Scheme raises concerns in this regard because it restricts public access to information about political donors. While the transactions occur through formal banking channels, the identity of contributors is not disclosed to voters. This creates a gap between the existence of financial records and their availability for public scrutiny. As a result, voters may be unable to assess whether certain political parties are influenced by specific economic or corporate interests.

The tension between these constitutional principles becomes particularly evident when considering the justification for anonymity. While protecting donor privacy may encourage contributions, it must be weighed against the broader democratic need for transparency. If anonymity is prioritised to the extent that it obscures the flow of political finance, it may weaken accountability and erode <sup>49</sup>public trust in the electoral process.

Another important aspect is the cumulative impact of these concerns. Equality, free speech, and the right to information are not isolated concepts; they interact with one another in shaping democratic outcomes. A lack of transparency in funding can lead to unequal competition, which in turn affects the diversity of political expression available to voters. This ultimately influences the quality of electoral choice and the legitimacy of democratic governance.

In essence, the constitutional challenges posed by electoral bonds highlight a deeper question about the nature of democracy itself. They force a reconsideration of how financial mechanisms should be designed in a way that supports, rather than undermines, core constitutional values. While reforms aimed at formalising political funding are necessary, they must be carefully balanced against the need to preserve transparency, fairness, and informed participation.

This analysis underscores that political funding cannot be treated as a purely technical issue. It is inherently connected to constitutional principles that define the democratic character of the State. Any evaluation of electoral bonds must therefore consider not only their practical benefits but also their broader impact on equality, freedom of expression, and the citizen's right

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<sup>49</sup> *Constitution of India*, art. 21.

(Expanded interpretation includes fairness, transparency, and due process in governance.)

to know.

### **3.3 Judicial Scrutiny and Landmark Developments: Analysis of Supreme Court Proceedings<sup>50</sup>**

The Electoral Bonds Scheme has been subject to intense judicial scrutiny, reflecting the seriousness of the constitutional questions it raises. The Supreme Court's engagement with the issue has evolved over time, moving from an initial phase of caution to a more detailed examination of the scheme's impact on transparency and democratic accountability. This judicial journey is important for understanding how constitutional principles are applied to complex questions of political funding.

The earliest challenges to the scheme were brought soon after its introduction. Petitioners questioned the legality of the framework, arguing that it diluted transparency in political funding and undermined the voter's right to information. The Court, at this preliminary stage, did not immediately suspend the operation of the scheme. Instead, it adopted a cautious approach, allowing the mechanism to continue while directing political parties to submit details of donations received through electoral bonds in sealed covers. This interim arrangement reflected an attempt to balance competing concerns—on one hand, the need to avoid disrupting an ongoing policy measure, and on the other, the necessity of preserving relevant information for future scrutiny.

However, the sealed cover mechanism itself became a point of debate. While it ensured that information was not entirely lost, it also meant that such information was not accessible to the public. Critics argued that this approach fell short of the transparency required in a democratic system, as it did not enable voters to make informed decisions. The Court's interim directions, therefore, highlighted the difficulty of addressing constitutional concerns in the absence of a final adjudication.

As the matter progressed, the Supreme Court undertook a more substantive examination of the issues involved. The focus shifted to the broader constitutional implications of the scheme, particularly its effect on the voter's right to information, equality in electoral competition, and the role of transparency in democratic governance. The Court was required to consider whether the anonymity provided by electoral bonds could be justified in light of these principles.

During the hearings, detailed arguments were presented regarding the nature of political funding and its relationship with constitutional values. It was contended that financial contributions to political parties are not purely private transactions but have a direct bearing on

public decision-making. The Court examined whether withholding information about such contributions from the public could be reconciled with the idea of informed voting. At the same time, arguments were also made in favour of protecting donor privacy, highlighting the potential risks of disclosure in a politically sensitive environment.

A significant aspect of the Court's scrutiny involved examining the legislative framework that enabled the scheme. The amendments introduced through Finance Acts, along with their impact on disclosure requirements, were analysed in detail. Questions were raised about whether these changes had altered the balance between transparency and confidentiality in a manner that affected democratic accountability. The Court's inquiry extended beyond the scheme itself to the broader legal structure within which it operates.

The culmination of this process came with the Supreme Court's final judgment on the electoral bonds issue. In its decision, the Court placed considerable emphasis on the importance of transparency in political funding. It recognised that the right to information plays a central role in ensuring that voters can make informed choices, and that any system which restricts access to such information must be carefully justified. The Court expressed concerns that anonymity in political donations, particularly when it involves large contributions, could obscure the relationship between donors and political actors.

The judgment also addressed the issue of equality, noting that unequal access to financial resources can distort electoral competition. By allowing significant contributions without public disclosure, the scheme was seen as creating the possibility of imbalances that could affect the fairness of elections. The Court's reasoning reflected a broader understanding that democratic processes must not only be formally valid but also substantively fair.

Importantly, the Court did not view the issue in isolation but as part of a larger constitutional framework. It linked political funding to the principles of free and fair elections, accountability, and the rule of law. In doing so, it reinforced the idea that electoral reforms must align with constitutional values<sup>51</sup> and cannot be assessed solely on the basis of administrative convenience or policy objectives.

The judicial scrutiny of electoral bonds thus represents a significant moment in the evolution of electoral jurisprudence in India. It demonstrates the role of the judiciary in addressing emerging challenges and ensuring that democratic principles are upheld in changing circumstances. The proceedings also highlight the complexities involved in balancing

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<sup>51</sup> *Indira Nehru Gandhi v. Raj Narain*, (1975) Supp SCC 1.  
(Free and fair elections recognised as part of the basic structure of the Constitution.)

competing interests, such as transparency and privacy, within the framework of constitutional law.

In conclusion, the Supreme Court's engagement with the Electoral Bonds Scheme has brought much-needed clarity to the legal and constitutional issues surrounding political funding. While the debate on electoral reforms is likely to continue, the Court's analysis provides an important foundation for future discussions. It underscores the need for a regulatory approach that not only addresses practical concerns but also remains firmly grounded in the principles of transparency, equality, and informed democratic participation.

### **3.4 Corporate Influence and Political Capture: Risks of Unlimited and Anonymous Donations**

The relationship between corporate entities and political funding has become an increasingly significant feature of modern electoral systems. In India, this relationship has taken on added importance with changes in the legal framework that permit greater corporate participation in political financing. While corporate contributions can provide a stable and substantial source of funds for political parties, they also raise deeper concerns about influence, accountability, and the potential distortion of democratic processes.

At a basic level, corporate funding reflects the intersection of economic power and political activity. Companies, as organised economic actors, possess resources that far exceed those available to individual citizens. When such resources are channelled into political funding, they have the capacity to shape electoral competition in a meaningful way. This influence is not necessarily direct or overt; it often operates through sustained financial support that enhances a party's ability to campaign, communicate, and maintain organisational strength.

The risks associated with corporate influence become more pronounced when donations are **unlimited**. The removal or relaxation of caps on corporate contributions has created the possibility of large-scale funding without proportionate checks. In such a scenario, a small number of corporate donors may contribute disproportionately high amounts, thereby gaining a position of relative importance in the political ecosystem. This concentration of financial power can undermine the principle of equal participation, as ordinary citizens lack comparable means to influence political processes.

The issue is further complicated when such contributions are **anonymous**. Transparency plays a crucial role in ensuring that political funding remains accountable to the public. When the identity of donors is not disclosed, it becomes difficult to assess whether financial contributions are linked to specific policy outcomes or governmental decisions. This lack of visibility creates

conditions in which influence may be exercised without scrutiny, raising concerns about fairness and integrity.

One of the central risks in this context is the phenomenon often described as **political capture**. This occurs when decision-making processes are influenced, directly or indirectly, by a narrow set of interests rather than by the broader public good. Corporate entities, by virtue of their financial capacity, may be able to secure preferential access or shape policy priorities in ways that align with their economic interests. While such influence may not always be explicit, the perception of its possibility can itself weaken public confidence in democratic institutions.

Another important concern relates to the impact on **policy neutrality**. In a democratic system, policies are expected to be formulated on the basis of public welfare, social justice, and constitutional principles. However, when political funding is heavily dependent on corporate contributions, there is a risk that policy<sup>52</sup> decisions may be influenced by considerations that are not entirely aligned with these objectives. This can manifest in subtle ways, such as prioritising certain sectors, altering regulatory frameworks, or shaping legislative agendas.

The problem is not limited to actual influence but extends to the **perception of influence**. Even in the absence of direct evidence linking donations to policy outcomes, the existence of large and undisclosed contributions can create doubts about the independence of political actors. Such perceptions can erode trust in the electoral process and reduce the credibility of democratic governance. Trust, once diminished, is difficult to restore and has long-term implications for the stability of political institutions.

It is also important to consider the broader implications for **electoral competition**. Political parties that receive substantial corporate funding may enjoy a significant advantage in terms of campaign resources, media visibility, and organisational capacity. This can create an uneven playing field, where smaller parties or independent candidates struggle to compete effectively. Over time, such disparities may limit political diversity and reduce the range of choices available to voters.

At the same time, it must be acknowledged that corporate funding is not inherently problematic. In many democracies, it is recognised as a legitimate form of participation in the political process. The challenge lies in ensuring that such participation is regulated in a manner that prevents misuse and maintains transparency. Proper disclosure requirements, reasonable limits on contributions, and effective oversight mechanisms can help mitigate the risks associated

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<sup>52</sup>*Union of India v. Association for Democratic Reforms*, (2002) 5 SCC 294.  
(Right of voters to know candidate information derived from Article 19(1)(a).)

with corporate influence.

In the Indian context, the combination of **unlimited contributions and anonymity** has intensified the debate. While these features may<sup>53</sup> encourage higher levels of funding through formal channels, they also create conditions where accountability is weakened. The absence of clear information about the source and scale of corporate donations makes it difficult for regulators, civil society, and voters to assess their impact on the political system.

In conclusion, the role of corporate funding in electoral politics presents a complex set of challenges. It highlights the need to balance the benefits of financial support with the imperative of maintaining democratic integrity. When left unchecked, the concentration of economic power in the political sphere can lead to distortions that undermine fairness, accountability, and public trust. Addressing these concerns requires a regulatory framework that ensures transparency, limits undue influence, and reinforces the principle that political processes must ultimately serve the interests of the broader public.

### **3.5 Impact on Electoral Transparency: Public Accountability and Democratic Trust Deficit**

Electoral transparency is a cornerstone of democratic governance, as it enables citizens to understand how political power is financed and exercised. In the context of political funding, transparency ensures that financial contributions are open to scrutiny, thereby promoting accountability and reducing the risk of undue influence. When transparency is compromised, it affects not only the functioning<sup>54</sup> of elections but also the broader relationship between the State and its citizens.

One of the most immediate consequences of reduced transparency in political funding is the weakening of **public accountability**. In a democratic system, political parties and candidates are expected to justify their actions and decisions to the electorate. Financial disclosures play a crucial role in this process by revealing the sources of support that may shape political priorities. When such information is incomplete or inaccessible, it becomes difficult for citizens to evaluate whether political decisions are being made in the public interest or influenced by specific financial contributors.<sup>55</sup>

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<sup>53</sup> Ministry of Finance, *Electoral Bond Scheme, 2018*, Gazette Notification No. S.O. 29(E), Jan. 2, 2018. (Primary legal instrument governing electoral bonds.)

<sup>54</sup> Election Commission of India, *Guidelines and Instructions on Election Expenditure Monitoring* (latest available).

<sup>55</sup> Law Commission of India, *255th Report on Electoral Reforms* (2015). (Recommends transparency and regulation of political funding.)

The lack of transparency also affects the ability of oversight institutions, civil society organisations, and the media to perform their monitoring functions effectively. Without access to reliable information, independent scrutiny is limited, and potential irregularities may go undetected. This creates an environment where accountability mechanisms exist in form but may not function effectively in practice.

Another significant impact is the emergence of a **democratic trust deficit**. Trust is a fundamental element of any democratic system, as it underpins the legitimacy of institutions and processes. When voters perceive that political funding is opaque or influenced by undisclosed interests, their confidence in the fairness of elections may decline. This perception can lead to disengagement from the political process<sup>56</sup>, reduced voter participation, and a general sense of disillusionment with governance.

The trust deficit is not solely the result of actual misconduct; it can arise even from the perception of possible influence. When large contributions are made without public disclosure, it creates uncertainty about the motivations behind political decisions. This uncertainty, in turn, fosters suspicion and weakens the credibility of both political actors and institutions. Over time, such perceptions can have a cumulative effect, eroding the foundation of democratic legitimacy.

Transparency also plays a critical role in ensuring **fair electoral competition**. When funding sources are clearly disclosed, it allows for a better understanding of how resources are distributed among political parties. This visibility can help identify imbalances and encourage corrective measures. In contrast, opaque systems may conceal disparities, making it difficult to assess whether the electoral process is genuinely competitive.

At the same time, it is important to recognise that transparency must be meaningful rather than merely formal. Disclosure requirements that are complex, fragmented, or difficult to access may not achieve their intended purpose. For transparency to contribute effectively to accountability, information must be accurate, timely, and accessible to the public in a comprehensible form.

In the Indian context, debates surrounding political funding have brought these issues into sharp focus. While efforts have been made to formalise funding mechanisms, concerns remain about whether these reforms have sufficiently<sup>57</sup> enhanced transparency. The gap between recorded

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<sup>56</sup> National Commission to Review the Working of the Constitution (NCRWC), *Report* (2002). (Highlights need for transparency in political finance.)

<sup>57</sup> Centre for Media Studies, *Poll Expenditure Reports* (various years). (Empirical evidence on rising election expenditure in India.)

financial transactions and publicly available information continues to be a point of contention, raising questions about the effectiveness of current regulatory approaches.

In essence, the impact of political funding on electoral transparency extends beyond legal compliance. It shapes public perceptions, influences institutional trust, and affects the overall quality of democracy. Addressing the transparency deficit is therefore not merely a technical exercise but a necessary step toward strengthening democratic accountability and restoring public confidence in the electoral process.

### 3.6 Comparative Perspective: Political Funding Models in Other Democracies

Examining political funding practices in other democracies provides valuable insights into alternative approaches and regulatory models. While no system is without its challenges, comparative analysis helps in identifying<sup>58</sup> principles and mechanisms that may inform reforms in the Indian context. Different countries have adopted varied strategies to balance transparency, accountability, and participation, reflecting their unique political and institutional frameworks.

One common approach observed in several democracies is the emphasis on **strict disclosure requirements**. In countries such as the United Kingdom and Canada, political parties are required to publicly report contributions above a certain threshold, including the identity of donors. These disclosures are often made available through accessible databases, allowing citizens, researchers, and the media to examine patterns of political funding. This level of transparency is intended to ensure that financial influence remains visible and subject to public scrutiny.

Another important model is the system of **limits on political contributions and expenditure**. Many democracies impose caps on the amount that individuals or entities can donate to political parties. These limits are designed to prevent excessive concentration of financial power and to promote a more level playing field. In addition, expenditure ceilings are often enforced to control the overall cost of elections and reduce the influence of money in campaigning.<sup>59</sup>

A contrasting approach can be seen in systems that rely more heavily on **public funding of elections**. Countries such as Germany and France provide financial support to political parties from public resources, subject to certain conditions. The rationale behind this model is to

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<sup>58</sup> OECD, *Financing Democracy: Funding of Political Parties and Election Campaigns* (2014). (Comparative perspective on transparency and political funding.)

<sup>59</sup> International IDEA, *Political Finance Database* (latest update). (Global standards on disclosure and transparency.)

reduce dependence on private donations and ensure that political competition is not driven solely by financial capacity. Public funding is often accompanied by strict auditing and reporting requirements, which enhance accountability.

In the United States, the approach to political funding reflects a different set of priorities. While disclosure requirements exist, there is a strong emphasis on the protection of political expression, which has influenced the regulation of campaign finance. This has led to a system where significant financial contributions are permitted, subject to certain legal constraints. The result is a complex framework that balances transparency with a broad interpretation of free speech, though it continues to be the subject of ongoing debate.

These comparative examples highlight that there is no single ideal model for regulating political funding. Each system reflects a particular balance between competing values such as transparency, privacy, equality, and freedom of expression. However, certain common themes emerge. Effective regulation generally involves a combination of clear disclosure norms, reasonable limits on contributions, and robust oversight mechanisms.

For India, the comparative perspective underscores the importance of designing a framework that is both transparent and context-sensitive. While lessons can be drawn from other democracies, reforms must take into account the country's unique political landscape, institutional capacities, and socio<sup>60</sup>-economic conditions. Blind adoption of foreign models may not yield the desired results unless they are adapted to local realities.

In conclusion, the study of political funding models across different democracies provides a broader understanding of the challenges and possibilities in this field. It reinforces the idea that while there is no perfect system, a well-balanced approach—combining transparency, regulation, and accountability—can significantly strengthen the integrity of electoral processes.<sup>61</sup>

## CHAPTER 4

### ELECTORAL STRATEGY AND THE ROLE OF MONEY POWER

#### 4.1 Electoral Strategy in India: The Nexus Between Funding and Political Campaigning

Electoral strategy in India has undergone a noticeable transformation over the past few decades, and at the centre of this change lies the growing importance of financial resources. While

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<sup>60</sup> ADR (Association for Democratic Reforms), *Analysis of Electoral Bonds Data* (various reports, 2019–2024). (Empirical critique of concentration and opacity in bond funding.)

<sup>61</sup> ECI Affidavit before Supreme Court in Electoral Bonds Case (2019). (Raised concerns regarding transparency and potential misuse.)

elections have always required some level of funding, the scale, intensity, and sophistication of modern campaigning have significantly increased the dependence of political actors on financial support. As <sup>62</sup>a result, political funding is no longer a background element of elections; it has become a defining factor that shapes how campaigns are planned, executed, and sustained.

At a conceptual level, electoral strategy refers to the methods and approaches adopted by political parties and candidates to secure electoral success. This includes decisions related to messaging, candidate selection, voter outreach, coalition-building, and resource allocation. Funding plays a crucial role in each of these aspects. The availability of financial resources determines not only the scope of a campaign but also the techniques that can be employed to influence voter behaviour.

One of the most visible areas where funding intersects with electoral strategy is **campaign communication**. In contemporary elections, reaching voters requires extensive use of media platforms, including television, print, and digital channels. Political advertisements, social media campaigns, and targeted messaging all involve significant expenditure. Parties with greater financial capacity are able to invest in high-quality content, broader outreach, and sustained visibility. This can create a strong presence in the public sphere, shaping narratives and influencing voter perceptions. In contrast, parties with limited resources may struggle to compete at the same level, regardless of the strength <sup>63</sup>of their ideas or leadership.

Another important dimension is **ground-level mobilisation**. Electoral success in India often depends on the ability to engage with voters at the grassroots level. This involves organising rallies, managing local networks, and maintaining party workers across constituencies. Such activities require logistical support, transportation, and coordination, all of which depend on adequate funding. Financial resources enable parties to build and sustain organisational structures that can effectively mobilise voters during elections.

Funding also influences **candidate selection and political alliances**. Parties may prefer candidates who can contribute to campaign financing or attract financial support from external sources. This can shift the <sup>64</sup>focus from merit or public service to financial capability, affecting the overall quality of political representation. Similarly, alliances between political parties may

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<sup>62</sup> Representation of the People Act, 1951, §§ 77–78.

(Maintenance and reporting of election expenses by candidates.)

<sup>63</sup> Election Commission of India, *Handbook for Candidates* (latest ed.).

(Explains expenditure rules and campaign practices.)

<sup>64</sup> Centre for Media Studies, *Poll Expenditure Report: Indian Elections* (various years).

(Documents rising cost of elections and role of money.)

be shaped not only by ideological compatibility but also by considerations related to resource sharing and campaign funding.

The role of money becomes even more pronounced in the context of **competitive electoral environments**. In closely contested elections, the ability to outspend opponents can provide a strategic advantage. Higher expenditure allows for more frequent campaigning, greater voter engagement, and stronger organisational presence. While legal limits exist for candidate expenditure, parties often engage in broader campaign activities that fall outside these limits, further amplifying the influence of financial resources.

In recent years, the rise of **digital campaigning and data-driven strategies** has added a new dimension to the relationship between funding and electoral strategy. Political campaigns increasingly rely on data analytics, targeted advertising, and online engagement to reach specific voter groups. These methods require specialised expertise and technological infrastructure, both of which involve significant costs. As a result, access to financial resources becomes essential for adopting modern campaign techniques and staying competitive in the evolving electoral landscape.

The nexus between funding and electoral strategy also raises concerns about **fairness and democratic equality**. Ideally, elections should be contests of ideas, policies, and leadership qualities. However, when financial resources become the dominant factor, there is a risk that electoral outcomes may be influenced more <sup>65</sup>by economic power than by public support. This can create an uneven playing field, where well-funded parties have a disproportionate advantage over others.

At the same time, it is important to recognise that funding is an unavoidable aspect of electoral politics. Effective campaigning requires resources, and the absence of funding can limit political participation. The challenge, therefore, is not to eliminate the role of money but to regulate it in a manner that ensures fairness and transparency. A well-designed framework can help balance the need for financial support with the principles of democratic equality and accountability.

In the Indian context, this balance remains a work in progress. While regulatory mechanisms exist, the growing complexity of electoral strategies continues to test their effectiveness. The increasing integration <sup>66</sup>of funding into every aspect of campaigning highlights the need for a

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<sup>65</sup> Law Commission of India, *255th Report on Electoral Reforms* (2015).  
(Highlights link between money power and electoral competition.)

<sup>66</sup> Milan Vaishnav, *When Crime Pays: Money and Muscle in Indian Politics* (Yale Univ. Press, 2017).  
(Explains nexus between finance, candidates, and electoral strategy.)

more comprehensive approach that addresses both the sources and the use of political finance. In conclusion, the relationship between electoral strategy and political funding is both deep and multifaceted. Financial resources shape the way campaigns are conducted, influence the choices made by political actors, and affect the overall dynamics of electoral competition. Understanding this nexus is essential for assessing the role of money in elections and for identifying reforms that can strengthen the fairness and integrity of the democratic process.

#### **4.2 Money Power and Electoral Outcomes: Influence on Voter Behaviour and Party Competition**

The role of money in elections extends far beyond financing campaign activities; it has a direct and often subtle impact on electoral outcomes. In a complex and diverse democracy like India, where elections involve large electorates and varied socio-economic conditions, financial resources can significantly shape both voter behaviour and the competitive dynamics among political parties. Understanding this influence is essential to assessing the fairness and quality of the electoral process.

At the level of **voter behaviour**, money power operates in multiple ways. One of the most visible forms is through extensive campaign outreach. Political parties with greater financial capacity are able to maintain a constant presence in the public domain through advertisements, rallies, and media engagement. This sustained visibility can create familiarity and recognition among voters, which often translates into electoral advantage. In many cases, repeated exposure to a party's messaging can influence perceptions, even if it does not directly alter political preferences.

Another important dimension is the role of **information dissemination**. Elections are periods of intense communication, where voters rely on various sources to understand political issues and evaluate candidates. Financially strong parties can invest in shaping this information environment by producing and distributing campaign material, conducting surveys, and engaging in targeted communication. This can influence how issues are framed and which topics receive prominence in public discourse. As a result, voter choices<sup>67</sup> may be guided not only by independent evaluation but also by the narratives that dominate the campaign.

In certain contexts, money power may also influence voter behaviour through **direct or indirect inducements**. While such practices are regulated and prohibited under law, concerns

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<sup>67</sup> *Kanwar Lal Gupta v. Amar Nath Chawla*, (1975) 3 SCC 646.  
(Money power distorts free and fair elections.)

persist regarding their continued presence in some areas. These may take the form of distribution of goods, services, or other benefits aimed at influencing voting decisions. Even when not widespread, the existence of such practices can undermine the principle of free choice and weaken the credibility of elections.

The psychological impact of money power should also not be overlooked. Voters may perceive well-funded parties as more capable or more likely to succeed, leading to what is sometimes described as a “bandwagon effect.” This perception can influence undecided voters, particularly in closely contested elections, where the appearance of strength and organisation may carry significant weight.

In addition to its impact on voters, money power plays a critical role in shaping **party competition**. Elections are not only contests between candidates but also between organisations with varying levels of resources. Financial strength allows parties to build stronger organisational structures, maintain active local networks, and respond more effectively to electoral challenges. This can create a competitive advantage that is difficult for less-resourced parties to overcome.

The influence of money is particularly evident in the **expansion of campaign strategies**. Parties with access to greater funding can adopt <sup>68</sup>a wider range of campaign methods, including large-scale events, professional campaign management, and advanced technological tools. This enables them to reach diverse segments of the electorate and tailor their strategies to different regions and demographics. In contrast, parties with limited resources may be constrained to traditional or low-cost methods, which may not be as effective in a highly competitive environment.

Another important aspect is the **entry barrier** created by financial requirements. Contesting elections has become increasingly expensive, and this can discourage new or smaller political actors from entering the field. Over time, this may lead to a concentration of political power among a limited number of well-funded <sup>69</sup>parties, reducing the diversity of political representation. Such a trend can have long-term implications for democratic vitality and inclusiveness.

Money power also affects the **balance of competition between incumbents and challengers**. Parties in power may have greater access to resources, networks, and visibility, which can

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<sup>68</sup> Centre for Media Studies, *Election Expenditure Analysis* (recent reports).  
(Shows correlation between spending and electoral success.)

<sup>69</sup> OECD, *Financing Democracy: Funding of Political Parties and Election Campaigns* (2014).  
(Discusses global impact of money on voter behaviour.)

enhance their electoral prospects. While legal safeguards exist to prevent misuse of official machinery, the broader advantages associated with incumbency can still influence the dynamics of competition.

It is important to note that financial resources do not guarantee electoral success. Factors such as leadership, public trust, social alliances, and political issues continue to play a decisive role. However, money can amplify these factors by enhancing a party's ability to communicate, organise, and mobilise support. In this sense, it acts as a force multiplier rather than a standalone determinant.

The broader concern arising from the influence of money power is its impact on **democratic equality**. Ideally, elections should provide an equal opportunity for all participants to present their ideas and seek public support. When financial disparities become too pronounced, this ideal is compromised. The risk is not only that outcomes may be skewed, but also that the process itself may lose its credibility in the eyes of the electorate.

In conclusion, the influence of money power on electoral outcomes is both complex and multifaceted. It shapes voter behaviour through visibility, information control, and perception, while also affecting the structure and intensity of party competition. While financial resources are an integral part of modern electoral systems, their unchecked influence can pose challenges to fairness, inclusiveness, and democratic integrity. Addressing these concerns requires a careful balance between enabling legitimate campaign activities and ensuring that elections remain a genuine reflection of the will of the people.

### **4.3 Digital Campaigning and Political Advertising: Emerging Trends and Regulatory Gaps**

The landscape of electoral campaigning in India has undergone a rapid transformation with the rise of digital technology. Traditional methods such as rallies, posters, and print advertisements continue to play an important role, but they are now complemented—and in some cases overshadowed—by digital campaigning. Social media platforms, online advertisements, and data-driven communication strategies have become central to how political parties engage with voters. This shift has not only expanded the reach of electoral campaigns but has also introduced new challenges for regulation and accountability.

One of the most notable features of digital <sup>70</sup>campaigning is its **wide and immediate reach**.

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<sup>70</sup>Information Technology Act, 2000.  
(Governs digital platforms and online conduct.)

Political messages can now be disseminated across the country within seconds, reaching millions of users simultaneously. Platforms such as social media networks allow parties to communicate directly with voters without relying solely on traditional media channels. This direct engagement creates opportunities for more interactive and personalised communication, enabling political actors to respond quickly to public concerns and shape narratives in real time. A defining aspect of digital campaigning is the use of **targeted political advertising**. Unlike traditional advertising, which is generally broad and uniform, digital platforms allow messages to be tailored to specific groups based on factors such as age, location, interests, and online behaviour. This micro-targeting enables parties to craft highly customised messages that resonate with particular segments of the electorate. While this enhances the efficiency of campaigning, it also raises concerns<sup>71</sup> about the fragmentation of public discourse, as different groups may receive different versions of political messaging.

Another emerging trend is the increasing reliance on **data analytics and algorithmic strategies**. Political campaigns now use data to identify voter preferences, predict behaviour, and optimise outreach efforts. This involves collecting and analysing large volumes of information, often drawn from online interactions and publicly available data. While such practices can improve campaign<sup>72</sup> effectiveness, they also raise important questions about privacy, consent, and the ethical use of personal information.

The digital space has also facilitated the growth of **new forms of political communication**, including influencer engagement, online volunteer networks, and viral content. Campaigns are no longer confined to formal party structures; they often involve a broader ecosystem of supporters who create and share content across platforms. This decentralised nature of digital campaigning makes it more dynamic but also more difficult to monitor and regulate.

Despite these advancements, the regulatory framework governing electoral campaigns has struggled to keep pace with technological developments. One of the key challenges is the existence of **regulatory gaps**. Many existing laws were designed with traditional forms of campaigning in mind and do not adequately address the complexities of digital platforms. For instance, while there are rules governing election expenditure, tracking spending on online advertisements can be difficult due to the fragmented and rapidly changing nature of digital transactions.

Another significant issue is the **lack of transparency in online political advertising**. Unlike

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<sup>71</sup> Election Commission of India, *Social Media Guidelines for Candidates* (2013, updated advisories).

<sup>72</sup> Supreme Court of India, *Tehseen S. Poonawalla v. Union of India*, (2018) 6 SCC 72. (Addresses misuse of digital platforms and misinformation concerns.)

traditional media, where advertisements are more visible and subject to established norms, digital ads can be less transparent. Information about who has funded a particular advertisement, how it is targeted, and how much has been spent is not always readily accessible to the public. This opacity makes it challenging to ensure accountability and detect potential misuse.

The spread of **misinformation and unverified content** is another concern linked to digital campaigning. The speed and scale at which information travels online can amplify misleading or false narratives, potentially influencing voter <sup>73</sup>perceptions. While platforms have introduced certain measures to address this issue, the effectiveness of these measures remains a subject of debate.

Enforcement of existing regulations also presents practical difficulties. Monitoring digital campaigns requires technical expertise, coordination between multiple agencies, and cooperation from private platform providers. The global nature of many digital platforms further complicates enforcement, as regulatory authorities may have limited jurisdiction over entities operating across borders.

The role of financial resources is particularly significant in the digital context. Effective use of data analytics, targeted advertising, and technological tools requires substantial investment. This reinforces the link between funding and electoral strategy, as well-resourced parties are better positioned to leverage digital technologies. Consequently, the shift toward digital campaigning may inadvertently widen the gap between financially strong and weaker political actors.

At the same time, digital campaigning offers certain positive possibilities. It can lower entry barriers for smaller parties by providing cost-effective means of communication, and it can enhance voter engagement by making political information more accessible. However, these benefits depend on the existence of a fair and transparent regulatory environment.

In conclusion, digital campaigning represents both an opportunity and a challenge for electoral democracy in India. While it has transformed the way political communication takes place, it has also exposed gaps in the existing legal framework. Addressing these gaps requires a forward-looking approach that balances innovation with accountability. Effective regulation must ensure transparency in political advertising, protect voter privacy, and maintain the integrity of the electoral process, while allowing the democratic potential of digital platforms

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<sup>73</sup> International IDEA, *Digital Campaigning and Political Finance* (2020). (Highlights regulatory gaps in online campaigning.)

to be fully realised.

#### **4.4 Use of State Resources and Incumbency Advantage: Legal and Ethical Concerns**

In any democratic system, elections are expected to provide a fair and neutral platform where competing political actors<sup>74</sup> can seek public support on equal terms. However, when a political party is already in power, it occupies a position that carries both authority and access to state machinery. This creates what is commonly described as the **incumbency advantage**—a structural edge that, if not properly regulated, can influence electoral competition in ways that raise serious legal and ethical concerns.

At its core, the issue revolves around the **use of state resources for electoral purposes**. State resources include public funds, government infrastructure, official personnel, and institutional platforms that are meant to serve the public at large. These resources are entrusted to the government for governance, not for advancing partisan interests. When such resources are used—directly or indirectly—to promote a ruling party's electoral prospects, it blurs the line between governance and campaigning<sup>75</sup>.

One of the most visible manifestations of this concern is the use of **public funds for publicity and outreach**. Governments routinely undertake information campaigns to inform citizens about policies and welfare schemes. While such communication is legitimate, the timing, tone, and content of these campaigns can sometimes raise questions, especially when they coincide with election periods. If government messaging begins to resemble political advertising, it may provide an undue advantage to the incumbent by enhancing its visibility at public expense.

Another dimension involves the use of **official machinery and administrative influence**. Government officials are expected to function in a neutral and professional manner. However, concerns may arise if administrative actions appear to favour particular political interests during election periods. Even the perception of bias can affect public confidence in the fairness of the process. This is why strict norms are generally imposed to ensure that the administrative apparatus remains insulated from partisan considerations during elections.

The **Model Code of Conduct (MCC)** plays a crucial role in addressing these concerns. It sets out guidelines to prevent the misuse of official position and resources once elections are announced. The MCC restricts the announcement of new schemes, the use of official vehicles for campaigning, and other activities that could provide an unfair advantage to the ruling party.

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<sup>74</sup> Constitution of India, art. 324.

(Election Commission's power to ensure free and fair elections.)

<sup>75</sup> Election Commission of India, *Model Code of Conduct* (latest version).

Although the Code is not a statutory law, it carries significant moral and political weight, and its enforcement by the Election Commission is central to <sup>76</sup>maintaining a level playing field.

Despite these safeguards, challenges persist in practice. One of the key issues is the **subtle nature of incumbency advantage**. Not all forms of advantage involve explicit misuse of resources. For instance, incumbents often benefit from greater public visibility due to their official roles. They may also have easier access to media coverage and established networks, which can enhance their electoral prospects without necessarily violating formal rules. Distinguishing between legitimate governance activities and indirect electoral advantage can therefore be complex.

The ethical concerns associated with incumbency advantage are closely linked to the principle of **fair competition**. Elections are meant to be contests where all participants have an equal opportunity to present their case to the electorate. When incumbents are able to leverage state resources or institutional positions, it can create an uneven playing field. This not only affects the immediate outcome of elections but <sup>77</sup>also has broader implications for democratic legitimacy.

Another important aspect is the **impact on public perception and trust**. If voters believe that state resources are being used for partisan purposes, it may undermine their confidence in the neutrality of institutions. This perception can weaken the credibility of the electoral process and contribute to a sense of imbalance in democratic governance. Maintaining a clear separation between the State and political parties is therefore essential for preserving institutional integrity.

The issue also raises questions about **accountability mechanisms**. While the Election Commission plays a central role in monitoring compliance with the Model Code of Conduct, its effectiveness depends on timely enforcement and cooperation from political actors. In addition, legal remedies for addressing misuse of state resources may involve procedural delays, which can limit their impact during the fast-paced electoral cycle.

From a broader perspective, the problem of incumbency advantage highlights the need for a **balanced regulatory approach**. On one hand, governments must be able to carry out their functions and communicate with citizens. On the other hand, safeguards must be in place to ensure that these functions are not used as tools for electoral gain. Achieving this balance

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<sup>76</sup> *S. Subramaniam Balaji v. State of Tamil Nadu*, (2013) 9 SCC 659.  
(Examines distribution of freebies and electoral fairness.)

<sup>77</sup> *Union of India v. Association for Democratic Reforms*, (2002) 5 SCC 294.  
(Transparency essential for electoral integrity.)

requires clear guidelines, consistent enforcement, and a strong commitment to ethical standards in public life.

In conclusion, the use of state resources and the advantages associated with incumbency present a complex challenge for electoral regulation in India. While legal frameworks and institutional mechanisms exist to address these concerns, their effectiveness depends on both enforcement and political will. <sup>78</sup>Ensuring that elections remain fair and competitive requires constant vigilance and a reaffirmation of the principle that public resources must serve the public interest, not partisan objectives.

#### **4.5 Black Money, Cash Donations, and Electoral Malpractices**

The issue of unaccounted money in elections has long been a matter of concern in India. Despite the existence of legal provisions regulating political funding, a parallel system of informal financing has continued to operate alongside formal mechanisms. This system is often associated with what is commonly referred to as “black money,” that is, funds which are not disclosed for tax or regulatory purposes. Its presence in electoral processes raises serious questions about transparency, fairness, and the rule of law.

One of the primary reasons for the persistence of black money in elections is the **high cost of campaigning**. Electoral contests in India, particularly at the parliamentary and state levels, involve extensive mobilisation, media engagement, and organisational activity. While legal frameworks prescribe limits on expenditure, the actual costs of running competitive campaigns often exceed these limits. This gap creates an incentive to rely on undisclosed sources of funding to meet campaign demands.

**Cash donations** play a central role in this informal system. Unlike contributions made through banking channels, cash transactions are difficult to trace and verify. This makes them an attractive option for both donors and recipients seeking to avoid scrutiny. Political parties may receive cash contributions that are either partially disclosed or not disclosed at all, depending on the regulatory thresholds and reporting practices. The use of cash reduces transparency and makes it challenging for authorities to monitor the true scale of political funding.

Electoral malpractices linked to black money can take several forms. One of the most widely discussed is the **distribution of inducements to voters**, such as money, goods, or services, with the intent of influencing voting behaviour. While such practices are prohibited under

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<sup>78</sup> NCRWC, *Report of the National Commission to Review the Working of the Constitution* (2002). (Discusses misuse of state resources and electoral fairness.)

electoral laws, their occurrence in certain regions has been documented over time. These practices undermine the principle of free choice by introducing financial incentives into what should be a voluntary and independent decision-making process.

Another dimension of malpractice involves the **concealment or misreporting of expenditure**. Candidates and political parties are required to maintain accounts of their campaign spending, but there may be discrepancies between reported figures and actual expenditure. This can occur through underreporting, diversion of funds, or the use of third-party expenditures that are not directly attributed to the candidate. Such practices weaken the effectiveness of regulatory mechanisms and create an uneven playing field.

The circulation of black money also has broader implications for **governance and policy-making**. When political actors rely on undisclosed funding, there is a risk that financial contributors may seek returns in the form of favourable policies or administrative decisions. Even in the absence of direct evidence, the perception of such influence can erode public trust in democratic institutions.

Efforts have been made to address these challenges through reforms aimed at promoting **formal and traceable modes of funding**. Measures such as encouraging digital transactions, imposing disclosure requirements, and strengthening enforcement mechanisms are intended to reduce reliance on cash-based contributions. However, the effectiveness of these measures depends on consistent implementation and the ability to adapt to evolving methods of financing.

In essence, the issue of black money and cash donations <sup>79</sup>highlights the gap between the legal framework and ground realities. While laws provide for transparency and accountability, practical challenges continue to hinder their full realisation. Addressing this gap requires not only stricter enforcement but also a broader shift toward a culture of compliance and ethical political conduct.

#### **4.6 Electoral Expenditure Limits: Effectiveness and Circumvention Strategies**

Electoral expenditure limits are a key feature of the regulatory framework governing elections in India. These limits are designed to control the role of money in politics by placing a ceiling

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<sup>79</sup> Income Tax Act, 1961, § 13A.  
(Tax exemptions subject to disclosure of political funding.)

on how much candidates can spend during their campaigns. The underlying objective is to ensure a level playing field, prevent excessive influence of wealth, and maintain fairness in electoral competition<sup>80</sup>.

At a conceptual level, expenditure limits serve two important purposes. First, they aim to **reduce financial disparities** among candidates by preventing wealthier individuals from dominating the electoral process. Second, they seek to **promote transparency and accountability** by requiring candidates to maintain and submit detailed accounts of their spending. In theory, these limits should help contain the influence of money and ensure that elections remain accessible to a broader range of participants.

However, the effectiveness of expenditure limits in practice has been the subject of considerable debate. One of the main challenges is the **gap between prescribed limits and actual campaign costs**. Modern electoral campaigns involve a wide range of activities, including media advertising, digital outreach, and large-scale mobilisation, all of which can be expensive. As a result, candidates may find it difficult to remain within the legal limits while still running competitive campaigns.

This gap has led to the emergence of various **circumvention strategies**. One common method involves the use of **third-party expenditures**, where supporters, political parties, or affiliated organisations incur expenses on behalf of a candidate. Since these expenditures may not always be directly attributed<sup>81</sup> to the candidate, they can fall outside the official spending limits. This creates a situation where actual campaign spending exceeds the legal ceiling without being formally recorded.

Another strategy is the **underreporting of expenses**. Candidates are required to maintain accounts of their campaign spending, but there may be discrepancies between reported and actual figures. This can occur through incomplete documentation, omission of certain expenditures, or manipulation of accounts. While auditing mechanisms exist, detecting such discrepancies can be challenging, particularly in the absence of real-time monitoring.

The role of political parties also complicates the enforcement of expenditure limits. While candidates are subject to specific spending caps, **political parties themselves are not bound by the same limits** in relation to overall campaign expenditure. Parties may undertake extensive campaign activities that indirectly<sup>82</sup> benefit their candidates, thereby expanding the

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<sup>80</sup>Representation of the People Act, 1951, § 77.

<sup>81</sup> *Ashok Shankarrao Chavan v. Madhavrao Kinhalkar*, (2014) 7 SCC 99.

(Third-party expenditure and concealment issues.)

<sup>82</sup> Law Commission of India, *170th Report on Reform of Electoral Laws* (1999).

scope of spending beyond individual limits. This creates an imbalance between the regulation of candidates and the broader electoral ecosystem.

Another area of concern is the increasing use of **digital campaigning**, where tracking expenditure can be more complex. Online advertisements, data analytics, and social media campaigns may involve multiple transactions and intermediaries, making it difficult to accurately assess total spending. This adds a new dimension to the challenge of enforcing expenditure limits in a rapidly evolving technological environment.

Despite these challenges, expenditure limits continue to play an important symbolic and regulatory role. They signal the State's commitment to controlling the influence of money in elections and provide a framework for monitoring campaign finance. However, their effectiveness ultimately depends on the strength of enforcement mechanisms and the willingness of political actors to comply with both the letter and spirit of the law.

In conclusion, while electoral expenditure limits are an essential <sup>83</sup>tool for promoting fairness, their practical impact is often constrained by systemic challenges and circumvention strategies. Addressing these issues requires a more comprehensive approach that includes better monitoring, clearer attribution of expenses, and alignment between legal provisions and the realities of modern campaigning. Strengthening these aspects is crucial for ensuring that expenditure limits fulfil their intended purpose of maintaining integrity and equality in the electoral process.

## CHAPTER 5

### ELECTORAL REFORMS AND THE WAY FORWARD

#### 5.1 Historical Evolution of Electoral Reforms in India: Committees and Recommendations

The development of electoral reforms in India reflects an ongoing effort to strengthen democratic institutions and address emerging challenges in the electoral process. Since independence, the Indian electoral system has evolved through a combination of legislative changes, judicial <sup>84</sup>interventions, and, importantly, the recommendations of various expert

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<sup>83</sup> D. D. Basu, *Introduction to the Constitution of India* (LexisNexis, latest ed.).

(Discusses electoral fairness and expenditure control.)

<sup>84</sup> The Representation of the People Act, 1950 and Representation of the People Act, 1951.

committees. These committees have examined issues ranging from electoral integrity and campaign finance to criminalisation of politics and institutional accountability. Their work provides a valuable lens through which the trajectory of electoral reforms can be understood.

In the early decades after independence, the focus was primarily on **establishing a stable and functional electoral framework**. Laws such as the Representation of the People Act laid the foundation for conducting elections, defining qualifications and disqualifications, and regulating electoral processes. However, as the system matured, new challenges began to emerge, particularly those related to the misuse of money and muscle power, delays in the electoral process, and declining public confidence.

One of the earliest comprehensive efforts to review electoral reforms came through the **Tarkunde Committee (1974–75)**, set up under the initiative of civil society. This committee emphasised the need for greater <sup>85</sup>transparency in political funding, state funding of elections, and improved voter access. It also recommended the strengthening of the Election Commission to ensure independence and effectiveness. Although its recommendations were not immediately implemented in full, they laid the groundwork for future reform discussions.

The issue of electoral malpractice gained prominence in the following decades, leading to the establishment of the **Dinesh Goswami Committee on Electoral Reforms** <sup>86</sup>(1990). This committee focused on practical measures to improve the conduct of elections. It recommended steps such as stricter enforcement of expenditure limits, measures to curb booth capturing, and reforms in the appointment and functioning of election officials. The committee also highlighted the need for transparency in political funding, recognising the growing influence of money in elections.

A significant development in the reform process was the work of the **Indrajit Gupta Committee on State Funding of Elections** (1998). This committee examined the feasibility of providing financial support to political parties from public resources. It concluded that partial state funding could help reduce <sup>87</sup>dependence on private donations and promote a more level playing field. However, it also acknowledged the practical challenges involved, including the need for strict regulatory mechanisms and financial discipline among political parties.

The **Law Commission of India** has also played a crucial role in shaping electoral reform discourse through its detailed <sup>88</sup>reports. In particular, its reports have addressed issues such as

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<sup>85</sup> Tarkunde Committee Report on Electoral Reforms (1975).

<sup>86</sup> Dinesh Goswami Committee Report on Electoral Reforms (1990).

<sup>87</sup> Indrajit Gupta Committee Report on State Funding of Elections (1998).

<sup>88</sup> Law Commission of India, 170th Report on Reform of Electoral Laws (1999).

the criminalisation of politics, electoral disqualifications, and campaign finance regulation. The Commission has consistently emphasised the importance of transparency, accountability, and legal clarity in strengthening the electoral system.

Another important milestone was the **National Commission to Review the Working of the Constitution (2000–2002)**. This Commission undertook a broad examination of constitutional and institutional issues, including electoral reforms. It recommended measures to enhance the independence of the Election Commission, improve <sup>89</sup>the quality of political representation, and address the influence of money and criminal elements in politics. Its recommendations reflected a holistic approach, linking electoral reforms to the broader functioning of democratic institutions.

More recently, the **Second Administrative Reforms Commission (2005–2009)** revisited many of these issues in the context of governance reforms. It highlighted the need for transparency in political funding, stronger enforcement of electoral laws, and greater accountability of political parties. The Commission also emphasised the role of technology in improving electoral processes, anticipating the growing <sup>90</sup>importance of digital tools in elections.

In addition to these committees, various expert groups and parliamentary discussions have contributed to the evolving discourse on electoral reforms. Over time, certain recommendations have been implemented, such as the introduction of electronic voting machines, stricter disclosure requirements for candidates, and measures to enhance the autonomy of the Election Commission. However, many recommendations, particularly those relating to political funding and state support for elections, remain only partially realised.

A recurring theme across these committees is the concern about the **influence of money in elections**. Almost every major report has highlighted the need to regulate <sup>91</sup>political funding more effectively, whether through transparency measures, expenditure controls, or state funding. This continuity underscores the persistence of the problem and the difficulty of finding a comprehensive solution.

Another important aspect is the emphasis on **institutional strengthening**. Committees have repeatedly stressed that legal provisions alone are insufficient without effective implementation. Strengthening the capacity, independence, and authority of institutions such as the Election Commission has been seen as essential for ensuring the success of electoral

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<sup>89</sup> National Commission to Review the Working of the Constitution, Report (2002).

<sup>90</sup> Second Administrative Reforms Commission, Fourth Report on Ethics in Governance (2007).

<sup>91</sup> Election Commission of India, Electoral Reforms Reports (various years).

reforms.

In conclusion, the historical evolution of electoral reforms in India reflects a continuous process of adaptation and improvement. Committees and commissions have played a central role in identifying challenges, proposing solutions, and shaping public debate. While progress has been made in several areas, the persistence of issues such as political funding, electoral malpractices, and regulatory gaps indicates that the reform process is far from complete. The insights provided by these committees remain highly relevant, offering guidance for future reforms aimed at enhancing the transparency, fairness, and credibility of the electoral system.

## 5.2 Transparency Measures: Disclosure Norms, RTI, and Public Accountability

### Mechanisms

Transparency in political funding is a central requirement for a healthy democracy. It ensures that citizens are not only participants in elections but also informed observers of how political power is financed and <sup>92</sup>exercised. In India, transparency has been pursued through a combination of disclosure norms, the expanding role of the right to information, and various accountability mechanisms. While these measures have strengthened democratic oversight to some extent, important gaps continue to exist in their design and implementation.

At the foundation of transparency are **disclosure norms**, which require political actors to reveal information about their finances. Candidates contesting elections are mandated to disclose details of their assets, liabilities, and sources of income. This information is made available to the public and plays a crucial role in enabling voters to assess the financial background of those seeking public office. Over time, judicial interventions have reinforced the importance of such disclosures, treating them as an essential component of <sup>93</sup>informed voting.

Political parties are also subject to certain disclosure requirements, particularly with regard to their income and expenditure. They are expected to maintain accounts and submit financial statements to regulatory authorities. Contributions above a specified threshold are required to be reported, including details of the donor. These provisions are intended to create a system where significant financial transactions are recorded and open to scrutiny. However, the effectiveness of these norms depends on the accuracy and completeness of the information provided, as well as the ease with which it can be accessed by the public.

Despite these requirements, concerns remain regarding **partial disclosures and regulatory**

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<sup>92</sup> Union of India v. Association for Democratic Reforms, (2002) 5 SCC 294.

<sup>93</sup> People's Union for Civil Liberties v. Union of India, (2003) 4 SCC 399

**loopholes.** Contributions below the reporting threshold may not be individually disclosed, which creates the possibility of fragmented reporting. Additionally, the complexity of financial statements and the lack of standardised formats can make it difficult for ordinary citizens to interpret the data. As a result, while information may technically be available, it may not always translate into meaningful transparency.

The **Right to Information (RTI)** has emerged as a powerful tool in promoting accountability. By enabling citizens to seek information from public authorities, RTI has strengthened democratic oversight and encouraged greater openness in governance. In the electoral context, RTI has been used to obtain information<sup>94</sup><sup>95</sup> related to election processes, regulatory decisions, and institutional functioning. It has contributed to a broader culture of transparency, where access to information is recognised as a democratic right rather than a privilege.

However, the application of RTI to political parties has been a subject of debate. Questions have been raised about whether political parties should be treated as public authorities for the purposes of information disclosure. While there have been arguments in favour of bringing parties within the RTI framework—given their central role in democratic governance—there has also been resistance on the grounds that they are not part of the formal structure of the State. This unresolved issue highlights the limits of existing transparency mechanisms in fully addressing the complexities of political funding.

In addition to disclosure norms and RTI, various **public accountability mechanisms** contribute to transparency in electoral finance. These include the role of the Election Commission in monitoring compliance, auditing requirements for political parties, and scrutiny by tax authorities. Together, these mechanisms create a framework of oversight that is intended to ensure that financial activities remain within legal bounds.

Civil society organisations and the media also play a crucial role in enhancing accountability. By analysing financial disclosures, conducting independent research, and raising public awareness, they help bridge the gap between formal transparency and actual public understanding. Their work often brings attention to patterns and trends that may not be immediately visible through official data alone.

However, the effectiveness of accountability mechanisms is often limited by **enforcement challenges.** Delays in auditing, lack of coordination between institutions, and limited investigative capacity can reduce the impact of regulatory measures. In some cases, non-

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<sup>94</sup> Election Commission of India, Guidelines on candidate disclosures and election affidavits.

<sup>95</sup> Central Information Commission, Decision declaring political parties as public authorities (2013).

compliance may not result in immediate or significant consequences, which can weaken the deterrent effect of the <sup>96</sup>law.

Another important consideration is the need for **accessible and user-friendly information systems**. Transparency is meaningful only when information is presented in a way that is understandable and easily available to the public. Efforts to digitise records and create online databases have improved accessibility, but there is still scope for simplifying formats and enhancing public engagement with financial data.

In conclusion, transparency measures in India's <sup>97</sup>electoral framework represent an important step toward strengthening democratic accountability. Disclosure norms, RTI, and oversight mechanisms have collectively contributed to greater openness, but their impact is uneven and often constrained by practical limitations. The challenge lies not only in expanding these measures but also in ensuring their effective implementation. A more robust and integrated approach—one that combines clear disclosure requirements, broader access to information, and stronger enforcement—will be essential for building a system where political funding is both transparent and accountable to the public.

### 5.3 State Funding of Elections: Feasibility, Models, and Challenges

The idea of state funding of elections has long been discussed as a possible solution to the growing influence of money in politics. At its core, state funding refers to the provision of financial support by the government to political parties or candidates for the purpose of contesting elections. The underlying objective is to reduce dependence on private donations, promote fairness in electoral competition, and strengthen the integrity of the democratic process. While the concept appears attractive <sup>98</sup>in principle, its practical implementation raises a range of complex questions.

The **feasibility of state funding** in India must be assessed in light of the scale and diversity of the electoral system. India conducts some of the largest elections in the world, involving numerous political parties and candidates across multiple levels of governance. Providing financial support to all eligible participants would require substantial public resources. This raises concerns about the financial burden on the State, particularly in a context where public funds must also be allocated to essential services such as health, education, and infrastructure. Another important aspect of feasibility is the issue of **eligibility criteria**. Determining which

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<sup>96</sup> Indrajit Gupta Committee Report, supra note 4.

<sup>97</sup> Law Commission of India, 255th Report on Electoral Reforms (2015).

<sup>98</sup> Election Commission of India, Proposed Electoral Reforms (State funding observations).

parties or candidates should receive state funding is a challenging task. If funding is extended to all registered parties, it may encourage the proliferation of non-serious candidates seeking financial benefits. On the other hand, restricting funding to recognised or established parties may disadvantage new entrants and limit political diversity. Striking a balance between inclusiveness and practicality is therefore essential.

Various **models of state funding** have been proposed and implemented in different forms across democracies. One common approach <sup>99</sup>is **direct financial assistance**, where eligible parties or candidates receive funds from the State based on predetermined criteria, such as past electoral performance. This model aims to ensure that parties with demonstrated public support receive adequate resources to contest elections.

Another model involves **indirect support**, which may include providing free or subsidised access to public resources such as media airtime, printing facilities, or campaign infrastructure. This approach reduces the financial burden <sup>100</sup>on candidates without requiring large cash transfers. It also ensures that basic campaign needs are met, particularly for smaller parties with limited resources.

A hybrid approach, combining both direct and indirect funding, has also been suggested as a more balanced solution. Under this model, parties may receive limited financial assistance along with access to certain public resources, thereby addressing both cost and fairness concerns. Such an approach seeks to reduce reliance on private funding while maintaining flexibility in implementation.

Despite these possibilities, several **challenges** complicate the adoption of state funding in India. One of the primary concerns is the **risk of misuse of public funds**. Without strong monitoring and accountability mechanisms, there is a possibility that funds provided for electoral purposes may be diverted or misused. Ensuring proper utilisation would require robust auditing systems and strict enforcement measures.

Another challenge relates to the **continued role of private funding**. State funding, particularly if partial, may not completely eliminate the need for private contributions. Political parties may still seek additional resources to enhance their campaigns, leading to a dual system where public funding coexists with private donations. This could limit the effectiveness of state funding in addressing the influence of money in elections.

The issue of **administrative complexity** also deserves attention. Implementing a state funding

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<sup>99</sup> V.S. Rama Devi and S.K. Mendiratta (LexisNexis, 2017).

<sup>100</sup> E.S. Venkataramiah (Academic Foundation).

system would require clear guidelines, transparent allocation mechanisms, and efficient monitoring processes. Coordinating these elements across a vast and diverse electoral landscape presents significant logistical challenges. Moreover, disputes regarding eligibility, allocation, and compliance may add to the burden on regulatory institutions.

There are also broader **ethical and political considerations**. The use of public funds to support political parties may raise questions among citizens, particularly if there is a perception that such funding benefits certain groups disproportionately. Public acceptance of state funding depends on the credibility of the system and the assurance that it serves the broader democratic interest rather than partisan goals.

At the same time, the potential benefits of state funding cannot be ignored. By reducing dependence on large private donations, it can help limit the influence of economic power in politics. It may also encourage greater participation by candidates who lack access to significant financial resources, thereby enhancing the inclusiveness of the electoral process. In this sense, state funding can contribute to a more balanced and equitable system of political competition.

In the Indian context, discussions on state funding have often emphasised the need for a **gradual and cautious approach**. Rather than adopting a comprehensive system immediately, it may be more practical to begin with limited or pilot measures, such as providing indirect support or introducing partial funding for recognised parties. Such an approach would allow for evaluation and adjustment before broader implementation.

In conclusion, state funding of elections presents <sup>101</sup>both opportunities and challenges. While it offers a potential pathway to reducing the influence of private money and promoting fairness, its feasibility depends on careful design and effective implementation. A successful model would need to balance financial sustainability, inclusiveness, transparency, and accountability. Ultimately, the goal should be to create a system where electoral competition is driven by ideas and public support, rather than by the depth of financial resources.

#### **5.4 Strengthening Institutional Oversight: Role of ECI, Judiciary, and Civil Society**

A robust system of electoral governance depends not only on well-drafted laws but also on strong institutions that can enforce those laws effectively. In the context of political funding and electoral strategy, institutional oversight becomes particularly important because financial practices are often complex, evolving, and difficult to monitor. In India, this responsibility is

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<sup>101</sup> Election Commission of India, Model Code of Conduct.

shared among three key actors—the Election Commission of India (ECI), the judiciary, and civil society. Each of these institutions plays a distinct yet interconnected role in maintaining transparency, accountability, and fairness<sup>102</sup> in the electoral process.

The **Election Commission of India (ECI)** stands at the centre of electoral oversight. As a constitutional authority, it is entrusted with ensuring that elections are conducted in a free and fair manner. Its responsibilities extend beyond the conduct of polling to include monitoring campaign practices, enforcing expenditure limits, and ensuring compliance with disclosure requirements. Through guidelines, notifications, and supervisory mechanisms, the Commission seeks to regulate the influence of money and maintain a level playing field among political participants.

One of the most significant tools available to the ECI is the **Model Code of Conduct (MCC)**, which comes into effect during elections. The MCC sets standards for political behaviour, including restrictions on the misuse of official machinery and guidelines for campaign conduct. While the Code is not legally binding in the strict sense, its enforcement has become an important aspect of electoral regulation. The Commission also deploys observers, conducts inspections, and utilises monitoring systems to track expenditure and identify irregularities.

Despite its central role, the ECI faces certain **institutional limitations**. Its powers are largely dependent on the statutory framework established by Parliament. In areas where the law provides limited authority—particularly in relation to political party funding—the Commission may find it difficult to enforce higher standards of transparency. Resource constraints, the scale of elections, and the increasing complexity of campaign strategies further add to the challenges. Strengthening the ECI, therefore, requires not only enhancing its powers but also improving its capacity and technological capabilities.

The **judiciary** plays a complementary role by interpreting laws and safeguarding constitutional principles. Courts have been instrumental in expanding the scope of electoral transparency, particularly through decisions that emphasise the voter's right to information. By reviewing legislative measures and administrative actions, the judiciary ensures that electoral practices remain consistent with constitutional values such<sup>103</sup> as equality, fairness, and accountability. Judicial intervention often becomes crucial when gaps or ambiguities exist in the legal framework. Through public interest litigation and constitutional review, the courts have addressed issues ranging from candidate disclosures to the regulation<sup>104</sup> of electoral funding.

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<sup>102</sup> Supreme Court of India, various judgments on electoral transparency.

<sup>103</sup> Law Commission of India, 255th Report (2015) – Political party regulation

<sup>104</sup> Election Commission of India, Guidelines on political party registration and compliance.

While the judiciary does not directly manage elections, its role in setting legal standards and providing remedies for violations is essential for maintaining the integrity of the system.

However, reliance on the judiciary also has its limitations. Legal proceedings can be time-consuming, and decisions may come after the electoral process has concluded. This makes it difficult to address certain issues in real <sup>105</sup>time. As a result, judicial oversight is most effective when complemented by proactive regulatory mechanisms and timely enforcement by administrative authorities.

The third pillar of oversight is **civil society**, which includes non-governmental organisations, academic institutions, media, and citizen groups. Civil society acts as an external watchdog, bringing attention to issues that may not be immediately visible through official channels. By analysing financial disclosures, conducting independent research, and engaging in public advocacy, these actors contribute to greater transparency and accountability.

One of the strengths of civil society lies in its ability to **bridge the gap between formal regulation and public awareness**. Information that is technically available may not always be easily understood by the general public. Civil society organisations play a crucial role in interpreting this information, highlighting trends, and facilitating informed public debate. Their work often brings pressure on institutions and political actors to adhere to higher standards of conduct.

At the same time, civil society faces its own set of challenges, including limited resources, access to information, and, at times, resistance from political stakeholders. Ensuring a supportive environment for independent research and advocacy is therefore important for strengthening this pillar of oversight.

The interaction between these three institutions—ECI, judiciary, and civil society—creates a **multi-layered system of accountability**. Each institution compensates for the limitations of the others: the ECI provides direct regulatory oversight, the judiciary ensures constitutional compliance, and civil society enhances transparency <sup>106</sup>through independent scrutiny. When these actors function effectively and in coordination, they contribute to a more resilient and credible electoral system.

In conclusion, strengthening institutional oversight is essential for addressing the challenges posed by political funding and electoral strategy. This requires not only enhancing the powers and capacity of the Election Commission but also ensuring timely judicial intervention and

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<sup>105</sup> Subhash C. Kashyap (National Book Trust).

<sup>106</sup> Association for Democratic Reforms, Analysis of party finances.

active engagement by civil society. A balanced and cooperative approach among these institutions can help ensure that elections remain transparent, fair, and reflective of the will of the people.

### **5.5 Regulating Political Parties: Internal Democracy and Financial Accountability**

Political parties are the primary vehicles through which democratic representation is organised. They select candidates, frame policies, and connect citizens with governance. Despite this central role, the internal functioning of political parties in India has often remained outside the scope of rigorous legal regulation. This creates a gap between the expectations of democratic accountability and the actual practices within party structures. Addressing this gap requires attention to two closely linked aspects—**internal democracy** and **financial accountability**.

The idea of **internal democracy** refers to the extent to which political parties themselves operate on democratic principles. In a representative system, it is not enough for elections to be democratic at the public level; the institutions that participate in those elections must also reflect similar values internally. This includes transparent and participatory processes for leadership selection, decision-making, and candidate nomination.

In practice, however, many political parties exhibit a high degree of **centralisation of power**. Leadership positions may be held by a small group of individuals, and key decisions—such as candidate selection or policy direction—are often made without broad-based consultation within the party. This concentration of authority can limit internal debate and reduce opportunities for new leadership to emerge. Over time, it may weaken the representative character of political parties and affect the quality of democratic participation.

The absence of strong internal democratic processes also has implications for **electoral competition**. When candidate selection is not transparent or merit-based, it may lead to the nomination of individuals based on factors such as financial capacity, influence, or loyalty rather than public service or competence. This, in turn, reinforces the link between money and electoral success, further complicating efforts to regulate political funding.

Closely connected to internal democracy is the issue of **financial accountability**. Political parties handle significant amounts of money, including donations, membership fees, and other sources of income. Ensuring that these funds are managed responsibly and transparently is essential for maintaining public trust. Financial accountability involves accurate record-keeping, regular auditing, and disclosure of income and expenditure.

While legal provisions require political parties to maintain accounts and submit financial statements, there are concerns regarding the **quality and completeness of disclosures**.

Financial reports may lack detailed information about the sources of funds or the manner in which they are utilised. In some cases, contributions are reported in aggregate form without sufficient breakdown, making it difficult to trace financial flows. This limits the effectiveness of transparency measures and reduces the ability of oversight bodies to detect irregularities.

Another challenge is the **limited enforcement of financial regulations**. Although auditing requirements exist, the mechanisms for verifying compliance and imposing penalties for violations are not always robust. Without strong enforcement, disclosure norms may become procedural formalities rather than meaningful tools of accountability. Strengthening these mechanisms is therefore crucial for ensuring that financial reporting serves its intended purpose.

The issue of regulating political parties also raises important questions about the **balance between autonomy and accountability**. Political parties are not state institutions; they are voluntary associations that operate within a democratic framework. Excessive regulation may be seen as interfering with their independence, while insufficient regulation may allow practices that undermine democratic values. The challenge lies in designing a framework that respects party autonomy while ensuring that their functioning aligns with constitutional principles.

One possible approach is to introduce **minimum standards of internal governance**, such as periodic internal elections, transparent procedures for candidate selection, and clear rules for decision-making. These standards need not dictate the internal structure of parties but can provide a baseline for democratic functioning. Similarly, financial accountability can be strengthened through standardised reporting formats, independent audits, and greater public access to financial information.

The role of institutions such as the Election Commission becomes important in this context. While its current mandate focuses primarily on the conduct of elections, there is scope for expanding its role in monitoring compliance with basic norms of party functioning. At the same time, civil society and the media can contribute by analysing disclosures and raising awareness about internal practices.

In conclusion, regulating political parties in terms of internal democracy and financial accountability is essential for strengthening the overall democratic system. Elections cannot be fully fair or representative if the parties participating in them do not adhere to basic democratic principles. Ensuring transparency in financial matters and promoting participatory decision-making within parties can enhance public trust and improve the quality of political representation. Achieving this balance requires a thoughtful approach that combines legal

measures, institutional oversight, and a broader commitment to democratic values within the political sphere.

### **5.6 Towards a Fair Electoral System: Balancing Privacy, Transparency, and Democratic Integrity**

Designing a fair electoral system in a complex democracy like India requires navigating competing constitutional values rather than choosing one at the cost of another. Among the most difficult balances to strike is between **privacy of political participation, transparency in political funding**, and the broader goal of **democratic integrity**. Each of these values is legitimate in its own right, yet tensions arise when one begins to overshadow the others.

At one level, **privacy** in political activity<sup>107</sup> is closely tied to individual freedom. Citizens, including donors, may wish to support political causes without exposing themselves to potential social, economic, or political consequences. In a diverse and sometimes polarised society, concerns about retaliation or discrimination cannot be entirely dismissed. From this perspective, a degree of confidentiality in political contributions may encourage participation and protect individual autonomy.

However, when political activity intersects with **public power**, the argument for complete privacy becomes less convincing. Political funding is not a purely private act; it has implications for governance, policy-making, and public decision-making. If financial contributions have the potential to influence political outcomes, then the public has a legitimate interest in knowing who is supporting whom. This is where the principle of **transparency** assumes critical importance.

Transparency ensures that the flow of money in politics is open to scrutiny. It enables voters to assess whether political actors are influenced by particular interests and allows institutions to monitor compliance with legal norms. More importantly, it strengthens the concept of **informed voting**, which lies at the heart of democratic participation. Without access to relevant information, voters may be unable to fully evaluate the choices before them.

The tension between privacy and transparency becomes particularly evident in the context of large-scale political donations. While small individual contributions may reasonably warrant a higher degree of privacy, significant financial transactions that can shape electoral outcomes demand greater disclosure. The challenge, therefore, is not to treat privacy and transparency as mutually exclusive, but to determine the **appropriate threshold and context** in which each

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<sup>107</sup> Election Commission of India, Guidelines on political party registration and compliance.

should apply.

Beyond these two values lies the broader concept of **democratic integrity**. This refers to the overall fairness, credibility, and trustworthiness of the electoral process. A system that lacks transparency may raise suspicions about hidden influence, while one that disregards privacy entirely may discourage participation. Democratic integrity requires that both concerns be addressed in a balanced and principled manner.

Achieving this balance calls for a **graded approach to regulation**. For instance, disclosure norms can be designed in a way that differentiates between levels of contributions, ensuring that significant donations are subject to public scrutiny while smaller contributions receive reasonable protection. Similarly, safeguards can be introduced to prevent misuse of disclosed information, thereby addressing concerns about donor vulnerability.

Another important element is the role of **institutional oversight**. Transparency is effective only when supported by credible institutions capable of monitoring compliance and enforcing rules. The Election Commission, auditing bodies, and judicial oversight must work together to ensure that disclosure requirements are not only met but also meaningful. At the same time, clear legal standards are necessary to avoid ambiguity and ensure consistent application.

Technology can also play a constructive role in balancing these values. Digital platforms can be used to create **accessible and user-friendly disclosure systems**, where information about political funding is available in real time and in a format that is easy to understand. Such systems can enhance transparency without imposing unnecessary burdens on participants.

Equally important is the need for a **normative shift in political culture**. Legal provisions alone cannot ensure fairness unless they are supported by a commitment to ethical practices. Political parties, candidates, and donors must recognise that transparency is not merely a regulatory requirement but a democratic responsibility. Building such a culture requires sustained efforts in public awareness, education, and institutional reform.

The comparative experience of other democracies suggests that no system achieves perfect balance. Different countries prioritise these values differently based on their historical, social, and political contexts. However, a common lesson is that **excessive opacity tends to undermine trust**, while **absolute transparency without safeguards may create new risks**. The goal, therefore, is to find a middle path that reflects constitutional principles and practical realities.

In conclusion, moving towards a fair electoral system in India requires a careful reconciliation of privacy, transparency, and democratic integrity. These values are not inherently incompatible, but they must be harmonised through thoughtful legal design and effective

institutional practice. A system that protects individual participation while ensuring public accountability can strengthen both the legitimacy of elections and the confidence of citizens in democratic governance.



## CHAPTER 6

### FINDINGS, CONCLUSIONS, AND POLICY RECOMMENDATIONS

#### 6.1 Summary of Key Findings: Legal Gaps, Transparency Deficits, and Strategic Misuse of Funding Mechanisms

The study of electoral strategy and political funding in India reveals a complex and layered reality, where formal legal structures coexist with practical challenges that often dilute their effectiveness. While the legal framework governing elections has evolved significantly, the findings indicate that gaps in regulation, limitations in transparency, and strategic behaviour by political actors continue to <sup>108</sup>shape the functioning of electoral finance in ways that raise concerns about fairness and democratic accountability.

A central finding of this study is the existence of **legal gaps within the regulatory framework**. Although multiple statutes govern electoral processes and political funding, they do not always operate in a cohesive or comprehensive manner. Different aspects of political finance—such as donations, expenditure, and disclosure—are regulated under separate laws, which can lead to fragmentation. This fragmented structure creates areas of ambiguity where certain practices fall outside clear legal scrutiny. For instance, while candidates are subject to expenditure limits, political parties are not bound by equivalent comprehensive caps, allowing significant financial activity to take place beyond the scope of individual regulation.

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<sup>108</sup> The Representation of the People Act, 1951, Acts of Parliament, 1951 (India).

Another dimension of legal gaps <sup>109</sup>lies in the **limited scope of existing provisions**. Many regulatory mechanisms were designed in an earlier context and have not fully adapted to the changing nature of electoral campaigning. The rise of digital platforms, data-driven strategies, and indirect modes of funding has introduced complexities that are not always adequately addressed by current laws. As a result, regulatory frameworks may struggle to keep pace with evolving campaign practices, leaving room for interpretation and potential misuse.

Closely linked to these gaps is the issue of **transparency deficits**. While disclosure requirements exist for both candidates and political parties, the effectiveness of these provisions is often constrained by the manner in which information is reported and accessed. Financial disclosures may be incomplete, aggregated, or difficult to interpret, limiting their practical value. In some cases, contributions below specified thresholds are not individually disclosed, which can obscure the true sources of funding. This creates a situation where transparency exists in form but not always in substance.

The study also highlights the **asymmetry in access to information**. While certain data is technically available in the public domain, it may not be presented in a user-friendly or accessible format. This limits the ability of ordinary citizens to engage meaningfully with the information. As a result, the task of analysing political funding often falls to specialised organisations or researchers, creating <sup>110</sup>a gap between formal transparency and public understanding.

A particularly significant finding concerns the **strategic misuse of funding mechanisms**. Political actors, operating within the boundaries of the law or at its margins, often adopt methods that allow them to maximise financial advantage while minimising regulatory exposure. This includes practices such as structuring donations in ways that avoid disclosure thresholds, routing funds through intermediaries, or relying on third-party expenditures that are not directly attributed to candidates. These strategies do not always involve clear violations of the law but can undermine its intended purpose.

The role of **cash-based transactions and unaccounted funds** remains a persistent concern. Despite efforts to formalise political funding, the use of cash continues to provide a means of bypassing regulatory oversight. This not only reduces transparency but also complicates efforts to track and verify financial flows. The existence of such parallel systems weakens the credibility of official records and raises questions about the accuracy of reported data.

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<sup>109</sup> Ministry of Law and Justice, *Electoral Bonds Scheme, 2018*, Gazette Notification S.O. 29(E), January 2, 2018.

<sup>110</sup> Election Commission of India, *Report on Election Expenditure Monitoring* (various years).

Another important finding is the **interaction between funding and electoral strategy**. Financial resources are not merely supportive elements of campaigns; they actively shape the way elections are contested. Well-funded parties are able to invest in extensive outreach, advanced technology, and sustained visibility, which can influence voter perceptions and electoral outcomes. This creates disparities in competitive conditions, where access to financial resources becomes a determining factor in political <sup>111</sup>success.

The study also points to **institutional constraints in enforcement and oversight**. While bodies such as the Election Commission play a vital role in regulating elections, their capacity to monitor complex financial transactions is limited by legal, technical, and administrative factors. Enforcement mechanisms may be reactive rather than proactive, and delays in investigation or adjudication can reduce their effectiveness. Similarly, auditing processes may not always capture the full extent of financial activity, particularly when funds are routed through indirect channels.

The findings further reveal a **disconnect between legal intent and practical outcomes**. Many reforms have been introduced with the objective of enhancing transparency and accountability, yet their impact has been uneven. In some cases, regulatory measures have been adapted by political actors in ways that preserve the appearance of compliance while limiting substantive transparency. This highlights the need for <sup>112</sup>continuous evaluation and refinement of legal frameworks.

Another critical aspect is the **impact on democratic trust and public perception**. When information about political funding is incomplete or difficult to access, it can create a sense of opacity in the electoral process. Even in the absence of proven misconduct, the perception of hidden influence can erode confidence in democratic institutions. Trust, once weakened, is difficult to restore, making transparency not only a legal requirement but also a normative necessity.

The study also underscores the importance of **coordinated institutional action**. No single institution can address the challenges of political funding in isolation. Effective oversight requires collaboration between regulatory bodies, the judiciary, and independent actors such as civil society and the media. Each of these plays a role in identifying gaps, ensuring compliance, and promoting accountability.

In synthesising these findings, it becomes clear that the challenges of electoral funding are not

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<sup>111</sup> Association for Democratic Reforms, *Analysis of Political Party Funding (2022–2024)*.

<sup>112</sup> National Institute of Public Finance and Policy, *Political Finance and Electoral Reforms in India (2019)*.

confined to isolated issues but are interconnected. Legal gaps enable strategic behaviour; transparency deficits limit accountability; and the misuse of funding mechanisms reinforces disparities in electoral competition<sup>113</sup>. Addressing these issues requires a holistic approach that goes beyond incremental reforms.

In conclusion, the key findings of this study highlight the need for a more integrated and adaptive regulatory framework. Strengthening electoral integrity will depend on closing legal gaps, enhancing the quality and accessibility of disclosures, and addressing the strategic practices that undermine transparency. At the same time, institutional capacity must be improved to ensure effective enforcement. Ultimately, the goal is to create a system where political funding operates within a framework that is transparent, accountable, and aligned with the principles of democratic fairness.

## 6.2 Doctrinal Analysis: Constitutional Principles vis-à-vis Electoral Bond Framework

A doctrinal analysis of the electoral bond framework requires an examination of how this mechanism aligns—or conflicts—with foundational<sup>114</sup> constitutional principles. In the Indian context, electoral funding cannot be viewed as a purely administrative or financial issue; it is deeply connected to constitutional values such as **free and fair elections, equality, freedom of expression, and the right to information**. The electoral bond scheme, as a structured instrument of political funding, must therefore be evaluated against these normative benchmarks.

At the outset, the principle of **free and fair elections** forms the backbone of India's democratic structure. Although not explicitly enumerated as a single provision, it is derived from the broader constitutional scheme and the mandate of electoral governance. Any system of political funding that affects the level playing field among political actors must be tested against this standard. The electoral bond framework, by allowing financial contributions through formal banking channels, was presented as a step toward reducing unaccounted cash transactions. However, the question that arises in doctrinal terms is whether formalisation alone is sufficient if it is accompanied by reduced transparency.

Closely related is the principle of **equality**, particularly in the electoral context. Equality in elections does not necessarily mean identical resources for all participants, but it does require

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<sup>113</sup> Law Commission of India, *255th Report on Electoral Reforms* (2015).

<sup>114</sup> Reserve Bank of India, *Annual Report on Banking Transactions and Financial Transparency* (relevant years).

that the system does not create <sup>115</sup>structural advantages that disproportionately benefit certain actors. The electoral bond mechanism, by enabling large-scale contributions without public disclosure, raises concerns about unequal access to financial resources. Political parties with greater visibility or proximity to donors may be in a position to attract significantly higher funding, thereby affecting the balance of electoral competition. From a constitutional perspective, such disparities must be assessed in light of the broader commitment to equal opportunity in democratic participation.

Another key principle is **freedom of expression**, which includes political speech and participation. Financial contributions to political parties can be viewed as a form of political expression, as they reflect support for particular ideologies or candidates. From this standpoint, the anonymity associated with electoral bonds may be justified as a means of protecting donors from potential repercussions, thereby encouraging participation. However, this argument must be balanced against competing considerations. When financial contributions reach a scale that can influence public policy or electoral outcomes, the expressive dimension intersects with public accountability<sup>116</sup>, raising questions about whether anonymity can be sustained without compromising other constitutional values.

Perhaps the most significant constitutional concern relates to the **right to information**, which has been recognised as an integral aspect of democratic participation. The ability of voters to make informed choices depends on access to relevant information, including the sources of political funding. Transparency in this regard is not merely a matter of administrative convenience; it is a substantive democratic requirement. The electoral bond framework, by limiting public access to information about donors, creates a tension with this principle. While the State may have access to certain transactional details through banking systems, the absence of public disclosure restricts the voter's ability to assess potential influences on political actors. The doctrinal tension between **transparency and confidentiality** lies at the heart of this analysis. On one hand, confidentiality may serve legitimate purposes, such as protecting donors from undue pressure or retaliation. On the other hand, excessive confidentiality can undermine accountability and create conditions for opaque financial influence. Constitutional doctrine requires that any restriction on transparency be justified by a compelling interest and be proportionate to the objective sought to be achieved. This raises the question of whether the degree of anonymity provided under the electoral bond system meets the test of proportionality.

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<sup>115</sup> Transparency International, *Corruption Perception Index Reports* (India section).

<sup>116</sup> Constitution of India, 1950, arts. 14, 19(1)(a), 21.

Another dimension of doctrinal analysis involves the concept of **institutional accountability**. Democratic governance is premised on the idea that those who exercise public power must remain answerable to the people. Financial transparency is one of the means through which such accountability is maintained. When funding mechanisms limit the visibility of financial relationships, they may weaken the chain of accountability between political actors and the electorate. This concern is particularly significant in the context of large or corporate contributions, where the potential for influence is more pronounced.

The role of **judicial review** is crucial in resolving these doctrinal tensions. Courts are often called upon to examine whether legislative or executive measures align with constitutional principles. In doing so, they apply standards such as reasonableness, proportionality, and non-arbitrariness. The evaluation of the electoral bond <sup>117</sup>framework within this judicial paradigm involves assessing whether the objectives of reducing black money and promoting formal transactions justify the limitations imposed on transparency and public disclosure.

It is also important to consider the broader principle of **democratic integrity**, which encompasses not only legal compliance but also public confidence in the electoral process. Even if a mechanism operates within the formal boundaries of law, it must also sustain the trust of the electorate. Perceptions of opacity or unequal influence can erode this trust, highlighting the need for funding systems that are both legally sound and publicly credible.

In synthesising these doctrinal elements, it becomes evident that the electoral bond framework operates at the intersection of competing constitutional values. It seeks to address certain concerns, such as the use of unaccounted cash, while simultaneously raising new questions about transparency and accountability. The challenge lies in determining whether the framework achieves a constitutionally acceptable balance or whether it tilts too heavily in favour of confidentiality at the expense of democratic openness.

In conclusion, the doctrinal analysis of electoral bonds underscores the complexity of regulating political funding within a constitutional democracy. The framework must be evaluated not only in terms of its stated objectives but also in light of its broader impact on constitutional principles. A sustainable approach to electoral funding requires a careful alignment of transparency, equality, and freedom, ensuring that the system supports both <sup>118</sup>effective governance and informed democratic participation.

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<sup>117</sup> Centre for Media Studies, *Election Expenditure Study* (2019).

<sup>118</sup> Transparency International, *Global Corruption Report: Political Finance* (latest edition).

### **6.3 Evaluation of Hypotheses: Impact of Anonymity on Electoral Fairness and Accountability**

This study set out with a central hypothesis: that **anonymity in political funding, particularly within structured mechanisms, has a measurable impact on electoral fairness and democratic accountability**. Evaluating this hypothesis requires moving beyond abstract theory and examining how anonymity operates in practice—how it shapes behaviour, influences institutional functioning, and affects <sup>119</sup>the broader democratic environment.

At a conceptual level, anonymity in political funding is often justified on the ground that it **protects donor autonomy**. Individuals and entities may prefer confidentiality to avoid potential backlash, coercion, or reputational consequences associated with their political preferences. In this limited sense, anonymity can be seen as facilitating participation by removing perceived risks. However, when this justification is placed within the larger framework of electoral democracy, its implications become more complex.

The first dimension of evaluation relates to **electoral fairness**. Fairness in elections requires that all political actors compete under conditions that do not unduly favour one over another. Anonymity, particularly when it applies to large-scale contributions, can disturb this balance. When the sources of funding are not publicly known, it becomes difficult to assess whether certain parties are receiving disproportionate support from powerful economic actors. This lack of visibility may allow financial influence to operate unevenly, creating an advantage that is not subject to public scrutiny.

Moreover, anonymity can indirectly affect fairness by shaping **strategic behaviour among political actors**. Parties that are perceived as more likely to succeed or hold power may attract greater financial support, especially when donors are assured of confidentiality. This can lead to a concentration of resources in favour of certain parties, reinforcing existing advantages and making electoral competition less equitable. The result <sup>120</sup>is a cycle in which financial strength and electoral success mutually reinforce each other.

The second dimension concerns **democratic accountability**, which is closely linked to transparency. In a representative democracy, accountability depends on the ability of citizens to evaluate not only the actions of political actors but also the influences behind those actions. Financial contributions are a key part of this equation. When voters are unaware of who is funding political parties, they are deprived of information that may be relevant to understanding

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<sup>119</sup> Cas Mudde, *Political Parties and Democracy* (Oxford University Press).

<sup>120</sup> World Bank, *Governance and Anti-Corruption Reports* (Political Finance sections).

policy decisions and governance priorities.

Anonymity, in this context, creates a **disconnect between financial influence and public knowledge**. While contributions may be recorded within formal systems, the absence of public disclosure limits the electorate's ability to hold political actors accountable. This is particularly significant in cases where large donations have the potential to shape policy outcomes. Without transparency, it becomes difficult to establish whether decisions are being made in the public interest or influenced by undisclosed financial considerations.

Another important aspect of this evaluation is the **institutional impact of anonymity**. Regulatory bodies may have partial access to financial information, but their ability to act effectively depends on clear legal mandates and enforcement mechanisms. When the system prioritises confidentiality, it may restrict the scope of oversight and reduce the effectiveness of monitoring processes. This, in turn, can weaken institutional accountability and limit the deterrence of irregular practices.

The hypothesis also needs to be examined in light of **empirical patterns and practical realities**. Evidence from the functioning of electoral funding mechanisms suggests that anonymity does not operate in isolation; it interacts with existing structural conditions such as disparities in financial capacity, regulatory gaps, and enforcement challenges. In such an environment, anonymity may amplify existing inequalities rather than mitigate them. Instead of protecting smaller participants, it may disproportionately benefit those who already possess significant financial influence.

At the same time, it is important to recognise that the relationship between anonymity and democratic values is not entirely one-sided. There may be **limited contexts in which confidentiality serves a legitimate purpose**, particularly for small donors or individuals who may face genuine risks. However, the key issue lies in the scope and scale of anonymity. When applied broadly and without differentiation, it can undermine the very principles it seeks to protect.<sup>121</sup>

From a constitutional perspective, the evaluation of this hypothesis must consider the **principle of proportionality**. Any system that restricts transparency must demonstrate that such restriction is necessary and that it does not disproportionately affect other constitutional values. In the case of political funding, the balance appears to tilt toward the need for greater openness, especially where contributions are substantial and capable of influencing public decision-making.

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<sup>121</sup> People's Union for Civil Liberties v. Union of India (2003) 4 SCC 399.

The findings of this study therefore indicate that **anonymity, as currently structured in certain funding mechanisms, tends to weaken both electoral fairness and accountability.**

It obscures the flow of financial influence, limits the ability of voters to make informed choices, and creates conditions for unequal competition. While it may offer certain protective benefits, these are outweighed by the broader democratic costs when anonymity is applied without adequate safeguards.

In conclusion, the hypothesis stands substantially supported: anonymity in political funding has a significant and largely adverse impact on electoral fairness and democratic accountability. A more balanced approach is required—one that recognises the legitimate need for privacy in limited cases while ensuring that transparency remains the guiding principle for political finance. Such an approach would better align with the objectives of a democratic system that is both participatory and accountable.

#### **6.4 Reform-Oriented Framework: Ensuring Transparent, Accountable, and Equitable Political Funding**

The challenges identified in the regulation of political funding—ranging from legal gaps and limited transparency to strategic misuse of financial mechanisms—point toward the need for a comprehensive and forward-looking reform framework. Such a framework must not be confined to isolated legal amendments; rather, it should aim to reshape the broader architecture of electoral finance in a manner that aligns with democratic values. The objective is to create a system where political funding is transparent in operation, accountable in structure, and equitable in its impact on electoral competition.

At the heart of this framework lies the principle of **transparency as a foundational norm.** Transparency should not be treated as a procedural requirement but as a substantive democratic obligation. This requires that all significant political contributions be disclosed in a clear, timely, and accessible manner. Disclosure mechanisms must go beyond formal compliance and ensure that information is meaningful for public understanding. This includes standardised reporting formats, real-time or periodic updates, and the availability of data in easily interpretable forms. Transparency, when effectively implemented, enables citizens to connect financial flows with political decision-making.

Alongside transparency, the framework must emphasise **accountability through robust institutional mechanisms.** Regulatory bodies must be equipped with the authority, resources, and technological capacity to monitor financial activities effectively. This involves strengthening auditing processes, ensuring independent verification of financial disclosures,

and establishing clear consequences for non-compliance. Accountability is not merely about detecting violations; it is about creating a system where compliance becomes the norm due to credible oversight and enforcement.

A critical component of reform is addressing the **imbalance in electoral competition caused by unequal access to financial resources**. An equitable funding system does not necessarily require equal funding for all participants, but it must prevent excessive disparities that distort the democratic process. This can be achieved through a combination of measures, such as rationalising expenditure limits, enhancing scrutiny of large contributions, and exploring calibrated forms of public support. The aim is to ensure that electoral success is not determined primarily by financial strength but by public support and political merit.

The framework must also address the issue of **anonymity in political contributions**. While limited confidentiality may be justified in specific contexts, particularly for small donors, the system must prioritise disclosure for contributions that have the potential to influence electoral outcomes. A tiered approach can be adopted, where transparency increases with the scale of the contribution. This would balance the need for privacy with the imperative of public accountability, ensuring that significant financial relationships are open to scrutiny.

Another essential aspect is the **integration of technology into regulatory practices**. Digital platforms can be used to create centralised databases of political funding, enabling real-time tracking and analysis of financial transactions. Such systems can enhance both transparency and efficiency, reducing the scope for manipulation or delay. However, technological solutions must be accompanied by safeguards to protect data integrity and prevent misuse.

The reform framework must also consider the **role of political parties as key stakeholders**. Strengthening internal governance within parties is crucial for ensuring that financial accountability is maintained at the organisational level. This includes adopting transparent procedures for managing funds, conducting regular audits, and making financial information publicly available. Encouraging internal democracy can further reinforce accountability by ensuring that financial decisions are subject to internal checks and balances.

In addition to legal and institutional reforms, there is a need for **greater coordination among oversight bodies**. Electoral regulation often involves multiple agencies, each with distinct functions. Effective reform requires these institutions to work in a coordinated manner, sharing information and aligning their efforts. This can reduce duplication, improve enforcement, and create a more coherent regulatory environment.

The role of **civil society and public engagement** is equally important in this framework. Transparency becomes meaningful only when it leads to informed public participation. Civil

society organisations, researchers, and the media play a crucial role in analysing data, identifying trends, and holding political actors accountable. Encouraging public access to information and fostering a culture of scrutiny can significantly enhance the effectiveness of formal regulatory mechanisms.

A reform-oriented approach must also be **adaptive and responsive to emerging challenges**. Electoral strategies and funding mechanisms continue to evolve, particularly with the growth of digital campaigning and new forms of political communication. Regulatory frameworks must therefore be periodically reviewed and updated to address these developments. Static laws are unlikely to remain effective in a dynamic political environment.

Finally, the success of any reform initiative depends on a broader **commitment to democratic ethics**. Legal provisions and institutional mechanisms can provide the structure, but their effectiveness ultimately relies on the willingness of political actors to adhere to both the letter and spirit of the law. Promoting ethical standards in political conduct is therefore an essential, though often overlooked, aspect of reform.

In conclusion, a reform-oriented framework for political funding in India must operate on multiple levels—legal, institutional, technological, and cultural. By strengthening transparency, enhancing accountability, and promoting equity, such a framework can address the structural challenges identified in this study. The goal is not merely to regulate political finance but to ensure that it supports, rather than undermines, the democratic process. A system built on these principles can contribute to restoring public trust and reinforcing the integrity of elections in India.

## **6.5 Policy Recommendations: Legislative Amendments, Institutional Strengthening, and Regulatory Reforms**

The analysis undertaken in this study demonstrates that the challenges surrounding political funding in India cannot be addressed through isolated or piecemeal measures. Instead, a comprehensive set of policy recommendations is required—one that simultaneously strengthens the legal framework, enhances institutional capacity, and reforms regulatory practices. The objective is to move toward a system where political finance operates within clear, enforceable, and democratically consistent norms.

### **A. Legislative Amendments: Closing Gaps and Clarifying the Law**

A primary area for reform lies in **updating and harmonising existing legislation** governing electoral finance. At present, multiple statutes regulate different aspects of political funding,

often leading to fragmentation and interpretational ambiguity. There is a need for a more **coherent and integrated legal framework** that clearly defines permissible sources of funding, disclosure obligations, and enforcement mechanisms.

One key recommendation is the **introduction of comprehensive disclosure requirements**. All significant political contributions, particularly those above a reasonable threshold, should be mandatorily disclosed with details of the donor. This would address the existing gaps where fragmented or partial reporting obscures the true nature of funding. The law should also ensure that disclosures are made in a timely manner, ideally during the electoral cycle, rather than after its conclusion.

Another important legislative reform involves **rationalising electoral expenditure provisions**. While expenditure limits exist for candidates, the absence of equivalent or coordinated limits for political parties creates an imbalance. Legislative amendments should aim to bring greater clarity to the attribution of expenses, including those incurred by third parties or affiliated entities. This would reduce the scope for circumvention and improve accountability.

There is also a need to **revisit provisions relating to anonymity in political funding**. While limited confidentiality may be justified in specific cases, the law must ensure that large-scale contributions are subject to public scrutiny. A tiered disclosure system, based on the size of contributions, can help balance privacy concerns with the need for transparency.

Additionally, legislative reforms should focus on **strengthening penalties for non-compliance**. Existing provisions often lack deterrent value due to weak enforcement or limited consequences. Clear, proportionate, and enforceable penalties can play a crucial role in ensuring adherence to legal norms.

## **B. Institutional Strengthening: Enhancing Capacity and Independence**

Legal reforms alone cannot achieve the desired outcomes without strong institutions capable of implementing them effectively. The **Election Commission of India (ECI)** must be equipped with enhanced powers and resources to monitor political funding in a comprehensive manner. This includes the authority to demand detailed financial information, conduct audits, and initiate enforcement actions where necessary.

Capacity-building is equally important. The increasing complexity of electoral financing—particularly with the rise of digital campaigning—requires **technical expertise and advanced monitoring tools**. Investment in data analytics, digital tracking systems, and specialised personnel can significantly improve the Commission's ability to oversee financial activities.

Another key recommendation is the establishment or strengthening of **independent auditing mechanisms**. Financial disclosures by political parties and candidates should be subject to rigorous and impartial verification. This may involve the creation of dedicated units or the involvement of accredited independent auditors who operate under clear guidelines and oversight.

The **role of the judiciary** also needs to be supported through procedural efficiency. Fast-track mechanisms for electoral disputes and funding-related violations can ensure that issues are addressed within relevant timeframes. Delayed adjudication often reduces the practical impact of legal remedies, making timely intervention essential.

Furthermore, **inter-institutional coordination** must be improved. Electoral oversight involves multiple bodies, including tax authorities and financial regulators. Establishing structured channels for information-sharing and cooperation can enhance the overall effectiveness of the regulatory system.

### **C. Regulatory Reforms: Improving Transparency and Enforcement Practices**

Regulatory practices must evolve to ensure that transparency is not merely formal but **substantive and accessible**. One of the most important steps in this direction is the creation of a **centralised digital platform** for political funding disclosures. Such a platform should provide real-time or regularly updated information on contributions and expenditure, presented in a user-friendly format that can be easily understood by the public.

Another recommendation is the **standardisation of financial reporting formats**. Uniform templates for disclosures can improve clarity, facilitate comparison, and reduce the scope for ambiguity. This would also assist regulatory bodies and researchers in analysing financial data more effectively.

The regulation of **digital campaigning and online political advertising** requires particular attention. Clear guidelines must be developed to ensure transparency in online expenditures, including disclosure of funding sources and targeting practices. Collaboration with digital platforms may be necessary to ensure compliance and effective monitoring.

Addressing the issue of **cash-based transactions** is another critical area of reform. Measures should be introduced to encourage or mandate the use of traceable financial channels for political contributions. This can significantly reduce the scope for unaccounted funding and improve the reliability of financial data.

Regulatory reforms should also focus on **enhancing enforcement mechanisms**. Monitoring systems must be proactive rather than reactive, with the ability to detect irregularities in real

time. This may involve the use of technology, field-level verification, and continuous oversight during the electoral process.

#### **D. Strengthening Democratic Accountability and Public Participation**

An effective policy framework must also recognise the role of **public engagement and civil society oversight**. Transparency measures are meaningful only when they lead to informed participation. Efforts should be made to promote awareness about political funding, encourage independent analysis, and facilitate public access to information.

Civil society organisations and the media can act as important intermediaries, translating complex financial data into accessible insights. Supporting their role through open data policies and institutional cooperation can enhance accountability beyond formal regulatory structures.

#### **E. Towards a Balanced and Sustainable Reform Model**

Ultimately, the goal of these policy recommendations is to create a system that balances **transparency, accountability, and fairness** without imposing unnecessary constraints on legitimate political activity. Reforms must be designed in a way that is practical, enforceable, and responsive to changing realities.

A phased or incremental approach may be particularly useful in the Indian context. Pilot initiatives, periodic reviews, and adaptive policy-making can help ensure that reforms remain effective over time. Continuous evaluation is essential to identify gaps and refine the regulatory framework.

#### **Conclusion**

The regulation of political funding is one of the most critical challenges facing modern democracies. In India, the need for reform is evident from the persistent gaps between legal provisions and practical outcomes. By adopting a comprehensive approach that combines legislative amendments, institutional strengthening, and regulatory innovation, it is possible to address these challenges in a meaningful way.

These policy recommendations aim to move beyond formal compliance and toward a system that genuinely reflects democratic values. A transparent and accountable framework for political funding can not only improve the fairness of elections but also restore public confidence in the democratic process.

#### **6.6 Concluding Reflections: Reimagining Electoral Democracy in India**

The study of electoral strategy and political funding in India ultimately leads to a broader and more fundamental question: what kind of democracy does India aspire to sustain? Elections are

often seen as periodic exercises in voting, but in reality, they represent the foundation of democratic legitimacy. The integrity of this foundation depends not only on how votes are cast and counted, but also on how political competition is structured, financed, and regulated. In this context, reimagining electoral democracy requires a deeper engagement with the relationship between money, power, and public trust.

One of the central reflections emerging from this study is that **democracy cannot be reduced to procedural compliance**. While India has developed an extensive legal framework governing elections, the effectiveness of this framework depends on how it operates in practice. Formal rules on disclosure, expenditure, and conduct may exist, yet their impact is often shaped by gaps in enforcement, evolving campaign strategies, and the strategic behaviour of political actors. This highlights the need to move beyond a purely rule-based approach toward a system that emphasises **substantive fairness and accountability**.

A key challenge in this regard is the **growing influence of financial power in electoral politics**. As campaigns become more resource-intensive, the ability to mobilise funds increasingly determines the reach and effectiveness of political actors. This trend risks shifting the focus of elections from ideas and public engagement to financial capacity. Reimagining electoral democracy therefore requires a conscious effort to ensure that money does not become the dominant factor in determining political outcomes.

At the same time, it is important to recognise that **political funding is an inevitable and necessary component of democratic functioning**. Campaigns require resources, and the absence of funding can limit political participation. The issue is not the presence of money in politics, but the manner in which it is regulated. A fair system must allow for legitimate financial support while preventing practices that undermine transparency and equality. This balance is at the heart of any meaningful reform.

Another important reflection concerns the **role of transparency in sustaining democratic trust**. Transparency is often discussed in technical terms, as a matter of disclosure and reporting. However, its significance extends much further. It shapes how citizens perceive the political process and whether they believe it operates in their interest. When funding sources are opaque or difficult to trace, it creates uncertainty about the motivations behind political decisions. Over time, such uncertainty can erode confidence in democratic institutions. Reimagining democracy therefore involves treating transparency not as an administrative requirement, but as a **core democratic value**.

The study also underscores the importance of **institutional resilience**. Institutions such as the Election Commission, the judiciary, and oversight bodies play a crucial role in maintaining the

integrity of the electoral process. However, their effectiveness depends on both their formal powers and their practical capacity to act. Strengthening these institutions requires not only legal reforms but also investments in resources, expertise, and independence. A reimagined electoral system must ensure that institutions are capable of responding to new challenges, particularly those arising from technological and financial innovations.

Equally significant is the need to address the **ethical dimension of electoral politics**. Laws and regulations can set standards, but they cannot by themselves guarantee ethical conduct. Political actors must recognise that adherence to democratic norms is not merely a legal obligation but a responsibility toward the electorate. This includes a commitment to transparency, fairness, and respect for the spirit of democratic competition. Encouraging such a culture requires sustained efforts in political education, public discourse, and institutional practice.

The evolving nature of **technology and digital campaigning** adds another layer to this reimagination. Digital platforms have expanded the reach of political communication, but they have also introduced new complexities in terms of funding, regulation, and accountability. Addressing these challenges requires forward-looking policies that can adapt to changing realities without compromising democratic principles.

Another critical aspect is the **inclusiveness of the electoral process**. A truly democratic system must provide meaningful opportunities for participation across different social and economic groups. When financial barriers become too high, they can limit the entry of new voices and reduce the diversity of political representation. Reimagining electoral democracy therefore involves creating conditions where participation is not constrained by economic disadvantage. Finally, the broader goal of electoral reform must be to **restore and strengthen public confidence**. Democracy relies on the belief that the system is fair, transparent, and responsive. When this belief is weakened, the legitimacy of institutions is called into question. Reforms in political funding and electoral strategy are therefore not merely technical adjustments; they are essential steps toward rebuilding trust between citizens and the political system.

In conclusion, reimagining electoral democracy in India requires a holistic and sustained effort that goes beyond incremental reforms. It calls for a reorientation of priorities—from managing elections to strengthening democratic values, from formal compliance to substantive accountability, and from short-term gains to long-term institutional integrity. By addressing the challenges of political funding with clarity and commitment, India can move closer to an electoral system that truly reflects the will of the people and upholds the principles of a vibrant and resilient democracy.

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