

## **Indispensable Leap towards Transparent Electoral Financing**

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*The democracies around the world are facing severe challenges mainly emanating from surging authoritarian tendencies and excessive intrusion of money power in the electoral processes. The money power and corruption in democracies have dampened the image of democracy. The rise of money power in India has been one of the topical issues in the social sciences (Chhokar 2017; Vaishnav 2017). The elections in democracies need to be both free and fair. However, the electoral reforms which have been introduced in the past have made elections somewhat free but it still lacks fairness in practice. The voters in India vote for the candidates of their choice without much fear. Among others, the increased role of money power and media is making competitive elections unfair in most democratic countries. This paper analyses the budget of the “Electoral Bonds” which came to light through the Annual Budget of 2017-18 of Government of India.*

[**Keywords** : Democracy, Money power, Electoral reforms, Transparent electoral financing]

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**JOURNAL OF NATIONAL DEVELOPMENT, Vol. 34, No. 1 (Summer), 2021**  
**Peer Reviewed, Indexed & Refereed International Research Journal**

“It needs little argument to hold that the heart of the Parliamentary system is free and fair elections periodically held, based on adult franchise, although social and economic democracy may demand much more”. - *Supreme Court of India (1978)*

## 1. Introduction

The Annual Budget of 2017-18 is a historic one particularly in the direction of cleansing election financing. It has expressed exclusive desires and measures to push for greater transparency and removing opacity in resources mobilization by political parties. In doing so, it has capped cash contribution by anonymous donors from ₹20,000 to ₹2,000 which is a radical step in the right direction. Major share of money coming to the coffers of the political parties come in the form of cash and below ₹20,000 where an anonymous donor needs not mention his identity. The Election Commission of India had recommended the Government of India to change the law which the present government agreed to implement. The Government has proposed the introduction of “electoral bonds” which will reveal the identity of the donor without naming the political parties. The Ministry of Law and Justice had asked the twentieth Law Commission in January 2013 to consider substantive changes to electoral matters and recommend suitable electoral reforms. The Twentieth Law Commission of India Chairman Justice Ajit Prakash Shah did submit the 244<sup>th</sup> report titled “Electoral Reform” for the consideration and adoption by the Government of India.

## 2. The Union Budget 2017-18

This year’s budget is an unusual departure from the past which carried a section called “Transparency in Electoral Funding”. It has suggested means to cleanse the system. Politicians and parties are benefiting from an opaque funding process by virtually converting it into a money minting industry. Politicians of various genres are suspected by the public as corrupt. The transparent electoral funding will develop public confidence in political parties and politicians. The general perception is that the politicians use their political weight and other leverages and become wealthy in a short span of time. The corruption in politics is the mother of all corruption. Any radical electoral reforms initiatives which look radical and strong initially will be in the interest of political parties and politicians which will gradually develop confidence of people in the political process of the

country. The proposed cleansing of electoral funding will flush the system of corrupt “black money” because it allows the donors to contribute to political parties using digital mode and using the bank as an intermediary. It might be a devastating blow to hit political fund-raising.

### **3. The Electoral Bonds**

No doubt, Electoral Bond is basically a financial instrument purportedly for donating to political parties. It is an out of box idea. It can be issued by scheduled commercial banks for prospective donors available against cheque and digital payment and not cash. Such bonds can be redeemed into the accounts of the registered political parties with the Election Commission of India. It has attempted to address the longstanding concerns of the corporate donors who want to remain anonymous. They want to remain anonymous from the general public and political parties. Section 29C (1) of RPA requires the political parties to disclose the sources from where they received donations over ₹20,000. However, in a significant departure if they receive through bonds they are not required to do so.

The “Electoral Bonds” proposed by the Finance Minister Arun Jaitley will require an amendment to existing laws particularly the RBI Act 1934 [section 31 (3)] and Representation of People Act (RPA), 1951. The Bonds are “likely to resemble promissory notes backed by the nation’s central bank, with lenders remaining the custodian of the donor’s fund until the political parties are paid”. This will enable the donors to donate in a more transparent manner. It will greatly help in pushing India’s “cash-based” electoral funding system into a more transformed and transparent digital one. The announcement in the Union Budget 2017-18 mentioned that political parties can receive cash donations up to ₹2,000. The vast majority of contributions that the political parties receive is fundamentally anonymous in nature. The Electoral Bond is to clean up the existing opaque system of election funding in one of the world’s largest and populous democracies.

The Budget of 2017-18 has shown unusual desire to alleviate corruption plaguing Indian political system. Limiting cash donations and allowing donation through cheque and digital transfer to the political parties will not only support the government’s flagship digital India mission but also help in checking money entering the

political process through illegitimate sources. It is being argued that the government is garnering support in favour of proposed reform as a sequel to eliminate corruption and black money. The details about the proposed reforms are very stingy at the moment to make any judgment about it. In India there were electoral trusts but electoral bonds are new. Electoral trusts were introduced in January 2013 which envisaged transparency in how campaigns are funded.

It can be akin to “bail bond than a financial bond”. Possibly RBI will issue these bonds through designated commercial banks which donors will buy in order to donate to a particular political party and remain anonymous if it so desires. The political parties can redeem the same from the bank into their bank account within a stipulated period of time. A political party can have a single bank account. The government will know the sources of bond buyers because they have to buy through either cheque or digital mode. The existing mechanisms have failed in curbing entry of black money into the political process. Hence, possibly the proposed law can instill new energy to the nation’s fight against corruption.

Will it herald a significant transformation in Indian politics tarred by a negative image? The public imagination of party politics has gained a negative painting on its face. How this overture if implemented through desirable legislative actions transforms Indian polity is inexplicable at this juncture. How it will traverse in the complexity of Indian polity will determine its destiny. Hence, any judgment on the future of electoral bonds at the moment would be mere speculations, eulogizing and filled-expectations.

Prior to the present proposal of the government many committees and commissions have made recommendations to which governments did not pay any heed. The committees and Commission which have examined issues concerning electoral reforms are : The Goswami Committee on Electoral Reforms (1990); The Vohra Committee Report (1993); the Indrajit Gupta Committee on State Funding of Elections (1999); The National Commission to Review the Working of the Constitution (2001); Election Commission of India -Proposed Electoral Reforms (2004) and The Second Administrative Reforms Commission (2008). These committees and Commissions had recommended many substantive electoral reforms which were not translated into legislative actions and ignored by successive governments. The electoral reforms process is very slow and gradual

in India. Time has come when we must think about radical reforms which will deepen our democracy and eliminate crooks from entering Legislative Assemblies and Parliament. The urgent areas which deserve immediate attention of the present Government are the use of money power, strict provisions preventing criminals entering politics, bringing political parties under the Right to Information Act and mechanism to check paid news which influence elections.

The proposal is to encourage digital mode of donations both small and big. In most democracies the donors contribute to political parties through digital mode which is more transparent. Whatever amount that reaches the coffer of the political parties come from traceable sources. In a democracy like India more legal amendments are required to purify the political funding, check legitimization of black money and overuse of money in the electoral campaigns. The overuse of money power in the democratic process undermines the virtues of democracy. It is high time the government and political parties build consensus on these issues which otherwise will erode democratic virtues and create disillusionment among the citizens of the country. The political culture is dynamic and it is changing faster which structure beliefs, orientations, attitudes, political behaviour of the people towards the political system. The information revolution, globalization, and spreading literacy are bound to shape political behaviours of the younger generation. We live in a world of mediated politics. In this process newly emerging upwardly mobile, awaked and empowered individuals will yearn for easy entry into politics. They would want the existing structural challenges to be eliminated in the election campaigns for easy entry of honest, committed and visionary individuals who want to contribute towards the nation's development.

The money power in election campaigns is the antithesis of democracy. Hence, any step towards elimination of money power in election was an overdue in India. When money comes from unknown and untraceable sources the government mechanisms cannot control overuse of money in general elections and encourage resourceful to contest and win election. In this process honest individual and parties with clean money cannot contest and win any election. Free and fair election is the heart and soul of representative democracy. It is the only known legitimate means available through which citizens can elect their representatives. It is through elections that ordinary citizens express their will and elect the candidates and parties they believe will protect and promote their welfare. Honest candidates can

get elected only when elections are free and fair. This is to happen election commission must be autonomous and must possess enough authority to enforce laws strongly so as to ensure free and fair election. The democracies in developing countries have been facing manifold challenges to ensure free and fair elections. However, India is one of the developing countries which hold election periodically without much hassle. The democracy has got highly embedded in the Indian soil. Periodic elections at each levels of democracy have become common. If right persons are to be elected the election must be immaculate.

The use of money power has grown immensely in election campaigns which erodes level playing field among the candidates and parties. The resourceful parties and candidates tend to spectacularly dominate election campaigns and win as well. It is reducing the value of India's competitive political process.

#### **4. Understanding Political Funding**

In all democracies of the world political parties raise funds. Political parties spend billions across the world in pursuit of vote share maximization. Frivolous spending with newfangled ways rankle the parties and individuals with moderate access to resources in electoral fray. Electorates are growingly becoming disenchanted with the electoral process because political parties are engulfed by allegations of frolicsome spending in election. Undeniably, boisterous electoral campaigns in India accompany high expenditures. Political process must be wary about possible negative consequences it could usher in, if it remains unaddressed for long.

Currently, political parties are finding it hard to raise funds across the world even in the liberal capitalist countries like the UK and USA. The technological, legislative, and market changes have hit political fundraising hard across the globe. How the proposed overtures in India will check free flow of black money and allow continuous flow of legitimate resources into the coffer of political parties is a major challenge.

The public funded elections in India are difficult because of minuscule resources and infinite responsibilities upon the state. Without adequate and continuous flow of resources through legitimate roots, the political system will run dry which will give rise to gargantuan magnitude of problems. India is undergoing technological revolution and changes of epic proportions which are bound to

get reflected in various spheres of nation's life. This is how political processes across the globe are evolving. All enterprises, business, trade and investment are reinventing to function efficiently and remain profiteering. Affected by the tidal wave of change the political fund-raising methods must reinvent to motivate people to give money. However, in India corporate houses favour some kinds of public funded elections. Traditionally the main sources of income for political parties were coming through membership fees which have disappeared in India.

## **5. Regulating Political Funding**

The dominance of money power in legislative and parliamentary elections comes from unaccounted sources. India already has rules which regulate political financing but plethora of incongruities do not allow enough power to concerned authorities which otherwise can effectively check entry of unaccounted money into the political process. The Election Commission of India with plodding thoroughness can play a crucial role in curbing the role of money power in elections. Nevertheless it should have enough authority and power to act strongly. In politically pluralist countries like India, political parties are free to organize and compete for power. The study of elections and electoral behaviour in recent years has attracted a good deal of scholarly attention. Widespread election research has divulged many aspects of India's electoral process in the last couple of decades. In fact, election is the central place of popular election in the democratic process. In the present world, election is the basic institutional mechanism of political recruitment, consensus, legitimization, participation, mobilization and communication which are integral parts of democratic politics.

Election in every level of democratic set-up has become a regular ritual in Indian political process. It is in the last decades that considerable interest in purifying elections has gained momentum. The conduct of election campaigns is of major importance in discussions of how democracy ought to work and in understanding how democracy does work.

The political parties and candidates in order to influence voters increasingly rely upon the mass media, experts in modern media technology, and social sites. The mode of election campaigns has been witnessing great shifts. The political parties place themselves in the hands of an advertising agency which crafts the image of the political

party by newfangled advertising methods. In a surprising shift political parties are vying with each other to rope in advertising agencies to contest elections which were alien to them. The present shifts are to inviting experts in modern media techniques to help it influence voters. The elections in India are becoming the biggest propaganda campaigns. The campaign methods adopted by political parties gradually change. Understanding the way in which campaigns are conducted are of special significance in today's India because of manifold technological changes. The characteristic response of campaigners to change in electoral conditions and communication technology has not been able to abandon old techniques. Technological basis of nationwide campaigning is developing and has begun to alter the campaign practices. In consequence of these and related changes, election campaigns in India are no longer conducted primarily by face to face conversations between individuals personally known to each other, with candidates standing on behalf of a local interest or a party based upon a constituency rather than a national programme.

Campaigning has become impersonal no party contestant can hope to know a majority of their electorate. The inventions of many new forms of mass communication and the general increase in literacy have also made election campaigns much more widely publicized throughout the adult population. Systematic study of the changes can help us in uncovering how changes in election campaign are transpiring.

The former Prime Minister of India, Atal Bihari Bajpayee once said "every legislator starts his career with the lie of the false election returns he files". The upper limit of electoral expenditure set by the Election Commission is periodically upwardly revised. The cap set by the Election Commission is invariably violated and horrifyingly ineffective due to lack of powerful monitoring mechanisms. In every election political parties and candidates break rules to win elections. This derives them into the arms of dreaded criminals who have access to black money because better funded candidates fear/benefit against their rivals. The unprecedented dark sea of liquid assets, mostly untaxed cash, makes Indian electoral campaign the most expensive in the world, trailing just behind the USA.

The money mostly from untaxed sources pours into the coffers of parties due to loopholes and flimsy rules pretending to check black money in elections. According to Association for Democratic Reforms



findings 69 per cent of funds of political parties come from unknown sources. Indian political system does not deserve to be funded by the shadow economy alone. The EC has proposed an amendment and inserted a new section 29C into the RPA to make all funds of parties transparent.

More needed to be done to ensure a transparent political funding regime in India. The proposed law is to allow transparent money to be used by donors and donee. Cleansing political financing will cleanse the Indian economy in the long run. The proposed changes in the Budget which will be effective from 1st April 2018 could bring the political funding out of the shadows paving the way for a more transparent election regime. This will be achievable if some more laws are brought in to regularly monitor the issues of political financing in India. The urgent need to tackle poll finance in the world's largest democracy arises due to the growing clout of the rich. At present, the debate of political funding has been framed around the narratives of black money and anti-corruption measures.

The clear framework should be laid to empower the concerned agencies to probe funding of political parties. The concern is that if the sources of funding are not known the untaxed money will keep flowing into the electoral system. Disclosure of every donation or contribution sources big and small should be compulsorily verifiable. The country has not been able to evolve a more transparent political funding mechanism.

The more transparent methods of election funding will produce positive consequences in the political process of the country. The political parties in democracy should be open to public scrutiny of every sort. Hence, the laws should create enabling conditions for political parties to be more transparent. Mere force will not be effective because the parties will discover new ways to evade public scrutiny. However, the elections are affected by many other socio-cultural and political factors in multicultural societies like India (Devesh Kapur and Milan Vaishnav, 2018; Steven Wilkinson 2004).

The budgetary effort of the present government to curb black money in election campaigns is commendable in many ways. Myriad agencies have been raising issues of black money but political parties have been taking refuge under various provisions and decline to disclose sources of their income saying the law does not require them

to do so. The political parties can legitimately collect donations from legitimate sources.

The transparent electoral funding will generate ungrudging respect from the society towards the political parties which are being attributed to manifold negative narratives in society. The next substantive step should be to bring political parties under laws passed by themselves in the well of both the houses of parliament especially under the Right to Information Act. Rules are already there but invariably violated by parties.

## 6. Conclusion

The problem of opaque financing requires strong intervention. The present proposal is a significant step which if implemented with an iron-will can bring about transparency and much needed accountability in the electoral funding and check future production of black money. The ins and outs of the present law will be known only after it receives legal recognition through suitable legislative actions, laws. At present there is little doubt left about black money being in hand and globe with political parties which urgently needed to be checked in the interest of Indian political system, democracy and nation's development. The story of excessive use of money in election campaigns keeps oscillating in India. It should evoke genuine public actions to mollify this malady of Indian democracy. It will be a ludicrous and otiose exercise if the proposed law is not fully translated into real actions. It is high time the proposed law must not be let off due to paucity of political consensus otherwise the hopes will sadly and gradually fritter away.

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