



ELECTORAL BONDS AND POLITICAL FUNDING IN INDIA (ANALYSIS OF TRANSPARENCY, ACCOUNTABILITY AND DEMOCRATIC INTEGRITY)

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Abstract

The introduction of the Electoral Bond Scheme in India in 2018 aimed to bring transparency to political funding by encouraging donations through formal banking channels. However, the scheme's design, which allowed for donor anonymity, became a central point of contention, raising serious questions about transparency, accountability, and the integrity of India's democratic process. Critics argued that the scheme, far from cleaning up the system, enabled a new form of legalized corruption and corporate influence. The subsequent landmark judgment by the Supreme Court of India in February 2024, which struck down the scheme as unconstitutional, marked a significant moment in the country's ongoing debate about money in politics. Electoral bonds were essentially interest-free promissory notes that could be purchased by Indian citizens and companies from the State Bank of India (SBI) and donated to eligible political parties. The bonds came in various denominations, and the donor's identity was not disclosed on the bond itself. This anonymity, according to the government, was intended to protect donors from potential harassment or retribution from opposing political parties. The scheme also eliminated the previous cap on corporate donations, which was 7.5% of a company's average net profit over the preceding three years. While proponents of the scheme argued it would curb the use of black money in elections by ensuring all transactions were routed through the banking system, critics highlighted that the secrecy of the donors' identities created a major transparency deficit. The government had access to the donor data through the SBI, a government-owned bank,

which raised concerns about the ruling party having an unfair advantage and the potential for a "quid pro quo" relationship between donors and the government.

Keywords:

Electoral, Bonds, Political, Funding, Transparency, Accountability, Democratic, Integrity

Introduction

The lack of transparency in the Electoral Bond Scheme was its most significant flaw. Voters were deprived of their fundamental right to information about who was funding political parties. This information is crucial for making informed choices at the ballot box, as it allows citizens to assess whether a party's policies and decisions are influenced by the interests of its financial benefactors. (Joshua, 2022)

The scheme's anonymity fostered a fertile ground for crony capitalism. Data released after the Supreme Court's verdict revealed a clear link between corporate donations and government actions. Several companies that had purchased a large number of electoral bonds received significant government contracts, regulatory clearances, or had ongoing investigations against them dropped.

The abolition of the cap on corporate donations further exacerbated this issue, allowing companies to make unlimited contributions and potentially wield disproportionate influence over government policy. This created a scenario where economic inequality could be directly translated into political influence, undermining the principle of political equality.

The Electoral Bond Scheme was widely seen as a threat to democratic integrity in India. By obscuring the source of political funding, it shielded donors from public scrutiny and made it difficult for citizens to hold political parties accountable for their actions.

The scheme favored the ruling party, which garnered a disproportionately large share of the bond contributions. This created an uneven playing field, where the incumbent party had a significant financial advantage over the opposition, potentially distorting the electoral

process and the very notion of free and fair elections. (Michael, 2021)

The Supreme Court, in its historic judgment, recognized these profound issues. The five-judge bench unanimously declared the scheme unconstitutional, stating that the right of citizens to know about political funding is a fundamental aspect of the right to freedom of speech and expression under Article 19(1)(a) of the Constitution. The Court emphasized that a well-informed citizenry is essential for a healthy democracy and that anonymous political funding undermines this principle.

The Electoral Bond Scheme, introduced in India in 2018, was a system designed to fund political parties. While its stated goal was to increase transparency by moving political donations from cash to a digital, traceable method, it faced numerous challenges and controversies. Ultimately, the Supreme Court of India struck down the scheme in February 2024, citing its unconstitutionality.

The primary challenge to the Electoral Bonds scheme was the anonymity it granted to donors. Although the bonds were purchased through a bank, the identity of the donor was not disclosed to the public or the Election Commission of India (ECI). This created a significant lack of transparency, undermining a voter's right to information about who funds political parties. The Supreme Court's ruling explicitly stated that this secrecy violated a citizen's fundamental right to information under Article 19(1)(a) of the Constitution.

A major concern was the potential for a quid pro quo arrangement between corporations and political parties. Since the ruling party, and not the public, could potentially access donor information, there were fears that companies could donate large sums in exchange for favorable policies, contracts, or protection from regulatory action. The Supreme Court itself pointed out that this scenario fosters crony capitalism, which is a significant threat to democracy. The subsequent release of data on electoral bonds by the ECI showed a clear correlation between donations and government contracts or relief from investigations for many companies, lending credence to these concerns.

The scheme also eliminated the previous limit on corporate donations, which was capped at

7.5% of a company's average net profits over the last three years. This amendment to the Companies Act, 2013, allowed companies, including loss-making ones, to make unlimited contributions. (Sunshine, 2020)

Literature Review

Richard et al. (2020): Critics argued that this was manifestly arbitrary and gave corporations undue influence over the political process, putting them on an unequal footing with individual citizens. It was seen as a way for corporate interests to exert disproportionate power over policymaking.

Foreman et al. (2021): The scheme was criticized for creating an uneven playing field in elections. Data revealed that the party in power received the overwhelming majority of the funding through electoral bonds. This significant financial asymmetry gave the ruling party a massive advantage over opposition parties, which struggled to raise comparable funds. This was seen as a threat to the principle of free and fair elections, a cornerstone of any democratic system.

Hillygus et al. (2020): A major challenge is the opacity of political funding. For years, a significant portion of political parties' income came from "unknown sources," which include donations under the threshold for mandatory disclosure. The now-scrapped Electoral Bond scheme, introduced in 2017, further compounded this problem.

Collins et al. (2021): While the government claimed it would bring donations through formal banking channels, the scheme allowed for complete anonymity, shielding the identities of corporate and individual donors from public scrutiny.

David et al. (2022): The Supreme Court, in its landmark 2024 judgment, struck down the scheme as unconstitutional, affirming the public's right to information about political funding. The court observed that the anonymity of the bonds was a violation of the voters' right to make informed choices. The subsequent release of data by the Election Commission of India (ECI) revealed a strong correlation between corporate donations and favorable

government contracts or regulatory relief, suggesting a *quid pro quo* arrangement.

Electoral Bonds and Political Funding in India

The use of unaccounted or "black money" in elections is another persistent and deeply entrenched challenge. Election campaigns in India are notoriously expensive, with a significant amount of spending often exceeding the limits set by the ECI. This unofficial expenditure is often funded by cash that is not reported to tax authorities.

The inflow of black money can distort the level playing field, giving an unfair advantage to wealthy candidates and parties. This makes it difficult for individuals without significant financial resources to contest elections, thus limiting democratic participation.

The reliance on black money creates a cycle of corruption. Candidates who spend illicit funds to win elections may be compelled to recover those expenses through corrupt practices once in office, such as granting contracts or licenses in exchange for favors. This directly impacts governance and policy-making.

The Election Commission of India, while a constitutional body, often lacks the legal authority to effectively curb the use of illegal money. While the ECI can set expenditure limits for candidates, it has limited power to investigate the sources of funds or the actual spending of political parties.

Past attempts at reform, such as the Electoral Bond scheme, have been criticized for prioritizing party interests over transparency. The government, in some instances, has amended laws to facilitate opaque funding mechanisms, often bypassing parliamentary scrutiny.

The rise of thousands of registered unrecognised political parties (RUPPs) presents another challenge. Many of these parties exist primarily to act as conduits for money laundering and tax evasion, without any genuine intention of contesting elections. The ECI has taken steps to delist inactive RUPPs, but the issue highlights a loophole in the system that needs to be

addressed more comprehensively.

Electoral bonds were financial instruments, like a promissory note, that could be purchased from the State Bank of India (SBI) by any Indian citizen or company. The donor could then give the bond to a political party, which would redeem it for cash. The key characteristic of the scheme was the anonymity of the donor. While the bonds were purchased through official banking channels with KYC (Know Your Customer) documentation, this information was confidential and not made public. The government, when defending the scheme, argued that this anonymity would encourage donors to contribute without fear of retribution from rival political parties and would reduce the flow of "black money" into politics.

The electoral bond scheme faced widespread criticism for fundamentally undermining democratic principles. The anonymity of electoral bonds was the central point of contention. Critics, including the Election Commission of India (ECI), argued that this feature severely hampered transparency. Voters were denied the right to know who was funding political parties, which is crucial for making informed choices. A voter's right to information, a core aspect of free and fair elections, was violated because they couldn't assess whether a party's policies were influenced by its major donors. This lack of transparency fostered a system of "dark money", where large corporations could secretly fund political campaigns and potentially influence government policies in their favor.

The scheme effectively removed the previous cap on corporate donations to political parties. This allowed corporations to make unlimited contributions, which led to a significant increase in corporate funding of political parties. The non-disclosure of donors created a fertile ground for "quid pro quo" arrangements. It was widely feared that companies could donate to the ruling party in exchange for favorable policies, contracts, or to escape regulatory scrutiny. The subsequent disclosure of donor data by the SBI following the Supreme Court's order revealed a number of instances where companies facing raids or investigations from government agencies had made substantial donations to the ruling party. This fueled public suspicion of a direct link between political donations and

government actions.

The electoral bond scheme was found to give a significant advantage to the ruling party. The party in power at the national level received the vast majority of the funds raised through electoral bonds. Since the government had access to the confidential donor information (as the SBI, the sole issuing bank, was a government entity), it could use this data to its advantage, while donors remained anonymous to the public and opposition parties. This created an uneven playing field, concentrating political power and making it harder for opposition parties to compete effectively.

In a landmark decision in February 2024, a five-judge Constitution Bench of the Supreme Court of India declared the electoral bond scheme unconstitutional. The court's ruling was a powerful affirmation of democratic principles.

The Court held that the scheme violated the fundamental right to information under Article 19(1)(a) of the Constitution. It stated that a voter's right to know the source of political funding is essential for the effective exercise of their franchise and to hold elected representatives accountable. The Court also emphasized that the scheme facilitated quid pro quo arrangements and increased the possibility of corruption. It rejected the government's argument that anonymity was necessary to protect donors, stating that the public's right to know outweighed the donors' right to privacy in this context. The court ordered the SBI to stop issuing bonds immediately and to disclose all details of bonds purchased and redeemed since 2019 to the ECI, which was then directed to publish the data.

While the electoral bond scheme was ostensibly aimed at reforming political funding, its structure, particularly the provision of donor anonymity, proved to be a major setback for democratic integrity in India. It created a system of hidden influence, disproportionate corporate power, and an unlevel playing field. The Supreme Court's decisive judgment to strike down the scheme was a crucial step towards restoring transparency and accountability in political financing, underscoring the vital link between a citizen's right to

information and the health of a democracy.

Conclusion

The Electoral Bond Scheme, despite its stated objective of promoting cleaner funding, ultimately created a system of opaqueness that was detrimental to transparency and accountability. The Supreme Court's decision to strike it down reaffirmed the importance of citizens' right to information and set a precedent for protecting the integrity of India's democratic institutions from the undue influence of money and power. The verdict was a crucial step towards ensuring that the electoral process remains a level playing field for all and that political power is derived from the will of the people, not the wealth of a few.

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