REPORT

MARCH 2026

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Political Finance in India

Assessment and Recommendations

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In collaboration with the Electoral Regulation Research Network (ERRN) and the University of Melbourne

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Finally, we extend our appreciation to all those who continue to engage with and support efforts to improve transparency in political finance. Their ongoing commitment inspires this work and remains central to advancing cleaner, more accountable democracy.

Abbreviations

ADR	Association for Democratic Reforms
AIR	All India Reporter
BNS	Bharatiya Nyaya Sanhita
CAG	Comptroller and Auditor General of India
CBDT	Central Board of Direct Taxes
CEO	Chief Electoral Officer
CIC	Central Information Commission
CMS	Centre for Media Studies
EB	Electoral Bond
ECI	Election Commission of India
EVM	Electronic Voting Machine
FCRA, 1976	Foreign Contribution (Regulation) Act, 1976
FCRA, 2010	Foreign Contribution (Regulation) Act, 2010
FPTP	First Past the Post
IEMS	Integrated Election Expenditure Monitoring System
INR	Indian National Rupee
I.T.	Income Tax
I.T.R.	Income Tax Return
LCI	Law Commission of India
MCC	Model Code of Conduct
MCMC	Media Certification and Monitoring Committee
MLA	Member of Legislative Assembly
MP	Member of Parliament
NBSA	News Broadcasting Standards Authority
NDA	National Democratic Alliance
NCRWC	National Commission to Review the Working of the Constitution
NOTA	None of the Above
OCCRP	Organized Crime and Corruption Reporting Project Permanent
PAN	Account Number
PIB	Press Information Bureau

PMRF	Prime Minister's Relief Fund
PPRTMS	Political Parties Registration Tracking Management
RBI Act	System Reserve Bank of India Act, 1934
RUPP	Registered Unrecognized Political Parties
RTI	Right to Information
R P Act, 1951	Representation of People Act,
SC	1951 Supreme Court of India
SCC	Supreme Court Case
SOP	Standard Operating Procedure
UT	Union Territory
UOI	Union of India

About ADR

The Association for Democratic Reforms (ADR) is a non-partisan, non-governmental organization which works in the area of electoral and political reforms. The objective of ADR is to improve governance and strengthen democracy. It aims at decriminalization of politics, empowerment of the electorate and bringing transparency, accountability and inner-party democracy in the functioning of political parties. ADR came into existence in 1999 when a group of professors from the Indian Institute of Management (IIM) Ahmedabad including Prof. Trilochan Sastry, Prof. Jagdeep Chhokar and Dr Ajit Ranade, filed a Public Interest Litigation (PIL) with the Delhi High Court asking candidates contesting elections to disclose their background details. Based on ADR's PIL, the Supreme Court of India in 2002 and subsequently in 2003, made it mandatory for all the candidates contesting elections to disclose their criminal, financial and educational background details prior to the polls by filing an affidavit with the Election Commission.

Election Watch is the flagship program of ADR, which analyzes the background details of candidates disseminated to citizens to help them make an informed choice. ADR's Political Party Watch program is aimed at bringing more financial transparency and accountability in the functioning of political parties. ADR files PILs/Appeals related to Electoral and Political reforms with Central Information Commission, Supreme Court/High Courts. To motivate, inform and involve youth in the political and electoral reforms processes, ADR has come up with two programmes – *'Hum Badlenge Apna Bharat'* for schools and ADR 'Campus Ambassadors Programme' for colleges.

ADR's headquarters is in New Delhi. ADR engages with partner organizations across the country, collectively called the National Election Watch (NEW), which is a nation-wide campaign comprising of citizen-led organizations working towards strengthening democracy. It is active in almost all states of India and has conducted Election Watches for all Assembly and Parliamentary elections since 2002.

ADR has two websites and an android-based mobile application by the name of MyNeta. The detailed analytical reports of Lok Sabha, State Assemblies, local body elections and financial reports of political parties are available at adrindia.org and background details of candidates are available at www.myneta.info.

Maj. Gen. Anil Verma (Retd.) is the current Head of ADR. There are 23 staff members.

About the authors

Shivani Kapoor is a Program Lead and Manager with the Association for Democratic Reforms (ADR). Currently, she heads the legal work of the organization. Her work primarily involves drafting and filing PILs in the Supreme court and High courts, appeals and submissions with various central institutions and research analysis on issues related to electoral and political reforms. Shivani has an LLB from Bharti Vidya Peeth, Pune and an LLM in Human Rights, Constitution and International Law from Amity Institute of Advanced Legal Studies. She also holds three separate (one-year) diplomas in Human Rights law, Contract and corporate Law and IPR from the Asian School of Cyber Laws. She is a registered lawyer with the Bar Council of Delhi. She has an experience of more than 14 years with ADR wherein she specializes in areas such as Right to Information, constitutional rights, electoral and political reforms, participatory democracy and citizen engagement, transparency and accountability within institutions, political parties and public functionaries.

Shelly Mahajan is a Program and Research Manager with the Association for Democratic Reforms (ADR), with more than seven years of experience. Currently, she heads the Political Party Watch team, which analyses the official data on funding and expenditure of all registered political parties in India. She has authored a number of policy papers on political finance, the influence of money and muscle power in politics, and achieving responsive and accountable institutions. Shelly has a Master's in Politics (with specialization in International Relations) from Jawaharlal Nehru University (JNU), New Delhi. Her research interests include political parties, political finance, election integrity, election campaigns, electoral reforms, citizen engagement.

Hemant Singh is a Program Associate at the Association for Democratic Reforms (ADR) with over 16 years of experience in the social sector, focusing on political finance, transparency, and democratic accountability in India. He works on the analysis of political parties' financial disclosures, including income, expenditure, and contribution data, to support evidence-based research. He holds a Post Graduate degree in Political Science from IGNOU, along with One year Professional Diploma in Computer Applications Programming. His work focuses on promoting transparency, accountability, and the strengthening of democratic institutions through data-driven research and analysis, with a sound understanding of India's political finance framework.

Executive Summary

India's electoral democracy faces profound challenges from the pervasive influence of money, often termed "money power", which undermines political equality, transparency, and fair competition. The report attempts to undertake an assessment of India's political finance system, to understand its limitations and how it fares on parameters of electoral integrity, transparency, and equality. It traces how unregulated money often from illegitimate or opaque sources has become central to Indian politics, creating an uneven playing field where wealth dictates political power. Despite decades of reform proposals, the nexus between money, crime, and politics persists due to weak legal enforcement, inadequate regulation, and complete lack of political will. The report highlights that financial dominance—not ideology or public service—determines political success in India. The lack of transparency and accountability in political funding has fostered corruption, unequal access to political power, and policies influenced by vested interests.

The findings of the report were formulated by an in-depth literature review, analysis of official data in public domain, expert interviews and a validation meeting in New Delhi, all carried out between May 2024 and October 2025. It also covers some of the landmark judgements delivered by the Supreme Court and the High Courts that made invaluable contribution towards reforming the political finance system in a major way. Based on the findings and the broader Indian context, concrete recommendations are provided at the end of the Report for consideration by policymakers, political parties, the Election Commission of India, civil society organizations and other stakeholders for regulatory reforms or systemic changes. The Report pays particular attention to the main building blocks of political finance regulations, notably (a) monitoring and regulation of political parties; (b) private funding; (c) campaign expenditure; (d) reporting and disclosure requirements; (e) freebies and voter inducements; (f) search and seizure of illicit items; (g) paid news and political advertising; (h) oversight mechanism; (i) strengthening of the Election Commission and (j) sanctions. While the detailed recommendations are discussed in Chapter 7, some of the main findings and recommendations are highlighted below.

Regulatory Framework and Legal Gaps

The foundation of political funding in India is governed by the *Representation of People Act (1951)*, *Income Tax Act (1961)*, *Companies Act (2013)*, and *Foreign Contribution Regulation Act (2010)*. However, these laws fall short of ensuring a robust political finance framework. The report identifies seven key limitations: dominance of money and muscle power, lack of internal democracy within parties, absence of statutory backing to Election Commission of India (ECI) rules, inability of ECI to de-register defaulting parties, evasion of Right to Information (RTI) scrutiny, flouting of existing laws by contestants, and lack of political will to implement reforms. These systemic weaknesses enable financial opacity and unaccountable campaign financing.

Political Contributions and Corporate Donations

Individuals and companies can legally donate to political parties, with disclosure requirements for contributions above INR 20,000. However, party disclosures are routinely underreported, parties can hide donor identities through multiple small contributions or cash payments. Corporate funding, initially capped at 7.5 per cent of average profits under the *Companies Act*

(2013), became virtually limitless after the *Finance Act (2017)*, which also removed the requirement to disclose beneficiary parties. This change enabled opacity in political funding and undermined citizens' *Right to Know*, contrary to democratic principles of equality and transparency.

Electoral Bonds: Institutionalizing Opacity

The introduction of the *Electoral Bonds Scheme (2017)* marked a turning point in India's political finance regime. Under this system, unlimited anonymous donations could be made through bank instruments, bypassing public scrutiny and disclosure requirements. The scheme enabled untraceable political financing from corporations, including loss-making or foreign-controlled entities. The Supreme Court struck down the scheme in February 2024, deeming it unconstitutional for violating citizens' "Right to Know," but its legacy reflects severe damage to electoral transparency and equality.

Electoral Trusts and Unknown Income Sources

Electoral Trusts, established ostensibly to promote transparency, also suffer from weak oversight. They must donate 95 per cent of contributions annually, but there are no stringent penalties for non-compliance or disclosure failures. Political parties continue to report substantial proportions of income from "unknown sources," including donations below INR 20,000 and sale of coupons. Such untraceable funds undermine accountability and perpetuate corruption. Enforcement of reporting obligations by the Election Commission of India (ECI) and Central Board of Direct Taxes (CBDT) remains negligible despite clear statutory powers such as withdrawal of tax exemption for non-compliant parties.

Election Expenditure and Freebies

While candidates face spending caps, there is no ceiling on party expenditure. This loophole allows massive off-book spending under the guise of general campaigning, travel, and advertising. There is also mismatch between reported and actual expenditure, fueling quid pro quo arrangements with donors. The proliferation of freebies and inducements such as cash, liquor, narcotics etc further distorts voter choice. In the 2024 elections alone, the ECI seized illicit inducements worth INR 88,890 million between March 1 to May 18, 2024, highlighting the magnitude of the problem.

Governance, Enforcement, and Reform Needs

Despite numerous transparency guidelines issued by the ECI, including those under Article 324 of the Constitution, the absence of statutory enforcement and penalties renders them ineffective. The lack of accountability mechanisms for political parties, unlike other public institutions, undermines citizens' rights to information and fair representation.

Main Recommendations

1. Monitoring and Regulation of Political Parties and Candidates

- Enact a **comprehensive political parties' law** to regulate finances, internal democracy, and leadership accountability.
- Empower the **Election Commission of India (ECI)** to **de-recognize or deregister** parties that fail to comply with financial disclosure or court directives.
- Bring political parties **under the ambit of the RTI Act** and define **bribery and freebies** as corrupt practices under the RP Act, 1951.

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2. Private Donations

- Impose **donation limits** and require **full disclosure** of donors and parent companies behind electoral trusts.
- Ban **anonymous and cash donations**, mandating **digital transactions** for all political contributions.
- Require **independent audits** of party accounts, verified by the **CAG**, with reports made public.

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3. Public Funding

- Adopt **objective and transparent criteria** for the allocation of public funds to political parties.
- Continue **indirect in-kind subsidies** until broader transparency and accountability reforms are in place.
- Introduce **vote- or seat-based funding**, including **incentives for women and underrepresented groups**.

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4. Campaign Expenditure

- Set **enforceable expenditure limits** for parties and candidates to prevent financial dominance and corruption.
- Extend the **reporting period for election expenses** to begin from the **notification of elections**.
- Develop and enforce **specific rules for online and third-party campaign spending**.

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5. Reporting and Disclosure

- Mandate **complete, standardized financial disclosures** and reject incomplete submissions.
- Create a **public online database** for real-time disclosure of income, expenditure, and sanctions.
- Require **periodic expenditure reporting** by parties before and during elections.

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6. Freebies and Voter Inducements

- Impose a **total ban on freebies** (such as illicit items) used to entice voters during elections.
- Classify such inducements as **corrupt practices** under Section 123 of the RP Act.
- **De-register or disqualify** parties and candidates found guilty of distributing freebies.

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7. Search and Seizure of Illicit Items

- Ensure **public disclosure** of all election-related seizures, including names of involved candidates or parties.
- Mandate **state-wise reporting** of seizure cases and follow-up actions to the ECI.
- Establish a **dedicated ECI investigation/prosecution wing** for election-related seizures.

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8. Paid News and Political Advertising

- **Legally define paid news** and categorize it as a **corrupt practice** under the RP Act.
- Broaden **Section 126** to cover **digital and online paid content** and advertisements.
- Introduce **penalties and disqualification provisions** for publication or broadcast of paid news.

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9. Oversight and Monitoring

- Ensure **independent, politically neutral oversight bodies** free from government influence.
- Strengthen ECI's capacity to **monitor online and third-party campaign finance**.
- Foster **collaboration with digital platforms** for transparency in political advertising.

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10. Strengthening the Election Commission of India

- Align the **appointment process** of Election Commissioners with the **Supreme Court's 2023 directive**.
- Legally empower the ECI to **countermand elections** in cases of money power abuse.
- Enhance **capacity building and stakeholder dialogue** for effective electoral management.

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11. Sanctions and Enforcement

- Impose **monetary penalties and loss of tax exemptions** for non-compliance or falsified disclosures.
- Authorize the ECI to **withdraw financial privileges of defaulting parties**.
- Maintain a **public database of sanctions and penalties** to ensure accountability.

1 Introduction

Box 1. Country profile: Republic of India

Capital: New Delhi
Population: 1.44 billion
Number of registered voters: 969 million
Parliamentary system: Westminster style, bicameral: Upper House (Rajya Sabha) and Lower House (Lok Sabha)
Electoral System: First past the post (FPTP)
Year of the most recent national elections: 2024
Percentage of women MPs in the Lower House: 14 per cent
No. of registered political parties: 2,830
No. of political parties represented in the Parliament: 41
Main political finance regulatory framework: Representation of People Act 1951, Companies Act 2013, Foreign Contribution (Regulation) Act 2010, Income Tax Act 1961, Conduct of Election Rules 1961 and Transparency Guidelines of ECI
Main political finance oversight bodies: Election Commission of India, Ministry of Finance, Central Board of Direct Taxes (CBDT)

Democracy is not just an impression in political discourse. It is rather a means to an end and its precise litmus test lies on the fact whether citizens are able to determine their own destiny, intensity of their participation in key decision-making and how the government and its officials project a vision and respond to public perception, inspection and questions. *One-sided information, disinformation, misinformation and non-information all equally create an uninformed citizenry which makes democracy a farce when the medium of information is monopolised either by a partisan central authority or by private individuals or oligarchic organisation* (The Secretary, Ministry of Information and Broadcasting, Government of India and Others v. Cricket Association of Bengal and others 1995). Democracy implies good governance and therefore depends upon political equality and obedience to laws. For a democracy to survive, it is necessary that a state is run through credible and honest representatives democratically selected by political parties and elected by people. The harsh reality, however, of a democracy since its inception has been its continuous attempt and struggle towards 'free and fair elections', level-playing field amongst political contestants, probity in governance, transparency and accountability within parties and government, and democratic participation of each electorate.

India being the largest democracy in the world, elections are usually seen as a sanctified festival of hopes and promises, power and play, reality and illusion where each political contestant is seen as a rival outbidding one another to win an ultimate access to political power and authority. In the end, it is only a citizen who has to pay the costs of democracy. As per the IDEA Handbook Series on "Funding of political parties and Election Campaigns, "*it is always the citizens at large who pay for the costs of their democracy. They may do this in different capacities – as party members, as voluntary*

donors, as the providers of "interested money", as the consumers of goods and services, or as taxpayers" (Nassmacher 2003). If politics is measured in terms of service to the nation and its people and politicians are considered social workers, it is indeed appalling to witness the majority of political contestants in a highly competitive and amoral pursuit of power. This is mostly obtained through astronomical sums of money spent and collected both in the pre and post-election scenario. The idea of a vibrant democracy was upheld by the Supreme Court of India by observing "*democracy would be vitiated if results were to be arrived at not on their merits but because money played a part in the bringing about of those decisions. The form and trappings of democracy may continue, but the spirit underlying democratic institutions will disappear"* (M.C. Chagla 1958).

Political parties and candidates need access to money to engage with the electorate, communicate their goals and policies, and perform day-to-day tasks. To enable political participation, campaigning and representation, money plays a necessary role in any democracy. According to the International Foundation for Electoral Systems (IFES n.d.), 'Political Finance is how political parties finance their regular activities, how parties, candidates and non-contestants raise and spend money for election campaigns, and how this funding and spending is regulated and disclosed.' Despite the vibrancy of India's democracy, concerns have been raised regarding notoriously high costs of elections and the bitterly fought vicious campaigns. A near six-fold increase is observed in the total estimated expenditure (including the costs of conducting elections) incurred between 1998 and 2019 general elections (CMS 2019). India faces challenges in regulating political finance in a manner that would both contain the growing costs of elections and curb impropriety in their funding (Sridharan and Vaishnav 2016).

Fundamentally, political finance can strengthen the electoral process, and its equitable access can enable political parties and candidates to contest on a level playing field. Nonetheless, unregulated and skewed access to political funding can undermine the democratic values and integrity of elections. Excessive dependence on corporate money in the form of investment for influencing policy-making is a deeply worrying trend and can exacerbate the problems of money power in politics. The exorbitant costs of elections in India, coupled with unlimited access to illicit political funding, have made money a significant determinant of the electoral outcome.

Corruption in Indian politics has expanded its wings in a quest for political office and in the mechanics of survival in power. No democracy can run without political parties and no political party can fight elections without money. But the true test lies on the fact whether such money spent, assimilated or accumulated is legitimate or illegitimate. Jesse Unruh, a Californian Politician in the 1960s describes money in politics as *"the mother's milk of politics*" (Uhlig 1987). The effect of money in elections cannot be allowed to bypass citizens' rights by dictating the demands of rich candidates, political parties, corporates and other interest groups over the electorate. Corruption by means of black money, quid pro quo, anonymous sources of donations, unaccounted funds, illegal sources of money and unreported or unauthorized election expenditure is a direct infringement of citizen's constitutional rights guaranteed under Article 14 and 19(1)(a) of the Indian Constitution. The Supreme Court of India in 2014 had warned about the evils of money in elections by observing *"money power virtually controls the whole field of election and that people are taken for a ride by such unscrupulous elements who want to gain the status of a Member of Parliament or the State Legislature by hook or crook*" (Ashok Shankarrao Chavan v Madhavrao Kinhalkar 2014).

Historically, political finance emerged in India with the corporate class supporting India's pre-independence struggle for economic and political freedom. They were among the leading donors that secured some leverage over policy-making after independence (J. S. Chhokar 2024). The major source of party funding in India traditionally were private contributions and membership fees. Given that such sources could not substantially support party campaigning, access to corporate donations became essential to organise large-scale election campaigns needed in a country the size of India (Gowda and Sridharan 2012). Since then, India's political finance regime has evolved through various phases, witnessing the consolidation of a corrupt, opaque equilibrium between 1947-1990, beginning of reforms between 1990-2003 and emergence of greater transparency from 2003-2017 (Sridharan and Vaishnav 2018), followed by a period of legally mandated structural changes resulting in anonymity and absence of complete disclosure from 2017 until the beginning of 2024. Corporate donations were even banned in India from 1969 until 1985. In the absence of any alternate means for lawful funding, this ban was followed by the consolidation of an opaque, corrupt political finance regime in which political favors were traded for donations, popularly referred as "briefcase politics" (Kochanek 1987). (Sridharan and Vaishnav 2016) argue that this had a lasting impact on the trajectory of political funding in India and played a key role in the evolution of the money-politics nexus.

Globally, there are several international treaties and regional agreements calling for reasonable restrictions on campaign expenditures and greater transparency in political funding. Some initiatives have been taken at the regional level to work collectively on the issues of political finance, including the signing of the 2015 New Delhi Declaration on Political Finance Regulation in South Asia. It calls for strengthening the regulation of political finance (uneven access or use of money) across the South Asian region and elsewhere in the world which adequately ensures level playing among all political parties and ultimately serves the welfare of public rather than special interests. International IDEA estimates that 60 per cent of countries (including India) do not have any ceiling on spending by political parties. 50 per cent of countries have limits on candidate spending. 48 per cent have some form of limit on donations. World over 143 (79 per cent) out of 181 countries mandate reporting of finances by political parties on a regular basis (International IDEA n.d.).

Given that political finance poses many challenges, all countries have some form of regulations in place. Funding and spending limits, disclosure and reporting requirements are core tenets of any political finance legislation. However, it is the effective enforcement of these requirements that continue to remain a challenge. This report is an assessment study of the political finance regulatory framework in India. It reviews the effectiveness of political funding, expenditure provisions and proposes actionable recommendations as well as legal reforms. The report delves into the extent of implementation of the regulations, existing challenges including compliance and oversight mechanisms, reporting and disclosure requirements, funding and spending limits, role of civil society etc. This report will fill the existing knowledge gap regarding a comprehensive assessment of India's political finance regulatory framework using data and can prove useful for both scholarly research and larger public interest. At the same time, it is important to note that this study is limited to official disclosures by political parties and candidates which is only the tip of the iceberg and does not capture the complete scale of political financing which is outside the

purview of official reporting. Thus, a study on the political economy of black money in the context of Indian elections needs to be undertaken at a later stage.

The report relies on official data available on the website of the Election Commission of India in the form of official disclosures made by political parties, candidates through their various reports/affidavits, the annual reports of the Electoral Trusts, the Right to Information replies of the State Bank of India (SBI) to applications filed by ADR and the data available in the public domain after Supreme Court's judgment declaring electoral bonds (anonymous funding) unconstitutional in February 2024. For monitoring the campaign expenditure on social media, platform specific ad library data is accessed in addition to the official disclosures submitted by political parties and candidates after the conclusion of 2024 Parliamentary elections. The report relies on the Law Commission of India reports, various electoral committee reports, Central Information Commission orders and court judgments for suggesting reforms and recommendations.

The methodology adopted for this study is a mixed method – a combination of both qualitative and quantitative research methods including desk research, data analysis, interpretation of the relevant provisions of laws and key informant interviews. The authors examine the inferences drawn from data analysis against the prevailing literature as well as the established legal framework to identify areas of concern and arrive at appropriate remedial measures.

The report is structured in the following manner: Chapter 2 provides a brief overview of India's electoral and political system. Chapter 3 focuses on the political finance legal framework. It provides a detailed snapshot of the existing laws, rules, guidelines, the system in place for political funding, election expenditure, other issues and challenges that need attention. It also covers the legal lacunae in the present system on political finance. Chapter 4 analyses the official data on political party funding from various sources permitted under law and provides detailed findings. Chapter 5 discusses campaign expenditure, its scale, spending patterns, key trends and how it has evolved with the introduction of digital media. It also highlights the issues, challenges of monitoring digital campaign expenditure. Chapter 6 focuses on key landmark judgments delivered by the Indian Court of Law and how these verdicts changed the course of political finance in India and chapter 7 concludes with recommendations for future reforms.

2 Political and Electoral system in India

With an electorate size of 969 million, India remains by far the largest democracy in the world. The parliamentary form of government and the First Past the Post (FPTP) electoral system, a British legacy, were carefully adopted after extensive debates among the members of the Constituent Assembly of India. Major changes took place in India's party politics over successive elections which significantly transformed its one-party dominant system into a fragmented party system ushering in coalition politics (E. Sridharan 2010). Elections in India have remained affected by concerns of illicit election finance since the 1960s. This was followed by state regulation of the private sector, paving way for corruption and kickbacks for various state permissions during the 1970s which laid the foundation for the politics-business nexus (Kapur and Vaishnav 2018). Political parties rely heavily on wealthy candidates and corporate funding to win elections. The role of money in politics has directly impacted a country's political system and electoral integrity.

2.1 Political background

On 15 August 1947 India gained independence from British colonialism following a long-standing resistance movement based on the principles of non-violence, witnessing the sacrifices of many freedom fighters. This period observed violent riots, mass casualties and the displacement of millions of people. India's socio-economic indicators at the time were hardly conducive for a liberal democracy. Nonetheless, its founding fathers were determined to create a democratic state since its independence in 1947. Towards this end, the Constituent Assembly of India's role in framing the Indian Constitution and its Secretariat's role in preparation of first draft electoral roll based on universal suffrage was most significant (Shani 2018). In the words of academic Ornit Shani, Indians were voters before they became citizens.

Prior to 1948 when the Constituent Assembly was convened, the Government of India Act of 1919 and that of 1935 played a key role in laying down the preliminary framework for evolution of democracy in India. The Act of 1919 introduced direct elections in India for the first time. It permitted limited franchise on the basis of property, education and tax. The Act of 1935 led to the formation of the Constituent Assembly of India and an interim government which was to be formed with the support of major parties. The franchise was extended to 37 million people from 5 million (ConstitutionNet n.d.). The idea of universal adult suffrage was agreed upon right from the beginning of the constitutional debates. The Constituent Assembly met in December 1946 for the first time and the Indian Constitution came into effect in January 1950. As of September 2023, there have been nearly 106 amendments of the Constitution of India – one of the longest and most detailed constitutions in the world.

One of the earliest discussions on the cost of elections happened among the members of the Constituent Assembly back in 1948 (ConstitutionofIndia.net n.d.). They argued in favor of the need for the State/public treasury to bear election expenditure in a regulated, least expensive and

organized manner. They reasoned that election is a state affair, not a private concern and any unfair advantage to richer candidates must be avoided. In five years of its independence, India managed to hold the world's largest electoral exercise in 1951-1952 despite several challenges (Ganguly 2018). Since then, 18 parliamentary elections have been held.

India is a bicameral parliamentary democracy with a multi-party system. The Bharatiya Janata Party (BJP) and the Indian National Congress (INC) dominate politics at the national level and have led most of India's governments so far. Only these two National parties and the Bahujan Samaj Party (BSP) contest elections across the country (Kawoosa 2024). The 2024 General Election to elect all 543 members of the House of the People (Lok Sabha), for a five-year term, resulted in the victory of the incumbent BJP led coalition government after serving two terms as a single-party majority. The National Democratic Alliance (NDA) of 41 parties headed by the BJP won 293 seats while the coalition led by 37 opposition parties named I.N.D.I. Alliance garnered 234 seats (Aaj Tak 2024). There are a total of 131 seats (roughly 25 per cent) reserved for representatives of Scheduled Castes and Scheduled Tribes in the Lok Sabha (Lok Sabha Secretariat 2012). The Upper House is the Rajya Sabha whose 233 out of 245 members are elected by state legislatures through a single transferable vote system for a period of six years and a third of its members are re-elected every two years.

The President of India is the head of State and holds the highest elective office while the directly elected Prime Minister heads the executive responsible to the Parliament and for running the government at the Centre. Powers of the government are vested in the political office of the Prime Minister. The President is elected by the members of the both houses of the Parliament and those of the legislative assemblies of the states, through a system of proportional representation by means of single transferable vote.

India adopted a quasi-federal political system, which evolved into a three-tier government at national, state and local levels. The 73rd and 74th constitutional amendments in 1992 added the third tier of local self-government resulting in decentralization of power. Indian federalism has been shaped through interactions between political actors at the Centre and state levels, resulting from changing political discourse after every election. While Indian federalism is tilted towards a unitary system of government, prolonged periods of coalition governments and emergence of regional parties/actors have resisted trends of centralised federalism (Ghosh 2022). The recent General Election 2024 is a case in point among many others in the past.

For a large part of its existence since independence, India witnessed the consolidation of single-party majority governments from 1952-1967, called 'the Congress system' (Sridharan and Vaishnav 2016). This changed with the 1967 elections when Congress received its lowest ever vote share and faced a united opposition. The bipolarization of the state party system continued until 1989 and led to the fragmentation of the national party system (E. Sridharan 2010). Congress regained power in 1980 until it was defeated in 1989. The 1990s saw the emergence of coalition politics with different regional parties gaining prominence and paving way for a more diverse Parliament. In 1999, the BJP led coalition came to power and managed to form a stable government that lasted its full term, followed by the Congress led coalition governments in 2004 and 2009. In the 2014 and 2019 General Elections, BJP won a single-party majority by a huge margin and managed to break from coalition governments, which resurfaced after the 2024 parliamentary election results.

2.2 Electoral framework

As per the Election Commission's website, there are 2,830 registered political parties in India. As of March 2024, these include 6 National, 60 State (see annexure 1) and 2,764 registered unrecognized political parties (RUPPs) whose state-wise distribution is given in annexure 2. The registered parties are granted recognition at the state and national levels by the ECI on the basis of their poll performance in the last election according to criteria prescribed by it. This classification of parties determines their right to certain privileges such as a reserved election symbol, free copies of electoral rolls, free broadcast/telecast facilities on state-owned television and radio stations.

Political parties are registered with the ECI in accordance with the provisions of the Representation of the People Act, 1951. They are required to hold organisational elections and have a written constitution. The late 1980s marked the appearance of several new political parties in India and since then, the number has increased rapidly (Kawoosa 2024). The number of registered political parties increased nearly four times since 2004. From 753 parties in 2004, the number spiked to 2,359 in 2019 and it further rose to 2,830 in 2024. In December 2019, ECI announced the "Political Parties Registration Tracking Management System" (PPRTMS) which facilitates the process of parties' registration online and allows for tracking the real-time status of application by applicant. Several new parties register every year, many never contest elections or only once but remain on paper and continue to avail legal exemption from income tax. Majority of the 1,500 parties that contested the past 15 Lok Sabha elections contested only once while only 34 parties contested more than half of these elections (Kawoosa 2024). The ECI has repeatedly pushed for the power to deregister political parties to address this issue.

The superintendence, direction and control of the entire process for conduct of elections to Parliament, state legislatures and to the offices of President and Vice-President of India is vested in the ECI, which is a three-member permanent constitutional body (Gill 2006). At the State level, the election work is supervised by the Chief Electoral Officer (CEO) of the State under the overall control of the ECI (Gill 2006). State Election Commissions are responsible for administering the elections to the third tier of governance, which includes the Panchayati Raj Institutions and the Urban Local Bodies.

General elections for Parliament are held under the single-member district, open-list FPTP voting system or the simple plurality method. FPTP electoral system was adopted for its simplicity mainly to avoid fragmented legislatures and to help formation of stable governments given India's diversity and socio-economic realities in her early years (ACE Project n.d.). At the same time, the nature of such a system meant that minor changes in vote share often resulted in dramatic changes in the composition of the resulting Parliament (ACE Project n.d.) The FPTP system largely enables a two-party system at the national level due to a combination of factors, which cause votes to aggregate around the leading party and its principal opposition. It is also the systemic tendencies of the FPTP system that result in broad alliances in the states (E. Sridharan 2010).

India witnesses frequent cycles of elections; on average five to seven assembly elections take place every year including in the year of general elections. If we add the local body elections and bye-elections, the number of elections in a given year would increase substantially. A candidate contesting the parliamentary elections has to reach out to approximately 1.5 million to 2.5 million voters (Chhibber, Jensenius and Shah 2019). This has implications for the campaign expenses

incurred by candidates, political parties and the overall costs of elections. In 2019 General Election, parties and candidates spent an estimated USD 8.7 billion to reach more than 900 million eligible voters (Vaishnav and Mallory 2024).

The 2024 General Elections which were simultaneously held with assembly elections in 4 states were the biggest elections in the history of electoral democracy. In its press note dated 16 March 2024, ECI called it the biggest man management exercise in the world, mobilizing election machinery of more than 12 million officials. Nearly 746 parties contested these elections – the highest ever. This is a big jump from 53 parties in the first general elections in 1951, 363 parties in 2009 and 673 parties in 2019 Parliamentary Election (Election Commission of India n.d.). However, few of these parties manage to win seats in the central legislature. The total voter turnout was 642 million (65.79 per cent) with male turnout at 65.80 per cent and female turnout at 65.78 per cent (Indian Express 2024). 19 states recorded higher female voter turnout than their male counterparts, with Bihar, Jharkhand, Meghalaya, Arunachal Pradesh and Himachal Pradesh being the top states where women voters outperformed men (Indian Express 2024).

For the General Election 2024, Association for Democratic Reforms (ADR) analysed the background details of 8,337 out of 8,360 candidates in the electoral fray which included 7,538 (90 per cent) male candidates and 797(10 per cent) female candidates. 31 per cent of the total candidates were millionaires (assets INR 10 million and above) and 20 per cent declared criminal cases against them. The election results showed that money and muscle power were key determinants of electoral victory. Wealthy candidates with criminal antecedents had higher chances of winning compared to clean candidates who were not millionaires, establishing entry barriers and adversely impacting the idea of electoral contestation, which is discussed in chapter 5. In the current Parliament, 38 per cent of the parliamentarians are above 60 years. 46 per cent members have declared criminal cases and 93 per cent are millionaires. There are only 74 (14 per cent) female parliamentarians. Currently, there is no legislated quota for women in Indian Parliament. The Women's Reservation Bill 2023, to allocate 33 per cent of the seats in the directly elected Lok Sabha and state legislatures for women, was passed in 2023. It will come into force after a new census is conducted and the delimitation exercise (frozen until 2026) is completed.

ADR analysis further showed that BJP garnered 24.33 per cent of the total votes followed by INC's vote share of 8.40 per cent, All India Trinamool Congress (AITC) at 3.13 per cent, Samajwadi Party (SP) at 2.92 per cent. Compared to 2019, BJP's vote share fell by 7.05 per cent while INC's increased by 4.12 per cent. In terms of number of winners, BJP (239), INC (99) and SP (37) were the top 3 political parties. All the winners of the 2024 elections won with an average of 33.44 per cent of the total registered voters meaning that the winners represent an average 33.44 per cent of the total electorate. 49 per cent of the members elected to the 18th Lok Sabha won with a share of less than 50 per cent of the vote in the constituencies they contested.

Voters in India can officially cast "protest" votes. In 2013, ECI added a "none of the above" (NOTA) button to the electronic voting machine (EVM) which gives voters an option of rejecting all the candidates in their constituency while exercising their right to vote. However, there is no provision for a repoll even if NOTA gets the most votes (Vaishnav and Mallory 2024). The candidate with second highest votes is declared a winner. In 2024, NOTA earned less than 1 per cent (0.99 per cent) of the total vote, this is lower compared to 2019 (1.06 per cent) and 2014 (1.12 per cent) as per ADR's analysis.

Since 2014, social media platforms have become a ubiquitous part of Indian election campaigns. The 2014 general election was India's first social media election while many called the 2019 election as the "WhatsApp Election" (Sen, Naumann and Murali 2019). The use of digital media for election campaigning intensified in 2024 with rampant use of generative AI for campaign messaging. Internet also became a breeding ground for widespread misinformation, disinformation and deepfakes. A substantial amount of money was spent by parties on political advertising on digital media which is discussed in chapter 6 of this report.

Indian elections also face the issue of disenfranchisement of domestic migrant voters who find it extremely hard to afford a trip back home to cast their vote. They are enrolled in their home state but are residing elsewhere in the country due to work. India's 2024 voter turnout was roughly 1.23 per cent lower than 2019 (ADR 2024). Declining voter turnout is also attributed to the 'lost votes' of domestic migrants. ECI recognised that people from urban areas, young voters, and migrants formed a big part of the 300 million missing voters in the 2019 Lok Sabha election (The Hindu 2023). The Commission has been working on alternative voting mechanisms such as remote voting system.

The Representation of the People Act, 1951, which largely governs the current electoral process, was shaped by the idealism of our founding fathers in the afterglow of independence. India has evolved greatly since then and there is growing need to respond to the changing circumstances (J. Chhokar n.d.). While attempts have been made at modifying the current framework, several expert/committee recommendations on reforming the system for better are long pending. Some notable examples are the Indrajit Gupta Report on State Funding of Elections, the Dinesh Goswami Report, the 170th and 255th Report of the Law Commission of India on Electoral Reforms, and the Recommendations of the National Commission to Review the Working of the Constitution (NCRWC) submitted in March 2002 among many others. Evidently, there is no shortage of reform ideas. The lack of political will and a highly state regulated economy which incentivizes illicit funding are two major factors behind India's sluggish political finance reforms (Sridharan and Vaishnav 2016).

3 Political finance regulatory framework and legal lacunae

In Indian politics, money is used in heaps where financial dominance of those with financial superiority leads to electoral advantage. The Supreme Court of India has termed the role of money and its attempt to interfere with the exercise of an electoral right as *"tyranny over the mind"* (Shiv Kirpal Singh vs Shri V. V. Giri 1970). The 255th Law Commission of India (LCI) Report on Electoral Reforms had observed in its report that *"Money, often from illegitimate sources, results in "undisguised bullying" when it is used (both authorised and unauthorised) to buy muscle power, weapons, or to unduly influence voters through liquor, cash, gifts. Currency notes come first in containers, then in truckloads, moving to wholesale/small retail forms, and finally to suitcases and in people's pockets"* (Law Commission of India 2015). One of the core bedrock principles of a democratic process is political equality which means equality not only in terms of equal voting rights of the citizens but it implies equal rights of citizens in government decisions, equal consideration of interests and needs of all citizens and equality in other forms of political activity such as equal capability to contest elections, equal access to political campaigns, political contribution, equality before law and equal voice over government policies.

In 2002, the National Commission to Review the Working of the Constitution (NCRW) while studying the widespread prevalence of money in elections had stated, *"As a result, it becomes difficult for the good and the honest to enter legislatures. It also creates a high degree of compulsion for corruption in the political arena. This has progressively polluted the entire system. Corruption, because it erodes performance, becomes one of the leading reasons for non-performance and compromised governance in the country. The sources of some of the election funds are believed to be unaccounted criminal money in return for protection, unaccounted funds from business groups who expect a high return on this investment, kickbacks or commissions on contracts etc"* (National Commission to review the working of the Constitution (NCRWC) 2002). Therefore, for maintaining the sanctity of electoral and political process it is necessary that the whole process is fair, transparent and equitable and this can only be achieved when our laws and regulations are backed by legitimate sanctions and appropriately applied for their purpose. Such a system would require completely eliminating the nexus of money and crime in politics, financial transparency in the functioning of political parties, inner party democracy, holding political parties and its office bearers responsible for any action/inaction, strict implementation of laws and guidelines in place, impartial conduct of the key nodal institutions such as ECI and CBDT, judicious interventions by the courts and timely disposal of cases. Unfortunately, Indian electoral democracy is beleaguered by seven major limitations which has led to the widespread dominance of black money, bribery and quid pro quo corruption.
Limitation I is the monopoly of money and muscle that dominates Indian electoral process.
Limitation II is the vacuum in legislation dealing with functioning and monitoring of political parties in India i.e. inner party democracy within parties, internal elections of key office bearers, absence of civil/criminal liability or culpability in cases of contravention of laws.

Limitation III is the lack of statutory backing to the rules, regulations, instructions and guidelines given by the nodal constitutional agency charged with the conduct, direction and superintendence of elections i.e. the ECI.
Limitation IV is lack of ECI's power to de-register a guilty/defaulting political party.
Limitation V is political parties' reluctance to fall under the ambit of Right to Information Act,2005 in spite of the order in place.
Limitation VI is the complete contravention of current election laws, rules, regulations and guidelines by political contestants through various ingenious escape routes.
Limitation VII is the lack of political will to implement diverse reforms suggested by many constitutional committees, Indian Courts, citizens and other stakeholders over the years. Inspite of many brilliant remedies recommended to reform India's electoral system these answers have not culminated into legislative action and are lying in the backburner for more than 25 years.

3.1 Contributions to political parties

In India, contributions to political parties are permissible by individuals, companies and private entities. The disclosure of these donations to parties is regulated under Section 29 of the Representation of People Act, 1951 (RP Act, 1951). Section 29 (B) states that barring a government company, public sector undertaking (PSU) and foreign company, political parties can accept contributions from individuals or corporations. Section 29(C) requires disclosure of donations received through political parties and states that every contribution of INR 20,000 and above needs to be reported and disclosed by parties to the Election Commission. This provision, however, is not absolute and is subjected to sanction under Section 29(C) (4) of the RP Act, 1951. Section 29C (4) of RP Act, 1951 read with Section 13A of the Income Tax Act, 1961 (I.T. Act 1961) states that in case of any contravention in terms of non-reporting or non-maintenance of such accounts, the party will not be entitled to a tax exemption. This implies that if a political party fails to maintain a record of the sources of funding i.e. the names and addresses of the contributors, details of the amount donated in excess of INR 20,000, there will be a cancellation of 100% tax exemption given to the parties. Cash donations above INR 2000 is not permitted after the introduction of the Finance Act, 2017. Further, Section 80GGB of the I.T. Act provides that all corporate contributions to political parties and electoral trusts are entitled to income tax deduction, while Section 80GGC of the I.T. Act has similar provisions with respect to contributions made by individual persons to political parties or electoral trusts. Every elected candidate in a parliamentary constituency is required to furnish information relating to their assets and liabilities to the Lok Sabha Speaker or the Rajya Sabha Chairperson within ninety days of taking the oath for their seat in Parliament under Section 75 of the RP Act, 1951. Furthermore, every Member of Parliament (MP) in Rajya Sabha has to declare the details of pecuniary interest, business interest and other interests to the Chairman and this information is in the public domain. This information, though was made accessible in public domain only after an appeal was filed in 2008 by Association for Democratic Reforms (ADR) in the Central Information Commission (CIC), the highest authority under Right to Information Act, 2005.

Table 3.1 Contribution to Political Parties

	Existing Provisions	Governing Law
Contribution Limit	*Individual Limit* There is no such limit on individual contributions. *Corporate Limit* Corporate contributions to political parties are permitted provided the non-government company is at least three years old, its total contributions in any financial year do not exceed **7.5%** of its average net profits from the previous three financial years, and the contributions are authorized by a Board of Directors' resolution. **Corporate contributions to political parties or electoral trusts are eligible for deductions from total income.* *Limits on the Acceptance of Contributions* There is no limit on the amount a political party can accept in contributions. *Foreign Contribution* Foreign contributions to candidates or political parties are prohibited.	✓ S. 29B, RPA, 1951 ✓ S. 182(1), Companies Act, 2013. ✓ S. 80GGB, The Income Tax Act, 1961. ✓ S. 3 and 4, Foreign Contribution (Regulation) Act, 2010 (FCRA).
Contribution Disclosure	*By Political Party* Report detailing all contributions exceeding INR 20,000 received from any individual or company must be submitted to the Election	✓ S. 29C, RPA, 1951 ✓ S. 182(3), Companies Act, 2013. ✓ S. 13A, S. 80GGB and 80GGC, The Income Tax Act, 1961.

	Commission each financial year. *By company* Mandated to disclose the total amount contributed to political parties and the names of those parties in their profit and loss account for each financial year.	
Penalty	The Political Party fails to disclose: It will lose income tax exemptions. If a Company fails to disclose contribution: Fine which may extend to five times the amount so contributed and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months and with fine which may extend to five times the amount so contributed.	✓ S. 13A, The Income Tax Act, 1961. ✓ S. 182(4), Companies Act, 2013.

Pertinently, the principal objective of every donor donating to a political party is to have a say and an easy access to the power of an elected official. This is the sole basis of those contributing big chunks of money to their preferred political party and that future law maker eventually. Many companies in fact simultaneously donate to all the main parties in the same election so as to be in the game. While, most of the democratic nations are engaged in finding solutions to the problems of lack of financial transparency and accountability in political funding, the simple solution to these problems lies with the legislators and other enforcement agencies. Nevertheless, the need of the hour is that every penny distributed, collated and spent by political parties should be report and accounted and all such data should be there in the public domain for the necessary public glare. Wide range of solutions have been offered such as partial to total state funding of elections, creation of National Electoral Fund, private funding, donations through companies, subsidy to political parties, voluntary disclosure by donors etc. Needless to say, political contributions in India most certainly require greater financial accountability within political parties in the upkeep of their finances and honest transparency through disclosure of their finances in view of larger public interest. This implies that a) political parties should maintain their books of account on accrual basis; b) elements of financial statements comprising income, expenses, assets

and liabilities; c) principles for recognition of income, expenses, assets and liabilities; d) details of each penny collected or spent is in the public domain, e) proactive disclosure of finances by parties in their official websites, and f) political parties whether active or inactive follow accounting standards.

The current laws in place to a large extent have not been able to seize the egregious level of opacity in the financial disclosure of political parties. This certainly points the needle of suspicion towards the dubious sources of income generated by parties over a period of time and their influence in our electoral process. From time to time, political parties fail to provide in public domain complete donation details such as PAN, cheque/ DD number, name of donor, mode of payment, address in order to ascertain the authenticity of the reported disclosure so as to link the donors against their donations and hence trace the money trail. The primary reason behind such breach is the lack of respect and recognition of a citizen's '*Right to know*' about the affairs of the country and their fundamental prerogative to participate in their electoral process on an equal footing. In this context, it is worth highlighting the annotations used by the Supreme Court of India in 1996 in while holding purity of election indispensable to democracy the court stated, *"most politicians are not interested in honest money funding for elections. Honest money entails accountability. Honest money restricts spending within legally sanctioned limits. Honest money leaves little scope for the candidate to steal from election funds. Honest money funding is limiting. While the politicians want money for election, more importantly, they want money for themselves – to spend to hoard, to get rich. And this they can do only if the source of money is black. The corrupt politician groomed to become the corrupt minister, and, in turns the corrupt minister set about seducing the bureaucrat. THINK OF ANY problem our society or the country is facing today, analyse it, and you will inevitably conclude, and rightly, that corruption is at the root of the problem. Prices are high. Corruption is the cause. Quality is bad. Corruption is the cause. Roads are pockmarked. Corruption is the cause. Nobody does a good job. Corruption is the cause. Hospitals kill. Corruption is the cause. Power-failures put homes in darkness, Corruption is the cause. Businesses go into bankruptcy. Corruption is the cause. Cloth is expensive. Corruption is the cause. Bridges collapse. Corruption is the cause. Educational standards have fallen. Corruption is the cause. We have no law and order. Corruption is the cause. People die from poisoning, through food, through drink, through medicines. Corruption is the cause. The list is endless. The very foundation of our nation, of our society, is now threatened. And corruption is the cause"* (Common Cause (A Registered Society) vs Union of India 1996).

3.1.1 Corporate Contributions

Existing laws and regulations on corporate donations

A significant portion of donations to political parties comes through companies. Donations to political parties through companies is regulated under the provisions of Company Act, 2013 and Representation of People's Act, 1951. The old company law, i.e. the Company Act,1956 when enacted did not cover political contributions through companies. In 1960, Section 293A was introduced in the Company Act, 1956 which allowed companies to contribute to any political party or individual or body for political purpose five percent of its average net profits during the three financial years immediately preceding the contribution or INR 25,000 in a financial year, whichever

is higher. Section 293A also required companies to disclose the amount contributed in a financial year in their profit and loss accounts and furnish particulars of the total amount contributed and the name of the party, individual or entity to which or to whom such amount was contributed. The defaulting companies were to be punished with a fine which could extend to INR 5000. Section 293A was once again amended through Companies (Amendment) Act, 1969 which led to a complete ban on corporate contributions in India till 1985. Any default or contravention was punishable with fine which could extend to INR 5000 and in addition every officer responsible or such default was to be punished with imprisonment which could extend to three years besides being liable to fine.

In 1985, Section 293A was amended again permitting political contributions through companies. In addition, any direct or indirect expenditure by companies on political advertisement, publications for political party's benefit were also added under the ambit of political contributions. More restrictions were also included in addition to the earlier restrictions which included a) the company (which is not a government company) should have been in existence for more than three years; b) contributions could only be made when a resolution authorizing the contributions had been passed at a meeting of the Board of Directors; and c) the penal consequences were made more stringent, a fine extendable to three times the amount contributed and every defaulting officer of the company was punishable for a term which could extend to three years with fine. In 2013, Section 182 was inserted in the Company Act, 2013 that made three major amendments in Section 293A by a) increasing the cap on contributions from 5% to 7.5% of their average net profits, b) contribution can be made only once the Board of Directors issues a resolution authorizing the contribution at a meeting and c) more stringent consequences for violation were imposed which increased fine extendable to five times instead of three times prescribed in the earlier provision. In addition, Section 182 also barred a Government company and a company which has been in existence for less than three financial years from making contributions to a political party (The Company Act 2013).

Finance Act, 2017: era of Electoral Bonds

The era of political contributions saw a major cataclysm with the introduction of Finance Act,2017 passed as Money Bill thereby bypassing the Rajya Sabha (Upper House of the Parliament) which made major changes in the earlier provisions on donations to parties. These amendments in the Representation of People Act, 1951, Companies Act, 2013, Income Tax Act, 1961, Reserve Bank of India Act, 1934 were seen as a "*clear case of Constitutional fraud"* violating fundamental rights and a colorable exercise of power. Section 154 of the Finance Act, 2017 removed the previous limit of 7.5 per cent contributions that a company could make to political parties and made donations to political parties through companies limitless without any accountability. The requirement of companies to disclose the amount donated and name of the political parties to which a contribution was made was also removed. The companies were no longer required to disclose the break-up of contributions made to different political parties. To make things worse, changes were made in the Foreign Contribution Regulation Act (FCRA), 2010 via the 2016 and 2018 Finance Act to allow foreign companies registered in India to make political donations. The pernicious influence of big money and systematic corruption inevitably results in the worst form of political

corruption. This danger has been pointed out in telling words from the notes in Harvard Law Review, *"A less debatable objective of regulating campaign funds is the elimination of dangerous financial pressures on elected officials. Even if contributions are not motivated by an expected return in political favours, the legislator cannot overlook the effects of his decisions on the sources of campaign funds"* (Statutory Regulation of Political Campaign Funds 1953). It is therefore necessary to understand the impact of money power specially in the era of the repealed Finance Act, 2017 which had led to the exclusion of many contestants of undoubted ability and credibility from electoral contest. In a democracy, it is a dangerous scenario where undue importance is given to certain donors or where the big companies, industries, private entities and other interest groups are able to lobby to ensure either less stringent rules or no regulation in their trade. It is dangerous because such quid pro arrangement between companies and political parties stifle citizens' voice, erodes public trust and encourages corruption in every sector of public welfare by creating a situation of inequality and anarchy. The Supreme Court of India had noted the importance of citizen's participation in a democracy by stating, "*The small man's chance is the essence of Indian democracy and that would be stultified if large contributions from rich and affluent individuals or groups are not divorced from the electoral process. The democratic process can function efficiently and effectively, for the benefit of the common good and reach out the benefits of self-government to the common man only if it brings about a participatory democracy in which every man, howsoever lowly or humble he may be, should be able to participate on a footing of equality with others* (Kanwar Lal Gupta v Amar Nath Chawla & Ors. 1975).

Any political party or politician which receives incentives given by a corporate entity will have to respond to such inducements in some form once the government is formed. Any business or corporate entity that donates to a political party sees it as an investment and when the politician or the political party ascends positions of power the expectations of corporates are forthright where they expect a healthy return on such an investment. "*Money power casts a sinister shadow on our elections and the political payoff of undue expenditure in the various constituencies is too alluring for parties to resist temptation"* (Krishna Iyer J 1974). This quid pro quo arrangement between the parties, politicians and the corporate entities is a premeditated and the most sophisticated arrangement and in these schemes of things the only party at loss are the citizens whose interests end up losing to more powerful and hidden corporate interests.

While recently many countries like Brazil and Germany have completely banned corporate donations, in India it has been steadily institutionalized since 2013. Whether it is donations through companies directly to the parties or via electoral trusts or the earlier practice of unlimited and anonymous donations through electoral bonds and shell companies, the flow of money between political parties, politicians, law makers and companies has been incessant. It is a sad reality that Indian laws have not been able to break this free flow of money. Case in point is the Brazil Supreme Court which on 17.09.2015 in an 8:3 verdict completely banned corporate donations by holding such donations as unconstitutional because *"it is for citizens to elect their government, not the companies"* (The Guardian, 2015). The Supreme Court of Brazil had strongly acted against the impact and misuse of unprecedented volume of funds donated through companies in country's electoral process by ruling that *"The influence of economic power has ended up transforming the electoral process into a rigged political game, a despicable pantomime which makes*

*the voter a puppet, simultaneously undermining citizenship, democracy and popular sovereignty***.** One of the rationales behind the judgment was that *"all power emanates from the people, who exercise it through elected representatives or directly*". It also stated that from now on, the mandates of politicians will actually belong to their voters, and companies will be able to fully dedicate themselves to that which they know how to do best which is to create jobs for the population.

3.1.2 Electoral Bonds

The Finance Act, 2017 also introduced a system of electoral bonds to be issued by any scheduled bank for the purpose of electoral funding. This strange and new mechanism of funding political parties implied that the contribution reports of political parties were not required to mention the amount, source, names and addresses of those contributing by way of electoral bonds. The major implication of this form of funding through electoral bonds was that the political parties were legally permitted to not file details of contributions received through electoral bonds thereby putting a blanket ban on transparency and accountability on political parties' finances. Though the political parties could not receive donations in cash for amounts above INR 2,000 after the Finance Act, 2017, however the exemption to not record details of donations of INR 20,000 and above defeated the purpose of reducing donations in cash. Large amounts of donations could easily be camouflaged in the form of donations below INR 20,000. The amendments brought through the Finance Act, 2017 amended various provisions under the RBI Act, 1934, RP Act, 1951, I.T. Act, 1961 and Companies Act, 2013. Section 31 of the RBI Act, 1934 through Section 135 of the Finance Act, 2017, Section 29C of the RP Act,1951 through Section 137, Section 13A of the IT Act, 1961 through Section 11 and Section 182 of the Companies Act, 2013 through Section 154 of the Finance Act, 2017 to permit unchecked, unaccounted, anonymous form of funding to the political parties. The primary object of the Finance Act, 2017 stated by the government, while it was being introduced in the Lok Sabha on 1 February, 2017 as Bill No. 12 of 2017 was to curb the deep-rooted corruption and black money circulating within the political class. The reality however was that in the last 7 years since the inception of electoral bonds scheme, unlimited anonymous corporate/other contributions were made, till such time the scheme was held unconstitutional by the Supreme Court of India in February 2024.

Impact of Electoral Bonds on Indian Democracy

The Electoral bonds scheme institutionalized the use of unaccounted illegal money by permitting backroom lobbying and unlimited anonymous donations through foreign entities, big corporate entities and unknown/hidden entities**.** Till electoral bonds became a reality, the use of unaccounted money in Indian electoral system was illegal, at least on paper. The Finance Act, 2017 resulted in an unprecedented surge in funding through electoral bonds and corporates as there was no compulsion to disclose or limit to how much the companies could donate. The system of funding through the Electoral Bonds and corporates amplified creation of shell companies. Even the loss-making companies were qualified to make payments to political parties. In the age of digital dominance, electoral bonds were considered as a well calculated step for electoral gain and to turn black money into white. Electoral bonds scheme potentially certified black money white-washed into the bank accounts of a political party for the latter to spend as if it was clean and

honest money. This insidious routing of money had a legal cover since unaccounted money was also moving through bank channels. In addition, there was always an incumbency advantage for ruling party. Bank transactions for political parties were essential for survival in situations where cash could not be provided. Electoral bonds in that sense were a game changer since dominant parties were able to use such alleged white money received through electoral bonds on such formal sectors thereby having an upper hand to influence what voters read, heard and saw.

According to an investigative report titled **"**Electoral bonds: A lucrative secret investment?" written by Journalist Nitin Sethi *"I infer from my experience of reporting on electoral politics and corruption that the money flowing through electoral bonds is still not proportionately higher than the cash that oils Indian elections. So, why is it such a big deal then, you may ask? Because this is unaccounted and secretive money that political parties (and predominantly the BJP) now get to spend as 'white' or legitimate income through banks—to pay off wherever they can only pay through banks—coming out looking very clean when it is in fact funded by dubious and secretive corporates and individuals. For example, social media platforms such as Facebook would need to be paid through bank accounts to influence Indian citizens using political advertisement. Potentially, a political party could now source black and untaxed money from dubious corporate friends in India and abroad through electoral bonds and pay it through its bank account to Facebook or other social media platforms"* (National Herald 2023).

Electoral bonds denied citizen's Right to Know and facilitated quid pro quo corruption

The bonds created several layers of opaqueness as they were designed by the Union government in a way that the money could secretly pass several hands to reach the ultimate beneficiary political party. The political party and the corporates were lawfully permitted to not disclose the source of money in their balance sheets and accounts. Even an Indian subsidiary of a foreign company which had never carried out any legitimate business, could secretly funnel unlimited amounts to a political party. According to a report by Business Standard dated 21 June 2023, Vedanta Limited, a multinational mining company headquartered in Mumbai, subscribed electoral bonds to donate INR 1550 million to political parties in FY 2023, according to the stock exchange disclosures. The report stated that in the last five years, the company had donated INR 4570 million to political parties through these bonds. The report also stated that *during FY23, Vedanta Limited has been declared as the preferred bidder for various mining licences, namely Bicholim iron ore block in Goa, Sijimali bauxite and Ghogharpalli coal blocks in Odisha, and Kelwar Dabri in Chhattisgarh* (Business Standard 2023). Another investigative report by an International Investigative group '*Organized Crime and Corruption Reporting Project' (OCCRP); a global network of investigative journalists titled "Inside Indian Energy and Mining Giant Vedanta's Campaign to Weaken Key Environmental Regulations*" revealed backroom lobbying between Vedanta and the Union government where key environmental regulations were modified in favour of Vedanta who had been an important donor to the ruling party in India (Deshmane 2023).

Elections should be free from any pressure of money and muscle and they should be fought fairly. The term "*fair" denotes 'equal opportunity to all people*' and electoral bonds had corroded the very

concept of 'equality of treatment and opportunity'. In a participatory democracy, true and informed choice can only be reflected if there is a level-playing field among parties and candidates, there are no unfair and corrupt practices, no vote for cash and that 'Rule of Law' is preserved and protected in its letter and spirit. Given the anonymity provided to the donors and political parties, electoral bonds famously became the most popular form of donations thereby having a total stranglehold over Indian electoral process. Only the key dominant parties in the Centre and States were able to receive funding through electoral bonds. This deprived the weak or less dominant parties and many candidates of impeccable integrity of their right to contest elections on an equal footing. In addition, while the government, political party and donors were aware about the donations made through Electoral Bonds Scheme, it was only the common man, who was kept in the dark with no say whatsoever in the electoral democracy. In a democracy it is an unacceptable proposition if the parties who control the political executive be insulated from the demands of transparency or are able to escape the obligations and accountability that any democracy demands.

3.1.3 Electoral Trusts

An Electoral Trust is a Trust set up by companies for allocating the contributions received by it from companies and individuals to the political parties. The laws related to the electoral trust are governed under I.T. Act, 1961 and I.T. Rules 1962. On 31 January, 2013, the Central Government notified 'The Electoral Trusts Scheme, 2013' (Indian Government 2013). The guidelines laid down by the scheme of Central Board of Direct Taxes (CBDT) primarily outline the operational framework of the electoral trust which included the registration process, eligibility criteria, and compliance requirements for electoral trusts. Section 13B of the I.T. Act, 1961, states that contributions made to registered electoral trusts are eligible for tax exemptions, provided the trust adheres to the conditions laid out in the scheme. The income of an electoral trust is exempt from income tax if the trust donates 95% of its total contributions to the political parties within the same financial year. Similarly, under Sections 80GGB and 80GGC of the Act, donations made to the electoral trusts are exempted from income tax. Rule 17 C of the I.T. Rules, 1962 lists the functions of electoral trusts approved by the CBDT. As per the scheme, only such companies are eligible to make an application for approval as an electoral trust which are registered under section 25 of the Companies Act, 1956. As per the scheme, the electoral trusts have to apply for renewal every three financial years. Under Section 8 of the Companies Act, 2013 (earlier Section 25 of the Companies Act, 1956) electoral trusts are recognized as non-profit entities formed for charitable purposes, and their profits, if any, must be used to promote their objectives, without distributing dividends to their members. Section 29B of the R P Act, 1951 allows political parties registered under Section 29A to receive voluntary contributions from any person or company, excluding government companies and foreign sources. Contributions received through electoral trusts must be disclosed in the party's annual report submitted to the ECI. For administrative expenses, the electoral trusts are permitted to set aside a maximum of 5 per cent of the total funds collected during a financial year. The remaining 95 per cent of total income of the trusts is required to be distributed to eligible political parties. Electoral trusts are required to keep and maintain books of account including details of receipts, distribution and list of donors and receivers.

Table 3.2 Eligibility for contributions to an electoral trust

Who can give contributions to an electoral trust	Who cannot give contributions to electoral trust
An individual who is a citizen of India	An individual who is not a citizen of India
A company registered in India	A foreign entity whether incorporated or not
A firm (resident in India)	Other Electoral Trusts (approved under the Electoral Trusts Scheme)
Indian Residents of Hindu Undivided Family (HUF)	Contributors without PAN
An association of persons (Indian residents)	NRIs without a passport number

ECI's transparency guidelines governing Electoral Trusts

Before the scheme was launched there were no transparency guidelines governing the source of funding or disbursal of funds to political parties, routed through Electoral Trusts. There was a legal vacuum in respect to disclosure of contribution reports by the electoral Trusts. At present, electoral trust are required to keep and maintain books of account and other documents in respect of their receipts, distributions and expenditure to enable the computation of its total income. The book of accounts should comprise of the list of contributors and to whom the same have been distributed i.e. donor's name, address and PAN number, details of the amount and mode of payment received including the name and branch of the bank. Every electoral trust is required to get its accounts audited by an accountant and furnish the audit report in a specified format along with other particulars to the Commissioner/Director of Income-tax having jurisdiction over the trust, on or before the due date specified for furnishing the income tax returns of a company under Section 139 of the IT Act,1961. On 6 June, 2014, by invoking its wide powers and inherent jurisdiction under Article 324 of the Indian Constitution, the ECI notified certain guidelines for submission of contribution reports of electoral trusts. These guidelines were issued by the Commission with an objective to introduce transparency and accountability in the functioning of trusts which meant compulsory disclosure of information of the contributing companies and the beneficiary political parties.

Lacuna in existing laws and regulations on Electoral Trusts

The current laws and scheme dealing with electoral trusts however, need further work in terms of the fact that the names of electoral trusts currently, do not indicate the name of the company/group of companies which set up the trusts. Electoral trusts are essentially bodies whose primary function is to enable transparent funding of political parties and to regularize this method of funding. In order to have greater transparency regarding details of corporates which fund political parties, it would be ideal to include the name of the parent company in the name of an electoral trust. In addition, at present there is no provision to enforce compliance mechanism as the current law and the scheme lack penal consequences in cases of non-compliance. The ECI maintained that even though there are rules governing the functioning of electoral trusts, *there is no transparency requirement, either regarding source of funding or disbursal of funds to political parties, routed through Electoral Trusts. Therefore, there is a legal vacuum in respect of disclosure of contribution reports by Electoral Trusts"* (Gopalaswami 2024). Electoral trusts were founded with the

sole purpose of providing funding to political parties. It is therefore, of utmost importance that electoral trusts function in a transparent manner so as to promote accountability.

3.1.4 Unknown sources of income of political parties

The 'unknown sources' of income of political parties is the income declared by parties in their audit reports but without giving their source. This income includes 'donations below INR 20,000', 'voluntary contributions', 'sale of coupons', 'contributions from meetings' and other 'miscellaneous income'. Additionally, voluntary contributions are donations made to political parties below INR 20,000 whose details are not required to be disclosed by parties in their contribution statements by law. These voluntary contributions come from individuals, corporates, state units of parties, labor unions/associations etc. The mode of payment of such contributions are not revealed by parties in their annual reports.

Existing laws and regulations on unknown sources of income

The current election laws on political funding in India have given an escape route to the political parties by evading much needed public inspection in terms of the large funds collected and spent by them. The accounting and reporting norms in political party's finances under the current provisions are not stringent enough or at the very least, these provisions do act as a deterrence. These laws only to a certain extent seek to ensure accountability in party funds. The provision under Section 29(C) of RP Act, 1951 which permits donations of INR 20,000 and above to be reported by parties to the ECI has been highly misused by parties in terms of non-reporting and non-adherence. The disclosure limit of INR 20,000 given under Section 29(C) can be easily evaded by parties by writing multiple cheques below INR 20,000 each, or giving the money in cash. For the last 17 years, BSP has been declaring that it did not receive any donations above INR 20,000, hence, it did not declare any details of its donations received during this period since it claims that all its donations are below the threshold amount for reporting. No information is available in the public domain regarding Commission's action in this regard or to ensure that the reporting threshold doesn't become a tool to avoid disclosure completely. Sale of coupons also makes up 25.22 per cent of the total income from unknown sources. It must be noted here that coupons are one of the ways devised by parties to collect donations and are printed by party itself. There is no cap or limit as to how many coupons can be printed or the total quantum. Details of donors are not required for coupons with small amounts (say INR 5/10/20 etc). The only source of information regarding the coupon system is the party itself.

Current laws in place are hardly abided by the political contestants

These statistics palpably demonstrate another serious glitch. In addition to the lacunae in the present election laws, the big challenge also lies in the enforcement mechanism which has become optional rather than obligatory. The sanction clauses or the mandatory compliance, for example under the RP Act, 1951 and the I.T. Act, 1961 which requires compliance of the reporting and auditing of political party's funds by the parties is hardly ever applied by the ECI. Section 13A(a) of the I.T. Act, 1961 requires the political parties to keep and maintain "such books of account and

other documents as would enable the Assessing Officer to properly deduce its income therefrom." Section 13A (a) of the I.T. Act, 1961 states that the accounts of political party must be audited by an accountant. Section 29C of The RP Act, 1951 states that the treasurer of a political party or any other person authorized by the political party in its behalf shall prepare a report declaring the donations received from persons or non-government companies in each financial year. Section 29C (3) states that the said report must be submitted to the ECI before the due date of furnishing income tax returns under section 139 of the I.T. Act, 1961. Section 29C (4) provides that tax exemption under section 13A of the I.T. Act, 1961 will not be availed by a political party which fails to submit the said report. But the answers remain silent on the fact whether these provisions have been really used for the purpose for which they were enacted in the first place. The words of Section 29C of the RP Act, 1951 read with Section 13A of the I.T. Act, 1961clearly instruct that there will be no income exemption given to the parties who default in terms of non-reporting, incomplete/incorrect reporting or non-maintenance of their accounts. The ECI or the I.T. department are hardly seen using this provision as a compliance mechanism. The ECI's guidelines dated 29 August 2014 titled '*Guidelines on transparency and accountability in party funds and election expenditure*' state that a copy of the contribution report of a political party shall be forwarded to the Principal Chief Commissioner of Income Tax of the State concerned mentioning the date of submission of such report by the political party. The parties which have not submitted the contribution report in time shall be processed by the I.T. department for denial of tax benefit. However, in spite of various defaults in the political party's contribution reports and various reminders sent by the Commission to the defaulting parties about full and correct disclosure of political party's financial statements, the provision to cancel the tax exemption has never been used since the inception of the clause.

According to the **"***Guidelines and Application Format for Registration of Political Parties*' under section 29A of RP Act, 1951 issued by the ECI, the parties seeking registration are required to maintain their accounts on accrual system and to be annually audited by auditor on the panel of Comptroller and Auditor General of India. It further states that the audited annual accounts should be submitted to the Election Commission within 6 months of the end of financial year. Political parties notoriously flout the rules and regulations. Several instances of throttling of democratic principles by political parties is seen before, during and after the elections. But the real issue in question is that there is a law in place i.e. Section 29A of the RP Act, 1951 which empowers the ECI to take action against the registered recognized/ unrecognized parties which not only violate democracy but also the spirit of democracy. But it is rare that this provision is ever used for its real purpose even when the situation demands action against such culpability.

Laws are made for a purpose and therefore, their bold, correct and timely application by the enforcement agencies is not just crucial but binding. In situations where the law is silent or where there is a complete inaction by the executive, it becomes imperative that other constitutionally mandated bodies such as the Judiciary, ECI and other enforcement agencies like I.T. department, CBDT takes onus of curtailing the influence of unaccounted money in Indian politics. It is also equally crucial that officers of such authorities like the ECI perform or are able to perform impartially and independently. Article 324 of the Constitution gives sufficient and wide powers to the Commission for 'superintendence, direction and control of elections mandates ECI to act and

issue instructions and orders in areas where law is silent. In 2002, the Supreme Court of India had held in the clearest terms that *"till the Parliament applied its mind and came forward with appropriate legislation to give effect to the right available to a voter-citizen, the Court felt that the said goal has to be translated into action through the media of Election Commission, which is endowed with `residuary power' to regulate the election process in the best interests of the electorate"* (Association for Democratic Reforms & Ors. vs. Union of India & Anr. 2002). It is either impossible or it is an onerous process to link the donors against their donations and trace the money trail in a scenario where there is incomplete or no information about political party's finances. Nevertheless, for a common man who has neither the money, bandwidth or expertise, there is always a vacuum due to the unavailability of such crucial information in the public domain. There is an undisputable larger public interest in the disclosure of complete funding details of political parties as it would enable the citizen to make an informed choice before and after elections. The Preamble of the Right to Information Act, 2005 emphasizes that "*democracy requires an informed citizenry*". The demand therefore, of a robust law and highly public-spirited officers of the institutions dealing with transparency and accountability in political party's finances is rather a democratic imperative.

3.2 Election expenditure incurred by political parties and candidates

3.2.1 Limit of expenditure incurred by candidates

The law regulating and authorizing election expenditure by political parties and candidates is reflected under Section 77 of the RP Act,1951 and Rule 90 of the Conduct of Election Rules,1961. Section 77(1) of the RP Act,1951 casts an obligation upon every candidate at an election to keep, either by himself or by his election agent, a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his election agent between the date of nomination to the date of declaration of election result. Explanation 1 of Section 77(1) states that any expenditure incurred or authorized by a political party or by any other association or body of persons or by any individual (other than the candidate or his election agent) shall not be, and shall not be deemed as expenditure incurred by a candidate. Section 77 (2) prescribes particulars of the account. The limit on the election expenditure incurred by candidates is set out under Section 77(3) of the RP Act,1951 which is between INR 7.5-9.5 million for Parliamentary constituencies and INR 2.8 – 4 million for State Assembly constituencies. In smaller states the limit is a little less i.e. INR 7.5 million for parliamentary constituencies and INR 2.8 million for state constituencies. Violation of Section 77 amounts to a corrupt practice under Section 123(6) of the RP Act, 1951 and can result in disqualification for a maximum period of six years, both as a candidate and a voter, under Sections 8A and 11A.

Table 3.3 Election expenditure

	Existing Provisions	Governing Law
Expenditure Limit	No such limit on Political Parties. Limit is only with respect to Contesting Candidates. <u>For Big States*</u> INR 9.5 million for Lok Sabha constituencies. INR 4 million for Assembly constituencies. <u>For Small States*</u> INR 7.5 million for Lok Sabha constituencies. INR 2.8 million for Assembly constituencies. • Expenditure covers spending by the party and its supporters directly related to a candidate's campaign. • It does not include expenses incurred by party leaders for travel aimed at promoting the party's agenda. • It also excludes spending by the party or its supporters on general promotion of the party's program, provided no specific candidate is mentioned. *Expenditure will be calculated from the candidate's nomination date until the declaration of the result.*	✓ S. 77, RPA, 1951. ✓ Rule 90, Conduct of Election Rules, 1961 as amended by Conduct of Elections (Amendment) Rules, 2022 dated 6th January, 2022).
Expenditure Disclosure	A true copy of the election expense account for each contesting candidate must be submitted to the District Election Officer within thirty days of the returned candidate's election.	✓ S. 77 & 78, RPA, 1951 ✓ Part VIIA, VIII, Conduct of Election Rules, 1961.
Penalty	A candidate may be disqualified from voting or standing in elections for *six years* if convicted of corrupt practices (incurring or authorizing of expenditure in contravention of section 77 RPA, 1951) or for *three years* if failing to submit their election expenses.	✓ S. 8A, 10A, 11A, 123(6), RPA, 1951.

**The criteria for classifying "big states" and "small states" in the context of election expenditure limits are determined by the Election Commission of India (ECI). For elections, the ECI sets expenditure limits based on the population and geographical size of states. Larger states typically have higher expenditure limits due to their larger electorates and logistical demands.*

3.2.2 No limit on political parties' election expenditure

As per the current election laws in place there is no limit on the election expenditure incurred by political parties and this is where the ghost of corruption and money dominance in Indian elections stem. Section 77 of the RP Act,1951 does not expressly cover political parties. The only mention of parties is in the form of Explanation 1 to Section 77(1). In 1975, the Supreme Court had aptly stated *"it should be open to individual or any political party, howsoever small, to be able to contest an election on a footing of equality with any other individual or political party, howsoever rich and well financed it may be, and no individual or political party should be able to secure an advantage over others by reason of its superior financial strength*" (Kanwar Lal Gupta v. Amar Nath Chawla 1975). The present void in law, therefore, also defeats the purpose of prescribing limit on candidate's expenditure because in addition to candidate's expenditure within prescribed limits, the expenditure incurred on campaigning of a certain candidate is then financed by political parties, corporate or big donors and other well-wishers or interest groups in ingenious ways. Where the current law includes spending towards candidate's campaign by party and other supporters or agents, the expenditure incurred by leaders of political parties for travel for propagating the party's program is excluded. Even the expenditure incurred by parties or their supporters for general campaigning of the party's program is excluded as long as no specific candidate is mentioned. This trend is the root of all the complications because this is where the maximum money is seen being spent by political parties and even candidates discursively in the name of parties and star politicians. In the case, the Supreme Court of India had aptly described this drift as "*When a political party sponsoring a candidate incurs expenditure specifically in connection with his election, as distinguished from expenditure on general party propaganda, and the candidate knowingly takes advantage of it or participates in the programme or activity or consents to it or acquiesces in it, it would be reasonable to infer, save in special circumstances, that he impliedly authorised the political party to incur such expenditure; and he cannot escape the rigors of the ceiling by saying that he has not incurred expenditure but big political party has done so."* These observations by the highest court of law were not made in vacuum.

The existing law does not measure up to the existing realities (Gadokh Yashwantrao Kankrao vs E.V. alias Balesaheb Vikhe Patil & Others 1994). In 1975, the Supreme Court ruled that party spending on behalf of a candidate should be included in calculating candidate's election expenses in order to determine whether the election expenditure limit had been violated (Kanwar Lal Gupta v. Amar Nath Chawla 1975). In response, Parliament amended the RP Act in 1975 to nullify the Supreme Court's judgment. The Parliament amended Explanation 1 to Section 77(1) of the RP Act, 1951 in such a manner that party's and supporter's expenditures not authorized by the candidate did not count toward the calculation of a candidate's election expenses. This made the limit on election expenditures largely ineffective, as it was limited to a candidate's direct expenditures only, while the party and the candidate's supporters could spend without any limit. However, owing to the wide scale criticism the Explanation 1 to Section 77(1) was amended by the '*Election and Other Related Laws (Amendment) Act 2003'*. Presently, outside spending by parties and independent supporters must now be reported by the candidates and counted towards the expenditure ceiling. Yet, the fact remains that as long as the candidate is not obliged under law to report the huge money spend by parties on general campaigning, the whole object of prescribing candidate's

expenditure limit becomes redundant. This implies that the limits prescribed in case of candidates are never adhered to as the money spent by political parties on general campaign, star campaigners, expenditure incurred on vehicles and other transport, helicopter rides etc fall under the exempted category. This is where the maximum money is spent and this is the money which always escapes the reporting and disclosure norms. This practice of creating a system with zero reporting of various expenditure incurred by political contestants was termed as '*mere eye wash*' in the report submitted by the National Committee to Review the Working of Constitution (NCRW) in 2002.

3.2.3 Disclosure of election expenditure statements by candidates and political parties

Expenditure incurred by candidates under law

The disclosure norms for expenditure incurred by candidates find its place under Section 77 and Section 78 of the RP Act,1951 read with Rule 86 of the Conduct of Election Rules, 1961 where every contesting candidate has to maintain a correct account of their election expenses and lodge a true copy of the account of election expenses with the District Election Commissioner within thirty days of elections. Entire particulars of election expenditure statement of candidates are given under Rule 86 of the Conduct of Election Rules, 1961. In addition, Section 10A provides for disqualification of candidates upto a period of three years for failure to lodge correct accounts of election expenses and in case of expenses exceeding the prescribed cap. But in spite of the current laws, bypassing of these disclosure norms by candidates is generally seen in the form of delayed or distorted reporting, underground expenditure or escaping the expense limit in the name of a political party.

Lacuna in existing laws and regulations dealing with expenditure incurred by parties and candidates

A key concern relating to election expenditure laws is that apart from the loopholes in law, the ones in place are also not properly enforced sometimes. The election expenditure statements of several candidates and political parties are not available in the public domain within the stipulated time period. For candidates, the deadline for submission is within 30 days after elections. For political parties, the deadline is 75 days for assembly elections and 90 days for parliamentary elections. The ECI issues reminder letters in this regard, which can be accessed through filing RTI applications.

Another significant lacuna is the narrow scope of Section 77(1) of RP Act,1951 which applies only from the date of nomination to the date of declaration of results and therefore any expenditure incurred during the period other than mentioned under Section 77 is exempt from any limit or disclosure. In India it is evidently known that the political parties and politicians start campaigning even a year prior to the elections. Furthermore, there is a complete lack of proactive disclosure by political parties and candidates with regard to their expenditure statements. Unlike many countries like UK, Australia, Germany, Japan, Philippines in India, political parties and candidates

apart from submitting their statements with the ECI, put up the same information on their official websites for easy accessibility to general public.

Another crucial aspect seen is that election expenditure format prescribed by the ECI for candidates and parties. In addition to their own expenditure, parties are also required to report whether they have provided funds to individual candidates contesting election on their tickets. Candidates contesting elections are also required to declare the funds received by them from the parties. As per the analysis conducted by Association for Democratic Reforms (ADR), on a few occasions cases of mismatch were observed in the funds allocated by parties to their MPs, as declared by them in their election expense submission, and funds received by the MPs from their parties, as declared by them in their expense submissions. The reported expenditure of all political parties is just a fraction of the estimated total expenditure; a large part of the expenditure is actually incurred by the candidates. This shortcoming was revealed in an interview by Former Chief Election Commissioner Mr. N. Gopalaswami as *"Contesting elections requires deep pockets, and what candidates spend would be understandably over and above that spent by their respective parties. The enormity of the issue will be clear when we realize that the election expenses figures filed by the parties before the ECI are just a fraction of what the candidates spend and that the latter remains an opaque area."* The Former CEC further added, *"Anecdotal evidence suggests that approximately INR 500 million is spent by each of the candidates from major political parties, i.e. the serious contenders, for a Parliamentary constituency. This figure may vary from state to state. For 543 Lok Sabha seats accounting for approximately 4,123 assembly segments, in a five-year cycle of one election each to Assemblies and Parliament, the expenditure by all candidates put together will be upwards of INR 800,000 million, on a conservative basis. Major expenditure thus is at the candidates' level, not that of the parties"* (N 2024).

When political parties get rich, the politicians become richer. In the 2019 Lok Sabha, the average assets of 214 re-elected MPs fielded by various parties in 2019 was INR 186.4 million whereas during 2024 Lok Sabha elections, average asset of 214 re-elected MPs was INR 261.4 million. The average asset growth for the 214 re-elected MPs, between the Lok Sabha Elections of 2019 and 2024 is INR 75 million i.e. 40 per cent (Association for Democratic Reforms 2024). Dubious growth and multiplication of candidate's assets after each election has also become one of the major concerns in combatting corruption within political parties and politicians. The Supreme Court of India in February 2018 had ordered inclusion of 'sources of income' of candidate's and spouse in Form 16 i.e. affidavit filed by candidates at the time of elections giving details of their financial, criminal and educational background. As per standard procedure, the ECI refers all complaints regarding mismatch in affidavits filed by candidates to CBDT for any warranted probe and action. Any mismatch and falsification of an affidavit is dealt with under Section 125A of the RP Act, 1951 which prescribes a punishment of 6 months imprisonment with or without fine. In 2018, in a move to check the uneven growth of assets of candidates, the ECI had written a letter to CBDT asking for information on five specific categories (The Indian Express 2018):

Category A: Specific cases forwarded by the ECI
Category B: Cases witnessing phenomenal growth when the current affidavits compared to that filed during the previous elections, if any

Category C: Cases of winning candidates and the veracity of the affidavits compared to the returns of income, if any, filed by them
Category D: Instances where there was no PAN but movable/immovable assets disclosed are in excess of INR 50 million.
Category E: Cases where addition of new immovable assets above a threshold, say INR 20 million vis-a-vis last affidavit, if any, is witnessed

Political parties' unlimited election expenditure

The main derivation therefore behind the problems relating to election expenditure is i) exception given to the political parties to spend unlimited amount of money during elections which goes beyond the scope of scrutiny and ii) certain areas e.g. general campaign on party, expensive travel for propagating party's program etc where reporting is omitted. This is where the maximum under reporting or distortion between actual estimated spending is seen. The current provisions relating of expenditure suffer both vacuum and violation through an escape mechanism. In 1994, the Supreme Court of India had called out this lopsided regulatory system by observing, "*This lacuna in the law is, however, for the Parliament to fill lest the impression is reinforced that its retention is deliberate for the convenience of everyone. If this be not feasible, it may be advisable to omit the provision to prevent the resort to indirect methods for its circumvention and subversion of the law, accepting without any qualm the role of money power in the elections. This provision has ceased to be even a fig leaf to hide the reality*" (Gadokh Yashwantrao Kankrao vs E.V. alias Balesaheb Vikhe Patil & Others 1994). To club it with the fact that there is no law to penalize political parties or their office bearers in India makes the situation a real mayhem as parties are able to flout laws and regulations without the fear of any civil or criminal liability. Unregulated, under-regulated, un-reported, under-reported and non-reporting of financial statements of expenditure incurred by political parties and candidates restricts an electorate's right to equal participation in the electoral process of the country. This right includes right to question, audit and seek direct answers for any action or inaction by the law makers and political parties. Therefore, it is not only merely the information which is crucial for a voter to make an informed choice but it is also equally or rather more vital that such information in the public domain is accurate" (Gadokh Yashwantrao Kankrao vs E.V. alias Balesaheb Vikhe Patil & Others 1994).

ECI's guidelines on transparency and accountability in party funds and election expenditure matter

The 255th LCI Report highlights the ingenious ways adopted by parties and candidates to avoid public scrutiny about the financial transactions carried out before and during the election period. The reports states that "*Candidates and political parties have devised ingenious ways to disguise the illegitimate sources and expenditure of money by holding community feasts, organizing birthday parties and marriages, giving costly gifts, or topping up mobile phones. Money is sometimes transferred through cash packets slipped in newspapers, through rural moneylenders and pawnbrokers or by organizing 'fake aartis'* (Law Commission of India 2015). Though the ECI did try to remedy the situation or lacuna in laws in the form of transparency guidelines issued on 29-08-2014 titled "*Guidelines on transparency and accountability in party funds and election expenditure matter*" in which the

Commission had urged the parties to observe higher standards of transparency and accountability in respect to funds raised and expenditure incurred by them during both elections and in other times. In addition, the Commission had also issued guidelines on expenditure allocation in the General Observers Handbook. The transparency guidelines stated that i) On election expenses by parties the payment of any election expenditure over INR 20,000 should be made by the political parties via cheque or draft, and not by cash, ii) On election expenses by unrecognized parties although not required by law to submit their election expenditures to the ECI, unrecognized parties are required under these guidelines to file their expenditure statements with the Chief Electoral Officer of the State in which the party headquarters are located, iii) On giving money to candidates although there is no cap on expenditure by political parties for propagating their program, parties are required to adhere to the cap prescribed in section 77(3), RPA and Rule 90, Election Rules while providing "financial assistance" to candidates in their election campaigns. These amounts should be paid only by a crossed account payee cheque or draft or bank transfer, and not by cash, iv) all parties are required to maintain books of accounts based on the guidance note issued by the Institute of Chartered Accountants of India to enable the calculation of their party income. These books need to be audited and certified by qualified, practicing Chartered Accountants, and are to be submitted annually (as audited annual accounts) to the ECI by 31 October, with a copy of the Auditor's Report.

As per the 'General Observers Handbook', ECI had categorized expenditure incurred on advertisement published by political parties in three categories i.e. (i) Expenditure on general party propaganda seeking support for the party and its candidates in general, but, without any reference to any particular candidate or any particular class/group of candidates, (ii) Expenditure incurred by the party, in advertisements etc., directly seeking support and / or vote for any particular candidate or group of candidates, and (iii) Expenditure incurred by the party, which can be related to the expenditure for promoting the prospects of any particular candidate or group of candidates. But in spite of all this, the clever reporting by political parties makes it impossible for the Election Commission to estimate the actual spending which is enormously greater than what is reported. Furthermore, the fact that ECI' transparency guidelines have no statutory backing and there is no legal consequence for non-compliance by political parties only defeats the purpose. On 19-11-2014 issuing a clarification on its transparency guidelines, the Commission had to clarify to the parties that *its "lawful instructions" were issued to fill the legal vacuum in the area and are binding on all parties* (Election Commission of India 2014).

3.2.4 Freebies in the form of inducements such as distribution of prohibited items such as cash, liquor, drugs, narcotics and other precious metals

Elections in India is a massive affair where only once in five years an Indian voter gets to be the protagonist in the affairs of the country. It is perhaps the only time when a voter gains prominence in the eyes of every political contestant and therefore it is the only period when no stone is left unturned by the key players to appeal to an electorate. According to the Centre for Media Studies, the cost of a single vote in India has now reached an astonishing INR 1400 (Paliwal 2024). Wanton expenditure is carried out in the distribution of freebies by the parties in power, opposition parties

and candidates contesting elections. An Indian voter's bribe-accepting tendencies are subjugated to the extent that several devious ways to bribe voters for winning have been developed by the key political contestants over a period of time. Freebies that range from cash, liquor, laptops, TVs, sarees, refrigerators, mobile phones, bags, gas cylinders, stoves, mixer grinders, gold mangal sutras give an instant gratification to the voters. However, the major concern with doling out such inducements to lure voters is that such free gifts not only destroy the sanctity of elections but the money spent on freebies mostly comes from public exchequer's money. The rival contestants be it the political parties or the rich candidates will do everything in their capacity to outbid each other in the distribution of cash and other innovative gifts. Acceptance of such freebies is more prevalent amongst voters who are vulnerable and marginalised or who are barely able to get two meals in a day. A voter who is transiently content with such gifts usually discounts on an MP/MLA's public duty and obligations of the government in providing basic services like food, water, hospitals, education, shelter, power and roads to the people in their five-year tenure. The greed to receive freebies has been institutionalised with even the lower middle-class voters accepting/demanding household items/cash in return for their votes. The middle class/upper middle class are lured by cuts in the Income tax rates just prior to the voting. In 2011, in an effort to reduce the vices of freebies, the Madras High Court had directed the ECI to widely publish in the language known to the people of the State about the above provisions of search and seizure and when Model Code of Conduct (MCC) is in force (R. Pio Fernando vs. The District Collector Thiruvallur, District Thiruvallur & Anr. 2011). A candidate, his/her agent or followers are prohibited from carrying cash exceeding INR 50,000 in the constituency during the election process (Election Commission Vs. Bhagyoday Jan Parishad 2012). However, many other innovative ways have been adopted by political contestants for bribing the voters. This includes direct transfer of money to voter's bank accounts, distribution of mobile phones and laptops with default wallpapers of the party symbol or applications that take permissions to access the voter's personal data, merchandise with the political party's logo on it, mineral water in parched areas, motor pumps for farmers, customary bicycles for youth, religious supplies during festivals, gold Mangal sutra for every bride, mobile recharge etc. In 2019, Association for Democratic Reforms (ADR) conducted a survey across 534 parliamentary constituencies in which it was found that more than 40 per cent voters consider distribution of cash, liquor and freebies as an important factor behind voting for a particular candidate (Times of India 2019). On large scale seizure during elections, Former Chief Election Commissioner Mr. V.S. Sampath had said "*it is becoming a menace and assuming alarming proportions. It also shows how people are placing more faith on money than policies and programs*" (Beniwal and Pradhan 2019).

According to ECI Press note dated 15.04.2024, even before polling began for the 2024 Lok Sabha elections, a staggering INR 46,500 million was recovered in cash, drugs, liquor, precious metals and freebies, which came to about 34 per cent higher than the value of materials seized during the entirety of the 2019 election campaign (Election Commission of India 2024). Another ECI's Press note dated 18.05.2024, with about 3 weeks still left before the completion of the 2024 Lok Sabha elections, the ECI announced record-breaking seizures of inducements during the 2024 Lok Sabha elections. Alongside this announcement, ECI also published data on the types of materials seized, their quantities, and values. According to this data, between 1 March 2024 and 18 May 2024, a total of INR 88,890 million worth of inducements were confiscated, representing a staggering

increase of over 155 per cent compared to the INR 34,750 million seized during the 2019 Lok Sabha elections. Out of the total 88,890 million, drugs/narcotics alone accounted for 45 per cent with their seizures worth INR 39,580 million (Election Commission of India 2024). In a press conference dated 3 June 2024, the ECI stated that about INR 100,000 million worth of seizures were made during the complete election period – 1 March 2024 to 2 June 2024 of the 18th Lok Sabha elections (Deepala 2024). The seizure reports of Lok Sabha 2019 elections highlighting the amount of cash, liquor, drug/narcotics, precious metals, freebies etc. seized during the campaigning period each day was published by the ECI on 26 March, 2019. The total seizure reported by the ECI at the end of elections was INR 34757.6 million with drugs/narcotics topping the list at INR 12,799 million followed by precious metals (gold etc.) at INR 9871.1 million, INR 8440 million worth of cash, INR 3040 million worth of liquor and other items or freebies worth INR 600 million. During Lok Sabha 2014 elections, Election Commission had seized around INR 3000 million of unaccounted cash and more than 17,000 kg of drugs and huge amount of liquor, arms, etc. (Deepala 2024).

Lacuna in existing laws and regulations dealing with freebies as inducements to entice voters

One of the main predicaments seen with the freebies is the 'election manifestos' released by the political parties before the announcement of the elections. An election manifesto serves as a reference document for the voter and normally contains the declared ideology of a political party and its policies and programmes for the country/State and its people at large. As per the ECI's website, election manifesto is defined *as a published declaration of the intentions, motives or views of an individual, group, political party or Government, whosoever issues it*. The current predicament with the election manifestos is that the promises of free gifts have been made part of the manifestos by political parties and the ECI has no authority to regulate any act which is done before the announcement of elections. The ECI on 12th August 2013 held a meeting with representatives of National and State recognized political parties on formulation of guidelines for election manifestos. During the consultations, while some political parties supported the issuance of such guidelines, others were of the view that it is their right to make such offers and promises in manifestos (Press Information Bureau 2013).

In 2014, after the Supreme Court's directions (S. Subramaniam Balaji vs. State of Tamil Nadu and Ors. 2013), the guidelines on Election Manifestos were implemented as part of the Model Code of Conduct (MCC) issued by the Commission during elections and specifically prohibited parties from making promises in their manifestoes that would exert an undue influence on voters. These guidelines were made part of the MCC. Instructions under MCC acts as a "reservoir of powers" by filling up the vacuum left by the existing election law. Guidelines under MCC are issued by the Election Commission to ensure sanctity of elections and level playing field between the contesting parties and candidates in elections. The fountainhead of the powers under which these guidelines under MCC are issued falls under the ambit of Article 324 of the Indian Constitution which empowers the ECI to hold free and fair elections. During the MCC period, except for certain public welfare schemes and policies, it is mandatory for the government including every government department, authority or agency to take prior permission of the Commission before announcing any new scheme, policy or law etc. The political parties and contesting candidates are strictly required to follow the lawful instructions of the Commission while the MCC is operational.

However, the very fact that the powers of the ECI are not considered binding in nature and MCC is not enforceable by law or its disobedience doesn't lead to de-registration of parties, these guidelines are observed more in breach than in compliance.

The increasing trend of having law makers in exchange for cash and free gifts amounts to bribery. Bribery in elections is not just an attempt to manipulate the voters to influence their choice but it is also a very serious offence that is shaking the very concept of 'free and fair elections'. Section 123(1) of RP Act, 1957 and 170/173 of Bharatiya Nyaya Sanhita, 2023 (BNS) define bribery as a corrupt practice as well as an electoral offence and therefore such an offence should be taken seriously and stringent action should be taken by the Election Commission so that no one can escape with impunity. Even though bribery is a serious offence, yet ECI seizes millions of cash and other freebies during every election. The Commission has on a few occasions resorted to its wide powers under Article 324 of the Constitution to combat the widespread incidents of misuse of money, rampant attempts to bribe electors and quid pro quo corruption. In April 2017, under the powers vested in Article 324, the ECI had cancelled the Radha Krishna Nagar Assembly by polls in Tamil Nadu after a huge amount of cash was seized (The Hindu 2017). However, the phenomenon of bribery in India is so severe and ingrained that the Commission considers bribery as one of the biggest challenges in ensuring free and fair elections. Another issue is the lack of stringent action taken by the enforcement agencies against those suspected of giving bribery (Khandekar 2024). The Election Commission rarely pursues the cases of bribery once the elections are over. Most of the times the Commission returns the goods and the cash seized to the owners (The Times of India 2019). In one of the pending petitions before the Supreme Court of India, the Commission submitted before the Apex Court that it cannot regulate promises of freebies. Upon ECI's submission, the Court observed that "*God save the Election Commission of India if it's saying that we can't do anything when the electorates are sought to be bribed through freebies…We are suggesting that this (freebies) has to be controlled. How it is going to be done needs to be examined"* (Ashwini Kumar Upadhyay vs. UOI 2022).

Another malfunction with search and seizure of cash and other forms of inducements is the lack of information relating to the compliance of the Special Operating Procedure (SOP) devised by the Commission. The Commission does not publicize on its official website complete details of seizure cases along with the final status and action taken against such defaulting candidates and political parties. The seizure reports released by ECI at the end of every election lack crucial information about action taken against such seizures along with the outcome of such cases. There is a complete void in information such as i) complete details of State-wise and date-wise seizures of cash, liquor, drugs/narcotics, precious metals and all other prohibited items made by the ECI during elections; ii) complete details of the total amount of cash intercepted/seized as well as released to persons concerned along with the names of such persons; iii) names of the political parties, candidates/their agents who were caught in possession of illegal items such as cash, liquor, drugs/narcotics, precious metals and all other prohibited items; iv) details of action taken by the enforcement agencies against such defaulting candidates and political parties; v) number of seizure cases that were disposed of without taking any action; vi) seizure cases that were converted into active legal cases; vii) current status of such ongoing cases of seizure.

In another ongoing petition before the Supreme Court of India, (The State of Karnataka vs. Prathik Parasrampuria 2016), the court is examining the larger issue of what happens to cases of cash

seized once the polls are over. During one of the hearings the court had asked the Central Government to come up with a *status report on all the cases related to cash seizures made during the 2014 and 2019 Lok Sabha elections within 24 hours.* But the court found that the information provided by the Centre regarding search and seizure of cash and other items *was grossly inadequate* (The State of Karnataka vs. Prathik Parasrampuria 2017). The court noted that after numerous elections since independence, there has been no thought or action taken by the governments and enforcement bodies to end this problem. It stated:

> "*people who use the power of money during elections are in safe hands as despite 70 years of Indian Independence, Income Tax authorities of India are yet to devise a mechanism for state-wise tracking of illegal cash seizures during elections, as a result of which, even if the cash gets caught, the candidate who sponsored it always escapes. That is why people who spend loads of money during elections are not worried as only the money is lost, which can be recovered after elections are won. It is sad that after 60-70 years after Independence, we are still trying to improve the system"* (DNA 2019)*.*

Pertinent questions raised by the Supreme court to various constitutionally mandated agencies:

I. To CBDT, Ministry of Finance and I.T. Department:

Question: What is the mechanism to deal with cash seizures by the EC and whether any case ends up being prosecuted by tracking the source of the illicit money?

Answer: *The money seized during elections is not classified as election- or non-election-related and hence an account of it is not separately maintained*.

II. To all States and Union Territories: All States and Union Territories were asked about how they handled 4,937 cases of illegal seizures lodged by the Election Commission during the 2014 Lok Sabha elections. In addition, each state and UT was directed to file status reports and affidavits on cases pertaining to their jurisdictions. Till date only a few states have shared their status report i.e Karnataka, Uttar Pradesh and Union Territory of Andaman and Nicobar Islands have filed their respective counter affidavits in the matter. There is no information available as yet for the rest of the States and UTs.

III. To the Election Commission of India: The court found the information submitted by the Commission *"very unsatisfactory".* The court stated*, "It does not show the specific offence, status of case and the complaints lodged in 2019 ongoing elections. Once elections are over, nobody bothers. If you (EC) are an independent authority, what prevented you from asking the status of cases from states/UTs? After all, the ECI is accountable to the people."* The Court also stated that it is left to the concerned states to investigate and prosecute the cases, and there is no follow-up by the EC as it does not have any investigation or prosecution wing.

3.2.5 Paid News and Political Advertisements

'*Free and fair elections'* necessitates' *free and fair opinion'* of an electorate. In the age of T.V., internet and social media political contestants have also advanced their style of networking by building not just an interactive and but rather an impactful association with the citizens. The kind of influence various means of broadcasting put on the minds of the viewers, listeners and readers is rather incontrovertible and there is no other medium of influence which is as effective and efficacious as what is shown and read through various medium of broadcast. The problem, however, lies on the fact that such association over a period of time has transpired into less of an interaction and more like marketing a product. There is nothing wrong in circulating ideas, beliefs, vision, achievements by political contestants to the electorate. The problem arises once you realize that such ideals can only be communicated to the citizen by paying a price and therefore the highest bidder in a political clash will always have an upper hand.

Paid news and political advertisements Vs. Free and fair elections, level playing field

Paid news and political advertisements have become a systemic feature of Indian elections. These in itself are not a problem, the problem is that such news and endorsements by moneyed political parties and contesting candidates entirely circumvent the notion of 'free and fair elections' and 'level playing field'. It is not just the information which is expressly shown as news or advertisement, the issue is the propensity of selling the distorted facts, paid content, paid editorials, exclusive stories, front page, negative coverage for opponent etc by the richest bidder. Money and manipulation become key drivers in such cases. The line of distinction between paid news and political advertisements have become so blurred over the course that it has become increasingly difficult for the voters to know the difference. *It is a fact that news driven by consideration, or advertisements thinly disguised in the form of news, have grown exponentially over last few decades in the arena of electoral politics* (Law Commission of India 2015). In today's digital age, paid news and political advertisements have turned into dishonest ways of arm twisting the masses and achieving the concealed propaganda. This effects voter's ability to form a 'free and fair opinion' and make an 'informed choice' during elections in a democracy. The increasing role of money during campaign expenditure and leverage given to the candidate under current laws to distort their election expenditure statements only add up to the menace of paid news. *Candidates pay huge amounts of money in a 'package' deal for cooked up favourable information to create a false atmosphere for influencing electorate* (Sridhar 2013). According to the ECI's Handbook for Media, for General Election to the 17th Lok Sabha 2019, there were 829 cases of paid news in which 3,177 notices have been issued (Election Commission of India 2019).

In 2004, the Supreme Court**,** had passed an order stating all the political advertisements proposed to be issued on TV Channels and Cable Networks by any registered political party/any group or organization/ association/ individual candidate shall be pre-certified by the designated certification committee at various levels to be constituted by the ECI (Ministry of Information and Broadcasting Vs. M/s. Gemini TV Pvt. Ltd. and Others. 2004). The order authorized the ECI to constitute the Committees for the certification of political advertisements. The Commission in compliance of the Supreme Court order had set up a 'Media Certification and Monitoring Committee' (MCMC) at District level and State Level to monitor media for paid news and other violations besides certification of advertisements. This implied prior permission to be taken before telecast/broadcast on TV and cable network/cable channels, year-round advertisements in cinema

halls, radio including private FM channels, audio-visual displays in public places, advertisements in e-newspapers, use of bulk SMS/voice messages, advertisements on social media and internet websites, print media by any registered political party, contesting candidates, group of organization/ association or any individual. The Chief Election Officer is also empowered to accept and recertify the advertisements from any political party, irrespective of the location of the headquarters of the party. ECI's Handbook dated 1 Feb 2024 on Media Matters for CEOs & DEOs provides explanation on Paid News and Political Advertisements. ECI's Compendium of Instructions on Election Expenditure Monitoring issued in January, 2014 provides expenditure monitoring mechanism by appointment of MCMC, Expenditure Observers, Assistant Expenditure Observers, Video Surveillance Team, Video Viewing Teams and Expenditure Monitoring Cells in every district.

In 2019, the ECI barred NaMo TV from airing political content that had not been pre-certified by the Election Commission (Dhingra 2019). In addition, as per the norms and guidelines issued by News Broadcasting Standing Authority (NBSA) the news channels are not only required to disclose any political affiliations, either towards a candidate or a party but they are also duty-bound to remain impartial. However, the biggest challenge that remain with all these guidelines are that they are not binding in nature and hence hardly complied (News Broadcasting Standing Authority 2011). Another loophole in the present system is that there is no disclaimer provided by the host while broadcasting any paid content or sponsored news. At present any paid footage, segment, programme or any advertisement, promotion or advertorial broadcasted by the news channels are not conspicuously distinguished as paid content or sponsored news so that the viewers i.e the voters are not able to clearly distinguish between paid content and real news and therefore are misled into believing that such content is part of the news report. This is a serious glitch as this void in law where misleading news or advertisements masquerade as real news not only influence voter's 'Right to Information' enshrined under Article 19(1)(a) of the Indian Constitution but such void has also replaced the candidates with merit to the ones who are moneyed. Another harm is the propensity of misinformation and malice that such paid disingenuous content carries specially when elections are in full swing.

Lacuna in existing laws and regulations dealing with paid news

Another major predicament is that current law in India does not specifically define 'paid news'. The only accepted definition of 'paid news' by the ECI is the one given by the 'Press Council of India' which describes paid news as '*as any news or analysis appearing in print or electronic media for consideration in cash or kind*'. This definition has been accepted by the 47th report of 'Standing Committee on Information and Technology of the Ministry of Information and Broadcasting' (PRS Legislative Research 2013). The 255th LCI report defines political advertisements as '*Political advertising is constituted by activities, which relate to promoting an electoral candidate or a political party or a policy proposed by a particular party, in order to appeal to the public* (Law Commission of India 2015). At its core, political advertising does not exclusively relate to elections, political parties or candidates.' The Election Commission has distinguished paid news and paid content by suggesting that *the latter must be unambiguously marked as 'paid advertisement'. This implies that political advertisement will be one which is not presented to the electorate in the garb of news or editorial content, but is clearly discernible as an advertisement.* At present, there is no law to regulate the menace of paid news and political advertisements in India. There is no blanket ban on paid news and there are no exclusive provisions that deal with the issue of paid news or political advertisements. Paid news is neither considered an offence nor corrupt practice to be included as

a ground for direct disqualification under the present election law i.e the RP Act,1951. Section 126 is the only direct law dealing with certain issues relating to paid news. Section 126 of the RPA prohibits campaigning and canvassing activities of political parties and contesting candidates in the nature of public meetings, public performances, processions and advertisements through cinematograph, television or similar means for a period of 48 hours up to the time fixed for the conclusion of the poll. Under Section 126(1)(b) releasing advertisements on TV, radio and other multimedia formats are banned for a period of 48 hours up to the conclusion of the poll.

In the new digital age where various interlinked platforms are connected, Section 126 remains inefficient as it does not cover all formats of various instances of paid news and political advertisements. Section 126(3) of the RPA defines an "election matter" as any matter intended or calculated to influence or affect the result of an election. The 255th LCI Report had also suggested widening the scope of Section 126 so as to include all formats of instances of paid content under the ambit of Section 126. Another provision i.e Section 127 contains disclosure clause in relation to the printing of pamphlets, posters etc and mandates disclosure of names and addresses of printer and publisher. This clause also mandates a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known. Furthermore, the printer is also obligated to send one copy of the document along with one copy of the declaration to the mentioned authorities. Section 127A defines pamphlets, posters, placards, hand-bills or any other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates but does not expressly mention the term newspaper.

A bare reading of Section 77(1) of Representation of the People Act, 1951 only suggests that the paid news cases may be taken into account from the date of filing of nomination by the candidate. Section 176 of Bharatiya Nyaya Sanhita, 2024 (BNS) prohibits illegal payment in connection with an election but the punishment is scarcely stringent as the offence only amounts to just fine which may extend to five hundred INR. These provisions are insufficient to cover various issues relating to paid news and disguised political advertisements. Case in point is Section 127A of RP Act, 1951 which covers various material like posters, pamphlets etc but misses out on defining newspaper or any hidden material on paid content. The ECI had therefore in its instructions had specified that any paid content including newspapers will be included in the category of '*other documents*' mentioned under Section 127A RP Act, 1951 (Election Commission of India 2014). Another aspect is the presence of multiple bodies like Information and Broadcasting, NBSA, ECI's certification committee etc which makes it confusing to identify the final deciding authority in cases of irregularity.

Elections in India is an expensive affair where only the rich contestants have a better chance at winning. This victory comes at a cost in the form of unaccounted and undocumented flow of money, unrestricted and incorrect erroneous elections expenditure by political parties and candidates during pre and post-election era. In this new digital era vices such as dubious sources of income of parties and candidates and under reported election expenditure has increased manifold. This money is ultimately a tax payers' money. The dissemination of information through news reports, advertisements or any other material should enable voters to form an informed choice. These mediums which serve as an essential tool of information should never be allowed to misinform or manipulate the citizens due to the present vacuum in law. In the new digital age, any unrestrained paid content print, electronic or digital can lead to misinformation which in turn can lead to a distorted image of a future law maker. The prevalence of corruption and black money

in Indian electoral process combined with an unrestrained and unsanctioned paid content by big media houses and rich political contestants has created a real mayhem which has plagued India's efforts towards probity in governance and free and fair elections.

3.2.6 Digital campaign expenditure

Digital media and its influence on elections have become evident with every passing election. Elections today are widely contested on Facebook and WhatsApp, where sophisticated digital campaigns, with targeted political messages are rolled out to help political contestants reach far more people in comparison to any other medium. These include the hiring of myriad local influencers, data and digital communications firms, and advertising companies for creative campaigns. Despite the fact that the internet and social media have become the hotbed of electoral campaigning and political activity, there is no specific legislation guiding online spending for electoral purposes in India. The term "online political advertisement" is also not defined by either the ECI or in the Representation of Peoples Act. Responsibility has fallen on the digital platforms to define the term and regulate political advertising as they deem appropriate. Unlike the 'traditional', offline campaign methods which are guided by a more elaborate framework of regulations (including spending limits, bans on contributions from certain sources such as corporations and foreign donations, allocated broadcasting airtime), regulation of the online campaign finance is still evolving and is nearly absent in many countries (Agrawal, Hamada and Fernandez Gibaja 2021). Globally, only 8.29 per cent countries have limits on online media advertising spending by candidates, 6.08 per cent have for parties and 1.66 per cent have for third parties in relation to election campaigns (International IDEA n.d.).

The EC has been issuing instructions and guidelines from time to time with the objective to regulate the use of digital media during elections, in the interest of transparency and level playing field. The ECI defined social media as a means of interaction among people on which they create, share or exchange information and ideas in virtual communities and networks. In 2013, the EC made it clear that existing legal provisions related to election campaigning apply to social media in the same manner in which they apply to any other form of election campaigning using any other media. The instructions contained in EC's 25 October 2013 order pertained to five key features: 1) Social media by definition falls under the category of 'electronic media' and all political ads on them require pre-certification, 2) Candidates to provide details of their authentic social media accounts in Form-26 while filing nominations, 3) All campaign related expenditure on social media to be incorporated in the election expenditure account of the candidate, 4) All political advertisements to be pre-certified (though not applicable to any political content in the form of messages/comments/photos/videos posted/uploaded on the 'blogs/self-accounts on websites) by the concerned Media Certification and Monitoring Committee (MCMC) before their release on internet/social media websites and 5) Provisions of MCC are applicable to the content posted on social media platforms by candidates and parties (ECI 2024). EC had set up the Umesh Sinha Committee in 2018 to identify gaps and the difficulties of regulating violations of MCC and was also asked to extend MCC to social media (Press Information Bureau 2019). This also meant that the two-day non-campaigning 'silence period' before polling is applicable to social media as well.

During the 2019 General Election, Internet and Mobile Association of India (IAMAI) and major social media platforms in consultation with the ECI agreed upon a Voluntary Code of Ethics, applicable to all General and Assembly elections (ECI 2024). This Code necessitated four key commitments from the social media companies to ensure a more responsible use of their platforms. Most

significant being the requirement for platforms to report paid political advertisements and to label them accordingly (Mehta 2019). In its Standard Operating Procedure (SOP) for reporting social media violations, EC mentioned the appointment of Social Media Officers who may visit the Google and Facebook Ad transparency portals with reference to expenditure incurred on political advertisements by candidates and political parties. In January 2022, EC added a new column in candidates' election expenditure returns to report information on money spent on digital campaigning (The Economic Times 2022). These details were earlier also required but not in a dedicated column, which made it difficult to determine these expenses separately. This distinct format for accounting expenses on virtual campaigns is also applicable to political parties. This expenditure shall include all expenditure on campaigning, including expenditure on advertisements on social media. This shall include payments made to internet companies and websites for carrying advertisements and also campaign related operational expenditure on making of creative development of content, operational expenditure on salaries and wages paid to the team of workers employed by such candidates and political parties to maintain their social media accounts, etc.

However, the ECI's guidelines are largely quiet on third parties or proxy advertisers (Sahoo 2024). The aforesaid framework does not sufficiently cover the ads purchased by "supporters" or "well-wishers" of parties or candidates which cannot be directly linked to them (Sinha 2024). Even the MCC and the Voluntary Code of Ethics do not adequately cover this area. However, platforms do require paid ads to carry disclaimers and they maintain records of the expenses incurred on such ads (Sinha 2024). They also have their own advertising policies to ensure compliance with local legal requirements. These differ from region to region. X has put a ban on political advertisements in India. Google and Meta are facilitating transparency in paid political advertisement by displaying "Ad Transparency Reports" on their platforms showing the payments made by different political parties and others for their political campaigns on these platforms. Some of the top spenders as per these reports are pages run by third-party campaigners or non-contestants which may include proxy pages, surrogate and shadow advertisers who largely remain outside the purview of scrutiny. Such ads may not be directly paid for by the party or candidate but their supporters or through political consultancies. This aspect needs thorough deliberation by the EC together with other stakeholders.

It is also a challenge to monitor online political campaigning and ascertain the expenditure incurred on it by contestants and non-contestants accurately. The actual spending and disclosure of such expenses on social media advertisements by parties and candidates remains underreported. While costs incurred on publicity by parties continue to rise, dedicated expenditure on social media advertising is a small share in the pie including for major parties such as the BJP and the INC, as seen from the official disclosures for the 2019 and 2024 General Elections. According to (Sahoo 2024), this can be attributed to the rise of the aforesaid third-party spending or surrogate advertising on digital/social media. He adds that the pre-certified and reported as political advertising by candidates and parties constitutes a miniscule part of the overall political mobilization of digital platforms. There is also the problem of identifying and accounting for third-party advertisements. There is therefore the need for an intermediary liability law in India which can overcome the shortcomings of the current 2000 Information Technology Act in this regard.

During the General Elections 2024, ECI introduced special guidelines for "responsible and ethical use of social media platforms" during the election period (Lobo 2024). It also took cognizance of

the scale of the spread of misinformation on social media stating that it is "dangerously unrestrained due to availability of the option of 'forwarding/re-sharing/re-posting/re-tweeting' on social media. These guidelines prohibited certain actions by parties on social media such as dissemination of misinformation, impersonating another person, derogatory posts towards women, content related to children, violence against animals, using AI for misinformation and publication/circulation of deepfake audios/videos. It required political parties to take down any deepfake audios and videos within three hours from social media in addition to identifying and warning the responsible person within party. Parties were also required to report fake social media accounts impersonating official social media handles to the platform, followed by approaching the Grievance Appellate Committee (GAC). Given the growing use of digital media by political parties, leaders and candidates, digital and network literacy among general public is most essential to be able to counter/address electoral malpractices such as fake news, deepfakes, misinformation/disinformation etc even at the end of the user or voter (Sen, Naumann and Murali 2019).

3.3 Mushrooming of parties and Election Commission's power to de-recognize and deregister parties

Political parties are the institution through which the will of the people is mobilized, consolidated, and expressed through party's philosophy, vison and belief. *Prof. Harold J Laski* in his classic text *"A Grammar of Politics"* has termed them 'natural', though not 'perfect'. According to him, *"the life of a democratic State is built upon the party system. Without Political Parties, there would be no means available of enlisting the popular decisions in a politically satisfactory manner"* (Laski 2015). However, the hard reality ingrained in India's current electoral and political process is an unprecedented increase in the number of parties since the 1950's when only 54 parties were in the fray to contest elections. The major challenge that remains behind mushrooming of parties is the number of inactive parties. These are the parties who have not contested a single election since their inception. In the 2024 Lok Sabha elections, out of 2764 registered unrecognized political parties (RUPPs) only 690 parties competed for 543 seats while in the 2019 Lok Sabha elections, out of total 2301 registered unrecognized political parties (RUPPs) at that time, only 621 RUPPs contested elections. During the Lok Sabha 2014 elections, out of the 1,593 RUPPs only 419 contested elections (Election Commission of India 2022).

As per the information available on ECI's website, there were a total of 694 Registered Unrecognized Political Parties (RUPP) in 2001. In two decades, the growth in registration of parties has been almost 400 per cent. Evidence suggests that there is always a spurt in registration before the Parliamentary and State Assembly elections. As per the ECI at least 70 per cent of the registered unrecognized parties do not contest elections. *Possibility of a large number of such parties occupying the available pre- election political space by taking benefits of admissible entitlements without contesting elections, cannot be ruled out* (Election Commission of India 2022). This also tends to crowd out the political parties actually contesting elections and also creating confusing situation for the voters. On 27th March, 2024, the Election Commission de-listed a total of 282 RUPPs and declared 218 parties as "inactive' (Election Commission of India, 2024).

As per Commission's order dated 25/05/2022, as on September 2021 out of the total 2796 RUPPs a large number is neither taking part in electoral process nor adhering to the one or many requirements including submission of contribution Reports, annual audit statement, election expenditure statement and contesting elections, etc which is not only violative of statutory requirements and extant guidelines of the Commission but such escalation in the number of inactive parties also defeats the idea of a clean electoral ecosystem. The only plausible reasoning behind burgeoning of such parties is to avail maximum benefits that normally an active party would avail under law i.e**.** i) lack of ECI's power to de-register a party even when it doesn't demonstrate any semblance of political activity, ii) 100 per cent tax exemption given to the parties, iii) declaration of donations only above INR 20,000 and iv) no comprehensive legislation dealing with the monitoring and functioning of political parties, and v) parties not under the RTI Act. On 13 September 2022 the ECI ordered the delisting of 86 registered unrecognized political parties which were "non-existent" and declared other 253 parties "inactive". This action was taken by the Commission after it was found that these 253 RUPPs had not contested a single election either to the General Assembly of a State or the Parliament Election of 2014 & 2019 and these parties did not respond to the Commission's letters and notices. On 21 December 2016 the Commission of India had delisted 255 political parties from the list of registered unrecognized political parties that had not contested elections at all during the period from 2005 to 2015. The Commission had also written a letter to the CBDT with the hope that CBDT will look into the financial affairs of these political parties since these parties were no longer entitled to any kind of tax benefit that accrues to the registered political parties. However, there was no information available in the public domain concerning any financial irregularity or fraud found against such inactive parties or if any action was taken against such parties by the CBDT.

3.3.1 ECI's power to de-recognize a political party

The entire RP Act,1951 is silent on provisions relating to the derecognition of political parties. The Election Symbols (Reservation and Allotment) Order, 1968 issued under Article 324 of the Indian Constitution and amended from time to time by the ECI is the only governing scheme on recognition and de-recognition of political parties in India. The Preamble of the Election Symbols Order upholds ECI's authority to recognize and de-recognize a political party. Derecognition of a political party implies withdrawal of recognition of a political party by the ECI. Such parties are declared as registered unrecognized parties. Under the 1968 order, the symbols are allotted to the political parties. This is done in consonance with Article 324 of the Indian Constitution read with Section 29A of the RP Act, 1951 and Rules 5 and 10 of the Conduct of Election Rules, 1961. According to Para 2 (h) of the Symbols order 1968, political party means an association or body of individual citizens of India registered with the ECI as a political party under Section 29A of the R. P. Act of 1951. Para 4 of the order deals with the allotment of different symbols to the contesting candidates. Para 5 of the order classifies symbols as reserved and free symbols. A reserved symbol is a symbol exclusively reserved for a recognized political party for its exclusive use to contesting candidates set up by the recognized party whereas a free symbol is allotted to unrecognized parties and independent candidates. The recognized political parties are accorded the status of a National or State political party in accordance with Para 6A of this order. The criteria for recognition at the 'national' or 'state' level consists of winning a requisite number of seats or

obtaining a required percentage of votes in a general election to Lok Sabha or State Assembly. The Commission has the power to de-recognize a political party based on their performance under Rule 16A of the Election Symbols (Reservation and Allotment) Order, 1968. ECI has the authority to de-recognize a party based on performance if the party i) fails to secure at least 6 per cent of the total votes polled in the Lok Sabha elections or the legislative State assembly elections, ii) fails to have at least 4 MPs elected in the last Lok Sabha polls, iii) fails in getting at least 2% of the total seats in the Lok Sabha from at least 3 states and iv) fails to secure at least 8 per cent of the total valid votes polled in the state during the Lok Sabha or State Assembly elections. The Supreme Court in 1996 had upheld Commission's power to withdraw recognition of a political party for failure to meet the performance-based criteria laid down in the Election Symbols Order was valid (Janata Dal (Samajwadi) v. Election Commission of India 1996). In June 2000, the ECI derecognized 7 regional parties based on their poll performances. These parties were Haryana Vikas Party, NTR-Telugu Desam Party, the Rashtriya Janata Dal in Manipur, Shiv Sena in Dadra Nagar and Haveli, the United Minority Party in Assam, the Samajwadi Janata Party in Chandigarh and the Samata Party in Haryana.

Rule 16A also empowers the Commission to de-recognize any political party which fails to submit their audited financial statements, violate time-to-time lawful instructions of the Commission of or violate the provisions of MCC during the election time. This power, however, is very sparingly used by the Commission specially in context of unaudited, untimely, incorrect or non-submission of the financial statements of the parties. Apart from a few show-cause notices, understated warnings and a very few instances of de-recognition, the Commission has never conclusively used this power. The Commission had only at one occasion suspended the recognition of National People's Party (NPEP), a recognized State party in the State of Meghalaya for a period of three weeks for its failure to oblige ECI's instructions on submission of its annual audited accounts and expenditure statements in context of Lok Sabha,2014 elections. The party had not submitted its statements with the ECI for several years (Election Commission of India 2015).

3.3.2 ECI's power to de-register a party

At present, the law dealing with registration of political parties is unworkable. The current rulebook allows EC to register a political party but does not allow for deregistration. The entire Representation of the People Act, 1951 does not provide any mechanism for de-registration of a political party. Once the party is de-registered it cannot contest elections. Section 29A (1) and (2) of the R. P. Act, 1951 makes it mandatory for any association or body of individuals calling itself a political party to make an application to the Election Commission for its registration as a political party, within thirty days following the date of its formation. Proviso to Section 29A(7) provides that no association or body shall be registered as a political party under this Section unless the memorandum or rules and regulations of such association or body conform to these provisions. As per Section 29A(8), the decision of the Commission in this matter is final. Section 29A of the RP Act, 1951 also lays out certain requirements for registering a party by ECI. It requires parties seeking registration to a) submit a copy of its constitution, b) declaration that the party shall bear true faith and allegiance to the Constitution of India and c) allegiance to the principles of socialism, secularism, and democracy, and uphold the sovereignty, unity and integrity of India. A

registered political party in India enjoys many legal benefits such as total tax exemption, common symbol for contesting elections to Parliamentary or State Assembly, allotment of land in prime areas of Delhi and State capitals, accommodation/bungalows at concessional rates which is way below the market price, free airtime on Doordarshan (DD) and All India Radio (AIR), free electoral rolls and 20 'Star Campaigners' during election campaign. But these benefits are not just a matter of right, these perquisites rather entail accountability and compliance of laws. The provisions under Section 29A of the RP Act,1951 and various judicial pronouncements (Indian National Congress vs the Institute of Social Welfare 2002) have made it amply clear that ECI has the power to register parties but it does not have the power to deregister parties that are inactive, fails to conduct inner party elections, or flout laws or regulations or guidelines given by the Commission. This therefore, frustrates the entire purpose behind registration of parties and their conduct and superintendence by the ECI.

The mechanism of de-registering of parties is a must to ensure compliance by parties specially in the light of the fact that India lacks a comprehensive legislation on monitoring and functioning of political parties as also parties have refused to come under the ambit of Right to Information Act,2005. Giving power of de-registration to the ECI will not just ensure electoral integrity but it will in the course also remove or at least try to indoctrinate democracy in its letter and spirit in the form of obedience to laws by parties and their office bearers, inner party democracy with political parties, transparency and accountability with respect to party finances and spending, control over inactive parties, direct relationship with the electorate and a fear of sanctions. As per the current law in place, a political party can only be de-registered in three clear conditions i.e. i) if its registration was obtained by fraud; ii) if it is declared illegal by the Central Government; iii) if a party amends its internal Constitution and notifies the ECI that it can no longer abide by the Indian Constitution. The ECI has been proposing for a reformed law and has been requesting the Government of India to amend the law to give it the authority to deregister parties. These reforms were suggested by the Commission in 1998, 2004, 2006, 2012 and 2015. Again on 31st may 2022, in a meeting with the Law Ministry, the Election Commission had suggested powers to deregister political parties. It also emphasized on the necessity to have political parties declare funding of amounts below INR 20,000. This meeting was convened after EC had cracked the whip on more than 2,796 RUPPs, delisting 87 of them, seeking action against 2,174 of them for failing to submit the required contribution report and putting over INR 10,000 million of donations to such parties under scrutiny (Vishnoi 2022).

4 Political funding: sources, data and key findings

Political parties in India primarily raise funds through private sources and also receive limited indirect public funding in form of in-kind subsidies. These include free airtime on state-owned electronic media, free supply of copy of electoral rolls and identity slips of electors. However, there is no provision of direct public or state funding of parties in India. Revenue or party income comes in the form of donations/voluntary contributions, fee and subscription from party members, sale of publications, interest and dividends from investments, collection from sale of coupons, party levy, sale of assets, relief fund, contributions from meetings/*morchas* and other miscellaneous income.

The data in this chapter is analysed to assess the political finance regulatory framework outlined in chapter 3. A key objective of such laws is to ensure electoral integrity, which encompasses several indicators that are at the heart of free and fair elections and to curb the influence of money in politics (Electoral Integrity Project n.d.). Additionally, electoral contestation and deliberation are central to democratic processes and only strong political funding regulations guarantee their protection. A robust political finance law ensures:

1. Ability of wide range of groups, individuals and parties to be able to contest elections
2. Citizens having the opportunity to enter office themselves
3. Equitable access to subsidies or political donations/level-playing field in elections
4. Limits on political donations and campaign expenses by parties/candidates
5. Representation of interests/general will of the wider electorate rather than interests of specific sectional group
6. Disclosure/reporting of transparent financial accounts by parties/candidates
7. Transparent and fair usage of campaign finance

4.1 Political parties are largely privately funded in India and there is a large income disparity among the political parties

4.1.1 Data on income disclosures of National Political Parties in the last two decades

This section looks at the data related to the income of political parties over the last two decades, as reported in their annual audit reports. For the sake of simplicity, the data analysed in this chapter will only pertain to National parties as there are more than fifty state parties and the data is not consistently available for all parties across several years.

One of the problems with private financing is its lack of predictability (Van Biezen 2003). The unequal access to and the unequal distribution of private donations directly impacts the equality of political participation and competition. The electoral level-playing field can be seriously undermined as a result of financial disparities between political forces, giving the better resourced parties an edge over their competitors (Van Biezen 2003). This is also true of political funding in India, where disparities between party income undermine a healthy electoral competition.

Table 4.1 shows the party-wise share of income over the ten-year period from FY 2004-05 to FY 2013-14, when the current opposition party INC was in power. Maximum share of the income (45.49 per cent) was disclosed by INC (INR 33,888 million), followed by the next major party BJP with 30.91 per cent or INR 23,022 million. While the share of the top two parties was substantial and comparable, the income of the remaining parties was much smaller.

Table 4.1. Income declared by National political parties, FY 2004-05 to 2013-14

National political party	Total annual income (INR million)	% Share
Indian National Congress	33,888	45.49
Bharatiya Janata Party	23,022	30.91
Communist Party of India (Marxist)	7,691	10.32
Bahujan Samaj Party	6,520	8.75
Nationalist Congress Party*	2,836	3.81
All India Trinamool Congress*	400	0.54
Communist Party of India*	135	0.18
Aam Aadmi Party	Founded on 26 November 2012	NA
National People's Party	Founded on 6 January 2013	NA

**Party lost its national party status in FY 2022-23*

Source: Multiple pages on the website of the Election Commission of India

Link: https://www.eci.gov.in/annual-audit-reports

Analyzing similar data from FY 2014-15 to FY 2023-24 provided in table 4.2 shows that the incumbent BJP's share was 65.10 per cent or INR 190,070.3 million of the total income received by National parties during this period. On the other hand, INC's share was 18.44 per cent or INR 53,841.6 million. The share of all other parties was miniscule. In the last decade, access to political funding disproportionately skewed in favor of the ruling party, much wider in margin than it was in the previous decade. The incomes of National parties were comparable in the decade the INC was in power. Although the incumbent party had an edge, other parties had better share of funding than they do now. There could be several reasons for this change but certainly the gap in access to funding in the last ten years exacerbated due to the anonymous funding scheme (Electoral Bonds) introduced by the government in 2017, which the data will show in the later section. It permitted unlimited, undisclosed donations to political parties before being struck down by the Supreme Court in February 2024 and a majority of these funds went to the BJP.

Table 4.2. Income declared by National political parties, FY 2014-15 to 2023-24

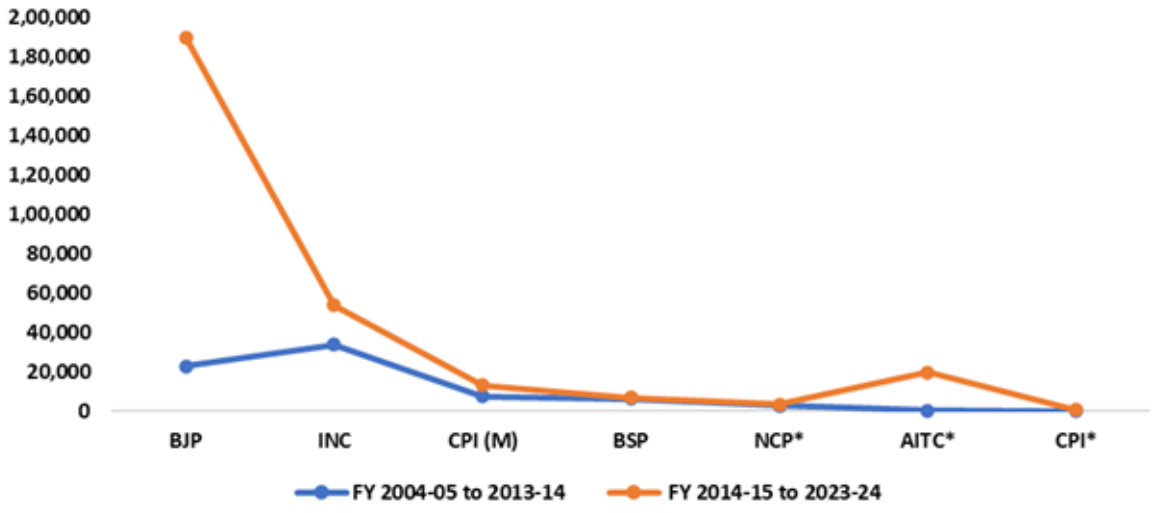
National Political Party	Total Annual Income (INR million)	% Share
Bharatiya Janata Party	1,90,070.3	65.10
Indian National Congress	53,841.6	18.44
All India Trinamool Congress*	19,947.92	6.83
Communist Party of India (Marxist)	13,386.63	4.58
Bahujan Samaj Party	7,029.55	2.41
Nationalist Congress Party* (Audit report NA for FY 22-23 & 23-24)	3,492.30	1.20
Aam Aadmi Party	3454.99	1.18
Communist Party of India*	612.51	0.21
National People's Party	135.61	0.05

**Party lost its national party status in FY 2022-23*

Source: Multiple pages on the website of the Election Commission of India

Link: https://www.eci.gov.in/annual-audit-reports

Figure 4.1 Comparison of total annual income of major political parties during the last two decades



**Party lost its national party status in FY 2022-23*

Source: Multiple pages on the website of the Election Commission of India

Link: https://www.eci.gov.in/annual-audit-reports

Equitable access to resources is desirable given that expensive campaigns largely determine the electoral outcome. The existing political finance framework in India does not address the issue of tilted access to private funding in favor of major/incumbent political parties. It is important that any political finance legislation that is adopted must be able to thwart the imbalances in political contestation as a result of the disparities in party income and curtail political corruption as a result of such unequal access (Van Biezen 2003).

4.1.2 Data on donations (above INR 20,000) disclosures of National Political Parties

A considerable portion of parties' incomes come from donations or voluntary contributions exceeding INR 20,000, which are required to be disclosed in the contribution reports submitted to the Election Commission every year by 30 September. Such donations include direct corporate or individual donations, indirect corporate or individual donations through electoral trusts and other miscellaneous donations (from party units/unions/associations).

The access to private donations is skewed in favor of the incumbent party by a big margin in the last ten years compared to the decade before that. From 2014 to 2024, BJP's total donations increased significantly from INR 4892.5 million to INR 70,675.44 million. Since the BJP came to power, its total donations (above INR 20,000) rose by 1345 per cent between the last two decades. With the exception of All India Trinamool Congress (AITC), percentage share of donations in case of other parties nosedived. These disparities can be even more glaring in case of the state parties.

Table 4.3 Comparison of donations (above INR 20,000) declared by National political parties, FY 2004-05 to FY 2013-14 and FY 2014-15 to 2023-24

National political party	Total donations above INR 20,000 from FY 2014-15 to FY 2023-24 (INR million)	% Share	Total donations above INR 20,000 from FY 2004-05 to FY 2013-14 (INR million)	% Share
Bharatiya Janata Party	70,675.44	80.92	4892.5	61.67
Indian National Congress	10,492.55	12.01	2,591	32.66
Aam Aadmi Party**	2,770.24	2.60	Founded on 26 November 2012	NA
Nationalist Congress Party*	2,041.30	2.34	264.17	3.33
All India Trinamool Congress*	729.60	0.84	15.5	0.195
Communist Party of India (Marxist)	726.37	0.83	116.17	1.464
Communist Party of India*	304.12	0.35	54.04	0.681
National People's Party***	103.23	0.12	Founded on 6 January 2013	NA
Bahujan Samaj Party	0	0	0	0

**Party lost its national party status in FY 2022-23*

*** Party did not have national party status until FY 2021-22*

****Party did not have national party status until FY 2019-20 and its data is not available from FY 2014-15 to FY 2018-19*

Source: Multiple pages on the website of the Election Commission of India

Link: https://www.eci.gov.in/contribution-reports

Among donations exceeding INR 20,000, political donations made by companies or business houses are most significant. These donations include direct corporate donations from various sectors, and indirect corporate and individual donations made through electoral trusts. Prior to

the introduction of anonymous funding in India through electoral bonds, corporates made legitimate donations to political parties either directly or through electoral trusts which have been in existence since 2013. These trusts are set up by companies with varied interests in mining, real estate, power sectors etc. and are not-for-profit acting as a buffer between the company and the political party. The data is available for 27 registered electoral trusts from time to time. Now that the electoral bonds have been declared unconstitutional, such routes of funding may be used more till a new system is in place.

Table 4.4 shows the vast difference in the level of donations received by the incumbent BJP since it came to power in 2014 and other parties, clearly reflecting the large income disparity among National political parties. The direct corporate donations declared by BJP are at least four times more than all other National parties put together and its overall share is almost 84.648 per cent. In case of electoral trusts, BJP received six times more funds and around 71.665 per cent of the total share. While it is only natural for the incumbent party to receive a larger amount of funds, however, the financing gap between the parties is a matter of concern. This also discourages small parties from contesting elections on a substantial number of seats as they may not have the funds to campaign in more than a few constituencies.

Table 4.4. Direct and indirect corporate/individual donations via electoral trusts declared by National political parties, FY 2013-14 to 2023-24

National political party	Direct corporate donations FY 2013-14 to FY 2023-24 (INR million)	% Share	Donations through electoral trusts, FY 2013-14 to FY 2023-24 (INR million)	% Share
Bharatiya Janata Party	66,076	84.648	27,615.80	71.665
Indian National Congress	8,429	10.798	3,824.30	9.924
Nationalist Congress Party*	1,613.30	2.067	237.08	0.615
Aam Aadmi Party**	954.43	1.223	406.15	1.054
All India Trinamool Congress*	603.44	0.773	140.38	0.364
Communist Party of India (Marxist)	361.15	0.463	2.035	0.005
National People's Party***	20.82	0.027	NA	NA
Communist Party of India*	1.86	0.002	0.50	0.001
Bahujan Samaj Party	0	0	0	0

**Party lost its national party status in FY 2022-23*

***Party did not have national party status until FY 2021-22*

****Party did not have national party status until FY 2019-20 and its data is not available from FY 2013-14 to FY 2018-19*

Source: Multiple pages on the website of the Election Commission of India

Links: https://www.eci.gov.in/contribution-reports

https://www.eci.gov.in/electoral-trusts-reports

During the same time period, it can be seen that direct corporate donations to political parties exceeded corporate donations routed through electoral trusts. A large amount of these corporate donations come from sectors such as manufacturing, real estate, mining, construction and exports/imports. All such sectors require government approvals, licensing and award of contracts.

Big corporations voluntarily fund political parties, especially the government in power, to essentially use their clout to shape laws, policies, regulations and contracts in their favor. This exchange between corporates and political parties comes at the cost of public interest.

Among the top ten of the 27 registered electoral trusts, table 4.5 shows that the Prudent Electoral Trust received the highest donations of INR 33,305.37 million, which is 86.38 per cent of the total contributions declared by all trusts since their inception in 2013. 75 per cent of the donations disclosed by Prudent Electoral Trust were made to BJP. Its total donations to the party are ten times as much as it issued to the opposition Congress party (Kaushik 2024). It is the richest electoral trust in the country and receives donations from some of the top companies. Thus, not only the funds contributed to electoral trusts are dominated by one particular trust, but the funds disbursed from these trusts favor the incumbent party disproportionately.

Table 4.5 Contributions declared by top ten electoral trusts since 2013

S. No.	Electoral Trust*	Total donation received (INR million)	% share
1	Prudent Electoral Trust	33,305.37	86.38
2	Triumph Electoral Trust	1,386.28	3.60
3	AB General Electoral Trust	990.50	2.57
4	Jankalyan Electoral Trust	725.10	1.88
5	New Democratic Electoral Trust	649.50	1.68
6	Samaj Electoral Trust Association	284.21	0.74
7	Harmony Electoral Trust	270.50	0.70
8	Progressive Electoral Trust	251.50	0.652
9	Janta Nirvachak Electoral Trust	250	0.648
10	Jaybharat Electoral Trust	150	0.39
11	Other nine trusts	293.01	0.76

**Seven trusts declared nil contributions*

Source: Website of the Election Commission of India

Many electoral trusts do not submit their annual reports regularly, and some of them continue to declare nil contributions. Between FY 2013-14 and 2022-23, seven electoral trusts declared that they did not receive any donations since the year of their registration or that their reports were not available in the public domain for some years. Two electoral trusts declared receiving contributions only once since registered. This also raises questions on the continuation of the registration of electoral trusts that fail to fulfil their primary objective of distributing contributions received by them to political parties. Moreover, the information regarding the method of disbursal of funds received from the donors to the political parties by the electoral trusts is not publicly available and is likely left to the discretion of the electoral trusts without ample scrutiny from the concerned authorities.

Electoral trusts ensure the privacy of their contributors. The companies that have donated to these trusts and the beneficiary parties are known through the regular filing of reports, what is not known to the public is which party benefited from which company in particular. This, however, is known to the Election Commission and the income tax department since the introduction of the transparency guidelines in 2014, which required trusts to disclose the record of its donors or

donees to them. The contributions to trusts cannot be made in cash. The scheme has the purpose of curbing black money and it ensures that there would be no fear of consequences for contributors from political opponents due to the partial anonymity. Trusts strike a compromise between transparency and privacy which is acceptable as well as practical, as also highlighted by the Supreme Court in its Electoral Bonds judgement. Nonetheless, for the Electoral Trust Scheme to be completely effective, the aforesaid issues outlined in this section require serious consideration.

4.2 Political parties are largely corporate funded and there is growing influence of big businesses on party funding; instances of quid pro quo and uneven level-playing field

4.2.1 Data on Electoral Bonds disclosures of National Political Parties

The first sale and purchase of electoral bonds started in March 2018, permitting corporate and individual donors to buy these bonds and donate money to the party of their choice while remaining anonymous. Since then, electoral bonds were sold thirty times in six years, over a period of ten days each time. From March 2018 to January 2024, 28,030 electoral bonds worth INR 165,181 million were sold to donors and 27,811 bonds worth INR 164,925 million were redeemed by eligible political parties. The remaining 219 bonds amounting to INR 256.4 million which were not redeemed by parties in the stipulated time period were deposited in Prime Minister's Relief Fund (PMRF).

Political parties received INR 1,63,080.16 million from electoral bonds, around 50.599 per cent of which went to the incumbent party BJP (INR 82,517.51 million) between FY 2017-18 and 2023-24. The percentage share of top ten parties is provided in the table 4.6. The amount of bond donations received by BJP exceeded the total amount received by the remaining nine parties. The huge difference in the funds received through electoral bonds by ruling parties in the States and Centre vitiated the level-playing field between different parties, and between parties and independent candidates. Money power in elections can deeply alter who can or cannot contest elections, thus establishing entry barriers.

Table 4.6 Share of electoral bonds of top ten political parties, FY 2017-18 to 2023-24

Political party	Donations from electoral bonds (INR million)	% Share
BJP	82,517.51	50.599
INC	19,516.75	11.968
AITC	17,054.11	10.458
BRS	14082.10	8.635
BJD	10,195	6.252
DMK	6,765	4.148
YSR-C	5,039.40	3.09
TDP	3,206.80	1.966
SHS	1,013.80	0.622
AAP	1,044.30	0.64

Source: Website of the Election Commission of India

Since the Supreme Court's judgement on electoral bonds, all related data has been made public and the analyses show that the Electoral Bonds Scheme, 2018 resulted in crony capitalism and political corruption, where the decisions of politicians were strongly tied to their corporate donors and jeopardized the quality of governance. As per media investigations, seven pharmaceutical firms that failed drug quality tests donated to political parties through electoral bonds (Barnagarwala 2024). These investigative reports found that several companies which were raided by central agencies/income tax authorities later purchased electoral bonds and donated to ruling parties. The sectors that purchased the bulk of electoral bonds included mining, power generation, "sinful industry" such as lottery and gaming, infrastructure contractors, real estate and highly regulated sectors like pharmaceuticals, chemicals, civil aviation, banking and telecommunications. According to the (The Reporters' Collective 2024), at least 16 of the top 200 firms donated electoral bonds to parties despite running their businesses in loss for the three previous consecutive years. Over 60 per cent of donations from such companies went to the incumbent BJP.

The data available from 12 April 2019 to 15 February 2024 shows corporations/business houses purchased 16,631 bonds amounting to INR 1,17,80,02,97,000, which is 96.91 per cent of the total donors who purchased bonds during this time. Only 3.09 per cent of individuals purchased electoral bonds. Throughout the existence of the Scheme, more than 94 per cent of the bonds were purchased in the highest denomination of INR 10 million. Clearly, bonds were being purchased by huge conglomerates. The top five corporate donors of the bonds constituted roughly 30 per cent of the total share of donations from electoral bonds to political parties during this period.

Unlimited corporate donations under the Scheme diluted the constitutional principle of one person one vote and also violated the right to equal political participation. The concentration of economic power in the hands of a few corporations, enabled by amendments to political finance laws in 2017, resulted in concentration of political power in the hands of a few parties. Recent trends in political funding show a gradual shrinking in the number of parties that can meaningfully compete in elections. This may result in decline in the diversity of political platforms and the choice before voters will narrow. Consequently, limits on corporate donations remain integral to any future political finance regulations. Measures must be taken to regulate donations from corporate entities to prevent big money from being in command of political decision-making. The US federal law imposes different contribution limits on different types of donors. In the Indian context, there is also, however, the need to diversify the sources of income of political parties. The introduction of direct public/state funding of political parties is also worth exploring, which is discussed later in this report.

Out of 30 cycles of sale and purchase of electoral bonds that took place over a period of six years, 20 coincided with the period of elections. These elections include the 2019 Parliamentary election (INR 44,353 million worth electoral bonds were redeemed by parties just around the election time), 2022 Gujarat and Himachal state elections (INR 14,506 million) and 2023 five-state assembly elections to Chhattisgarh, Madhya Pradesh, Rajasthan, Telangana and Tripura (INR 21,544 million) among many others. Consequently, a considerable portion of the election funding came from sources unknown to the general public. Moreover, when the sale and purchase of electoral bonds was scheduled prior to any state election, a major chunk of these bonds went to the state party which was likely to win that election. In this context, the inability of the voters to identify who funds parties' and candidates' election campaigns and to conduct a thorough fact-check on their

antecedents directly infringed on their right to informed voting, and free and fair elections, as also reiterated in the Supreme Court judgment on electoral bonds.

Comparing the quantum of donations from electoral bonds and other sources of funding to political parties, it is apparent that bonds took over as the most preferred mode of donation and surpassed other corporate donations by more than two times in the six years since 2018. During the six-year period, 60 per cent of the total donations came from electoral bonds, while corporate donations through other means constituted 24 per cent share. This can be largely attributed to the anonymity clause of the Scheme which found preference among corporate donors.

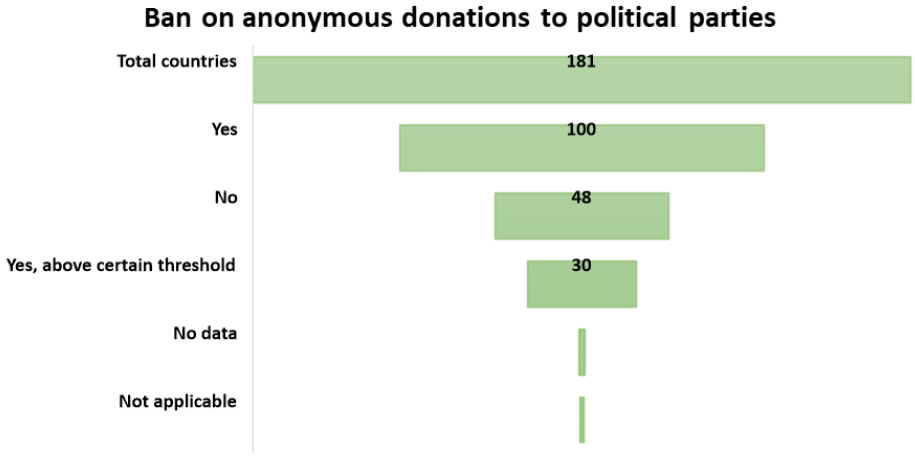
Table 4.7 Comparison of donations received from electoral bonds, direct corporate donations and others, FY 2017-18 to 2023-24

Type of Donation	FY 2023-24	FY 2022-23	FY 2021-22	FY 2020-21	FY 2019-20	FY 2018-19	FY 2017-18	Total Contribution (INR million)
Donation received from Electoral Bonds	43201.60	27964.47	26648.23	3250.60	34413.24	25391.7	2210.34	**163080.18**
Donations received from corporate sectors	24731.99	8438.16	7522.87	5641.21	10920.65	11068.55	4483.38	**72806.81**
Donations from Others	4034.45	3318.30	3260.53	2665.85	2183.14	4011.79	4250.39	**23724.45**
Total donations	**71968.04**	**39720.93**	**37431.63**	**11557.66**	**47517.03**	**40472.04**	**10944.11**	**259611.44**

Source: Website of the Election Commission of India

As these bonds emerged as a vital instrument for donations to political parties and a single party was able to collect a disproportionate amount of money from them, the impact on the electoral playing field was substantial. Anonymous donations should be limited or prohibited. Figure 4.2 shows that globally, 55.25 per cent of the 181 countries analyzed have banned anonymous donations to political parties. In 16.57 per cent of these countries, such donations are banned above a certain threshold (International IDEA n.d.).

Figure 4.2 Number of countries with ban on anonymous donations to political parties



Source: International IDEA, Political Finance Database, [n.d.], <https://www.idea.int/data-tools/data/political-finance-database>, accessed 16 August 2024.

The demand for disclosure of donor identity under the Electoral Bonds Scheme led to the debate on transparency vs. privacy. The Supreme Court of India made it clear that the protection of individual/donor privacy cannot come at the cost of the citizen's right to know. The court upheld that the voters are entitled to know the financial supporters of the different political parties. (Van Biezen 2003) suggests that disclosure regulations should aim at striking a compromise between transparency and privacy which is reasonable. However, the bond scheme tilted in favor of donor privacy. It made it difficult to ascertain which corporate entity would benefit from favorable government decisions or acquire a favorable government contract, making it difficult to detect questionable transactions which can prevent corruption.

4.3 A considerable portion of political parties' private funding comes from "unknown" sources which are not under the purview of reporting

A key marker of transparency and accountability in political funding is the presence of full disclosure of sources of party funds and also the manner in which those funds are received and expended by political parties. An analysis of the audit and contribution reports filed with the Election Commission show that a considerable share of income of recognized political parties comes from sources that are unknown. Political parties are not required to reveal the names of individuals or organizations giving less than INR 20,000 and until February 2024, this also included all values of donations via electoral bonds. It is important to understand that with the introduction of anonymous electoral bonds in 2018, there was a sharp rise in the unknown sources of income in FY 2018-19 onwards, it witnessed a 245 per cent jump from FY 2017-18. Since FY 2018-19, such income continued to rise except in FY 2020-21 due to the Covid-19 pandemic. The proportion of electoral bonds was the largest among all the unknown sources of income. As a result, more than 64 per cent of the funds collected by National parties since FY 2004-05 could not be traced and were from 'unknown sources' as per ADR analysis. However, in the wake of the Supreme Court's

judgment, the bonds data is now available in the public domain. Hence, bonds are not included as part of the unknown sources of income in this report.

The exemption of donations below INR 20,000 from reporting relies on twin objectives: such donations are less likely to create quid pro quo arrangements and the need for protection of the privacy of smaller donors that may fear retaliation or extortion by other parties. This threshold is perceived to strike a balance between need for transparency and donor's right to privacy (Sethia 2019).

Since 2004, major political parties declared approximately INR 58,500 million from donations below INR 20,000. Table 4.8 shows the total party-wise share of such donations from 2004 to 2024. INC reported 45 per cent of these donations, followed by BJP at 37 per cent. A large proportion of INC's unknown income comes from sale of coupons.

Table 4.8 Share of donations of major political parties from unknown sources, FY 2004-05 to 2023-24

S.No.	Political Party	Total donations from unknown sources (INR million)	% Share
1	INC	48,484.90	45.19
2	BJP	39,929.33	37.21
3	CPI (M)	10367.70	9.66
4	BSP	5,346.40	4.99
5	NCP	2,847	2.65
6	AITC	323.94	0.30

Source: Website of the Election Commission of India

The table 4.9 provides a consolidated overview of the share of donations of the two major political parties from various sources of income since 2017. Both BJP and INC received the highest amount of donations from electoral bonds. BJP's second highest share of donations came from corporate/individual donations exceeding INR 20,000 while INC received from sale of coupons. It can be seen that prior to the Supreme Court's intervention in the electoral bonds case, both major National parties were receiving sizeable donations from sources that were outside the purview of reporting such as the electoral bonds and sale of coupons.

Table 4.9 Share of donations of INC and BJP from various sources of private funding, FY 2017-18 to FY 2023-2024 (in INR million)

Political Party	Donations from Electoral Bonds	Voluntary Contributions (Below INR 20,000)	Collection from Sale of coupons	Miscellaneous Income	Donations above INR 20,000
BJP	82,517.51	9,394.25	0	18.89	60,209.36
INC	19,516.75	977.93	11,019.07	132.41	8,456.41

Source: Website of the Election Commission of India

While the Electoral Bonds Scheme received much attention, donations below INR 20,000 are another significant facilitator of opacity. This reporting threshold is subject to misuse. Given that the same donor can contribute small amounts below INR 20,000 multiple times and each different

donation is counted separately for the purposes of disclosure, parties are able to bypass the reporting requirement despite receiving a larger overall sum from the same donor. This loophole can be largely attributed to the absence of requirement of mandatory time difference between multiple donations from the same donor (Sethia 2019). By breaking larger donations into smaller sums below INR 20,000, a substantial amount of political donations continues to come from sources unknown to the voters. To address this issue, (Sethia 2019) recommends modifying the provision such that an individual or a company cannot contribute more than INR 20,000 in a financial year, which would restore the provision to its limited original purpose of protecting small donors and at the same time, protecting the right to informed voting. Additionally, the Election Commission has also urged the government to slash the cap on anonymous donations to political parties from the present INR 20,000 to INR 2,000 to usher in more transparency. It is important to note that official disclosures by parties represent a tiny proportion of the total money involved in the political and electoral activity in the country. An enormous amount of black money or illicit finance which is in the system is outside the scope of the current regulatory framework (J. S. Chhokar 2024).

4.4 Income and donation sources are not reported in a timely manner and in adherence to the prescribed format by political parties

The opacity in political finance not only comes from sources that are unknown but also as a result of delayed, incomplete/incorrect or undeclared reporting of details of funds received by political parties in their annual reports. According to ADR analysis, in FY 2023-24, four National parties including BJP, INC, NPEP and CPI(M) had not declared PAN details of 889 donations through which the parties collected a total of Rs 198.84 million (0.782% of the total donations declared by National parties). Three National Parties (INC-INR 7.39 million, BJP-INR 5.17 million and CPI(M)-INR 3.30 million) have declared INR 15.86 million from 84 donations having missing/incorrect PAN details. BJP declared 1564 donations of INR 13846.02 million, INC collected 536 donations worth INR 2445.71 million, AAP collected 168 donations of INR 53.25 million, CPI(M) collected 286 donations of INR 45.47 million and NPEP collected 1 donation of INR 0.50 million having incomplete cheque/DD details where cheque number, bank details on which it was drawn and the date on which the cheque was received/encashed is not provided. Thus, without the complete cheque/DD details, it would be a time-consuming process to link the donors against their donations and hence, trace the money trail. In FY 2022-23, 4 National parties, BJP, INC, NPEP and CPI(M) had not declared PAN details of 1128 donations through which the parties collected a total of INR 205.80 million (2.42% of the total donations declared by National parties). 5 National Parties (BJP-INR 10.98 million, INC-INR 9.20 million, NPEP-INR 3.50 million, CPI(M)-INR 0.789 million and AAP-INR 0.01 million) have declared INR 24.57 million from 93 donations having missing/incorrect PAN details. INC declared 376 donations of INR 581.22 million, BJP collected 2761 donations worth INR 364.91 million, AAP collected 912 donations of INR 221.88 million, CPI(M) collected 158 donations of INR 30.5 million and NPEP collected 4 donations of INR 8.70 million having incomplete cheque/DD details where cheque number, bank details on which it was drawn and the date on which the cheque was received/encashed is not provided. Thus, without the complete cheque/DD details, it would be a time-consuming process to link the donors against their donations and hence, trace the money trail.

From FY 2018-19 to FY 2021-22, National parties declared a total of 3,620 donations worth INR 901.5 million without PAN details. 82.40 per cent of such donations (by amount) were declared by BJP, followed by INC (10.32 per cent). In the case of donations with incomplete or incorrect PAN details, the total amount declared in the four-year period was INR 237.07 million from 245 donations. The highest donations with incomplete and undeclared PAN details came from corporate/business houses worth INR 109.85 million (46.33 per cent of the total such donations) and INR 492.9 million (54.67 per cent), respectively.

The rules are also clear about the timely submission of annual reports by political parties, upon fulfillment of which parties are given relief from income tax. In FY 2023-24, only 3 out of the six National parties submitted their audit reports on time while only 2 submitted their contribution reports on time. In the case of audit reports, the remaining parties submitted their reports after a delay of a minimum of 12 days to a maximum of 66 days. For the contribution reports, the minimum delay was 23 days and the maximum delay was of 43 days. In FY 2022-23, only one out of the six National parties submitted their audit reports on time while only two submitted their contribution reports on time. In the case of audit reports, the remaining parties submitted their reports after a delay of a minimum of five days to a maximum of 72 days. For the contribution reports, the minimum delay was 29 days and the maximum delay was of 58 days. In the last three years, at least 50% of the National parties have delayed the submission of their contribution reports each year.

For this section, we also look at the data of state and unrecognized parties. Among the 54 state parties analysed, the delay in submission is even more rampant – ranging to a maximum of 4 years (audit report) and more than a year (contribution report). Additionally, several of these parties' submissions are not available in the public domain every year. 41 out of 60 state parties' audit reports and 35 out of 60 parties' contribution reports of FY 2023-24 are not available on the Commission's website and 41 out of 57 state parties' audit reports and 35 out of 57 parties' contribution reports of FY 2022-23 are not available on the Commission's website. Every year, between FY 2017-18 to 2020-21, at least 18 parties' contribution reports were not available in the public domain. The purpose of tax exemption to political parties was to promote disclosure and is subject to fulfillment of certain conditions by the parties. As reports of political parties continue to remain outside of public access every year and in the absence of stricter enforcement of such rules, doubts are raised on the objective of such laws and calls for a review.

For FY 2022-23, out of a total of 2,764 registered unrecognized political parties (RUPPs), audit and donation reports of 2,025 (73.26%) parties were not available on the state CEOs' websites. Only 739 (26.74%) parties have at least one financial report either audit or donation available.

As regards unrecognized political parties, the adherence to disclosure/reporting mechanisms is quite lax. In FY 2021-22, ADR analysis found that out of a total of 2,796 registered unrecognized political parties, both annual reports (audit and contribution reports) are available for only 153 or 5.47 per cent of the total parties. In 12 states, both reports are not available for any unrecognized parties registered in those states, amounting to a total of 265 such parties. In the case of 107 parties, only audit reports are available while for 110 parties, only contribution reports are available.

The untimely submission by parties or delay in uploading of their reports on the ECI website goes against the spirit of Section 29C (3) of the Representation of People's Act, 1951, as well as ECI's own transparency guidelines. In the last 16 years, several recognized parties have defaulted at least

once on the submission of their audit and contribution reports. In July 2023 the Election Commission introduced a web-portal through which political parties can file their annual audit, contribution reports and election expenditure reports for enhancing the level of compliance and transparency. There are prescribed formats for each of these reports using which the parties declare the information pertaining to their income, donations and expenses. However, full transparency can only be achieved by making this information available in a consolidated, searchable and user-friendly database, instead of only in PDF/scanned format which is how they are currently available on the ECI website for citizens to consult. PDF/scanned formats are difficult to read and analyse for the general public. It would also be beneficial to have a yearly status update on the submission of party reports showing which all registered parties submitted on time, which delayed their submission and those which defaulted. This should be supplemented with information on the action taken by the Commission against parties in violation of the transparency guidelines.

4.5 Wealthy candidates (having criminal antecedents) are more likely to contest and win elections in India

A candidate's financial details can be officially accessed through the self-sworn affidavits (as part of Form 26) filed along with their nomination paper at the time of contesting elections. In this section, we look at the data related to the self-declared income and assets of the contesting candidates and winners of the 2024 Parliamentary Election.

Indian elections are a staggeringly expensive affair. The financial pressures faced by parties to be able to reach out to a large electorate population among several other campaign related activities has created a demand for self-financing or wealthy candidates. A candidate with large personal wealth is more likely to get a party ticket (prospective candidates pay for party tickets) and is likely to be more electorally competitive. In the 2024 General Election, 92 per cent of the candidates that received tickets to contest from BJP were millionaires, 89 per cent were millionaires in case of INC and 83 per cent in case of SP. In terms of the influence of money on electoral outcome, the average assets of an elected candidate are INR 463.4 million and the average self-income is INR 61,95,240 (the average per capita income in India is INR 1,84,000). MPs on average have 343 times the wealth of an average Indian. The chances of winning for a millionaire candidate in the Lok Sabha 2024 was 19.6 per cent, whereas chances of winning for a candidate with assets less than INR 10 million was 0.7 per cent only. 262 (52 per cent) out of 503 millionaire winners analysed won with a vote share of 50 per cent and above. While 17(44 per cent) out of 39 non-millionaire winners won with a vote share of 50 per cent and above.

The percentage of winning candidates who are millionaires increased with every parliamentary election – 58 per cent (2009), 82 per cent (2014), 88 per cent (2019) and 93 per cent (2024). More and more people with a strong financial backing are making their way into electoral politics. The intertwining of wealth and power has become a critical aspect of electoral dynamics. Among the 543 elected representatives, 42 per cent have assets worth INR 100 million and above. Only 1 per cent have wealth less than INR 20,00,000. A considerable number of elected representatives enjoy financial prowess.

Table 4.10 The share of wealth among the winning candidates in Lok Sabha 2024

Value of assets	No. of winning candidates	% of winning candidates
INR 100 million and above	227	42
INR 50–100 million	103	19
INR 10–50 million	174	32
INR 20,00,000 – 10 million	35	6
Less than INR 20,00,000	4	1

Source: Website of the Election Commission of India

Parties' search for rich candidates has also opened doors for criminalization of elections as a candidate with criminal antecedents is more likely to raise funds and afford the soaring costs of elections. 288 (53 per cent) of the 543 constituencies in the Lok Sabha elections had 3 or more candidates with declared criminal cases. 44 per cent of the INC candidates and 43 per cent of the BJP candidates had criminal antecedents. While BJP's 30 per cent and INC's 27 per cent candidates declared serious criminal cases (like murder, kidnapping, rape). Prof Trilochan Sastry of ADR points out that the prevalence of crime in elected MPs is more than 100 times the prevalence of crime in the population and violent crime among MPs is 189 times that of the average Indian citizen.

For parties, the winnability of election candidates largely relies on money power and the correlation it enjoys with muscle power. In the absence of intraparty democracy or the concept of primaries, the candidate selection in India's under institutionalized party system is driven by power of party elites and follows a top-down approach (Sircar 2018). This significantly impacts electoral integrity and the entry of meritorious candidates/those without access to moneyed networks especially independent candidates. Out of the 3,915 independent candidates that contested in the 2024 General Election, only seven (0.179 per cent) won. Five or 71 per cent of these are millionaires and declared criminal cases. Consequently, a candidate's personal wealth, measured in terms of moveable and immoveable assets, has a significant positive impact on the electoral fortunes. Wealthy candidates directly filter into competitive parties but even among these wealthy candidates from competitive parties, the wealthiest candidate has a great probability of winning the constituency (Sircar 2018). Predominance of candidates with personal wealth in democratic elections will limit the entry for poorer candidates (Strauss 1994). In addition to hampering equality in political opportunity, which is a necessary function of the campaign finance regime, this also creates a 'market for criminality' in electoral politics (Sethia 2019). The aforesaid findings show that healthy electoral competition may not always emerge organically and there is a need for intervention.

4.6 There is need for a written law to govern the financing of election candidates

There is no law to regulate the political donations made to individual candidates while there are explicit spending limits on candidates' election expenses, which are regulated by law. The sources of campaign finance of election candidates include their political party, personal income, donations from friends and family, and contributions from bureaucrats or representatives of the private sector. Apart from the permissible sources, 'funds gained through corrupt activities/black money' are likely to be the most common source of illicit finance for candidates (Bussell 2018). The

financial support provided to candidates by their political parties is more predominant at the level of national and state legislative elections. At local levels within the state, personal resources as well as monetary support from family and friends is more likely (Bussell 2018). Candidates of recognized political parties also get access to free air time on all electronic media, copies of the electoral rolls among other indirect subsidies. Donations/contributions in cash received by the candidates for the purpose of election campaign from a single entity/person in a single or multiple transaction shall not exceed INR 10,000 (ECI 2023).

The statement of election expenditure filed by a candidate for assembly or parliamentary election contains the sources of the funds raised by the candidate for the election campaign from political party, self and other sources. The candidates are required to give the details of sources of these funds in the format prescribed by the Election Commission. Many candidates fail to comply with this disclosure format and face no consequences. According to the analysis of the funds collected by 507 winning candidates for the 2024 Lok Sabha election, on average, a winning candidate raised funds worth INR 6.02 million. The total funds raised by these winners amounted to approximately INR 3,053.20 million. Of this, INR 1,812 million (59 per cent) was raised from political parties, INR 627.74 million (21 per cent) was raised by the candidates themselves and INR 613.46 million (20 per cent) was raised from other sources. In terms of party-wise distribution of funds, 317 winning candidates from the two major parties BJP (INR 1,351 million) and INC (INR 499.71 million) raised 60.61 per cent of the total funds. Remaining 190 winning candidates from 39 parties raised INR 1,202.49 million.

The focus on candidate finance is largely prevalent in countries with presidential systems, however, India being a parliamentary system centered around political parties lacks a written law to regulate the candidates' sources of funding similar to parties. The International IDEA database on political finance makes a distinction between regulations concerning parties and candidates. According to (Ohman 2012), this distinction is important as the absence of regulation concerning either political parties or candidates can impact the efficacy of existing regulation regarding the other. This is also the case in India where the funding of parties and expenditure of candidates are regulated while the expenditure of the former and funding of the latter is not. Moreover, disclosure requirements for funds raised during election period also vary. Parties are not mandated to disclose the sources of funds collected during elections; however, candidates are mandated to provide this information along with the date on which such funds were transferred by the contributors. There is no explicit law defining a limit on the amount a donor can contribute to a candidate (Chauchard 2018) while there is a legal limit on corporate donations to political parties in India. Additionally, anonymous donations to parties are banned above a certain threshold (INR 20,000), however, there is no written law prohibiting anonymous donations to candidates. Unless both parties and their candidates report their finances in adherence to law, funds can be routed through the stakeholder who does not have to report (Ohman 2012).

4.7 Women are less likely to get party tickets, access to private funding and win elections in India

Around 49 per cent of India's population is female; however, only 14 per cent of the members of the current parliament are women. Although the proportion of women in the legislature has marginally increased with every parliamentary election, it is still below the global average of 26.9 per cent (IPU 2023) and the regional (South Asia) average of 18 per cent. At the current rate, India

is far behind several European, African, Latin American and Caribbean countries. The 2024 Global Gender Gap Index placed India at 129 out of 146 countries. According to (Quraishi 2023), obstacles to women's political empowerment are in three areas: registration as voters, actual participation in voting and contesting elections. While there is a 50 per cent quota for women in the urban local bodies, a significant rise is also observed in registration of women as voters and female political participation, this has not translated into increased representation in the state assemblies or parliament.

When it comes to contesting and getting elected, women face many obstacles including traditional and cultural barriers. Women find it harder to source funding and get party tickets for contesting elections. Political Parties refuse to field a fair number of women candidates as women make less 'winnable' candidates (Quraishi 2023). Only ten per cent of the total contesting candidates in the Lok Sabha 2024 were women. Major National parties such as the BJP and INC gave 16 per cent and 13 per cent tickets, respectively, to women. Among independent candidates, only 7 per cent were women. None of the 279 independent women candidates won in the 2024 General Election given the absence of support. However, BJP women candidates won at a strike rate of 45 per cent, comparable to their male counterparts at 56 per cent. Eleven out of twelve women candidates fielded by the Trinamool Congress won. This indicates that women are winnable provided a conducive environment for contesting elections exists for them. This can be substantiated by the following facts. Out of the analysed 66 women candidates who won, 47 received funds from their party to contest elections. 37 had access to funds from sources other than self and political party. 66 of the 74 women winners were millionaires with average assets worth INR 36,60,84,100. The chances of winning of a millionaire female candidate was 25 per cent compared to a male millionaire candidate having a 19 per cent chance of winning. 37 of the 74 women winning candidates won with a vote share of more than 50 per cent. Thus, efforts are required to be made by parties to give tickets to more women candidates along with access to diverse sources of funds. In 2019 General Election, the Trinamool Congress and the Biju Janata Dal (BJD) opted for voluntary gender quotas, fielding 40 per cent and 33 per cent women candidates, respectively. Half of the countries of the world today use some type of electoral gender quota in politics such as reserved seats in the parliament, legal candidate quotas and political party quotas (International IDEA n.d.).

As per the 2009 Inter-Parliamentary Union (IPU) survey, one of the strongest deterrents to women entering politics was the lack of finances to contest electoral campaign. The chances of winning of a female candidate with assets less than INR 10 million was 1.49 per cent only in 2024 Indian General Election. In this regard, adoption of political finance reforms targeting gender equality are the need of the hour. In the absence of provision of direct public funding, parties and electoral candidates have to rely on private funding which is skewed in favor of the power elites and result in income disparity. Public funding to political parties can be used as an incentive to level the playing field and increase the number of women candidates or elected women. In all, 31 countries have the provision of direct public funding to political parties tied to gender equality among candidates (International IDEA n.d.). Gender-targeted public funding means that parties get financial incentives to meet the agreed proportion of women candidates or elected representatives. Alternatively, it can mean that a certain proportion of the public funding a political party receives is formally tied to provisions related to gender, or earmarked for gender-equality initiatives (Ohman 2018). These may include the training, capacity building initiatives, allocation of funds to women's wings, and developing a gender action plan or gender-sensitization for its members (Ohman 2018). Several countries provide such incentives – Brazil, Italy, South Korea, Chile, Colombia, Kenya, Finland and Ireland. Evidence suggests that gender-targeted public

funding has enabled greater representation of women in politics. The number of women in parliament increased after the introduction of this provision in almost all such countries (Lal 2021).

Approximately 70 per cent of the countries in the world provide some form of direct public funding to parties and candidates (International IDEA n.d.). Several committee reports and experts have recommended the introduction of public funding in India. It is argued that such introduction should follow after implementation of requisite political and electoral reforms such as enforcement of internal democracy and transparency in the working of political parties, bringing parties under Right to Information and ban on private donations among others (Quraishi 2023). To promote greater role of women in electoral politics, public funding of parties in India must be tied to the number of women on candidate list or inclusion of gender-related provisions. In addition to incentivizing parties to include and field more female candidates, it also enhances the capacity of women to run robust electoral campaigns (Sirivunnabood 2023). Alternatively, steps can be taken by parties themselves for promoting gender equality within by introducing quotas, allocating part if its income towards capacity building measures for women members and providing necessary support to women candidates through removal of financial barriers.

5 Campaign finance in India: funds, expenses data and key findings

India's former Prime Minister Atal Bihar Vajpayee once said that every legislator starts his career with the lie of the false election return he files [to the Election Commission]. Campaign finance is unquestionably a murky business in India. It is common knowledge that parties and election candidates underreport their official election expenses while they continue to spend several times above the prescribed limit. Having a legal limit on candidates' election expenditure is driven by a two-fold objective: first, all candidates can contest election on an equal footing, and second, prevention of the influence of big money on elections (Election Commission of India 2024). However, getting a party ticket relies primarily on their ability to self-finance poll campaigns and incur huge expenditure, which set the entry barriers to healthy contestation ab initio. The huge disparity in political parties' access to funding and the absence of legal limit on their expenditure has resulted in a widening gap between competing parties' abilities to spend resources/funds on campaigning.

Elections in India witness both legitimate and illegitimate expenditure by parties and candidates (Election Commission of India 2024). The permissible expenditure is reported by parties and candidates in their election expenditure statements after every election. These statements give an account of the funds raised and expenditure incurred under categories such as publicity (includes expenses under three heads: media advertisement, publicity materials and public meetings), travel, lumpsum payments made to candidates among others given in table 5.1a.

Table 5.1a Expenses incurred under various heads as declared by National parties during last three General Elections

General Election & four state elections held simultaneously	Publicity	Travel Expenses	Others/ Misc. Expenses	Lumpsum amount paid to candidate	Expenditure incurred on publishing criminal antecedents of the candidate (s)	Expenses on virtual campaign through social media platforms/Apps/ Other means by party central & state unit*	Total (INR million)
Lok Sabha & Simultaneous 4 Assembly Elections 2024	15113.00	6339.1	1050.21	2525.35	205.104	487.64	**25720.40**
Lok Sabha & Simultaneous 4 Assembly Elections 2019	11714.185	4319.31	2708.66	4183.663	11.686	declared under publicity by party	**22937.50**
Lok Sabha & Simultaneous 4 Assembly Elections 2014	8409.911	3080.6	1052.225	1391.745	0	declared under publicity by party	**13934.480**
Total	**35237.10**	**13739.01**	**4811.095**	**8100.76**	**216.79**	**487.64**	**62592.40**

**Dedicated column introduced in 2022 by ECI*

Source: Website of the Election Commission of India

The table 5.1b shows the expenditure incurred by 27 state parties, whose data is available in the public domain at the time of preparation of this report, during the 2024 Parliamentary elections and the four state elections held simultaneously under various heads such as publicity, travel, lumpsum amount paid to candidates, expenses on virtual campaigning etc.

Table 5.1b Expenses incurred under various heads as declared by state parties during the 2024 General Election and four state elections held simultaneously (in INR crore)

S.No.	Party	Publicity	Travel Expenses	Others/Misc. expenses	Lumpsum amounts paid to candidate	Publishing criminal antecedents of the candidate (s)	Expenses on virtual campaign through social media platforms/Apps/Other means by party central & state units	Total expenditure incurred
1	YSR-Congress	143.896	21.42	160.3575	0	2.6916	0	**328.365**
2	BJD	90.8395	26.1737	21.8889	54.8511	1.2559	83.0304	**278.039**
3	AITC	18.634	46.251	46.4954	36	0.3046	0	**147.685**
4	DMK	124.0506	5.5707	0.6576	15.40	0	0	**145.679**
5	BRS	65.564	3.306	34.393	16.15	0.7317	0	**120.145**
6	SP	1.827	23.91	16.3248	5.9215	0.41418	0	**48.3975**
7	TDP	8.3753	13.879	12.0042	0	1.4075	0	**35.666**
8	JD(U)	10.3303	11.291	1.217	8.50	0.0375	0	**31.376**
9	AIADMK	23.0303	0.302	0.0077	0	0.201	0	**23.541**
10	RJD	0.8408	7.5718	0	0	0.3024	0	**8.715**
11	SKM	1.566	0	0.0948	6.6	0.0454	0	**8.306**
12	SAD	2.592	0	0.6423	1.15	0.0432	0.2336	**4.661**
13	SDF	3.048	0.105	0.3	0.10	0	0	**3.553**
14	JD(S)	0.7374	0.299	0.0378	1.20	0	0	**2.274**
15	AIUDF	0.28	1.0785	0.0295	0.10	0.074	0	**1.562**
16	CPI(ML)(L)	0.6258	0.0484	0.437	0.1068	0.0202	0.0571	**1.295**
17	AGP	0.2645	0	0	1.00	0	0	**1.2645**
18	LJP (Ram Vilas)	0.0234	0	0.0089	1.08	0	0	**1.1123**
19	KC(M)	0	0	0	0.70	0.0678	0	**0.7678**
20	AIMIM	0	0.0118	0.0257	0.52	0.0775	0	**0.635**
21	MNF	0.1525	0.20	0	0	0	0	**0.3525**
22	AIFB	0.038	0.0504	0	0.11	0	0	**0.1984**
23	NPF	0.09256	0.03254	0.0635	0	0	0	**0.1886**
24	Revolutionary Goans Party	0.0277	0	0.03135	0.052	0.06013	0	**0.1712**
25	Rashtriya Loktantrik Party	0.05	0.0032	0.0076	0.10	0.00799	0	**0.1688**
26	JKPDP	0.0667	0	0	0	0	0	**0.0667**
27	AJSU Party	0.042	0	0.0058	0	0	0	**0.0478**
Total		**496.9946**	**161.504**	**295.0305**	**149.6416**	**7.7426**	**83.321**	**1194.234**

Source: Website of the Election Commission of India

As outlined in chapter 3, among illegitimate expenditure, expenses incurred by parties and candidates on vote-buying through distribution of money, liquor, gold, narcotics and other items to voters as bribery are quite rampant and increase with every election. Money power and

inducements in every general election result in staggering seizures. This adversely impacts the transparent and fair usage of political finance, which is a core tenet of election integrity. Although 92 per cent of countries around the world ban any form of vote-buying, it continues to remain a prevalent corrupt practice (International IDEA n.d.).

Another category of expenses which have come to fore in the last decade or so is the money spent on surrogate advertising, paid news, proxy social media pages and on the various aspects of a political consultancy-party or candidate nexus. The practice of horse-trading has also grown in salience and now involves huge sums of money as inducement in a quid pro quo arrangement. The money spent can potentially influence the voting trend, however, it remains outside of any accounting or reporting requirement.

This chapter discusses the findings of the analyses of official election expenditure data pertaining to parties and candidates. This includes the official expenses declared by parties and candidates on the traditional modes of campaigning as well as digital campaigns during the 2024 General Election.

5.1 There is no limit on political party spending, but imposing one might help promote a level playing field among political parties and manage the costs of elections

According to the International IDEA's Political Finance Database, 37.57 per cent of countries impose limit on political party spending while 49.17 per cent have limits on the amount a candidate can spend. The number of countries with spending limits has only increased in the last decade. The contribution and expenditure limits are useful for protecting the level-playing field and prevent parties with greater access to funding from having an edge in election campaigning (Ohman 2012).

Table 5.2 shows the funds collected and expenditure incurred by National political parties as declared in their election expenditure statements during the last three Parliamentary elections from 2014 and during the four state assembly elections held at the same time. Parties do not give a separate account of expenditure for Parliamentary and the state elections which are held together during this time, which is also something that needs to change. The figures declared by parties on funds collected and expenditure incurred in their expenditure statements cover the time period from the date of announcement till the date of completion of election. The larger parties like the BJP and INC with more financial resources are able to spend considerably more on their election campaigns, especially on publicity, and this results in an uneven electoral playing field (see Table 5.2). The funds collected by the incumbent BJP during the election period are more than twice the total funds collected by remaining National parties. The reported expenditure by the incumbent party is also more than all other National parties. This is also true for party's reported expenses on publicity during the 2014 and 2019 General Elections.

Table 5.2 Funds collected and election spending by National political parties during the General Elections

Party	Election (as declared in the statement by party)	Funds collected (INR million)	Expenditure incurred (INR million)
BJP	General Election 2024 & Assembly Elections to Andhra Pradesh, Arunachal Pradesh, Odisha and Sikkim	62,680	14,939
	General Election 2019 & Assembly Elections to Andhra Pradesh, Arunachal Pradesh, Odisha and Sikkim	40,467	11,417
	General Election 2014 and Assemblies of Andhra Pradesh, Arunachal Pradesh, Odisha and Sikkim	5,884	7,125
	Total	**1,09,031**	**33,481**
INC	General Election 2024 & Assembly Elections to Andhra Pradesh, Arunachal Pradesh, Odisha and Sikkim	5,925	6,201
	General Election 2019 & Assembly Elections to Andhra Pradesh, Arunachal Pradesh, Odisha and Sikkim	8,562	6,264
	General Election 2014 & Assembly Elections to Andhra Pradesh, Arunachal Pradesh, Odisha and Sikkim	2,835	4,862
	Total	**17,322**	**17,327**
AITC*	General Election 2024	331.2	1,476.9
	General Election 2019 and Odisha Assembly Election	1,411	734.7
	General Election 2014	132.2	152.2
	Total	**1,874.4**	**2363.8**
AAP**	General Election 2024 and Odisha Assembly Election	70 .08	75.44
	General Election 2019	177.2	76.4
	General Election 2014	516.8	177.9
	Total	**764.08**	**329.74**
CPI(M)	General Election 2024 & Assembly Elections to Andhra Pradesh and Odisha	627.5	165.3
	General Election 2019 & Assembly Elections to Andhra Pradesh and Odisha	650.1	268.5
	General Election 2014 & Assembly Elections	551.2	88
	Total	**1,828.8**	**521.8**
BSP	General Election 2024 & Assembly Elections to Andhra Pradesh and Odisha	0	661.9
	General Election 2019 & Assembly Elections	8.27	553.9
	General Election 2014 & Assembly Election to Odisha and Andhra Pradesh	772.6	300.5
	Total	**780.87**	**1516.30**
CPI*	General Election 2024	NA	NA
	General Election 2019 & Assembly Elections to Andhra Pradesh, Arunachal Pradesh, Odisha and Sikkim	255.4	211.3

Party	Election (as declared in the statement by party)	Funds collected (INR million)	Expenditure incurred (INR million)
	General Election 2014 &Assembly Elections to Andhra Pradesh and Odisha	95.1	67.2
	Total	**350.5**	**278.5**
NCP*	General Election 2024	NA	NA
	General Election 2019 & Assembly Election to Arunachal Pradesh	808	602.3
	General Election 2014 & State Assembly Elections	632	513.4
	Total	**1,440**	**1,115.7**
NPEP***	General Election 2024	NA	NA
	General Election 2019	19.25	7.90
	General Election 2014	0.215	0.469
	Total	**19.465**	**8.369**

**Party lost its national party status in FY 2022-23*

***Party did not have national party status until FY 2021-22*

****Party did not have national party status until FY 2019-20*

Source: Website of the Election Commission of India

The unequal access to private funding across parties and the lack of direct public funding has made it difficult for new or smaller parties to contest elections on equal footing and they may find it difficult to organize robust campaigns compared to larger parties, which may have unlimited resources to spend. This is even more evident among state and registered unrecognized political parties.

Unlimited party spending on more ambitious, sophisticated and professional campaigns has also resulted in increasing costs of elections in India (Chauchard 2018). Structural changes such as growing size of constituencies, fierce political competition, predominance of social media, emergence of political consultants/campaign managers and the intensifying need for ambitious large-scale election campaigns have added to the costs borne by parties and candidates to run a successful poll campaign. This has caused an indispensable rise in campaign spending, as the nature of election campaigns change dramatically over the years and parties continue to spend as they like. A (CMS 2019) report, whose methodology is not well-known but is the only such study available, estimated that in 20 years, between 1998 and 2019, the election expenditure increased from INR 90,000 million to INR 550,000 million. BJP and INC spent much more than other parties in the General Elections. The BJP spent about 20 per cent in 1998 against 45 per cent in 2019 out of total estimated poll expenditure. Congress party's share was 40 per cent of total expenditure in 2009, against 15 to 20 per cent in 2019 (CMS 2019). Thus, more than 50 per cent of the total costs of elections is incurred by these two parties, which shows that rising costs of elections is aggravated by the unlimited expenses incurred by richer parties given their ability to do so. To address the issue of costly elections, the Election Commission is mulling over the feasibility of the government's proposal on holding simultaneous elections. For the same, a high-level committee was constituted under the chairmanship of the former President Ram Nath Kovind. Based on the recommendations in the committee report, the Union Cabinet approved the One Nation, One Election Bill, which was introduced in the Lower House of the Parliament on December 17, 2024. Thereafter, it has been referred to the Joint Parliamentary Committee which is currently

undertaking stakeholder consultations. This proposal has drawn mixed reactions from civil society. The logistical challenges of holding such an exercise are enormous, as well as its impact on the federal structure.

5.2 Candidates and political parties under-report election expenses, and the need for reforms

The 2001 Consultation Paper of National Commission to Review the Working of the Constitution (NCRWC) on Electoral Reforms estimates that actual campaign expenditure by candidates is in the range of about twenty to thirty times the said limits. It is widely understood that there is distortion between the reported and estimated candidate expenditure. In 2015, Chief Election Commissioner Dr Nasim Zaidi said that the majority of winning candidates report only 40 to 80 per cent of their expenses to the Election Commission (NDTV 2015). There is a perceived mismatch between the visible lavish spending by major parties and candidates during election campaigns, and the figures declared to ECI in official statements. Any campaign-related expenses incurred by a political party during a non-election year or around the narrowly defined campaign period (which needs to be reviewed) should be included in the total expenses incurred by political parties during the election period. This under-reporting is also true for the digital media campaign expenses reported in the official statements, which are difficult to compare with the data available through the Google and Facebook ad libraries, discussed in detail in later sections.

The CMS study estimated that on an average, nearly INR 1,000 million per Lok Sabha constituency, was spent in the 2019 Parliamentary election. Media interviews with candidates revealed that violation of spending limits is a common practice. A Telugu Desam Party MP was quoted in a media report saying that each candidate on average spent INR 250 million and the total election expenses crossed INR 100,000 million in Andhra Pradesh during the 2019 General Election, which is easily thirty times more than the prescribed limit (The Hindu 2019). Another media report estimated that an average expenditure of INR 100 million per serious candidate is plausible (A. Kumar 2019). There are many such stories reported by the media as well as scholars in their research based on personal interactions. On the other hand, the analysis of official expenditure statements of 507 winning candidates so far for the 2024 General Election revealed that none of the candidates exceeded the spending limit. Analysis of 538 winning candidates for the 2019 General Election found that only two MPs exceeded the expense limit by INR 0.927 million and INR 0.795 million, respectively. The average amount of money spent by 538 MPs was INR 5.084 million, 73 per cent of the total limit (see table 5.3). In the 2014 General Election, only one MP was found exceeding the prescribed expense limit. No information is available in the public domain regarding action against these MPs. The last time a candidate was disqualified for flouting the spending rules was an MLA in Uttar Pradesh in 2011 as per the information available in public domain. Despite being common knowledge, no action has been taken by EC in the matter of overspending by candidates unless election petitions are filed by rival candidates/parties in this regard. Effective monitoring and oversight of election spending is required.

Table 5.3 Election spending by winning candidates during the last four General Elections

Parliamentary Election	No. of winners analysed (out of 543)	Expenditure limit	Average expenditure (INR)	% of expenditure limit	No. of candidates who exceeded the limit
2024	507*	9.5 million; 7.5 million	6.496 million	68.66	0
2019	538	7 million; 5.4 million	5.084 million	73	2
2014	537	7 million; 5.4 million	4.033 million	58	1
2009	437	2.2 million to 4 million	1.462 million	59	2

**Data available at the time of preparation of the report*

Source: Website of the Election Commission of India

Although spending limits are revised from time to time based on the recommendations of the ECI, many in the political class and election experts have also expressed that current election expenditure ceilings are unrealistic and have not kept pace with the rate of inflation. The actual cost of running a successful campaign is several times higher than the prescribed ceiling and this may create incentive to underreport the expenses, which is evident from the analysis of the expenditure statements. Research also shows that for a candidate to remain in the electoral fray, he/she needs to incur a certain minimum amount. The level of competition between candidates in a given constituency decrees the scale of money spent on campaigning, which easily varies from constituency to constituency. (CMS 2019) calls this "competitor compulsions". Political Scientist (Chauchard 2018) contends that costlier elections may not necessarily result from lower levels of morality in the political class or from a surge in bribe giving; basic logistical costs/ short-term wages that candidates pay to their workers and the crowds they recruit at times, political competition, generational changes, and larger size of constituencies place even more meaningful constraints on candidates.

EC may set reasonable spending limits on both "visible and invisible expenditure" in consultation with political parties and other stakeholders given the low level of compliance with the existing limits. At the same time, founder of ADR, Prof Trilochan Sastry argues that raising the ceiling alone may not address the real issues (Yasmeen 2024). Several reforms such as maintaining a level-playing field so that any public-spirited citizen is able to contest elections without facing disadvantage, promoting transparency in funding and sources of funding along with penalties for not being transparent, and imposing penalties for crossing the legal limit. He adds that in case of violation, EC should be prepared to countermand the election. Furthermore, the parallel black economy from which parties/candidates' source illicit campaign money facilitates flow of easy cash during campaign period. This permits unaccounted (invisible) expenditure on activities that can hurt the spirit of free and fair elections. Putting restrictions on expenditure supplemented by adequate monitoring of sources of funding is necessary (Yasmeen 2024).

5.3 Delayed submission of election expenditure statements and the lack of compliance with the prescribed format for reporting

Timely reporting and disclosure of election campaign expenses are a necessary requirement for effective regulation and for ensuring accountability in case of non-compliance. Reporting requirements must be regular and sufficiently detailed for oversight and enforcement mechanisms to work. The requirement for candidates' expenditure statements is mandated by law and those of the political parties are in adherence to SC's directions and EC's own transparency guidelines which do not enjoy legal backing. The analysis of expenditure statements of parties and candidates throw up two clear observations. First, there is delay in the availability of reports in the public domain on the part of concerned election authorities (RTIs have to be filed separately to access unavailable reports sometimes) and no information is available on the status of their submission for the public to ascertain compliance with the prescribed deadlines. There have been hardly any instances where a winning candidate was disqualified for submitting his expenditure report late or for non-reporting of overspending. Similarly, there is not enough evidence to suggest any action taken against a party for underreporting. EC sends reminder letters to parties upon defaulting their submission, however, no information about any further stringent action is publicly known. Second, both parties and candidates do not declare expenses in complete adherence with the standardized format. Several parties combine their election expenses for Parliamentary election and the four state assembly elections held simultaneously without providing a separate account for them.

Despite the legal requirement for candidates to lodge their expenditure statements within 30 days of declaration of result, the expenditure statements of 59 out of 543 elected MPs in General Elections 2024 were not available in the public domain more than five months after the deadline. As far as political parties are concerned, the complete election expenditure statements for General Election 2024 and four state elections held simultaneously were available for only 32 recognised political parties on the ECI website, more than three months after the deadline for submission. Additionally, the expenditure statement of AAP is available for the state elections only, which were held with Parliamentary elections 2024.

Based on the information on the website of the ECI, ADR analysed the availability of statements of election expenditure incurred by all registered political parties during the assembly elections held between 2019 and 2024 including the General Elections 2019 and 2024. The status of submission compiled at the time of release of the reports is provided in table 5.4.

Table 5.4 Status of submission of election expenditure reports by recognized political parties

General Election/Assembly Election	No. of recognized parties which contested	No. of parties that delayed submission at the time of data compilation*	No. of days by which delayed (min-max range)	No. of parties whose reports were not available in the public domain at the time of data compilation*
Lok Sabha 2024	53	14	1-232 days	21
Haryana and Jammu and Kashmir 2024	19	2	14-76 days	11
Jharkhand and Maharashtra 2024	21	4	27-47 days	10
Chhattisgarh, Madhya Pradesh, Mizoram, Rajasthan & Telangana-2023	19	7	2-86 days	8
Karnataka 2023	16	5	17-129 days	6
Meghalaya, Nagaland & Tripura-2023	19	5	17- 179 days	9
Gujarat & Himachal Pradesh 2022	13	7	13-141 days	2
Goa, Manipur, Punjab, Uttar Pradesh & Uttarakhand 2022	24	7	1-85 days	11
Assam, Kerala, Tamil Nadu, West Bengal & Puducherry 2021	30	14	4-122 days	11
Bihar 2020	17	7	7-63 days	8
Delhi 2020	13	5	79-162 days	8
Jharkhand 2019	22	6	120-201 days	12
Maharashtra & Haryana 2019	17	6	3-254 days	6
Lok Sabha 2019	50	15	1-163 days	18

*number may vary now as it is from the same year when the election was held

Source: Website of the Election Commission of India

The manner of reporting of election expenses by parties/candidates to the ECI can certainly be improved to enhance the effectiveness of the process. Political parties more commonly delay the submission of their election statements by several months, escaping any timely scrutiny by the general public. Though EC introduced the Integrated Election Expenditure Monitoring System (IEMS), an online portal through which parties can file their election expenditure statements replacing hard copies, yet the format of such reports continues to be in the form of scanned PDF documents which are not user-friendly or easily readable. A well-designed online reporting system can be made beneficial from the perspective of the general public by making it available in the form of a searchable and downloadable database to improve access. Full transparency is possible should there be a status update on the names of parties and candidates which delayed or defaulted on their submission in addition to information on the reminder letters sent to non-compliant parties/candidates on EC's website. This will also enhance the capacity of the ECI staff responsible for political finance monitoring and oversight. A well-designed reporting and disclosure system is a crucial step in strengthening democratic control over political finance (Ohman 2012).

5.4 Issues related to online campaign finance are emerging and pose serious risks to oversight mechanisms

India has an estimated 820 million active internet users with internet penetration of 52.4 per cent. More than 50 per cent of these users are from rural areas. The year before the 2024 General Election, internet penetration grew at eight per cent year-on-year (Fortune India 2024). There were 462 million social media users and 1.12 billion cellular mobile connections in early 2024, which is 78 per cent of the total population (Kemp 2024). The most popular social media platforms among India's more than 800 million smartphone users are Facebook, X (formerly Twitter), WhatsApp and YouTube. India has more than 500 million WhatsApp users, the largest in the world (Shinde 2024). The messaging platform is most widely used during elections to circulate disinformation and hate speech, sometimes disguised as political communication/campaign messaging, by parties, candidates or the third-party campaigners to reach out to voters. The reach and popularity of WhatsApp has made it an attractive platform in the race to win the world's most competitive elections.

Election period in India experiences an unprecedented surge in political advertisements on popular social media platforms given the permitted unlimited spending by political parties. The circulation of fake news, AI generated content, misleading claims about poll related information during elections have become a constant challenge to monitor, by Election Commission's own admission, given the scale and pace at which such content is created, shared and reshared. A study conducted by the (Kumar, et al. 2024) has found that political parties continue to spend substantial money on political campaigning online (Google and Meta platforms) even during the silence period, which is in violation of the MCC. The study revealed that during the silence period, 13 out of every 50 ads of the BJP aired in constituencies due for polls in the first phase of the 2024 General Election. 64 ads of BJP and 32 ads of INC out of a total 500 ads were posted during the silence period. Additionally, while surrogate political advertising is not permitted in print and electronic media, these rules have not been effectively extended to the social media platforms where they continue to thrive in every election.

An even more concerning aspect is the tracking of campaign related expenditure by various actors on these platforms especially third-party campaigners, shadow and surrogate advertisers. Parties and candidates also underreport their online spending and the official figures disclosed by them are not generally comparable to those available on Google and Facebook ad libraries or other expert estimates. Parties and candidates also fail to comply with the disclosure requirements issued by the ECI from time to time. A separate dedicated account of expenses incurred on virtual campaigns is often missing. Like traditional campaign spending, there is uneven level-playing field in online spending space as well. Intrinsically, these digital platforms may offer a more equal chance to participate among contestants with varied financial backgrounds, but the access to greater funds and spending ability does determine the opportunity to accumulate digital electoral assets and to recruit specialized agencies/campaign managers. This further exacerbates the problems of illicit funding and the race for access to unlimited funds (Tham, et al. 2022).

5.4.1 Online political advertising during General Election 2024 in numbers

In the 2024 elections, a large number of political parties actively used social media platforms to reach out to voters and supporters. As per the election expenditure disclosed by recognized political parties for the Parliamentary elections 2024 and in some cases also for the four state assembly elections held simultaneously, National party BJP, officially declared a total spending of INR 1,876.876 million on virtual campaigning through social media platforms, mobile applications, television commercials, campaign songs, and other digital means. Major platforms where the party incurred most of its expenditure included Meta (Facebook and Instagram), WhatsApp, YouTube, Twitter (now X), and the Indian social networking platform ShareChat. In comparison, the opposition party, INC, declared spending of INR 476.9 million on similar digital campaigning channels and platforms. The party hired several media agencies for such purposes whose names were disclosed in its election expenditure statement. Its social media campaigns targeted states such as Punjab, Himachal Pradesh, Kerala, Maharashtra, Rajasthan, West Bengal among others. Among the 24 state parties whose data is available in the public domain, only six disclosed any expenses on social media or digital platforms/tools/agencies. These include parties like BJD (INR 830.3 million), DMK (INR 502.6 million), AIADMK (INR 176.25 million), YSR-C (INR 82.6 million), JD(U) (INR 74.3 million) and JD(S) (INR 3.398 million), which disclosed spending on digital media campaigns using platforms such as WhatsApp, YouTube, Facebook, Instagram, Google etc through various media agencies hired for such purposes. The target states included Tamil Nadu, Bihar, Andhra Pradesh and Karnataka.

Table 5.5 Party-wise share of virtual/social media campaign expenses for the General Election 2024

S. No.	Political Party	Total Expenses (INR Cr)	Virtual/social media campaign expenses (INR Cr)	% Share
1	BJP	1778.70	187.6876	10.55
2	INC	686.193	47.6928	6.95
3	YSR-Congress	328.365	8.26	3
4	BJD	278.039	83.0304	29.86
5	AITC	147.685	0	0
6	DMK	145.678	50.2635	35
7	BRS	120.144	0	0
8	BSP	72.45	0	0
9	SP	48.3974	0	0
10	TDP	35.666	0	0
11	JD(U)	31.376	7.43	24
12	CPI(M)	26.332	0.0045	0.02
13	AIADMK	23.541	17.6248	75
14	RJD	8.715	0	0
15	AAP	8.367	0	0
16	SKM	8.306	0	0
17	SAD	4.661	0.2336	5.01
18	SDF	3.553	0	0
19	JD(S)	2.274	0.3398	15
20	AIUDF	1.562	0	0
21	CPI(ML)(L)	1.2953	0.0571	4.41

S. No.	Political Party	Total Expenses (INR Cr)	Virtual/social media campaign expenses (INR Cr)	% Share
22	AGP	1.2645	0	0
23	LJP (Ram Vilas)	1.1123	0	0
24	KC(M)	0.7678	0	0
25	AIMIM	0.635	0	0
26	MNF	0.352	0	0
27	AIFB	0.198	0	0
28	NPF	0.188	0	0
29	Revolutionary Goans Party	0.171	0	0
30	Rashtriya Loktantrik Party	0.168	0	0
31	JKPDP	0.066	0	0
32	AJSU Party	0.047	0	0

**Expenses disclosed only for 4 state elections held simultaneously with Lok Sabha 2024*

Source: Website of the Election Commission of India

The data in table 5.6 from Google ad library between 16 March (announcement of elections) and 4 June 2024 (declaration of results) shows that BJP spent the highest (INR 853 million) on political advertising on Google's various platforms, followed by Congress (INR 453 million) and Biju Janata Dal (INR 193 million). At INR 147 million, Dravida Munnetra Kazhagam (DMK), through its advertising agency Populous Empowerment Network Private Limited is the next biggest spender on digital ads. Another advertising agency IPAC spent INR 42 million and was hired by parties such as Trinamool Congress and YSR-C party. The YSR-C party on its own spent INR 125 million. During this time, around 196,789 ads worth INR 2.05 billion were shown predominantly targeting southern states namely, Odisha, Andhra Pradesh, Tamil Nadu as well as Maharashtra and Uttar Pradesh. 81.3 per cent of these ads were in video format and 18.6 per cent in image format. Highest number of ads were shown in the month of May 2024.

Table. 5.6 Top ten spenders on political advertising on Google platforms during 2024 General Election

S. No.	Advertiser	Ad spend (INR million)	Ads	Top target states	Video (INR million)	Image (INR million)	Highest spending by month
1	BJP	853	171,228	Maharashtra Odisha Uttar Pradesh West Bengal Delhi Telangana	654 (76.7%)	199 (23.3%)	May
2	INC	453	3,798	Maharashtra Haryana Punjab Madhya Pradesh Delhi	389 (85.9%)	63.7 (14.1%)	April
3	BJD	193	4,776	Odisha West Bengal	150 (77.4%)	43.7 (22.6%)	May
4	Populous Empowerment Network Private Limited	147	7,834	Tamil Nadu	90.7 (61.7%)	56.4 (38.3%)	March
5	YSR-C	125	1,711	Andhra Pradesh	118	6.73	April, May

S. No.	Advertiser	Ad spend (INR million)	Ads	Top target states	Video (INR million)	Image (INR million)	Highest spending by month
				Telangana	(94.6%)	(5.37%)	
6	TDP	60.5	1,723	Andhra Pradesh Telangana	53.8 (89%)	6.65 (11%)	May
7	Indian PAC Consulting Private Limited	42	754	West Bengal Andhra Pradesh	38.4 (91.5%)	3.56 (8.49%)	March, April
8	Way2News Private Limited (a short news app)	36	96	Tamil Nadu Telangana Andhra Pradesh	36 (100%)	0	April, May
9	Shree Cement Limited (a cement manufacturing company)	33.8	88	Maharashtra Bihar Karnataka West Bengal Gujarat	33.8 (100%)	0	March, April, May
10	D B Corp Limited (Dainik Bhaskar Newspaper)	27.2	170	Uttar Pradesh Gujarat Rajasthan Bihar Madhya Pradesh	27.2 (100%)	0	May, June

Source: Google Ad Library

During the 2024 General Election for the period between 16 March and 4 June, Facebook ad library report showed a database of more than 1,18,000 political advertisements posted by electoral contestants and non-contestants. From this sample, the authors selected 3929 unique page IDs which posted these various political advertisements during the elections. These pages were identified as accounts of contestants: political parties and candidates together termed as official pages, and non-contestants: supporter/third party accounts that posted in favor of the party or its candidates/leaders called proxy pages as summarized in table 5.7a for National parties only. The data of advertisements posted from the pages of National parties and their supporter accounts were then analysed for demographic details, target states, platform and other information as provided in table 5.7b.

Table 5.7a Summary of the official pages and proxy pages of National parties identified on Facebook during General Election 2024

Political Party	No. of official pages of party	No. of proxy pages of party	No. of official pages of party candidate	No. of proxy pages of party candidate	Total
Bharatiya Janata Party (BJP)	122	110	1312	450	**1994**
Indian National Congress (INC)	22	22	198	69	**311**
Aam Aadmi Party (AAP)	4	1	25	8	**38**
Bahujan Samaj Party (BSP)	2	1	16	7	**26**
Communist Party of India (Marxist) (CPI(M))	0	0	5	3	**8**
National People's Party (NPP)	1	0	0	0	**1**
Total	**151**	**134**	**1556**	**537**	**2378**

Source: Authors' own analysis based on data from Facebook Ad library

Among accounts of National parties and their proxy accounts, the highest number of ads were posted by BJP, followed by its proxy accounts, INC and its proxy accounts. Majority of the political advertisements targeted the male population and were largely posted on Facebook followed by Instagram and Facebook both.

Table 5.7b Advertiser-wise demographic and other details of political advertisements posted by National parties and third parties on Facebook during General Election 2024

Advertiser	No. of ads analysed	Male audience	Female audience	Unknown	Amount (INR million)	Top platforms on which posted	Top target states
BJP official*	88,486	73.96%	25.91%	0.13%	308.96	Facebook (51.31%) Instagram (39.14%) Both (9.55%)	Uttar Pradesh Maharashtra Odisha West Bengal Andhra Pradesh
BJP proxy accounts	11,263	76.43%	23.46%	0.11%	27.463	Facebook (26.29%), Instagram (24.40%) Both (49.31%)	Uttar Pradesh Maharashtra Delhi Bihar Haryana
INC official*	1,278	85.78%	14.07%	0.16%	1.2664	Facebook (37.90%) Instagram (15.97%) Both (46.13%)	Karnataka Madhya Pradesh Odisha Haryana Maharashtra
INC proxy accounts	839	83.98%	15.93%	0.09%	0.9886	Facebook (27.42%) Instagram (25.12%) Both (47.46%)	Telangana Uttar Pradesh Haryana Maharashtra Karnataka
AAP official*	191	83.69%	16.24%	0.07%	1.0855	Facebook (67.36%) Instagram (24.75%) Both (7.88%)	Delhi Punjab Haryana Gujarat Assam
AAP proxy accounts	99	87.40%	12.52%	0.08%	0.1045	Facebook (73.14%) Instagram (20.66%) Both (6.20%)	Delhi Punjab Assam Rajasthan Haryana
BSP official*	43	89.94%	10.07%	0.08%	0.22657	Facebook (36.54%) Instagram (1.32%) Both (61.71%)	Uttar Pradesh Uttarakhand Bihar Madhya Pradesh Gujarat
BSP proxy accounts	15	87.49%	12.43%	0.08%	0.003385	Facebook (14.65%) Both (85.35%)	Madhya Pradesh Bihar Uttar Pradesh Rajasthan Gujarat

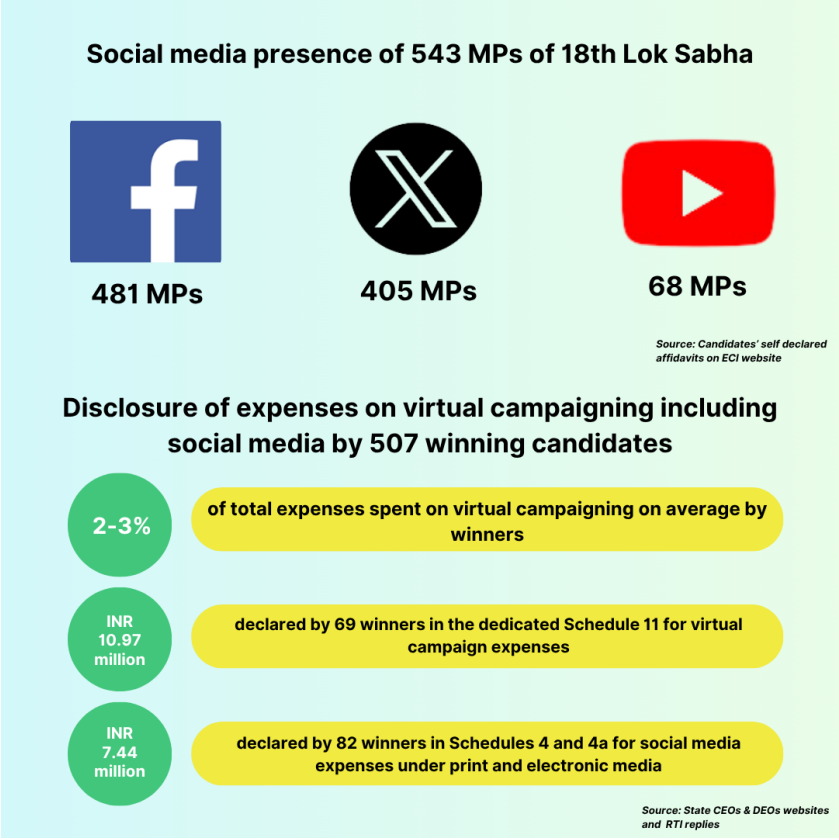
**include candidate and party pages both*

Source: Authors' own analysis based on data from Facebook Ad library

5.4.2 Self-declared expenditure by parties and candidates on campaigning through social media tends to be underreported

Requirements for political parties and candidates to disclose their digital campaign expenses on their expenditure reports promotes transparency. However, a study of these reports indicates that monitoring and compliance with campaign spending limits and disclosure rules remains a challenge for the ECI. ADR analysed the expenditure statements of 507 winning candidates for the 2024 General Election. Unlike parties, there is a limit on candidates' election expenses which is applicable to online campaigns too. Candidates are required to disclose their campaign expenditure on social media in a separate dedicated column under schedule 11 of their expenditure statement as per ECI directions issued in 2022. Only 69 winners declared any expenses (worth INR 10.97 million) incurred on virtual campaigns under schedule 11. While 82 winners disclosed social media expenses (worth INR 7.44 million) under schedule 4 and 4a of their abstract statement, which accounts for their overall expenditure under print and electronic media including internet and social media. Some of the major politicians and parties' well-known star campaigners declared nil expenses on social media campaign in both schedules of their statement. On average, candidates declared spending a miniscule 2-3 per cent of their total expenditure on online campaigning (as per Schedule 11 disclosures). It is interesting to note that 481 out of the 543 winning candidates declared having a Facebook handle, 405 and 68 declared accounts on Twitter and YouTube, respectively. Despite having social media presence, expenses on political advertisements were disclosed by few.

Figure 5.1 Social media presence of 543 MPs of 18th Lok Sabha



For the 2019 and 2014 General Elections, parties did not declare exclusive expenses on social media/virtual campaigning in their official statements submitted to EC as required since 2022, but they did so under the overall expenses incurred on print and electronic media. Expenditure incurred towards social media advertising was reported under the sub-head of 'Media Advertisement', under Publicity. ADR estimated online spending by studying the various items of expenditure declared by a political party and selected keywords relevant to virtual/social media campaigning. In 2019 elections, the main opposition party INC declared spending roughly INR 463.44 million while the incumbent BJP declared an estimated INR 20.68 million only (see table 5.8). In the 2024 elections, the main opposition party INC declared spending roughly INR 476.92 million, while the incumbent BJP declared an estimated INR 1876.87 million (see Table 5.8). This is in sharp contrast with what some media analysts estimated – INC spent INR 2,000 million on social media campaigning (Sahoo 2024). The aforesaid figures for the BJP were also not comparable with the data available through Google and Facebook ad libraries. On Facebook alone, BJP reportedly spent INR 43 million and INR 180 million (60 per cent of the total) on Google during the 2019 Parliamentary elections (Sahoo 2024). Among regional parties, AITC hardly declared any expenses on social media, an estimated INR 59,000, however, it reportedly spent INR 2.928 million on Facebook during the campaign period as per the ad library data.

Table 5.8 Official social media expenses declared by BJP and INC during last three General Elections

Political Party	2014* (INR million)	2019* (INR million)	2024 (INR million)
INC	224.52	463.44	476.92
BJP	17.66	20.68	1888.9
Total	**242.18**	**484.12**	**2353.79**

**Estimated based on the relevant keywords related to virtual/online campaign expenditure*

Source: Website of the Election Commission of India

As per one estimate, political parties nearly spent INR 5,000 million on the 2014 polls on social and digital media (Dutta 2014). One cannot comment with certainty on the exact reasons behind the difference between the official expenditure, ad library data of certain platforms and the estimated figures except that parties tend to underreport in official disclosures. This is especially true for the expenses incurred on content development, salaries/fees of hired social media professionals and consultants (Chaturvedi 2019), even when the EC guidelines require them to disclose such expenses. EC must consider capping online spending by parties to ensure accountability and protection of the level-playing field. In addition to a spending limit, it would be equally important to ensure that spending by political parties on online campaigning is reported systematically and transparently. All parties must furnish details of the agencies, big or small, hired to handle their virtual campaigns in their expenditure statements. Currently, most engagement with these agencies happens through back door channels, which are impossible for ECI to monitor. It is essential to build the capacity of the ECI officials in this regard in collaboration with field experts.

5.4.3 Campaign finance oversight faces serious challenges from online third-party spending including proxy pages, shadow/ghost advertisers and surrogate ads

Most political spending on digital platforms is not done directly by political parties or candidates but rather by related affiliates or sympathetic groups which may not necessarily be linked to the contestants (Mehta 2019). Political parties also spend enormous amount of money on digital platforms especially on digital war rooms or troll armies (Mehta 2019). Money spent on political advertising through separate but party/candidate supportive groups is difficult to monitor and does not make it to official reporting. Social media algorithms/analytics and the use of proxies to spread political messages make it hard to track spending or influence on digital media and largely go unaccounted. The 'viral' political content, issue-based advertisements or covert advertising on platforms, paid trends that could influence voters and work to benefit of parties/candidates are hard to attribute to any party's/candidate's campaigning and remain outside the purview of scrutiny (Mahajan 2019).

Consider the example of Facebook: The top 25 advertisers out of the total 20,937 advertisers in Facebook ad library data for the 90 days period between 8 March to 6 June 2024 is provided in table 5.9. The total advertisers include 12,287 advertisers (posted 4,67,210 ads) who spent greater than INR 100 each and 8,650 advertisers (10,772 ads) who spent less than or equal to INR 100 each on political ads covering the duration of General Election 2024. Together the total advertisers spent INR 1.15 billion on 4,77,982 political advertisements. These advertisers include official pages which share posts and propaganda according to party lines, and other pages that support a particular party or candidate through posts or advertisements but are not officially affiliated to them (A. Kumar 2024). The latter can be categorized as third party pages whose expenditure is not accounted for by the Election Commission. ADR analysis of the top 100 pages shows that there were 19 proxy/third party pages which together spent nearly INR 190.29 million on 14,982 ads. The official party page of the BJP at the central level is the highest spender having incurred nearly INR 194 million on 43,455 political advertisements. There are 16 other pages of the party at the state unit level which have incurred INR 61 million on 11,544 ads. Second on the list is official page of INC having spent close to INR 108 million on 845 ads. The party has one other official page of its Odisha state unit among the top 100 pages that incurred INR 1.06 million on 1,005 ads. A third-party page known as *'Ama Chinha Sankha Chinha* (my symbol is the conch shell)' is also a top spender on Facebook, supports the BJD party's Naveen Patnaik. Among the top 25 advertisers by spending are pages actively campaigning through political ads in support of various political parties and are also posting content criticizing/targeting a party. These pages are also in the form of proxy pages, meme pages, or "anti" accounts that target opposition and amplify controversial narratives (A. Kumar 2024). There are a considerable number of third-party pages actively engaged in campaigns for state-level parties. These may not be directly linked to a party or a candidate but spent a substantial amount of money on posting ads on the platform. Among the analysed data, there are also pages with different names but identical disclaimers and it seems that they are run by the same admin. These are proxy pages of a party and run content supportive of it while targeting the opposition.

Table 5.9 Top 25 spenders on political advertisements on Facebook (8 March to 6 June 2024)

Page name	Page type	Disclaimer	Amount spent (INR)	Number of ads in Library
Bharatiya Janata Party (BJP)	Official party	Bharatiya Janata Party (BJP)	193854342	43455
Indian National Congress	Official party	Indian National Congress	108771025	845
Ama Chinha Sankha Chinha	Third-party	Ama Chinha Sankha Chinha	73361399	1799
Ama Chinha Sankha Chinha	Third-party	Ama Chinha Sankha Chinha	32294327	680
Ellorum Nammudan	Pro-DMK/official through agency	Populus Empowerment Network Private Limited	22399499	879
BJP Odisha	Page not found/official	BJP Odisha	19550186	2132
Crafto	Third-party	Kutumb App	17299137	272
Phir Ek Baar Modi Sarkar	Third-party	phirekbaarmodisarkar.com	16354686	1903
All India Trinamool Congress	Official party	All India Trinamool Congress	15056322	336
MyGovIndia	Government	MyGovIndia	14202725	67
discovery+	Media/Third-party	discovery+	13414493	279
Mahathugbandhan – महाठगबंधन	Page not found/Third party	Mahathugbandhan – महाठगबंधन	12599781	831
మన మోదీ	Third-party	manamodi.com	10755582	2486
MemeXpress	Third-party	Memes Xpress	10708146	291
Political X-Ray	Third-party	Political X Ray	9210170	426
Way2News தமிழ்	Short news app	way2news	8824813	181
Modi Sang Bihar - मोदी संग बिहार	Third-party	Modi Sang Bihar - मोदी संग बिहार	8649328	1512
Meta	Uncategorised	Meta India with Facebook Ad Credits	8509170	73
Mudde ki Baat - मुद्दे की बात	Third-party	Mudde Ki Baat	8276742	302
Meme Hub	Third-party	Memes Xpress	7926104	256
Telugu Desam Party (TDP)	Official party	Telugu Desam Party (TDP)	7563310	322
Amaar Sonar Bangla - আমার সোনার বাংলা	Third-party	Ulta Chashmaa	7496469	170
BJP Andhra Pradesh	Page not found	BJP Andhra Pradesh	7366040	794
Kharge Fan Club	Third-party	Kharge Fan Club	6982444	793
Tamilakam – தமிழகம்	Third-party	Tamilakam – தமிழகம்	6944096	463

Source: Facebook Ad Library Report

In terms of the geographical distribution of the aforesaid ads on Facebook, highest expenditure was incurred on political advertisements targeting states such as Odisha, followed by Maharashtra, Andhra Pradesh, Uttar Pradesh and West Bengal. INR 180 million and INR 101 million were spent on Odisha and Maharashtra, respectively. Odisha and Andhra Pradesh also had state polls during this time. The data clearly indicates that BJP outspent all other political parties in the digital domain. The online trend on electoral spending mirrored the offline realities of party earnings, which disproportionately favored the BJP (Mehta 2019). As per analysis by (Neyazi, Kuru and Subhayan 2024), it is also interesting to see that the BJP spent the least on cost per thousand impressions on political ads on Facebook while the Congress spent the highest during the election period. A study by The Reporters' Collective also found that between February 2019 and November 2020, Facebook allowed the BJP and its candidates to consistently reach more people through political advertising on its platform compared to other parties for every rupee spent (Aljazeera 2022). This also speaks of the nature of the level-playing field in the digital media space.

The issue of the regulation of campaign-related spending by third parties, which are neither political parties nor candidates but exist as fronts or independent interest groups is that there are definitional challenges. Many countries find it difficult to define and regulate third-party campaigning, and therefore to prevent the re-channeling of election spending through such non-party campaigns (OECD 2016). Countries such as the UK and Canada set specific campaign-related spending limits on third parties. Globally, out of 181 countries, 13.81 per cent have banned third parties from campaign spending. In 7.73 per cent countries, spending limit exists and 7.18 per cent have spending limits for party/candidate which includes spending by other on their behalf (International IDEA n.d.).

Many third parties may also not post original content and engage in 'organic' online campaigning by sharing or reposting messages originally posted by political parties or candidates. The nature of such content which is unpaid makes it difficult to regulate, to monitor its use or to put a value on it (Agrawal, Hamada and Fernandez Gibaja 2021). The actual impact and spending on political advertisements by third parties can easily evade the regulatory framework and undermine ECI's oversight mechanisms. Evidently unrelated third parties are used by parties and candidates to spread their messages across social media platforms, which are not subject to the spending limits, disclosure obligations or pre-certification requirements (Tham, et al. 2022). As per law, candidate spending is capped, and this cap includes any money spent by third parties in relation to a candidate. If a political party spends in favor of a particular candidate, then it is treated as a third party (Kapur and Vaishnav 2018). However, this is not effectively applied to social media platforms where third party advertisers though promoting party or candidate related content but appear to be independent and unaffiliated. This can have direct implications for the fairness of elections.

5.4.4 Political parties' reporting of social media spending fail to comply with the disclosure requirements

The EC issues instructions to expand the scope of election expenditure disclosure by adding new columns or revising the declaration format from time to time. However, it is always challenging to accurately assess online campaign spending given the lack of compliance by parties and candidates to disclosure requirements. When it comes to reporting social media expenditure, there is one clear observation. Many political parties continue to declare their social media campaign expenditure under Schedule 3 (self) and Schedule 8 (incurred on candidates) of Part A

(central headquarters expenses) or Schedule 14 (self) and Schedule 19 (incurred on candidates) of Part B (state unit) within expenses on media advertisement. Currently, the aforesaid schedules require parties to declare expenses on media advertisement including print and electronic media, bulk SMS, cable, website and TV channel etc. All expenses incurred on virtual campaigns through social media platforms/apps/other means are required to be disclosed under the separate Schedule 24A (party central headquarter) or 24B (state unit). However, some parties continue to declare social media expenses on various platforms/apps under the aforesaid schedules of Part A and B while leaving Schedule 24A or 24B blank. The disclosure under these schedules is among other disclosures on print, electronic media and makes it challenging to assess online spending accurately amidst other expenses. The expenditure reporting for 2023 Karnataka and three state elections to Meghalaya, Nagaland and Tripura is a case in point. More recently, 5 out of 24 state parties whose election expenditure statements are available for General Election 2024 and simultaneously held state elections declared spending on social media marketing/advertising under schedules of Part A and B, however, declared nil expenses under the dedicated Schedule 24A or 24B. This kind of reporting makes it difficult to correctly ascertain expenses incurred on virtual campaigns, as they are not declared independently under the dedicated schedule/column but under another schedule where one will have to analyse every expenditure head to cull out social media/digital campaign costs from other forms of media expenses. Moreover, sometimes major parties often declare spending nil expenses on virtual campaigns under Schedule 24A or 24B for even elections where they won or organized robust campaigns. In certain cases, it is also seen that a party has disclosed consolidated expenses on media agencies but names of such agencies are not disclosed.

For greater transparency and accountability, it is necessary that the EC takes steps to ensure that parties adhere to the prescribed format. At the same time, election expenditure disclosures must be such that a common citizen is able to access and scrutinize them.

6 Landmark court directions that changed the course of political finance in India

6.1 Association for Democratic Reforms and Anr Vs. Union of India and Ors. (2024) 5 SCC 1

Informational privacy and unlimited access to money through the electoral bonds and uncontrolled corporates was the biggest setback in the history of electoral funding in India (Association for Democratic Reforms and Anr Vs. Union of India and Ors. 2024)**.**

"Democracy does not begin and end with elections. Democracy sustains because the elected are responsive to the electors who hold them accountable for their actions and inactions. Would we remain a democracy if the elected do not heed to the hue and cry of the needy. That being the case, the question that we ask ourselves is whether the elected would truly be responsive to the electorate if companies which bring with them huge finances and engage in quid pro quo arrangements with parties are permitted to contribute unlimited amounts."

Facts of the matter:

I) On 4th September, 2017 a petition was filed in the Supreme Court of India by the ADR and Common Cause challenging the constitutional validity of the Finance Act, 2017, which was enacted as a Money Bill. The Act of 2017 had introduced a system of Electoral Bonds for the purpose of political funding and made significant changes to corporate donations to political parties.

II) To give effect to such a system of funding, Electoral Bonds Scheme, 2017 was launched by the Central Government with effect from January, 2018.

III) Donations made through electoral bonds were anonymous and unreported as neither the donor's identity nor the recipient political party is disclosed to the public.

IV) The previous cap of 7.5% of a company's average three-year net profit for political donations was removed, allowing unlimited donations by companies without naming the political party receiving the funds.

V) A total of six applications were filed for stay on the purchase of bonds and for early adjudication of the case i.e. on 5th March, 2019, 29th November 2019, 26th October, 2020, 9th March, 2021, 15th November, 2022 and 1st December, 2022**.**

Major amendments: Proviso to Section 29C(1) of the R P Act, 1951 (as amended by Section 137 of Finance Act 2017), Section 182(3) of the Companies Act, 2013 (as amended by Section 154 of the Finance Act 2017), and Section 13A(b) of IT Act, 1961 (as amended by Section 11 of Finance Act 2017, The deletion of the proviso to Section 182(1) of the Companies Act permitting unlimited corporate contributions to political parties.

Question of Law:

I) Whether unlimited and unaccounted corporate funding to political parties leads to political inequality and infringes the principles of 'participatory democracy' and 'free and fair' elections?

II) Whether anonymity clause embedded under the Electoral Bond Scheme are violative of the citizen's Right to information?

Precedent held:

I) On 15th February, 2024 the Electoral Bond Scheme and the amendments brought through the Finance Act, 2017 and passed as Money bill to Section 29C of RP Act,1951, Sections 181 & 183(3) of the Companies Act, 2013, Section 13A(b) of the I.T. Act,1961 were struck down as being violative of the Indian Constitution.

II) The deletion of the proviso to Section 182(1) of the Companies Act permitting unlimited corporate contributions to political parties was held arbitrary and violative of Article 14 of the Indian Constitution.

Directions given by the Court:

The issuing designated bank under the scheme i.e. the State Bank of India (SBI) was directed to stop the issuance of Electoral Bonds (EBs). In addition, SBI was directed to;

I. Submit details of the EBs purchased since the interim order of this Court dated 12 April 2019 till date to the ECI. The details included the date of purchase of each electoral bond, the name of the purchaser of the bond and the denomination of the electoral bond purchased;
II. Submit the details of political parties which had received contributions through EB since the interim order of this Court dated 12 April 2019 till date to the ECI.
III. Disclose details of each EB encashed by political parties including the date of encashment and the denomination of the Electoral Bond;
IV. Submit the above information to the ECI within three weeks from the date of judgment i.e. 6 March 2024;
V. The ECI shall publish the information shared by the SBI on its official website within one week of the receipt of the information, that is, by 13 March 2024;
VI. EBs within the validity period of fifteen days but not encashed were to be returned by the political party or the purchaser to the issuing bank. The issuing bank there upon was to refund the amount to the purchaser's account.

In addition, on 11th March 2024, the Supreme Court rejected SBI's request seeking an extension of time for the disclosure of details of the purchase and redemption of Electoral Bonds until 30-06-2024. The application was filed by SBI on 04-03-2024 two days before the expiry of the deadline seeking an extension of time until 30-06-2024. Consequently, on 7th March ADR filed a contempt petition stating that the information which was directed to be disclosed by this Court can easily be disclosed by the SBI because of the unique number which is printed on the Electoral Bond. The Bench directed SBI to disclose these details by 12th March, 2024. The Bench also directed the ECI to compile and publish this information on its official website no later than by 5 PM on 15-03-24. In addition, the SBI was directed to file an affidavit of compliance through its chairman and managing director.

Summary Analysis of the judgment:

On 15 February, 2024 the voter's '*Right to know*' about the electoral affairs of the country was unanimously upheld by the five judges Constitutional Bench of the Supreme Court of India. This vital and non-negotiable voter's 'Right to Information' in the instant case was primarily centered around the voter's 'Right to know' about the details of electoral funding received by the political constants i.e. the political parties and contributed by the key stake holders such as companies, organisations, agencies, group of individuals or individual. Giving supremacy to voter's *Right to Information* over governments stand on *secrecy,* the Supreme Court in its 232 pages verdict had held the anonymous, unregulated and unlimited funding through electoral bonds and companies as unconstitutional. The entire premise of the judgment was based on the fact that without first-hand complete and correct information about crucial details of financial transactions that transpire between political parties and contributors, a voter will not be able to arrive at a correct decision. This had a deeper propensity to affect the electorate in terms of quid pro quo policies and government's biased conduct once the favorable party came to power. The court relied on the fact that such an opaque system of political funding goes against the basic principles of citizen's Right to know envisaged under Article 19(1)(a) of the Constitution and 'free and fair election'. The court observed the principle that *the citizens have a duty to hold the government of the day accountable for their actions and inactions, and they can effectively fulfil this duty only if the government is open and not clothed in secrecy.*

> *"19. The right to vote is a constitutional and statutory right, grounded in Article 19(1)(a) of the Constitution, as the casting of a vote amounts to expression of an opinion by the voter. The citizens' right to know stems from this very right, as meaningfully exercising choice by voting requires information. Representatives elected as a result of the votes cast in their favour, enact new, and amend existing laws, and when in power, take policy decisions. Access to information which can materially shape the citizens' choice is necessary for them to have a say in how their lives are affected. Thus, the right to know is paramount for free and fair elections and democracy."*

The court also rebuked Central Government's stand that the scheme was an economic policy matter. The court took a strong objection against Union of India's contention by holding, "*Matters of economic policy normally pertain to trade, business and commerce, whereas contributions to political parties relate to the democratic polity, citizens' right to know and accountability in our democracy. The primary objective of the Scheme, and relevant amendments introduced by the Finance Act, 2017, is electoral reform and not economic reform."*

The court held that retribution, victimization or retaliation against any donor exercising their choice to donate to a political party is an abuse of law and power which should be checked and corrected, however, the wrong itself cannot be a justification or a purpose behind unlimited and anonymous electoral funding. The court also noted the asymmetric access to information by parties on funding received through bonds or companies made the entire objective of the Scheme contradictory and inconsistent. The court also held that obfuscation of the funding details may lead to unaccounted and laundered money getting legitimized.

The apex Court also asserted that there are already other established means such as electoral trusts to achieve the purpose of curbing black money if that was the primary objective of the electoral bonds scheme as per the Union of India's stand. In its judgment, the court expressed various apprehensions such as scheme's selective anonymity, institutionalized kickbacks for political parties, unequal access to donor information, with the ruling party potentially possessing

insight into contributors' identities while opposition parties lacked such access._The Apex court while holding information as the key in a participatory democracy for the voters to make an informed choice also emphasized on the concept of open governance and observed;

> "*At a primary level, political contributions give a seat at the table to contributors, i.e., it enhances access to legislators. This access also translates to influence over policymaking. There is also a legitimate possibility that financial contributions to a political party would lead to quid pro quo arrangement because of the close nexus between money and politics. The electoral bond scheme and the impugned provisions to the extent that they infringe upon the right to information of the voter by anonymizing contributions through electoral bonds are violative of Article 19(1)(a).*"

The constitutional Bench of the apex court also acknowledged the role of money in thwarting the level playing field thereby removing many candidates with no or very less money but impeccable integrity from the electoral fray. While considering the close association of Politics and Money, the Court observed that *money also creates entry-barriers to politics by limiting the kind of candidates and political parties which enter the electoral fray.* The court further noted that *money also excludes parties which are new to the electoral fray, and in particular, parties representing the cause of marginalized communities. The compromises which newly formed political parties have to make lead to a dilution of the ideology of the party in exchange of its political sustenance. In this manner, money creates an exclusionary impact by reducing the democratic space for participation for both candidates and newer and smaller political parties."*

It is palpable that companies and individuals cannot be kept on the same plinth for the purpose of political contributions. The apex court also analyzed big companies and corporate's ability to impact the electoral process. The court noted that political contributions through companies is much higher in comparison to the contribution made by an individual. The court observed;

> *"A company has a much graver influence on the political process, both in terms of the quantum of money contributed to political parties and the purpose of making such contributions*. *Contributions made by individuals have a degree of support or affiliation to a political association. However, contributions made by companies are purely business transactions, made with the intent of securing benefits in return."*

The court affirmed that in an electoral democracy any attempt to interfere with the free exercise of electoral right negates the whole purpose behind free and fair voting. The court also rebuked Government of India's stand on disclosure of information about contributors to the political party to which the contribution is made would infringe political expression. The court stated that such disclosure may affect the freedom of individuals to the limited extent but in larger public interest this information is not just vital but mandatory.

Current Status:

Anonymous electoral bonds and unlimited corporate contributions were held unconstitutional and arbitrary. The pre-2017 political funding framework is in place, where individual/corporate donors can make political contributions either directly or through the electoral trusts. The limit of 7.5 per cent on corporate donations to political parties is back in effect.

6.2 Association for Democratic Reforms and Ors. Vs. Union of India and Anr., 2014 SCC Online Del 1321

Two National Parties BJP and INC were found guilty of taking foreign funding by Delhi High Court (Association for Democratic Reforms and Ors Vs. Union of India and Anr. 2014)**.**

"For the reasons extensively highlighted in the preceding paragraphs, we have no hesitation in arriving at the view that prima-facie the acts of the respondents inter-se, as highlighted in the present petition, clearly fall foul of the ban imposed under the Foreign Contribution (Regulation) Act, 1976 as the donations accepted by the political parties from Sterlite and Sesa accrue from "Foreign Sources" within the meaning of law."

Facts of the matter:

I. In January,2013 ADR and Mr. E.A.S. Sarma, former Secretary to the government of India had filed a petition (PIL) in the Delhi high court alleging donations from foreign sources taken by BJP and INC in violation of section 4 of the FCRA 1976.
II. The case concerned donations made by two companies named M/s Sterlite Industries India Ltd and M/s Sesa Goa Ltd to two national political parties in India i.e. INC and BJP.
III. Sterlite and Sesa are companies registered in India under the Companies Act, 1956 and more than 50% of their issued share capital is held by Vedanta Resources plc, a company registered in England and Wales.
IV. Donations made by Sterlite and Sesa were foreign contributions under the FCRA, 1976, since Vedanta, being a foreign entity, controlled these companies.
V. Section 4 of the FCRA, 1976 prohibits political parties from receiving donations from foreign sources, and the petitioners sought a ruling that these donations fell under the purview of "*foreign sources*" and were illegal under the Act.
VI. Both the parties contented that the said companies are incorporated in India under the provisions of the Companies Act, 1956 and one-half of share capital of Vedanta is held by Mr. Anil Agarwal; an Indian citizen of India and therefore its subsidiaries – Sterlite and Sesa cannot be construed as a 'Foreign Source' to attract the rigour of the Act.

Question of law:

I. Whether the donations made by Sterlite and Sesa to Congress and BJP amounted to foreign contributions under the FCRA, 1976?
II. Whether Vedanta, which held more than 50% of the share capital of Sterlite and Sesa, was a "foreign source" under the FCRA, 1976?
III. Whether the political parties violated the prohibition under Section 4 of the FCRA by accepting these donations?

Precedent held:

I. The Court ruled that Vedanta was a "foreign source" under Section 2(e)(vi) of the FCRA, 1976 and thus the donations made by Sterlite and Sesa to the political parties (INC and BJP) were foreign contributions.

II. The acceptance of these foreign contributions by INC & BJP amounted to violation under Section 4(1)(e) of the FCRA, 1976, and consequently, the Court directed action as contemplated under law against both parties.

III. The Court directed Ministry of Home Affairs (MHA) and ECI to reexamine and reappraise the financial records of INC and BJP to identify any foreign contributions made by foreign sources, as per the legal principles established in this case. The respondents were instructed to take appropriate action accordance with law regarding any foreign contribution discovered during this process including the ones where the court already found them guilty.

IV. The directions were to be complied within a period of six months from date of receipt of certified copy of the judgment.

Summary analysis of the judgment:

The judgment highlighted that the FCRA, 1976 was enacted by the Parliament to serve as a shield in our legislative armory, in conjunction with other laws and to insulate the sensitive areas of national life like - journalism, judiciary and politics from extraneous influences stemming from beyond our borders. The Two Judges' Bench of the Delhi High Court gave wide and expansive connotations to the meaning of the term '*foreign source*' and held subsidiaries of the foreign company and multi-national corporations as '*foreign source*' for the purpose of the Act. The bench further stated that in the era of globalization fostered by treaties warranting the removal of trade barriers and other cognate measures, company incorporated in one country will carry business in another without being incorporated in that country. However, such countries are mandated within the regulatory framework of the laws and fundamental obligations in public interest. The court unquestionably held Vedanta as foreign company within the meaning of Section 591 of the Companies Act, 1956 and its subsidiaries - Sterlite and Sesa as foreign source as contemplated under Section 2(e)(vi) of the FCRA, 1976. The court also rebuked the stand of the respondents on nationality of the shareholder who held more than 50% of the shares in the subsidiaries of Vedanta by holding that *the company being a distinct jural entity, the nationality of a company is determined exclusively on the touchstone of the situs of its incorporation and nationality of its shareholders or directors have no bearing upon the nationality of a company as relied upon by the two parties. The court firmly held that donations taken by INC and BJP fall foul of the ban imposed under the FCRA, 1976.*

Current status:

ECI and MHA were required to comply with the Hon'ble Delhi High Court judgement dated 28-3-2014 within six months. Two separate letters were also addressed to MHA and ECI by the petitioners seeking action against the guilty parties as contemplated under law. The letters however, were not acknowledged or responded by the agencies. Special Leave Petitions (SLP) were filed in the Supreme Court by both INC and BJP against the judgment. On 5th May,2016, through Finance Act,2016 the definition of what constitutes a 'foreign company' was amended in such a way that key beneficiaries of UK-based Vedanta group, the BJP and Congress, would not face legal scrutiny for donations they received from these companies. Further, the appeals filed by BJP and INC were '*dismissed as withdrawn*' on 29th November,2016 once the parties realized that these amendments could not cover the years prior to 2010 and the donations in question given to the political parties were given in 2009, which was what the petitioners had challenged before the High Court. Once this technicality in law was realized, in an attempt to overturn the judgment passed by the Delhi High Court, the Finance Act, 2018 was used to retrospectively amend a repealed piece

of legislation with a sole objective of condoning the illegalities committed by these two political parties with effect from 26.09.2010. In April, 2018 ADR filed a petition in the Supreme Court challenging the amendments made with retrospective effect in the FCRA, 2010 through the Finance Act, 2016 and Finance Act, 2018, both passed as a Money Bill. The matter is pending in the Supreme Court for a full bench hearing.

6.3 Common Cause v. Union of India, 1996 (2) SCC 752

Mandatory filing of Income Tax Returns by Political Parties (Common Cause v. Union of India 1996)

"The political parties in their quest for power spend more than one thousand crores of rupees on the General Election (Parliament alone), yet nobody accounts for the bulk of the money so spent and there is no accountability anywhere. Nobody discloses the source of the money. There are no proper accounts and no audit. From where does the money come nobody knows. In a democracy where rule of law prevails this type of naked display of black money, by violating the mandatory provisions of law, cannot be permitted."

Facts of the Case:

I. Common Cause, a registered society, filed a PIL in the Supreme Court raising serious concerns regarding lack of transparency in election funding in India.
II. It was argued that the cumulative effect of three statutory provisions of laws i.e. Section 293A of the Companies Act,1956 (donation to political parties through companies), Section 13A of the I.T. Act, 1961 (income tax exemption to parties) and Section 77 of the R P Act, 1951 (account of election expenditure of candidates)—was intended to ensure transparency in the financial activities of political parties during elections.
III. Political parties were violating these mandatory legal provisions by spending vast sums of money during elections without disclosing the sources of such funds.
IV. It was further argued that 'People of India' have the 'Right to know' about the sources of funding of political parties and candidates in elections.
V. The petition sought the enforcement of these legal provisions to ensure that election funding in India is transparent and accountable.

Question of Law:

I. Whether political parties in India should be mandated to file income tax returns under the I.T. Act?
II. Whether the lack of financial transparency among political parties violates the principles of accountability and fairness in a democratic system?
III. Whether political parties are mandated to enforce these three statutory provisions—Section 293A of the Companies Act, 1956, Section 13A of the I.T. Act, 1961 and Section 77 of the R P Act, 1951 in letter and spirit by filing their income tax returns?
IV. Whether the legislative scheme behind the aforementioned clauses intended to ensure that there is transparency in the process of fund-collecting and incurring expenditure 'by the political parties.

Precedent held:

Several directives and observations regarding the financial transparency and accountability of political parties were given by the Supreme Court of India.

I. **Statutory Obligation:** Political parties are under a statutory obligation to file return of income in respect of each assessment year in accordance with the provisions of the I.T. Act, 1961. The parties indicated in the judgment that have not complied were held in violation of these provisions.
II. **Failure of Enforcement**: The Income-tax authorities were found wholly remiss in the performance of their statutory duties under law and failed to take appropriate action against the defaulter political parties for a long period.
III. **Investigation and Action:** The Secretary, Ministry of Finance was directed to investigate against defaulter political parties and take necessary legal and penal actions required under law (i.e. Section 276CC of the I.T. Act, 1961).
IV. **Inquiry into Enforcement Failure**: An inquiry will be conducted to determine why mandatory provisions for filing income tax returns by political parties were not enforced, and any responsible officials will be dealt in accordance with law.
V. **Election Expenditure of candidates**: Political parties that do not maintain audited accounts or file returns cannot claim that their election expenditures are authorized under Explanation 1 to Section 77 of the RP Act, 1951.
VI. **No presumption of authorization under explanation to Section 77 in case of non-maintenance of audited account statements.:** A political party which is not maintaining audited and authenticated accounts and has not filed the return of income for the relevant period cannot ordinarily be permitted to say that it has incurred or authorized expenditure in connection with the election of its candidates in terms of Explanation 1 to Section 77 of the RP Act, 1951.
VII. **Wide powers of ECI under Article 324:** The Election Commission has the authority and wide powers under Article 324 of the Indian Constitution to issue directions requiring political parties to submit details of election expenditure statements for scrutiny. The expression "conduct of election" under Article 324 is wide enough to include in its sweep the directions that mandate parties to submit the details of the expenditure incurred or authorized by the political parties in connection with the election of their respective candidates.

Summary analysis of the judgment:

The Apex Court did not agree that the declaration of assets of parties would result in infringement of the '*Right to Privacy'.* It rather underscored the importance of transparency in political funding particularly in the context of large contributions from companies. The Court observed that political parties were failing to comply with mandatory provisions in the IT Act, 1961, Companies Act, and RP Act, 1951 which were designed to ensure transparency in election funding. The court vehemently found parties guilty of violating these statutory provisions by not filing income tax returns, maintaining audited accounts, or disclosing the sources of their election expenditures. The court held;

> *"We have no hesitation in holding that the political parties who have not been filing returns of income for several years have violated the statutory provisions of Incomes Tax Act. The income tax authorities have been wholly re-miss in the performance of their statutory duties under law.*

It was mandatory for the income tax authorities to have put in motion the statutory machinery against the defaulting political parties. The reasons for not doing so - as disclosed in the counter affidavits - are wholly extraneous and unjustified. The political parties are not above law and are bound to follow the same."

The court also highlighted wide and broad powers of ECI under Article 324 for superintendence, direction and control of elections and for the accomplishment of free and fair elections. Noting the situations where there is void in law and where the ECI can use its wide and broad powers to cure the malice the court held;

"Even so, situations may arise which enacted law has not provided for. Legislators are not prophets but pragmatists So it is that the Constitution has made comprehensive provision in Article 324 to take care of surprise situations- that power itself has to be exercised, not mindlessly nor mala fide, not arbitrarily nor with partiality but in keeping with the guidelines of the rule of law. More is not necessary to specify, less is insufficient to leave unsaid. Article 324, in our view, operates in areas left unoccupied by legislation and the words 'superintendence, direction and control as well as 'conduct of all elections' are the broadest terms. Myriad maybes, too mystic to be precisely presaged, may call for prompt action to reach the goal of free and fair election."

It was also ruled that political parties that do not maintain proper financial records and fail to file returns cannot claim that their election expenditures are legitimate. The ruling emphasized that expenditures from unknown or illicit sources cannot be justified under Explanation 1 to Section 77 of the R P Act, 1951 (party's expenditure to support its preferred candidate). The income tax authorities were also strongly criticized for not taking action against defaulting political parties. The court firmly ruled that the authorities had been remiss in their duty to enforce the law and directed the Ministry of Finance to investigate the defaulters and take appropriate action.

Current Status:

The political parties are mandatorily required to submit details of their income tax returns to the Election Commission of India. Political parties registered with the ECI are exempt from paying income tax under Section 13A of I.T. Act, 1961 as long as the political parties file their income tax returns every Assessment Year along with their audited accounts, Income/ Expenditure details and balance sheet. According to Section 139 (4B) of the I.T. Act, 1961, political party is required to be file its audited ITR of a particular financial year by 30 of September. There are five components that provide detailed information relating to ITR of the parties;

- **Balance Sheet:** Contains a broad information of the main sources of funds (Corpus fund, general funds, loans, etc.) and the application of those funds (assets, investments, advances, etc.)
- **Income and Expenditure Account:** Income from fee/ grants, donations, sale of coupons etc and the Expenses towards election, finance, employee costs etc.
- **Schedules:** This is the breakup of individual component in the balance sheet wherein every detail regarding loans taken, given, details of purchase of any asset, details of investments etc
- **Contribution report:** This is the report containing details of donors who have made contribution above Rs 20,000 to the political party during the specified financial year. A copy of this report this sent to the ECI on an annual basis (mandatory) which correlates with the Income Tax department for tax exemption.

- **Assessment order**: Ordering scrutiny of the accounts provided by the party

6.4 Disclosure of Income Tax Returns of the Political Parties in the Public Domain; (Ms. Anumeha, C/o Association for Democratic Reforms Vs. Chief Commissioner of Income Tax-XI, New Delhi and Ors. 2008)

"It is difficult to be persuaded by the argument that though political parties control the political executive — who are their appointees — these parties should be allowed to be insulated from the demands of transparency. In other words, political parties be allowed to escape the obligations / norms transparency imposes, and inferentially, escape accountability, even though these parties almost always influence and, frequently control, State power through the organs of the State. That shall be an unacceptable proposition — especially in a democracy — as accountability is the underpinning of the actions of all stake-holders who have anything to do with State power."

Facts of the Case:

I. On 28 February, 2007 an RTI Application was filed with the Central Public Information Officer (CPIO) of the CBDT, Ministry of Finance seeking information whether the political parties have been filing the income tax returns between financial year 2002-07, PAN numbers allotted to these parties and copies of the income tax returns and corresponding assessment orders.
II. Most CPIOs refused to disclose information citing exemption under Section 8(1)(d) and (e) of the RTI Act, 2005 i.e. commercial activities of the political parties, commercial confidence and fiduciary capacity, no relationship with public activity and no public interest (section 8(1)(j), objection from political parties and confidentiality under Section 138 of the I.T. Act, 1961.
III. First Appeals were filed with the CBDT. Some appeals were remanded back to the CPIO while others were dismissed.
IV. Consequently, ADR filed a second appeal on 31.07.2007 in CIC, the highest nodal agency RTI Act, 2005 seeking disclosure of income tax returns and Assessment Orders of the political parties by contending transparency in political party finances to ensure accountability and reduce black money influence
V. Most of the political parties objected citing reasons such as confidentiality, personal information, parties not under RTI, information not in public interest, potential harm to competitive positions and lack of public interest.
VI. Only the Communist Party of India had no objection to disclosure.

Question of Law:

I. Whether income tax returns of the parties along with its assessment order and PAN details of various political parties can be considered to be exempted under Sections 8(1) (d), (e), (g), (h) and (j) of the RTI Act, 2005?
II. Whether the I.T. Returns of the parties can be disclosed in larger public interest?
III. Whether the disclosure clause overrides the confidentiality clause claimed by the parties in the instant case?

Precedent held:

On 28 April, 2008, the CIC directed disclosure of income tax returns and assessment orders of political parties under public domain excluding their PAN numbers to prevent potential misuse within six weeks from the date of order.

Summary Analysis of the Order:

The CIC's decision was based on the principle that political parties which play a crucial role in a democracy should be transparent and accountable to the public for their financial practices. It held that there is a need for higher levels of transparency in the functioning of political parties in general and their funding in particular. The financial activities of political parties have a public dimension and cannot be considered private or confidential. The Commission held that transparency in funding of political parties in a democracy is a norm and therefore must be promoted in public interest. CIC added that their transparency in the finances of parties serves a larger public interest. The disclosure not only will promote financial transparency in political parties which is essential for reducing the influence of black money in elections and ensuring public trust but such disclosure will also help in reducing the influence of black money and corruption in elections. The void in law regarding financial disclosure of political parties was strongly noted by the commission in the following words;

> *"The laws of the land do not make it mandatory for political parties to disclose the sources of their funding, and even less so the manner of expending those funds. In the absence of such laws, the only way a citizen can gain access to the details of funding of political parties is through their Income Tax Returns filed annually with Income Tax authorities. This is about the closest the political parties get to accounting for the sources and the extent of their funding and their expenditure. There is unmistakable public interest in knowing these funding details which would enable the citizen to make an informed choice about the political parties to vote for."*

The order emphasized that the need for accountability and transparency in the funds of parties over rides the confidentiality of tax return as contented by the parties. Certain clauses in the RTI Act that protects personal information from disclosure will not be applicable in cases where there is larger public interest involved. The CIC through its order did balance the privacy claimed by parties by excluding the PAN numbers so that sensitive financial information is protected while still promoting transparency in political party finances.

The Commission recognized political party's need for large financial resources to discharge their myriad functions but it also warned about the political financing and its potentiality for distorting the functioning of the government at various levels. It highlighted the apprehension that non-transparent political funding or undisclosed money accumulated by parties has a greater propensity of corrupting, influencing and inflicting irreversible harm on various institutions of the government. It, therefore held that there is indeed a deep public interest in preventing such harm to the body-politics.

The CIC pointed out the lack of obligation attached to parties in view of the transparency and accountability in their functioning. The Commission aptly stated that in comparison to other similarly situated institutions where these institutions are required to exhibit maximum amount of transparency, no such obligation has been seen in cases of parties. It reminded and recognised through its order the object of the RTI Act and held that *"democracy requires an informed citizenry" and that transparency of information is vital to flawless functioning of constitutional democracy and*

also to contain corruption and to hold the Government and their instrumentalities accountable to the governed." It also held that it is hard to accept the fact that while transparency is vital for all the state organs, it is not so good for political parties. The Commission did through its order tried to remedy the void in law by bringing the I.T Returns of the parties in the public domain for public inspection and scrutiny by stating that "*given that political parties influence the exercise of political power; transparency in their organization, functions and, more particularly, their means of funding is a democratic imperative, and, therefore, is in public interest. Insofar as the Income Tax Returns of political parties contain funding details these are liable for disclosure."*

Current Status: Registered political parties submit their audit reports and contribution reports to the Election Commission as per the respective due dates each year. These are made available in the public domain through the website of the Election Commission. Many parties delay or default on the submission of their reports each year. In case of delay in submission, RTI applications can also be filed to access these reports.

6.5 Disclosure of Register of Interests of Rajya Sabha Members in Public Domain, (Shri Anil Bairwal, Association for Democratic Reforms Vs. CPIO, Rajya Sabha Secretariat 2011)

> *"The knowledge among the citizens about the pecuniary interest of MPs in various companies and other business establishments would help them to keep a better watch on their representative when they would be dealing with policy and other legislative matters affecting the interests of such companies and business interests."*

Facts of the Case:

I. ADR had filed an RTI application in the Rajya Sabha Secretariat asking for copies of statements of all current members of the Rajya Sabha as per the 'Register of Members' Interest' carrying details of remunerative directorship, regular remunerative activity, shareholding of controlling nature, paid consultancy, and professional engagement.
II. List of members who had not submitted the form and the reasons for not doing so.
III. The information was denied on the grounds that such information is held under fiduciary capacity, is personal in nature and serves no public interest.

Question of Law:

I. Whether the information held by the Rajya Sabha Secretariat is in a fiduciary capacity and whether such information is personal in nature and therefore exempted from disclosure under Section 8(1)(e) and 8(1)(j) of the RTI Act,2005?
II. Whether the disclosure of the requested information serves a larger public interest overriding the exemptions provided under Sections 8(1)(e) and 8(1)(j)?

Precedent held:

The Commission found no reason of withholding the aforementioned information. On 3rd June, 2011, it directed the Rajya Sabha Secretariat to provide the requested documents to the ADR within 10 working days.

Summary Analysis of the order:

In India, disclosure of pecuniary interest is only provided by the MPs in the Upper House (Rajya Sabha) of the Parliament. A Member having a personal pecuniary or direct interest on a matter before the House is required to declare such interests to the Chairman of the Rajya Sabha while taking part in the proceedings in that matter. A specific mechanism for disclosure of pecuniary interests is maintenance of a 'Register of interests' which is currently being practised only in the Rajya Sabha. Parliamentarians are expected to record in the register all their interests periodically. In order to make the system practical, the types of interest, which require disclosure, are prescribed. A closely related mechanism is declaration of the assets and liabilities of the Rajya Sabha and Lok Sabha members at regular intervals.

In context of Rajya Sabha MPs, the Commission through its order recognised this crucial and non-negotiable disclosure of financial interests by facilitating this information in public domain in the light of larger public interest. CIC particularly emphasized on the criticality and need of such information in the public domain by observing that public knowledge of the pecuniary interests of MPs in various companies and business establishments would enable citizens to monitor their representatives more effectively, especially in legislative matters that might affect those companies and business interests. It held that transparency ensures accountability in public office. The Commission through its order noted that public awareness of lawmaker's financial interests promotes vigilance among citizens. Citizens who are well informed about the pecuniary interests of the law makers in various companies and other business establishments are better equipped to keep a check on their representatives while dealing with policy and other legislative matters affecting their lives directly or indirectly. Such a system would only foster better laws and policies as MPs are less likely to act in a biased manner if their financial dealings are publicly known. In the instant matter, the CIC recognised that larger public interest overrides privacy exemptions given under clause 8 of the RTI Act, 2005 and therefore any concerns about privacy cannot be claimed. The Commission rightly observed;

> *"It is the standard practice that people in positions where they can make decisions or influence policies affecting the financial and other interests of companies should ordinarily recuse themselves from such a process, if they themselves have an interest in those specific companies or the class of enterprises, to avoid conflict of interest. This should be equally applicable to the legislators. If the legislators have any stated interest in some companies or business houses, as directors or consultants or substantial shareholders, their participation in any legislative or decision-making activity affecting the interests of such companies and business houses would be keenly watched by the people. This kind of vigilance on the part of the informed citizenry will help the legislators to be more objective and fairer in their functioning and those will help in better laws being enacted and better policies made. Therefore, we do not see any reason why the copy of the said register in which the interests of the MPs are listed should not be made public under the Right to Information (RTI) Act. Just as the declaration of private assets by those contesting elections for Parliament of State legislatures is not construed as an invasion of individual privacy, similarly the disclosure of the above information cannot be considered an act of invasion of the privacy of individual MPs."*

Current Status:

At present, Rajya Sabha members are required to mention the various types of pecuniary interests i.e. a) Remunerative Directorship, b) Regular Remunerative Activity, c) Shareholding of a

Controlling Nature, d) Paid Consultancy, e) Professional Engagement. This information on MPs' Register of Members' Interest can now be obtained by filing RTI application to the Rajya Sabha Secretariat.

6.6 Political Parties Brought under the Ambit of RTI Act (Shri Subhash Chandra Aggarwal and Anr. Vs. Indian National Congress/All India Congress Committee (AICC) and Ors. 2013).

"In view of the above discussion, we hold that INC, BJP, CPI(M), CPIO, NCP and BSP have been substantially financed by the Central Government under section 2(h)(ii) of the RTI Act. The criticality of the role being played by these Political Parties in our democratic set up and the nature of duties performed by them also point towards their public character, bringing them in the ambit of section 2(h). The constitutional and legal provisions discussed herein above also point towards their character as public authorities"

Facts of the Case:

I. On 29th October, 2010, RTI applications were filed by ADR to the Presidents/General Secretaries of six national political parties namely INC, BJP, CPI, CPI(M), NCP and BSP seeking information on ten maximum donations and contributions received by political parties between FY 2004-05 to 2009-10, mode of these transactions like cheque, cash, DD, amount received in each contribution and years when these contributions were made.
II. INC, NCP, CPI (M) refused to provide the information and stated that they are not obliged to provide the information as they do not fall under the ambit of RTI Act, 2005.
III. BJP and BSP did not respond to the RTI application.
IV. CPI however, provided the requested information but refused to fall under the RTI Act, 2005.
V. On 14th March, 2011 a complaint was filed with the CIC against the responses received from INC/AICC, NCP & CPI contending that the parties being the beneficiaries of the Government, fall under the ambit of Section 2(h) of the RTI Act, 2005 and, therefore they were mandated to disclose full and complete information.
VI. A Full Bench of the CIC was constituted to hear the complaint.
VII. The case was heard by a Full Bench on 26th September, 2012 and 1st November,2012.

Question of Law:

I. Whether the six national political parties qualify as "public authorities" under Section 2(h) of the RTI Act, 2005?
II. Whether these parties are substantially financed by the government, one of criteria for an institution to be declared public authority under Section 2(h)(d)(i) of the RTI Act, 2005?
III. Whether tax exemption enjoyed by political parties under Section 13A of the I.T. Act amounts to indirect substantial funding?
IV. Whether there is a public character in the role played by political parties in a democracy?
V. Whether the constitutional and legal rights and liabilities of the parties under Indian Constitution and election law make them accountable to the public?

Precedent held:

I. The CIC declared six national political parties—INC, BJP, CPM, CPI, NCP, and BSP as "public authorities" under Section 2(h) of the RTI Act, 2005.
II. Presidents, General/Secretaries of the aforementioned parties were directed to designate CPIOs and the Appellate Authorities at their headquarters in 06 weeks' time
III. The CPIOs so appointed were to respond to the RTI applications in 04 weeks' time. Presidents/General Secretaries of the parties were also directed to comply with the provisions of section 4(1) (b) of the RTI Act, 2005 by providing suo motu disclosure relating to their functioning.

Summary analysis of the order:

The mandate to bring political parties under RTI Act was necessitated by the CIC because of the lack of any comprehensive law dealing with the monitoring and functioning of the political parties. In a country like India where every public institution such as hospitals, schools, colleges, banks, temples, public agencies, etc have a separate law dealing with their function including them being under RTI Act, it is an unacceptable position to insulate political parties from such obligations. Parties effect the lives of citizens in every conceivable way and their primary function is the performance of public duty. They indeed have a binding nexus with the electorate. As the central institution of democracy, parties embody the will of the people and carry all their expectations that democracy will be truly responsive to their needs and help solve the most pressing problems that confront them in the daily lives. The CIC in its order noted the strong need of bringing parties under the RTI Act. This was based on the fact that how parties' function, details of their income, expenditure, complete and correct details of donors are not disclosed by political parties for public scrutiny and for the right of information of an average voter. CIC observed that opaque nature of political funding influences the functioning of parties and elections. Therefore, transparency in political financing is crucial for maintaining fairness in elections and reducing the influence of black money in politics. Parties which are integral to Parliamentary democracy need to be held accountable to the citizens at large for their action and inaction. CIC held that political parties being the backbone of democracy, must be accountable to the public. The RTI Act provides a framework through which citizens can hold political parties responsible for their actions, particularly in matters of financial transparency and internal functioning.

CIC in its order recalled the 170th Law Commission's observations that it is the political parties that form the government, man the Parliament and run the governance of the country. It is therefore, necessary to introduce internal democracy, financial transparency and accountability in the working of the political parties and this can only be achieved if parties are brought under RTI. CIC strongly supported in its order the 170th LCI's observations which stated, *"a political party which does not respect democratic principles in its internal working cannot be expected to respect those principles in the governance of the country. It cannot be dictatorship internally and democratic in its functioning outside"*

Furthermore, CIC held that parties in power de facto have significant control over legislatures and executive, especially in light of Schedule 10 of the Constitution of India that makes it compulsory for a member of either House of Parliament or the Legislative Assembly or either House of the Legislature of the State to toe the party line, failing which the member stands to be disqualified, and thereby reflects the stronghold a political party has on its elected MPs and MLAs. Another important aspect is 100% tax exemptions received by the parties under section 13 A of the I.T. Act,

1961 which amounts to indirect financing of the political parties in terms of Section 2(h)(d)(i) of the RTI Act. Another form of indirect funding to political parties is in the form of allotment of huge plots of land/buildings/other accommodation in prime locations to all political parties all over the country either, free of cost, or on hugely concessional rates.

The rationale behind the Commission bringing political parties under the RTI Act stems from several key observations and principles, primarily focused on transparency, accountability and performance of public duty by political parties' functions. Here's a breakdown:

- Free airtime on national television and radio during elections.
- Allocation of land in State Capitals:
- Accommodations/Bungalows at Concessional Rentals
- Total income tax exemptions under Section 13A of the I.T. Act.
- Free Airtime on Doordarshan (DD) & All India Radio (AIR)
- Public Character of the role played by them

Current Status:

None of the parties complied with the Commission's order. Upon non-compliance of the CIC order, four complaints dated 11.12.2013, 27.08.2013, 10.12.2014 and 23.12.2014 were filed with the CIC to enforce its order. Ultimately on 16th March 2015, the CIC held that even though the order is legally binding on the parties, the RTI Act, 2005 does not provide the Commission with ample powers to deal with the cases of contempt and non-compliance. Consequently, on 19th May 2015, ADR filed a petition in the Supreme Court to declare all the national and regional political parties as "public authorities" and bring them within the ambit of the RTI Act, 2005. The matter is pending in the Supreme Court for a full bench hearing.

7 Conclusion and Recommendations

The political finance regulatory framework in India has evolved over the years and is a product of the courts' pronouncements from time to time, largely based on the public interest litigations filed by the civil society organizations or public-spirited individuals. Even though there is a long road ahead to truly achieve transparency and accountability in political finance, India's democratic nature and the system of checks and balances has ensured that any deviation from this path does not go unchecked. The Supreme Court's Electoral Bonds judgment ensured that any infringement on the ideals of free and fair elections is seen as a misplaced step and must be accordingly reviewed. The court recognized the inevitable and conceivable role of money in elections especially in terms of electoral outcomes. The court however, strongly noted that *democracy does not begin and end with elections*. Democracy can only sustain if the elected officials are receptive to the electors and the electors are in a position to hold them accountable and answerable for their actions and inactions. While the current system is not free from its own problems, but the withdrawal of complete anonymity in political funding was a much-needed reform. In the absence of political will, many key reforms that have been suggested by the government committees constituted over decades, Law Commission reports, institutions such as the Central Information Commission (CIC) and the Election Commission' own recommendations, are yet to see the light of the day. This assessment study to understand the extent of effective implementation of the current regulatory framework, whether it is able to achieve the intended objectives and to identify the challenges it continues to face has been a worthy exercise, that can help address the loopholes and suggest reforms for future deliberations. This assessment report has identified several key areas for reforms in the current framework based on the experience and consideration of the Indian context.

Government must "*depend on the people alone*" (Madison n.d.). The hall mark of a legitimate democracy should not be evaluated in terms of number of parties contesting, unabashed unsanctioned display of money in the form of massive campaign expenditure and ultimately total turnout of citizens for voting. One of the factors to gauge the deteriorating standards of India's electoral politics is the Transparency International's ranking on the Corruption Perception Index where India's rank fell further to 93 out of 180 in 2023 (Transparency International n.d.). Money should not convert to political war-chests, therefore, its role and flow in electoral politics should be strictly confronted with resolve and determination by all major stakeholders in a democracy. In this backdrop, it is critical to remember that access to unrestrained, easy, accurate and reliable information act as the bedrock for any legitimate democracy. Money should be something and not everything in any electoral politics. Free and fair elections, level playing field, voter's right to select credible candidates and absence of black money and corruption from elections are enunciated under Article 14 read with Article 324 and Article 19(1)(a) of the Indian Constitution. The telling words of Supreme Court (Association for Democratic Reforms and Anr Vs. Union of India and Ors. 2024) recognize this compulsory principle in the following words:

"Democratic legitimacy is drawn not only from representative democracy but also through the maintenance of an efficient participatory democracy. In the absence of fair and effective participation of all stakeholders, the notion of representation in a democracy would be rendered hollow. In a democratic set-up, public participation is meant to fulfil three functions; the epistemic function of

ensuring reasonably sound decisions, the ethical function of advancing mutual respect among citizens, and the democratic function of promoting "an inclusive process of collective choice."

Compulsion for quid pro quo corruption arises when the law makers are made based on the quantum of money and not on merits. In that context, such representatives of the citizens inevitably end up legislating laws and policies on the wishes and desires of wealthy patrons who contributed large sums of money. This kind of corruption has been described by the Supreme Court as '*clientelism*' (Association for Democratic Reforms and Anr Vs. Union of India and Ors. 2024). In 1922, Mr. C. Rajagopalachari had anticipated the present state of affairs when he wrote in his prison diary: *"Elections and their corruption, injustice and tyranny of wealth, and inefficiency of administration, will make a hell of life as soon as freedom is given to us…"* (Rajagopalachari 2006).

The existing laws, regulations and repeated orders issued by the ECI have improved political finance in certain areas while in other areas they have fallen short on several key indicators of electoral integrity resulting in entry barriers, lack of level-playing field, undue influence of big donors, lack of adequate disclosures, unfair usage of political finance (vote-buying) and lack of trust in institutional frameworks. The Constitution of India places citizen's '*Right to Information*' and conduct of '*free and fair elections*' on highest pedestal. Framing future political finance laws in terms of electoral integrity could be integral to a more realistic, factually grounded jurisprudence that can ensure a balance between the government's interest in campaign finance regulation and the individual rights that such laws may burden (Weiner and Bricken 2017). It is also important to ensure that regulation does not curb healthy competition among parties and they must have access to legitimate sources of funds to play their part in the electoral process (Ohman 2012). There is a compelling and resilient need for election reforms to check the growing menace of quid pro quo corruption, black money, unreported unregulated political parties' finances which have unanimously shown to corrode the democratic institutions around the globe. The core resolution unanimously should be that "*law makers should not be the law breakers".* There is no dearth of solutions. What is required is courage and will to reform the existing system. Given the current situation, where most of the political parties stand united and determined to stall any attempts to bring accountability, transparency and fairness in our electoral process, it becomes imperative to remind the key duty holders of their role and duties in preserving, protecting, and defending the Constitution. The only way to remedy the existing problems in political finance is to immediately act upon the plausible solutions offered by the judiciary, constitutional bodies, committees, civil society, and citizens.

The following proposed recommendations offer a starting point for deliberation among several important stakeholders such as the Election Commission of India, political parties, the Indian government, members of the Indian Parliament and the state legislatures among others.

7.1 Monitoring and regulation of political parties and candidates

- A comprehensive law dealing with political parties, regulating and monitoring their functioning, financial transactions, inner party democracy, party constitution, organization, internal elections and criteria for ticket distribution, liability of the key office bearers of parties such as President, General Secretary, Chairman, treasurer in case of any contravention of law etc is the need of the hour.

- Election Commission of India should exercise its broad powers under Article 324 of the Constitution and de-recognize any political party if it persistently defaults in submitting their annual audited accounts, neglects repeated reminders given by the Commission or in case of any contempt of the court orders delivered in the light of free and fair elections.
- ECI must also be empowered to deregister any party which has not contested elections for more than ten years and yet it continues to benefit from tax exemption (Quraishi 2023).
- The office bearers of the political parties should be strictly held accountable for any culpability on their part. Any action or inaction by political parties' regarding the correct and complete disclosure of their finances, contravention of laws in place or any disobedience to the lawful instructions of the ECI and courts should lead to civil/criminal liability depending upon the gravity of the offence/default.
- The 3 June 2013 order of the CIC that had held political parties as public authorities by bringing them under the ambit of the Right to Information Act should be upheld and brought into force.
- Bribery should be defined clearly under election law.
- Freebies as form of inducements to entice voters should also be declared as corrupt practice under the provisions of the RP Act, 1951.
- In absence of a comprehensive law, provisions should be made to introduce inner-party democracy within the political parties including mandatory secret ballot voting for all elections for all inner-party posts, selection of candidates, criteria for ticket distribution etc.
- A political finance framework or legislation that is adopted must be able to address the issue of disparity in access to funds among political parties, lack of level-playing field, concentration of economic power in the hands of few parties and donors, and political corruption as a result of illegitimate sources of funding. Steps must be taken to reduce entry barriers to political contestation or representation of candidates that do not enjoy financial prowess and/or do not have criminal antecedents and especially women candidates without access to adequate political funding. There is a need for intervention to ensure healthy electoral competition and to diversify the sources of political funding.

7.2 Private Donations

- Donation limits must ensure that no single donor may have undue influence on a candidate/political party and on the political process as a whole.
- The names of electoral trusts, currently, do not indicate the name of the company/group of companies which set up the trusts. In order to have greater transparency regarding details of corporates which fund political parties, it would be ideal to include the name of the parent company in the name of the Electoral Trust.
- Scrutiny and verification of the disclosures made by elected lawmakers in respect of their assets and sources of income should be made by the Comptroller and Auditor General (CAG) with necessary follow-up action by ECI and CBDT. In cases of such disclosures being found to be incorrect or false, such discrepancies should be a ground for subsequent disqualification under the RP Act, 1951.
- The 255th Law Commission report recommended amendments to Section 29C of the RPA that annual accounts of political parties should be audited by a qualified and practicing chartered accountant from a panel maintained for the purpose by the CAG, and submitted

to the ECI every financial year should be implemented. In addition, such reports should be made available to the public. Necessary changes should be made in Form ITR7 prescribed under Rule 12 of the Income Tax Rules, 1962, to include sources of income in the prescribed form.

- A complete prohibition on anonymous donations is crucial for transparency and accountability in political finance.
- In the age of complete digitization in every walk of life, there should be total digitization of all forms of political funding. A system of accounting of small donations in cash is required. For smaller donations being collected in cash through boxes, in public gatherings or in rallies etc, there should be some way of collecting receipts. No party should be allowed to accept any donation in cash.
- Section 182(1) of the Companies Act, 2013 should be amended to require the passing of the resolution authorizing the contribution from the company's funds to a political party at the company's Annual General Meeting (AGM) instead of its Board of Directors as per para 2.31(a)2 of (Law Commission of India 2015).

7.3 Public Funding

- Objective, fair and reasonable criteria to be applied regarding the distribution of state support. It should enable new parties to enter the political arena and compete under fair conditions with more established parties (Van Biezen 2003)
- As proposed in the Law Commission report and in the concluding chapter of the Indrajit Gupta Committee Report on State Funding of Elections (1998), given the high cost of elections and the improbability of being able to replace the actual demand for money, absolute state funding may not be feasible at present. The existing system of giving indirect in-kind subsidies should continue. Any reform in state funding should be first preceded by reforms such as comprehensive law on parties, bringing parties under RTI, ban on corporate donations, no donations in cash, suo motu disclosure by parties on their official website, decriminalization of politics, the introduction of inner-party democracy, electoral finance reform, transparency and accountability in political funding, check on mushrooming of parties, etc. to reduce the incentive to raise money and abuse power.
- Make provision for public funding to political parties to help facilitate level-playing. However, having a criterion for political parties to receive public funding may present a challenge for new or smaller parties to benefit from public funding. Requiring a certain share of votes in an election as an eligibility threshold for public funding might be an alternative option so that all political parties with some proven popular support could access funding. Similarly, allocation criteria affect the level of funding provided to political parties. The most popular approach is to allocate public funding in proportion to either votes received or seats won by political parties. Additionally, gender-based public funding could be promoted to ensure the representation of women candidates, youth and other under-represented groups (Falguera, Jones and Ohman 2014).

7.4 Campaign Expenditure

- There should be a limit on expenditure incurred by political parties' on and during election in order to reduce/eradicate financial dominance of those with financial superiority, under reported finances, black money, corruption and other instances of quid pro quo. Establishing limits on expenditure for electoral campaigns is necessary to prevent excessive funding requirements to parties and candidates, as suggested in the 170th and 255th Law Commission of India reports.
- The expenditure limit on parties' spending may be kept at not more than the expenditure ceiling limit provided for a candidate multiplied by the number of candidates of the party contesting the election, as suggested by the Election Commission.
- These proposed limits on political parties' election expenditure should be enforceable and practical in nature. Currently, the legal limits on candidates are violated with impunity, thus merely having limits is not enough. There must be mechanisms in place for full enforcement of the laws on election spending.
- Section 77 of the RP Act, 1951 regulating the election expenses incurred or authorized by candidates or their election agents, currently extends from the date of nomination to the date of declaration of results. There is a need to redefine the campaign period for the purposes of reporting and regulating election spending. Large sums of money are spent before their nomination which go unreported. This period, therefore, should be extended by amending section 77(1) to apply from the date of notification of the elections to the date of declaration of results. (Law Commission of India 2015)
- There is a need for a specific law on online campaign finance. Provisions can be incorporated in existing laws on digital media with reference to elections that empower the Election Commission suitably in this space to ensure compliance by contestants and non-contestants.
- Study the impact of third-party campaigning and, depending on the results, consider the introduction of a spending limit on third-party campaigning and more effective monitoring of the same (Lal 2021). The aforesaid limit can also be applicable to third party spending on digital campaigns including those by affiliated groups, supporters and interest organizations (Sahoo 2024).

7.5 Reporting and Disclosure

- Incomplete contributions reports having missing or incorrect PAN/mode of payment details must be returned to the parties by the ECI, to deter them from providing incomplete information. Adherence to the prescribed format of funding and expenditure disclosure reports by parties and candidates should be mandatory. At the same time, election expenditure disclosures including those on virtual campaigning must be such that a common citizen is able to access and scrutinize them.
- It is suggested that the ECI publicize on its website details of the action taken (if any) against political parties that fail to provide complete, correct and timely details of their finances, violate the provisions of MCC and defy any lawful instructions of the Commission.
- Political finance reporting and disclosure procedures must be strengthened to ensure that financial reports are audited independently and made publicly available in a timely manner. The development of an online reporting and disclosure platform can improve

efficiency and transparency. Provide status updates on the submission of party reports showing which all registered parties submitted on time, which delayed their submission and those which defaulted, including the action taken against such parties by the Commission.

- Corporations should make details of their political contributions available in the public domain through their websites (in annual reports or on a dedicated page) for increasing transparency in political financing.
- Political parties in India should also be directed to submit expenditure statements beginning one year prior to the polls. In addition, political parties should submit the account statements of income and expenditure periodically, i.e., once a month before the declaration of the election and at least once a week during the elections.
- The sources of income and expenditure of both political parties and candidates must be disclosed for the election and non-election period.
- There should be a scrutiny of the revenue foregone by the State by virtue of tax exemptions given on the contributors to political parties by donors and to the receipts, which are political parties.
- A register of pecuniary Interests of members of the Lok Sabha should be maintained by the Lok Sabha Secretariat and made available in the public domain and there should be a mechanism for thorough scrutiny and verification into the authenticity of the declarations of financial interest made by members.
- Pecuniary details provided in the 'Register of Interests for Rajya Sabha MPs should be provided to the Income Tax authorities or other appropriate body for cross-checking with the Income Tax Returns filed by the MPs. Business and pecuniary interests of the spouse and dependents should also be declared by the MPs along with their own business interests. No field on the form should be left blank. The date of filing the Interest details with the Secretariat should be provided on the form.
- Scanned PDF documents which are not user-friendly or easily readable must be substituted by an online data base which is easily searchable and downloadable to improve access.
- Public databases can be created by the ECI where information about funding sources and expenses incurred on political advertisements (including digital ads) is available in a user-friendly format for scrutiny by the general public (Sahoo 2024).

7.6 Freebies as form of inducements to entice voters

- There should be a complete ban on freebies such as cash, gold, liquor, precious metals, drugs, narcotics, T.V., refrigerator, sarees, laptops and such goods and precious items to woo voters or otherwise by governments of states and at the Centre and by political parties preceding the elections and at the time of elections.
- The aforementioned form of inducements should be clearly defined either under law or in absence of law by ECI and declare them to be a corrupt practice in terms of Section 123 of the RP Act, 1951
- Political parties found guilty of giving such inducements to woo voters should be de-recognized by the ECI.
- Candidates found guilty of distributing such freebies should be immediately disqualified.

- Violation of the MCC issued by the ECI during elections should be strictly dealt with by the Commission and such defiance should lead to de-recognition and in more grave cases, de-registration of parties.

7.7 Search and seizure of cash, liquor, drugs, narcotic substances, gold and other precious items

- ECI, CBDT and I.T. Dept should pro-actively pursue and provide in public domain vital information on search and seizure such as i) complete details of state-wise and date-wise seizures of cash, liquor, drugs/narcotics, precious metals and all other prohibited items made by the Election Commission of India during elections; ii) complete details of the total amount of cash intercepted/seized as well as released to persons concerned along with the names of such persons; iii) names of the political parties, candidates/their agents who were caught in possession of illegal items such as cash, liquor, drugs/narcotics, precious metals and all other prohibited items; iv) details of action taken by the enforcement agencies against such defaulting candidates and political parties; v) number of seizure cases that were disposed of without taking any action; vi) seizure cases that were converted into active legal cases; and vii) current status of such ongoing cases of seizure.
- Money seized during elections should be separately maintained and classified as election or non-election related.
- All states and UTs should file a status report to the ECI on cases pertaining to search and seizure in their respective jurisdictions.
- ECI must follow-up with CBDT, I.T. department and police on cases relating to seizure. In addition, ECI should have a separate investigation or prosecution wing dealing with cases of seizure.

7.8 Paid News

- Paid news should be specifically defined under law.
- There should be a law/provisions under law in RPA to regulate instances of paid news and political advertisements in India.
- Paid news should be considered as offence and corrupt practice under section 123 (4) of the RP Act, 1951 and the act of indulging in the publication of 'paid news' should be considered as a ground for direct disqualification.
- Section 126 of the RP Act, 1951 that prohibits campaigning and canvassing activities of political parties and contesting candidate for a period of 48 hours up to the time fixed for the conclusion of the poll remains inefficient as it does not cover all formats of various instances of paid news and political advertisements especially in context of digital campaigns. Therefore, the scope of Section 126 should be broadened so as to include all formats of instances of paid content under the ambit of Section 126.

7.9 Oversight and Monitoring

- Steps should be taken to ensure the impartiality and independence of oversight and enforcement agencies. Any such bodies must be free of political influence or politically driven appointments.
- Empowerment and capacity building of the ECI and other relevant bodies to be able to effectively ascertain, regulate and monitor the online campaigning by political parties, candidates and third parties as well as the actual financing/spending on them. This also includes the capability to correctly identify third party advertisements and the mechanisms to track the expenditure on these ads. Robust collaboration with digital platforms and other relevant stakeholders is necessary (Sahoo 2024).

7.10 Strengthening the Office of Election Commission

- A precondition for empowering the Election Commission of India is the need to align the process of appointment of ECI in keeping with the Supreme Court's judgement on the matter and not as per the law made by the Parliament. Appointment of the Election Commissioners should not be left to the government of the day entirely before any more powers are vested in the Election Commission.
- In view of the present state of affairs in our electoral politics, there is a strong need for strengthening the office of ECI who are in charge of the superintendence, direction, control and conduct of elections. On 2 March 2023, a five-judge Constitution Bench in a petition filed by ADR had given a landmark judgment directing the *appointment of Members of Election Commission to be done on the advice of a committee comprising the Prime Minister, Chief Justice of India and the Leader of Opposition (or the leader of single largest opposition party) in the Lok Sabha*. Soon after the judgment, the Parliament enacted the "*The Chief Election Commissioner and other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023' which nullified the SC judgment* by removing the Chief Justice of India from the appointment process and adding a Cabinet Minister to be nominated by the Prime Minister thereby creating a system entirely dominated by executive. The SC should therefore, hold the new law on appointment of ECI *as unconstitutional and arbitrary*.
- There is need for continuous and objective dialogue between the Election Commission and other stakeholders such as the political parties, civil society and the media.
- Accept the proposal of the ECI to legally empower it to countermand elections where credible evidence of abuse of money power is found.
- Capacity building of ECI officials to effectively track or monitor unaccounted online campaign spending by third parties, proxy pages or shadow advertisers with the help of field experts.

7.11 Sanctions

- ECI and I.T. department should strictly monitor political party's financial statements and enforce the provisions of Section 29(c) of the RP Act, 1951 read with Section 13A of the IT Act, 1961 for its purpose. Express penalties apart from zero tax exemptions should be imposed on parties who have failed to submit their donation statements or audited

reports to the ECI on or before the due date, and failed to respond to reminder letters sent by the Commission for the same. This should include a daily fine of INR 25,000 for each day of non-compliance, with the possibility of de-registration if the default continues beyond 90 days. Further, ECI may levy a fine of up to INR 5 million if it finds any particulars in the party's statements as having been falsified as per Para 2.31 (c) 11 of (Law Commission of India 2015).

- The total Income tax exemption given to political parties forms a major chunk of indirect funding given to them by the State, and ECI's power to withdraw such exemption has never been used in cases of submission of faulty financial statements by parties. Therefore, it is suggested that computation of total income tax exemption given to political parties in a financial year should be done by ECI/CBDT and such details must also be made available on ECI's website.
- A provision should be inserted on penalizing parties that are found guilty of accepting contributions from impermissible donors, by levying a penalty of five times the amount so accepted as per Para 2.31 (c) 12 of (Law Commission of India 2015).
- ECI should be given power to de-register political parties in cases of contravention of existing laws and time to time guidelines issued by the ECI.
- A database of information on the number and types of sanctions applied for every offence should be created and maintained in order to ensure the transparency and effectiveness of the oversight process. (Sirivunnabood 2023).

Disclaimer

The official disclosures by political parties and candidates are based on the information available on the Election Commission's website. ADR does not add or subtract any information unless the EC changes the data. The data can be accessed from the website of the ECI, and other sources mentioned in the introduction chapter and bibliography. In particular, no unverified information from any other source is used. While all effort has been made to ensure that the information is in keeping with what is mentioned in the statements submitted by the political parties, candidates and other sources, in case of discrepancy between information in this report and that given in their statements, the information reported by the original references should be treated as correct. Association for Democratic Reforms (ADR), National Election Watch (NEW) and their volunteers are not responsible or liable for any direct, indirect special, or consequential damages, claims, demands, losses of any kind whatsoever, made, claimed, incurred or suffered by any party arising under or relating to the usage of data provided by ADR through this report.

It is to be noted that ADR undertakes great care and adopts utmost due diligence in analyzing and dissemination of the audit, contribution and Elections Expenditure reports of the political parties; affidavits and expenditure statements of candidates submitted with the Election Commission of India and respective state CEOs. Such information is only aimed at highlighting the increased misuse of money in our electoral and political process so as to facilitate a system of transparency, accountability and good governance and to enable voters to form an informed choice. Therefore, it is expected that anyone using this report shall undertake due care and utmost precaution while using the data provided by ADR. ADR is not responsible for any mishandling, discrepancy, inability to understand, misinterpretation or manipulation, distortion of the data in such a way so as to benefit or target a particular political party or politician or candidate.

This report is based on data available at the time of writing and has been updated till December 2025. Although the authors have taken due care to use the most current data available at the time of finalization of the report, however, given the evolving nature of the data sources, updates or revisions to the underlying datasets may occur between finalization and public release.

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Annexures

Annexure 1

National Parties		
Serial No.	**Party Name**	**Party Code**
1	Bahujan Samaj Party	BSP
2	Bharatiya Janata Party	BJP
3	Communist Party of India (Marxist)	CPI(M)
4	Indian National Congress	INC
5	National People's Party	NPP
6	Aam Aadmi Party	AAP
State Parties		
1	All India Trinamool Congress	AITC
2	Communist Party of India	CPI
3	Nationalist Congress Party	NCP
4	People's Party of Arunachal	PPA
5	All India United Democratic Front	AIUDF
6	Asom Gana Parishad	AGP
7	Bodoland Peoples Front	BPF
8	United People's Party, Liberal	UPPL
9	Communist Party of India (Marxist-Leninist) (Liberation)	CPI(ML)(L)
10	Janata Dal (United)	JD(U)
11	Lok Jan Shakti Party	LJSP
12	Rashtriya Janata Dal	RJD
13	Rashtriya Lok Samta Party	RLSP
14	Janta Congress Chhattisgarh (J)	JCC(J)
15	Goa Forward Party	GFP
16	Maharashtrawadi Gomantak	MGP
17	Indian National Lok Dal	INLD
18	Jannayak Janta Party	JJP
19	Jammu & Kashmir National Conference	JKNC
20	Jammu & Kashmir National Panthers Party	JKNPP
21	Jammu and Kashmir Peoples Democratic Party	JKPDP
22	AJSU Party	AJSU Party
23	Jharkhand Mukti Morcha	JMM
24	Janata Dal (Secular)	JD(S)
25	Indian Union Muslim League	IUML
26	Kerala Congress (M)	KC-M
27	Maharashtra Navnirman Sena	MNS
28	Shiv Sena	SHS
29	Shiv Sena (Uddhav Balasaheb Thackrey)	SHS(UBT)
30	Hill State People's Democratic Party	HSPDP
31	People's Democratic Front	PDF
32	Voice of the People Party	VPP
33	United Democratic Party	UDP

Serial No.	Party Name	Party Code
34	Mizo National Front	MNF
35	Zoram Nationalist Party	ZNP
36	Naga Peoples Front	NPF
37	Nationalist Democratic Progressive Party	NDPP
38	Lok Janshakti Party (Ram Vilas)	LJP(RV)
39	Biju Janata Dal	BJD
40	All India N.R. Congress	AINRC
41	Shiromani Akali Dal	SAD
42	Rashtriya Loktantrik Party	RLP
43	Sikkim Democratic Front	SDF
44	Sikkim Krantikari Morcha	SKM
45	All India Anna Dravida Munnetra Kazhagam	AIADMK
46	Desiya Murpokku Dravida Kazhagam	DMDK
47	Dravida Munnetra Kazhagam	DMK
48	All India Mailis-E-Ittehadul Muslimeen	AIMIM
49	Bharat Rashtra Samithi	BRS
50	Telugu Desam Party	TDP
51	Yuvajana Sramika Rythu Congress Party	YSRCP
52	Indigenous People's Front of Tripura	IPFT
53	Tipra Motha Party	TMP
54	Apna Dal (Sonelal)	AD (Sonelal)
55	Samajwadi Party	SP
56	All India Forward Bloc	AIFB
57	Revolutionary Goans Party	RGP
58	Revolutionary Socialist Party	RSP
59	Nationalist Congress Party - Sharadchandra Pawar	NCP (Sharadchandra Pawar)
60	Zoram People's Movement	ZPM

Annexure 2

State-wise number of registered unrecognized parties as of 27 March 2024		
State	**No. of Parties**	**Share**
Uttar Pradesh	742	26.845%
Delhi	240	8.683%
Tamil Nadu	230	8.321%
Maharashtra	216	7.815%
Bihar	187	6.766%
Andhra Pradesh	130	4.703%
Madhya Pradesh	107	3.871%
Haryana	103	3.726%
Gujarat	97	3.509%
Karnataka	91	3.292%
Rajasthan	81	2.931%
Telangana	75	2.713%
Punjab	74	2.677%
West Bengal	67	2.424%
Kerala	51	1.845%
Chhattisgarh	42	1.520%
Uttarakhand	40	1.447%
Odisha	38	1.375%
Jharkhand	37	1.339%
Jammu & Kashmir	34	1.230%
Assam	15	0.543%
Goa	12	0.434%
Himachal Pradesh	9	0.326%
Manipur	8	0.289%
Sikkim	6	0.217%
Meghalaya	5	0.181%
Pondicherry	5	0.181%
Chandigarh	4	0.145%
Mizoram	4	0.145%
Tripura	4	0.145%
Andaman & Nicobar Islands	3	0.109%
Nagaland	3	0.109%
Arunachal Pradesh	2	0.072%
Dadra & Nagar Haveli	2	0.072%
Total	**2764**	**100%**

Annexure 3

Conduct of Elections Rules, 1961

(Statutory Rules and Order)

[1][FORM 24A

(*See* rule 85B)

[This form should be filed with the Election Commission before the due date for furnishing a return of the Political Party's income of the concerned financial year under section 139 of the Income-tax Act, 1961 (43 of 1961) and a certificate to this effect should be attached with the Income-tax return to claim exemption under the Income-tax Act, 1961 (43 of 1961).]

1. Name of Political Party:

2. Status of the Political Party:

(recognised/unrecognised)

3. Address of the headquarters of the Political Party:

4. Date of registration of Political Party with Election Commission:

5. Permanent Account Number (PAN) and Income-tax Ward/Circle where return of the political party is filed:_____

6. Details of the contributions received, in excess of rupees twenty thousand, during the Financial Year:20 – . –20 .

Serial number	Name and complete address of the contributing person/company	PAN (if any_ and Income-Tax Ward/Circle	Amount of contribution (Rs.)	Mode of contribution *(cheque/demand draft/cash)	Remarks

*In case of payment by cheque/demand draft, indicate name of the bank and branch of the bank on which the cheque/demand draft has been drawn.

7. In case the contributor is a company, whether the conditions laid down under section 293A of the Companies Act, 1956 (1 of 1956) have been complied with (A copy of the certificate to this obtained from the company should be attached).

Verification

I,_____(full name in Block letters), son/daughter of _____solemnly declare that to the best of my knowledge and belief, the information given in this Form is correct, complete and truly stated.

I further declare that I am verifying this form in my capacity as _____on behalf of the Political Party above named and I am also competent to do so.

(Signature and name of the Treasurer/Authorised person)]

Date: _____

Place: _____

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1. Ins. by Notifn. No. S.O. 1283(E), dated the 10th November, 2003.

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