

NOTES AND COMMENTS

FOSTERING QUID PRO QUO IN POLITICAL GRAFT WITH ELECTORAL BONDS IN INDIA: RAMIFICATIONS ON POLITICAL ACCOUNTABILITY AND THE DEMOCRATIC FRAMEWORK

Abstract

The electoral bonds scheme introduced in India in 2018 aimed to enhance transparency in political financing, essential for democratic functioning. However, critics argue these bonds enabled anonymous corporate donations, undermining democracy. The Supreme Court declared the scheme unconstitutional in 2024, ruling it violated voters' right to information and fostered *quid pro quo* arrangements. Following the court's directive, the State Bank of India provided complete electoral bond data to the Election Commission, which published it publicly (excluding donor bank details and KYC credentials). Attorney Prashant Bhushan revealed that at least 30 shell companies purchased bonds worth 143 crore. The scheme created information asymmetry, granting only the government access to donor identities while keeping opposition parties and citizens uninformed. This "carrot and stick" approach potentially allowed the ruling party to reward supporters or punish critics, compromising electoral integrity. This paper analyses how electoral bonds impacted political transparency, electoral system reliability, and fair elections in India, examining the broader implications for democratic governance.

I Introduction

"If you have two coats, give one away," he said. "Do the same with your food."

-Bible¹

ARE YOU familiar with this biblical verse? It appears that several prominent corporations surpassed expectations by making donations regardless of the fact that they are at the dearth of any.² Despite operating at a financial deficit, these firms were able to give several millions to political parties *via* electoral bonds.³ The analysis of the list of 200 largest corporate buyers of electoral bonds, ranked on the basis of aggregate value of total money spent on the purchase of bonds in 2018 to 2023, has shown that no less than 16 companies reported financial losses in three consecutive

1 Luke 3:11, Bible study tools, *available at*: <https://www.biblestudytools.com/luke/3-11.html#:~:text=Luke%203%3A11%20in%20Other%20Translations&text=11%20He%20a%20nswereth%20and%20saith,food%20is%20to%20do%20likewise.%22> (last visited Oct. 25, 2025).

2 "Electoral Bonds: The Art of Extracting Wealth from Loss-Making Firms" *The Reporters Collective* (Mar. 22, 2024), *available at*: <https://www.reporters-collective.in/trc/electoral-bonds-the-art-of-extracting-wealth-from-loss-making-firms> (last visited on Nov. 25, 2025).

3 *Ibid.*

financial years and still they made donations or contributions to political parties.⁴ The latest verdict of the Supreme Court has sparked controversy over electoral money in India.⁵ The crux of this ruling revolved around the contentious issue of unrestricted corporate financial support for political parties.⁶ The court's ruling invalidated the Electoral Bonds Scheme, 2018 (hereinafter referred to as EBS Scheme) that was implemented under the Finance Act, 2017.⁷ The EBS Scheme is the collective result of interconnected modifications made to the Income Tax Act 1961 (pertaining to deductions), Representation of Peoples Act, 1951 (pertaining to revenues), Reserve Bank of India Act, 1934 (permitting issuance), and the Companies Act, 2013 (delineating rules for disclosure).⁸

Free and fair elections are the bedrock of any nation with democracy. The ability of citizens to elect their representatives through a transparent and accountable process is crucial for the legitimacy and proper functioning of democratic institutions.⁹ However, this process can be compromised when there is a dearth of candour and fiscal responsibility in political financing, enabling undue influence and *quid pro quo* corruption.¹⁰ In India, concerns over the opaque nature of political funding and the potential for corporate entities to exert undue influence on policymaking led to the introduction of the electoral bonds scheme in 2018. The initiative is designed to enhance openness in political donations by enabling individuals and companies to acquire bonds from the SBI and contribute them to the political party of their preference. However, the scheme has instead enabled greater anonymity and lack of transparency in political funding, undermining core democratic norms established in our Constitution.¹¹

Introduction of electoral bonds in India has faced significant legal challenges due to the allegations that it violates the basic fundamental rights.¹²

4 *Ibid.*

5 Bhaskar Vishwajeet and Abhinav Shankarraman, "Electoral Bonds Deemed Unconstitutional: Granular Electoral Finance Reforms Needed?" *IndiaCorpLaw*, 2024, available at: <https://indiacorplaw.in/2024/02/electoral-bonds-deemed-unconstitutional-granular-electoral-finance-reforms-needed.html> (last visited on Nov. 20, 2025).

6 *Ibid.*

7 *Association of Democratic Reform v. Union of India*, (2024) INSC 113.

8 *Ibid.*

9 Vicki C. Jackson and Mark Tushnet, *Comparative Constitutional Law* (Foundation Press, 2nd edn., 2006).

10 OECD, "Financing Democracy: Funding of Political Parties and Election Campaigns and the Risk of Policy Capture" OECD Public Governance Reviews (2016).

11 Chakshu Roy, "Electoral Bonds, Transparency, and Democracy" 55 *Economic and Political Weekly* 13-15 (2020).

12 Ashish Ranjan, "The Constitutional Challenge to Electoral Bonds" 55 *Economic and Political Weekly* 19-21 (2020).

The Indian Constitution under Article 19(1)(a) of the Indian Constitution, guarantees the fundamental right to freedom of speech and expression as a cornerstone of a vibrant democracy.¹³ This right encompasses the liberty to acquire and articulate one's convictions, as well as engage in political discourse.¹⁴

During the six-year period under evaluation, the 31 political parties acquired a combined amount of Rs 16,437.635 crore in donations.¹⁵ The electoral bonds contributed Rs 9188.35991 crore (54.90%), the business sector contributed Rs 4614.53 crore (28.07%), and other sources contributed Rs 2634.74509 crore (16.03%).¹⁶

Jagdeep Chhokar, a petitioner of Association of Democratic Reforms, who is also its trustee and founder member, expressed that the data released subsequent to the Supreme Court ruling represents only a fraction of the whole picture which is “just the tip of the iceberg”. By allowing anonymous donations through electoral bonds, the scheme deprives citizens of the right to know the identities of individuals and corporations funding political parties, and the potential conflicts of interest or *quid pro quo* arrangements that may arise as a result.¹⁷ This lack of transparency hinders the ability of citizens to engage in meaningful political discourse and to hold their elected representatives accountable.¹⁸ The right to information is a vital component of the right to freedom of speech and expression, as well as the principles of transparency and accountability enshrined in the Constitution.¹⁹ The EBS, however, directly contravenes this right by shrouding political funding in secrecy.²⁰

II Electoral bonds and their operational mechanisms

During his 2017 Budget address, former Finance Minister Arun Jaitley declared the government's plan to implement an innovative way of financing elections that would set it apart from the current opaque system.²¹ This new approach with electoral bonds would prioritise openness in election finance, a notion that is often overlooked

13 The Constitution of India, art. 19, cl. 1(a).

14 *Union of India v. Association for Democratic Reforms* (2002) 5 SCC 294.

15 Ass'n for Democratic Reforms (ADR), “Analysis of Donations to Registered Recognised Political Parties (FY 2018–19 to 2023–24)” available at: <https://adrindia.org> (last visited Mar. 25, 2024).

16 Analysis of Donations to Registered Recognised Political Parties (2023), available at: https://adrindia.org/sites/default/files/Analysis_of_Donations_to_Registered_Recognised_Political_Parties_FY_2016-17_to_2021-22.pdf (last visited Nov. 25, 2025).

17 Ranjan, *supra* note 12.

18 *Ibid.*

19 The Constitution of India, art. 19, cl. 1(a).

20 Ranjan, *supra* note 12.

21 “Budget 2017-2018 Speech of Arun Jaitley”, available at: <https://www.indiabudget.gov.in/doc/bspeech/bs201718.pdf> (last visited on Oct. 25, 2025).

but highly valued.²² During the unveiling of the electoral bonds, Arun Jaitley emphasised the necessity of reforming the financial channels allocated to political parties.²³ The proposed change aims to eliminate the practice of monetary donations and to establish a system of transparent and lawful financial resources for supporting political parties in India.

According to Wikipedia “Electoral Bonds functioned like Promissory notes and interest-free banking tools.”²⁴ An electoral bond excludes any particulars about the individuals involved in the transaction, unlike a promissory note which includes the identities of the payer and payee. This ensures that the parties remain completely anonymous and discreet.²⁵ To contribute to political parties, individuals, associations, and corporations can contact the State Bank of India and buy time-limited bearer bonds in specific denominations during specific time periods throughout the year.²⁶ These bonds are tax-free and can be deposited into the authorised bank accounts of political parties.²⁷

One would think that what is the rationale for a political organisation requiring crores of money to participate in electoral polls? The basic objective of political parties in engaging in electoral campaigns is to secure victory and establish a governing body through fair and lawful electoral processes. They necessitate financial resources to engage in electoral campaigns and disseminate their philosophy.²⁸ Recently the proposal of contesting Lok Sabha polls by BJP President JP Nadda has been turned down by Union Minister Nirmala Sitharaman because according to her she lacks the financial resources necessary to engage in electoral campaigns.²⁹ If a Union minister, particularly one who has the finance ministry, lacks the financial resources to participate in elections, then one can wonder that what is the minimum amount a candidate must have to

22 *Ibid.*

23 “Electoral Bonds” *Wikipedia*, available at: https://en.wikipedia.org/wiki/Electoral_Bond (last visited on Nov. 27, 2025).

24 *Ibid.*

25 R. Sai Spandana, “Privacy v Transparency: The Electoral Bonds Story” *Supreme Court Observer* (Nov. 15, 2023), available at: <https://www.scobserver.in/journal/privacy-v-transparency-the-electoral-bonds-story/> (last visited on Oct. 27, 2025).

26 Milan Vaishnav, “Electoral Bonds: The Safeguards of Indian Democracy Are Crumbling” *Huff Post India* (Nov. 25, 2019), available at: <https://carnegieendowment.org/posts/2019/11/electoral-bonds-the-safeguards-of-indian-democracy-are-crumbling?lang=en> (last visited on Dec. 28, 2025).

27 *Ibid.*

28 *Supra* note 26.

29 Gulam Jeelani, “FM Nirmala Sitharaman Has No Money to Contest Lok Sabha Polls: Here’s How Much It Costs to Fight Elections in India” *Live Mint* (Mar. 29, 2024), available at: <https://www.livemint.com/politics/news/fm-nirmala-sitharaman-has-no-money-to-contest-lok-sabha-polls-heres-how-much-it-costs-to-fight-elections-in-india-11711622197912.html> (last visited on Oct. 28, 2025).

compete in an election in our country?³⁰ An expenditure limit has been established by the Election Commission of India and the ceiling for candidates in Lok Sabha constituencies is Rupees 95 lakhs, while for Assembly seats, it is 40 lakh.³¹ The organisation is required to provide compensation for its employees, members, transportation expenses, boarding accommodations, and other related costs. To ensure the utilisation of lawful finances and to prevent the involvement of unaccounted or illicit funds, the implementation of electoral bonds has been adopted as liquid cash funds are typically linked to unexplained funds.³² For instance, a person, a business organisation, or a undivided Hindu family seeking to contribute funds to a political party have the option to do so by means of electoral bonds. Individuals have the option to visit specific branches of the State Bank in order to get these electoral bonds. Customers have the option to make purchases in multiples of Rs One Thousand, Rs Ten Thousand, Rs One lakh, Rs Ten lakh, and Rs One crore.³³ There are no limitations or upper limits on the frequency or monetary worth of the acquisition of these bonds.³⁴ Consequently, any person or business organisation, can visit any authorised offices of the State Bank of India to buy electoral bonds multiple times and at any amount. Nevertheless, the acquisition of these bonds cannot be facilitated by the use of physical currency, as cash is commonly linked to unrecorded unlawful funds and illicitly obtained funds.³⁵

III Supreme Court ruling declaring bonds unconstitutional

The Court unanimously quashed the Union's 2018 Electoral Bond Scheme on 15 February 2024.³⁶ Chief Justice D.Y Chandrachud wrote the majority opinion jointly (with Justice B R Gavai, , Justice Manoj Misra and Justice J.B Pardiwala) and the concurring one written by Justice Sanjiv Khanna that make up the 232-page verdict.³⁷ The appellate court determined that the scheme contravened the constitutional

30 *Infra* note 34.

31 Sambasiva Rao M, "Electoral Commission Prescribes Maximum Limit on Election Expenses of Each Contesting Candidate" *The Hindu* (Mar. 10, 2024), *available at*: <https://www.thehindu.com/elections/andhra-pradesh-assembly/eci-prescribes-maximum-limit-on-election-expenses-of-each-contesting-candidate/article67932692.ece> (last visited on Oct. 28, 2025).

32 *Supra* note 26.

33 National Election Watch, "Electoral bonds and opacity in political funding" (2023), *available at*: https://adrindia.org/sites/default/files/Updated_Background_Note_Electoral_Bonds_October_2023.pdf (last visited on Nov. 28, 2025).

34 *Supra* note 26.

35 *Ibid.*

36 *Association of Democratic Reform v. Union of India*, (2024) INSC 113.

37 Vineet Bhalla, "Explained: Why the Supreme Court Struck Down the Electoral Bonds Scheme" *Scroll* (Feb. 16, 2024), *available at*: <https://scroll.in/article/1063790/explained-why-the-supreme-court-struck-down-the-electoral-bonds-scheme> (last visited on Nov. 21, 2025).

provision of Article 19(1)(a),³⁸ which safeguards the voters their right to information.³⁹ The court further mandated the immediate cessation of the issuance of electoral bonds. The State Bank of India was directed to furnish the Election Commission of India with details on the acquisition of electoral bonds acquired between April 12, 2019 and present day.⁴⁰ This will encompass information pertaining to the purchaser, as well as the political factions to which the electoral bonds were allocated. Moreover, the court has instructed the Election Commission of India to disseminate the data provided by the SBI on its official web page by March 13, 2024.⁴¹

The criteria of ‘double proportionality’ and ‘manifest arbitrariness’ were applied by the court in order to assess the legality of the modifications.⁴² It was determined that the modifications and subsequent system had adverse effects on the voters right to information, while also erroneously equating corporate and individual funding.⁴³ The judgement given by House of Lords regarding privacy introduces the concept of the double proportionality standard, which involves the utilisation of both the single proportionality test and the principle of reasonableness to effectively reconcile two basic rights that are in conflict with each other.⁴⁴ This criterion is employed to ascertain if a claim of private rights provides adequate justification for the infringement against basic rights. However, this principle may not be applicable in situations where two basic rights are in conflict and need a delicate equilibrium.⁴⁵

The legislative history of section 182⁴⁶ is the foundation of the judgment’s rationale and section 293⁴⁷ serves as the foundation for the present clause. The initial version of the 1956 Act did not include a comprehensive framework for the regulation of corporate financing of political parties. Section 293A⁴⁸ permitted corporations to engage in political donations, subject to a limit based on their ‘average net income’.⁴⁹

38 The Constitution of India, art. 19, cl. 1(a).

39 Aaratrika Bhaumik, “Why Did the Supreme Court Strike Down the Electoral Bonds Scheme? | Explained” *The Hindu* (Mar. 15, 2024), available at: <https://www.thehindu.com/news/national/why-did-the-supreme-court-strike-down-the-electoral-bonds-scheme-explained/article67848657.ece> (last visited on Mar. 21, 2024).

40 “Constitutionality of the Electoral Bond Scheme” *Supreme Court Observer* (Mar. 21, 2024), available at: <https://www.scobserver.in/cases/association-for-democratic-reforms-electoral-bonds-case-background/> (last visited on Mar. 25, 2024).

41 *Ibid.*

42 *Supra* note 5.

43 *Ibid.*

44 *Campbell v. Mirror Group Newspapers Ltd*, (2004) UKHL 22.

45 *Association for Democratic Reforms v. Union of India*, Writ Petition (C) No. 880 of 2017.

46 The Companies Act, 2013 (Act 18 of 2013), s. 182.

47 The Companies Act, 2013 (Act 18 of 2013), s. 293.

48 The Companies (Amendment) Act, 1960 (Act 65 of 1960), s. 293A.

49 *Supra* note 5.

Furthermore, the aforementioned rule imposed a mandatory provision in the financial report, necessitating the participating corporation to explicitly identify both the amount and the political organisation that received the funding.⁵⁰

The petitioners in the proceeding asserted that the provision for details on a political party's financing source was a highly valuable resource for voters in determining the fidelity of their representatives. Given the statistics indicating that business organisations accounted for 94.25% of the total electoral bonds acquired from 2018 to 2023, which amounts to 12,999 crores, it became crucial for the electorate to be aware of the origin of these bonds.⁵¹

Government lawyers, on the other hand, justified the secrecy mandate, asserting that it was crucial to eliminate illicit funds in political financing and that the scheme ensures the donor's entitlement to anonymity regarding their political membership.⁵²

There exists a robust legal tradition that grants priority to the right to access information pertaining to the candidates contesting in an electoral race. In the case in 2002, the Supreme Court observed that the act of voting by an uninformed or biased voter might have a significant impact on democracy.⁵³ The Union drew upon the ruling of the Supreme Court in its case in 2019, whereby the court acknowledged the entitlement to informational privacy and emphasised the need for a careful equilibrium between the rights of individuals and the legitimate concerns of the State.⁵⁴

Why Supreme Court scraped it

*Allowing blanket corporate political funding with section 182*⁵⁵

In 2017, the Companies Act was amended to permit unrestricted contributions from any firm, but still forbidding government companies from making political donations. The 2017 amendment to section 182,⁵⁶ which allowed firms to make unrestricted political contributions, was unanimously quashed by a bench of Chief Justice D Y Chandrachud. The bench deemed the amendment to be "manifestly arbitrary". According to Chief Justice Chandrachud, the primary objective of section 182 is to mitigate corruption in the realm of election funding. The primary objective of prohibiting government enterprises from making donations is to deter their

50 *Ibid.*

51 *Supra* note 26.

52 *Ibid.*

53 *Union of India v. Association*, (2002) 5 SCC 294.

54 *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

55 "Supreme Court Says Electoral Bonds 'Unconstitutional'" *Live Mint* (Feb. 15, 2024), available at: <https://www.livemint.com/news/india/supreme-court-says-electoral-bonds-unconstitutional-here-are-5-reasons-why-11707976394940.html> (last visited on Nov. 31, 2025).

56 The Companies Act, 2013 (Act 18 of 2013), s. 182.

involvement in political activities through the provision of financial support to political parties.⁵⁷ This amendment allows for unrestricted corporate donations, grants corporations unrestricted authority in the election system. This action contravenes the fundamental tenet of conducting elections that are both free and fair, as well as the notion of political parity encapsulated represented by the concept of ‘one person one vote’. The constitutionality of the amendment to section 182,⁵⁸ which permits comprehensive corporate political fundraising, is being called into question. The apex court has declared that the electoral bonds system is unconstitutional and should be struck down.⁵⁹

Disclosure of funding of political parties to voters

In this ruling, the Supreme Court have established that citizens possess the entitlement to hold the government accountable.⁶⁰ The ruling unequivocally stated that any information that fosters democratic engagement must be accessible to everyone.⁶¹ This is the reason why voters are provided with personal information about political candidates. While the revelation of such material may infringe upon the right to privacy of contenders and their immediate family members, it is imperative to reveal it as it advances the public interest.⁶² One crucial component of the extension of the right to information is its broad scope, extending beyond state affairs to encompass information that is essential for fostering participatory democracy. Understanding the financial support provided to political parties is crucial for making informed electoral decisions.⁶³

Failing to differentiate between profitable and unprofitable companies

Another reason the court struck down corporate obscured political party funding was because the 2017 amendment which allows for anonymous contributions through electoral bonds, did not discriminate between loss-making and profit-making companies.⁶⁴ Before section 182 was amended, companies may only donate a specified proportion of net aggregate profit.⁶⁵ The clause separated loss-making and profit-making enterprises for political donations for good cause. The court reasoned that

57 *Ibid.*

58 The Companies Act, 2013 (Act 18 of 2013), s. 182.

59 *Ibid.*

60 *Association of Democratic Reform v. Union of India*, (2024) INSC 113.

61 *Ibid.*

62 *Supra* note 40.

63 *Ibid.*

64 Tanu Priya Gupta and Khushi Sharma, “Unveiling the Veil: The Apex Court’s Rejection of Electoral Bonds Within Framework of Corporate Governance and Companies Act” *Bar and Bench* (Feb. 26, 2024), available at: <https://www.barandbench.com/law-firms/view-point/unveiling-the-veil-apex-court-electoral-bonds-corporate-governance-companies-act> (last visited on Nov. 2, 2025).

65 *Supra* note 58.

loss-making corporations are more likely to make political donations for a quid pro quo than for income tax savings.

Right to privacy does not extend to political contribution

While recognising the significance of monetary donations to political parties as a mean of informational privacy for contributors, the court argued that the inclusion of definitive confidentiality clauses failed to adequately reconcile the right to information for voters who want to make informed decisions with the need to maintain the anonymity to any political ties. The entitlement to confidentiality about political connections does not encompass the ability to make donations that might be utilised to exert influence over policy. The bench stated that the ruling is limited to donations given to the authentic manner of political endorsement.⁶⁶

Fostering quid pro quo in political graft

The Latin word “*quid pro quo*” stands at the core of legal language, representing the fundamental principles of reciprocity and trade. In legal terminology, it denotes the act of providing something in exchange for someone else’s action or favour. This concept, which is essential in several areas of law, becomes more important in the setting of political transactions, when the possibility of unfair influence is a significant concern.⁶⁷ As per the directives of the apex court, the State Bank of India furnished the Election Commission of India with comprehensive details on the electoral bond programme, comprising the unique numbers.⁶⁸ Every electoral bond possesses a distinct number that establishes a connection between the bond buyer and the party that redeemed it.⁶⁹

A report by prepared by Association of Democratic Reforms (ADR) monitored the use of electoral bonds from 2018 to 2023. The study revealed that the aggregate worth of electoral bonds acquired over this timeframe amounted to Rs. 13,792 crore.⁷⁰ It is observed that around 94 percent of the aggregate value of bonds acquired pertained to the denomination of Rs. 1 crore, suggesting that these bonds are being procured by business entities rather than individuals.⁷¹

⁶⁶ *Association of Democratic Reform v. Union of India*, (2024) INSC 113.

⁶⁷ Sudhanshu Juyal, “Unveiling Legal Dynamics: Quid Pro Quo and its Nexus” LinkedIn (Nov. 27, 2025), available at: <https://www.linkedin.com/pulse/unveiling-legal-dynamics-quid-pro-quo-exploring-its-nexus-juyal-jxuac> (last visited on Mar. 25, 2024).

⁶⁸ “Electoral Bonds Full Data | Complete List of Donors, Parties and Unique Numbers” *The Hindu* (Mar. 22, 2024), available at: <https://www.thehindu.com/data/electoral-bond-full-data-complete-list-of-donors-parties-and-unique-numbers/article67976056.ece> (last visited on Nov. 25, 2025).

⁶⁹ *Ibid.*

⁷⁰ Carnegie India, “Analyzing the Benefits of Electoral Bonds | John Rawls on a Fair Society” available at: <https://carnegieindia.org/2023/11/17/analyzing-benefits-of-electoral-bonds-%7C-john-rawls-on-fair-society-pub-91044> (last visited on Nov. 25, 2025).

⁷¹ *Ibid.*

According to the statistics provided by the Election Commission and the ADR, it shows that the governing Bharatiya Janata Party (BJP) obtained around 55% of the total donation, which is equivalent to approximately Rs 6,565 crore.⁷²

Using electoral bonds, Future Gaming and Hotel Services Pvt Ltd which operates in Coimbatore gave 1,368 Cr to political organisations, according to publicly accessible statistics.⁷³ The election panel reported that 1,300 corporations bought electoral bonds totalling more than 12,000 Cr over a period of five years, with Future Gaming being the sole organisation to surpass 1,000 Cr.⁷⁴

Within a span of three months after the Income Tax (I-T) and Enforcement Directorate (ED) conducted searches on November, 2023, and December, 2021, respectively, Future Gaming provided a sum of Rs 60 crore to the Bharatiya Janata Party (BJP).⁷⁵ Aurobindo Pharma donated Rs 5 crore to the BJP within a span of three months of the Enforcement Directorate raid on November 10, 2022.⁷⁶

Megha Engineering, another business, acquired electoral bonds valued at 1,200 crore and has received commendation from Union Roadways Minister Nitin Gadkari for their contribution. The acquisition of electoral bonds by this corporation, along with the subsequent raids conducted by the ED, indicate a potentially significant influence that these raids may have had on the company.⁷⁷ Megha Engineering was subjected to a raid by the income-tax department in October 2019.⁷⁸ The substantial expenditure it made on purchasing electoral bonds subsequently, as well as the number of contracts

72 "Electoral Bonds Worth Rs 16,000 Cr Sold Since Its Inception; BJP Gets the Lion's Share" *Business Today* (Feb. 15, 2024), available at: <https://www.businesstoday.in/india/story/electoral-bonds-worth-rs-16000-cr-sold-since-its-inception-bjp-gets-the-lions-share-417640-2024-02-15> (last visited on Nov. 27, 2025).

73 Deepak Upadhyay, "Electoral Bonds Data: Future Gaming Donated 150 Crore to YSR Congress, 50 Crore to BJP" *Live Mint* (Mar. 21, 2024), available at: <https://www.livemint.com/news/india/electoral-bonds-data-lottery-king-santiago-martin-future-gaming-ysr-congress-bjp-trinamool-congress-political-donation-11711032066225.html> (last visited on Nov. 28, 2025).

74 *Ibid.*

75 "41 Companies Facing Probe by Central Agencies Gave Rs 2,471 Crore to BJP Through Electoral Bonds: Petitioners" *Economic Times* (Oct. 22, 2025), available at: <https://economictimes.indiatimes.com/news/politics-and-nation/41-companies-facing-probe-by-central-agencies-gave-rs-2471-crore-to-bjp-through-electoral-bonds-petitioners/articleshow/108715232.cms?from=mdr> (last visited on Nov. 28, 2025).

76 *Ibid.*

77 S.N. Sahu, "Electoral Bonds and Quid Pro Quo: What Kind of Ram Rajya Did Modi Talk About?" *News Click* (Nov. 16, 2025), available at: <https://www.newslick.in/electoral-bonds-quid-pro-quo-what-kind-ram-rajya-did-modi-talk-about> (last visited on Nov. 29, 2025).

78 Munish Chandra Pandey, "Megha Infrastructure Transferred Rs 100 Crore to AICC: Sources" *India Today* (Oct. 16, 2019), available at: <https://www.indiatoday.in/india/story/megha-infrastructure-transferred-rs-100-crore-to-aicc-sources-1609772-2019-10-16> (last visited on Nov. 29, 2025).

it secured from the central political regime and the Bharat Rashtra Samithi government in Telangana, has generated suspicion.⁷⁹

The State Bank of India electoral bonds programme is regarded as one of the most significant fraudulent activities in the history of Independent India according to senior advocate Prashant Bhushan.⁸⁰

He said that the plan was prevalent in four distinct forms of corruption- “The first is chanda do, dhanda lo (give donation and get business), the second is hafta-vasuli (extortion), the third is theka lo, rishwat do (bag contract, give bribe), and farzi company,”⁸¹

Bhushan also claimed that “41 companies which faced raids by the ED, Central Bureau of Investigation (CBI) and the Income Tax Department gave Rs 2,471 crore to the BJP, and Rs 1,698 crore of it was given after these raids and Rs 121 crore was given in the three months immediately after the raids.”⁸²

IV Comparisons to political donation rules in other democracies

Political donations are an authorised means of engaging in a country’s political affairs and an essential source of funding for electoral campaigns and political parties. However, many countries have implemented limitations on these kinds of contributions.⁸³ Several nations have restrictions on the maximum amount that individuals and organisations can contribute to political candidates and parties. Many countries have implemented bans on donations from specific sorts of contributors, including foreign persons and companies, public institutions, and corporations.⁸⁴ The International Covenant on Civil and Political Rights⁸⁵ (Article 25) and the Council of Europe’s 2003 Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns (Article 1) are the legal frameworks that recognise donations as a legitimate means for the public to engage in politics.⁸⁶

79 *Infra* note 84.

80 "41 Companies Facing Probe by Central Agencies Gave Rs 2,471 Crore to BJP Through Electoral Bonds: Petitioners" *Daily Excelsior* (Mar. 23, 2024), available at: <https://www.dailyexcelsior.com/41-companies-facing-probe-by-central-agencies-gave-rs-2471-crore-to-bjp-through-electoral-bonds-petitioners/> (last visited on Nov. 29, 2025).

81 *Ibid.*

82 *Ibid.*

83 Guilherme France, “Limits on Political Donations: Global Practices and Its Effectiveness on Political Integrity and Equality” 2 *Transparency International* (2023), available at: https://knowledgehub.transparency.org/assets/uploads/helpdesk/Limits-on-political-donations_global-practice-and-effectiveness_final.pdf (last visited on Nov. 30, 2025).

84 *Ibid.*

85 The International Covenant on Civil and Political Rights, art. 25.

86 *Infra* note 87.

United States

The Federal Election Campaign Act of 1971 (FECA) in the United States imposed restrictions on fundraising for campaigns by implementing limitations on donations made by individuals and Political Action Committees (hereinafter referred as PACs).⁸⁷ PACs are established by companies, labour unions, membership organisations, or various other organisations and have the ability to actively contribute funds to candidates' campaigns, subject to a specific threshold.⁸⁸ In the significant *US Supreme Court* case⁸⁹, it was established that outsider groups, often known as super PACs, were permitted to receive unrestricted payments from people and corporations, provided that these contributions were not made straight away to the political contenders. The decision in wherein the *US Supreme Court* case⁹⁰ ruled that election expenditure by corporations is a considered as a type of speech that is protected under the First Amendment to the United States Constitution, further consolidated the influence of super PACs. This ruling established that corporations and unions are not subject to limitations on their ability to allocate funds towards supporting political parties and candidates in electoral processes.⁹¹ Consequently, super PACs has the capacity to amass boundless sums of money from businesses, unions, individuals, and other collectives, with the aim of endorsing or opposing politicians. Future Forward, the largest super PAC affiliated with the Democratic Party, has expressed its intention to allocate a substantial sum of \$250 million only towards advertising efforts aimed at bolstering President Biden's re-election campaign.⁹²

Is there transparency in political donations in United States? Yes, to some extent. If you make a donation more than \$50 directly to a candidate's campaign, it necessitates that candidates campaign to declare the contributor's identify and the value of the gift to the Federal Election Commission (FEC).⁹³ If you also contribute to a Super PAC, you will be subject to reporting obligations. The murky domain refers to the realm of undisclosed financial resources, where charitable organisation are able to use funds without revealing the identities of their contributors. During the 2020

87 Elmer B. Staats, "Impact of the Federal Election Campaign Act of 1971" 1976 *Annals of the American Academy of Political and Social Science*, available at: https://econpapers.repec.org/article/saeannname/v_3a425_3ay_3a1976_3ai_3a1_3ap_3a98-113.htm (last visited on Mar. 30, 2024) .

88 *Ibid.*

89 *Speechnon.Org v. FEC*, (D.C. Cir. 2010).

90 *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010).

91 "Citizens United v. FEC", *Wikipedia*, available at: https://en.wikipedia.org/wiki/Citizens_United_v._FEC (last visited on Nov. 30, 2025).

92 *Supra* note at 5.

93 Federal Election Commission, "Guides - Federal Election Commission, United States of America, 1974" available at: <https://www.fec.gov/help-candidates-and-committees/guides/> (last visited on Nov. 2, 2025).

election, it is approximated that untraceable and undisclosed funds, also known as dark money, constituted more than one billion dollars.⁹⁴

Are there any restrictions on the money that may be donated? Yes.

According to the guidelines provided by the FEC on its web page, a donor is allowed to donate \$3300 to a campaign of a candidate committee, \$5000 annually to an unrelated PAC, \$10000 to the state, district, and local committees of a political party, \$41,300 to the national committee of a party, as well as an extra \$123,900 to the national committee.⁹⁵ Nevertheless, Super PACs are an anomaly as they have the ability to take limitless contributions.

United Kingdom

In the United Kingdom, individuals have the freedom to make financial contributions to political parties, individuals, or other organisations. Furthermore, there is no limit on the quantity that an individual can provide, but donors may be required to register in certain circumstances. As stated on the website of the UK's Electoral Commission, political organisation are required to disclose revenue generation above £7,500 to the main group or £1,500 to accounting units, which are divisions of a political organisation that do not have their finances controlled directly by the party's headquarters. Unincorporated associations must file paperwork and report their financial activities in the event they contribute over £25,000 to a political organisation, person, or other entity within annually.⁹⁶

Regularly, the Commission releases an extensive spreadsheet detailing the financial support and credits that have been taken by each political party. The specifics encompass information such as the donor's name, the payment amount, and whether it originated from public financing. Both individual Members of Parliament and Members of the Scottish Parliament, Welsh Assembly, and Northern Ireland Assembly are required to disclose any gifts and loans they receive.⁹⁷ Political parties often adhere to these norms. The public has widespread access to expenditure statistics.⁹⁸

94 Prashant Jha, "Transparent but Compromised: How the American Political Finance System Works" *Hindustan Times* (Feb. 16, 2024), available at: <https://www.hindustantimes.com/india-news/transparent-but-compromised-how-the-american-political-finance-system-works-101708022292015.html> (last visited on Oct. 2, 2025).

95 *Infra* note 96.

96 V. Nivedita, "Electoral Bond Controversy: How Are Democracies Around the World Funding Their Parties?" *The Hindu Business Line* (Dec. 6, 2021), available at: <https://www.thehindubusinessline.com/news/electoral-bond-controversy-how-are-democracies-around-the-world-funding-their-parties/article30613938.ece> (last visited on Dec. 3, 2025).

97 *Ibid.*

98 *Supra* note 10.

Australia

In Australia, the threshold for disclosing donations is variable and determined by the Consumer Price index (CPI).⁹⁹ The disclosure threshold for the period spanning from July 1, 2018 to June 30, 2019 was set at AUD 13,800.¹⁰⁰ If a political party receives a gift that exceeds the threshold, they are required to provide the Australian Electoral Commission (AEC) with the donor's personal details, along with the exact amount donated. Every political party, together with its respective state and territory divisions, as well as their affiliated entities, are required to submit their yearly returns to the AEC.¹⁰¹ Within it, individuals are required to divulge a range of particulars such as the sums received, overall values of income, expenditures, and outstanding obligations, among others. Additionally, they are required to adhere to the regulations established by each individual state in Australia. Additionally, independent candidates are required to submit comparable reports to the commission. Campaigners and affiliated organisations are required to register with the Australian Electoral Commission (AEC).¹⁰²

Similarly, countries like France, Spain, and Brazil have banned or heavily restricted corporate donations to political parties and campaigns, citing concerns over the potential for *quid pro quo* corruption and the erosion of democratic principles.¹⁰³

V Comparative Analysis: Political donation regimes in the US, UK, Australia, and India

A comparative assessment of political donation regimes in the United States, the United Kingdom, Australia, and India reveals significant divergences in donor transparency, contribution limits, corporate influence, and disclosure mechanisms.¹⁰⁴ While all four jurisdictions recognise political donations as a legitimate form of democratic participation, the regulatory balance between political financing and electoral accountability varies considerably.

Transparency and disclosure

A key point of divergence concerns the degree of donor transparency. In the United States, although the Federal Election Campaign Act of 1971 (FECA) mandates

99 Parliament of Australia, "Election funding and disclosure in Australian jurisdictions: A quick guide" (Feb. 16, 2022), *available at*: https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/pubs/rp/rp2122/Quick_Guides/ElectionFundingStates (last visited on Dec. 3, 2025).

100 Australian Electoral Commission, "Disclosure threshold" (June 22, 2023), *available at*: https://www.aec.gov.au/parties_and_representatives/public_funding/threshold.htm (last visited on Nov. 4, 2025).

101 *Ibid.*

102 *Ibid.*

103 Ranjan, *supra* note 12.

104 Int'l Covenant on Civil and Political Rights art. 25, Dec. 16, 1966, 999 U.N.T.S. 171.

disclosure of donors contributing above prescribed thresholds to candidates and political committees,¹⁰⁵ the emergence of Super Political Action Committees (Super PACs) has substantially diluted transparency.¹⁰⁶ The United States Supreme Court's decision in *Citizens United v. Federal Election Commission* treated independent political expenditure by corporations as protected speech under the First Amendment,¹⁰⁷ thereby permitting unlimited funding through Super PACs, provided such expenditure remains formally independent of candidates.¹⁰⁸ As a result, large volumes of political funding are channelled through non-profit entities without disclosure, commonly referred to as "dark money."¹⁰⁹

In contrast, the United Kingdom follows a strong disclosure-centric model. Political parties and affiliated accounting units are required to report donations above statutory thresholds to the Electoral Commission, and detailed information regarding donors, amounts, and sources is made publicly accessible.¹¹⁰ Members of Parliament and members of devolved legislatures are also subject to strict disclosure obligations for gifts and loans received.¹¹¹ This framework enables voters to meaningfully scrutinise the financial backing of political actors, reinforcing democratic accountability.

Australia adopts a threshold-based disclosure regime, under which donations exceeding a CPI-indexed limit must be disclosed to the Australian Electoral Commission (AEC).¹¹² Political parties, their state and territory branches, affiliated entities, and independent candidates are required to submit annual financial returns detailing income, expenditure, and liabilities.¹¹³ While this system ensures institutional oversight, concerns persist that relatively high disclosure thresholds permit significant donations to escape public scrutiny.¹¹⁴

India's Electoral Bond Scheme marked a fundamental departure from these disclosure norms. Unlike the UK and Australia, and in certain respects even more opaque than the United States model, the scheme institutionalised donor anonymity by exempting political parties from revealing the identity of bond purchasers.¹¹⁵ Consequently, neither

105 Federal Election Campaign Act of 1971, 52 U.S.C., s. 30101–30146.

106 Richard Briffault, "Super PACs", 96 *Minn. L. Rev.* 1644 (2012).

107 *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310, 365–66 (2010).

108 *SpeechNow.org v. Fed. Election Comm'n*, 599 F.3d 686 (D.C. Cir. 2010).

109 See Ciara Torres-Spelliscy, "Dark Money as a Political Sovereignty Problem" 28 *King's L.J.* 239 (2017).

110 Political Parties, Elections and Referendums Act 2000, c. 41 (UK).

111 U.K. Electoral Comm'n, Guidance on Donations and Loans (2023).

112 Commonwealth Electoral Act 1918 (Cth) ss. 287–314 (Austl.).

113 Austl. Electoral Comm'n, Financial Disclosure Guide for Political Parties (2024).

114 See Graeme Orr, "The Currency of Democracy: Campaign Finance Law in Australia" 26 *Syd. L. Rev.* 1 (2004).

115 Electoral Bond Scheme, 2018, Gazette of India, Jan. 2, 2018.

the electorate nor oversight bodies could ascertain the source of political funding, undermining transparency as a democratic safeguard.¹¹⁶

Limits on donations and corporate influence

The regulatory treatment of donation limits and corporate participation also varies significantly. In the United States, direct contributions to candidates and party committees are subject to strict statutory caps,¹¹⁷ yet unlimited independent expenditure through Super PACs allows corporations and wealthy individuals to exert disproportionate influence over electoral outcomes.¹¹⁸

The United Kingdom imposes no upper limit on individual donations, but compensates for this permissiveness through stringent disclosure requirements and an absolute prohibition on foreign donations.¹¹⁹ Australia similarly regulates political finance primarily through disclosure rather than absolute caps, relying on transparency to deter undue influence.¹²⁰

India, prior to the EBS, imposed restrictions on corporate political funding under the Companies Act, 2013, including profit-linked caps and disclosure obligations.¹²¹ However, legislative amendments accompanying the scheme removed these safeguards, enabling unlimited and anonymous corporate donations.¹²² In comparative terms, India thus shifted towards one of the most permissive regimes for corporate political financing without adopting the transparency safeguards prevalent in other democracies.

Democratic accountability and comparative implications

From a comparative perspective, the United Kingdom and Australia emphasise public disclosure as the principal mechanism for safeguarding electoral integrity, while the United States tolerates a degree of opacity in the name of free speech, albeit within a formal reporting framework.¹²³ India's EBS, however, constituted an outlier, combining unlimited corporate donations with complete donor anonymity.¹²⁴

Unlike the United States, where disclosure requirements formally persist, or the United Kingdom and Australia, where public access to donor information is integral to the regulatory framework, India's model insulated both donors and recipient parties from

116 *Association for Democratic Reforms v. Union of India*, Writ Petition (C) No. 880 of 2017.

117 Fed. Election Comm'n, *Contribution Limits for 2023–2024* (2024).

118 *Citizens United*, 558 U.S. at 365.

119 Political Parties, Elections and Referendums Act 2000, c. 41, §§ 54–56 (UK).

120 Commonwealth Electoral Act 1918 (Cth) (Austl.).

121 Companies Act, 2013, S. 182 (India) (prior to amendment).

122 Finance Act, 2017, SS. 135–137 (India).

123 See OECD, "Financing Democracy: Funding of Political Parties and Election Campaigns" (2016).

124 *Association for Democratic Reforms v. Union of India*, Writ Petition (C) No. 880 of 2017.

public accountability.¹²⁵ This comparative deficiency strengthens the conclusion that the EBS failed to conform to established democratic standards governing political finance and heightened the risk of *quid pro quo* corruption.¹²⁶

VI Conclusion

The EBS poses a basic dilemma to the constitutional framework of the Indian democratic accountability and electoral integrity, as it was functioning before judicial review. Although political financing is an essential part of electoral democracy, the validity of political financing rests on the suitability of political financing with transparency, political opportunity equality and right to electoral information. The scheme, by both institutionalising that the identity of the donors remain hidden, and eliminating the mechanisms in place before, to provide a check and balance between encouraging political participation and ensuring that political power does not become concentrated in the hands of politicians wielding undisclosed financial resources. The discussion that has been conducted in this paper shows that political funding opacity is not a procedural weakness but a structural weakness that has sweeping democratic implications. Practice in other constitutional democracies demonstrates that despite the existence of high-value political contributions, strong disclosure regimes would act as an essential measure to prevent undue influence, corruption and policy capture. Conversely, the EBS shielded political fundings against social controls consequently undermining institutional controls as well as the ability of citizens to vote intelligently. This kind of insulation dangerously legitimises *quid pro quo* deals and it is a factor that creates an unbalanced playing field with regard to politics, which is not in line with constitutional promises of political equality. More so, the obscurity of concentrated financial resources in elections are more threatening to the strength of democracy. Democratic erosion in the contemporary world does not usually take the form of an abrupt institutional breakdown, but rather through gradual corruption of the electoral process, the repression of opposition, and the concentration of the state power by established political and economic elites. Ensuring political funding transparency, as such, functions as a preventative constitutional tool—as a tool that defends civil liberties, opposition presence and democratic institution representative nature. The intelligent and alert electorate continues to be the key to a proper functioning of electoral democracy. The civic knowledge of the electoral processes, political funding and regulatory system of political activities boosts democratic engagement and reduces the chances of election manipulations, fraud and violence. The democratic legitimacy of elections is not simply based on voting periodically, but on the terms on which the electoral competition is carried out, which, in any case, should emphasise transparency, responsibility, and impartiality more than financial secrecy.

125 *Ibid.*

126 *Ibid.*

To address these challenges in the EBS and to develop an election funding system that is characterised by transparency and equality, several proposed alternatives have been presented here-

- i. It is imperative for political parties that receive electoral bond donations to provide a comprehensive report on the total amount received during the specified fiscal year. This report should include pertinent information regarding the contributors, the bond amount, and the credit obtained. *i.e.*, Donor anonymity must be eradicated .
- ii. Implementing stricter regulations and undertaking comprehensive audits to prevent the inappropriate use of electoral bonds for political advantage.
- iii. Encouraging public awareness and engagement in electoral financing issues to foster a more informed and vigilant voting population.
- iv. Political parties should be subject to explicit penalties, in addition to the loss of tax advantages, in the event of any failure to adhere to the laws for the release of information.
- v. The Election Commission of India (ECI) should periodically remove political parties that are inactive, do not participate in elections, and continue to accept donations through electoral bonds. This measure is necessary to prevent these parties from benefiting from any such schemes.
- vi. It should be mandatory for all National and Regional political parties to furnish comprehensive details on the cash acquired through political donations. The RTI should provide comprehensive information on all donors for public examination.
- vii. The examination of financial documents provided by parties is required to be carried out on a yearly basis by an entity that has received approval from both the Comptroller and Auditor General (CAG) the Election Commission.
- viii. It is crucial to strengthen the enforcement and oversight mechanisms related to political financing in India. This could involve empowering independent bodies, with the necessary resources and authority to monitor and investigate potential violations of campaign finance laws.

Overall, the current research makes its contribution to the overall discussion on the topic of democratic integrity and corruption control by proving that transparency of political financing is a substantive constitutional requirement and not a discretionary regulatory option. Placing the EBS in India into a comparative democratic framework and constitutional analysis, the paper highlights that, to enhance electoral accountability, the foundation of the system should be on the public disclosure, institutional accountability, and informed citizen engagement. Maintaining democratic governance

cannot be achieved by merely having formal electoral procedures, it must also be achieved through unstopping adherence to the tenets of openness, equality and accountability which give democracy its form and substance. It is only in such reforms that India would be able to maintain its electoral system in the state of being free, fair and strong enough to endure the changing democracies.

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