

**ELECTORAL TRUSTS AND ELECTORAL BONDS - A NEWFOUND LOVE
BETWEEN POLITICS AND THE CORPORATE SECTOR**

Naman Shukla

Naman Shukla, Assistant Professor IFIM Law College, Bangalore, B.A. LL. B(H) (I.P. University) ||LL. M. (Corporate & Financial Law) (OP Jindal Global University)

Shreyas Piplani
I.P. University

ABSTRACT

India is the world's largest and most dynamic democracy. In light of the foregoing viewpoint, it is worth noting that elections are critical to sustaining the content and character of democracy. Electoral bonds are financial mechanisms that people or corporate entities can purchase from banks and donate to political parties. Former Union Finance Minister Arun Jaitley launched this initiative in the 2017-18 National Budget, asserting that the government needs to make the political finance process entirely transparent. The NDA-led government implemented electoral reforms through the Finance Bill, 2017 with the belief that it would be a useful instrument for cleaning up political finance. A fresh Right to Information application made by lobbyist Kanhaiya Kumar in January was provided by the State Bank of India, which issued electoral bonds worth Rs. 1,213 crores at a branch in New Delhi. The identity of the contributors, as well as the modification to the Companies Act, 2013 and other related laws, among other things, attest to the dark side of Indian politics.

This paper will look at the link between the motivations for implementing electoral changes and their influence on a healthy democracy. Thus, this study analyses the evolution of major legislative provisions on political fundraising, explains legal concepts, identifies systemic difficulties in the area, and suggests viable remedies in light of changes in electoral finance legislation in 2016 and 2017 and it will also through the light how it changes the other legislations in parlance to electoral reforms. The paper also tried to compare the system with other countries to know the position of our country.

Keywords: - Electoral Bonds, Analysis, political finance, corporate laws

INTRODUCTION

Money is essential to the subject of governmental corruption in India, with political parties being the greatest and most immediate benefactors. Electoral corruption undermines accountability, leads to skewed representation, and creates a disparity in government and decisions. The 2014 Lok Sabha elections are rumored to be one of the costliest in the democratic historical past, with the predicted expenditure of more than \$5 billion.¹ Free and fair elections are the essence of democracy, and perhaps the Indian Election Commission (ECI) has been so far hailed for carrying out its constitutional duties. However, obstacles persist, and each difficulty overcome generates other obstacles whose intricacy is restricted only by the brilliance of the human psyche and the attraction of elected office. However, throughout recent elections, cash power posed the greatest imminent risk and, if not successfully handled, can abrogate India's Political democracy-building process.

As of May 2016, an unusual action caused the Election Commission of India to retract the election notification for two assembly constituencies in Tamil Nadu after it revealed a massive disbursement of gifts and money to supporters for parties and candidates. In April 2017, the ECI canceled another RK Nagar by-election in Chennai, alleging claims that the state minister for

¹ The Hindu Business Line, 'Money Power in Indian Elections' (*The Hindu Business Line*, 29 July 2014) <https://www.thehindubusinessline.com/opinion/money-power-in-indian-elections/article20830550.ece1> accessed February 13, 2022

Health might have handed up to Rupees Eighty-Nine Crores to the voters.² These are only a few isolated cases in which the ECI tackles the issues.

AN EARLIER JUDICIAL OBSERVATION

In a 1957 decision, a court headed by Justice Chief M. Chagla of the Bombay High Court cautioned Parliament of the tremendous risk involved in permitting companies to contribute to political party coffers, which may eventually "overwhelm and even stir up democracy." Tata Iron and Steel Co. Ltd. first sought the Bombay High Court for a change to its charters (MOA), to include the main objective of including funding to political parties. The Court of Appeal stated that "democracy in this country is evolving, and democracy must be preserved, fostered, and cherished to help make sure that it is wholly and accurately put in place," and that any *"recommendation or idea widely expected to eclipse that democratic republic almost in a fence has to be taken into account not only with substantial hesitation but with significant consideration."* In it, the court made a vital observation:

"It is likely that any attempt by anybody to finance a political party contaminates the very sources of democracy. If results were not to be achieved on their own merits, democracy would be vitiated because money played a role in making these choices. Democracy may continue in its forms and trappings, but the spirit behind democratic institutions will disappear. The history of democracy has shown that democracy in other countries has been smeared by big business and money bags that play an important role in the functioning of democratic institutions and that it is

² Bhatnagar V, 'Breaking down EC Order on R.K. Nagar by-Poll Cancellation' (*The Wire*, 11 January 2017) <https://thewire.in/politics/breaking-down-ec-order-on-r-k-nagar-by-poll-cancellation> accessed February 13, 2022

not just for politicians, not just citizens, but also the duty of a Court of Justice to prevent any unfair influences exercised on voters.”³

THE CONCEPT OF ELECTORAL BONDS AND TRUSTS

The recent reform under the legislative wing of the government consisted of the implementation in his Budget 2017 of electoral bonds by the finance minister. The legislative amendments necessary were introduced in the Finance Act 2017 to the Income Tax Act, 1961, the Reserve Bank of India act, 1934, and the Representation Act, 1951.⁴ It was also challenged whether such amendments could be adopted as a Money Bill without the Rajya-Sabha's consent.⁵ The government also notified the electoral bond scheme.⁶

An electoral bond should be a bearing instrument with a finite lifespan. It tries to safeguard the donor's identity while guaranteeing that they are purchased through bank channels. The donor receives the deduction and, provided returns by the political party are filed, the recipient party receives the consequent tax exemption. The bonds are to be sold at specific State Bank of India branches in proportions of Rs. 1,000, Rs. 10,000, Rs. 1 lakh, Rs. 10 lakhs, and Rs. 1 pound.

It must be highlighted, although, that the implementation of the electoral bond plan is one of the two principles already prevalent among Indian political parties, which seems to be moving away from openness and accountability. The Finance Act of 2017 paired the establishment of election bonds with revisions to the Companies Act, 2013, raising the ceiling on corporate political contributions to parties and abolishing the requirement for such payments to be reported on the company's financial statement.⁷ Through acknowledgment, the Central Government aimed to establish a veil of obfuscation in 2013, but corporations were still compelled to record political

³ *Jayantilal Ranchhoddas Koticha v Tata Iron & Steel Co Ltd* [1957] 27 Comp Cas 604

⁴ Finance Act 2017, s 137

⁵ Network LN, 'Political Funding: SC Issues Notices to Centre, EC on PIL Challenging Finance Act Amendments [Read Petition]' (*Live Law*, 3 October 2017) <https://www.livelaw.in/political-funding-sc-issues-notices-centre-ec-pil-challenging-finance-act-amendments-read-petition/> accessed February 13, 2022

⁶ Delhi PIB, 'The Government of India Notifies the Scheme of Electoral Bonds to Cleanse the System of Political Funding in the Country' (*Press Information Bureau*, 4 March 2017) <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1515123> accessed February 13, 2022

⁷ Finance Act 2017, s 154

donations.⁸ Elections trusts might accept donations and distribute them to numerous parties, rendering it unknown to the public at large which corporation supplied cash to which party and preventing quid pro quo transactions from being recognized.⁹ To promote transparency, the scheme was redirected back in time.¹⁰

These have been largely retroactive inches away from significant electoral reforms in India, and they emphasize the specific challenges of legislative reforms, such as those faced by parliamentarians who are members of major parties and who benefit from the established legal regime and its gaps in legislation.

I. OVERVIEW OF HISTORY SINCE INDEPENDENCE

In history, private donations and membership dues were largely funded by Indian political parties. The Indian National Congress, without the Muslim League, became the country's largest political organization with no real equal rally rivals. The Peoples' Representative Act, 1950 (hereinafter known as RPA 1950) and of 1951 (hereinafter known as RPA 1951) was approved in that atmosphere by the Constituent Assembly and focused on individual candidate regulation while no regulatory provisions for the political party were in place. The provisions on election expenses contained in Chapter VIII of the RPA were the only provision concerning political funding. By requesting approval at the General Meeting of shareholders for a donation over Rs. 25,000 or 5 percent of the average net income in the previous three years, the Companies Act of 1956 aims to introduce some regulation concerning political funds by firms. The Santhanam Committee on Corruption Prevention (1964) had stressed the importance of redirecting black

⁸ Income Tax Rules 1962, r 17CA

⁹ Sethi H, Sand A, 'How Some of India's Biggest Companies Route Money to Political Parties' (*Hindustan Times*, 13 March 2014) <https://www.hindustantimes.com/interactives/electoral-trusts-explained/> accessed February 13, 2022

¹⁰ Press Trust of India, 'Electoral Trusts to Make Poll-Funding More Transparent: Pilot' (*Business Standard*, 12 January 2014) https://www.business-standard.com/article/current-affairs/electoral-trusts-to-make-poll-funding-more-transparent-pilot-114011200326_1.html accessed February 13, 2022

money to political parties and candidates to obtain advantageous results on policy.¹¹ By amending the Companies Act 1956, Indira Gandhi's government decided to completely prohibit corporate funding to the political parties. Although the obvious reason for the failure to exert an excessive political influence on large companies is that this and banking nationalization were conducted by the government to finance the Swatantra party under the leadership of C. Rajagopalachari and Congress. The Swatantra Party (O).¹²

The Supreme Court in 1974, surged toward filling the gap in the RPA of 1951 increasingly used and declared that the expenses of the parties were included in the calculation of the election expenses of a candidate on behalf of their candidate. The Court noted that "the purpose of reducing expenditure is to remove the influence of large sums in the electoral process, as far as possible. If there is no expenditure limit, all the political parties would collect contributions and, evidently, the rich and rich, who are only a fraction of the electorate, would contribute the most. The detrimental impact on the democratic process in the country would then play an important role. This would inevitably lead to the worst form of political corruption and would result in further vices on all levels as a result."¹³

The Parliament reacted to Section 77(1) of the 1951 RPA by inserting Explanations 1 and 2 specifically to the effect that unsanctioned expenses by the candidate supporters or political parties are not included in the election expenses of a candidate. This would allow the candidate to decide on what might or cannot be taken into account in his electoral expenses which would largely defeat the aim of this provision. The Supreme Court nevertheless upheld the challenge to this amendment. Political parties were exempt from income tax and wealth tax in 1979, provided the annual returns including accounts audited, the Rs. 10,000 donations listed above and the identities of the parties are disclosed. In 1985, by amending Section 293a of the Companies Act of 1956, the Rajiv Gandhi government removed a ban on corporate donations, subject to certain

¹¹ Ministry of Home Affairs, 'Home | Central Vigilance Commission | Government of India' (*Report of the Committee on the Prevention of Corruption*, 1964) https://cvc.gov.in/sites/default/files/scr_rpt_cvc.pdf accessed February 13, 2022

¹² Norris F, 'Political Funding in India: In the Light of Electoral Trusts Scheme and Electoral Bond Scheme' (*Forum for Research on Law and Society*, 25 April 2021) <https://frls.in/political-funding-in-india-in-the-light-of-electoral-trusts-scheme-and-electoral-bond-scheme/> accessed February 13, 2022

¹³ *Kanwar Lal Gupta v Amar Nath Chawla* [1975] 3 SCC 646

limitations.¹⁴ In contrast to the pre-1969 administration, no gifts were made during a meeting held, although at a board of directors meeting. Part IVA of the RPA 1951, which governs political party registration, was put into Parliament in 1989. However, the courts ruled that this authority doesn't quite stretch to party certification or ECI investigations into the affairs of political parties.¹⁵

In 1996, the Supreme Court ordered political parties to meet the requirement of filing returns to use the exemptions under the Revenue Tax Act, 1961 and Article 77 of the RPA 1951. It should be noted here that, while legislation requires filing returns, the audited accounts were not presented by a political party at this time.¹⁶

Both the Goswami Electoral Reform Committee (1990)¹⁷ and the Indrajit Gupta Electoral Funding Committee (1998) recommended that elections be financed by a partial State. Surprisingly, when the minor national and provincial parties had been in power, both reports had been commissioned by coalition governments. In 2003, under Prime Minister Vajpayee, the NDA government launched the Election Act and Other Related Laws, 2003, which made tax-deductible for all corporations and personal donations under Article 80 GGB and the Income Tax Act, 1961 of the 80 GGCs. It also required the submission of disclosure and a report to the ECI for any donation above Rs. 20,000. Explanation 1 was also amended to Section 77 requiring that expenditure by third parties be included and reported to the candidate's expenditure ceiling.

By amendment to the Income Tax Rules of 1962, the Government established electoral trusts in 2013.¹⁸ These trusts' ostensible purpose consisted in ensuring that donor anonymity, in particular corporate donors, can still claim income tax advantages from donations to political parties.¹⁹ The fact that 90% of contributions vacated electoral trust in the 2015-2016 period went to the ruling

¹⁴ The Law Commission in its 170th Report on Reform of the Electoral Laws (1999) had observed that this was an unfortunate step

¹⁵ *Indian National Congress v Institute of Social Welfare* [2002] 5 SCC 685

¹⁶ *Common Cause (A Registered Society) v Union of India* [1996] 2 SCC 752

¹⁷ Government of India, 'Report No.255 on Electoral Reforms' (*Report of the Committee on Electoral Reforms*) <https://indiankanoon.org/doc/148793102/> accessed February 13, 2022

¹⁸ Income Tax Rules 2013 (First Amendment) Order 2013, SO 309(E)

¹⁹ Income Tax Act 1961, s 80GGB

party is evidence of this failing scheme.²⁰ The ECI, while launching a new set of guidelines on the proposal of contribution reports to electoral trusts, must note that a significant proportion of the misery that could have been caused through electoral trusts was denied.

In 2017, the government introduced an electoral bond concept and lowered the limit from Rs 20,000 to Rs 2 thousand for anonymous donations. The first is a backward step to protect the donor's individuality, whereas the other is irrelevant without the Law Commission of India's (LCI) proposal in its 255th report that donations from anonymous sources be limited to 20 crores or 20 percent of the total financing of the political party.

Of course, election bonds would allow political parties to circumvent the unidentified funding limit imposed by the Finance Act of 2017 and the Revenue Tax Act of 1961.²¹ It can only be said that, in general, electoral reforms launched by the legislative or the government have been aimed at safeguarding the donors' anonymity, securing the interests of political parties, and overcoming certain decisions on the part of the judiciary. That is to the advantage of the ECI, which has been a counter-majoritarian control of backward measures with the aid of the courts, that the electoral process is still recognized as substantially open and fair.

II. OBSERVATIONAL STRUCTURE FOR INDIA'S ELECTORAL FINANCE LAWS

A number of relevant governance targets should be taken into account when dealing with questions of electoral law and campaign financing. It would be easy to say that electoral reforms need to reflect the people's "collective will." In determining what "collective will" means, however, the institutions behind the electoral process are crucial. The closeness of political finance to actual policy functioning gives rise to fears that democratic values will be subverted. Election law-related judgments may rely on the importance of "freely and fairly elections,"

²⁰ Sundararajan P, 'In 2015-16, over 90% Corporate Donations Went to BJP via 2 Electoral Trusts' (*The Hindu Business Line*, 30 August 2017) <https://www.thehindubusinessline.com/news/national/in-2015-16-over-90-corporate-donations-went-to-bjp-via-2-electoral-trusts/article64276060.ece> accessed February 13, 2022

²¹ Income Tax Act 1961, s 13A(d)

"electoral free verdict" and "clean election," but these values do not always help to evaluate the effectiveness of specific alternative reforms while pointing to the right direction. These broad recognitions of democratic principles underlie certain policy objectives that we can assess against, particularly in the context of campaign financing, electoral reform. Electoral processes are intended to create a representative government that is consistent with and responsive to the views of the electorate by elected representatives.²² Without an election system that successfully fosters such harmony, the government cannot contend to be relevant or responsible to the public. For example, the absence of effective electoral regulations misaligns voting results directly when contestants attempt to use the money to purchase votes for a new candidate otherwise.²³ Some examples of this type of bribing give only one perspective on the political function of cash. The funding of Indian policy, as well as the costs associated with holding out such activities in another manner, are equally problematic. These concerns must be examined from two perspectives: initially, the pragmatic function of cash in the voting process, and secondly, the function it helps to shape election and governance outcomes.

The following are discussed hereinafter:

A. MONEY IN THE ELECTORAL PROCESS

a) Electioneering Costs

To understand the structure of the electoral process, the role of campaign finance in this structure needs to be considered. Candidates for seats in the different parliamentary terms are competing with rival candidates and parties, and political parties that are backing them (if not independent candidates), to persuade electors to vote for them. Different information points that are considered relevant in election campaigns are communicated through this process. Unless these campaigns seek to rely entirely on unpaid workers and supporters for the propagation of

²² Lax JR and Phillips JH, "The Democratic Deficit in the States" (2011) 56 American Journal of Political Science 148

²³ *Ashok Shankarrao Chavan v Madhavrao Kinhalakar* [2014] 7 SCC 9955

information, they must spend money to access voters physically and through various means of communication.

It is important to take into consideration the reality of the cost involved in the study of electoral finances, to reach out to voters, and to communicate relevant information to choose candidates that suit their interests.²⁴ The pure cost involved in reaching this effectively is the main driving force behind the electoral finance phenomenon in the first place. The amount of campaign expenditure needed to transmit the information required for election choice is difficult to identify. Instead of a correct estimate of the costs required, higher expenditure can be only symptomatic of competitions between rival parties.

Nevertheless, recent reforms in electoral financial legislation to remove the requirement for public disclosure under the company Act, 1956 (and also donors' anonymity under the electoral bond system) were supported as necessary to stimulate the required gifts.²⁵

b) Vertical Inclusion

Candidates and political parties are running election campaigns. Since both are often involved in electoral law, at least the effects of party campaigns, in general, have to be taken into account in elections law their candidates' chances. Financial support can often be an important cause for party integration for candidates. Parties may then keep candidates in line, determine their views in their campaigns and then hold them to the office to ensure that their investments are secured and to maintain the coherence of the various candidate's campaigns. On the other hand,

²⁴ Press Trust of India, 'Govt. Spent Rs. 3,426 Cr on Lok Sabha Polls' (*The Hindu*, 23 May 2016) <https://www.thehindu.com/news/national/govt-spent-rs-3426-cr-on-lok-sabha-polls/article6005247.ece> accessed February 13, 2022

²⁵ Press Trust of India, 'LS Rejects RS Amendments to Fin Bill, FM Defends Taxmen Power' (*Press Trust of India*, 4 January 2017) http://www.ptinews.com/news/8558700_LS-rejects-RS-amendments-to-Fin-Bill--FM-defends-taxmen-power- accessed February 13, 2022

candidates with large quantities of personal wealth can seek to vertically integrate their investments into the legislative process to ensure that State intervention and law enforcement are available elsewhere. To do this effectively, the structure of a political party can support other candidates.

c) *Competition Electoral*

In this sense, competition in electoral seats is no different from competition on the market with expenditure on advertising for the marketing of goods and services of an enterprise. Economic benefits can counter the idea of fair or fair play, on which political parties, based on their policy proposals, compete for legislative control. Better campaign finance can determine election results or a single policy can be discussed before a single vote is cast. Although higher funding is automatically available to more popular and competent parties, financial superiority can often not relate to any evaluation by the electorate of policies and leaders. In terms of democratic accountability, the degree of competition expressed in elections is essential.²⁶ Electors cannot indicate what governance they want without meaningful choices.²⁷ Advantages of election officials and one of the troubling methods that incoming political parties attempt to consolidate by amending election law in their favorites are one of how electoral competition suffers the most.²⁸ The imposition of donation limits is often a way to give challengers a good chance.²⁹ Electoral finance legislation must be structured to lower barriers to entry into politics and encourage competition to increase the number of electoral choices.

d) *Policy access and Black Money access*

²⁶ Issacharoff S and Pildes RH, "Politics as Markets: Partisan Lockups of the Democratic Process" (1998) 50 Stanford Law Review 643

²⁷ Pildes RH, "Constitutionalizing Democratic Politics" [2002] SSRN Electronic Journal

²⁸ Turner B, "Carnegie Endowment for International Peace" [2014] The Statesman's Yearbook 75

²⁹ Williams K, Stratmann T and Torres-Spelliscy C, "Electoral Competition and Low Contribution Limits" [2009] SSRN Electronic Journal

There are two ways of showing the role of money in raising barriers to politics. This is the first barrier. When candidates demand enormous sums of money to enter politics, this may reduce the sheer numbers or number of competitors in elections, thereby reducing voters' choice. A second aim to see this issue is to create qualitative constraints for Indian politics in financial demand. If a prospective politician needs significant financing to achieve any electoral ambitions, he may need to align his opinion with the demands of its financiers and not the electorate. In 'Political Equality and Capture' below, this question is dealt with in more detail, but, for the sake of the electoral process, financial constraint in politics can lead to certain points of view that can only ever lead to electoral office competitiveness and other views that are unable to draw the support of financiers. In other words, policy donors can gain political access in such a way that others do not have the opportunity.³⁰ In this sense, it is important to consider the sources of political finance that are possible. The pre-existence of candidates running campaigns on illegally acquired and illegally kept unreported wealth and black money has received considerable emphasis in the Indian context. Concerns about black money in politics have been reinforced by the Finance Act 2017 reforms aimed at purging political financings. The issue is, however, old and was previously associated with the low campaign expenditure ceiling.³¹

II. ELECTORAL OUTCOMES MONEY

a) Political equality, enslavement, and criminalization

Contributors to political campaigns may expect favorable legislation and policies, preferential government contracts, and extraordinary law enforcement as investment returns (also known as the "quid pro quo"). It also implies that donors with more wealth and power have an inordinately bigger effect on policy outcomes than others. It is difficult to evaluate if such transactions and ties are corrupt since money authority may directly impact legislation that would normally be

³⁰ Hasen RL, "The 'Political Market' Metaphor and Election Law: A Comment on Issacharoff and Pildes" (1998) 50 Stanford Law Review 719.

³¹ Gowda MV and Sridharan E, "Reforming India's Party Financing and Election Expenditure Laws" (2012) 11 Election Law Journal: Rules, Politics, and Policy 226.

formulated more broadly with consideration for all participants of an electorate. Crusading for such good legislation may just shift benefits to select parties, rather than allocating them justly and effectively. These issues should be taken into account as being difficult for any real political equality.³² At worst, it may be shown that elected politicians are being forced to divert beyond the given mandates to protect the vested interests of contributors.³³

While this "capture" could be understood as primarily motivated by commercial interests, the numerous sources of black money that could be used to support policies must also be considered. This might fuel another persistent issue in India's democratic system: the continuation of corrupt policy aspects. The analysis of this topic found that for political scientist Milan Vaisnava, insufficient information and awareness on the wrongdoing of candidates did not represent an essential restraint. The inability of successive administrations to perform fundamental governance functions, as well as a lack of confidence in political financing, were more likely factors.³⁴

Increased electoral economic power should be considered as a mechanism that distorts electoral outcomes and obstructs an efficient democratic system. Instead, a regulation limiting election finance might increase the interests of the public in broader governance. Instead, a regulation limiting election finance might increase the interests of the public in broader governance.

b) Accountability & voting rights in the sphere of information

Unfortunately, the most significant issue at stake in India's political financing is attempting to comprehend funding methodologies of capture typically leads to guesswork. As a result, it is difficult to develop a plan for cleaning up political finances since competing interests might exist at the same time (e.g., corporate and criminal). As seen in the election trusts and electoral bonds,

³² Strauss DA, "Corruption, Equality, and Campaign Finance Reform" (1994) 94 Columbia Law Review 1369

³³ Law Commission of India, *255th Report on Electoral Reforms* (Law Com No 20, 2015) paras 10-1

³⁴ Rajagopalan S, "When Crime Pays: Money and Muscle in Indian Politics. New Haven, CT: Yale University Press, 2017. XXIII" (2019) 180 Public Choice 505

the first-ever loss in these scenarios is public openness. The objective is to guarantee transparency in the relevant matters within the electoral process using various statutory rules relating to election law. Such regulatory loopholes are mostly suspected of redundancy. Moreover, the judicial interpretation of constitutional and legal provisions applicable to electoral law is important to take into account.

The Supreme Court has demonstrated its authority to make decisions in this area in a series of judgments to ensure that the procedures adhere to the values of "free and fair elections." In this broader framework, the Court has already acknowledged a fundamental right to information about the applicants' backgrounds. In the PUCL case, there was some disagreement about the necessity of electoral disclosures to learn about candidates' criminal backgrounds, holdings, obligations, and academic background, despite the fact that the right to free speech and expression guaranteed by Article 19(1)(a) of the constitution required all such disclosures.³⁵

On several grounds, including the aforementioned basic right to information, the Supreme Court is also confronting challenges to the wider legality of anonymous donations enacted in the 2017 Finance Act.³⁶ As a result, any solutions to election financing difficulties would be constrained by these ideals. Contributors fear that governments may retaliate against their gifts to competing political parties, and these worries would have a substantial influence on actual donations. These issues may seem to be comparable to those raised especially in terms of privacy. Yet, the right of voters to information is likely to be a substantial conflicting purpose that would be deemed more important than qualms about the privacy of essential mandated communications.³⁷

Widespread information and openness, however, extend well beyond the question of an informed electorate, particularly in the context of political finance. As mentioned above, information to voters has not been sufficient to curb the undesirable trends about concerns about the criminalization of politics. Election legislation should, too, take into account broader reinforcements of the rule of law when transparency permits exceptional enforcement and

³⁵ *People's Union for Civil Liberties v Union of India* [2003] 4 SCC 399

³⁶ Network LN, 'Political Funding: SC Issues Notices to Centre, EC on PIL Challenging Finance Act Amendments [Read Petition]' (*Live Law*, 3 October 2017) <https://www.livelaw.in/political-funding-sc-issues-notices-centre-ec-pil-challenging-finance-act-amendments-read-petition/> accessed February 13, 2022

³⁷ *People's Union for Civil Liberties v Union of India* [2003] 4 SCC 399

policy-making detection and correction. The requirement for a better vision of political finance must also be taken into account when drafting laws on the same thing. Without these steps, electoral results have no significance irrespective of how significant expenses and the rules on donations are framed.

c) Rationalizing the Framework

It is important to agree and crystallize the first order restrictions when pursuing the electoral reform agenda before moving on to trickier issues. The above are interlinked criteria that would have to be satisfied by a good electoral financial regime. Although some issues may appear irreconcilable and require a priority, a balanced approach to multiple purposes can be achieved through careful work. For example, whether questions of black money and an adequate collection of funds are possible while respecting the right of the voter to be informed or the political equilibrium, should be understood in Indian society. A distinction in potential prescriptions may be noted among the objectives highlighted above. While it appears that promoting competitiveness requires regulation of actual campaign expenditure to increase the temperature of the electoral debate using funding, preventing the government from capturing and maintaining political equality would require restrictions on the sources of donations. Concerns can be seen to converge on practical issues such as campaign expenses by third parties (who may be borne by tacit consent with politicians but cannot be transferred to them).

The lack of transparency around powerful political actors has inevitably transformed the law on campaign finance into an unproductive competition. These problems must first be resolved before another aspect which is the harder journey to free our leaders from their clasps.³⁸ If statutory or constitutional transparency is realized, further steps are needed to enforce it adequately. The immediate next step is to address the reinforcement of illegal and influential donors in campaigns. This must be regarded as successful, first of all, when transparency is achieved.

³⁸ Sahoo N, 'Before the State Funds Elections' (*ORF*, 27 February 2017) <https://www.orfonline.org/research/before-the-state-funds-elections> accessed February 13, 2022

III. CURRENT REGIME FOR ELECTORAL FINANCE IN INDIA

a) Funding

No restrictions on the amount that individuals or corporate bodies can contribute are currently in place. The Foreign Contribution Act 2010 still provides for a ban on foreign contributions, but the Finance Act 2016 amended certain foreign companies' contributions through their Indian subsidiaries.³⁹ Section 29B of the RPA permits political parties to take any amount of voluntary donations without restriction. They may not, though, take contributions from government companies, municipal governments, or any government-funded body under the same conditions. Cash donations to political parties are not permitted under the Rs. 2000.⁴⁰ The following shall apply to the rules governing the divulgence of information relating to applicant funding.

Despite the substantial debate, there is now no direct governmental financing. Parties to the contract are granted free media coverage on state-owned digital media depending on their previous election results.⁴¹ Furthermore, it offered some income tax exemptions as far as political parties follow the terms of Section 13A and present their tax returns with audited accounts, income details, and balance sheets every year. The parties must also be provided extra copies of the electoral rolls as well as various other materials.⁴²

b) Spending

The limitations to the total expenditure that could be incurred in an electoral process can be prescribed in Section 77(3) of the RPA 1951. This recommendation was made for parliamentary constituencies and assembly constituencies under Article 90 of the Rules of Procedure of 1961. These limits vary from state to state. According to Section 77(1) Explanation 1(a) of the RPA

³⁹ Press Trust of India, 'Foreign Funding: BJP, Congress Withdraw Appeals from SC' (*The Indian Express*, 29 November 2016) <https://indianexpress.com/article/india/india-news-india/foreign-funding-bjp-congress-withdraw-appeals-from-sc/> accessed February 13, 2022

⁴⁰ Income Tax Act 1961, s 13A(d)

⁴¹ Representative of People Act 1951, s 39 A

⁴² Representation of the People Act 1951, s 78A

1951, such expenditure does not include travel costs for the propagation of the political party's program.

In Section 77, expenditure on the part of the candidate itself is generally understood, and therefore the expenditure limits for the program to which the candidate belongs cannot be applied. In addition, there is a rebuttable assumption regarding third-party expenditure incurring when campaigning for a candidate that the candidate has been authorized to do so and must be taken into account as a part of the candidate's expenditure.⁴³

c) Disclosure

Section 77 of the RPA 1951 requires candidates to keep an accurate account of their election costs from the day of the nomination to the day of the result announcement. Section 78 requires the applicant to present a true account of his costs to the district election officer within a defined time frame. Part VIII of the Elections Rules of 1961 contains information on the form and substance of the accounts. Similarly, under Section 29C of the RPA 1951, political parties are obligated to declare in a reporting, as defined by Part VIIA of the Election Rules, 1961, any contribution received from any individual or company in a fiscal year that exceeds Rs. 20 000. It should be noted that, while the allowability of cash donations has been reduced from Rs. 20000 to Rs. 2000, the declaration obligation in a party's donation report remains at Rs. 20000. The limited extent to which openness relative to donations received from a candidate was needed is a duty under Form 26 to disclose assets under the Election Rules of 1961. In addition, an amendment of 2017 demanded that details on the origin of these resources be published.⁴⁴

INTERNATIONAL PRACTICE ON ELECTORAL FINANCE

While the elections in India are very peculiar, it is not the only country that has a democratic function. There have been several jurisdictions with problems with the financing of campaigns

⁴³ *Common Cause v Union of India* [1996] 2 SCC 752

⁴⁴ Conduct of Election Rules 2017 Order 2017, SO 1133(E)

and with concerns about how to reach the electoral level. No jurisdiction is completely spared of these concerns since even in the most mature democracies democratic values have been open for subversion. Faced with these problems, several countries reacted on three fronts: funding regulation, expenditure regulation, and mandatory disclosure procedures. Below are the various approaches in the UK, Germany, United States, and South Africa. The following points of view are explained.

This selection was made to offer a wide range of approaches that a limited sample seemed feasible. Besides the difference in their governmental systems, the United Kingdom and the US have diverged in their focus: the United Kingdom rigorously regulates expenditure so that its roles are reduced generally while the USA tries to limit contributions to control illicit influences. The US has tried a public financing system that has not been fully established and has demonstrated the constant need to stand for office in large war chests. Germany neither limits financing nor expenditure, but tempered its policies with constitutional public information on party finances and partial government funding. South Africa has been identified as a developing country with a variety of people and a transition from democracy to greater transparency and fairer campaign financing.

A. THE UNITED KINGDOM

a) Funding

Under the Representation of the People Act, 1983 and the Political Parties, Elections and Referendums Law, 2000, the UK has developed a set of general rules governing elections. The regime has high expenditure regulations and limited political contributions restrictions.

The Act 2000 allows donations only from a list of "permissible donors," in addition to a system for the registration of political parties and their official owners.⁴⁵ This list allows donations without any limitations/ceilings from a wide range of individuals and companies. While government-owned or state-owned firms appear permitted under the list, foreign donors are not permitted. The parties must not accept donations from any source that they cannot identify to ensure the enforceability of the list.⁴⁶ However, when donations under £ 500 are concerned, these restrictions are not applicable.⁴⁷ Before the 2000 Law, blind trusts were employed for political financing (where the trust fund recipients are allegedly not aware or controlled by the trust). This was disallowed following a 1998 report.⁴⁸ Also, recommendations were made in 2011, as the main parties depended on relatively few funding sources. In 2011 they had established contribution limits.

There is also a limited system of public funding. These are authorized by resolutions and are mainly intended for opposition parties who won certain numbers of seats and votes in the previous general elections. The political development grants that are meant to assist parties in formulating policies to be integrated with electoral manifestos are also granted to Parties that have secured at least two seats in the House of Commons.⁴⁹ Free airtime is also available on broadcasting networks for political parties.⁵⁰

b) Spending

The expenses that political parties, candidates, and third parties may incur shall be limited. Political parties have limitations on "campaign expenditure" by section 9 of the Act of 2000. The expenses the Party may incur in any constituency and also limit the total expenses that the party may incur for all electoral districts in which it disputes.⁵¹ For England, Scotland, and Wales, the

⁴⁵ Political Parties, Elections and Referendums Act 2000, s 54

⁴⁶ Political Parties, Elections and Referendums Act 2000, s 54(1)(b)

⁴⁷ Political Parties, Elections and Referendums Act 2000, s 52(2)(b)

⁴⁸ Political Parties, Elections and Referendums Act 2000, s 57

⁴⁹ Political Parties, Elections and Referendums Act 2000, s 12

⁵⁰ Communications Act 2003, s 333

⁵¹ Political Parties, Elections and Referendums Act 2000

limit of total expenditure is different. Similarly, "election expenditures" made on behalf of a candidate are restricted to the basic sum plus an additional pro-rata amount based on the number of voters in that electoral district. The base amount and/or rates for the additional amount vary for the county, municipality, parliamentary, and local government elections.⁵²

Differently limited expenditure by third parties is also provided. "Expenditure for notional campaign expenditure" is defined to cover the free transfer of goods to the political parties, substantially discounted transfers to the parties as well as political parties' use of property, services, or facilities if expended on them. These expenditures are adequately addressed to avoid the use of these transactions as spending limits loopholes⁵³. "Controlled expenditure" incurred directly by third parties to promote an electoral party is also restricted.⁵⁴ The Act of 1983 may contain similar restrictions on expenditure for the election of an applicant not permitted by the electoral agent of the candidate.⁵⁵

The legislation distinguishes between pre-and post-candidate limits imposed (the date on which the parliament is dissolved). These have become known as the 'short-term' (described below) and 'long-term' periods (a time that begins at 55 months after the previous general elections and ends at the beginning of the short-term campaign). Before the official candidacy, the amount that can be spent is much greater.⁵⁶

c) Disclosure

Political parties are subject to accounting and auditing provisions. Registered trustees shall prepare and obtain the consent of the party administration for each financial year.⁵⁷ If the gross revenues or overall costs of a Party exceed £250,000 in any financial year, or if it is instructed by

⁵² Representation of the People Act 1951, s 76

⁵³ Political Parties, Elections and Referendums Act 2000, s 73

⁵⁴ Political Parties, Elections and Referendums Act 2000

⁵⁵ Representation of the People Act 1983, s 75

⁵⁶ Representation of the People Act 1983, s 76ZA

⁵⁷ Political Parties, Elections and Referendums Act 2000, s 42

the Electoral Commission, a qualified auditor is to conduct an audit.⁵⁸ The report of the auditor and other documents (or a statement of accounts, depending on the case) shall then be presented to the Electoral Commission.⁵⁹ If accounts are submitted to the Commission for public inspection, they shall be made public.⁶⁰

B. GERMANY

a) Funding

The quantity of donations receivable by a political party in Germany is not restricted⁶¹. Donations in cash can only be made up to €1,000, however. Donations that come from specific sources that a party may receive are prohibited. These include public corporations, parliamentary parliaments, and groups, parliamentary groups of city councils, charitable and religious organizations, donations by foreigners, undertakings with substantial state participation (with a few exclusions for a donation of under €1,000 from foreigners), anonymous donations of over €5,000, donations made in the case of public corporations.

They receive public funding as well as the right of political parties to receive donations.⁶² The funds that can be disbursed like this are provided with an absolute upper limit of € 133 million. The allocation criteria for this fund are the proportion of political parties' votes obtained in previous elections, their total membership duties and contributions from holders of elected public office, and the amounts received for donations. The rate at which votes were taken and donations were received is also explained in law.

b) Spending

⁵⁸ Political Parties, Elections and Referendums Act 2000, s 43

⁵⁹ Political Parties, Elections and Referendums Act 2000, s 45

⁶⁰ Political Parties, Elections and Referendums Act 2000, s 46

⁶¹ German Political Parties Act (Parteiengesetz), s 25

⁶² German Political Parties Act (Parteiengesetz), s 18

For their general activities, the funds collected by the parties and made publicly available are to be used.⁶³ According to German Basic Law, political parties are obliged and guaranteed to engage in certain objectives.⁶⁴ It results from a scheme in Germany that constitutionally acknowledges and governs political parties as a vital part of public affairs in that nation.

c) Disclosure

Under Article 21(1) of German Basic Law, public accounting of the use of funds by policy parties is required. Disclosure is also mandated by the Law on Political Parties⁶⁵. The accounting statement of the party is to be audited and forwarded to the Chairman of the German Bundestag who circulates it as "the printed paper of the Bundestag."⁶⁶ Inaccuracies against the evidence submitted to the President shall be vetted.⁶⁷ The Bundesrechnungsh (BRH) is responsible for verifying compliance with the provisions relating to the disbursement of public funds.⁶⁸ It is only necessary to detail individual donations over €10,000 per year.⁶⁹ The President of the Bundestag shall be immediately notified of individual donations of more than €50,000.⁷⁰

⁶³ German Political Parties Act (Parteiengesetz), s 1(4)

⁶⁴ German Political Parties Act (Parteiengesetz), s 1(2)

⁶⁵ German Political Parties Act (Parteiengesetz), s 23

⁶⁶ German Basic Law, art 21(1)

⁶⁷ German Political Parties Act (Parteiengesetz), s 23a

⁶⁸ German Political Parties Act (Parteiengesetz), s 21(2)

⁶⁹ German Political Parties Act (Parteiengesetz), s 27(2)

⁷⁰ German Political Parties Act (Parteiengesetz), s 25(3)

C. THE UNITED STATES OF AMERICA

a) *Funding*

There are limits to the amount that different individuals and entities can contribute in connection with a choice.⁷¹ Contributions and donations made directly or indirectly by foreign nationals for elections are prohibited.⁷² Furthermore, it is also prohibited for entities such as companies and labor organizations to contribute or spend to federal elections.⁷³ However, they are permitted for political committees to contribute to the non-contribution accounts of Hybrid PACs and to establish separate, separate funds separated from the independent expenditure finances (e.g., Super PCs) (SSFs).⁷⁴ Corporate and labor PACs only raise voluntary contributions of a limited class to federal candidates and political committees with the aid of these resources.

Corruption (or the impression of corruption) is widely seen as an acceptable constitutional purpose for restricting election finance, but not for equal electoral conditions (which is regarded as an unlawful limitation of free speech safeguards).⁷⁵ This distinguished contribution from expenditure is allowable for anti-corruption goals in the regulation of the former. The difference has been diluted in a 2014 decision of the Supreme Court,⁷⁶ which sets generally limited amounts of money spent on political campaigns over two years. The prevention of corruption (or prevention of the perception of corruption) is generally considered to be a legitimate constitutional goal for controlling election financing but not for equal electoral conditions (which is seen as an unconstitutional restriction of free speech protections). This distinguished contribution from expenditure is allowable for anti-corruption goals in the regulation of the

⁷¹ 'Contribution Limits' (*FEC.gov*) <https://www.fec.gov/help-candidates-and-committees/candidate-taking-receipts/contribution-limits/> accessed February 13, 2022 d

⁷² 52 USC § 30121

⁷³ 52 USC § 30118(a)

⁷⁴ *Citizens United v FEC* [2010] 558 US 310

⁷⁵ *Buckley v Valeo* [1976] 424 US 1

⁷⁶ *McCutcheon v FEC* [2014] 134 SCt 1434

former. The difference has been diluted in a 2014 decision of the Supreme Court which sets generally limited amounts of money spent on political campaigns over two years.⁷⁷

b) Spending

As mentioned above, a verdict in 1976 of the Supreme Court removed restrictions on campaign spending because it restricted guarantees of constitutional freedom of speech.⁷⁸ Political parties shall not be restricted to independent campaign expenditures. The expenditure that can be made in coordination with their candidates shall be subject to limits.⁷⁹ Independent expenditure by third parties is not limited and has become increasingly unlimited as above.

c) Disclosure

The applicant committees, party committees, and PACs shall report periodically on the money they collect and spend. For all contributions and expenses, these committees are obliged to designate a treasurer as nodal officer. The contributions received by the Commission shall, within a specified timeframe, be transmitted to the treasurer with information on the relevant names, addresses, and recipient dates when the donation exceeds \$ 50.⁸⁰ A treasurer shall maintain the records and other required information of such donations, the identity of any person who has contributed over \$200 in total, the identity of any political committee contributing to the donations, and of any person receiving the distribution, receipts, invoices, etc. for distributions over \$200 for disbursements.⁸¹ The treasurer shall be subject to stringent reporting requirements to the FEC concerning recorded details and the Commission shall place these in the public domain.⁸²

⁷⁷ Bomboy S, 'Supreme Court Ends Overall Campaign Finance Limits' (*Yahoo! News*, 5 January 2014) <https://news.yahoo.com/supreme-court-ends-overall-campaign-finance-limits-145636788--politics.html> accessed February 13, 2022

⁷⁸ *Buckley v Valeo* [1976] 424 US 1

⁷⁹ 'Coordinated Party Expenditures' (*FEC.gov*) <https://www.fec.gov/help-candidates-and-committees/making-disbursements-political-party/coordinated-party-expenditures/> accessed February 13, 2022

⁸⁰ 52 USC § 30102(b)

⁸¹ 52 USC § 30102(c)

⁸² 52 USC § 30104

RECOMMENDATIONS AND SUGGESTIONS

A. TOWARDS TRANSPARENCY

It is important to have transparency and accountability throughout all electoral reforms. In our democracy, political parties play an essential role. They offer the discipline and resources needed for the management of modern democracies. To succeed, the ECI must be empowered to ensure that the various political parties have a level playing field.

a) Disclosure of candidate assets and liabilities

In addition to criminal history and qualifications in education, the Election Commission mandated that every candidate file an affidavit containing information on the assets and liabilities. The Supreme Court has for the first time revoked the election of candidates by an affidavit by Form 26 of the Election Regulations, 1961 in connection with a false declaration on education qualifications. The 2017 Rules amendment now requires that the candidate's and their spouse's income sources be disclosed. The new entry 9A in a Form 26 affidavit has therefore been inserted. From the Supreme Court judgments, a false statement concerning the source of the income of the candidates may be a basis on which to set aside his election. It is recommended that necessary amendments be made in the earliest possible way to the RPA 1951, so that the Court does not need to wait for confirmation, to enhance this movement towards accountability, which has been largely done without legislative backs, but with legal support from the European Commission.

b) Regulating Political Parties

In large measure, political parties have enjoyed and used a legal vacuum. Until 1989, there were no provisions on the Regulating Parties for the Representation of People's Act, 1950 and 1951. A comprehensive law for the registration and regulation of political parties is recommended to

implement certain financial information and standards of accountability proposed. Annual accounts should be maintained and submitted to the ECI by political parties. All amounts received and expenses incurred by the political party will be fully disclosed in these accounts.

These accounts should be downloaded online by the ECI. The ECI is currently making financial regulations by its plenary powers as laid down in Article 324. The absence of legislative backing for these rules is always a source of contention and litigation before the Superior courts, who must approve them. In accordance with these standards, the Institute of Chartered Accountants of India produced a Guidance Note for the accounting and auditing of political parties.

It is our recommendation to amend RPA 1951 to require political parties to submit an annual accounts statement to the ECI. These accounts should be certified to 'accounting standards' and rules in this respect by a chartered accountant and the ECI. The ECI should also be authorized to take measures against parties that do not conform to these standards or guidelines. This recommendation was made in light of the need to strengthen and enhance the institutional capacity of the ECI.

c) Make RTI Applicable to Political Parties

The Right to Information Act should extend to political parties. The Central Information Commission has decided that the RTI Act applies to a full bench of six major parties, along with BJP and the INC. The question had been re-examined with a larger bench, but the Chief Information Commissioner had dissolved it. The Supreme Court is now in the process of this dissolution. Eleven The law had aborted and the proposal lapsed in an attempt explicitly to exclude them from the RTI Act.

Given the power and importance of political parties in our democratic country, it is believed that they should be placed under the purview of the RTI Act. Only in this way will the requirements for disclosure in a modern democracy be complied with.

POLITICAL FUNDING AND EXPENDITURE

A. Anonymity of Donations

Anonymous donations mean political corruption and a quid pro quo potential. The facilitation of anonymous donations cannot be justified. While the anonymous donor ceiling was cut from Rs. 20,000 to Rs. 2000, it effectively undermined the accountability aims of this regulation by adopting the concept of electoral bonds and a dearth of a restriction on the total anonymous amount donated to the same extent. Donations video anonymity, the ECI standards have usually denied electoral trusts.

In its recommended electoral reforms, the ECI restated the LCI's 255th Report's suggestion of a ceiling of Rs 20,00,00,000/- or 20% of total party collection, whatever is lesser. This idea should be adopted as soon as feasible.

B. Prohibition of corporate donations

Corporate donations must be fully outlawed because bodies such as firms and corporate bodies that are not in a position to vote should not be permitted to generate disproportion and undue influence voting procedures. The repeal of the ban in the LCI 170th report, which was implemented in 1969, was a misfortune. It must be kept in mind that the prohibition on corporate gifts encourages the use of "Black money" in election fundraising, however, it is hard to believe that direct corporate support of political parties is a desirable goal. 124th of August Companies may also be permitted to give national or state-level benefits to an ECI-managed Electoral Trust

and/or Corpus. The ECI can then distribute the sums based on the votes secured in the last election to regional and national political parties.

This is synonymous with the recommendations made by the National Consultation of ECI on the recommendation of the Committee on Political Finance and Law. The proposed recommendation still allows individuals to donate directly to political parties as shareholders. Currently, even without approval from the shareholders, the board can effectively give significant sums and proceed to do so confidentially using the previously described electoral bond method.

C. Political publicity

The promotion in print and electronic media has been exposed to a high range of political party election expenditures. The Supreme Court issued an order stating that all political advertisements intended for issuance on Television networks and cable channels through any registered party, organization, institution candidate must be pre-certified by the assigned certification panel at multiple levels, which will be established by the ECI. By this, the ECI has released many directions on the pre-certification procedure and requirements for political publicity by a committee before transmission on television networks now and then. Similar directions have been published for dealing with Paid News. All political commercials must be explicitly identified by the sponsor. Sponsored news, defined as "any news or analysis published in the medium (Print & Electronic) for a monetary price or kind payment," shall not be in the record of allowable election costs for candidates or political parties. The strange case of Ashok Chavan suffered a loss of legal support for ECI's directives. Although it was shown that payments could only be made if he did not lodge the expenses in his expenses account. Further, although the Delhi High Court and Supreme Court confirmed the ECI order and power, the ECI subsequently revoked an ECI Decree concerning Ashok Chavan's non-compliance with the Rules and the truth is that the authorities did not address the question of Candidates' consciousness and permission. This demonstrates the difficulty of effective action without specific legislative empowerment against defaulting candidates or political parties.

Government-sponsored advertising, which causes some asymmetry in the electoral campaign, is also important. With the exception of the President, Prime Minister, and Chief Justice of India, the supreme court had banned the use of images of political leaders. However, this was amended to include the Ministers in charge of the departments concerned, at the request of the Union and the State Government. In the original order of the bench, the ombudsman panel had also been established to review published ads. This approach must be taken seriously, and the ombudsman panel is recommended to be constituted within and underneath the supervision of the ECI.

Also, it is recommended that, before publication, the ECI be provided a comprehensive legal obligation to pre-certify multimedia and advertising in compliance with the ECI rules and the authority to act where there are differences. To discourage the conveyance of campaign advertisements by third parties, the ECI should be permitted to issue orders to punish companies or media organizations for airing political commercials without pre-certification. The costs and costs should be included in the political party and the candidate's declaration of accountability. If the latter is sponsored, the ceiling limits for candidates should be met.

D. Authorized sources and expenses

The ECI must be given the authority to define authorized funding instruments for party and candidates' parties. Worryingly, revisions to the Foreign Contributions (Regulation) Act 2010 in the Financing Act 2016 will allow for indirect, undesirable foreign finance. Similarly, the expenditure head should be explicitly defined to monitor and exclude spending on paid news and other corrupt practices from twisting the electoral process. This conforms to the practice discussed in the United Kingdom.

E. Account Management and Third-Party Expenditure

Mainstream parties and contestants must be asked to keep track of and notify ECI of all donations and expenditures made through designated bank accounts. Any funds transferred out

from the party's fund to the candidate's bank must only be done electronically. The candidate might take and utilize the funds and costs declaration, as required by Section 78 of the RPA 1951.

As per the part of the 2003 amendment to Section 77, expenditure on supporters and applicant workers shall be considered as expenses on the part of the applicant and considering the general ceiling. It is suggested that problems, mostly unfeasible, be deleted from Section 77 Explanations 1 and 2 and the simple exemption for travel expenses for leaders of political or electoral offices (including opposition leaders) and their government staff and security staff may be issued.

F. State and Election Public Funding

It is agreed, that with the LCI, complete public election funding is not a possibility. Instead, expanding indirect state subsidies in the form of tax breaks, public airtime, and partly state money by an electoral corpus or trust managed by the ECI, as mentioned above, is a preferable option.

With these increasingly placing in mind, it can be presumed that now the country's current economic and legal conditions do not allow complete state funding and that the current practice of oblique funding might proceed and, if required, enlarged to incorporate additional tax breaks, the classification of electoral meeting premises within every electorate that could be used by all political parties, and so forth.

d) Deregistration of Political Parties as a Penalty

Although the Representation of Peoples Act of 1951 expressly authorizes the ECI to register political parties, the ECI can only review its registration order if the certification was acquired via deception or falsification, if the registration is ruled illegal by the Govt. of India, or if the

party restructures its institutional charter and informs the ECI that it no longer can comply with the law. Even though the fact that the ECI rules called for the removal of a party from the register if it did not fight elections for 6 years, the Apex Court has explicitly said that the ECI standards are unconstitutional and "has no power to review the order registering a political party for having violated the provisions of the Constitution or for having breached the undertaking given to the Election Commission at the time of registration."

This power is necessary to guarantee that political parties are not being used as a front for collecting deposits, which are subsequently surreptitiously utilized to pay individuals and perhaps other political parties to claim income tax exemption. Such power is necessary to guarantee that political parties are not used as a front for parking funds, which are subsequently surreptitiously utilized to pay individuals or any other political parties to claim income tax exemption. Being very much aware of the Apex Court's findings that the legislative objective might be to avoid engaging the ECI in political affairs, and that "deregistration of a political party is a serious matter since it involves the party losing its statutory position as a registered political party." As a result, this paper proposes specific suggestions to safeguard the ECI's independence and objectivity in carrying out these additional authorities and tasks.