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## How Electoral Bonds Distort India's Democracy

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(This editorial is based on the article '[How Electoral Bonds Distort India's Democracy](#)' which was published in 'India Matters in ORF' on 28th March, 2019. The article talks about growing incidence of black money and corruption in elections. It looks into the Electoral Bond Scheme and the challenges associated with it.)

India is the largest democracy in the world and elections and political parties are a fundamental feature of its Parliamentary democracy. Round the year functioning of the political parties involves a large expenditure which runs into hundreds of crore. Yet there has not been a transparent funding mechanism of the political system.

In order to cleanse the system of political funding in the country and to move to a cashless economy, **Electoral Bonds Scheme** was launched in 2017. The scheme that looked to check rampant under-the-table cash transactions has not found favour with various stakeholders of the Indian Electoral system such as Election Commission.

With Lok Sabha Elections round the corner, it becomes imperative to check the incidence of unabated black money that flows into the accounts of political parties.

### Growing Corruption in Elections

Democracy is sustained by free and fair elections. Only free and fair elections to the various legislative bodies in the country can guarantee the growth of a democratic polity. It is the cherished privilege of a citizen to participate in the electoral processes however this entire exercise has been affected by the growing menace of corruption.

Lavish expenditure in the elections is one of the most critical problems in India's electoral system. **According to the Report of the National Commission to Review the Working of the Constitution (NCRWC) high cost of elections creates a high degree of compulsion for corruption in the public arena.**

The sources of some of the election funds are believed to be unaccounted criminal money in return for protection, unaccounted funds from business groups who expect a high return on this investment, kickbacks or commissions on contracts, etc.

The usage of black money during elections not only allows for laundering, it also has serious economic and political costs attached to it. It leads to a political support to corruption and crony capitalism.

It allows for criminal-political nexus as the extortionists and goons are able to buy party tickets and therefore, the law-breakers become the lawmakers in our country.

The use of black money for campaigning during the election season creates an unequal playing field for honest, independent candidates as they heavily fall short of the funds required for extensive campaigning and advertising.

Thus the Electoral compulsions for funds become the foundation of the whole super structure of corruption.

## Provisions Checking and Restricting Donations

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The rivalry between political parties in India is aggressive, and it is not a matter of shock that immoral methods are adopted by certain parties to acquire funds. In order to regulate the funding, certain provisions are present in different acts in India.

- **Section 29C** of the Representation of the People Act, 1951 (RPA) mandates it for the political parties to declare donations received by them from any person or company if such donation by the person or the company exceeds Rs.20, 000. Failing to submit the report on time disentitles the party from tax relief under the **Income Tax Act, 1961**.
- As per **Section 2(e) of the Foreign Contribution Regulation Act, 1976**, accepting a contribution from any foreign source is completely prohibited. It is punishable with imprisonment which may extend up to five years or fine or both.
- The maximum expenditure by a political party in an election is governed by **Rule 90 of the Conduct of Elections Rules, 1961**.
- **Section 77 of the RPA** clarifies as to what comes under the purview of 'expenditures of the party'. The expenditures by a political party include all expenditures incurred by the candidate of such party or his authorised agent in connection with the election since the date of his nomination till the date the result is declared.

## Breaking into the Electoral Bond Scheme

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Electoral bond is a bearer instrument in the manner of a promissory note and an interest free banking instrument whereby a citizen, or a corporate body, in India is eligible to purchase through cheque or digital payments.

These bonds can only be bought from notified branches of the public sector bank for 10 days each in months of January, April, July and October. The electoral bonds can be purchased for specified denominations and the payee then can bestow it upon a registered political party as donation which can then be cashed in via the party's verified account within 15 days.

The bonds shall not carry the donor's name, although the payee will have to fulfil KYC (Know Your Customer) norms at the bank. Further, no report is required to be submitted by receiving parties in case of donations received via electoral bonds. In short, neither the donors nor the political parties are obliged to reveal the sources of donations.

Every party that is registered under section 29A of the Representation of the Peoples Act, 1951 and has secured at least one per cent of the votes polled in the most recent Lok Sabha or State election will be allotted a verified account by the Election Commission of India. Electoral bond transactions can be made only via this account.

## What Makes Electoral Bonds Controversial?

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While Electoral Bond Scheme acts as a check against traditional under-the-table donations as it insists on cheque and digital paper trails of transactions, several key provisions of the scheme make it highly controversial.

**Anonymity:** Neither the donor (who could be an individual or a corporate) nor the political party is obligated to reveal whom the donation comes from. This undercuts a fundamental constitutional principle: the freedom of political information, which is an integral element of Article 19(1) (a) of the Constitution.

**Transparency:** It will also defeat the fundamental principle of transparency in political finance. It will conceal from public scrutiny the identity of the corporates and moneybags who contribute huge amounts to political parties, especially to the ruling parties resulting in more opacity, making it a convenient channel for black money.

**Asymmetrically Opaque:** because the bonds are purchased through the SBI, the government is always in a position to know who the donor is. This asymmetry of information threatens to colour the process in favour of whichever political party is ruling at the time.

Provisions such as **elimination of a cap of 7.5% when it comes to corporate donations, elimination of the requirement that corporations must reveal political contributions in profit and loss statements, and the elimination of the requirement that a corporation must be three years in existence** undercuts the intent of the scheme and thus any troubled companies, dying companies, shell companies can donate to an unlimited amount, and do so anonymously.

EBS could become a convenient channel for business to **round-trip their cash parked in tax havens to political parties** for a favour or advantage granted in return for something.

## Steps Suggested

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**National Election Fund** can be created by the donation given by individuals and corporations. Such a fund could be declared as the only channel through which businesses and individuals can contribute to political parties. The Election Commission can decide how the donations are shared among parties.

Another alternative can be the implementation of **Indrajit Gupta Committee (1998)** report that endorsed state funding of elections, in order to establish a fair playing field for parties with less money. However the mechanics of this process need to be carefully worked out to establish the allocation of money to national parties, State parties and independent candidates.

## Way Forward

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Successive governments have promised electoral reforms and have setup committees to look into the matter. It is imperative that the authorities enforce these reforms and cleanse our electoral process of the vicious circle of corruption and black money that threatens the very foundation of our democracy.

Unless drastic and radical steps are taken to cleanse public offices by the government, political parties and people at large, corruption will continue to corrode the vitals of the country.

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