

Why political parties should be declared as public authorities?

A report by

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Political parties as public authorities:

A political party controls its nation by getting its candidates elected to the public offices. Political parties visibly declare that they labour for the public. Their party ideology maintains that they work for the upliftment of their inhabitants.

Election in India is a huge exercise. The political parties in their hunt for power spend more than one thousand crore of rupees during elections. Nobody accounts for the bulk of the money so spent and there is no accountability anywhere. There are no proper accounts and no audit at all. 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. **By getting political party into the purview of Representation of people's act as well as by declaring them as public authority, citizens can check into following evils:**

- **Tickets to the criminals.**
- **Tickets on the sole criteria of money.**
- **Disclosure of the criteria of selection of candidates during elections.**
- **Internal elections.**
- **Corruption**

Therefore, there is a need to bring into light the internal functioning of the political parties and make them more accountable to the citizens of the country. This can be ensued only if political parties are declared public authorities and information about them are provided to the public through Right to Information Act, 2005.

170th Law Commission report:

Further, the **170th report of Law Commission of India on reform of the electoral laws** states:

It must be said that if **democracy and accountability constitute the core of our constitutional system, the same concepts must also apply to and bind the political parties which are integral to parliamentary democracy.** 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. 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.”

Facts around the globe:

Disclosure related to political party's finances to party proceedings is available in public domain of the European and Central American countries. In most of the Scandinavian countries like Poland the political parties have been declared as public bodies and they come under the freedom of information act. In India

also this step needs to be taken and political parties, which claim themselves that they work for public good, should be declared as public authorities.

Brief facts leading to the plea:

ADR filed an application under Section 6(1) of the Right to Information Act, 2005 before Secretary/PIO of 6 political parties i.e BJP, INC, BSP, NCP,CPI, CPI(M). Most of the parties either did not reply or denied being a public authority .The application was filed seeking the following information:

- Details of 10 Maximum voluntary contributions received by the party from financial year 2004-05 to financial year 2009-10.
- Details pertaining to voluntary contributors along with their addresses who have made single contribution of more than Rs 1 lakh to the party from, Financial Year 2004-05 to Financial Year 2009-10.

What is a public authority?

Political parties should be declared as public authority as they are substantially financed by the government. The section, which defines public authorities, reads as follows:-

"public authority" means any authority or body or institution of self-government established or constituted—

- (a) by or under the Constitution;
- (b) by any other law made by Parliament;
- (c) by any other law made by State Legislature;
- (d) by notification issued or order made by the appropriate Government,

and includes any—

- (i) body owned, controlled or substantially financed;
- (ii) non-Government organisation substantially financed,

directly or indirectly by funds provided by the appropriate Government:

Analysis of the data collected and grounds for submission:

Political parties are substantially funded by the tax payer's money, hence, they should be declared public authorities. Large amount of money is directly or indirectly spent on them on the following accounts:

1) State funding on free airtime for political parties during Elections

Political parties are provided free airtime on state owned television, Doordarshan, and radio, Akashwani as per order no. 437/TVs/2009/M&TS of Election Commission of India.

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In order to get an idea of the amount spend by the State on the free airtime given to political parties we have taken the example of the expenditure during 2009 elections. Given below are the expenditure for Doordarshan television network and Akashwani radio during Lok Sabha 2009 elections for national political parties:

- a) Amount spend by State on free airtime in Doordarshan:** The rate charged by DD for every 10 seconds vary according to the time of telecast. DD has 3 rates based on the time the telecast is done. These rates are different for the national and regional network of DD. The rate for both the networks is provided below.

For National Network

- i. Prime –Time ₹ 60,000/- per 10 second
- ii. Mid- Prime – Time ₹ 15,000/ per 10 second
- iii. Non-Prime- Time ₹ 15,000/- per 10 second

For the regional Kendras

- i. Prime –Time ₹ 20,000/- per 10 second
- ii. Mid- Prime – Time ₹ 15,000/- per 10 second
- iii. Non-Prime- Time ₹ 10,000/- per 10 second

The allocation of time for telecast to each party is determined by draw of lots. We have not been able to get information on the time slot allotted to each political party. Hence being conservative and considering the rate during Non-prime-time which is ₹ 15,000/- per 10 second for national network and ₹ 10,000/- per 10 second for regional kendras, we can calculate the amount spent by the state on political parties.

S. No	Name of the Party	Time allotted for telecast at the national network of DD during LS '09 (Min)	Rate charged by national network of DD at non prime time every 10 seconds	Amount spend by the state for the national network during LS '09 (₹ crores)	Time allotted for telecast at the regional network during LS '09 (Min)	Rate charged by regional network at non prime time every 10 seconds	Amount spent by State for the regional network during LS '09 (₹ crores)	Total Amount spend by the state on political parties for both the national and regional network during LS '09 (₹ crores)
1	BJP	140	15,000	1.26	215	10,000	1.25	2.51
2	INC	160	15,000	1.44	240	10,000	1.44	2.88
3	BSP	70	15,000	0.63	100	10,000	0.60	1.23
4	CPI	50	15,000	0.45	75	10,000	0.45	0.90
5	CPI(M)	70	15,000	0.63	105	10,000	0.63	1.26
6	NCP	50	15,000	0.45	80	10,000	0.48	0.93

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7	RJD	55	15,000	0.49	85	10,000	0.51	1.00
	Total	595		5.35	900		5.40	10.75

Table 1: Amount spent by state on political parties during Lok Sabha 2009 elections

The amount calculated above is only for Lok Sabha elections 2009. There were 7 other states, Arunachal Pradesh, Haryana, Maharashtra, Jharkhand, Andhra Pradesh, Sikkim and Orissa, which went for elections together with Lok Sabha. However we have not calculated the amount spend by the State on publicity of political parties in these seven states.

b) Amount spend by State on free airtime in All India Radio(AIR): The rate charged by AIR for every 10 seconds vary according to the time of broadcast. AIR has 3 spot rates for every 10 seconds. The time category and amount for each category is given below.

- i. Time- Category – 1, 1900-2200: ₹ 1,200/- per 10 second
- ii. Time- Category – 2, 2200-0100: ₹ 1,000/- per 10 second
- iii. Time- Category – 3, 0100-0600: ₹ 800/- per 10 second

The allocation of time for broadcast to each party is determined by draw of lots. We have not been able to get information on the time slot allotted to each political party. Hence being conservative and considering the rate of time category – 3 which is ₹ 800/- per 10 second, we can calculate the amount spent by the state on political parties.

S.No	Name of the Party	Time allotted for broadcast at the AIR during LS '09 (Min) for political parties	Rate charged by AIR in time-category – 3 for every 10 seconds	Amount spend by the state for AIR (₹ lakhs)
1	BJP	140	800	6.72
2	BSP	70	800	3.36
3	CPI	50	800	2.40
4	CPI(M)	70	800	3.36
5	INC	160	800	7.68
6	NCP	50	800	2.40
7	RJD	55	800	2.64
	Total	595	800	28.56

Table 2: Amount spent by state on political parties during Lok Sabha 2009 elections for publicity through AIR

Along with the Lok Sabha Elections in 2009, state elections were also held in Arunachal Pradesh, Haryana, Maharashtra, Jharkhand, Andhra Pradesh, Sikkim and Orissa. We have not calculated the state funding on publicity for those elections. However, when calculated this amount would be a huge one proving that political parties are directly or indirectly funded by the State and hence should be declared a public authority.

2) State funding on Electoral Rolls during Elections

Under the provisions of rules 11 and 12 of the Registration of Electors Rules, 1960 two copies of the Electoral roll, one printed copy and another in CD is supplied to recognized political parties, free of cost, after draft and final publications.

RTIs were filed to know the amount spent by the Election Commission on electoral rolls for recognized political parties at various constituencies. The information received from these RTIs is provided below:

S.No	Constituency	State	Data given by various Government of India offices under RTI	Cost for 1 roll
1	Bangalore North	Karnataka	Cost per roll is ₹97000 for 4 candidates.	₹97,000
2	Shillong	Meghalaya	Total Cost for 3 sets given to 3 candidates contesting from recognized parties is ₹3,01,660	₹1,00,553
3	Tura	Meghalaya	Total Cost for 2 candidates from recognized political parties is ₹1,74,468	₹87,234
4	Howrah	West Bengal	Total Cost for candidates of recognized political parties is ₹1,98,604	₹49,651
5	Uluberia	West Bengal	Total Cost for candidates of recognized political parties is ₹1,85,553	₹46,388
6	Namakkal	Tamil Nadu	Total cost for 4 candidates of recognized parties is ₹79,896	₹19,974
7	Fatehpur Sikri	Uttar Pradesh	Total cost is ₹1,96,712 for candidates of recognized political parties	₹49,178
8	Deoria	Uttar Pradesh	Cost for each candidate from recognized party is ₹33,319.50	₹33,319
9	Salempur	Uttar Pradesh	Cost for each candidate from recognized party is ₹22,321.50	₹22,321
10	Amravati	Maharashtra	Total Cost for 2 candidates of recognized political parties is ₹1,19,266	₹59,633
Average cost for 1 electoral roll= Sum of cost for 1 roll/No. of Constituencies				₹56,525

If we calculate the average cost of 1 electoral roll for a candidate from recognized party from the information attained we find it to be approximately ₹ 56525. (The formula undertaken to obtain this amount is sum of cost of 1 electoral roll for all constituencies / total number of constituencies.)

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Using this average and based on the number of candidates that contested from recognized parties we can find the approximate amount spend by the state for giving free electoral rolls to political parties. The amount spent on each national political party is as given below:

Party	Total no. of Contesting Candidates in LS '09	Average calculated of 1 electoral roll per candidate from recognized party in LS '09	Total amount spend by the state on free supply of electoral rolls in LS '09 (₹crores)
BSP	500	₹ 56,525	₹ 2.82
BJP	433	₹ 56,525	₹ 2.45
INC	440	₹ 56,525	₹ 2.48
CPI	56	₹ 56,525	₹ 0.31
CPI (M)	82	₹ 56,525	₹ 0.46
NCP	68	₹ 56,525	₹ 0.38
RJD	44	₹ 56,525	₹ 0.25

The amount calculated above is the approximate amount spent by the State on supply of free electoral rolls to political parties during Lok Sabha 2009 Elections. The amount spend on free supply of electoral rolls for the 7 State Elections in Andhra Pradesh, Sikkim, Arunachal Pradesh, Jharkhand, Maharashtra, Haryana and Orissa during the same time has not been calculated.

Total candidates from national and state recognized parties in these State elections were around 3800. The amount spent by the State for free supply of electoral rolls to political parties in these 7 elections would be a huge. Hence, political parties are substantially funded by the State should be declared a public authority.

3) Tax Payable exempted for political parties

As per section 13A of the Income Tax Act large amount of money is exempted under tax exemption on the income of political parties.

Income Tax returns filed by political parties were analysed with expert help and on the basis of this analysis we have been able to calculate tax payable, which is exempted for the national parties. Copies of Income tax returns filed .To explain the formula used in order to obtain the tax payable amount let's take the example of Bharatiya Janata Party (BJP), Indian National Congress (INC) and Bahujan Samaj Party (BSP). The calculation done below is for Financial Year 2008-2009.

Computation of Total Income based on the IT returns filed by political parties received through RTI (FY 2008-09)			
	BJP	INC	BSP
Income from House Property (as declared in IT Returns Filed)	20,18,786	Nil	Nil

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Profits and Gains from Business and Profession	-2,94,13,325	496,87,62,060	181,84,84,774
Income from Other Sources	219,64,07,142	Nil	Nil
Gross Total Income (as declared in the IT returns filed)	216,90,12,603	496,87,62,060	181,84,84,774
Total Income Rounded Off U/S 288A	216,90,12,603 (216.90 crore)	496,87,62,060 (496.87 crore)	181,84,84,770 (181.84 crore)
Computation of Tax on Total Income (FY 2008-09)			
Tax on ₹ 1,50,000	Nil	Nil	Nil
Tax on ₹ 1,50,000 (3,00,000-1,50,000) @ 10%	15,000	15,000	15,000
Tax on ₹ 2,00,000 (5,00,000-3,00,000) @ 20%	40,000	40,000	40,000
Tax on Total Income declared (Total Income-5,00,000)@ 30%	65,06,08,781	149,05,33,618	54,54,50,431
Add: Surcharge @ 10%	<u>6,50,60,878</u>	<u>14,90,53,362</u>	<u>5,45,45,043</u>
Sum	71,56,69,659	163,95,86,980	59,99,95,474
Add: Education Cess @ 2%	<u>1,43,13,393</u>	<u>3,27,91,740</u>	<u>1,19,99,909</u>
Sum	72,99,83,052	167,23,78,720	61,19,95,383
Add: Secondary and Higher Education Cess @ 1%	<u>71,56,697</u>	<u>1,63,95,870</u>	<u>59,99,955</u>
Sum	73,71,39,749	168,87,74,590	61,79,95,338
Tax Payable	73,71,39,749 (73.71 crore)	168,87,74,590 (168.87 crore)	61,79,95,338 (61.79 crore)

The details of the calculations done above along with the details of other national parties, CPI (M), CPI and NCP.

The table below gives the tax which is payable by the respective parties. However, it is exempted because of section 13 A of the Income Tax Act. Tax payable by major national political parties comes around as follows:

Party	Tax payable exempted in FY 2006-07 (₹crores)	Tax payable exempted in FY 2007-08 (₹crores)	Tax payable exempted in FY 2008-09 (₹crores)	Tax payable exempted in 3 years (₹crores)
BJP	26.86	40.68	73.71	141.25
INC	57.00	75.05	168.87	300.92
BSP	15.44	23.60	0.80	39.84
CPI (M)	6.98	4.62	6.53	18.13
CPI	0.01	0.21	0.02	0.24
NCP	0.90	0.68	8.06	9.64

4) State funding per year on rent of government/public offices for political parties

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Political parties are also provided facilities for residential and official use by the Directorate of Estates. They are charged a token amount of money as rent or dues for these properties.

Various facilities have been provided to political party's office bearers for official and residential purposes. Information on these facilities was provided by the Association for Democratic Reforms (ADR). They obtained this information under Right to Information from the Directorate of Estates. These facilities are located in the prime areas of Lutyens, Delhi.

A Times of India report (<http://timesofindia.indiatimes.com/india/With-pay-hike-an-MP-to-cost-Rs-37L-a-year/articleshow/6384362.cms>) which came out on 21st August, 2010 points out that the rent in Lutyens, Delhi may go up to around ₹2 lakh a month. If we keep this as the approximate amount we find that the rent paid by political parties is very low compared to the market rental value.

Party	Office and Address	Total Rent paid by the party for the office (per month)	Market Rent per month (based on newspaper report)	Effective state funding per month	Effective state funding per year (₹ Lakh)	Total state funding for each political party (₹ Lakh)
INC	24, Akbar road	48,755	2,00,000	1,51,245	18.15	84.08
	5, Raisina Road	37,318	2,00,000	1,62,682	19.52	
	26, Akbar Road	5,167	2,00,000	1,94,833	23.38	
	C II/109, Chanakyapuri	8,078	2,00,000	1,91,922	23.03	
BJP	11, Ashoka Road	73,585	2,00,000	1,26,415	15.17	37.19
	14, Pt Pant Marg	16,437	2,00,000	1,83,563	22.02	
BSP	16, G.R.G. Road	935	2,00,000	1,99,065	23.88	23.88
NCP	10, B.D. Marg	935	2,00,000	1,99,065	23.88	23.88

Political parties are also allotted accommodation in V.P.House a list of which is given below. However, we have not been able to obtain the market rental value of these accommodation facilities.

Party	Accommodation and Address	Total Rent paid by the party for the accommodation (per month)
INC	1, V.P.House	352
	101, V.P.House	352
	16, V.P.House	352
	104, V.P.House	352
	112, V.P.House	352
	211, V.P.House	352
	411, V.P.House	352
	416, V.P.House	352
BJP	24, V.P.House	352

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	115, V.P.House	352
	122, V.P.House	352
	301+ SQ, V.P.House	382
	302, V.P.House	352
	317, V.P.House	352
	417, V.P.House	352
	503, V.P.House	352
RJD	13, V.P.House	508

The facilities mentioned above are only those in Delhi. Directorate of Estates manages and maintains government properties in the metropolitan cities, Shimla, Ghaziabad, Chandigarh, Fariadabad and Nagpur while government properties in the remaining cities and towns are managed by the Central Public Works Department. The national political parties also have facilities for offices and accommodation in other parts of the country. These facilities are also provided to them not just at nominal rate but they are maintained and renovated at state expense. This clearly indicates that the State is indirectly spending on them. Hence, political parties should be declared as public authorities.

Total state funding on political parties for the above mentioned facilities

The table below provides the total amount spend by the State on various facilities and activities of the political parties in just one year.

Party	State funding on publicity during LS'09 Elections in Doordarshan (₹ crores)	Amount spend by the state for broadcast on AIR (₹ lakhs)	State funding on Electoral rolls during LS'09 Elections (₹ crores)	Tax Payable exempted in FY 2008-09 (₹ crores)	Effective state funding per year on rent of offices parties (₹ crores)	Total amount spend by state on Political parties (₹ crores)
BJP	2.51	0.06	2.45	73.71	0.37	79.59
INC	2.88	0.07	2.48	168.87	0.84	175.63
BSP	1.23	0.03	2.82	0.80	0.24	5.1
CPI	0.9	0.02	0.31	0.02	*	1.21
CPI(M)	1.26	0.03	0.46	6.53	*	8.28
NCP	0.93	0.02	0.38	8.06	0.24	9.63
RJD	1	0.02	0.25	*	*	1.34

*Unable to obtain information on the concerned facility for the respective political party

5) Other facilities:

The above mentioned expenses are only a few expenses for the year 2009. There **are other facilities also that the State spends for which has not been accounted here.** These include:

1. State funding on free supply of Electoral rolls to recognized state and national political parties in 7 State Assembly Elections held in 2009.
2. State funding for free broadcast on AIR for political parties during Assembly Elections in seven states in 2009.
3. State funding on publicity of political parties during Assembly Elections in 7 states in 2009 by giving free telecast on regional kendras.
4. State funding on facilities for accommodation provided to political parties' office bearers at a very nominal rate of ₹ 352 – ₹ 508 (per month). As the market rental value of these accommodation facilities is not available calculation of the effective state funding on accommodation facilities for political parties has not been done. However, the list of these accommodation facilities is given above.
5. State funding on facilities for offices and accommodation provided to political parties in other states/cities, other than Delhi, has also not been calculated.
6. State funding on the maintenance, renovation, upgradation, modernization and construction of the properties allotted to various political parties according to CPWD.
7. As per common knowledge one is aware of large amount of money being spent on the security of the contesting candidates in the elections and office bearers of the political parties.
8. There are possibly other ways also through which political parties get direct or indirect funding from the state which we are not aware of as political parties do not declare them.

As shown above political parties spend a lot of tax payer's money, hence they should be brought under the purview of public authority.

People's Call:

The disclosure of the information is in **larger public interest**. There is also a lot of public interest in the financial transparency of political parties. How they earn their income and what is their expenditure. **National Commission to Review the Working of the Constitution** had released a consultation paper on "**Review of the Working of Political Parties Especially in Relation to Elections and Reform Options.**" The paper states: "Political parties are indispensable to any democratic system and play the most crucial role in the electoral process – in setting up candidates and conducting election campaigns."

ADR had asked information on the contributors who have made contributions above ₹ 20,000 to political parties which was denied. This information would help in bringing about financial transparency and accountability among political parties. Hence, political parties should proactively provide this information and they should **be declared public authorities as political parties are continuously engaged in performance of public duty**. They claim that they work for the public good hence it is important that they become more Data in this Kit is presented in good faith, with an intention to inform voters. www.adrindia.org, <http://www.myneta.info>, adr@adrindia.org, <http://www.twitter.com/adrspeaks>, <http://www.facebook.com/adr.new>

accountable to the public. Transparency in the working and financial operation of political parties is essential in larger public interest.

The **importance for citizens to have access to information related to public functionaries** has also been stressed by The Honorable Supreme Court. **The Supreme Court** in its order dated 13.03.2003, on Writ Petition (Civil) No. 515 of 2002 (**Association for Democratic Reforms vs. Union of India and another**), has quoted from its earlier judgments: “the right to know which is derived from the concept of freedom of speech, though not absolute, is a factor which should make one wary, when secrecy is claimed for transaction which can, at any rate, have no repercussion on public security.....”

“In a Government of responsibility, where all agents of the public must be responsible for their conduct, there can be but few secrets. The people of this country have a right to know every public act, everything that is done in a public way, by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearing.....”

The Right to Information Act, 2005 is consistent with the above observations of the Supreme Court and states in its preamble **“Democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;”**

The declaration of political parties as public authority would promote transparency and encourage public debate. There are questions being raised on the functioning of political parties and the funds they receive. Political parties are an integral part of the democracy. Unless and until they are accountable to the public how can democracy succeed? Hence, there is a need to attain more transparency regarding the functioning of political parties. By bringing political parties in the public authority domain the confidence of the common man on democracy and the political system of the country would increase.

Therefore , political parties should be brought within the public authority domain because:

- **Larger public interest calls for declaration of Political parties as public authority as it is likely to promote public debate.**
- **It is imperative to increase transparency of political parties to maintain and enhance public confidence in them.**
- **Declaration of political parties as public authorities would help increase transparency thereby maintaining and strengthening accountability of political parties towards the public.**