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The Hidden Costs of Democracy: The Impact of Political Funding in India

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ABSTRACT

Political funding is a cornerstone of democratic governance, influencing both electoral processes and policy decisions. In India, a vibrant democracy with a diverse political landscape, the role of political funding has been contentious and significant. This paper explores the complex relationship between political funding, transparency, and democracy in India, examining how opaque funding mechanisms can undermine democratic ideals and proposing reforms for enhancing transparency. Through a review of legislative frameworks, political practices, and scholarly analyses, this paper aims to examine the impact of political funding on democratic governance in India.

Keywords: Political Funding, Transparency, Democracy in India, Electoral Processes.

Introduction

The issue of political funding is a complex and contentious one in democracies worldwide. While financial contributions are essential for the functioning of political campaigns, they often carry the risk of fostering quid pro quo arrangements, where donations are made with the expectation of gaining undue influence or favorable policy decisions. This practice has tainted the democratic process, leading to widespread perceptions of corruption and a lack of integrity in political institutions. Corporate donations, in particular, have been scrutinised for their potential to contribute to graft, allowing wealthy donors to exert disproportionate influence over elected officials and government policies. As a result, there is an increasing call for greater transparency and accountability in political funding to ensure that hidden interests do not undermine democratic processes and that the public's trust in democratic governance is restored. This paper seeks to explore the impact of political funding on democracy in India, focusing on the need for transparency. The study begins with an overview of political funding mechanisms in India, followed by an analysis of the legal framework governing political donations. It then examines

ISSN: 2455-8834

Volume:09, Issue:09 "September 2024"

the implications of opaque funding on democratic processes and proposes reforms to enhance transparency and accountability.

One of the main issues with India's political and electoral finance system is the lack of transparency. The current system permits large amounts of funding to come from unaccounted sources, often referred to as black money. This lack of transparency makes it difficult to track the origins of political donations, allowing political parties and candidates to depend on hidden sources of funding that are not publicly disclosed. This secrecy creates an environment where financial contributions can have an undue influence on political decisions, prioritising the interests of donors over those of the general public. Moreover, existing controls on election expenditures are mostly ineffective. Although there are legal limits on how much candidates can spend during elections, these rules are frequently ignored. Many candidates spend significantly more than the permitted amounts, often through cash transactions that are difficult to trace and monitor. This leads to a distorted electoral process, where wealthier candidates and parties can outspend their competitors, gaining an unfair advantage over those with fewer financial resources.

Historically, political parties in India have relied heavily on donations from individuals and corporations. These donations are often made in cash, and there is no requirement for parties to disclose contributions below ₹20,000. This threshold has been exploited by parties to evade disclosure norms, with substantial sums being reported as small, anonymous contributions.The current system is also heavily criticised for its reliance on illegitimate funding sources. Political parties often receive substantial donations from corporations or private entities in exchange for future favours or favourable policy decisions. Such quid pro quo arrangements undermine the integrity of governance, as they skew policy-making towards the interests of those who can afford to buy influence rather than serving the broader public interest. This situation fosters a cycle of corruption and dependency, encouraging policymakers to prioritise donors over the electorate. Additionally, the system is inherently biased against candidates who do not have substantial financial backing. Wealthier candidates and parties can use their resources to conduct more extensive and effective campaigns, sometimes engaging in vote-buying or offering voters goods and services. This economic disparity among candidates disrupts the democratic process by making financial power, rather than public support or merit, a key determinant of electoral success.

Legal Framework Governing Political Donations in India

The legal framework for political donations in India is primarily governed by the Representation of the People Act (RPA) of 1951, which sets out the rules and regulations for the conduct of elections, including aspects related to political funding. The RPA is a crucial piece of legislation

ISSN: 2455-8834

Volume:09, Issue:09 "September 2024"

intended to ensure free and fair elections by regulating the electoral process, including financing political parties and candidates. According to Section 29C of the Representation of the People Act, 1951, political parties are required to submit a report to the Election Commission of India detailing all contributions received in excess of ₹20,000 from any person or entity in a given financial year (Representation of the People Act, 1951, Section 29C). This provision aims to promote transparency by mandating the disclosure of significant donations to political parties. However, there are significant loopholes that parties often exploit to circumvent these requirements. For instance, political parties can accept multiple donations below ₹20,000, allowing them to bypass the disclosure threshold. Consequently, this practice enables the inflow of unaccounted or anonymous money into the political system, undermining the transparency and accountability that the Act seeks to promote.

Lack of Comprehensive Disclosure on Income Sources

While the Representation of the People Act of 1951 requires disclosure of donations above ₹20,000, it does not mandate political parties to disclose their total income or provide a comprehensive account of all their funding sources. This limitation in the legal framework means that a significant portion of political funding remains unaccounted for, thereby reducing the overall transparency in the political financing landscape (Representation of the People Act, 1951, Section 29C). The lack of a comprehensive requirement for income disclosure further exacerbates concerns about the influence of undisclosed donors on political processes and policy decisions, which can lead to potential conflicts of interest and corruption. Although the Election Commission of India has the authority to enforce the disclosure rules stipulated in the Representation of the People Act of 1951, the effectiveness of these measures is limited by the narrow scope of the requirements and the ease with which they can be circumvented. Moreover, the Act does not provide stringent penalties or enforcement mechanisms for non-compliance, which weakens its ability to deter violations (Representation of the People Act, 1951, Sections 29C and 77).

The Companies Act (2013)

The Companies Act of 2013 plays a crucial role in regulating corporate donations to political parties in India. Under Section 182 of the Act, companies are permitted to make donations to political parties, but these contributions must be disclosed in the company's profit and loss statement (Ministry of Corporate Affairs, 2013). This provision was initially designed to ensure transparency in corporate political funding and to prevent undue influence by any single corporate entity over the political process.

ISSN: 2455-8834

Volume:09, Issue:09 "September 2024"

However, significant changes were introduced in 2017 through amendments to the Companies Act. Prior to these amendments, a cap was placed on corporate donations, limiting them to 7.5% of a company's average net profit over the previous three years. The 2017 amendments removed this cap, allowing companies to contribute an unlimited amount to political parties, provided these contributions are disclosed in the company's balance sheet (Ministry of Corporate Affairs, 2013). This change has raised several concerns regarding the potential for increased corporate influence over political parties and the risk of policy manipulation. Without a cap, there is no limit to how much money corporations can funnel into political campaigns, which may lead to a scenario where corporate interests outweigh public interests in policy formulation and political decision-making. The lack of a cap also raises concerns about the transparency and accountability of such contributions, as large, unlimited donations could lead to a situation where political parties become heavily dependent on corporate funding.

The Income Tax Act (1961)

The Income Tax Act of 1961 (Ministry of Finance, Government of India, 1961) also plays a vital role in the financial regulation of political parties in India. According to Section 13A of the Act, political parties are exempt from paying taxes on income derived from voluntary contributions, provided they maintain proper records and file annual returns with the income tax authorities (Ministry of Finance, Government of India, 1961). The rationale behind this provision is to support the functioning of political parties by allowing them to receive contributions without the burden of tax liability, thereby fostering democratic processes.

However, the exemption granted under the Income Tax Act has also been subject to misuse. Political parties often report large sums of money as voluntary contributions to take advantage of the tax exemption, raising concerns about the laundering of unaccounted money. This practice not only undermines the integrity of the financial system but also allows for the infusion of black money into political campaigns, thereby affecting the fairness of elections. The anonymity allowed under the tax exemption regime means that substantial amounts of political funding remain outside the purview of public scrutiny, which can lead to corruption and undue influence in the political process.

Furthermore, the legal framework governing political donations and expenditures is inadequate, allowing for widespread misuse of funds. Although there are regulations requiring parties and candidates to report contributions above a certain threshold, many donations are deliberately kept below this amount to avoid disclosure. Moreover, the expenditure reports filed by candidates are often incomplete or inaccurate, further diminishing accountability and transparency in campaign finance. Overall, India's current political donation system undermines democratic fairness and transparency. The dependence on unaccounted money, the ineffective regulation of expenditures,

ISSN: 2455-8834

Volume:09, Issue:09 "September 2024"

and the undue influence of wealthy donors create significant disparities in the electoral process, compromising the integrity of democratic governance (Kondepati, 2011).

Samya Chatterjee and Niranjan Sahoo (2014) explore the intricate relationship between corporate funding and political campaigns in India. Their study provides a historical overview of corporate donations to political parties, examines the current legislative framework, and analyses the implications of such funding on democratic processes. While corporate funding serves as a crucial source of financing for political parties, it also presents significant challenges, such as fostering corruption, reducing transparency, and distorting democratic practices. The authors trace the history of corporate funding in India back to the freedom movement, noting that businesses like the Birla Group were early supporters of the Indian National Congress. Corporate contributions grew substantially following independence, fueling the rising costs of political campaigns. 1969 Prime Minister Indira Gandhi banned corporate donations to disrupt the growing nexus between business and politics. However, this ban was lifted in 1985, leading to a resurgence of corporate contributions. The current legal framework, particularly the Companies Act of 2013, allows companies to donate up to political parties up to 7.5% of their average net profits over the past three years. Although these donations are required to be reported in company accounts, Chatterjee and Sahoo argue that inadequate enforcement and oversight continue to allow companies to exert undue influence over political processes through financial contributions (Chatterjee & Sahoo, 2014).

Ashutosh Varshney explores the complex relationship between corporate financing of political parties and election outcomes in India. Although corporate India significantly finances elections, this financial backing does not guarantee electoral success. While money plays a role in politics, it does not determine outcomes as voters have grown more discerning. Varshney discusses the historical context of political financing in India, noting that before the mid-1960s, election campaigns were primarily funded through small citizen contributions. This changed when corporate donations were banned in 1968, leading to a rise in illegal "black money" donations due to the lack of state funding. Even after corporate donations were legalised again in 1985 and further incentivised in 2003, a significant portion of political funding continued to come through opaque channels. Varshney's central argument is that despite substantial corporate funding in Indian elections, financial contributions do not directly determine electoral outcomes. However, the opacity and corruption surrounding political finance remain significant issues. Even after legal reforms, the persistence of non-transparent funding methods is primarily driven by fear of political reprisals and the government's control over the economy (Varshney, 2012).

A comprehensive reform of India's campaign finance system is needed to address these issues. One proposed solution is a matching grant model, where candidates who raise a minimum amount of contributions from a certain number of people receive a matching grant from the state.

ISSN: 2455-8834

Volume:09, Issue:09 "September 2024"

This grant would initially be treated as a loan until candidates provide receipts for both the contributions and the grant expenditures, ensuring accountability and preventing misuse. The system aims to encourage small donations from a wide range of citizens rather than relying on large contributions from a few wealthy entities. The matching grant system, inspired by similar models in the United States and Germany, promotes a more participatory and equitable political finance environment, where electoral success is determined by public support rather than financial power. While there are challenges to implementing this system, such as administrative burdens and the need for rigorous verification processes to ensure the legitimacy of contributions, the benefits of a more transparent and fair political finance regime outweigh these difficulties. The proposal seeks to reduce the undue influence of wealthy donors and create a fairer playing field for all political candidates (Kondepati, 2011).

Milan Vaishnav, a prominent scholar of Indian politics, has extensively discussed the issues surrounding political funding in India. Vaishnav argues that the opaque nature of political funding in India significantly undermines the country's democratic integrity. In his book, When Crime Pays: Money and Muscle in Indian Politics, Vaishnav (2017) highlights that many political donations in India come from undeclared sources, commonly called "black money." Weak regulatory frameworks and ineffective enforcement mechanisms facilitate this lack of transparency, allowing political parties to operate without proper accountability. Vaishnav also argues that the murky nature of political funding directly impacts political competitiveness and governance in India. He contends that the reliance on illicit funds creates a nexus between politicians and criminal elements, which can lead to compromised policy decisions that favor special interests over public welfare. This dynamic distorts electoral competition, as candidates with access to vast resources, often through illegal means, have a distinct advantage over those who do not. While discussing electoral reforms such as introducing electoral bonds, Vaishnav expresses skepticism about their effectiveness in combating corruption. He points out that while electoral bonds were introduced to enhance transparency, they have not eliminated the use of undisclosed funds. Instead, they have merely shifted the problem from direct cash donations to anonymous bank transactions, as the bonds do not require the disclosure of donor identities to the public (Vaishnav, 2017).

Rajeev Gowda, an academic and former Member of Parliament in India, has extensively examined political funding in India, focusing on the need for transparency and reform to reduce corruption and ensure fair elections. Gowda argues that India's political funding system lacks transparency and relies heavily on unaccounted money, often termed "black money." In his research, he highlights that political parties receive a significant portion of their funds through cash donations, which are difficult to trace and often come from illicit sources. This opacity undermines democratic accountability and enables corruption. Lack of transparency in political

ISSN: 2455-8834

Volume:09, Issue:09 "September 2024"

donations affects the integrity of democratic processes. He points out that when political parties rely on unaccounted money, it leads to a lack of accountability to the public and increases the influence of vested interests. This, in turn, affects policy-making, as politicians may prioritise the interests of their donors over those of their constituents. Implement stricter disclosure requirements for political donations and reduce reliance on cash transactions. Gowda and Sridharan propose introducing state funding for political parties as a potential solution to reduce dependence on private donations and curb corruption (Gowda & Sridharan, 2012).

The Impact of Opaque Political Funding on Democracy

The lack of transparency in political funding in India has far-reaching implications for democratic governance. It undermines the principle of equal representation, perpetuates corruption, and erodes public trust in democratic institutions. Opaque political funding mechanisms disproportionately benefit larger political parties with access to wealthy donors, creating an uneven playing field. This undermines the principle of equal representation as smaller parties and independent candidates struggle to compete on equal terms. The lack of financial parity among parties often leads to policy decisions that favor the interests of wealthy donors rather than the electorate.

The opacity surrounding political donations creates fertile ground for corruption and policy manipulation. Politicians may be incentivized to prioritize the interests of their donors over those of the public, leading to policy decisions that do not align with the broader democratic interest. Furthermore, the anonymity afforded by mechanisms like electoral bonds makes it difficult to trace the flow of money and hold parties accountable for their financial activities. Public trust in democratic institutions is vital for the functioning of a healthy democracy. However, the lack of transparency in political funding has eroded this trust in India. Citizens perceive the electoral process as compromised, with decisions influenced more by financial clout than public interest. This perception weakens democratic engagement and participation, undermining the legitimacy of democratic governance.

A case of Electoral Bonds Scheme

The Government of India introduced the scheme of electoral bonds as a measure to enhance transparency in the funding of political campaigns. Electoral bonds are financial instruments that allow individuals, corporate entities, and other organisations to donate money to political parties in a regulated and transparent manner. To contribute through this method, donors can purchase electoral bonds from designated branches of the State Bank of India (SBI) in various denominations, such as ₹1,000, ₹10,000, ₹1,00,000, ₹10,00,000, and ₹1,00,00,000. There are no limits on the number or total value of bonds a donor can purchase, allowing donors to contribute

ISSN: 2455-8834

Volume:09, Issue:09 "September 2024"

repeatedly and in any amount they choose. Importantly, these bonds cannot be bought with cash, a restriction designed to prevent the use of unaccounted "black money" often associated with illicit activities. Instead, purchases must be made through official banking channels, which adds a layer of accountability. Only Indian citizens and entities incorporated in India are eligible to purchase these bonds, further ensuring that political donations come from domestic sources. This scheme aims to clean up electoral funding by reducing the influence of untraceable cash donations and promoting a more open and accountable process (Union Budget 2017-18, 33).

To purchase electoral bonds in India, the buyer must comply with all existing Know Your Customer (KYC) norms, which are designed to verify the identity and integrity of the purchaser. Payments for these bonds must be made exclusively from a bank account, ensuring that the transactions are traceable and reducing the risk of anonymous or illicit contributions. Notably, the bonds do not specify the recipient's political party at the time of purchase, allowing donors to decide later which eligible party will receive the donation. Electoral bonds have a limited validity of just 15 days from the date of purchase, meaning a political party must redeem them within this period. These bonds can only be donated to political parties registered under Section 29A of the Representation of the People Act, 1951, which governs the registration of political parties in India (Union Budget 2017-18, 33).

Furthermore, the receiving political party must have secured at least 1% of the votes cast in the most recent general election for either the Lok Sabha (the lower house of India's Parliament) or a State Legislative Assembly to be eligible to receive donations through electoral bonds. Once a party receives electoral bonds, they must be encashed only through a designated bank account, further ensuring transparency and traceability. If the bonds are not encashed within the 15-day validity period, the funds are automatically transferred to the Prime Minister's National Relief Fund, preventing the misuse of unredeemed bonds and ensuring that unclaimed donations are redirected to a charitable cause. This system aims to reduce the potential for corruption and increase the accountability of political funding in India.

Before 2017, the identity of every contributor who gave more than 20,000 to a political party had to be made public. However, donations of less than 20,000 need not be disclosed. The electoral bond scheme eliminates cash contributions as liquid cash is unaccounted for, black or illicit. A political party cannot accept a cash donation of more than 2000, and nobody can donate more than 2000 to a political party. This rule change would be time-consuming and inconvenient for political parties. However, it would allow them to increase the number of bogus donations. Political donations are tax-free, but the printing costs of electoral bonds and the bank's commission for selling them are paid with taxpayer money. Corporate entities donate money to a political party to get a tax exemption. Before introducing electoral bonds, companies could donate only 7.5% of their net profit over the past three years. However, the Finance Bill of 2017

ISSN: 2455-8834

Volume:09, Issue:09 "September 2024"

abolished the ceiling on corporate donations, enabling companies to pay 100% of their profit. However, the scheme may be a convenient channel for transferring black money and make it simpler for corporations to donate illegally obtained money to political parties (Ananda, 2023).

The arbitrary changes made to Section 137 of the Finance Act and Section 29C of the Representation of People Act, 1951, to remove the requirement for parties to notify donations of more than Rs 20,000. This has raised the likelihood of the ruling party acting as a tool for anonymous donors. Additionally, changes have been made to bypass the Foreign Contribution Regulation Act 2010 and allow foreign companies to fund political parties. Money power plays a significant role in elections. The ruling party attracts all the money, violating the level playing field. The electoral bond scheme is biased towards the ruling party at the centre (Ananda, 2023).

Supreme Court Verdict on Electoral Bonds

The Association for Democratic Reforms (ADR) and Common Cause (an NGO) filed petitions in the Supreme Court challenging the constitutional validity of electoral bonds. The Supreme Court did not halt the sale of electoral bonds. The matter is pending before the court. Free and fair elections are the basic feature of Indian democracy and the basic structure of the Indian Constitution. The Constituent Assembly members felt that all fundamental rights issues be resolved within one month. The court is responsible for ensuring that the judgment is delivered on time. The new method of election funding in India is afflicted with complications and inconsistencies, such as secrecy and anonymity. Reducing cash donations and injecting lawful and accounted money into the democratic process through cheques and digital payments. However, the introduction of electoral bonds has made concealment easier. It can potentially corrupt political life and hamper the healthy development of democracy. This new instrument has hindered democracy and transparency. It deprives voters of their right to know whether or not the ruling party is providing preferential treatment to its corporate donors. The petitioners argued that the Electoral Bond Scheme infringes on the right to information of the voter, a facet of the right to freedom of speech and expression under Article 19(1)(a). They contended that the scheme obscures the source of political donations, preventing voters from making informed choices. The petitioners highlighted that allowing unlimited and anonymous corporate donations opens the door to potential corruption and undue influence in the political process. They argued this could lead to policy decisions favouring large corporate donors over the public interest (Supreme Court of India, 2024).

Government of India’s Arguments in favour of Bonds.

The government defended the scheme by arguing that anonymity protects donors from potential political retribution and encourages donations through legitimate channels, thereby reducing the

ISSN: 2455-8834

Volume:09, Issue:09 "September 2024"

influence of black money in politics. The government claimed that the scheme improved the prior system by enforcing banking channels for all transactions, requiring Know Your Customer (KYC) norms, thereby bringing more transparency than before. The Supreme Court applied the doctrine of proportionality to determine whether the restriction on the fundamental right (right to information) was justified by the state's objectives (protecting donor privacy and reducing black money). The Supreme Court concluded that the scheme failed to balance these competing interests adequately and disproportionately restricted the fundamental rights of citizens.

The Supreme Court of India's verdict on the Electoral Bonds Scheme focused on its constitutional validity and the implications for transparency in political funding. The Supreme Court declared the Electoral Bond Scheme unconstitutional as it violates Article 19(1)(a) of the Constitution, which guarantees the right to freedom of speech and expression. This decision also encompasses the provisions of the Finance Act 2017, which amended various acts like the Reserve Bank of India Act, Representation of the People Act, Income Tax Act, and the Companies Act, allowing anonymous donations to political parties through electoral bonds. The Supreme Court found that the amendment allowing unlimited corporate funding, including from loss-making companies, was arbitrary and violated Article 14 of the Constitution, which ensures equality before the law. The distinction between profit-making and loss-making companies was not maintained, raising concerns about potential quid pro quo arrangements and influence over political decisions. The Supreme Court ordered the disclosure of detailed information on donations received through electoral bonds. This includes the names of donors, the amounts donated, and the particulars of the accounts to which these amounts were credited to enhance transparency and uphold voters' right to be informed. The verdict mandates transparency in political funding and underscores the importance of an informed electorate in a democracy, maintaining the integrity of the electoral process (Supreme Court of India, 2024).

Reforms for Enhancing Transparency in Political Funding

Enhancing transparency in political funding requires improving disclosure requirements, implementing state funding of elections, and strengthening oversight mechanisms. Enhancing disclosure involves lowering the threshold for mandatory reporting of donations from ₹20,000 to ₹2,000 and requiring real-time disclosure of all donations, regardless of size, to ensure accountability and reduce unaccounted money in politics. State funding of elections is another suggested reform to minimize the influence of private donations by providing equal financial resources to all political parties based on criteria like electoral performance. Strengthening oversight is also crucial, with proposals to establish an independent electoral commission to audit finances and impose penalties, alongside empowering civil society and the media to scrutinize funding practices more effectively.

ISSN: 2455-8834

Volume:09, Issue:09 "September 2024"

Civil society organizations and the media are pivotal in advocating for and promoting transparency in political funding. Organizations like the Association for Democratic Reforms (ADR) work to highlight financial discrepancies in political party disclosures and push for greater transparency. The media, through investigative journalism, plays a crucial role in uncovering cases of unaccounted donations and corruption, fostering public debate, and pushing for policy reforms. Together, these entities help maintain public scrutiny and encourage a culture of accountability in political finance.

Conclusion

The impact of political funding on democracy in India is significant and complex. Financial resources are necessary for political campaigns and activities, but the lack of transparency in how these funds are obtained and used has weakened democratic values. This lack of openness can lead to inequality, increase corruption, and reduce public trust in the political system. To protect the integrity of democracy, India needs to implement reforms that make political funding more transparent, accountable, and fair. These reforms could include stricter rules for disclosing where donations come from, providing government funding for elections to reduce reliance on private donors, and improving oversight to ensure regulations are followed. Additionally, empowering civil society groups and the media to monitor and report on political funding actively can create a culture of accountability. By making these changes, India can strengthen its democracy, making it more inclusive and representative of the people's will.

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Volume:09, Issue:09 "September 2024"

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