



ELECTORAL BOND AND POLITICAL FUNDING

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INTRODUCTION

Corruption in politics has been the center of controversy nowadays in India since the issue of political funding has been there for the whole decades. Now the argument has raged louder after the prosecution of electoral tokens. This essay looks at the so-called electoral bonds rule, where PPS and CCPS are swapped for regular bonds on demand, the current structure of political funding in the Indian context and analyzes the consequences of using electoral bonds on election funding.

Electoral bonds came into existence in 2017 as a mode of anonymous donation and political parties got funds through these bonds. On the other hand, the criticism followed the fact that the donations' transparency was not regulated, allowing unlimited or even unregulated corporate donations to the parties. This overlapped with the fundamental citizen's right to information under the Indian Constitution.

Electoral bonds are a money instrument that permits people or companies to donate to Indian political parties without naming. The objective of electoral bonds is to introduce transparency and de-link the elections from the clandestine flow of money into the political arena. However, the process of issuing electoral bonds is condemned for being hazy and has the potential to allow limitless contributions to the political parties without any supervision and scrutiny. The idea of electoral currency operates much like coinage in the traditional banking system. They are released in INR 1,000 to INR 1 crore denomination from selected banks and financial intermediaries only. Next, the donor selects the political party to whom they would like to donate and converts the electoral bond into cash. It is worth emphasizing that the particular person who offers a donation remains a secret to the public as well as to the involved party, which might be perceived as the source of the high impact of the private interest on the running of politics. The controversy surrounding electoral bonds is now aggravating with the deficit of the issuance and redemption of their dealings. The public has its nose always up for the government to reveal the names of the donors and the political parties who have been getting the donations. This therefore can cause concerns mainly associated with the sources of funding for national or regional elections where such bonds are used and hence their effects on democratic practices.

A shady side of Indian politics, characterized by unaccountability and long history of lack of regulation in political funding, is routine. To be pre-political parties do not disclose from what source they derive the funding. The materialization of black money in politics in the form of election campaigns has caused a serious blow to the already damaged public credibility in the political process. In March 2017, the government approved a new bill bringing political funding to light. The codes establish that any donation exceeding INR 20,000 must be reported by the political parties, setting out the source of the donation and that annual income tax returns must be filed as well. Though, except for electoral bonds, these laws do not cover anything. And this makes lawmakers question about the effectiveness of that regulation. Whether one looks at it as a prioritization of the well-being of political donors or as the beating heart of the foundation of democracy, political funding has been. It will continue to have a profound impact on Indian democracy. The role of the money in politics causes the form reduction polices of small political parties and the appearance of new parties is a problem. And so, electoral politics is predominantly driven by two major political parties, which in turn reduces the range of options for voters.

The style of (electoral bonds) has been remarked on as a factor in promoting transparency in political funding. But electoral bonds channelization concern still exists about the mechanism account and transparency of the electoral bonds. The donor and the party being anonymous plus the fact that the donor might have certain interests has led to the issue of politicians being controlled by special interests. Contrastive to other modes of political financing as a cash donations, electoral bonds have the merit to be traced and transparent. Nevertheless, the absence of a disclosure rule regarding donor and political party identity has been a serious game changer in that some bondholders may decide to use it for purposes other than electioneering. But, for the purpose of resolving them, there is a demand for reforms in political funding in India. The state should lay down the universal rules for the distribution of bonds of electoral character and make these bonds fall in the category of political donations.

DEFINITION OF ELECTORAL BOND

Electoral bond can simply be defined as a bearer banking instrument that shall be reflected in the books of the political party encashing it. It, therefore, cleanses the system of political funding in India. Ghost company donations and Hawala money, which has earlier plagued the Indian political system, will be reduced to a great extent.¹ Any donation made through a cheque to a political party shall be scrutinized or attacked by rival political parties, and much has been discussed about the IT raids happening on such donations.

A company that wishes to donate to a political party that may affect its business environment shall have to seek immunity against the blowback. So even though it wants to help the party in power, donating through cheques will always have an alternate cost. Step in electoral bonds, it will be a completely white money transaction, and the donating company need not have to fear any repercussions.² The electoral bonds shall be issued in multiples of 1,000, 10,000, 1 Lac, 10 lacs, and 1 crore shall not reflect any identity of the donor thus keeping

¹ P Mittal, V Agarwal - Indian Politics & Law Review, 2021 - thelawbrigade.com. Electoral Bonds: Efficacious Or A Camouflaged Road To Tyranny. thelawbrigade.com

² O D'Costa - Issue 4 Int'l JL Mgmt. & Human., 2020 - HeinOnline. Opacity, Democracy and Political Funding-An Overview of the Indian Electoral Bond System. [\[HTML\]](#)

the anonymity. These can be purchased from a scheduled bank and shall have a life of only 15 days during which they can be encashed to the party of choice. Anybody in possession of the bond shall be able to donate to the party who has a registered account with the authorized bank. This last step is important as it keeps payments under check and nobody can encash the bond to a party without having a bank account out of the ambit of the IT department.

ELECTORAL BONDS: BACKGROUND OF POLITICAL FUNDING

The issue of electoral bonds in India has been a subject of controversy since their introduction in 2017. Electoral bonds are interest-free bearer bonds that can be purchased by companies and individuals in India from authorized branches of the State Bank of India (SBI) to make donations to political parties³. The bonds can be purchased in multiples of Rs 1,000, Rs 10,000, Rs 1 lakh, Rs 10 lakh, and Rs 1 crore and can be deposited in a verified account of the political party within 15 days of purchase⁴.

The controversy surrounding electoral bonds is that they are anonymous, which means that there is no cap on the number of electoral bonds that a person or company can purchase, and the identity of the donor remains confidential. This lack of transparency has raised concerns about the potential misuse of these bonds for money laundering and the funding of political parties by dubious sources.

In 2024, the Supreme Court declared electoral bonds "unconstitutional" and directed the SBI to share all information about the project⁵. The court's decision came after a series of revelations about the use of electoral bonds by companies and individuals to donate funds to political parties, often in exchange for government favors or contracts⁶.

The data dump by the SBI revealed that multiple private firms, reeling from investigations by India's law enforcement agencies, funneled funds worth millions of dollars through the electoral bonds to a range of parties in power. Many of these companies saw the government's attitude towards them change after the donations, while some even won praise from sitting ministers. The revelations have deepened fears that the electoral bond mechanism enabled a quid-pro-quo setup between companies and political parties, creating a stink of extortion and corruption. The pattern of donations indicates two possibilities: extortion, where agencies were actively set after someone to extract money, or allegations of corruption, which were put in cold storage after a donation was made to the ruling party. In conclusion, the issue of electoral bonds in India has raised serious concerns about the transparency and accountability of political funding. The lack of transparency in the system has the potential to allow limitless contributions to political parties without any supervision and scrutiny, which can have a high impact on the running of politics. The recent Supreme Court's decision to declare electoral bonds "unconstitutional" and direct the SBI to share all information about the project is a step towards ensuring transparency and accountability in political funding. However, more needs to be done to ensure that political funding is transparent and free from corruption.

³ <https://frontline.thehindu.com/politics/bjp-modi-electoral-bond-scheme-truth-hindu-rashtra/article68001490.ece>

⁴ Ibid.

⁵ <https://www.bbc.com/news/world-asia-india-68531799>

⁶ Ibid.

ELECTORAL BONDS: CONCEPT AND IMPLEMENTATION

The electoral bonds are a financial tool introduced in India to curtail the influence of electoral crime and bring transparency to the political funding system. They can be purchased by individuals or corporations from designated banking institutions and can be used by political parties to buy back the funds if needed⁷. The primary stakeholders in the implementation of electoral bonds are the government, political parties, banks, and the Election Commission of India.

The aim of issuing electoral bonds is to improve the efficiency and safety of political financing by cutting the black money influence in elections⁸. However, the bonds are anonymous, meaning that even the political party cannot determine the name of the donor if any exists. This has raised concerns about the potential misuse of these bonds for money laundering and the funding of political parties by dubious sources.

The implementation of electoral bonds has been criticized for making the process more opaque instead of transparent, as donors could buy the bonds in fixed denominations and give them to political parties to be encashed. The Supreme Court of India declared the scheme "unconstitutional" in 2024, stating that it violated citizens' right to access information from the government.

The revelations made by the State Bank of India (SBI) after the Supreme Court's order showed that multiple private firms, reeling from investigations by India's law enforcement agencies, funneled funds worth millions of dollars through the electoral bonds to a range of parties in power⁹. Many of these companies saw the government's attitude towards them change after the donations, while some even won praise from sitting ministers.

In conclusion, while the electoral bonds were introduced with the aim of bringing transparency to the political funding system, their implementation has been criticized for making the process more opaque and potentially enabling the funding of political parties by dubious sources. The recent Supreme Court's decision to declare the scheme "unconstitutional" highlights the need for greater transparency and accountability in political funding in India.

ARGUMENTS IN FAVOUR OF ELECTORAL BONDS

There is also a few grounds of the Electoral Bonds which, are beneficial and give support to new Reform. The terror of the electoral bonds either by person who is emotionally connected with this political party or the anonymity of the Donor will be guaranteed by the newly introduced Electoral bonds. Meanwhile, political parties are the entities that could open a bank account within e 15 days once the bonds are being sold. If the parties employ the electoral bonds for financial donations and such donations are not turned into cash, then automatically the amount of money, that has been donated will get transferred into the Prime Minister Care Fund. What makes it significant is that the benefit not only enriches the basic needs but also the society as a whole. This act in essence completely changed the political financing arena. Prior to the introduction of electoral bonds, huge amounts of black money revolved around donations because more donations were

⁷ <https://www.bbc.com/news/world-asia-india-68531799>

⁸ https://www.dea.gov.in/sites/default/files/Electoral%20Bonds_Press%20RELEASE_2-1-2018.pdf

⁹ <https://www.nytimes.com/2024/03/15/world/asia/india-election-donations.html>

exercised in cash but all this was changed with the bring-in reform to only Genuine Bank Account Holders got the chance to buy them for donations. There were a lot of problems in the old funding process of political parties which may result in Ne whose reform has led to great transparency in the process of political party funding.

INDIA'S ELECTORAL BOND SCHEME: DECLARED UNCONSTITUTIONAL BY THE COURT

The Supreme Court scraped, as per the Constitution, the electoral bond regime that was brought into the picture by the BJP in 2018. The court held that electoral bonds were a democratic prerogative and thus the identity of the donors should not remain opaque. It rendered the State Bank of India ineligible for the issuance of more notes and enforced it show the balance of past funding to the Election Commission of India which was publicly found on the website.¹⁰

While making history, the Indian Supreme Court removed the Electoral Bond (EB) scheme, based on the government's notification from 2018, as unconstitutional. A court decision with wide media coverage shows that confidence in the fairness and transparency of elections can be maintained. The judges were unanimous in the view that the handling of funds violated the right of citizens to information and obscured the sources of funding.

It is evident that the government in its last year's budget 2017-18 had majorly focused on the transparency of political funding, and had emphasized that transparency in political financing was at the heart of a fair election process. The government had made revisions to the laws in some features to provide funds to the organization. Nevertheless, the hearing was opposed by ADRD and some other civil society groups.

This declaration of the Supreme Court described that those enacted amendments through RPA (Representation of the People Act-1951) CA (Companies Act- 2013) and ITA (Income Tax Act - 1961) as nullification of Article 19(1) (b) and 14 of the Constitution. Through the enactment of sub-section 29C of RPA, political parties did not include EBs in the mandatory reporting of them to ECI which was making India's elections independent. In Section 13A(b) of the ITA, this cash donation of only Rs. 2,000, received through an electronic clearing system, e-bank, etc other than a cheque or bank draft is exempted from all income tax taken.

Subsection 182(1) and Subsection 183(3) of the CA were amended so that every company, be it a loss-making or profit-making one, irrespective of their performance, was left to have no limit on corporate funding to political parties as the previous 7.5 % cap had been removed. The Banking Court Case headed by Mr. Justice Agani has enjoined SBI from any further issues of EBs. It also asked the bank to provide the details of EBs it has bought since 12 April 2019 (the date on which the High Court restrained Mr Mahira from broadcasting the alleged defamatory content). The details to be furnished would comprise the date of buying an electoral bond along with the name of the buyer and the denomination of the specified bond.

¹⁰ <https://www.iasparliament.com/current-affairs/specials/sc-verdict-on-electoral-bonds>

The order has also do with the SBI providing the names of political parties which maintained the contributions and deposits of people from the time of the order. EACH electoral bond will necessitate the disclosure of the encashment date and the denomination of the bond. The aim of this will be to have these documents completed and handed over by March 6, 2024. ECI obtains aggregate information from SBI and then uploads them on its website before March 13, 2024.

CONCLUSION

Electoral Bonds, introduced by the Indian Government, are one of the instruments that are intended to reduce Corruption and Black Money in the Election but no positive leadership has led to that. The most concerning area of Electoral Bonds is The Secretive Donors and the transactions they make. This Edit of The Electoral Reform preserves the Anonymity of the donor not good for fair Elections.

Not sharing the information of the donor would cause a loss and vulnerability of the general public in terms of the integrity of political funding. Governments can introduce Bonds with Modifications on Electoral Bonds in place of mentioning Corporates to determine the limit of their purchase. Due to the impressive donations provided by the Multinational Corporate to Political Parties, those Corporate are ended up gaining the merit provided by the Government. To achieve Transparency in Political Funding government should (be split) into two tiers per tiers such as tier one and second tier. In the first tier, anyone or corporations can issue Electoral Bonds for the amount of INR. 1 lakh and later the State Bank of India has to disclose the identity of the organization or individual who is involved in any donation scheme within one month. Following level, the only corporates that are allowed to donate funds is ten lakh and within these suppliers, the donor name identities and how the donation was used be forwarded to the Election Commission of India on time. This way of doing things will embed Transparency Election funding which is a live game changer and a healthier way of Election.

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