

## CHARTING THE TERRAIN OF POLITICAL FUNDING IN INDIA THROUGH GLOBAL EXPERIENCES

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### ABSTRACT

*Any democracy cannot function without free and fair elections. It is imperative to note that the ideal of free and fair election has been enshrined in the basic structure of our Indian Constitution. In this regard, an independent Election Commission is the watchdog of the electoral procedures in India. This paper is structured to examine the current state of political funding in India. It attempts to highlight various mechanisms of political funding across jurisdictions. The aim is to assess how far India has come in the arena of political funding, and what steps it could take to align with the international best practices. Transparency and accountability in political funding can bring stability in the electoral battleground. This paper would deal with analysis of data and discussions while engaging in a comparative study of political funding transnationally, in relation to India. It aims to offer suggestions upon identifying the challenges in India's political funding mechanisms and recommends potential pathways for reform, keeping in mind the broader ideal of democratic integrity. The study aspires to contribute to the ongoing discourse on strengthening democratic institutions through more equitable and transparent funding practices.*

**Keywords:** Political funding, Electoral Bonds, Elections, Transparency, Corruption

### 1. INTRODUCTION

One of the greatest problems ever posed to a democracy is the relation between money and politics. Political finance and its funding include the money so collected or received by the political parties through various means, whether by means of state funding or private donations, for the purpose of covering the costs incurred for electoral campaigns and other ongoing organisational activities. The aspect of political funding has a multi-faceted impact on the electoral process and the concept of democracy, as a whole. An uneven distribution of funds affects the possibilities enjoyed by political parties and their respective candidates to share their ideologies with the voters as well as bestows them with uneven opportunities to exert their political influences. As commonly argued, it leads to a quid-pro-quo culture between policy makers and private donors, and develops a conflict of

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interest for those ultimately coming in power through elections. Thus, the aspect of political funding is crucial to the electoral process as they have the potential to demolish the integrity and autonomy of the representatives of the people and lead to corruption<sup>1</sup>. The decisions of these policy makers run at the risk of being privately-tilted than for public good. Another particular problem is the lack of information available and transparency in the subject-matter of political finance, where the topic has always remained a matter of public debate and curiosity due to revelation of political scandals. Moreover, the ingredient of money in political activities can be regulated by means of a range of legal instruments, which together builds the political finance system (PFS). PFS essentially lays down the framework in which money flows in and out of the political system.<sup>2</sup> In this light, there is scope for discussions on state funding, spending limits on the political parties, contribution caps, financial accountability among parties, and transparency in donations and their overall impact on the democratic integrity and electoral processes. This research particularly focusses on how India is exploring its own path in the arena of electoral funding through its policies. The study also aims to look into the political funding practices across jurisdictions to ultimately offer suggestions for India.

### 1.1. Objectives of Study

1. To examine the constitutional and democratic challenges posed by the nexus between money and politics in electoral processes.
2. To analyse the existing political finance system (PFS) in India, including state funding provisions, private donations, and regulatory mechanisms.
3. To critically evaluate the extent to which transparency, accountability, and limits on contributions and expenditures are incorporated in India's electoral funding framework.
4. To explore the risks of quid pro quo arrangements, conflicts of interest, and corruption stemming from opaque political donations.
5. To undertake a comparative study of political funding practices in selected jurisdictions such as the United States, United Kingdom, and Canada to identify global best practices.
6. To assess the impact of electoral funding practices on democratic integrity, political competition, and equal opportunity for candidates and parties.

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<sup>1</sup> Dr. Kevin Casas-Zamora, "Political Finance and State Funding Systems: An Overview" *International Foundation for Electoral Systems IFES* 3(2008), available at: <https://www.ifes.org/publications/political-finance-and-state-funding-systems-overview> (last visited on September 22, 2025).

<sup>2</sup> *Ibid.* at 5.

7. To suggest policy reforms and legal measures for strengthening India's political finance system, with emphasis on transparency, equity, and public trust in elections.

## 2. RESEARCH QUESTIONS

- (a) Whether the present political funding regime in India is adequate and transparent?
- (b) What challenges are faced in the existing Political Finance System in India?
- (c) What lessons can India learn from political finance systems of selected jurisdictions- The UK, USA and Canada?
- (d) What policy reforms can help in strengthening the existing political funding landscape in India?

## 3. RESEARCH METHODOLOGY

This study follows a doctrinal research methodology, essentially relying on understanding of statutes and other regulatory frameworks, precedents, journals, books, and scholarly analysis. The research methodology adopts descriptive and analytical techniques. The descriptive approach helped in providing a structured presentation of the subject-matter at hand. Moreover, the analytical approach was meaningful in highlighting the key developments and evolution in political funding frameworks in India and engaging in a comparative study in a cross-national context, thereby offering suggestions for reform. This research did not engage in any empirical data collection or field study, as doctrinal research is fundamentally reliant on document-based inquiry.

The study aims to identify the gaps in electoral funding regime in India, while comparing the regimes prevailing across jurisdictions.

## 4. DATA ANALYSIS

The data is mostly collected from Institute for Democracy and Electoral Assistance (IDEA) and presented in the paper cited which aims to look at the political financing trends across the world as of 2020<sup>3</sup>: -

- Private financing within limits- 67.8% countries in the world prohibit foreign contributions to the political parties with the obvious intention to prevent foreign intervention in politics of the country thereby upholding the principle of self-determination. As per IDEA, only 44.2% of the countries

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<sup>3</sup> Camila Astorga Valenzuela, "Financing Democracy: A Case Study Assessing Public Subsidy to Political Parties in Chile" *Center on Civility & Democratic Engagement Fellowship, Goldman School of Public Policy, University of California, Berkeley, Spring (2020)*.

analysed actually set a cap on private donations, highlighting that private contributions are often allowed without limiting the amount of money one can contribute. A balance is required as if the limit on private donations is too high, it would be redundant whereas if the limit is too low, system participants will try to circumvent regulation and identify the loopholes to gather money from outside the system. Moreover, only a handful countries (26.1%), like Mexico, Brazil, Costa Rica, Peru, Paraguay, Chile, Argentina, ban corporations and all legal entities to contribute, to prevent corporate influence in elections.

- Public Financing- 59.7% of analysed countries grant public subsidies to their political parties, most of them are European countries as 38 out of 43 countries in Europe follow this mechanism. The aim behind public financing is two-fold: - (a) all political parties must have resources to organise their activities for public good and develop pluralism to provide voters with different ideologies and proposals (b) establish equality among political parties by reducing private influence which may lead to quid-pro-quo culture.

Public financing of political parties can be approached in different ways as per the global experiences of different jurisdictions: -

1. Fixed contribution can be equally distributed to the political parties. This helps to reduce the advantages of wealthy political forces. However, the mechanism may be used to create political parties and use them as a vehicle to reach public funds and misuse them.
2. Variable contribution can be distributed to the political parties based on their past electoral performances. However, in this system funds end up being concentrated with dominant political parties who may need them the least, threatening plurality of voices in politics.
3. Matching funds is a mechanism of public funding of politics wherein public funds are allocated to the political parties based on the proportion of funds received by them privately. This promotes citizens to engage in the system by donating towards political expenses while also incentivising political parties to privately collect their funds. This mechanism has received success in Germany and Netherlands.

Thus, a common conclusion that can be reached is the trend in global increase of state funding of political parties by means of providing public subsidies (indirect state funding) along with two-thirds of countries are also providing direct public funding to parties. This is because, it is not a distant observation that that public funding or state funding has the ability of levelling the political playing field and

ensuring democratic integrity as the political parties are essential components in a democracy.<sup>4</sup>

In India, in the backdrop that electoral bonds scheme was still in operation before finally being struck down by the Supreme Court in 2024, looking at financial year 2021-22 around 66.04% of the income of seven national political parties was received from 'unknown sources' and 83.41% of it was through the use of electoral bonds.<sup>5</sup> When discussing about unknown sources of political financing in India, there are other issues like donations in cash, most of the funding into the system comes in the form of cash, broken into much smaller contributions, falling below the 20,000 INR threshold for making disclosures. This is the mechanism to evade reporting and thus the true sources remain hidden. Another unregulated system of political financing is the sale of coupons and other forms of miscellaneous funds collected during the political rallies and gatherings, making them untraceable. This black/dirty money is used for illegal activities like distribution of food, alcohol, drugs or even cash directly to purchase votes, widening the cracks in this dubious political system.<sup>6</sup>

#### 4. ARGUMENTS AND DISCUSSION

##### 4.1. Political Funding Experiences from across the Globe

###### 4.1.1. The United Kingdom

The aspect of political finance remained unregulated until 2000 in the UK. Thereafter, the Political Parties, Elections and Referendums Act, 2000 (PPERA) was enacted. The Act was perceived as successful as it introduced restrictions on entities who may be eligible to make donations, spending limits for national campaigns, the most important of all, establishment of the Electoral Commission to exercise regulatory oversight on the operation of the Act. The Act also regulated third-party campaigning, like pressure groups, trade unions, etc., which campaigned for the elections, even without standing for the elections themselves. It opened the door for registration of such third-party units and introduced limits on their expenditure.<sup>7</sup>

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<sup>4</sup> Emmanuelle Avril, "FOLLOW THE MONEY" 167 No. 2(5585) *RSA Journal* 34 (2021).

<sup>5</sup> Ashutosh Mishra, "66% income of 7 political parties came from unknown sources, electoral bonds: Report" *India Today*, March 12, 2023.

<sup>6</sup> Mahima Kapoor, "India: What is wrong with how political parties are funded?" *DW News*, August 3, 2024.

<sup>7</sup> Justin Fisher, "The regulation of political finance- Choppier waters ahead?" Review of the UK Constitution: Guest Paper, Institute for Government, Bennet Institute for Public Policy, Cambridge 8 (2023).

PPERA also comes in contact with the Representation of the People Act, 1983 (RPA), while the PPERA regulates the expenditures of the political party, RPA regulates those of the candidates in local constituencies. This regime ensures that all the particulars about both donations and expenditures by political parties, candidates or non-party campaigns are disclosed. Any fund over £500 must only come from 'permissible sources' provided.<sup>8</sup>

These entities are required to report any spending during the period of election, with receipts and invoices for those exceeding £200, which is made available by the Electoral Commission on its website. This mechanism ensures transparency and reduces opacity of the political funding landscape. However, there are other issues that raise transparency concerns. There are instances of incorrect, blurred or missing invoices, making it impossible to examine and analyze how such money was spent. Thus, this data is not adequate to identify corruption activities and hold people accountable for their actions in the political system.<sup>9</sup>

Political funding in UK largely comes from private donors with no donation caps in place, whatsoever. However, it can be argued that donation caps can be problematic when there is negligible state funding of politics in the UK. In such a scenario, it is suggested that certain types of donations can be restricted. The present wave in UK is calling for a reform on restricting donations made by foreign donors, on the ground that foreign sources of money should not be permitted to influence elections in the UK.<sup>10</sup>

#### 4.1.2. The United States of America

In the early 20<sup>th</sup> Century, President Theodore Roosevelt advocated for a complete ban on corporate funding to political parties. In response, the Tillman Act, 1907 was enacted and eventually supplemented by the Federal Corrupt Practices Act, 1910; the Hatch Act, 1939; Smith-Connally Act, 1943 and the Taft-Hartley Act, 1947. The most recent legislation in this direction was passed by the Congress- Bipartisan Campaign Reform Act, 2002, and all of these legislations were enacted with the objective of restricting donations from corporations and

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<sup>8</sup> Rose Whiffen, "How are Political Parties and Politicians funded?", *Transparency International UK* (2025), available at: <https://www.transparency.org.uk/news/how-are-political-parties-and-politicians-funded> (Last visited on November 25, 2025).

<sup>9</sup> Sam Power, Katharine Dommett, Amber MacIntyre, Andrew Barclay, "Public understanding of Electoral Spending: Evaluating UK Transparency Mechanisms" 60 No. 2 *Journal of Representative Democracy* 357 (2024).

<sup>10</sup> Justin Fisher, "Party Finance. Not a Broken System, but Some Reforms are Required" 96 No. 3 *The Political Quarterly* 570-574 (July/September 2025).

setting disclosure mandates regarding fundraising sources for political campaigns.<sup>11</sup>

The Federal Election Campaign Act (enacted in 1971) was revised in the year 1974 which established the Federal Election Commission (FEC) along with government agencies for the purposes of enforcing political finance laws. The act is successful and operates to limit contributions, oversee public funding for elections, disclose political finance information, and curb corruption in any form by enforcing expenditure limits on campaigns.

The sources of political funding in the USA include self-financing, individual donations, political action committees (PACs) that engage in pooling and distribution of the received contributions to the candidates, and other organizations. PACs are regulated for making disclosures under the Federal Election Campaign Act, 1971. PACs have limits on its spending towards election campaigns.

However, after the controversial *Citizens United vs. FEC*<sup>12</sup> was decided by the US Supreme, all limits on Super PAC contributions were held unconstitutional. Thus, unlike traditional PACs, the Super PACs can raise unlimited funds and can go for unlimited expenditure as long as they did not contribute directly to candidate or the campaign, but made independent expenditures on their behalf. It is argued that the Super PACs are injecting the political campaign landscape with dark money as it has the ability to raise unlimited sums from wealthy donors-individuals, corporations, and any other entity which is otherwise not allowed to contribute to campaigns directly. Although, the Super PACs are required to operate independently from any party or candidate, it is often argued that the loopholes in the law defining ‘coordination’ allow these Super PACs to work hand in hand with the candidates, without any trace whatsoever.<sup>13</sup>

#### 4.1.3. Canada

Until 1974, the political finance ecosystem was largely unregulated in Canada. *Election Expenses Act, 1974* was enacted, and provided for partial state funding of election campaigns wherein a certain portion of campaign expenditures would be reimbursed by the state if it reached a certain threshold of votes. Apart from that, the act set up spending limits and disclosure requirements for the political parties and candidates, and set up the Commissioner of Election expenses for exercising

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<sup>11</sup> Conrad Foreman, “Money in Politics: Campaign Finance and Its Influence Over the Political Process and Public Policy” 52 *UIC John Marshall Law Review* 190-192 (2018).

<sup>12</sup> 558 U.S. 310 (2010).

<sup>13</sup> Sophia Gonsalves Brown, “Super PAC Deals are a Bad Deal for Democracy” Campaign Legal Center, Washington, January 26, 2023.

oversight on the enforcement of the provisions of the Act. The act also introduced Political Contributions Tax Credit (PCTC) for smaller donations, which is a revolutionary move, wherein donors could claim credit in taxes, thus encouraging more small individual donors to come up than giving the reign of political funding to wealthy corporations. The 2004 reforms in this regime increased spending limits for the political parties, increased the range for small donations that were eligible for PCTC, along with increase in reimbursement proportions for campaign expenditures. At a national level, donation from trade unions and corporations were banned, but introduced an allowance based on per vote earned in the preceding election, along with providing quarterly allowances to national parties. Thus, the 2004 reforms were crucial in strengthening the tax credit component and the election expenses reimbursement, while introducing quarterly allowances.<sup>14</sup>

So, even in Canada's present regime all forms of corporate donations are prohibited. Sources of funding are mainly individual contributions and public subsidies, in covering certain election expenses. Funding is also collected by third-parties which support certain political parties and use its funds for payment on regulated activities.<sup>15</sup>

The political parties are mandated to provide reports on their political finance to Elections Canada, enlisting revenues, expenses and various transfer undertaken, on a quarterly basis. Elections Canada made such data easily accessible for the general public. It can be said that the political finance regime of Canada already covers all potential aspects and is comprehensive and wholesome, touching upon aspects of realistic contribution and expenditure limits, practical bans, tax incentives to entice the common public to donate and an independent authority to monitor and implement the rules and regulations. However, as a result of 2014 reforms, the government terminated the per-vote subsidies on the ground that the political parties should not be dependent on state funding but on donors. However, it was controversial and faced criticism as it provided dual benefit by providing tax incentives to donors and subsidy based on their electoral performance to the parties.<sup>16</sup>

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<sup>14</sup> Harold Jansen and Lisa Young, "State Subsidies and Political Parties", Policy Options Politiques (2011), *available at*: <https://policyoptions.irpp.org/2011/10/state-subsidies-and-political-parties/> (Last visited on November 25, 2025).

<sup>15</sup> "Political Financing, Spending, and Advertising Safeguards" Elections Canada, *available at*: <https://www.elections.ca/content.aspx?section=vot&dir=int%2Fpol&document=index&lang=e> (Last visited on September 22, 2025).

<sup>16</sup> Susan E. Scarrow, "The State of Political Finance Regulations in Canada, the United Kingdom and the United States" International IDEA Discussion Paper 11/2016, pg. no. 3 (2016).

Overall Canada's campaign finance system is commendable by placing reliance on small donors than giving the reign to wealthy corporate entities. The aspect of state financing has also been well-implemented in Canada, ensuring that money could only influence elections for the good.

#### **4.2. Electoral funding Scenario in India- Electoral Bonds, Trusts and Aftermath**

##### **4.2.1. Electoral Bonds**

Moving to the legislative aspects, The Finance Act, 2017 (hereinafter FA, 2017) made amendments to the provisions in the Companies Act, 2013 (hereinafter CA, 2013), the Representation of the People Act, 1951 (RoPA, 1951), Reserve Bank of India Act, 1934 and the Income Tax Act, 1961 dealing with electoral funding to political parties.

1. Prior to the amendment, Section 182 enabled companies to make political contribution, with the due approval of the Board of Directors, but the contribution cap was set to be 7.5% of the company's net profits during the three immediately preceding financial years. Additionally, the provision required to make disclosures on the part of the contributing company in its profit and loss accounts, furnishing the details of the amount contributed along with the name of the political party or individual.<sup>17</sup> However, Section 154 of the FA, 2017, removed the restriction on the quantum of contribution and the requirement of disclosing the name of the political party in the respective company's accounts.<sup>18</sup> This provided complete anonymity to the political donations made by companies.
2. Section 29C of the RoPA, 1951 provided for disclosure by the political party regarding contributions received above twenty thousand rupees, from any person or company, except government companies, in a given financial year.<sup>19</sup> However, FA, 2017 amended this provision to include that such requirement of disclosure by the party was not applicable if the contribution was received by means of an electoral bond.<sup>20</sup> Thus, the mandate of disclosure by the party was also done away with, thereby increasing the opacity of electoral funding in India.
3. Section 13A of the Income Tax act, 1961 was amended by Section 11 of the FA, 2017, which owing to the amendment exempted the receiver political parties from maintaining the records of such contributions so received via electoral bonds.

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<sup>17</sup> The Companies Act, 2013, proviso to s. 182(1) (*omitted by Finance Act, 2017*).

<sup>18</sup> The Finance Act, 2017, s. 154.

<sup>19</sup> The Representation of the People Act, 1951, s. 29C.

<sup>20</sup> The Finance Act, 2017, s. 137.

4. Section 31 of the Reserve Bank of India Act, 1934 was amended by Section 135 of FA, 2017, thereby allowing the Union government to authorise any scheduled bank for the purposes of issuing electoral bonds.

Ministry of Finance notified the Electoral Bond Scheme, which allowed eligible political parties to receive contributions from entities, as defined under such notification. It provided the eligibility criteria for political parties which would be able to receive funds through the electoral bonds.<sup>21</sup>

Similar amendment was made by section 233 of the Finance Act, 2016 to the Foreign Contribution (Regulation) Act, 2010 (FCRA), which led to opening of the floor for political contributions from foreign-owned companies, given the ownership structure of such company complies with limits provided in Foreign Exchange (Management) Act, 1999. This was possible by insertion of this proviso to the definition of 'foreign sources' under FCRA.<sup>22</sup>

The watershed moment was the Apex Court unanimously striking down the Electoral Bonds Scheme, holding it as unconstitutional, in the case of *Association for Democratic Reforms vs. Union of India*<sup>23</sup>, in the year 2024. It was held invalid on the ground that it was infringed upon the right to information of the voters as envisaged under Article 19(1)(a) of the Constitution. In this regard, it was directed that the sale of electoral bonds be ceased, and State Bank of India was directed to put forward the details of bonds purchased till then to the Election Commission of India (ECI), and the ECI was directed to publish the same on its official website. This case highlighted how anonymous political funding runs the risk of deeply undermining democracy.

Electoral bonds ensured that the donor remained anonymous to political parties, however, this donor anonymity was illusory and the electoral bonds contained alpha-numeric codes, as identified by journalists and activists. The codes would only allow State Bank of India to be aware about the donor, receiver and other details of the transaction for the purpose of law-enforcement audits. However, the doubt always arises that these records may be accessed by the government through law-enforcement agencies or is the mechanism really leak-proof, questioning the sole purpose underpinning the bonds. Ultimately it is only the voters from whom this information of private donations is hidden infringing on their Right to Information. This supports the reasoning behind the decision of the

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<sup>21</sup> Electoral Bonds Scheme 2018 vide Gazette Notification No. 20 dt. 02<sup>nd</sup> January, 2018.

<sup>22</sup> Proviso inserted to Section 2, sub-section 1, clause (j), sub-clause (vi) w-e-f the 26<sup>th</sup> September, 2010, vide the Finance Act, 2016, s. 233.

<sup>23</sup> 2024 INSC 113.

Supreme Court that electoral bonds indeed were contributing to transparency issues in electoral funding in India.

#### 4.2.2. Electoral Trust

As an aftermath of the abrogation of the electoral bond scheme, there has been an inevitable rise in political funding through the Electoral Trust Scheme, 2013. The Association for Democratic Reforms analysed the data on contribution through Electoral Trust for the FY 2023-24, which highlights that corporations are increasingly resorting to electoral trusts for political funding.<sup>24</sup> The Trust Scheme, 2013 was notified by the government wherein the Trust shall be a registered company under the s. 25 of the CA, 2013. It was laid down in the scheme that 95% of the contribution collected by such electoral trust, in a given FY, shall be allocated and distributed to the eligible political parties. Section 13B of the Income Tax Act, 1961 and 17CA of its rules also deals with functioning of an Electoral trust.<sup>25</sup>

6 Electoral Trusts namely Electoral trust, Corporate Electoral trust, Bharti Electoral trust, Satya Electoral Trust, General Electoral Trust and Harmony Electoral Trust, contributed to the political parties prior to the introduction of the 2013 Scheme. The rules applicable under the 2013 Scheme are not retrospective, thus these six Electoral Trusts are not covered by its rules, thereby the particulars of donors to these Trusts remain undisclosed.<sup>26</sup>

#### 4.2.3. Envisaging State Funding of Politics in India

In 1998, the Indrajit Gupta Committee on State Election Funding suggested State funding of elections based on two main restrictions. First, only national and State parties with a symbol should receive State funding, while independent candidates should not. Second, only recognized political parties and their candidates should get short-term State funding in the form of specific infrastructure (in kind). In 1999, the Law Commission Report on Electoral Law Reform stated that State funding of elections is desirable only as long as political parties cannot accept money from other sources and a proper regulatory framework is in place. However, in 2001, the National Commission to Review the Working of the Constitution, did not recommend State funding for elections due to the lack of an appropriate framework for regulating political parties. Yet, in the Ethics in Governance report by the

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<sup>24</sup> “Electoral Trusts Scheme: Utter non-transparency in political funding & an unholy nexus between big corporate giants and major political parties” *Sabrang India*, March 5, 2025.

<sup>25</sup> Electoral Trust Scheme, 2013 vide Notification No. S.O.309(E) dt. 31<sup>st</sup> January, 2013.

<sup>26</sup> CS N Balasubramanian, “Funding By Companies to Political Parties” 103802 *ICSI* 114 (April 2024).

Second Administrative Reforms Commission in 2008, partial State funding of elections was suggested.<sup>27</sup>

#### 4.2.4. Role of Courts in India

In the case of *Gadakh Yashwantrao Kankarao vs. E.V. Alias Balasaheb Vikhe Patil and others*<sup>28</sup>, the Apex Court emphasised that purity of elections is crucial for survival of democracy. Thus, for democracy to survive, the rule of law should prevail; representatives must be chosen on merits and not through the support of money power, which otherwise leads to criminalisation of politics.

The Supreme Court in the case of *C. Narayanaswamy vs. C.K. Jaffer Sharief and Ors.*<sup>29</sup>, highlighted the poor condition in India where any anti-social element can spend any amount in elections on behalf of a candidate or party, for which no account is maintained or furnished and hence it cannot be taken within the purview of ‘expenditure’ for the purpose of elections. If ‘purity of elections’ is not merely a slogan, then persons funding politics need to be identified and located, strictly prohibiting corruption through under hand methods. Candidates should not be permitted to plead ignorance about such persons contributing towards their success in elections. The Parliament needs to take care of this aspect.

The impact of political funding on a democracy was explained by the Hon’ble Justice P.N. Bhagwati in the case of *Kanwar Lal Gupta vs. AN Chawla*<sup>30</sup>, wherein it was highlighted that big money would play a decisive and controlling role in the country’s democratic processes. This is bound to lead to corruption of the worst-form and that in its nascent stage has the ability to produce vices at all levels.

The Apex Court of India in the case of *Union of India vs. Association for Democratic Reforms*<sup>31</sup> laid down that the concept of free and fair elections is an integral aspect of parliamentary democracy, which forms a part of the basic structure of the Indian Constitution. In this regard, safeguarding of the constitutional as well as statutory guarantees in relation to elections would require securing and protecting the integrity of the electoral procedures.

However, the Supreme Court’s decision in *S. Subramaniam Balaji vs. Tamil Nadu*<sup>32</sup>, held that electoral freebies distributed by political parties do not fall within

<sup>27</sup> Vivake, “State Funding of Elections”, *The PRS Blog* (2010), available at: <https://prsindia.org/theprsblog/state-funding-of-elections?page=249&per-page=1> (Last visited on November 25, 2025).

<sup>28</sup> 1994 (1) SCC 682.

<sup>29</sup> 1994 Supp. (3) SCC 170.

<sup>30</sup> 1975 (3) SCC 646.

<sup>31</sup> 2002 (5) SCC 294.

<sup>32</sup> 2013 (9) SCC 659.

the purview of ‘corrupt practices’ under Section 123 of the RoPA, 1951. This stance is under a challenge, as the Supreme Court is currently hearing a PIL matter against offering and distributing of freebies during the election campaigns, in the case of Ashwini Kumar Upadhyay vs. Union of India<sup>33</sup>. This PIL stands on the premise that freebies unfairly influence the voters, and should be considered as bribery and undue influence under the Indian Penal Code, 1960. It calls for requiring the Election Commission of India to prohibit such distribution and impose strict sanctions like de-registering parties upon violation.<sup>34</sup> The Court’s decision on such contemporary matters like distribution of freebies by political parties and stopping cash donations (even up to Rs. 2000 from individuals), as are currently pending before the Apex Court, can really bring change in the political funding landscape in India.

## 5. RESULT/FINDINGS

In India, just like the United States and the UK, elections are a lavish affair with a huge amount of state revenue and machinery going towards conducting elections. This is possible because dark money is infused in politics by corporate entities. Japan has been able to bring down the cost of elections by placing reliance on public funding, when state exercises oversight on funding, expenditures can automatically be controlled.

Restrictions on who may donate money appear to be extremely tight in case of Canada whereas much more relaxed in UK. India is relaxed on entities who may donate, allowing individuals, companies, and even certain foreign sources to make political contributions, under a regulated regime.

In the US, the particular unique aspect to be noted is how donations can be provided to the non-party groups (PACs and Super PACs) than directly financing the political parties or their candidates, thereby bypassing certain restrictions on donors in making donations. However, in the Canada and UK there are restrictions in place on third-party spending in election campaigns too close to the election period. In India also apart from making direct contributions to political parties, entities can also make contributions to electoral trusts which disburse funds to the political parties.

In political finance systems dependent on private donations, an efficient way of regulation is the approach taken by Canada to widen the base of donors by way of providing incentives through tax credits or other similar mechanisms,

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<sup>33</sup> W.P.(C) No. 43/2022.

<sup>34</sup> “Freebies in Electoral Democracy and Welfare State”, Supreme Court Observer. Available at: <https://www.scobserver.in/cases/freebies-in-electoral-democracy-and-welfare-state/> (Last Visited on November 24, 2025).

encouraging common people to come forward to finance elections, reducing the dependency of parties on a handful of wealthy donors. India also provides tax deductions to entities making contributions to political parties and tax exemptions to the parties on such received income as per the regulations of the Income Tax Act, 1961. However, in India the campaign finance is still heavily influenced by corporate donations.

One of the important aspects of political finance regimes is to foster public faith and trust in the electoral processes. In the US, public opinion is more negative towards their respective regime than in Canada, where citizens are overall satisfied with the regulation of campaign finance.<sup>35</sup> India is still in a discourse of structuring its political finance system, and with activist role played by organisations like ADR, India has been able to successfully bring down elements in the electoral system that threaten democratic integrity like seen in the case of electoral bonds.

India has not adopted direct state funding wherein the government gives allowances to the political parties for campaign and other expenses. However, indirect state funding is existent in India as envisaged under section 80GGB and section 80GGC Income Tax Act, 1961 wherein companies, HUFs, firms, individuals, and entities mentioned are eligible to claim tax deduction on contributions made to political parties. Additionally, political parties are provided with benefits like free air time on public broadcast platforms; subsidies or free access might be provided to the political parties for public places, transport, utility. Section 13A of the Income Tax Act, 1961 provides tax exemptions to political parties provided they maintained audited books of accounts, records of such contributions and filed the IT returns.<sup>36</sup>

## 6. CONCLUSION AND SUGGESTIONS

ADR has argued that there are many benefits of state funding like it helps in establishing transparency, reduce the dependence of political parties on private donors. Looking at the larger picture, it helps to dismantle the corporate-political nexus and quid-pro-quo ecosystem. However, The Election Commission of India has consistently opposed the idea of state funding in India for reasons that needs to be considered. India only collects 16% of its GDP as tax, which needs to spent on

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<sup>35</sup> Grady Yuthok Short, “The Campaign Finance System Americans Could Have Had” *Brennan Center for Justice*, April 23, 2025, available at: <https://www.brennancenter.org/our-work/analysis-opinion/campaign-finance-system-americans-could-have-had> (Last visited on 23 September, 2025).

<sup>36</sup> Inika Dular, “Towards Transparent Elections: The Case for State-Funded Indian Politics”, *The Contemporary Law Forum* (2024), available at: <https://tclf.in/2024/07/23/towards-transparent-elections-the-case-for-state-funded-indian-politics/> (Last visited on November 25, 2025).

priority basis on items of national importance. Indian elections are expensive and it would put extreme pressure on state revenues if state funds politics. Moreover, it does not assure that the parties would not receive supplementary funds from private donors. Therefore, it would become a commitment that the state is not in a position to make at the moment. Moreover, the gap between citizens and political parties will be widened.<sup>37</sup>

This study would like to make the following suggestions for India to reform its political finance system: -

1. There needs to be stricter regulatory regime and audit mechanisms to keep a check on contribution caps, spending limits and clear framework on entities who can or cannot make donations and on the channels for making these donations. The system should be sealed, as much as possible, to prohibit unknown sources of income from flowing in. The idea is to keep a track on what money flows into politics. As long as ECI is equipped to handle such changes, the voters would be more informed, resulting in responsible politics and corporate activities.
2. Private donations including corporate donations need to be in place and is encouraged as they help the political parties to survive and breathe, and ultimately bring their ideologies and proposals on governance to the table. However, full disclosures are extremely important in this matter, ensuring that no nexus can build under the table. It has been analysed that whether in India or any other jurisdiction, there remain loopholes in the system that account for a large chunk of backdoor funding to the political parties. There is a pressing need to identify and study these loopholes and come across a way to mitigate the risks they pose.
3. Electoral reform law needs to distinguish between 'collective' and 'corporate'. Collective interest comes from the idea of individuals coming together in a society for shaping political agenda like done by political parties and labour or student unions. On the contrary, corporate interest is solely based on furtherance of their commercial interest. Thus, the very basis of a political party is association, deliberation and compromise but when political parties are corporatised the work of political parties are not democratically inspired but formulation of policies and initiatives are the work of political entrepreneurs. Therefore, attempt should be made to

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<sup>37</sup> Abash Parida, "Can State funding of polls curb flow of black money?", *The Pioneer* (May 8, 2023), available at: <https://www.dailypioneer.com/2023/state-editions/can-state-funding-of-polls-curb-flow-of-black-money-.html> (Last visited on September 23, 2025).

uphold natural individual participation, when more people participate in funding and questioning politics, the donor base is diverse and broad, the inclination towards corporatised politics can be stopped from thwarting the democratic and electoral integrity.<sup>38</sup> This is possible by providing more tax benefits to small individual donations and no benefit to corporate contributions, whatsoever.

4. State funding is the most perfect mechanism to ensure that political parties receive funds without any interest involved. The threat of withdrawal of state funding can be used as a powerful mechanism to ensure that parties comply with other regulations. In countries like Belgium, Slovenia and Sweden, the threat of suspension of public funds has worked wonders to ensure compliance to several regulations on audits, accounting standards, disclosures on income, etc. However, this mechanism will only work if the state funding is substantial, if not the only, source of income available to parties, as it is in the case of these countries.<sup>39</sup> However, given the pressure on state revenue in India and other important matters in hand beside funding politics, this will be difficult to implement. This is where reforms need to be in place, whereby active citizen participation can help state to pool funds particularly for this purpose. A few public funding recommendations are instrumental in this arena- the CII Taskforce Report (2012) recommended that individuals and corporations pay a 0.2 percent democracy cess on their income to fund election costs; the Associate Chamber of Commerce of India (2015 report) suggested creating a government election fund of corpus INR 5,000 crore, set to be disbursed over a 5-year period. However, these recommendations have not been able to crystallise into an effective measure, but can be considered for reforms.

India's political finance model is far from perfect and it needs reforms, but such reforms must align with the country's economic and social landscape. India cannot replicate reforms based on international practices and the one-size-fits all is not the way to go. However, it is important to analyse those practices and build reforms that fits and refines Indian political finance system.

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<sup>38</sup> Aymen Mohammed, "Globalised Electoral Democracy in India and the Natural Individual Citizen" 11&12 *The Indian Journal of Constitutional Law*, Pg. no. 54-55 (2024).

<sup>39</sup> Niranjan Sahoo, "Towards Public Financing of Elections and Political Parties in India: Lessons from global experiences" 127 *ORF Occasional Paper* (November, 2017).