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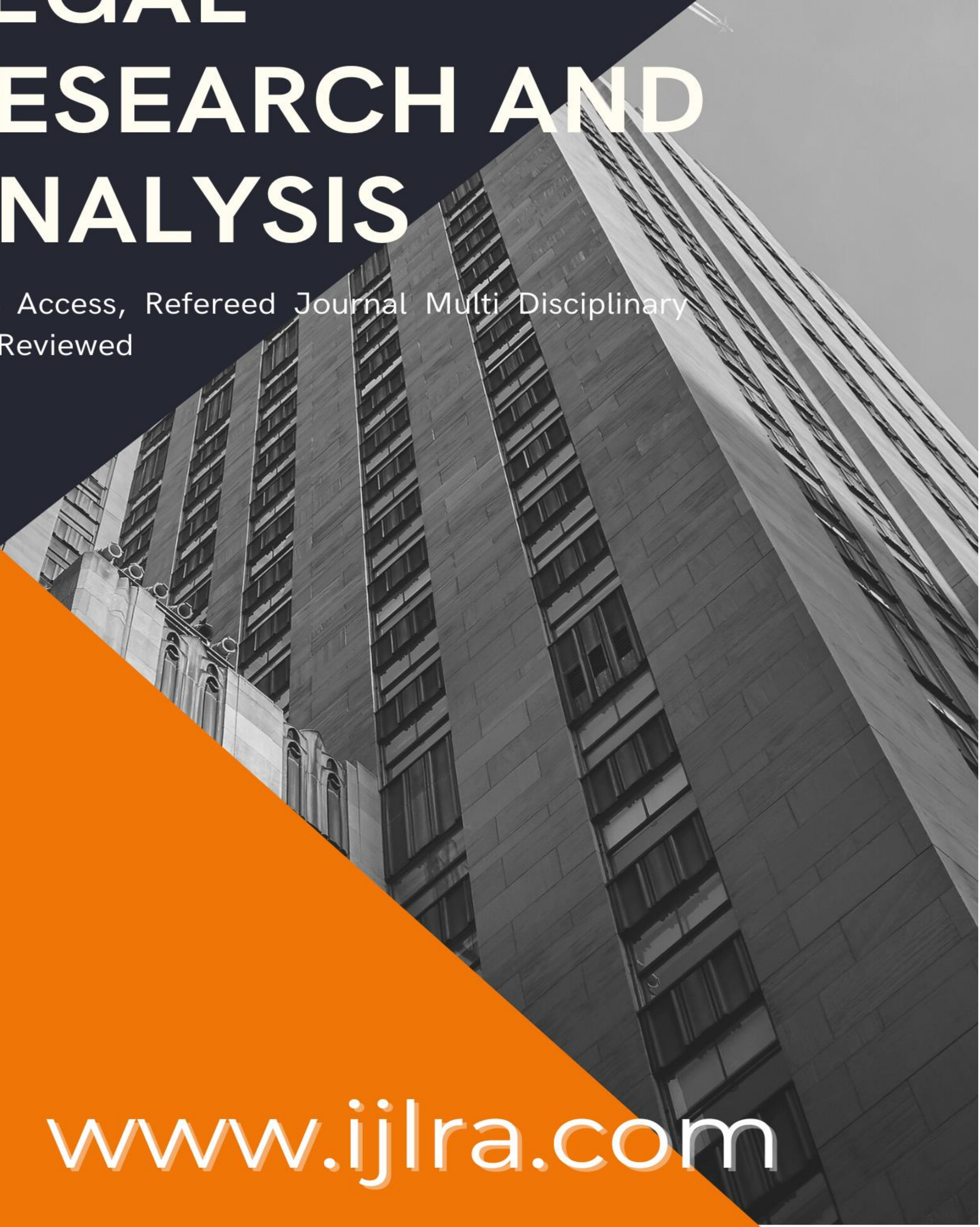

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POLITICAL FINANCE AND CAMPAIGN FINANCE: ACCESSING TRANSPARENCY AND NAVIGATING CHALLENGES

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1. Abstract: -

Political and campaign finance constitutes core foundation of the electoral functioning, which is essential for the functioning of a democratic system. Transparency in political funding is significant in upholding the fairness and integrity of elections. Effective regulatory framework is necessary to ensure that unaccountable acts are answerable and prevent financial influence from undermining the democratic process. This article seeks to explore the dynamics of various donation sources to political parties and their potential impact on governance. A transparent and responsible political funding system is essential for a fair and trustworthy democracy. Such a rigid system promotes fairness by ensuring that political funding is properly regulated and open to public scrutiny. It also strengthens public trust by reducing the risk of undue influence and making political parties more accountable. Through research and analysis this paper proposes reformative measures in political funding law and contention towards source of funding and transparency in current system of funding. The finding highlights the need for comprehensive finance law, transparency, establishment of specialized tribunal and active oversight over electoral funding.

2. Keyword-

Political finance, Campaign finance, Transparency.

3. Introduction: -

India has the distinction of being the world's largest democratic nation and it has successfully sustained its parliamentary system, because of its components which act as a foundation of Indian Democracy. Free and fair election, universal adult franchise, constitutional provisions for fair elections in India, other lawful provisions (e.g. Representative of People act, 1951), Election commission of India, Model code of conduct etc. are some of integral components which altogether make Indian democracy complete and functional.

The electoral process is one of the consequential components of Indian democracy. It encompasses a comprehensive system and sequence of activities governing the conduct and administration of elections in India. Political finance and campaign finance are part of the electoral process. Political finance refers to money raised and spent for political purposes, while campaign funding focuses on the sources and methods used to raise that money.

Political parties require funding to cover party upkeep, electoral and non-electoral expenses. Political funding specifically focuses on the sources and mechanisms through which such financial resources are raised and utilised. These may include individual donations, corporate contributions, unaccounted money and other legally permissible or illegal sources. The increasing power of money in electoral politics raises concerns about its potential to affect elections and influence political choice of people. Therefore, transparency and answerability in political funding are essential to prevent monetary influence and maintain the fairness and integrity of the electoral system.

4. Objectives: -

The primary objectives of this article are:

1. To analyse transparency in Indian Political funding and the influence of money in electoral politics.
2. To analyse current legal frameworks, enforcement mechanisms, and trends.
3. To study the impact of campaign finance upon public.
4. To propose reformative measures.

5. Methodology: -

This research article based on secondary resources like newspaper articles and reports, data from Election Commission of India, academic journals involved in study of political funding and government publications on public funding. This article is using qualitative method by reviewing and analysing secondary resources through government data bases and utilized secondary data compiled by various organizations.

6. Legal and Enforcement mechanism: -

India has no single legislation governing political finance. Instead, its regulatory framework is spread across electoral, corporate, taxation and criminal laws, supplemented by the Model Code of Conduct (MCC) and the supervisory powers of the Election Commission of India

(ECI).

The Representation of the People Act, 1951 is the principal law governing election expenditure and electoral offences. Section 77 requires every candidate to maintain a separate and correct account of election expenditure authorised by the candidate or election agent between nomination and declaration of results. Section 78 requires the candidate to submit a true copy of the election expense account to the District Election Officer within 30 days of the election of the returned candidate. Under Section 10A, failure to submit the account without sufficient reason may result in disqualification for three years. Sections 29B and 29C regulate political party contributions and require disclosure of contributions exceeding ₹20,000.

The Conduct of Election Rules, 1961 supplements the RPA by establishing the procedural requirements for expenditure accounts. Rule 86 specifies the particulars to be included in a candidate account, thereby enabling election authorities to scrutinise expenditure rather than merely relying upon the final amount declared by the candidate.

Corporate political funding is regulated principally through Section 182 of the Companies Act, 2013. It permits eligible companies to make political contributions subject to statutory conditions. Section 182 permits Indian companies to contribute up to 7.5 per cent of their average net profits during the last three financial years to political parties. The original 7.5% ceiling on corporate political contributions was removed through the 2017 amendments. However, in its 2024 electoral bonds judgment, the Supreme Court struck down the legal framework permitting unlimited and anonymous corporate political contributions, which strengthened the constitutional requirement of transparency in political funding.

The Income Tax Act, 1961 also regulates political finance. Section 13A provides tax exemption to political parties on qualifying income subject to conditions relating to maintenance of accounts, records and disclosure. Sections 80GGB and 80GGC provide deductions for eligible political contributions made by companies and individuals or other noncorporate entities subject to statutory requirements.

Foreign Contribution (Regulation) Act, 2010 (FCRA) regulates the use of foreign contributions in India. Section 3 prohibits political parties, candidates for election, and certain other persons from accepting foreign contributions. The Act also lays down rules for the receipt and utilisation of foreign funds and provides for inspection, seizure, penalties, and prosecution in cases of violation.

Bharatiya Nyaya Sanhita, 2023 (BNS), which replaced the Indian Penal Code, governs the criminal aspect of electoral finance. Sections 170–177 deal with electoral offences. These provisions criminalise practices such as bribery, undue influence, personation, false statements and unauthorised election expenditure. Thus, establishing that financial misconduct can attract consequences beyond administrative disqualification.

7. Transparency: -

Can citizens know where political money comes from? Yes, citizens have a legitimate right to know the sources of political funding, as transparency in political finance is essential for informed democratic participation. Article 19(1)(a) of the Indian Constitution, through the right to freedom of speech and expression has been interpreted to include the citizens' right to know information relevant to public affairs, including political funding.

Electoral Bond Scheme: It was introduced in 2018 by Central Government for political fundings, allowing any person or corporate entity to donate any amount of money to any political party without disclosing their identity. Individual or corporate entities can purchase electoral bonds or money instruments from any authorised bank, for any amount of cash and the political party has to encash them within stipulated time. With the introduction of the Electoral Bond Scheme, consequential amendments were made to the Income Tax Act, 1961; the Representation of the People Act, 1951; the Companies Act, 2013; the Reserve Bank of India Act, 1934; and the Foreign Contribution Regulation Act, 2010. The following amendment transformed the existing framework governing political donation, disclosure requirement and corporate contribution thereby raising important concerns regarding transparency in political funding.

This scheme makes it easier for wealthy individuals and corporate entities to exchange private favours for political outcomes, creating the possibility of quid pro quo arrangements. It also removed the 7.5% cap on corporate contributions, allowing even shell companies to donate to political parties. Moreover, the system was not entirely anonymous rather it was selectively anonymous, as the government and the State Bank of India (SBI) could potentially access the identity of the donors. Such unaccountable political funding could also be diverted for purposes other than legitimate electoral activities.

The leading case upon Electoral Bond Scheme is *Association for Democratic Reforms (ADR) v. Union of India,* in which the Supreme Court held that the scheme was arbitrary in nature and violated the voters' right to information. Transparency in electoral funding is essential to uphold the voters' right to know and enable them to make informed and rational electoral choices. Any restriction on this right must satisfy the grounds specified under Article 19(2) and the objective of curbing black money by itself cannot justify such a restriction.

Recently, U.S. criminal case against the Adani Group and its senior executives concerning allegations of bribery and securities fraud was dismissed following the U.S. Department of Justice's decision to abandon the prosecution. The case however, brought attention to the broader relationship between corporate interests, government contracts and political influence, particularly where the flow of funds is not sufficiently transparent. This situation highlights how political funding may escape effective public scrutiny making it difficult for citizens to trace the sources of political money and assess whether financial interests influence public decision-making.

8. Sources of funding and their effects: -

Sources of political funding refers to the various financial resources through which political parties and candidates raise money to finance their election campaigns and political activities. The sources may include private sectors contributions, unaccounted money and funds that may facilitate quid pro quo arrangements between political parties and donors. There are several kinds of funding which affects the fairness in electoral process, particularly when contributions are not disclosed or regulated. Between FY 2004-05 and 2023-24, the national parties collected Rs. 10,753 cr. from unknown sources (excluding electoral bonds).

Individual donations make political financing accessible to everyone by enabling ordinary citizens to participate in the electoral process however, inadequate disclosure of smaller contributions may limit citizens' ability to determine the actual sources of political funding. Section 29B of the RPA 1951, permits political parties to accept donations from individual person.

State funding involves public financing of political campaigns, either fully or partially, to reduce reliance on private money. Models range from direct or indirect support to political parties through cash or reimbursement of verified expenses or allotment of resources in kind, such as free media time or facilities. Indirect support like subsidies, reimbursement, concessions, support for utilities etc. may strengthen political funding in positive way on the other hand direct cash flow in political funding might be subject to misused.

Corporate funding in Indian Politics governed under Section 182 of the Companies Act, 2013 refers to companies who fulfil conditions for donation are as:

i. Companies must be atleast 3 years old.
ii. Donations are capped at 7.5% of the average net profits made during the three immediately preceding financial years.
iii. Contributions must be disclosed in the company's profit and loss account.

However, these safeguards were significantly undermined by the Electoral Bond Scheme, particularly because the non-disclosure of donors' identities reduce openness. The removal of the earlier 7.5% cap on corporate political contributions also permitted companies to make political donations without being subject to the previous limit based on their average net profits. This raised concerns that newly established or shell companies, including companies with little or no business activity could potentially be used as means for political contributions.

Foreign contributions refer to funds received from sources outside India for political purposes. In India, the acceptance and use of foreign contributions are regulated primarily by the Foreign Contribution (Regulation) Act, 2010 (FCRA), which imposes restrictions on the receipt and utilisation of foreign funds. Political parties and their office-bearers are prohibited from accepting foreign contributions under the FCRA, while Section 29B of the Representation of the People Act, 1951 also prohibits political parties from accepting contributions from foreign sources.

These restrictions are intended to prevent foreign influence over domestic electoral politics and to safeguard the integrity and sovereignty of the political process. Effective regulation and disclosure are therefore essential to ensure that foreign financial interests do not indirectly influence political parties, electoral outcomes or public policy.

9. Money Power and Election expenditure: –

Politics and money are inherently linked to each other as financial resources play a significant role in determining the effectiveness of electoral campaigns. The power of money can significantly influence electoral outcomes through several means, such as financing election campaigns, extensive advertising, voter mobilisation and the use of money to influence voter choice and political participation.

Money plays an important role in electoral politics, as it affects the political participation and representation of women, LGBTQIA+ persons, and economically weaker individuals. Money is often a pre-condition for sustaining political activity in India particularly for contesting elections, organising campaigns, gathering supporters and maintaining political outreach. Therefore, unequal access to financial resources can create barriers to equal political participation and representation, allowing financially stronger candidates and groups to exercise greater influence over the electoral process.

Candidates contesting elections are subject to expenditure limits, which currently extend up to ₹95 lakh for Lok Sabha elections and ₹40 lakh for Assembly elections in larger states, with lower limits applicable in smaller states. However, there is no overall expenditure ceiling on political parties during elections. This creates a significant gap in regulation, as parties can

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spend large amount on campaigns outside the limits imposed on individual candidates. The scale of such expenditure was evident during the 2024 Lok Sabha elections, where total election spending was estimated at around ₹1 lakh cr. highlighting concerns regarding excessive and unregulated political spending.

The distribution of cash, gifts, liquor, freebies or other material benefits to influence voters remains a major concern during elections. Such practices amount to voter inducement undermine the principle of free and fair elections by influence voters through incentives which may make them prioritize short term benefits rather than long term policies due to which they may not make better informed political choice.

Candidates may incur expenditure exceeding the prescribed limits but report lower figures in their official accounts. This underreporting and concealment of actual campaign expenses makes effective monitoring difficult and undermines transparency in the electoral process. In *Kanwar Lal Gupta v. Amar Nath Chawla* the Supreme Court held that financial disparity between candidates can create unfairness in election and have antidemocratic effects. The Supreme Court held that the purpose of limiting election expenditure is to ensure equal competition and prevent the influence of money in elections. The Court clarified that candidate cannot evade the expenditure ceiling merely because the excess spending is undertaken by their political party or supporters. Where the candidate knowingly takes advantage of such expenditure it may be treated as impliedly authorised expenditure under Section 77 of the RPA.

10. Emerging Trends in Indian Political Finance: -

As digital technology and political donation patterns have changed the need for greater transparency in political finance has grown. Traditional campaigning is being replaced by digitally driven campaigning, which has also driven significant changes in political finance. The emerging trend of political donations through corporate contributions and electoral trusts has also made the concept of transparency and accountability more important than ever.

Digital campaigning is one of the most significant emerging trends in campaign finance. The increasing use of social media platforms like Facebook, YouTube, X, etc., by political parties has led to major changes in the way campaigning is done. Political parties nowadays use these platforms to do advertising, increase their voter reach, and to do targeted campaigning. Due to this, the expenditure spent on digital campaigning has also drastically increased compared to before. In the 2024 Lok Sabha elections, political parties spent substantial expenditure on digital campaigning. The BJD emerged as the top spender in digital campaigns, with Rs 83.03cr. Congress followed with Rs 47.69 crore, whereas the BJP spent a relatively modest Rs

1.06 crore in this category.

Artificial intelligence and generative technology are another trend that has been on the rise in political campaigning. It has been observed that political parties increasingly use AI-generated images, videos, and speeches to influence voters. AI technology is not only cheap, which reduces campaign costs, but it also increases the scale and reach of political messages. But this increasing use of AI in political campaigning can lead to untrustworthiness and undermine the ability of voters to make informed decisions. So, recognizing these concerns, the Election Commission (EC) issued directions during the 2024 elections regarding the responsible use of social media and warned political parties against the misuse of AI-generated deepfakes and misinformation.

There is also a growing trend towards making political finance information publicly accessible. The ECI publishes political parties' contribution reports, election expenditure statements and electoral trust reports, which enables researchers and citizens to examine the sources and utilisation of political funds.

However, political funding below the statutory disclosure threshold may remain difficult to trace. For instance, an esteemed organisation analysis of national parties' finances for 2023–24 identified Rs 199.3683 cr. which is 3.425 % of the total income of the parties, as coming from sources classified as unknown. This shows the continuing importance of comprehensive transparency in the electoral system.

Another important development is the increasing significance of corporate donations and electoral trusts in political funding. The election commission continues to publish contribution and electoral trust reports, providing greater access to information concerning declared political funding.

11. Reformative Measures: -

Although political and campaign finance in India have gotten stronger than before, there is still much scope for strengthening to ensure transparency and accountability. It is necessary that the political finance regulations in India adapt and adjust to political, economic, and societal changes. Although the Election Commission of India has established mechanisms for expenditure monitoring, online filing of contribution and expenditure statements, and public disclosure of political finance information, there is still a need for a more comprehensive regulatory framework.

Granting Legal Status to the Model Code of Conduct:

The Model Code of Conduct (MCC) should be given an appropriate statutory basis. At present, the MCC primarily operates as a set of agreed norms governing the conduct of political parties and candidates during elections. Giving it legal enforceability would enable clearer sanctions for violations. However, statutory recognition should preserve the ECI's flexibility to respond quickly to emerging electoral practices.

Enactment of a Comprehensive Political Finance Law:

India would benefit greatly from a separate political finance legislation bringing together provisions presently spread across the Representation of the People Act 1951, Companies Act, Income Tax Act and other laws. Such legislation should regulate every aspect of political finance, including, but not limited to, political donations, campaign expenditure, corporate contributions, third-party expenditure, and digital campaigning.

Introduction of Campaign Contribution Limits:

A clear statutory ceiling should be imposed on individual and corporate political contributions. In the absence of such limits, it's highly possible that rich individuals and corporations may contribute very large amounts, giving them greater influence over political parties and candidates; that is why it's necessary that a campaign contribution limit is set. A contribution limit, along with mandatory disclosure of donors and the purpose of contributions, would reduce the possibility of financial influence. Such limits should also be periodically reviewed to reflect inflation and changing campaign costs.

Establishment of a Special Electoral Finance Tribunal:

Another reformative measure for political finance is the establishment of a specialized Electoral Finance Tribunal to deal exclusively with disputes concerning campaign expenditure, political donations, any violations regarding disclosure, and other related electoral finance offences. The Tribunal will provide a faster mechanism for adjudicating expenditure-related disputes and imposing appropriate penalties or disqualifications.

Stronger Disclosure and Real-Time Transparency:

There should be a standardized format for the disclosure of contributions and campaign expenditure by political parties and candidates. Instead of limiting the disclosure to just post-election reporting, the disclosure should also include periodic reporting of significant contributions and expenditure during the campaign. Real-time transparency helps voters to know who is funding political parties and candidates, and this makes it hard for donors to secretly influence political decisions.

Stringent Penalties for Non-Compliance:

Effective sanctions must be imposed for non-compliance with financial disclosure. Any deliberate misreporting or concealment of expenditure should be met with stringent penalties like monetary fines, suspension of party privileges, and in serious cases, disqualification or other statutory consequences. The penalties should be proportionate to the gravity of the crime but still strong enough to deter any future noncompliance.

12. Conclusion: -

Political finance plays an important role in the electoral process, and unchecked financial influence can weaken the democratic principles that elections are meant to protect. With the growing use of corporate funding, digital campaigning, targeted advertisements, and undisclosed contributions, the limitations of the existing regulatory framework have become much more evident. This makes it necessary to strengthen and update the laws governing political finance in India.

Although India has several laws regulating political finance, they are spread across different laws and have limitations that can easily be exploited. The Supreme Court's decision in Association for Democratic Reforms v. Union of India also emphasised the importance of transparency in political funding, particularly in relation to the voter's right to information and the ability to make an informed electoral choice. However, court decisions alone cannot ensure a transparent political finance system. That's why a comprehensive separate political finance legislation bringing together provisions presently spread across different laws is necessary. Such legislation could provide for reasonable limits on contributions, regular financial disclosures, effective monitoring of election expenditure, stronger penalties for violations, and a clear statutory framework for the Model Code of Conduct.

Ultimately, the aim of political finance reform should not be to restrict political participation, but to ensure that money does not become the deciding factor in democratic representation. Elections should provide a fair opportunity for political participation and enable voters to make informed choices without being unduly influenced by money. A transparent and effectively enforced political finance system is therefore essential to maintaining free and fair elections and maintaining public trust in Indian democracy. The credibility of democracy depends not only on who wins an election, but also on whether the electoral process itself remains fair, transparent, and accountable.

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