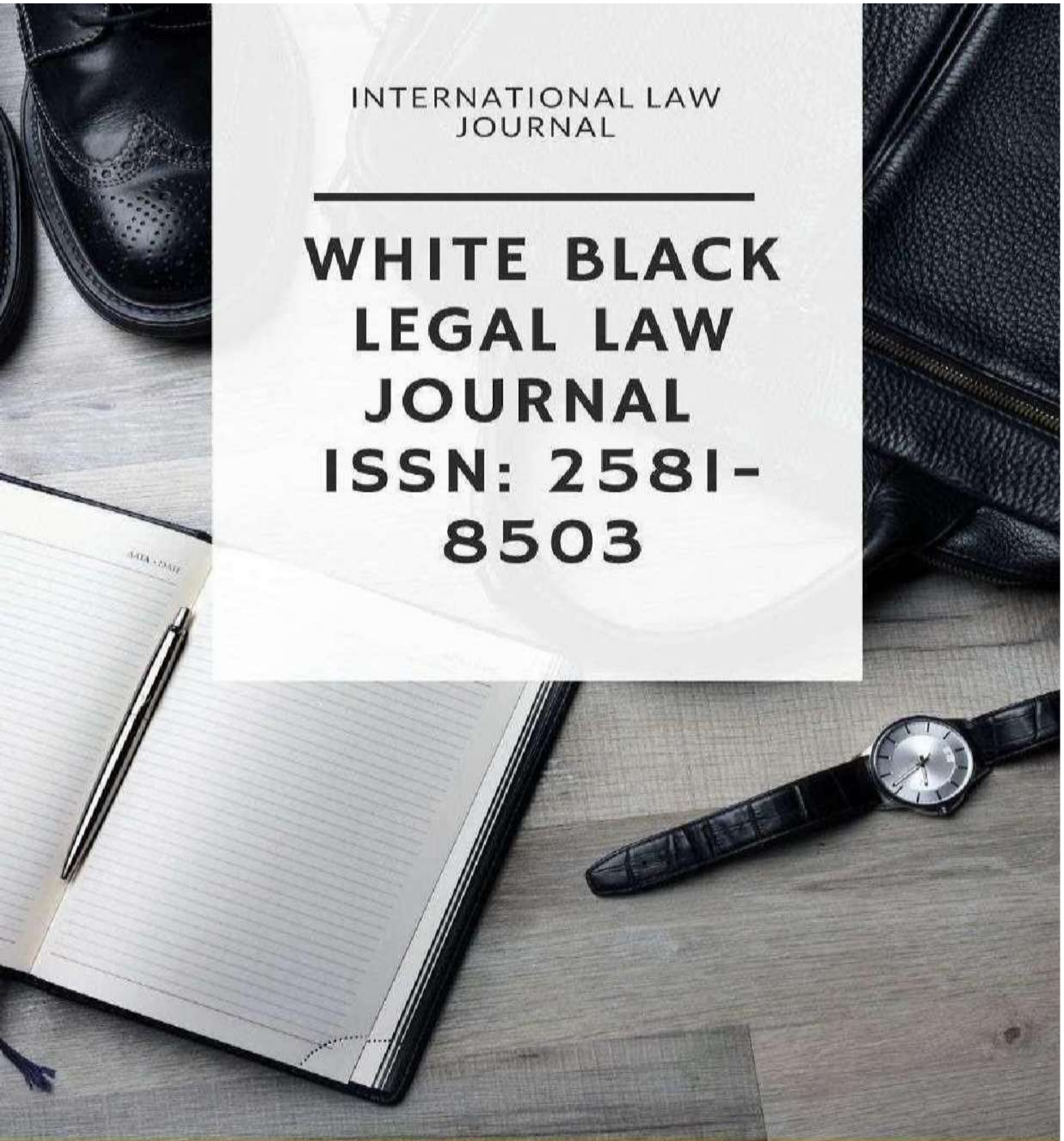

INTERNATIONAL LAW JOURNAL

WHITE BLACK LEGAL LAW JOURNAL

ISSN: 2581-8503

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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Volume 3 Issue 1 | March 2025 ISSN: 2581-8503

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

 ISSN: 2581-8503

CRITICAL STUDY ON THE ELECTION EXPENDITURE LAWS AND POLITICAL PARTIES FINANCING IN INDIA

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ABSTRACT

India, as the world's largest democracy, conducts elections that require substantial financial resources. The regulation of election expenditures and political party financing is crucial in ensuring transparency, accountability, and fairness in the electoral process. However, despite the existence of legal frameworks such as the Representation of the People Act, 1951, and mechanisms like electoral bonds, significant challenges persist, including undisclosed donations, corporate influence, and rising campaign costs. This paper critically examines the evolution of election expenditure laws in India, their effectiveness, and the impact of key reforms such as electoral bonds. It analyzes the role of the Election Commission in monitoring election expenses and identifies loopholes that allow financial opacity in political funding.

Furthermore, this study highlights judicial interventions, particularly the Supreme Court's ruling declaring the Electoral Bond Scheme unconstitutional, and evaluates its implications for democratic accountability. The research also discusses the role of digital campaigning, third-party expenditures, and unregulated financial flows in modern elections. Finally, the paper proposes comprehensive reforms to address these challenges, including stricter disclosure norms, caps on corporate funding, state-sponsored election financing, and enhanced enforcement mechanisms. The study argues that a robust, transparent, and equitable political financing system is essential to uphold democratic integrity and ensure fair electoral competition in India.

INTRODUCTION

India, being the world's largest democracy, holds elections as the cornerstone of its political system. Central to this democratic process is the financing of political parties and their campaigns. Election expenditure laws regulate how political parties fund their activities, ensuring transparency, curbing corruption, and maintaining fairness in the electoral process. Over the years, however, loopholes in these laws have led to significant challenges, including the misuse of black money, opaque sources of funding, and rising costs of election campaigns. This paper aims to provide a critical analysis of the existing election expenditure laws and political party financing mechanisms in India, identifying their strengths and weaknesses, and exploring reforms to promote transparency and accountability.

Historical Overview of Election Expenditure Laws in India

Representation of the People Act (RPA), 1951[1]

The Representation of the People Act of 1951 was enacted to provide the framework for elections. The RPA included provisions to regulate election expenditures. It set limits on candidate spending and mandated the maintenance and submission of expenditure accounts. Over time, these expenditure limits have been periodically revised to reflect changing economic conditions.

Supreme Court Ruling in 1974

In the case of *Kanwar Lala Gupta vs Amar Nath Chawla & Ors*[2], the Supreme Court ruled that expenses incurred by political parties supporting candidates should be counted towards the candidates' expenditure limits. However, Parliament amended the RPA in 1975, specifying that only expenses authorized by the candidate would be included in their expenditure accounts, effectively allowing parties to spend without impacting individual candidate limits.

Income Tax Act Amendments (1979)

The Taxation Laws (Amendment) Act of 1978 introduced provisions exempting political parties from income tax on voluntary contributions, provided they maintained audited accounts and records of donors contributing ₹20,000 or more. This aimed to increase transparency in political funding.

Election Commission Guidelines (1998)[3]

The Election Commission of India (ECI) introduced measures to provide free airtime on state-owned media to recognized political parties to reduce campaign costs and promote equitable access to voters.

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[1] Act No. 43 of 1951
[2] 1975 3 SCC 646
[3] No. ECI/PN/98/09

Electoral Bonds

The government introduced electoral bonds in 2018 to enhance transparency in political funding. These bonds allow individuals and corporations to donate to political parties without revealing their identities publicly, sparking debates on the balance between donor anonymity and transparency.

In 2020, the Central Information Commission ruled that political parties are not "public authorities" under the Right to Information Act, thereby not being obligated to disclose funding sources, raising concerns about transparency.

Regulatory Framework: The Role of the Representation of the People Act, 1951

The Representation of the People Act, 1951, serves as the foundational law that establishes the legal framework for conducting elections in India, including regulations on election expenditure. This Act sets the limits for candidate spending during elections and outlines penalties for any violations. While the primary aim of the law is to control excessive spending and ensure fair competition, its provisions regarding political party financing are somewhat ambiguous, particularly concerning corporate donations and unregulated sources of income. This Act is a crucial primary source for understanding the legislative intent behind expenditure regulation and provides a basis for examining its limitations in addressing contemporary challenges related to transparency and accountability in political financing.

The RPA's provisions aim to promote transparency in electoral financing by requiring candidates to maintain and submit detailed accounts of their election expenditures. The stipulation for political parties to report significant contributions further enhances accountability. However, the effectiveness of these provisions has been a subject of debate.

The Impact of Electoral Bonds on Political Financing

The Electoral Bonds Scheme, introduced in 2018, was designed to tackle the issue of untraceable donations to political parties. Under this scheme, individuals and corporations can purchase bonds and donate them to political parties without disclosing the donor's identity. Despite aiming to reduce the circulation of illicit funds in elections, the scheme has faced criticism for maintaining secrecy in political donations. Analyzing the legal aspects of this scheme can provide insights into its alignment with the overall regulatory framework and its impact on transparency. Furthermore, the Electoral Bonds Scheme and relevant Supreme Court rulings serve as crucial references for assessing contemporary developments in political financing.

While the scheme intended to promote transparency, the provision for donor anonymity has been criticized for enabling undisclosed contributions, thereby diminishing public insight into political funding sources. This lack of transparency has raised concerns about the potential for unchecked corporate influence and policy bias.

The scheme has facilitated significant corporate donations, leading to apprehensions about corporations exerting undue influence over political parties and policymaking. This dynamic could potentially prioritize corporate interests over public welfare, undermining democratic principles.

On February 15, 2024, the Supreme Court of India declared the Electoral Bond Scheme unconstitutional, a decision that has sparked extensive debate regarding its implications for political funding and transparency. The scheme, introduced by the Bharatiya Janata Party (BJP), allowed individuals and corporations to anonymously donate to political parties through financial instruments known as electoral bonds. While the Union Home Minister, Amit Shah, asserted that the court's decision would reintroduce black money into political funding, the revelations during the Supreme Court hearings have left the public astounded.

The Electoral Bond Scheme significantly altered India's political funding landscape, with reports indicating that approximately 56%[4] of all political funding in the country originated from these instruments. Under the scheme, donors could purchase interest-free bearer bonds and anonymously contribute them to political parties. While this mechanism was designed to reduce illicit funding, the anonymity it provided raised concerns about its compatibility with democratic principles and the potential for fostering corruption.

Advocates for transparency, such as Commodore Lokesh Batra, have argued that unchecked financial inflows facilitated by such schemes can lead to the misuse of funds and compromise

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[4] Association for Democratic Reforms, Analysis of Donations to Registered Recognised Political Parties, FY 2016-17 to FY 2021-22 (July 11, 2023).

democratic processes. Critics contend that electoral bonds effectively legalize corruption by enabling corporate entities to exert disproportionate influence over policy decisions through their financial support of ruling parties.

Transparency and Accountability in Political Party Financing

Transparency in electoral funding is a cornerstone of democracy. However, the reliance on digital transactions alone does not ensure transparency. In practice, the Electoral Bond Scheme resulted in selective transparency, as the donor data was exclusively held by the State Bank of India (SBI), a government-controlled entity. This centralization of information limited public access to crucial data, thereby undermining the accountability of political parties and the electoral process.

On March 18, in the case of *Association for Democratic Reforms v. Union of India*[5], a five-judge Bench of the Supreme Court of India, led by Chief Justice D.Y. Chandrachud, addressed the State Bank of India's (SBI) non-compliance in disclosing comprehensive details of Electoral Bonds transactions between April 12, 2019, and February 15, 2024. The Court emphasized that previous directives mandated full transparency, expecting SBI to act candidly and fairly.

The Bench ordered SBI to provide all stored information related to Electoral Bonds transactions, including alphanumeric codes and serial numbers, by 5:00 PM on March 21, 2024. The SBI Chairman was instructed to file an affidavit confirming complete disclosure to avoid contempt of court.

During the proceedings, Senior Advocate Harish Salve, representing SBI, clarified that the alphanumeric codes on the bonds serve as security features without linking to purchaser identities. However, the Court maintained that all details, including these codes, must be disclosed to ensure transparency.

The Court also addressed procedural irregularities, admonishing advocates for attempting to file applications improperly and warning against obstructing justice. Chief Justice Chandrachud emphasized adherence to proper procedures, reflecting the Court's commitment to maintaining decorum and the integrity of judicial processes.

[5] [2021] 2 SCR 851

This directive underscores the Supreme Court's dedication to transparency in political funding, ensuring that mechanisms like the Electoral Bond Scheme do not compromise democratic principles through opacity.

The Supreme Court's ruling underscores the necessity for reforms that balance the protection of donor identities with the public's right to information. Establishing a transparent and accountable political financing system is essential for the health of India's democracy, ensuring that electoral processes remain fair and free from undue influence.

Role of the Election Commission in Monitoring Expenditure

The Election Commission of India (ECI) ensures free and fair elections by meticulously monitoring election expenditure. This oversight prevents undue influence from wealth and maintains a level playing field among candidates and political parties.

Under Article 324[6] of the Indian Constitution, the ECI is entrusted with the superintendence, direction, and control of elections. This constitutional mandate empowers the ECI to implement measures that ensure transparency and fairness in the electoral process.[7]

The ECI has established comprehensive guidelines and instructions to monitor election expenditures effectively. These are compiled in documents such as the "Compendium of Instructions on Election Expenditure Monitoring," which outlines procedures and best practices. Officers from the Indian Revenue Service and other central services are designated to oversee election expenses, ensuring adherence to legal limits. These tools help cross-verify the expenditures reported by candidates with actual costs incurred during campaigns. These units monitor and act upon any unauthorized expenditure activities in real time.

Candidates are mandated to submit their expenditure statements within 30 days of the election results. Political parties must also file expenditure statements, including details attributed to individual candidates. These reports are scrutinized to ensure compliance with the prescribed expenditure limits.[8]

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[6] India Const. art. 324.
[7] Election Commission of India, *Compendium of Instructions on Election Expenditure Monitoring* (Aug. 2023).
[8] Election Commission of India, *Compendium of Instructions on Election Expenditure Monitoring*, Document 6, Edition 12 (Dec. 2024).

The ECI has integrated technology to enhance the efficiency of expenditure monitoring. The Election Expenditure Monitoring System (EEMS) is an online platform that facilitates real-time reporting and tracking of election expenses by candidates and political parties.

Challenges and Continuous Improvement

Despite robust mechanisms, challenges persist, such as using unaccounted funds and innovative methods to bypass expenditure limits. The ECI continuously updates its strategies, guidelines, and technological tools to address these evolving challenges, striving to uphold the integrity of the electoral process. The introduction of electoral bonds aimed to reduce cash transactions in political funding. However, the anonymity of donors in this system has been contentious, with critics arguing that it facilitates clandestine funding and lacks transparency. The role of third-party campaigners—individuals or groups not formally registered as political parties or candidates—is inadequately defined and regulated in Indian electoral laws. This gap leads to unchecked expenditures and the potential influx of unaccounted money into the electoral process, raising concerns about transparency and accountability.

The rise of digital media platforms has transformed election campaigns, with substantial amounts spent on online political advertising. However, there is a lack of specific legislation guiding online spending for election advertising, and expenditures by third-party campaigners on digital platforms are challenging to monitor and regulate.

Promises of goods, services, or financial incentives, commonly known as election freebies, have become widespread strategies to sway voters. While these tactics can attract short-term support, they pose significant risks to the principles of free and fair elections by encouraging voters to prioritize immediate gains over long-term policies and governance capabilities.

Addressing these challenges requires comprehensive reforms, including enhancing transparency in funding sources, regulating third-party expenditures, enforcing stricter penalties for violations, and updating legal frameworks to encompass digital campaign expenditures. Such measures are essential to uphold the integrity of the electoral process in India.

Recommendations for Reform: Towards a Transparent and Fair Political Financing System

Establishing a transparent and equitable political financing system is crucial for the integrity of democratic processes. Mandating real-time disclosure of all political donations exceeding ₹10,000 would allow public scrutiny of funding sources, thereby reducing the influence of illicit money in politics. Eliminating provisions that allow anonymous contributions up to ₹2,000 and prohibiting schemes like electoral bonds would enhance accountability and reduce the risk of black money entering the political system.

Limiting corporate donations to a fixed percentage of their net profits, with stricter penalties for non-compliance, can prevent undue corporate influence and promote a more equitable political environment. Establishing clear guidelines for third-party entities involved in political campaigns is essential to prevent unregulated spending and maintain the integrity of electoral processes. Exploring state funding mechanisms can reduce candidates' dependence on private donations, thereby leveling the playing field and mitigating potential conflicts of interest. Implementing stringent penalties for non-compliance with funding regulations and ensuring consistent enforcement are crucial to deter malpractices in political funding.

BIBLIOGRAPHY

- https://www.scobserver.in/reports/sbi-electoral-bonds-supreme-court-orders-complete-disclosure-of-transaction-details-from-state-bank-of-india/?utm
- https://www.stimson.org/2024/indias-electoral-bond-conundrum/?utm_
- https://www.reuters.com/world/india/indias-supreme-court-scraps-opaque-election-funding-system-2024-02-15/?utm
- https://www.theindiaforum.in/politics/electoral-bonds-incumbency-advantage-and-concentration-political-power?utm
- https://adrindia.org/index.php/content/transparency-election-financing-myth?utm
- https://www.eci.gov.in/compendium-of-instructions?utm
- https://legislative.gov.in/document/indra-jit-gupta-committee-report-on-state-funding-of-elections/
- https://blog.adrindia.org/2025/?utm