

## ELECTORAL BONDS AND OPACITY IN POLITICAL FUNDING

### A. About Electoral Bonds

Electoral Bond is a **financial instrument for making donations to political parties** as has been first pronounced by the Finance Minister in the Union Budget 2017-18. According to the **Electoral Bond Scheme, 2018**, electoral bond is a bond issued in the nature of a **promissory note**, which shall be **bearer** in character. A bearer instrument is one, which does not carry the name of the buyer or payee, no ownership information is recorded and the holder of the instrument (i.e. political party) is presumed to be its owner.

The Scheme, which was notified on January 2, 2018, allows individuals (who are citizens of India) and domestic companies to donate these bonds — **issued in multiples of Rs 1,000, Rs 10,000, Rs 1 lakh, Rs 10 lakh, and Rs 1 crore** — to political parties of their choice, which have to redeem them within 15 days. A person being an individual can buy bonds, either singly or jointly with other individuals. **No limit** exists on the number of electoral bonds that a person (including corporate entities) can purchase. The amount of bonds not encashed within the validity period of fifteen days shall be deposited by the authorised bank to the Prime Minister Relief Fund (PMRF). So far, **146 bonds amounting to a total of Rs 20.2835 cr (0.28%) were deposited in the PMRF**. Thus, 99.72% of the bonds purchased during the sixteen phases were encashed by the political parties within the validity period.

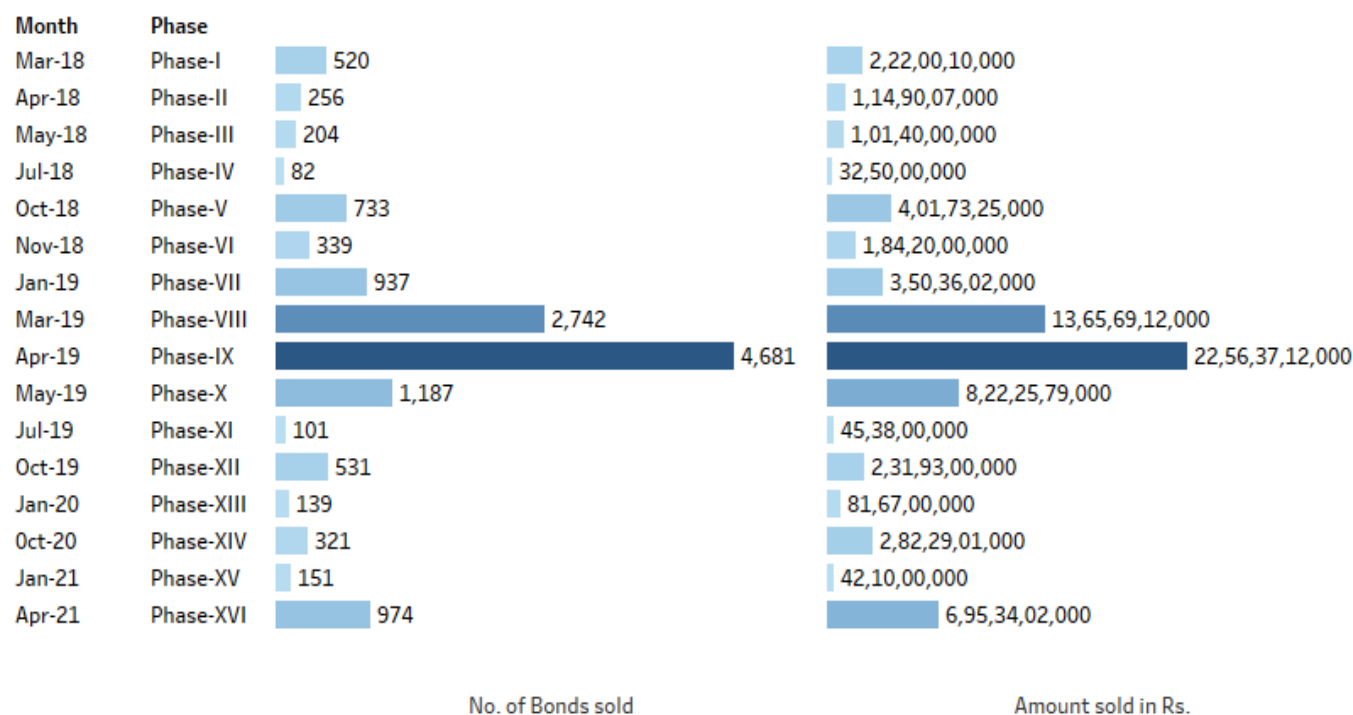
Only those political parties which fulfill the following criteria are eligible to receive electoral bonds – (i) **registered under section 29A of the Representation of the People Act, 1951** and (ii) **secured not less than one per cent of the votes polled** in the last general election to the House of the People or the Legislative Assembly, as the case may be. In accordance with the Electoral Bond Scheme, 2018, the **section 29C of The Representation of the People Act, 1951** has been **amended to remove the obligation of political parties to keep a record of the identity of donors** who give any sum of money through Electoral Bonds or report the same to the Election Commission of India (ECI) annually.

### B. ADR's data analysis of Electoral Bonds

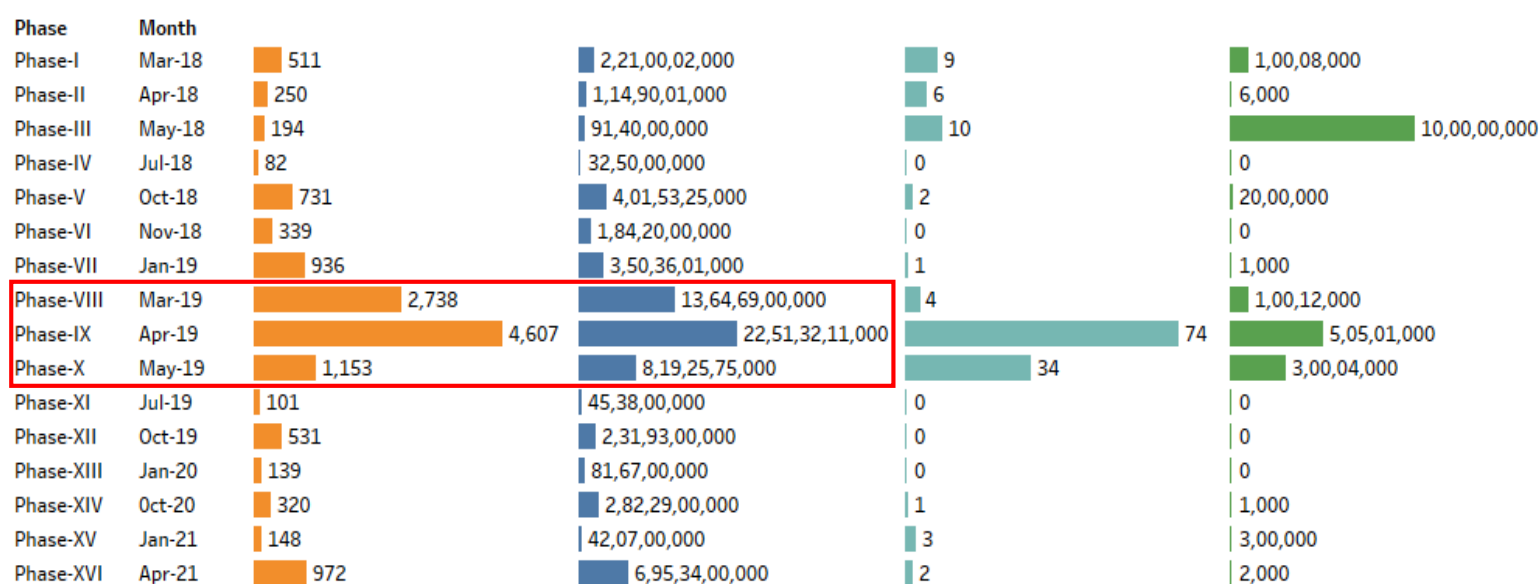
ADR analysed the total number and value of electoral bonds purchased and redeemed by the political parties, branch-wise and denomination-wise, in the sixteen phases from March 2018 to April 2021. The preliminary findings revealed that –

1. A total of **13,898 Electoral Bonds** worth **Rs 7230.125 cr** have been sold in **sixteen phases between March 2018 to April 2021**. **13,752 bonds** worth **Rs 7209.84 cr** were redeemed during this period. **50.10%** of the total value of electoral bonds were purchased in two months alone – **March and April 2019** – the period of general elections. Below is the phase-wise break-up of the total bonds sold during all 16 phases.
2. **61.52%** of the total value of electoral bonds were redeemed by parties in three months alone – **March 2019** (phase VIII), **April 2019** (phase IX) & **May 2019** (phase X) – the period of Lok Sabha elections 2019.

## Phase-wise EBs sold from March 2018 - April 2021



## Phase-wise bonds encashed and transferred to PMRF out of total bonds sold

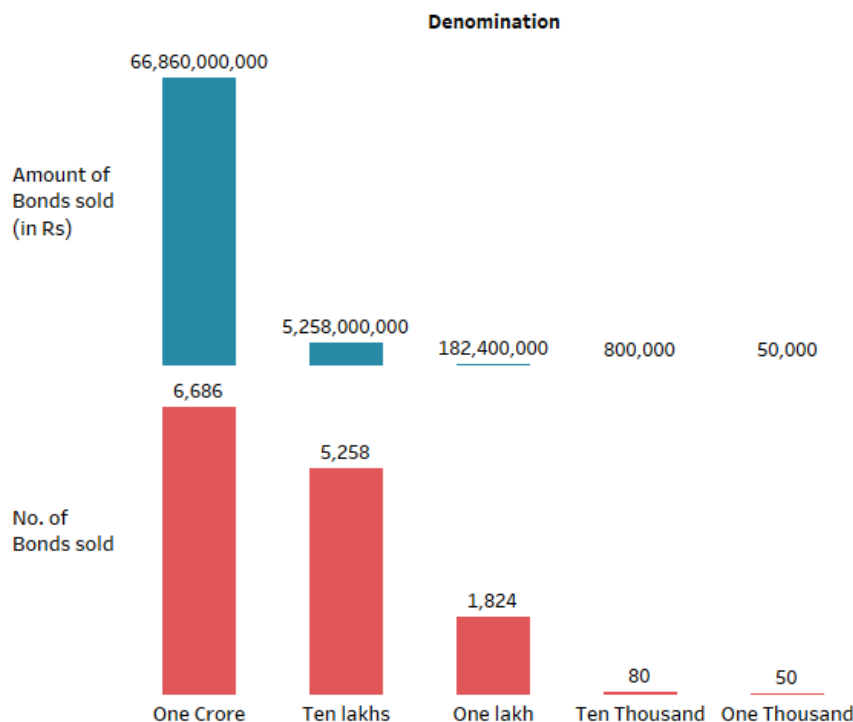


### Measure Names

- No. of Bonds Redeemed
- Amount redeemed in Rs.
- No. of Bonds transferred to PMRF
- Amount transferred to PMRF

3. **92.47% or Rs 6686 cr** of the total value of bonds purchased were in the denomination of **Rs 1 crore** indicating that these bonds are being purchased by corporates rather than individuals.

### Denomination-wise sale of Electoral Bonds during 16 phases



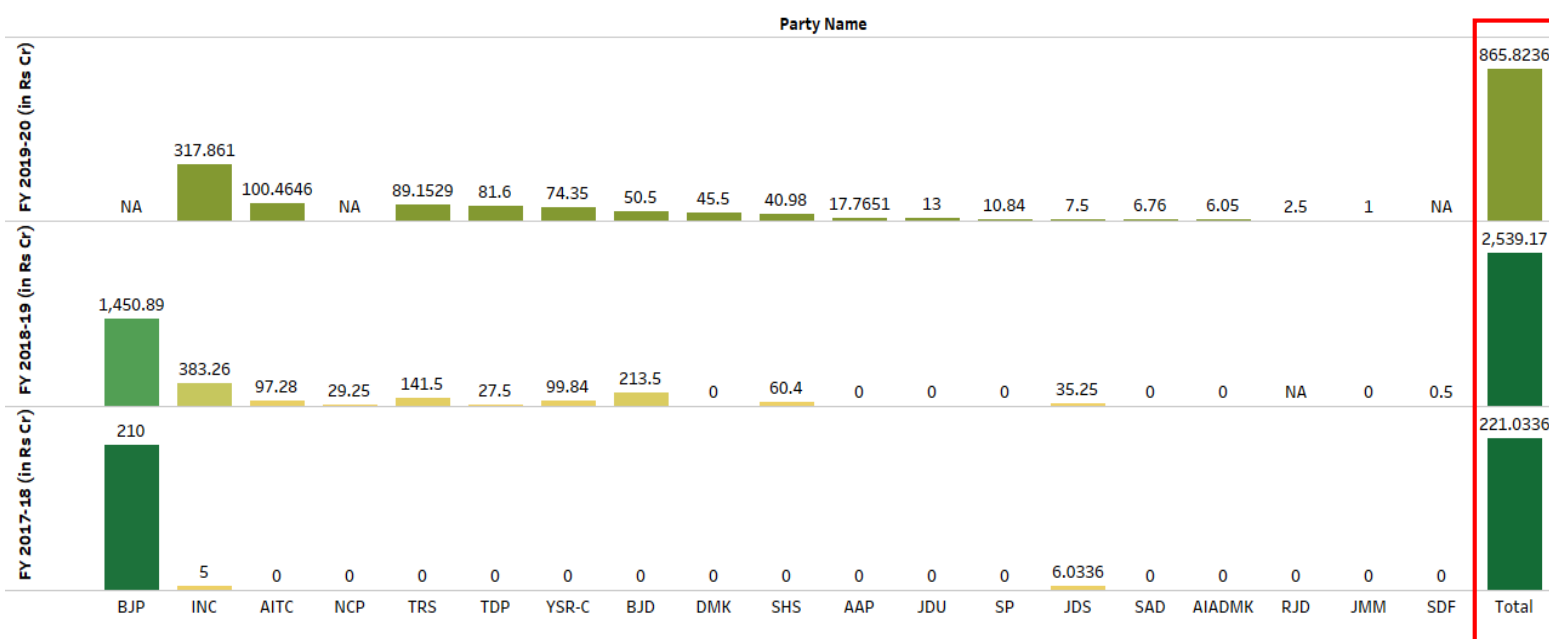
4. **9590 Electoral Bonds worth Rs 5364.122 cr or 74.40%** of the total electoral bonds redeemed between March 2018 and April 2021 were encashed in **New Delhi** (while maximum value of bonds were purchased in Mumbai) where National Parties' headquarters are located. The data on sale and encashment of bonds from top 5 cities is given below.

### March 2018 - April 2021: City-wise sale of Electoral Bonds during 16 phases

| City      | Amount Sold (in Rs Crore) | Amount Redeemed (in Rs Crore) | No. of Bonds Sold | No. of Bonds Redeemed |
|-----------|---------------------------|-------------------------------|-------------------|-----------------------|
| Mumbai    | 2,114.4643                | 154.932                       | 3,148             | 564                   |
| Kolkata   | 1,703.6479                | 312.6846                      | 4,024             | 984                   |
| New Delhi | 1,121.3707                | 5,364.122                     | 1,903             | 9,590                 |
| Hyderabad | 957.87                    | 672.0529                      | 1,719             | 1,462                 |
| Chennai   | 385.7009                  | 237.55                        | 689               | 328                   |
| Others    | 947.0712                  | 468.5                         | 2,415             | 824                   |
| Total     | 7,230.125                 | 7,209.8415                    | 13,898            | 13,752                |

- Between FY 2017-18 & 2018-19, political parties received a total of Rs 2,760.20 cr from electoral bonds. A whopping **60.17% or Rs 1,660.89 cr** of this was **received by a single party which is the ruling political party.**
- As per the annual audit report of **BJP** submitted with the Election Commission, the party had received **Rs 210 crore** worth contribution in the form of electoral bonds for **FY 2017-18**. This was a whopping **95% of all the electoral bonds purchased in 2017-18**. For **FY 2018-19**, **BJP** had received **Rs 1,450.89 cr** worth electoral bonds and **INC** had received **Rs 383.26 cr** worth electoral bonds. The **annual audit report of BJP** is **not available** in the public domain for **FY 2019-20**, as of date.
- Given the anonymity provided to donors and political parties by the Electoral Bonds Scheme, it has emerged as the most popular mode of donations to political parties. **More than 52% of the total income of National Parties and 53.83% of the total income of Regional Parties** analysed by ADR for **FY 2018-19** came from donations received through electoral bonds.
- For the **FY 2018-19**, ADR analysis found that **4 National parties namely BJP, INC, NCP & AITC** declared receiving a total of **Rs 1960.68 cr** while **7 Regional parties** namely BJD, TRS, YSR-C, Shiv Sena, TDP, JDS & SDF received **Rs 578.49 cr** from donations via electoral bonds.
- During the **FY 2019-20**, of the political parties whose annual audit reports are available on the ECI website as of 14<sup>th</sup> June 2021, **16 political parties including NCP, INC, AITC, AAP (declared Rs 17.7651 cr under “Other (Electoral Bond/Electoral Trust), BJD, JDS, TDP, AIADMK, SAD, DMK, JMM (declared donations via electoral bonds in contributions report), JDU etc.** have declared receiving a total of **Rs 865.8236 cr** from donations via electoral bonds.

#### Party-wise EBs declared in the audit reports for the last three years



10. **National parties have received the maximum corporate donations of Rs 881.26 cr in the FY 2018- 19.** The amount was Rs 563.19 cr in FY 2016-17 and Rs 573.18 cr in the FY 2014-15 (during which the 16th Lok Sabha elections were held). **Between FY 2012-13 and 2018-19, donations from corporates to National parties increased by 974%.**

### **C. Why the Electoral Bond Scheme, 2018 is arbitrary, unconstitutional and problematic:**

1. The Finance Act 2017, which introduced the system of electoral bonds for the purpose of electoral funding, was passed as the Money Bill. The amendments brought through the Act do not require political parties to mention the names and addresses of those contributing by way of electoral bonds in their contribution reports filed with the Election Commission of India annually. This will have a major implication on transparency in political party finances and will fundamentally alter the perception around political donations.
2. Electoral bonds infringe the citizen's fundamental 'Right to Know'. Such an unreasonable and irrational restriction on information at the cost of larger public interest is a severe blow to the very fundamentals of transparency and accountability. Making the political class even more unanswerable and unaccountable by withholding crucial public information goes against the very spirit of 'Democracy and Rule of law'.
3. Moreover, while electoral bonds provide no details to the citizens, the said anonymity does not apply to the government of the day, which can always access the donor details by demanding the data from the State Bank of India (SBI). This implies that the only people in dark about the source of these donations are the taxpayers. It may also be noted that the printing of these bonds & SBI commission for facilitating the sale and purchase of the bonds is paid from the taxpayers' money by the central government.
4. Electoral bonds have surely emerged as a vital instrument to both endorse and encourage opacity by not only opening the floodgates of indefinite and mysterious donations but also legitimizing the illicit money in our electoral and political process, to the tune of more than Rs 7000 cr.
5. Various Central agencies like Reserve Bank of India's (RBI), ECI, even the Law Ministry and various MPs of the Rajya Sabha had not only shown their apprehension but had also given repeated warnings to the government against the Electoral Bond Scheme stating that it has the potential to increase black money circulation, money laundering, cross-border counterfeiting and forgery. These institutions had strongly opposed the mechanism of electoral bonds and made serious reservations against it and termed it as a "bad precedent". Not only were the objections disregarded, but even the suggestions made to make the Scheme less vulnerable to fraud were ignored by the government.
6. The ECI had stated on record that "that any donation received by a political party through an electoral bond has been taken out of the ambit of reporting and therefore, is a retrograde

step and needs to be withdrawn. ECI further stated that in such a situation it can never be ascertained whether the political party has taken any donation from government companies and foreign sources. Instead of paying any heed towards ECI's concerns, the central government blatantly lied in the Rajya Sabha about any such reservations ever raised by the Commission. In addition, the government also lied about the fact that the donors asked for electoral bonds due to fear of political retribution if they used transparent methods of funding.

7. Government has also made SBI accept expired electoral bonds worth Rs 20 crores sold in illegal window.
8. Electoral bonds carry unique alphanumeric characters hidden in the top right corner of the bonds. It is visible only under ultraviolet light, and invisible to the naked eye. In its affidavit, the government repeated its earlier claim that the alphanumeric characters are embedded for security reasons – but that argument has been debunked by many experts. Series of articles reported by 'The Quint' and many other reports clearly states that such a feature existing in the bonds are for the obvious reason that the ruling government wants to keep a concealed track on the donors. The anonymity clause does not apply to the government of the day, which can always access the donor details by demanding the data from SBI. Thus, the only people in dark about the source of these donations are the Indian public and opposition parties.
9. The Former Election Commissioner of India Mr. S.Y Quraishi in an interview had also stated; *"While buying an electoral bond, one needs to furnish their KYC details. The serial number of the bond, matched with the KYC details, will clearly reveal who donated how much money to which political party."*
10. The Finance Ministry has broken its own rules by approving the unscheduled and illegal sale of electoral bonds for State Assembly elections on many occasions.
11. Electoral Bonds are to be issued for a period of 10 days in the months of January, April, July and October and additional 30 days are provided during an election year. However, in February, 2019, before the Lok Sabha, 2019 elections, the Finance Ministry had fixed a total period of 45 days for issuing the bonds in the month of March, April and May. Whereas the days fixed for issuing the bonds in the month of March and May were to be related to the period of 30 days allowed for an election year. The Supreme Court in its interim order dated 12<sup>th</sup> April, 2019 had ordered deletion of additional 5 days given by the Ministry for the sale and purchase of bonds.
12. **Sale and Purchase of EBs during Bihar Assembly Elections, 2020:** The issuance of electoral bonds by the State Bank of India, between October 19 and 28 (phase XIV), just ahead of the Bihar Assembly elections is also a case in point. The Scheme notification dated 02.01.2018 stipulates sale of electoral bonds in January, April, July and October. However, after the 13<sup>th</sup> phase in January 2020, the window for sale of bonds was not opened in April and July, but was opened in October, right before the Bihar elections.



Clearly, the donations made through electoral bonds play a crucial role for the election campaigns of the political parties, reiterating that access to information regarding funding of political parties is integral to independent and informed exercise of vote and in ensuring free and fair elections.

13. The Law Ministry repeatedly objected to the Finance Ministry's stipulation that political parties must have a 1% vote share in Lok Sabha or State Assembly elections in order to be eligible for the Scheme. The Law Ministry continued to point that the Scheme should be aligned with the Representation of Peoples Act, 1951.
14. The fact that a majority of the bonds were received by a single party and a huge proportion of these bonds were purchased and redeemed (by parties) during the time of elections severely impacts the level-playing field, a central component of contemporary democracy.
15. In a situation where donations received through electoral bonds are not reported, it can never be ascertained whether a political party has taken any donation in violation of provisions of the Representation of the People Act, 1951 which prohibits the political parties from taking donations from government companies and foreign sources.
16. **In-eligible political parties are also getting funded through Electoral Bonds:** In response to ADR's application dated 5<sup>th</sup> March, 2019, the Supreme Court in its interim order dated 12th April, 2019 had directed all political parties to submit details of donations received via electoral bonds to the ECI in a sealed cover on or before 30th May 2019. ADR had examined the eligibility of the political parties that submitted details to ECI in sealed cover complying with SC's interim order, the findings of the analysis raised several questions on the execution of the Scheme.
  - Of a total of 69 registered unrecognised parties that submitted details to ECI in sealed cover, the vote share details of only 43 parties were available to assess their eligibility to receive electoral bonds.
  - **Only 1 registered unrecognised party of the 43 parties analysed was found eligible to receive electoral bonds**, as per the eligibility criteria mentioned in the Electoral Bond Scheme, 2018.
  - **There is no list of political parties eligible to receive donations through electoral bonds**, as per the eligibility criteria mentioned in the Scheme, available in the public domain or on the website of the ECI. **In a reply to ADR's RTI application dated 10th October, 2019, ECI responded that it has not compiled any such list.**
  - Clearly, there seems to be no scrutiny by any authority at any stage prior to redemption of electoral bonds by political parties not eligible to encash bonds under the Electoral Bond Scheme, 2018.

17. **Number of political parties in India has increased manifold since the inception of Electoral Bond Scheme:** Electoral bonds have patently endorsed and encouraged black money by permitting political parties into becoming a breeding ground for money. There is already a rampant nexus between money and muscle power, hence, only the rich and powerful will get the tickets to contest elections. In January, 2017, there were a total of 1500 political parties in India. As of 30<sup>th</sup> September, 2020, the total number of political parties in India has increased to 2,628. The reason for this glut of new parties definitely points out the needle of suspicion towards government's controversial electoral bonds and unlimited and anonymous corporate donations. **A vast majority of these parties will never contest elections. These parties may be involved in money laundering activities or may simply be using their status to turn black money into white.**
18. The Lok Sabha 2019 elections have been termed as the 'most expensive election ever, anywhere' with a staggering Rs 55,000-60,000 crore was estimated to have been spent during the 2019 Parliamentary elections by the Centre for Media Studies (CMS) report. Overall, expenditure in the last six Lok Sabha elections between 1998 and 2019 had seen a near six-fold jump from Rs 9,000 in 1998 to over Rs 55,000 crore in 2019.
19. Lok Sabha, 2019 elections also witnessed the highest ever anonymous funding through electoral bonds. Between FY 2017-18 & 2018-19, political parties received a total of Rs 2,760.20 cr from electoral bonds.

## D. Recommendations of ADR

1. ADR proposes that the Electoral Bond Scheme, 2018 should be entirely scrapped.
2. In the case of continuance of the Scheme, the principle of anonymity of the bond donor enshrined in the Electoral Bond Scheme, 2018 must be done away with. All political parties which receive donations through electoral bonds should declare in their contributions reports the total amount of such donations received in the given financial year, along with the detailed particulars of the donors as against each bond; the amount of each such bond and the full particulars of the credit received against each bond. The procedures and reporting framework for the above must be standardized to ensure that a true picture of the financial position of the political parties is revealed to the general public.
3. A list of all political parties eligible to receive donations through electoral bonds as per the eligibility criteria mentioned in the Electoral Bond Scheme, 2018 should be compiled and regularly updated on the basis of the vote share secured by the parties in the last General Election to the House of the People or the Legislative Assembly of the State contested. This list must be made available in the public domain through the websites of the ECI, the SBI and hard copies of the same shall also be available at the 29 branches of SBI authorised for the sale of electoral bonds.



4. Express penalties, apart from losing tax benefits, should be imposed on political parties for any non-compliance with the disclosure provisions.
  5. Political parties that remain inactive over a prolonged period, do not take part in any election and continue to receive donations through electoral bonds should be de-listed by the ECI from time to time to ensure that such parties are unable to benefit from the Electoral Bond Scheme, 2018.
  6. The ECI should be entrusted with the responsibility to oversee that no political party ineligible to receive donations through electoral bonds in accordance with the Electoral Bond Scheme, 2018 is able to encash these bonds.
  7. All National and Regional political parties must provide all information on the funds received through electoral bonds under the Right to Information (RTI) Act. Full details of all donors should be made available for public scrutiny under the RTI.
  8. Scrutiny of financial documents submitted by parties to be conducted annually by a body approved by Comptroller and Auditor General (CAG) and the Election Commission.
  9. Political parties in compliance with Central Information Commission's order dated 3<sup>rd</sup> June, 2013 must be brought under the ambit of RTI Act, 2005.
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