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**“THE CURRENCY OF DEMOCRACY:  
ENLIGHTENING A COMPARATIVE ANALYSIS OF  
ELECTION FUNDING CAMPAIGN”**

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**Abstract:**

The political system in India is associated with intensive campaign and promotional activities, which require a lumpsum amount of public funding. It becomes a necessary factor for the political parties and candidates to contest in an election. This increases the reach of the public, they utilize these funds to initiate awareness regarding their claims and help in conducting several campaigns for promoting their party. Though there are specific advantages of these funds, but at the same time we can observe these funds have been allocated indifferently or unequally, thus a good governing party would suffer due to lack of adequate funds. Most of the private funds are contained with malice and a greedy politician can benefit from these funds and act against public interest. Some powerful politicians can also misuse the state revenue and put pressure on potential funders to extract money. Thus in order to restrict this misuse of election funding many democratic nations have a well-designed mechanism to regulate the funding system and eradicate corruption. The current structure of the Indian election funding system is closely analysed especially in terms of the Electoral Bond Schemes and the current development in today's functioning. The funding structure of the United States is also discussed along with the concept of the PAC system. The United Kingdom election funding is also been denoted to understand the loopholes and transparency in the Indian funding framework and how can India develop its current system which is considered to be a flawed setup.

**Keywords:** Election Funding, Electoral Bond, Funds, Donations, Election, India, Corruption.

## Introduction:

“The ballot is stronger than the bullet” as stated by Abraham Lincoln established the power of election and the regulating factor or instrument is greatly impacted by the funding of the Political Parties. To address the foreseen reality of India’s democratic process massively depends on various direct and indirect sources which at times are observed to be illicit and two-thirds of this funding is from “unknown” sources. Thus this leads to the problems of involvement in rolling out of “black money”. As the cost of campaigns has increased drastically in the past few years the problems of funding have also become difficult to sustain, thus the political parties are being indulged in the illicit accumulation of funds to meet the current demand and retain their position in the Government. The Finance Bill<sup>1</sup> was introduced to regulate the illegal transaction of funds for electoral purposes and discouraged the use of “black money” and made attempts to infuse the “white money”. The Bill proposed various reforms like the reduction of cash donations from current INR 20,000 to INR 2000 only, further proposed to make tax evasion optional and mandated filling of Income tax on time and floating of electoral bonds. The current government though made efforts to clean the ill practices but structurally it failed to tackle this blooming issue. When taking into consideration the varied diversification of India with widespread issues of poverty and illiteracy, it becomes a task to obtain an appropriate democracy. The less of accountability has also been an enhancing factor in the corruption in India. It was also noted that the 16<sup>th</sup> Lok Sabha election was the second most costly election after the US 2012 presidential elections.<sup>2</sup> According to a study by the Centre for Media Studies, it is observed that approximately, on average, Candidates contesting in a Lok Sabha election spend nearly about INR 5-10 crores to run a decent Campaign, the practice of buying votes by providing cash, alcohol, drugs and other means is very much prevalent. Furthermore the Role of “interested money” also came into the picture, with prominence on corporate extraction, and in India scenario, most of the Political stakeholders benefit by corporate establishment, so that they can in return be resources.

## Research Methodology:

This study is primarily based on doctrinal research, which majorly comprises secondary sources like Research Papers, articles, news reports, Election commission reports and several

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<sup>1</sup> Anuja and Meenal Thakur, "Political Funding Curbs in Budget 2017 Add to NDA's Anti-Corruption Pitch," Livemint, Feb. 2, 2017, <http://www.livemint.com/Politics/D3amBITlx7UglrLWXm9UIO/Budget2017-Arun-Jaitley-announces-political-funding-curbs.html>.

<sup>2</sup> John Hudson, The Most Expensive Elections in History by Numbers, The Atlantic (Nov. 6, 2012), <https://www.theatlantic.com/politics/archive/2012/11/most-expensive-election-history-numbers/321728>.

other statistical representations. This study is designed for a comprehensive understanding of how the Funding process takes place and what is the major setback of the present system, a comparative approach has also been taken to acknowledge the relevant gaps.

### **Research Questions:**

- I. Does the electoral bond really not disclose the identity of the donor?
- II. “Less cash is equal to greater transparency” Has the transparency been actually obtained in the current political setup?

### **Literature Review:**

The pieces of literature that have been referred to for this study have been analyzed and for which the gaps have been determined are as follows:

Firstly, the research paper titled “Towards Public Financing of Elections and Political Parties in India: Lessons from Global Experiences” by Niranjana Sahoo<sup>3</sup> this article opens with the line “Democracy costs a lot of Money” which points out the thirst for money-driven factor Indian Politics and the paper further clarifies the concept of “black money” and “interested money” which are the worms in the Political funding policies. It also highlights how countries like Germany and the UK have successfully restricted the flow of black money in their political sphere. This paper also provides some feasible approaches which India can undertake to resolve this alarming issue. According to the Article Public Funding is an old concept which caught attention in recent times, the countries of Latin America formerly introduced the State Subsidies Policy for Political Parties, the first country to establish state subsidies in 1920, and later it was borrowed by Costa Rica and Argentina constituency and currently more than seven Latin American countries follow the state funding policies.<sup>4</sup>

Secondly, another titled “Reforming India’s Party Financing and Election Expenditure Laws” by M. V. Rajeev Gowda and E. Sridharan,<sup>5</sup> explains the evolution of the party and election Financing regulations in India. The parties used to fund themselves with private donations or membership dues, this was a traditional practice in early politics.<sup>6</sup> The act of Representation of

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<sup>3</sup> Sahoo, Niranjana. *Towards Public Financing of Elections and Political Parties in India: Lessons from Global Experiences*. ORF Occasional Paper, November 2017. ISBN 978-93-87407-13-8.

<sup>4</sup> Susan E. Scarrow, *Political Finance in Comparative Perspective*, 10 *Ann. Rev. Pol. Sci.* 193 (2007).

<sup>5</sup> Gowda, M.V. Rajeev and E. Sridharan. "Reforming India's Party Financing and Election Expenditure Laws." *Election Law Journal*, vol. 11, no. 2, 2012, pp. [insert page numbers], DOI: 10.1089/elj.2011.0131.

<sup>6</sup> Sridharan, E. "Electoral Finance Reform: The Relevance of International Experience." In *Reinventing Public Service Delivery in India: Selected Case Studies*, edited by V.K. Chand, 371-75. New Delhi: Sage, 2017.

People Act, 1951 formulated a limitation of the expenditure in an election campaign. The impact of the expenditure is also ascertained and the implementation of the laws on election funding has also been highlighted, through the interviews conducted to obtain opinions on financial funding in an election campaign in India, has suggested in limiting the extensive expenses in political campaigns. How the demand for “black money” copped up in the election system has also trough light upon, and a comparative disclosure is also provided.

Thirdly, in the seminar presentation on the pretext of “Political Finance in India: Déjà Vu All Over Again” by Milan Vaishnav<sup>7</sup> this paper also inspired the 2017 measures taken by the ruling Government, but putting a ceiling limit and introduction of the “electoral bonds” an instrument by which the private entities could make donations by purchasing time-limited bearer bond from a listed bank and then it would be transferred to the registered bank account of the Political Party. In 2018, further developments were made in the Electoral bond schemes<sup>8</sup>, new regulations were established in which throughout the year on some specific days donors can buy bonds which will be issued by the State Bank of India in specified amounts ranging from INR 1,000 to INR 1 crore, and it will be valid for 15 days, and when it is deposited in instantly converts in a valid donation, yet the major issue of transparency was somewhat missing which and firmly addressed in 2024 election.

Fourthly, the article “Funding of Elections: Case for Institutionalised Financing” by B. Venkatesh Kumar<sup>9</sup> states the power of money in the source of political institutions, it has addressed the various committee recommendations on eliminating the black money from the Political system in India but yet is a farfetched concept. The analysis made in this article is that in today’s India institutional funding plays a vital role and better implementation and better assistance should be initiated to rectify the defects. It vividly opined “State funding will certainly ensure a healthy democratic functioning of parties, however, limited the extent may be. The modalities of its design however need to be worked out.”

Though these studies have provided extensive informative approaches to understanding and

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<sup>7</sup> Milan Vaishnav, "Political Finance in India: Déjà Vu All Over Again," Carnegie Endowment for International Peace, January 2019, <https://carnegieendowment.org/posts/2019/01/political-finance-in-india-deja-vu-all-over-again?lang=en>.

<sup>8</sup> Milan Vaishnav, Electoral Bonds Prize Anonymity, You Won't Know Who's Bought Them, Indian Express, Jan. 8, 2018.

<sup>9</sup> Kumar, B. Venkatesh. "Funding of Elections: Case for Institutionalised Financing." *Economic and Political Weekly*, vol. 34, no. 28, July 10-16, 1999, pp. 1884-1888. Stable URL: (<https://www.jstor.org/stable/4408179>.)

determining the evolution and history of election funding, yet there is a lack of transparency model which provided a further scope of research.

### **History of Election Funding in India:**

In the early era, most of the political funding was initiated by private donations or membership dues of the registered members of the Political Parties. In 1951 the Representation of People Act came into play, which to some extent limited the expenditure in the election campaigns, further in 1960, an issue of linkage between the Election funding and cashflow of black money was observed, black money, in this case, was referred to the money for which taxes were not paid or funds which would have been raised by unfair means. In year 1961 the Income tax department prepared 800 pages draft which directed the changes in the income tax regulations and the political parties also perused the same, according to which there would be 100% tax evasion on donation to a political Party, latter by the Income tax act 1961 provision were included, such as section 13A, section 80 GGB and 80 GGC, which ensured the 100% tax evasion. During this time an independent party named Swatantra party supported the industrialist and said “A government has no business to be in Business” and assured if they win the election he will make the companies governance separate from central or state regulations, there this party won the election by confidence and the party flourished with donations of the industrialist in 2-3 years. The reports led down by the Santhanam Committee on Prevention of Corruption, 1964 and the Wanchoo Direct Taxes Enquiry Committee of 1971 has clearly indicated the indulgence of black money which was generated by business and corporate companies majorly donated for the purpose of tax evasion. In 1968, the Indira Gandhi government banned the corporate donations to the favoured parties, this was initiated to stop the corporate sharks from having undue influence on the government. Meanwhile, a company named Graphite India Limited in which a shareholder named Dalpat Rai Mehta found out that the company was providing funding to Congress for advertisement purpose but there was no evident advertisement published by the party, when this news were public it was found that more than 180 companies which made donations in crores to Congress party, other political parties were accepting cash donations and even foreign funding were also being made, taking into all these factors in the year of 1967, a Foreign Contribution Act was introduced, which stated that judiciary, Journalism and political parties cannot accept foreign fundings. The Rajiv Gandhi Government made amendments to the Companies Act in the year 1985, and the ban on companies was significantly removed and the ceiling limit was also increased by 7.5% or an amount not more than 25000, and had to make disclosure of such donations in annual finance

report of the company, this gave rise to a new problem, which was the disclosure of the donations made challenging for the Companies who donated to the opposite party, to overcome this problem the Tata Group of companies stated an initiative called the “electoral trust” which collected the funds from different companies and made donation anonymously, the trust would act as an agent to transfer the donation, for maintain transparency, but it was mostly unregulated.<sup>10</sup> In the year 1974, in *Kanwar Lal Gupta v. Amar Nath Chawla*,<sup>11</sup> the Supreme Court held the parties liable for spending in the name of the Candidate should be incorporated in the calculation of the Candidate’s election expenditure to apprehend the limitation of the election expense, as a result, the RPA 1975 was amended, explanation 1 to Section 77(1) to nullify the apex court ruling, which made the limitations in the election expenses ineffective, as the limitation was applicable for the candidate’s direct expense but did not regulate the indirect sources like the party supports can contribute to any extent. In 1980, there was the amendment of the Companies Act 1985, and introduced section 293A which gave power to the corporate companies to make donations to Political parties under specified conditions, being one that the companies could only contribute 5% on their profit margin. In 1990, the Goswami Committee was formed to discuss an issue on Election Reforms, recommended that state funding be limited in providing support but at the same time did not encourage independent expense or supporters and considered it to be a penal offence for the first time. This report set a ban on corporate funding but could not provide any resilience in the form of public funding to be effective for campaigning. In February 20, 1996, in the Common Cause case<sup>12</sup>, the Supreme Court asked the political parties to produce their income and expenditure reports for the purpose of auditing, this judgment put some kind of effort into making the Political Funding transparent. Further, in 1998, the government provided a partial state subsidy, for 7 national and 34 state parties. A report published in 1998 by the Indrajit Gupta Committee recommended partial funding by the state and free telecast on TV and radio. The committee also ensured that the parties which failed to provide a proper audit report could be barred from providing state funds. Any donation above INA 10000 should be made by cheque or bank draft. In 1999 some eminent changes were observed in the financial and educational backgrounds in India, and there was a further approach towards transparency. In November 2000, a PIL filed by a non-governmental organisation named the Association for Democratic Reforms, the Delhi High Court asked the Election Commission to obtain the criminal records of the candidates, their

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<sup>10</sup> *Jayantilal Ranchhoddas Koticha & Anr. v. Tata Iron & Steel Co. Ltd.*, A.I.R. 1957 S.C. 853, (1957) 2 S.C.R. 566, [1957] 1 LLJ 433.

<sup>11</sup> *Kanwar Lal Gupta v. Amar Nath Chawla*, (1975) 3 SCC 646.

<sup>12</sup> *Common Cause v. Union of India*, (1996) 4 SCC 33, AIR 1996 SC 3081.

assets, educational qualifications and liabilities along with the family standards. In 2003 the Election Commission ordered in making the declaration of the potential candidate's data mandatory. On 26<sup>th</sup> September the government removed the Foreign Contribution Regulation Act 1976 and introduced a new FCRA 2010,<sup>13</sup> in which under section 54(1) the earlier act was completely removed, then in January 2013, the ADR(NGO) notices two companies Sterlite and Industry Ltd and Sesa Goa Ltd made electoral trust and donated to BJP and Congress parties in Crores if was later found that these two companies were parented by a British company called Vedanta, which was speculated that the donations were coming indirectly from Foreign nation which was against the FCRA. The NGO filed a PIL in Delhi High Court<sup>14</sup> regarding this matter and demanded action, and in 2014 it was held that the Delhi High Court found the BJP and Congress Guilty of receiving foreign funding and stated they violated Section 29D of Representation of People Act, but despite of this judgment the Government put forth a Bill to amend 2010 FCRA Act, and with a shocking approach they considered the FCMA act of 1976, which was already removed was changed by introducing a bill in the Parliament. In 2015, the Election Commission in its 255<sup>th</sup> report analysed the Political funding, which strongly indicated the cashflow of black money, the donors were ready to let go of the tax deduction but did not want to reveal their identity, so the Quid Pro Quo can be well-established, mostly these donations were made with the public money invested in Shares, but the shareholders were not aware of these donations. In 2017 the Finance Minister brought a Bill to improve transparency via the “electoral bond Scheme”, we saw the introduction of a new instrument for funding called the electoral bonds. In the Association for Democratic Reforms and Anr V. Union of India 2024,<sup>15</sup> the electoral bonds were held to be unconstitutional, it also held that it violates article 19(a) of the Constitution as quoted by the Chief Justice of India D.Y Chandrachud “information about the funding of political parties is essential for the effective exercise of the choice of voting” and also said that it is the right of the citizens to know the funding records.

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<sup>13</sup> Public Interest Foundation & Ors. v. Union of India, W.P. (C) No. 273 of 2018, (PIL against amendment to FCRA 1976 and 2010) (April 2018), available at ([https://adrindia.org/sites/default/files/PIL\\_against\\_amendment\\_to\\_FCRA\\_1976\\_and\\_2010\\_April2018.pdf](https://adrindia.org/sites/default/files/PIL_against_amendment_to_FCRA_1976_and_2010_April2018.pdf)).

<sup>14</sup> Association for Democratic Reforms (ADR) v. Union of India (UOI), WP(C) No. 131/2013 (Delhi High Court, March 28, 2014), available at (<https://adrindia.org/sites/default/files/ADR%20vs.%20UOI%20%28Delhi%20High%20Court%20judgment%20on%20foreign%20%20funding%20received%20by%20INC%20and%20BJP%29.pdf>)

<sup>15</sup> Association for Democratic Reforms & Anr. v. Union of India & Ors, 2024 INSC 113, W.P. (C) No. 880 of 2017 (India).

### **I. The Electoral Bond: An Attempt Towards Transparency**

In 2017, when the “electoral bond” was introduced during the Union budget session in the parliament by the Finance Minister Late Arun Jaitley, he stated that “Even 70 years after Independence, the country has not been able to evolve a transparent method of funding Political Parties which is vital to the system of free and Fair election.” And to endure with the problem of transparency and black money a reform has been initiated in the form of “Electoral Bonds”. The people at that stage had confidence in this scheme. An article in Mint, stated, “Earlier on 2<sup>nd</sup> January, 2018, the Government notified the scheme where it was pitched as an alternative to cash donations made to Political parties- aiming to bring transparency in political funding”. The government made changes in the disclosure of identity, from INA 20000 to INA 2000 to restrict Black money, the second change that they made was introduction of bonds of Rs1000, Rs10,000, Rs1,00,000, and Rs 1crore. These bonds were to be issued by the 29 SBI branches which were specified and also on the decided dates which were from 1-10<sup>th</sup> of January, April, July, and October, and in case of an election, the government can open additional day slots. In case of no SBI account the donor needs to do a KYC, before donating. There were also rules for donating to a party, donations can only be made to parties listed under Representation of People’s Act, 1951 under section 29A and have received more than 1% of votes in earlier elections. The procedure of depositing and transfer of the donation was designed in a way in which the donor will purchase a bond from SBI and deposit the cash and then the cash will be transferred to the Parties registered bank account by SBI, thus SBI will be the only source which will have the detailed information of the donations. SBI does not come under the purview of the RTI Act, hence an application cannot be entertained for disclosure of any donation information. The bonds will bear no names and will act as a bearer instrument or an equivalent to cash, but will only be subjected to politician and such transfer of fund should be completed within 15days from depositing or else the money will be directed to the PM care fund.<sup>16</sup> Till now 146 bonds have failed and transferred to the PM care Fund. The purchase of the bond is not entitled to any taxes, or the receiver is also not entitled to any taxes.

### **Controversy regarding the Electoral Bond:**

When the electoral bond came into action many changes in the existing acts were made like the Companies Act, RBI Act, IT Act, Income Tax Act, and RPA Act, only after that the bond

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<sup>16</sup> India. Ministry of Finance, Electoral Bond Scheme 2018, Press Release, (Jan. 2, 2018), ([https://dea.gov.in/sites/default/files/Electoral%20Bonds\\_Press%20RELEASE\\_2-1-2018.pdf](https://dea.gov.in/sites/default/files/Electoral%20Bonds_Press%20RELEASE_2-1-2018.pdf).)

was introduced.<sup>17</sup> Firstly, the changes in the RBI Act lessen the powers of RBI, like earlier only RBI on the order of the Central Government had power to issue financial Documents, bonds or currency notes, but with the amendment, SBI also got the power to print the electoral bonds. RBI was out of the scope of the Money Bill, so tactfully the bond was introduced by Money Bill, as it would not require the approval of Lok Sabha. Secondly, the Companies Act was amended which put limitations on donations, companies can only donate 7.5% of the average profit of the last three years, but with this limitation, there was no cap on the donation without considering the profit of the company. It was also mentioned while introducing the bond that this electoral bond was communicated with the RBI and ECI, and they have approved the proposition, but this claim was proved to be false in an article published in The Indian Express<sup>18</sup>, which made evidence in leaking of a letter of RBI and ECI, on January 2017 RBI wrote a letter to the Finance Ministry stating that the electoral bonds are moreover like paper currency and SBI should not be given the power to issue such bond, and amending the Section 31 of the Reserve Bank of India Act would determine the pivotal fundamental principle of the Central banking legislation or regulations and doing so would set a negative precedent, and the letter also raised question on transparency and would be a difficult task to identify the donor as a donor may come through an agent as well, this could also impact the Prevention of Money Laundering Act, 2002. In the letter of Election Commission of India clearly states that the Electoral bond should be stopped and no cap on the companies should be limited or else the companies would open shell companies for the sole purpose of donation, and the 1% vote concept should also be removed as for that reason the small parties will not receive any funding, which would further be derogatory to the principle of just and fair election.

### **Threat to Security:**

If donations are made through shell companies, the sources are most of the time unknown, it can happen so, an alien group which stands against India can fund the Election Campaigns, though some countries like Luxembourg, Monaco where depositing of money is very easy can be taken help off, and further transferred to Swiss bank from where it would be further easily transferred to these shell companies, and these companies would purchase those electoral bonds

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<sup>17</sup> Krishnadas Rajagopal, "Supreme Court Declares Electoral Bonds Scheme Unconstitutional; Amendments to Law Declared 'Manifestly Arbitrary'," The Hindu, Feb. 15, 2024, updated May 23, 2024, available at (<https://search.app/vbxHk1EoztzMfMoS7>).

<sup>18</sup> Damini Nath, "Electoral Bonds: RBI, ECI, Supreme Court Explained," The Indian Express, October 31, 2023, available at (<https://indianexpress.com/article/explained/explained-law/electoral-bonds-rbi-eci-supreme-court-explained-9006086/lite/>)

and make a donation, but the problem here would be the demand for changes in Political Policies in favour of the Alien enemies, thus it would shake India's security concerns.

While introduction of the bond it was noted that it would not bear any Serial Number, but in a laboratory test and it was viewed under the UV light which clearly enshrined the unique code, but SBI justified, that these code was essentials so that duplicate bonds could not be made, it was there to retain the authenticity of the electoral bond, but this raised another concern or rather a loophole which would let the receiving party ascertain who donated the fund using that Unique code and prior communication of the code.

### **Landmark Judgment: Association for Democratic Reforms V. Union of India (2024)**

#### **Issues:**

Firstly, Does Non-Disclosure of information on voluntary contribution to political parties violate Article 19(1)(A)?

Secondly, Does unlimited corporate Donations to political parties by amending Companies Act violate free and fair elections under Article 14?

#### **Held:**

The court unanimously held the 2018 Electoral Bonds Scheme to be Unconstitutional and stated that this scheme violates the voter's rights to obtain information according to the RTI Act, and Article 19(1)(A) of the Constitution. The court put a ban on issuance of the electoral bonds and initiated an immediate effect on it. SBI was also instructed to submit a detailed report of electoral bonds purchase from 12 April 2019, to the Election Commission. The court also directed the ECI to publish the Report on the official Website within one week of receiving the information.

#### **Election Funding in the US:**

The United States has a unique funding practice for Intra-party elections to overcome the problems of Black money and transparency,<sup>19</sup> it focuses on promoting intra-party elections through public funding, the funding is made directly to local, constituency-level units primarily based on election results or records, the benefit of this would be less dependence in industrial

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<sup>19</sup> Yogendra Yadav, "Infuse White Money in Politics to Fight Black Money," The Times of India, Feb. 27, 2011.

funds and reduces the burden on party head offices, it improves the democracy, though there is a set back in this approach, that this funding is generally allocated after the election, and for developing nations it becomes difficult to sustain the political campaigns without adequate funding. The Apex Court in the case of *Buckley v. Valeo* (1976)<sup>20</sup> “struck down the Federal Election Campaign Act’s individual expenditure limits as violative of free speech under the First Amendment, reasoning that expenditure limits would restrict the quantity of free speech.” In 2010 in the case of *Citizens United v. FEC*<sup>21</sup>, removed the limitation on the expenditure of Corporate funds, but there is a limitation on the contribution of the funds in the US. In case of disclosure and report, the US provides for a more transparent set-up even in cases of small transactions. The United States is quite prominently funded by the private donations, which not only composed of corporate funding but also includes individual public donations and Political Action Committees (PACs). These PACs are the institutions that raise and spend money on the candidate’s Political campaigns. The Public funding should be disclosed, and the PAC must be maintain a report of the individual donations and submit the same to the Federal Election Commission, by setting this limitation the checks and balances can be maintained ensuring free and fair election, thus eliminating the risk of corruption or undue advantage of wealthy individual can be restricted. The federal law puts limit on the contributions in both presidential elections and Congress elections. The Federal Election Commission (FCE) established a legislation called the Federal Election Campaign Act, 1971, which limits the money individuals and Political entities can donate for running a federal office. Donations can be made to multiple parties but it is limited to \$3,300 to each candidate.<sup>22</sup> The candidates can make campaigning expenses from their personal funds without any limit, but they must submit a report of the expense to FEC.

### **Election Funding in the UK:**

In the United Kingdom, the spending in a Political campaign is regulated by the Electoral Commission, a returning officer oversees the expenses of candidates in each constituency, and the regulated expenses include expenses from broadcasts to leaflets. The parties must keep records of the rallies, but the expenses of annual conferences are not required to be recorded.<sup>23</sup> The limitations are applicable from 365 days before Polling Day referred to as the “regulating Period”. The cap provided for each constituency is £ 54,010. A reasonable amount of funds is

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<sup>20</sup> *Buckley v. Valeo*, 424 U.S. 1 (1976).

<sup>21</sup> *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310 (2010).

<sup>22</sup> Campaign Finance Laws, (<https://www.usa.gov/campaign-finance-laws> )

<sup>23</sup> Political Parties, Elections and Referendums Act 2000, sch. 8, § 1(8) (U.K.).

spent by third parties like trade unions and Charitable trusts, which do not contest as candidates but back the Politicians for their concerns. In the UK system is partly transparent and partly opaque, and there is a lack of full disclosure, but the regulations take control over foreign funding, protect the integrity of the UK's Political mechanism, secure it from external interference and facilitate internal decision-making. The public money is primarily utilised for administration and not for promotion or campaigning. The restriction on the expenditure was held in the case of *Bowman V. United Kingdom*<sup>24</sup>, which complied with Article 10 of the European Convention on Human Rights, which enshrined the right to freedom of expression and information. As a source of state funds, under the Policy Development Grant, the eligible party is provided by the Electoral Commission.<sup>25</sup>

### **Personal Analysis:**

The current situation needs special attention in overcoming the present crisis of regulating election funding in India, the recent declaration of unconstitutionality of the Electoral Bond has opened up further gaps in the functioning of the election contributions. It is essential to establish transparency in the election process and to take immediate actions on the eradication of black money. It current situation eroded the Public trust in the Electoral Bond and showed much more reliance on the electoral trust. In upholding the transparency the government have created loopholes in the democracy.

### **Suggestions:**

The Election Commission to regulate the outflow of black money incorporated some preventive measures in the form of “monitoring division”. In the year 2010,<sup>26</sup> they tracked a sitting MLA Umesh Yadav contesting in UP and disqualified him for three years, further in 2016,<sup>27</sup> in the State of Tamil Nadu, 2 constituency seats were bought by gifting and buying

<sup>24</sup> *Bowman v. United Kingdom*, (1998) 26 EHRR 1.

<sup>25</sup> Electoral Commission, Public Funding for Political Parties, available at (<https://www.electoralcommission.org.uk/political-registration-and-regulation/financial-reporting/donations-and-loans/public-funding-political-parties>) (last visited Oct. 14, 2024).

<sup>26</sup> J. Balaji, 'Paid news' claims first political scalp as EC disqualifies MLA, NEW DELHI, Dec. 4, 2021, available at [<https://search.app/64DYwjLQxzafvezV8>]

<sup>27</sup> Meera Vankipuram, In Unprecedented Move, Election Commission Cancels Elections in Tamil Nadu's Aravakurchi, Thanjavur, Sees Over Governor's Request, THE TIMES OF INDIA, May 28, 2016. Available at ([https://search.app/?link=https%3A%2F%2Ftimesofindia%2Eindiatimes%2Ecom%2FIndia%2Fin%2Dunprecedented%2Dmove%2Ddelection%2Dcommission%2Dcancels%2Delections%2Din%2Dtamil%2Dnadus%2Daravakurichi%2Dthanjavur%2Dsees%2Dred%2Dover%2Dgovernors%2Drequest%2Famp%5Farticleshow%2F52480260%2Ecms&utm\\_campaign=57165%2Dor%2Djgacx%2Dweb%2Dshrbtn%2Djga%2Dsharing&utm\\_source=igadl%2Cigatpdl%2Csh%2Ffx%2Fgs%2Fm2%2F5](https://search.app/?link=https%3A%2F%2Ftimesofindia%2Eindiatimes%2Ecom%2FIndia%2Fin%2Dunprecedented%2Dmove%2Ddelection%2Dcommission%2Dcancels%2Delections%2Din%2Dtamil%2Dnadus%2Daravakurichi%2Dthanjavur%2Dsees%2Dred%2Dover%2Dgovernors%2Drequest%2Famp%5Farticleshow%2F52480260%2Ecms&utm_campaign=57165%2Dor%2Djgacx%2Dweb%2Dshrbtn%2Djga%2Dsharing&utm_source=igadl%2Cigatpdl%2Csh%2Ffx%2Fgs%2Fm2%2F5))

votes, so the commission cancelled the election and ordered for fresh election, and acknowledging the success rate of this the Election Commission wrote to the Law Ministry demanded for a permanent power to work upon the corruption, but they were not delegated those powers and the plea was cancelled. Thus as per the study, it would be a great initiative to make this “monitoring Division” a permanent functioning body, and specific powers and authorities should also be empowered. As it has already shown some legit success in the past and the people will have some trust in this and in a greater picture it will act towards democracy.

The legislation though has made statutes for regulating corruption, but there is no specialised law for funding the election campaign, and the current removal of the “electoral bond” also created a gap in regulating Political contribution, according to the bench decision the “least restrictive test” was not followed by the electoral bond scheme. The incorporation of the UPI system could also be made which will eliminate the illegal cash flow, the US model and institutional funding could also be taken into consideration by the legislators.

### **Conclusion:**

The role of money has created a high raise standard in the Indian Politics recently. On the contrary, the system is ornamented with the jewels of corruption, black market, scandals and scams. The problem is to be overcome and maintain harmony between the sufficient of the money flow and to get control over the illicit extortion of money. The democratic need of recent times is sharply pointing towards transparency of funding, which has become a paramount significance greatly after the news flash of the statistical reports of donations to the state parties, and how the corporate donations were over their actual turnover ratio, small companies<sup>28</sup> were donating in crores in this electoral bond schemes, limitations should also be instituted to control the extensive contribution, and a greater portion of the revenue will only be vested in campaigning, and the scope of proper machinery for administration will be compromised, which would eventually defeat the purpose of election, as the public interest will become a secondary thing, and extensive investment will be made in remaining in power, using these resource and which comes to the equation of corruption, exploitation, buying votes. The smaller potential parties will never emerge due to lack of monetary power, thus the country will suffer from poor administrative infrastructure.

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<sup>28</sup> Association for Democratic Reforms, Party-wise Electoral Bonds Encashed (2022), available at ([https://adrindia.org/sites/default/files/Part\\_1\\_Party-wise\\_EBs\\_Encashed.pdf](https://adrindia.org/sites/default/files/Part_1_Party-wise_EBs_Encashed.pdf)).