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# Electoral Bonds in India: Legal and Constitutional Perspectives

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**Abstract**

This paper critically examines the Electoral Bond Scheme (EBS) introduced through the Finance Act, 2017, situating it within the broader constitutional framework of electoral transparency and democratic accountability in India. It traces the historical evolution of political funding regulation, highlighting a gradual shift from prohibition to regulated transparency prior to 2017, and contrasts this with the opacity institutionalized by the EBS. The scheme's architecture—facilitating anonymous corporate donations through bearer instruments—fundamentally altered disclosure norms, raising concerns regarding the voter's "Right to Know" under Article 19(1)(a) and the principle of free and fair elections.

The paper analyses the constitutional challenges to the scheme, focusing on violations of Articles 14, 19, and procedural impropriety under the Money Bill route. It further evaluates the Supreme Court's 2024 judgment in *Association for Democratic Reforms v. Union of India*, which invalidated the scheme using the doctrine of double proportionality, prioritizing democratic transparency over donor anonymity. Empirical data released post-judgment reveals patterns of regulatory capture, corporate influence, and potential quid pro quo arrangements, thereby substantiating concerns regarding legalized opacity in political finance.

By comparing international models and proposing reforms such as a National Electoral Fund, state funding, and real-time disclosure mechanisms, the paper argues for a structural reorientation of political finance. It concludes that transparency is indispensable to preserving the integrity of India's electoral democracy and restoring the primacy of informed voter choice.

**Keywords:** Electoral Bonds, Political Finance, Right to Know, Transparency, Constitutional Law

## 1. Introduction

The survival of a representative democracy is closely tied to the financial systems that support its elections. In the Indian Constitution, the integrity of elections is not just a law; it is also part of the

Constitution's "Basic Structure," which is necessary to keep the republic's democratic nature. But in the past, the intersection of high finance and mass politics has led to a systemic crisis marked by a lack of transparency, the spread of illegal capital ("black money"), and the possibility of corporate donors taking control of policy. The Finance Act of 2017[1] brought about the Electoral Bond Scheme (EBS), which was a turning point in the fight for political funding in India. It changed the rules for political funding in a big way.

The Department of Economic Affairs announced the plan on January 2, 2018, and the government said it was a way to clean up the political funding system.[2] The government said that the plan would get rid of cash, which is the usual way for black money to get into elections, by requiring donations to go through banking channels using a "bearer banking instrument." But this system created a strange kind of "transparency." The banking regulator and, by extension, the government could see the flow of funds, but the voters, the Election Commission of India (ECI), and opposition parties could not. This institutionalized anonymity sparked a heated constitutional and legal debate over the fragile equilibrium between a donor's right to privacy and the citizen's fundamental "Right to Know" as enshrined in Article 19(1)(a) of the Constitution[3].

To comprehend the seriousness of the Electoral Bond controversy, it is essential to first address the systemic issues that have afflicted Indian political finance. It costs a lot of money to hold elections in India. The government spent ₹3,426 crore on the 2014 Lok Sabha elections alone.[4] This does not include the huge amounts that political parties and individual candidates spent to get people to vote, set up rallies, and run media campaigns. Under Section 77 of the Representation of the People Act, 1951, candidates are only allowed to spend a certain amount of money[5]. Political parties, on the other hand, can spend as much as they want. This difference created a gap that made it easy for a lot of money to come in without being accounted for.

For decades, the main source of this money was "black money,"[6] which is cash made by cheating on taxes or being corrupt. This money was often given to political parties in exchange for future

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[1] The Finance Act, 2017.

[2] Ministry of Finance (Department of Economic Affairs), Notification No. S.O. 29(E) (January 2, 2018).

[3] The Constitution of India, art. 19(1)(a).

[4] "Govt. spent Rs. 3,426 cr on Lok Sabha polls' *The Hindu* (New Delhi, 13 May 2014).

[5] The Representation of the People Act, 1951, s. 77.

[6] Law Commission of India, "Report No 255: Electoral Reforms" (March 2015) ch 2, para 2.14.

regulatory leniency or policy favors. This made a "parallel economy" of political finance, where the link between business and politics was everywhere but hard to see. Before 2017, the rules tried to fix this by requiring people to say where their money came from if they gave more than ₹20,000.[7] This created a "sunshine" threshold. The Electoral Bond Scheme got rid of this limit and replaced it with a system where donations of any size could be made without being made public, as long as they went through the State Bank of India (SBI).

The legal challenge to the Electoral Bond Scheme didn't come out of nowhere; it was based on a long history of public interest litigation that made the voter's rights the most important thing. In the early 2000s, civil society groups like the Association for Democratic Reforms (ADR) and the People's Union for Civil Liberties (PUCL) led a revolution in electoral transparency in the courts.

The Supreme Court of India had to decide in the important case of Union of India v. Association for Democratic Reforms (2002)[8] whether voters had the right to know about the candidates running for office. The Court said yes, saying that the "right to information" is a natural extension of the freedom of speech and expression protected by Article 19(1)(a)[9]. The Court said that voting is a way to express yourself, and for that expression to mean something, it has to be informed. A voter who casts a ballot without knowing a candidate's criminal history, educational background, or financial assets is not fully exercising their democratic right.

The legislature responded to this judicial activism by changing the Representation of the People Act (RPA) to effectively nullify the judgment. They added Section 33B[10], which said that candidates did not have to share any information that the Act did not specifically require. The Supreme Court quickly threw out this legislative pushback in People's Union for Civil Liberties (PUCL) v. Union of India (2003)[11]. The Court said again in this decision that the voter's basic right to know cannot be limited by law. Justice P.V. Reddi agreed with the decision and said that the right to vote is now a constitutional right, not just a legal privilege. He said, "the right to vote has its roots in the Constitution."

[7] Representation of the People Act 1951, s 29C (pre-2017 amendment).
[8] *Union of India v. Association for Democratic Reforms* (2002) 5 SCC 294.
[9] The Constitution of India, art. 19(1)(a).
[10] The Representation of People Act, s. 33B.
[11] *People's Union for Civil Liberties (PUCL) v. Union of India* (2003) 4 SCC 399.

These two decisions set a constitutional standard that cannot be changed: openness is the foundation of electoral democracy. The Court said that the "little man" in the voting booth needs to have the information he needs to make a choice that is good for the public. The Electoral Bond Scheme went against this legal logic by making it hard to find out how much money political parties had before the election. Legal logic says that if a voter has the right to know a candidate's criminal history to keep politics from becoming criminal, they also have the right to know a party's financial backers to keep politics from becoming capitalized.

The 2024 Supreme Court decision on Electoral Bonds was not just about a financial instrument; it was the end of a 20-year fight to figure out what information is allowed in a democracy. It put the state's case for "informational privacy" of donors against the "participatory rights" of voters. The outcome of this conflict will have major effects on how accountable political parties are and how sacred the "social contract" is between the elected and the voters.

## 2. Evolution of Regulation: The Pre-2017 Framework

The rules that govern political finance in India have gone back and forth between banning it, regulating it, and making it easier to do. To understand how different the Electoral Bond Scheme was, it's important to follow this change. The framework that existed before 2017 was based on the idea that corporate money is a part of modern politics, but it needs to be controlled so that it doesn't drown out the voice of the people.

### 2.1 The Time of Prohibition and the Growth of Black Money (1969–1985)

In the early years of the Indian republic, the Companies Act of 1956[12] allowed businesses to give money to political parties as long as they were open about it and there were limits.[13] But in 1969, there was a huge change because people were afraid that big business would have too much power over government policy. The Companies (Amendment) Act of 1969[14] made it illegal for businesses

[12] The Companies Act, 1956.
[13] The Companies Act, 1956, s. 293A; Eswaran Sridharan and Milan Vaishnav, 'Political Finance in a Developing Democracy: The Case of India' in Devesh Kapur and Milan Vaishnav (eds), *Costs of Democracy: Political Finance in India* (Oxford University Press 2018) 23 *available at:* https://milanvaishnav.com/wp-content/uploads/2018/07/costs-of-democracy-proofs-sridharan-chapter.pdf (last visited on 31 January 2026).
[14] The Companies (Amendment) Act, 1969.

to give money to political parties. Section 293A[15] was changed so that both the company and its officers could go to jail for up to three years if they made a contribution.

The 1969 ban was meant to separate politics from business, but in practice, it had terrible results. Political parties, which had lost their legal sources of funding but were still facing rising costs for elections, did not stop spending. Instead, they turned to the underground economy. During this time, people became more dependent on "black money," or cash transactions that left no trace. Because donations were against the law, they couldn't be made public, and Indian political finance became a culture of secrecy.[16] The ban showed that banning something without other ways to get money only pushes the money into the shadows.

### 2.2 Reintroduction and Regulation (1985–2013)

The Rajiv Gandhi government passed the Companies (Amendment) Act, 1985[17], which lifted the ban on corporate donations because they realized that the prohibitionist approach wasn't working. But this reintroduction came with strict rules to make sure that everything was clear and accountable:

**1. Profitability Cap**: A company could only give money if it had been in business for three years, and the amount it gave could not be more than 5% of its average net profits over the last three years. This was very important because it made sure that only real, money-making businesses could contribute. This stopped the creation of "shell companies" that were only set up to move money.

**2. Board Authorization**: The Board of Directors had to pass a resolution for contributions, which made sure that the company was accountable to itself.

**3. Disclosure Requirement**: Businesses had to show the total amount given and the name of the person who received it in their profit and loss accounts.

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[15] The Companies Act, 1956, s. 293A.

[16] Milan Vaishnav and Eswaran Sridharan, 'The Resilience of Briefcase Politics' (2015) Carnegie Endowment for International Peace *available at:* https://carnegieendowment.org/posts/2015/02/the-resilience-of-briefcase-politics?lang=en (last visited on 31 January 2026).

[17] The Companies (Amendment) Act, 1985.

The Election and Other Related Laws (Amendment) Act, 2003[18], added Sections 29B[19] and 29C[20] to the Representation of the People Act (RPA), 1951, which made this framework even better. Section 29B made it legal for political parties to accept money from anyone, including businesses, but not government businesses. Section 29C made it necessary for parties to report to the ECI all donors who gave more than ₹20,000. If you didn't turn in this report, you lost your tax breaks under the Income Tax Act.

At the same time, the Companies Act of 2013[21] kept the spirit of the changes made in 1985 but raised the contribution limit to 7.5% of average net profits. Section 182 of the 2013 Act made it clear that companies had to say "the name of the party" to which they gave the money. This system included a "sunshine clause": companies could give money, but they had to make their political ties public.

During this time, several high-level committees looked into the issue of campaign finance and always pushed for more openness.

The Indrajit Gupta Committee (1998)[22] on state funding of elections said that "full justification" existed for state funding to level the playing field for parties that don't have much money. But it suggested that this kind of funding should be "in kind" (like fuel, media time, or voter slips) instead of cash, and that parties should have to follow strict rules about democracy and money management.[23] The committee said that state funding shouldn't just add to the black money that already exists; it should replace it.

The 170th Report (1999) by the Law Commission of India[24] said that total state funding was "desirable," but only if parties weren't allowed to get money from anywhere else. The 255th Report

[18] The Election and Other Related Laws (Amendment) Act, 2003.
[19] The Representation of the People Act (RPA), 1951, s. 29B.
[20] The Representation of the People Act (RPA), 1951, s. 29C.
[21] The Companies Act, 2013.
[22] Indrajit Gupta Committee, "Report on State Funding of Elections" (1998) pt IV *available at:* https://legislative.gov.in/document/indra-jit-gupta-committee-report-on-state-funding-of-elections/ (last visited on 31 January 2026).
[23] Law Commission of India, "Report No 255: Electoral Reforms" (2015) 154 *available at:* https://lawcommissionofindia.nic.in/report_no255/ (last visited on 31 January 2026).
[24] Law Commission of India, "170th Report" (1999).

(2015)[25] stressed the importance of openness and suggested that the Comptroller and Auditor General (CAG) choose a qualified chartered accountant from a panel to audit the accounts of political parties. It was very against secrecy and pointed out that the "20,000 rupee limit" on disclosure was being broken, with parties saying that most of their money came from small, anonymous cash gifts just below this limit.

So, before 2017, everyone agreed that the system wasn't perfect and had a "petty cash" loophole that let money leak out, but the law seemed to be going in the direction of more disclosure.[26] The Finance Act of 2017[27] changed this path by taking apart the protections that had been built up over the course of three decades.

## 3. Electoral Bond Scheme Framework

The introduction of the Electoral Bond Scheme was not just one piece of legislation; it was a complicated set of changes to several laws that were made through the Finance Act, 2017. The government called the introduction a "Money Bill" so that it could be passed without the Rajya Sabha (Upper House) having to agree, since the ruling coalition did not have a majority there.[28] This was a procedural move that was itself challenged in court.

The Finance Act of 2017 changed four important laws to make it possible for people to give money without giving their names. These changes worked together to make a completely closed system of secrecy.

In the past, Section 31 of the RBI Act[29] said that only the Reserve Bank of India or the Central Government could issue "bearer notes," which are promissory notes that can be paid to anyone on demand. This monopoly was necessary to stop a second currency from being made. A new clause (3) was added to Section 31, giving the Central Government the power to let "any scheduled bank"

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[25] Law Commission of India, "255th Report" (2015).

[26] Arghya Sengupta and others, 'Money and Elections: A Review of the Law and Practice of Political Finance' (Vidhi Centre for Legal Policy 2018) 11 https://vidhilegalpolicy.in/wp-content/uploads/2020/06/Final_Money_and_Elections.pdf accessed 31 January 2026.

[27] *Supra* note 1.

[28] The Finance Act, 2017 (introduced as Money Bill No 36 of 2017); Pratik Datta and others, 'Money Bill: A Constitutional Fraud?' (2018) 12(1) *NUJS Law Review* 1 *available at:* http://nujslawreview.org/wp-content/uploads/2018/10/12-1-Datta-et-al.pdf (last visited on 31 January 2026).

[29] The Reserve Bank of India Act, 1934, s. 31.

issue electoral bonds. This changed the way money worked in a big way.

For a specific purpose, a commercial bank (SBI) could issue a bearer instrument that worked like cash.[30] Before 2017, Section 29C[31] required that all donations over ₹20,000 be made public. The Finance Act added a clause that said any contributions made through "Electoral Bonds" did not have to be reported. Now, a political party could get hundreds of crores of rupees in bonds without having to tell the Election Commission of India who gave them. This made political funding reports look like a huge "black box."

The change to Section 182 of the Companies Act 2013[32] may have been the worst for the rules of corporate governance and fair elections. The 7.5% limit on average net profits was taken away. This meant that a business could give a political party all of its profits or even more than its profits.[33]

**1. Removal of Profitability Criteria**: The rule that a company had to be in business for three years and make money was weakened, which allowed for the creation of "shell companies." These are companies that don't do any business and are only set up to send money to political parties.

**2. Removal of Recipient Disclosure**: The rule that said the name of the recipient party had to be included in the Profit & Loss account was taken away. Companies only had to say how much money they gave to "political parties" as a whole. This made it impossible for shareholders to see how their company leaned politically.

The Income Tax Act of 1961 (Section 13A)[34] was also changed. The amendment said that political parties didn't have to keep track of the names and addresses of people who gave them money through Electoral Bonds. This made the tax system match the RPA amendment, which meant that

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[30] The Reserve Bank of India Act, 1934, s. 31(3); Electoral Bond Scheme 2018, cl 2(a) *available at:* https://www.scobserver.in/wp-content/uploads/2021/10/Electoral-Bonds-Scheme-2018.pdf (last visited on 31 January 2026).

[31] The Representation of People Act, s. 29C.

[32] The Companies Act, 2013, s. 182.

[33] M.P. Ram Mohan and Nobin Thomas, 'Corporate Governance and Political Funding in India' (2021) IIMA Working Paper No. 2021-02-01, 12 *available at:* https://web.iima.ac.in/assets/snippets/workingpaperpdf/5849887012021-02-01.pdf (last visited on 31 January 2026).

[34] The Income Tax Act, 1961, s. 13A.

the Income Tax Department could not ask for donor information in order to avoid paying taxes.

On January 2, 2018, the Ministry of Finance told people about how the plan would work. A "bond issued in the nature of promissory note which is a bearer banking instrument and does not carry the name of the buyer" was what an Electoral Bond was. It was like a currency note that the bearer (the political party) could cash in at any time. Under Section 29A of the RPA, 1951[35], only political parties that got at least 1% of the votes cast in the last General Election to the House of the People or the Legislative Assembly were able to get bonds.

This limit basically kept new or very small parties out. The only official issuer was the State Bank of India (SBI). You could buy bonds for ₹1,000, ₹10,000, ₹1,00,000, ₹10,00,000, and ₹1,00,00,000. In January, April, July, and October, people could buy bonds for 10 days at a time. For years with General Elections, there was an extra 30-day period. The bonds were only good for 15 days after they were issued. If a political party didn't put the bond into the right account within this time frame, the money would not go to the party but would instead go to the Prime Minister's Relief Fund. This short time frame made it necessary for the donor and the party to work closely together, which weakens the claim that the recipient could not know who gave the money.

The government strongly defended the plan as a way to stop black money. The government said that requiring people to buy bonds with checks or digital transfers kept the "white money" trail in the banking system.[36] Arun Jaitley, the Finance Minister, said that donors were afraid of being punished by rival parties if their names were made public, so anonymity was needed to protect the "right to political affiliation."[37]

But before the plan was announced, the Reserve Bank of India (RBI) and the Election Commission of India (ECI) had very strong objections.[38] The Reserve Bank of India (RBI) said that issuing bearer bonds would make people less trusting of Indian currency and make it easier for criminals

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[35] The Representation of the People Act (RPA), 1951, s. 29A.

[36] *Association for Democratic Reforms v. Union of India* [2024] INSC 113, [16] *available at:* https://main.sci.gov.in/supremecourt/2017/27935/27935_2017_1_1501_50573_Judgement_15-Feb-2024.pdf (last visited on 31 January 2026).

[37] Arun Jaitley, 'Why Electoral Bonds are Necessary' (*Press Information Bureau*, 7 January 2018) https://www.pib.gov.in/newsite/PrintRelease.aspx?relid=175452 accessed 31 January 2026;

[38] Nitin Sethi, 'Electoral Bonds: Seeking Secretive Funds, Modi Govt Overruled RBI' *HuffPost India* (18 November 2019) *available at:* https://www.reporters-collective.in/stories/electoral-bonds-seeking-secretive-funds-modi-govt-overruled-rbi (last visited on 31 January 2026).

to launder money by removing the identity from the money once it became a bond.[39] The ECI told the Supreme Court in a sworn statement that the plan was a "retrograde step" that would make it impossible to keep an eye on illegal foreign funding or corporate capture.[40] These objections showed that the plan was fundamentally flawed because it tried to "clean" the money by "hiding" the source, which confused transparency with honesty.

## 4. Constitutional Challenges

The Association for Democratic Reforms (ADR), Common Cause, and the Communist Party of India (Marxist) all went to the Supreme Court to argue that the Electoral Bond Scheme was not constitutional. The people who filed the petition said that the plan destroyed the democratic structure of the country. The challenge was based on three things: the violation of the Right to Information (Article 19(1)(a))[41], the Right to Equality (Article 14)[42], and the Money Bill's procedural illegality (Article 110)[43].

The main point of the constitutional fight was how to read Article 19(1)(a). The petitioners heavily relied on the ADR (2002)[44] and PUCL (2003)[45] cases, saying that the "Right to Know" about political funding is a key part of free speech and expression. Money in politics is not just a resource; it also shows what policies you like and how much power you might have. A voter has the right to know that drug price regulations are relaxed when a pharmaceutical company gives a lot of money to a ruling party. The petitioners contended that by concealing the funding source, the state was denying voters the essential information required to evaluate whether the government was operating in the public interest or in the private interest of its donors. Democracy is more than just voting; it means making an informed choice. Voting in the dark, without knowing who the

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[39] *Letter from Reserve Bank of India to Ministry of Finance* (30 January 2017), cited in *Association for Democratic Reforms v Union of India* [2024] INSC 113.
[40] Counter Affidavit filed by the Election Commission of India in *Association for Democratic Reforms v. Union of India* (WP (Civil) No 880 of 2017) (25 March 2019) para 12 *available at:* https://adrindia.org/sites/default/files/ECI_Counter_Affidavit_Electoral_Bonds.pdf (last visited on 31 January 2026).
[41] *Supra* note 3.
[42] he Constitution of India, art. 14.
[43] he Constitution of India, art. 14.
[44] *Supra* note 8.
[45] *Supra* note 11.

candidate is loyal to, is not a real exercise of sovereignty.[46]

The Union of India fought back by using the Right to Privacy, which was declared a basic right in the Justice K.S. Puttaswamy v. Union of India (2017)[47] case. The Attorney General said that donors have a right to "informational privacy" about their political beliefs. He said that past experience showed that rival parties took advantage of donors when their contributions were made public. So, anonymity was a necessary protection to get businesses to take part in the democratic process in a fair way. The state said that the Court had to weigh the voter's right under Article 19(1)(a) against the donor's right to privacy under Article 21. They said that the Electoral Bond Scheme was a "proportional" measure that protected privacy while also helping the government reach its goal of stopping black money.

The challenge under Article 14 (Right to Equality) was based on the fact that the changes were made without any reason and made things unfair. The people who filed the petition were against getting rid of the 7.5% profit cap and the need to be profitable for three years. They said this was "clearly arbitrary." The law didn't see that a loss-making shell company and a profit-making person have different levels of power to change policy when it treated them the same. The removal of the profit cap broke the connection between giving money to charity and making money. If a company gives more than it makes, that's a sign that it's doing business with someone else (quid pro quo) and is probably doing so with illegal money or to clean money. The petitioners said that this made corruption legal, which goes against the Basic Structure's idea of "free and fair elections."

The plan made a big difference between the ruling party and the opposition. The central government (and by extension, the ruling party) could theoretically get the unique alphanumeric codes or KYC data from the State Bank of India, which is a public sector bank, to find out who is giving money to the opposition. But the opposition parties and the general public couldn't get in. People said that this "selective anonymity" was unfair because it gave the ruling party a way to stop funding for its opponents while protecting its own donors.

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[46] *Kanwar Lal Gupta v. Amar Nath Chawla* (1975) 3 SCC 646, [10]-[11] *available at:* https://indiankanoon.org/doc/1356066/ (last visited on 31 January 2026).

[47] J*ustice K.S. Puttaswamy v. Union of India* (2017) 10 SCC 1.

One big problem with the process was getting the changes passed as a "Money Bill." Article 110(1)[48] says that a Money Bill is one that "only" has rules about taxes, the care of the Consolidated Fund of India, and so on. Bills like these don't need the Rajya Sabha's approval, which means they can get around the upper house, where the ruling party might be criticized or blocked. The petitioners said that changes to the Representation of the People Act (which governs elections) and the Companies Act (which governs business behavior) had nothing to do with the Consolidated Fund. Passing them as a Money Bill was a "fraud on the constitution" meant to get around the Rajya Sabha's job of talking things over.

The Supreme Court had already ruled in a split decision (K.S. Puttaswamy v. Union of India, 2018)[49] that the Aadhaar Act was a Money Bill. Justice Chandrachud disagreed and called it a "debasement of the democratic structure." This debate came back to life with the Electoral Bonds case. But to make sure there was a quick decision before the 2024 elections, the Constitution Bench in the Electoral Bonds case sent the Article 110 issue to a larger seven-judge bench while deciding the scheme's validity on substantive grounds (Article 19 and 14). This strategic split let the Court throw out the plan without getting stuck on the complicated procedural issue.

## 5. Supreme Court Judgment 2024: The Proportionality Analysis

On February 15, 2024, the five judges of the Constitution Bench, led by Chief Justice D.Y. Chandrachud and Justices Sanjiv Khanna, B.R. Gavai, J.B. Pardiwala, and Manoj Misra, all agreed on the decision in Association for Democratic Reforms v. Union of India. The ruling is a major step forward in global constitutional law about political finance because it clearly puts the right of citizens to know above the right of corporate donors to privacy. The Court not only struck down the Electoral Bond Scheme (EBS) by putting it through the strict "Double Proportionality" test, but it also reaffirmed the importance of the voter in a democracy.

### 5.1 The Doctrine of Double Proportionality

The Court used the "Double Proportionality" standard to settle the basic disagreement between the

[48] The Constitution of India, art. 110(1).

[49] J*ustice K.S. Puttaswamy v. Union of India* (2017) 10 SCC 1.

Voter's Right to Know (Article 19(1)(a))[50] and the Donor's Right to Privacy (Article 21)[51]. This test is stricter than the usual rationality review. It requires the state to show that the measure is not only appropriate and necessary, but also fair in how it affects different rights.

The analysis commenced with the determination of a Legitimate Goal. The Court agreed with the government's argument that "curbing black money" is a valid goal for the state. However, it completely disagreed with the government's second point, which was that "protecting donor privacy" for businesses is a valid goal in and of itself when weighed against democratic transparency. Chief Justice Chandrachud made a difference between the privacy of a small donor, who might be harassed because of their political beliefs, and the privacy of a corporate donor. The Court ruled that corporate donations are basically transactions to change public policy, so hiding them doesn't serve any real constitutional purpose.

In the Suitability analysis, the Court looked at whether the Electoral Bond Scheme was a reasonable way to reach the goal of stopping black money. The Bench thought the plan was lacking. The plan made people give money through banks, but it didn't stop people from using cash in other parts of campaigning. The Court also said that "selective anonymity" doesn't stop black money; it just moves it through a route that the government approves of. The Court noted that the plan made it so that the bank (and, by extension, the government) knew who the donor was but the public did not. This created an information gap that helped the ruling party instead of getting rid of illegal money.

The plan ultimately failed because it didn't meet the need for the least restrictive means. The Court said that the state didn't show that the EBS's full anonymity was the least restrictive way to stop black money. The Bench said that other ways, like Electoral Trusts or donations made by checks with disclosure caps, already let people give "clean money" without losing transparency. Instead of putting a blanket ban on information for amounts as high as ₹100 crore, the government could have found a middle ground by setting a higher limit on disclosure (for example, ₹20,000 or ₹1 lakh). People thought this "absolute concealment" was too much and not needed. The Court decided in the last Balancing exercise that the harm to the voter's right to know was

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[50] *Supra* note 3.
[51] The Constitution of India, art. 21.

much worse than the benefits of donor privacy. Justice Chandrachud said, "Knowing how political parties get their money is important for making a good voting choice." The Court said that the plan gave corporate influence too much power, making the voter's voice less important.

### 5.2 Breaking Article 14: The "Manifest Arbitrariness" Doctrine

The Court didn't just do the proportionality test; it also gave the amendments to Section 182 of the Companies Act, 2013[52] a harsh review and struck them down as violating Article 14. The 2017 change got rid of the limit on corporate donations (which used to be 7.5% of net profits) and the rule that companies had to say which political parties they gave money to. The Court said this was "clearly arbitrary" for two reasons.

First, the change didn't make a clear difference between companies that make money and companies that lose money. The law made it legal for companies that were losing money to give as much as they wanted. This led to the creation of shell companies whose only purpose was to move black money into the political system. This went against the rule of non-arbitrariness by treating two different groups, real businesses and fake businesses, as if they were the same. Second, the Court said that treating corporate donors the same as individual citizens is wrong in principle. The amount of money a corporation gives and the reasons for giving it have a much bigger effect on politics than the amount of money an individual gives. The amendment removed the profit cap, which meant that a company could give all of its money to a political party, making the company a political subsidiary. The Court ruled that this allowed "unrestrained corporate influence," which goes against the idea of free and fair elections.

### 5.3 Justice Khanna's Concurrence: The "Rational Nexus" Test

Justice Sanjiv Khanna agreed with the majority's decision, but he used a slightly different "standard proportionality" test that put a lot of emphasis on the "Rational Nexus" between the means and the goal. He stressed that for a law to be valid, the measure taken (anonymity) must be logically linked to the goal (stopping black money).

Justice Khanna tore apart the government's argument by saying that anonymity actually helps black

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[52] *Supra* note 32.

money instead of stopping it. He said that the plan allowed for "trading of bonds," which meant that a compliant entity could give a bond to another entity, making it hard to trace. He also said that the "Right to Know" is very important for voters to find out about quid pro quo deals. A voter needs to know that a company got a government contract soon after giving a lot of money to the government in order to judge the government's honesty. By hiding this link, the scheme cut off the logical connection between the voter and their ability to make an informed choice. So, the plan didn't pass the rational nexus test, which means it was unconstitutional even under a standard review.

### 5.4 The Enforcement Saga: A Court's Look at "Data Silos"

The ruling didn't end with the scheme being thrown out. There was also a contentious enforcement phase that showed how the Court protects its own decisions. The Court gave the State Bank of India (SBI) strict orders that had to be followed right away. They had to stop issuing bonds right away and send the Election Commission of India (ECI) a list of all the bonds they had sold since April 12, 2019, by March 6, 2024.

On March 4, 2024, just two days before the deadline, the SBI filed a miscellaneous application asking for an extension until June 30, 2024. This effectively pushed the disclosure back to after the General Elections. The bank said that the information was kept in two separate "silos" (one for buyers and one for redeemers) to keep it secret, and that "decoding" or matching them would need a complicated physical verification process that involved more than 22,000 packets. The Supreme Court turned down the SBI's request on March 11, 2024, with a harsh warning.

The Bench said that the Court had only asked for "disclosure" of the data that was already there, not a "matching" exercise. The judges asked why the SBI needed months to open its own files and said that in a digital banking environment, the claim that data was not accessible was not true. The SBI was told by the Court to make the data public by the end of business on March 12, 2024. In addition, the Court ordered the SBI to reveal the unique "alphanumeric code" that is hidden on each bond in a later order on March 18, 2024. This code was the "smoking gun" that would let the public connect a certain donor to a certain recipient, something the SBI had said at first was hard to do. This strong judicial intervention made sure that the institutional mandate for transparency was not broken.

## 6. Empirical Impact: The Data Reveals

The Supreme Court told the Election Commission of India (ECI) to release the Electoral Bond data in March 2024. This confirmed the petitioners' constitutional worries. The data, which covered the time from April 2019 to January 2024, lifted the curtain on banking secrecy and showed that corporate pragmatism, regulatory arbitrage, and a clear transactional bias, not ideological differences, shaped the funding landscape. The dataset not only reveals the funding of politics but also illustrates a pattern of "legalized corruption," wherein the timing of donations is unsettlingly associated with regulatory measures and contract allocations.

### 6.1 The "Incumbency Premium": Funding Skew and Centralization

The most immediate trend visible in the data is the massive disparity in funding, heavily favoring the party in power at the center. This confirms the "Incumbency Premium" hypothesis—that corporate capital flows towards the locus of power to secure policy stability or favor.

Table 1: Funding Received by Major Parties (April 2019 - Jan 2024)

| **Political Party** | **Approx. Amount Received (₹ Crores)** | **% of Total Funds** |
|---|---|---|
| Bharatiya Janata Party (BJP) | ₹8,251.8 Cr | ~47.46% |
| Indian National Congress (INC) | ₹1,952.5 Cr | ~11.23% |
| Trinamool Congress (AITC) | ₹1,717.5 Cr | ~9.88% |
| Bharat Rashtra Samithi (BRS) | ₹1,214.7 Cr | ~6.98% |
| Biju Janata Dal (BJD) | ₹944.5 Cr | ~5.43% |

| Dravida Munnetra Kazhagam (DMK) | ₹656.5 Cr | ~3.77% |
|---|---|---|
| Other Parties | ~₹2,652.5 Cr | ~15.25% |
| TOTAL | ~₹17,390 Cr | 100% |

Source: Data compiled by Association for Democratic Reforms (ADR) from ECI disclosures[53]

It was expected that the BJP would get almost half of all the money because it had a majority in Parliament. However, the data shows a more complex "Regulatory Rent" pattern. The Trinamool Congress in West Bengal, the BRS in Telangana, and the Biju Janata Dal in Odisha are all regional parties that got more money than they should have based on how many people they had in the country. For example, the BJD, which only works in Odisha, got almost ₹944 crore, which is a lot of money for a state-level party.

This "per-seat" funding efficiency suggests that corporate donors were not only paying for national policy, but also "paying dues" to state governments that control important local resources like land, mining leases, and environmental clearances. The flow of funds follows the "permit raj" geography of India, not its ideological map. This shows that the scheme worked to let state governments make money from their regulatory power.

### 6.2 The "Bond-Raid-Donation" Nexus: Extortion in the System?

The forensic audit's most damning finding is that there is a time link between raids by investigative agencies and bond purchases. Civil society groups and media groups found at least 14 big companies that bought bonds soon after the Enforcement Directorate (ED), Central Bureau of Investigation (CBI), or Income Tax (IT) Department took action against them. Critics have called

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[53] a*vailable at:* https://myneta.info/electoral_bonds/parties_highest_to_lowest.php

this kind of coercion "Extortion" or "Protection Money."

One of the biggest donors to the scheme was Future Gaming & Hotel Services, which is run by Santiago Martin. They gave ₹1,368 crore, making them the biggest donor. The company works in the lottery business, which is a "sin industry" that relies heavily on state regulation and is always being watched for money laundering. The forensic timeline shows that the ED took ₹119 crore of the company's assets in July 2019. The agency started new raids on the Tamil Nadu company on April 2, 2022. Incredibly, the company bought bonds worth ₹100 crore just five days after these raids, on April 7, 2022. Because of how close in time they are, it's very likely that the donation was a "pay-to-survive" mechanic and not a voluntary political contribution.

The data also shows that Future Gaming gave a lot of money to rival parties like the DMK and TMC. This suggests that the payments were really just a "license fee" to run lotteries in states where they are legal, no matter what the ruling party's ideology is.

The pharmaceutical industry is another troubling part of this connection, where donations seem to be connected to a lack of regulation when it comes to drug quality. In October 2021, the Income Tax department raided the Hetero Group in Hyderabad and found what they say was unreported income of ₹550 crore. By April 2022, the company had bought ₹40 crore worth of bonds. Even more worrying is that further investigation shows that at least seven pharmaceutical donors, including Hetero and Torrent Pharma, received regulatory notices for "substandard drugs" during the donation period. These drugs included Remdesivir samples that failed stability tests. This makes it possible that political finance acted as a shield against punishment, putting public health at risk by letting companies "buy" their way out of regulation.

### 6.3 The "Kickback" Mechanism: Project Awards and Post-Tender Donations

The second type of kickback is the post-contractual kickback, in which bonds are seen as a "commission" for getting big infrastructure contracts. This makes the "Theka Lo, Chanda Do" (Take the Contract, Give the Donation) model official. The second-largest donor, Megha Engineering & Infrastructures Ltd (MEIL), gave ₹966 crore, which shows this most clearly.

There is a clear link between MEIL's bond purchases and big project wins. The company was the main contractor for the huge Kaleshwaram Lift Irrigation Project in Telangana and gave a lot of

money to the ruling BRS, even though the Comptroller and Auditor General (CAG) raised serious concerns about the project's high costs and engineering problems. In the same way, the central government gave MEIL the ₹4,500 crore Zojila Tunnel project in October 2020. After that, ECI data shows that the ruling party at the Center has been getting donations all the time.

Infrastructure giants work on thin margins, so a donation of nearly ₹1,000 crore doesn't make sense unless it is included in the project's cost. Retail donors, on the other hand, give small amounts. This means that taxpayers ultimately paid for these donations by paying more for tenders, which is a cycle of diverting public resources.

### 6.4 The "Shell Company" Phenomenon: Using Loss-Making Companies to Clean Money

The Finance Act 2017 changed Section 182 of the Companies Act to get rid of the limit on donations that said they could only be 7.5% of a company's average net profits. It also got rid of the need to list the name of the recipient in the Profit & Loss account. This change in the law made it legal to set up shell companies just to move dirty money, which happened with Qwik Supply Chain Pvt Ltd. This not-so-well-known group became the third-largest donor by buying bonds worth ₹410 crore. However, filings with the Ministry of Corporate Affairs (MCA) showed that the company only made ₹21.72 crore in net profit in the year before it gave away a lot of money.

A real business can't give away almost 20 times its yearly profit. This mathematically proves that Qwik Supply Chain was acting as a "conduit" or "pass-through" entity for a larger parent conglomerate—forensic links point to the Reliance Group, though this is officially denied—to channel funds without attaching its brand name to the donation. This proves what the Supreme Court was worried about: that the scheme made it easier to launder money and hid the "true donor" from the voter.

### 6.5 Sectoral Analysis: The "Rent-Seeking" Economy

A more detailed breakdown of the sectors supports the "quid pro quo" story by showing that the donor list is not a good representation of the Indian economy as a whole; instead, it is heavily weighted toward industries that are heavily regulated. Most of the money came from industries like mining (Vedanta), infrastructure (MEIL), telecom (Bharti Airtel), and power. These are all industries that rely on the government to decide on environmental clearances, spectrum allocation,

and land acquisition. On the other hand, industries that deal directly with consumers (FMCG), big IT service companies like TCS or Infosys, and startups that depend more on global markets and less on government permits were mostly not on the list of top donors. This skew strongly backs up the idea that Electoral Bonds were mostly a way for people to get money and control the rules. The scheme did not draw "clean money" that supports democracy; instead, it drew "interested money" that buys policy influence. This shows that the EBS was more about making state power more like a business than about changing the way elections work.'

Table on donor data from ADR[54]:

| **Rank** | **Donor Company** | **Total Amount (₹ Crores)** | **Primary Sector** | **Key Regulatory Issues / Context** |
|---|---|---|---|---|
| **1** | **Future Gaming and Hotel Services** | **₹1,368 Cr** | Lottery / Gambling | Under ED investigation for money laundering (PMLA) since 2019; raids conducted days before bond purchases. |
| **2** | **Megha Engineering & Infrastructures Ltd (MEIL)** | **₹966 Cr** | Infrastructure | Major contractor for Kaleshwaram Project & Zojila Tunnel; questioned by CAG on project costs. |
| **3** | **Qwik Supply Chain Pvt Ltd** | **₹410 Cr** | Logistics / Warehousing | Linked to Reliance Group; donated ~20x its declared net profit (₹21.7 Cr), suggesting "shell company" conduit. |

[54] Association for Democratic Reforms (ADR), "Analysis of Electoral Bonds Data: 2018-2024" (March 2024).

| 4 | **Vedanta Limited** | **₹400 Cr** | Mining / Metals | Heavily regulated sector dependent on environmental clearances and mining leases. |
|---|---|---|---|---|
| 5 | **Haldia Energy Limited** | **₹377 Cr** | Power Generation | Part of RP-Sanjiv Goenka Group; operates thermal power plants requiring state regulatory approvals. |
| 6 | **Essel Mining and Industries Ltd** | **₹224.5 Cr** | Mining | Part of Aditya Birla Group; operates in iron ore mining, a sector with history of allocation controversies. |
| 7 | **Western UP Power Transmission Company Ltd** | **₹220 Cr** | Power Transmission | Subsidiary of MEIL (Rank 2); demonstrates how conglomerates split donations across multiple entities. |

## 7. Reform Options

### The 7.1 The National Electoral Fund (NEF): The "Blind Trust" Model

Institutional reformers like former Chief Election Commissioner S.Y. Quraishi and T.S. Krishnamurthy often support the idea of a National Electoral Fund (NEF). In theory, this works like a "blind trust" for democracy. In this model, both businesses and individuals would give money to a central pool that the Election Commission of India (ECI) or another independent statutory body would manage. In exchange, donors would get 100% tax breaks, but the most important thing is that they would lose the right to choose which political party their money would

go to.

The money that was raised would then be given to known political parties according to a clear, pre-set formula that is usually based on how many votes they got in the last General Election. The NEF has a legal and moral advantage because it gets rid of the quid pro quo connection in its structure. Because a business gives money to "the process of democracy" instead of to a specific minister or party, the money can't be used as a down payment for a specific policy or license favor.

It protects the donor from being extorted (because the ruling party can't punish someone who doesn't donate) and protects the government from being taken over. But there is a strong constitutional argument against the proposal when it comes to "political speech." Critics say that giving money is a way to express yourself under Article 19(1)(a). The NEF might be violating the donor's freedom of conscience by making them pay for a pool that could give money to a party that the donor doesn't agree with. Moreover, there are practical problems: a formula that is based only on past performance makes it harder for new political movements to get started, which could make the political landscape more rigid.

### 7.2 State Funding: bringing back the Indrajit Gupta Committee Report from 1998

The discussion about state funding has a long history in Indian law, and the Indrajit Gupta Committee looked at it in depth in 1998. The Committee's main suggestion is still valid: the Indian government doesn't have enough money to pay for elections in full, but it is in a unique position to give "in-kind" subsidies.

The "In-Kind" model says that instead of giving cash, which can be stolen and is interchangeable, the government should directly provide the things that are needed for campaigning. This would include state-sponsored airtime on both public and private broadcasters, fuel allowances, electoral rolls and voter slips, and money to print manifestos.

The reason is based on the constitutional idea of a "level playing field." At the moment, a candidate's ability to talk to voters is only based on how much money they have. The state makes sure that the rich don't control the "market of ideas" by making communication costs social. In its

255th Report (2015)[55], the Law Commission of India agreed with this idea but added an important caveat: state funding cannot be an extra layer of money on top of private funding that is not controlled. It needs to be backed by strict "expenditure caps" and democracy within the party. The Commission said that state funding should only be available to parties that hold open internal elections and give their accounts to the Comptroller and Auditor General (CAG) for audit. This changes funding from a gift into a tool for changing institutions.

### 7.3 The "Digital Panopticon": Real-Time Transparency via UPI

Some experts say that the answer is not to stop corporate money but to use India's advanced Digital Public Infrastructure (DPI) to enforce "radical transparency." The idea is to go back to the way things were before 2017, but with a digital twist: a "72-Hour Rule" for disclosures. Using the Unified Payments Interface (UPI) and the new Central Bank Digital Currency (e-Rupee), a new system could require that all political donations over ₹2,000 be reported to a central ECI dashboard in real time.

Unlike the US Federal Election Commission (FEC) or the UK system, which often have delays in reporting, India's digital stack lets people report right away. If a company gives a party ₹50 crore, the transaction could show up on a public portal in a matter of minutes. This would let voters and reporters follow the money trail before they vote. This model says that sunlight is the best way to clean things up. If a mining company gives money to a ruling party, the voter should find out right away so they can judge the government's future mining policies based on that. This method uses the same technology that the government supports to make its own political financing more accountable.

### 7.4 Institutional Accountability: The RTI and CAG Inquiry

Lastly, no financial reform can work if it doesn't deal with the fact that political parties are like "black boxes." One major problem with the current system is that political parties won't follow the Right to Information Act (RTI) of 2005[56]. In 2013, the Central Information Commission (CIC) made a clear decision that six national parties were "public authorities" under Section 2(h) of the

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[55] *Supra* note 25.

[56] The Right to Information Act (RTI), 2005.

RTI Act[57]. However, parties from all sides of the political spectrum have refused to follow this order. This needs to be changed before anything else can be done to clean up the finances. A strong reform package would require that any political party that gets benefits, like tax breaks on donations or free land for offices, be subject to the CAG Audit and the RTI Act. This would let people file RTI requests to find out where the money was spent, not just who gave it. The ECI can register a party right now, but it doesn't have the legal authority to remove one for not following the rules about money. Giving the ECI the power to deregister parties that don't publish audited accounts would give the "teeth" needed to enforce the "grand bargain" of political finance.

### 7.5 International Models

To fully understand how serious the Indian Supreme Court's decision in Association for Democratic Reforms v. Union of India[58] was, we need to put the Electoral Bond Scheme in the bigger picture of how political finance is regulated around the world. The Indian experiment with state-sanctioned anonymity was not only a departure from domestic precedents but also an anomaly in the democratic realm.

Democracies around the world are dealing with the fact that money has a lot of power in politics. Most of them have turned down the idea of anonymous banking instruments in favor of systems that are either very open or very closed. A comparative study of jurisdictions including South Africa, France, Canada, Germany, and the United Kingdom indicates a global consensus that the integrity of the electoral process supersedes the privacy of corporate donors, a principle the Indian government sought to reverse.

South Africa, another constitutional democracy, is dealing with both high inequality and systemic corruption, which makes it a good comparison to India. The jurisprudential methodology of the South African Constitutional Court reflects the Indian Supreme Court's 2024 decision, particularly in the seminal case of My Vote Counts NPC v. Minister of Justice and Correctional Services (2018)[59]. In a unanimous decision, the Court found a direct constitutional link between the right to vote and the right to information. It said that the "Right to Vote" in Section 19 of the South African

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[57] The Right to Information Act (RTI), 2005, s. 2(h).
[58] *Supra* note 36.
[59] *My Vote Counts NPC v. Minister of Justice and Correctional Services* [2018] ZACC 17.

Constitution[60] is useless without the "Right of Access to Information" in Section 32[61]. Chief Justice Mogoeng wrote for the Court and made a strong case that knowing how political parties and independent candidates are funded by private individuals is "essential for the effective exercise of the right to make political choices."

The Court made it clear that the argument that private funding is a matter of private privacy is not valid. Instead, it ruled that once money enters politics, it becomes mostly public. This judicial activism led to quick changes in the law, such as the Political Party Funding Act, 2018 (PPFA)[62]. The Act originally set lower limits, but recent changes published in August 2025 have raised these limits to account for inflation while still upholding the principle of openness. Section 9 of the Act[63] says that all donations from the same source must be combined to stop the practice of "smurfing," in which donors break up large gifts into smaller, anonymous amounts. So, any total contribution over R200,000 (about ₹9 Lakh) per year must be reported to the Electoral Commission. Also, South African law has a strict limit on donations, which is currently R30 million per year from one source.

This is different from the Indian amendments, which completely removed the limit on corporate donations. The Act also makes it illegal for political parties to take money from state-owned enterprises (SOEs). This stops the ruling establishment from using public resources for their own political gain, which is a protection that is not present in India.

France's "clean slate" approach is a radical alternative to regulating corporate influence. It goes from being open to being banned. After a number of high-profile corruption scandals in the late 1980s, such as the Urba affair, which involved the Socialist Party in a kickback scheme, the French government took steps to completely separate corporate profits from political power.

Law No. 95-65, which went into effect on January 19, 1995, made it illegal for companies to give money to political parties and candidates in France.[64] The basic idea behind the law is that "political rights" belong only to natural people (citizens) and that corporations, which are not real

[60] The Constitution of South Africa, s. 19.
[61] The Constitution of South Africa, s. 32.
[62] The Political Party Funding Act (PPFA), 2018.
[63] The Political Party Funding Act (PPFA), 2018, s. 9.
[64] Law No. 95-65 (France).

people, should not be involved in funding democracy.

Because of this, only people can give money, and even then there are strict limits: €4,600 per election to certain candidates and €7,500 per year to political parties. France set up the Commission nationale des comptes de campagne et des financements politiques (CNCCFP) to enforce this ban.[65] The CNCCFP is an independent administrative body that can check campaign accounts. The CNCCFP has more power than the Election Commission of India. For example, they can reject a candidate's campaign accounts if they find that they have broken spending limits or taken money from illegal companies. Not only does this rejection mean that the candidate won't get paid back for their campaign costs, but it could also mean that they aren't allowed to run for office. Empirical studies of the French landscape after 1995 show that the ban changed how politicians acted. Candidates had to get more involved with local issues to get small donations from individuals instead of relying on "policy capture" from big companies.

Canada also has a strong example of "accountability" that came about because of a crisis. After the "Sponsorship Scandal" (AdScam) in the middle of the 2000s, when it was found that public money had been used to support the Liberal Party, the rules in Canada got a lot stricter.

The Federal Accountability Act, 2006 (Bill C-2)[66] was passed as a response to the problem. It put in place some of the strictest anti-corruption laws in the Western world. Like France, the Act made it illegal for businesses, trade unions, and associations to make political donations. Only individuals were allowed to give money to political campaigns.

The Canadian model has a key feature that shows how India's Electoral Bonds are wrong: cash donations can't be more than $20. The Indian government said that Electoral Bonds were needed to stop people from using cash, but the Canadian experience shows that the answer to cash is not "digital anonymity" but a strict, low-threshold ban with digital traceability. The Act also put in place strong rules about conflicts of interest that made it illegal for candidates to take any gift that "might reasonably be seen to have been given to influence" them in their work. This law specifically goes after the "quid pro quo" deals that Indian data has recently revealed, like the

[65] Commission nationale des comptes de campagne et des financements politiques (CNCCFP).
[66] Federal Accountability Act, 2006 (Canada)

"bond-raid-donation" connection.

In Harper v. Canada (2004), the Supreme Court of Canada upheld the constitutionality of these kinds of restrictions.[67] The Court also supported the "Egalitarian Model" of elections. The Court said that the state has a valid reason to limit political spending in order to create a "level playing field." It said that unlimited spending by wealthy interests drowns out the voices of ordinary citizens and goes against the Charter's promise of democracy. This legal precedent directly contradicts the "Libertarian Model" that the US Supreme Court supported in Citizens United. It is a better example for Commonwealth countries like India.

Lastly, the German and British models show that corporate money should be neutralized through "radical transparency" instead of secrecy. The Parteiengesetz (Political Parties Act)[68] in Germany requires immediate disclosure, which keeps voters from being caught off guard. Section 25 of the Act says that any donation over €35,000 (about ₹31 lakh) must be reported right away to the President of the Bundestag, who is then required by law to make it public right away.[69] This makes sure that voters can see big capital flows in real time, unlike in India, where bond data was often only made public after the election cycle was over.

Germany also has a "matching funds" system with a "relative upper limit." This means that public funding is limited to the amount of money a party can raise on its own. This system keeps parties connected to society and stops them from becoming just wards of the state.

The Political Parties, Elections and Referendums Act 2000 (PPERA)[70] in the UK enforces a similar set of rules. Section 54 of PPERA makes it clear that the political party is responsible for "permissibility." [71]It bans foreign funding and says that corporate donors must do business in the UK. The law says that all donations over £11,180 to the central party must be made public.

The UK Supreme Court in R (Electoral Commission) v Westminster Magistrates Court[72] made it clear that if a party takes money from an illegal source, the whole amount is likely to be lost. The

[67] *Harper v. Canada (Attorney General)* [2004] 1 SCR 827.
[68] Parteiengesetz (Political Parties Act).
[69] Parteiengesetz (Political Parties Act), s. 25.
[70] The Political Parties, Elections and Referendums Act (PPERA), 2000.
[71] The Political Parties, Elections and Referendums Act (PPERA), 2000, s. 54.
[72] *(Electoral Commission) v. City of Westminster Magistrates Court* [2010] UKSC 40.

political party now has to do a lot of due diligence, which is very different from the Indian Electoral Bond Scheme, which basically let parties off the hook for checking where their money came from. This created a culture of "don't ask, don't tell."

**8. Conclusion**

The story of the Electoral Bond Scheme is more than just a failed legislative experiment that got in the way of judicial review; it is a key moment in the history of Indian constitutionalism. The executive and legislature made a brave but illegal attempt to completely change the social contract of democracy. The government tried to put the "privacy of capital" ahead of the "transparency of the ballot" by changing the Representation of the People Act, the Companies Act, and the Income Tax Act through the lack of clarity of a Money Bill. The plan could have changed India's representative democracy into a corporate-clientelist state, where "one share, one vote" quietly replaced "one person, one vote."

The Supreme Court's unanimous decision in February 2024 was a strong correction that reaffirmed the "Right to Know" under Article 19(1)(a) as not only a legal right but also a fundamental part of the Constitution's Basic Structure. The Court used the strict "Double Proportionality" test on the plan to make a list of rights. This means that corporate secrecy cannot come before the integrity of the voting process. The decision clearly went against the Libertarian argument, which was backed up by the US Citizens United case, that money is the same as speech. Instead, it brought India in line with the more progressive legal systems of the Global South, especially South Africa and Brazil, which all agree that unregulated corporate finance is "bad" for a republic's health.

The State Bank of India's later release of data also showed that the Court's doubts were right in a very real way. The forensic investigation into the "Bond-Raid-Donation" connection showed that the scheme didn't get rid of black money; it just made it a part of the system. The information revealed a system full of conflicts of interest, where mining barons, lottery kings like Future Gaming, and infrastructure giants like MEIL quietly paid the people who enforced the rules. The fact that ED raids and bond purchases happened so close together showed that the scheme could be used to get money through threats ("Hafta Vasuli"). At the same time, the connection between bond donations and big contract awards showed how legal bribes work. The "shell company" phenomenon, in which donors with little or no profit give hundreds of crores, mathematically

disproved the government's claim that the scheme was clear.

But this is only the beginning, not the end, of the scheme being stopped. It has left a hole in the rules that needs to be filled. Corruption is caused by systemic problems that haven't been fixed, such as the high cost of elections, the state's power to make decisions, and the lack of democracy within parties. If these root causes aren't dealt with, illegal money will just move from "bonds" to "suitcases" again. We need to stop talking about "black money vs. opaque bonds" and start thinking in a new way that values openness and public participation in order to save Indian democracy.

To make progress, we need a "Grand Bargain" on political money. The goal must be clear: the "little man" in the voting booth must once again be at the center of the financial equation. One way to do this is to set up a National Electoral Fund (NEF) to break the quid pro quo link, use "in-kind" state funding to level the playing field, or make real-time digital disclosures through India's DPI stack. It's no longer possible to reform institutions, like making political parties follow the RTI Act and letting the CAG audit them. It's a matter of life and death. The Supreme Court said it best: "Sunlight is the best disinfectant." Indian democracy needs to have its funding brought out of the shadows of banks and into the public eye so that it can thrive in its 75th year and beyond.

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- **Political Party Funding Act, 2018 (PPFA)** [South Africa]
- **Political Parties, Elections and Referendums Act 2000 (PPERA)** [United Kingdom]