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POLICY-ORIENTED JOURNAL SINCE 1982



STATE FUNDING OF ELECTIONS: ARE WE READY?

**Will It Provide a Level Playing Field
Or Create New Channels of Corruption?**

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MOTHER OF ALL CHALLENGES

Conditional State Funding of Elections

When India won freedom in 1947, many Western pundits professed that either democracy will die out or the country will disintegrate. Their doubts returned with every famine, upheaval or catastrophe. But we routinely overcame all our troubles and the democracy not just survived, it thrived.

A big part of our self-belief comes from the structures we built— like an ever-evolving apparatus of holding elections, our trademark federalism where centre-state relations are always frayed but never dysfunctional, a permeable multi-party system, and a decentralised Panchayati Raj. Add to this a judiciary which can rise to the occasion at trickiest of times, a diverse and down to earth legislature and a vibrant media, and you get an idea why the dance of democracy is always on despite chaos.

Elections are central to India's democratic imagination. Even ideologies are articulated as electoral devices. Secularism plays out as competitive sectarianism and appeasement becomes a code word for voter polarisation. Economic reforms are rolled out with one eye on vote mobilisation and a policy is deemed good if 'approved' at the hustings. For instance, the Congress-led UPA claimed that its electoral victory in 2009 was a ratification of the controversial Indo-US nuclear deal while BJP sees its conquest of UP as an endorsement of demonetisation. But the elections are not the only test of policies. An effective system also needs rights-based citizenship, rule of law and participatory governance though it is equally true that all other building blocks of democracy rest on the foundation of free and fair elections.

And that brings us to our biggest challenge today: that excessive use of money and muscle power is undermining democracy. Candidates with criminal charges are three times more likely to win elections than others, according to the Association for Democratic Reforms (ADR). No wonder, most party bosses prefer winnable (read rich and powerful) candidates over meritorious ones converting elections into a shrewd business investment. All this leads to a sense of injustice among the masses causing more alienation and discontentment.

India's debate about the hijack of the electoral system has three interrelated components, (a) tinkering with electoral logistics and campaign procedures, (b) criminalisation of politics, and (c) dubious election funding. Out of these, the first two are tough but not intractable for institutions like the judiciary and the administrative machinery. But the most baffling issue is of election funding which keeps weighing the democracy down with every successive election.

On the first issue of logistics and campaigns, the EC has been coming down heavily on those buying votes or indulging in hate speech. The EC action on extravagance or its warnings on hate speech have worked to some extent but the screws can be tightened further by disqualifying candidates in extreme cases. On EVMS, the biggest of logistical issues, the occurrence of a grand conspiracy is unlikely albeit not impossible. Had it been so, the BJP would not have lost Bihar or Congress would not have won Punjab. The EC is in the best position to dispel the doubts by adopting new techniques like the voter verified paper audit trail (VVPAT) with additional expenditure for which a demand has already been placed.

On the second issue of criminalisation of politics, a Common Cause PIL has secured a landmark judgment that mandates completion of criminal trials against legislators within one year of framing of charges. Unfortunately, the order exists only on paper. A proper implementation by all courts, leading to fast conviction and disqualification, can keep at least the convicted criminals out. The Supreme Court order in

the case about former Tamil Nadu Chief Minister Jayalalithaa's disproportionate assets has come as a shock for many because by abating the charges on her death, the court could have allowed her inheritors to enjoy the ill-gotten wealth forever. It is a rational belief that in matters like these, the judiciary is expected to play a vital role simply because the political parties are compromised in this particular area.

What may work better on political parties, perhaps, is a combination of adverse public opinion affecting electoral prospects and punitive action going up to disqualification. For instance, if the UPA was concerned about public opinion it would not have escorted six MPs from jails to parliament in order to save the Indo-US nuclear accord and perhaps the government. Between them, they were facing dozens of serious charges of murder, extortion, kidnapping and more. Similarly, if the ruling BJP had the fear of adverse publicity in UP, it would not have picked 45 per cent (20) of its ministers who are facing criminal charges, according to ADR figures.

The third issue of electoral funding is the hardest to tackle but has widest ramifications. The mainstream parties spend thousands of crores on every major election, and much of this in black money. The power to fund elections gives an infinite leeway to corporates over politically influential parties and, more importantly, a control over national policies. This is downright tragic because it diverts our common resources for the benefit of some. The dominance of money weakens the economy by promoting cronyism, denies a level playing field to genuine players, and legitimises black economy. It makes politics unviable for honest citizens and threatens to convert India's genuine, if chaotic, dance of democracy into a sponsored spoof.

The only workable alternative of corporate stranglehold is state funding of elections which, in real practice, is easier said than done. Its implementation is seriously problematic and can recoil on us if not implemented with clear foresight. Articles in this issue of Common Cause journal by well-known experts try to make sense of these complex themes. We also put together some insights on the use of technology and global experiments. What we know for sure is that funding all candidates for assembly or parliamentary seats would mean an expenditure of lakhs of crores every few years which India simply cannot afford.

A more viable option is to fund recognised political parties, partially and conditionally, on the basis of a variety of parameters, some of which have been discussed in this issue. The disbursement needs to be made conditional to these parties conducting internal elections at all levels and fulfilling all their obligations of transparency and accountability, along with gender and RTI compliances. A case in point is the success of the conditional cash transfer schemes like Bolsa Familia and Bolsa Escola in Brazil where families are entitled to allowances only after they send children to school and health centres regularly. The conditional schemes raise human capital and address the demand side of high dropout rates in schools, poor child health and high occurrence of child labour. If applied wisely, conditional poll funding can rein in India's autocratic party bosses and enforce some inner party democracy in their functioning.

India may not be ready as yet for state funding of elections but the time is certainly ripe to weigh its viability in order to save democracy from the onslaught of money and muscle power. Clearly, it is not just a matter of cleaning the electoral process but also of prodding our political parties into following basic norms of internal democracy, transparency and accountability. Please write in to us at feedback@commoncause.in if you have any comment or suggestion to make.

POLITICAL PARTIES AND PUBLIC FUNDING Ensuring a Cleaner Polity

*M. V. Rajeev Gowda and Varun Santhosh**

Efforts to reform and improve India's electoral processes must build on some central axioms. Healthy democracies require vibrant political parties and competitive election campaigns. Parties and campaigns need to be able to raise their required resources in a transparent manner. Ideally, these resources should be from diverse sources, i.e., parties should not depend mainly on corporate contributions. Elections must be conducted on a level playing field across parties.

In this article, we argue that public funding of elections and parties is urgently required to enable Indian democracy to achieve the above objectives. We discuss the legitimate costs of democracy, how existing and new electoral laws are counterproductive, and justify the need for public funding before laying out our proposal.

The Legitimate Costs of Democracy

Political parties are mediating institutions that provide platforms for citizens to come together to achieve their desired policy goals. Democratic contestation enables parties to translate voters' preferences into policy. Parties help build social capital and contribute to nation building, as articulated by Emile Durkheim in 1893: "A nation can be maintained only if, between the state and the individual, there is interposed a whole series of secondary groups near enough to the individuals to attract them strongly in their sphere of action and drag them, in this way, into the general torrent of social life."

Measures to reform India's political process must recognise the importance of political parties and their need for funds for legitimate political activities. In addition to contesting elections, parties need to spend on office establishment, full-time workers, meetings, agitations, publicity and travel. As politics and policy become more complex, parties need to invest in development and training, research, policy planning and systematic engagement with the media and social media. The ability and willingness of parties to raise funds honestly and openly from legitimate sources to sustain political activities is one of the most crucial contemporary concerns of Indian politics.

Escalating Election Expenditures

During the 2014 Lok Sabha polls, the scale of overall election-related expenditures by political parties was estimated by the Centre for Media Studies to be about ₹220 to ₹230 billion. High levels of expenditure on elections are enabled by the fact that India's election laws impose no ceilings on campaign-related spending by parties. Election expenditures have escalated partly because of the increase in the number of public rallies and the amount spent on media.

Print, broadcast, out-of-home advertising, and social media are all increasingly used for political messaging and advertising. Media coverage of political campaigns has a multiplier effect and commentators have pointed out its disproportionate influence in shaping election outcomes. The costs of advertising have risen steeply across all forms of media, thereby favouring those with money power. Further, governments expend significant resources on advertising and branding campaigns and expect to reap the benefits on polling day.

India has also given birth to a phenomenon called “paid news” where parties and candidates pay media outlets for positive stories and opinion polls, disguising them as editorial content instead of declaring them to be advertorials. The Election Commission (EC) has asked the government to amend the Representation of People Act (RPA) to make paid news an offence because no law currently deals with this devious practice.

Previous efforts at reforming India's election expenditure framework had attempted to address media-related expenses by providing in-kind subsidies. Parties were allocated brief free airtime on the public broadcasters, Doordarshan (television) and All India Radio. The amendment to the RPA, enacted in 2003 extended this to even private media. Private broadcasters were to “*allocate equitable sharing of time on the cable television network and other electronic media in such manner as may be prescribed to display or propagate any election matter or to address public in connection with an election.*” However, the rules for the law are yet to be framed and the effort to extend publicly subsidised airtime to private media has faced significant resistance. It is also difficult to implement in India's highly diverse and fragmented media market.

Election Expenditure Regulations in Practice

In contrast to parties, individual candidates can currently spend a maximum of ₹7 million per parliamentary constituency, which typically has an average of 1.4 million voters (i.e., about ₹5 per voter). If candidates report, or can be proved to have spent more than this limit, they can be disqualified and lose their seats. This rarely happens in practice. Anecdotal data, media reports and studies point towards massive expenditures, an order of magnitude above the prescribed limit. Further, analysis by Association for Democratic Reforms (ADR) shows that candidates disclose only a fraction of their total expenditures.

Former Chief Election Commissioner S.Y. Quraishi catalogues 40 “types of illegal expenses undertaken during election,” including vote-buying, and adds that, “every year more ingenious methods of distributing cash come to light.” Incidentally, the late Union Minister Gopinath Munde declared in a public meeting that he spent ₹80 million on his campaign for the 2009 Lok Sabha election, well above the official limit. The routine nature of such violations is buttressed by former Prime Minister Atal Behari Vajpayee's statement to a parliamentary committee that every legislator starts his career with the lie of the false election return he files.

Therefore, one strain of thought argues that expenditure limits need not be raised, since presumably the majority of election costs involves illegitimate expenses. This argument is then bolstered by reference to the low levels of expenditure declared by candidates in sworn affidavits. We reject this simplistic reading of the issue.

Firstly, parties conveniently shift expenditure from under the heads of individual candidates to themselves, since there is no expenditure limit for parties. Further, regulation of candidate and party expenditure will likely have limited impact because the loophole on third-party expenditure “on behalf of the party's programme” exists. The net effect of this loophole, as Association for Democratic Reforms (ADR) has argued, is that there can never be any violation of expenditure limits. Secondly, candidates need to spend a threshold amount to be competitive and ₹5 per voter is hardly sufficient to propagate their message to every household in their constituencies.

Unrealistic caps on election expenditure have had the perverse effect of driving campaign spending underground. This leads to the domination of unaccounted funds or black money in the election process for even legitimate expenses. In turn, this results in adverse selection, where only those people capable

of raising and spending black money thrive in politics. Thus, idealistic laws that aim to keep election expenses low have instead become key drivers of crony capitalism. This is propelled by the demand from the political class for finances to run parties and campaigns and the supply of funds from individuals and corporates in exchange for preferential government action. This unscrupulous, symbiotic relationship has led to the institutionalisation and decentralisation of corruption, predatory and inefficient governance, the entry of criminals into politics, and a decline in societal values overall.

It is imperative that election expenditure regulations are reformed in a realistic manner. Therefore, we recommend that expenditure limits be completely abolished. Openly visible expenditure will enhance transparency and the EC can focus its resources towards policing illegal rather than legitimate campaign spending.

Financing Political Parties

In order to meet the range of legitimate expenses discussed above, parties raise funds through membership dues and contributions from individuals, corporates and electoral trusts. To reduce corporate influence in political funding, we need to encourage parties to raise funds from people directly, ideally through small contributions from a large base of supporters. This would strengthen parties by forcing them to engage with the grassroots, while ensuring that supporters are invested in parties and can hold them accountable.

Regulations allow individuals donating to parties to deduct those amounts from their taxable income. Parties were mandated to declare the sources of individual contributions over ₹20,000. Contributions below that amount were lumped under “unknown” sources, thus enabling parties to avoid the cumbersome accounting of small donations. Parties currently derive the bulk of their funds from donations below ₹20,000 from “unknown” sources. However, there is concern that parties convert tranches of black money into numerous cash donations below ₹20,000, thus getting away without having to declare details about contributors. Previously, companies could contribute a tax-deductible 7.5 per cent of their average three-year profits to parties, with board approval and disclosure. This provision is regarded as having been underutilised because companies fear being victimised by parties to which they made lesser or no contributions.

Another attempt towards open corporate contributions is the tax-exempt “Electoral Trust Companies” scheme notified in 2013 and regulated by the EC. Between 2004-05 and 2014-15, including those years before the law was amended, electoral trusts contributed ₹5.15 billion to 15 parties, i.e., 28 per cent of their income from known sources (not including other known sources). However, given limited disclosure requirements, in the case of trusts that pooled resources of multiple companies, one cannot ascertain which company funded what party. Overall, electoral trusts ensure that some “white money” is routed to parties. But the influence that individual companies contributing to the trust may exert on parties remains an issue, which has further worsened with the amendments in Finance Bill, 2017.

Finance Bill 2017 – One Step Forward, Two Steps Back

The demonetisation exercise launched by Prime Minister Narendra Modi on November 8, 2016, led to an increased spotlight on the hypocrisy of black money in politics. To demonstrate intent on political reforms, Finance Minister Arun Jaitley introduced amendments to the Finance Bill, 2017 and claimed that they would clean up party funding.

One of the proposals, electoral bonds, requires donors to purchase them at banks, thus ensuring that

contributions are in post-tax white money. However, to incentivise individuals and corporates to donate unreservedly, Mr. Jaitley added anonymity to the mix. Parties who receive electoral bonds no longer have to disclose the identities of donors. This adds to the opacity of the process and undermines the fundamental premise that the public has a right to know who is funding which party and thereby possibly influencing policy outcomes. With anonymity, the public will no longer be able to “follow the money” to track corruption.

Further, Mr. Jaitley removed the cap on corporate contributions (previously 7.5% of net profit of last three financial years). He also removed the requirement for companies to reveal the name of the political party they contributed to and further dispensed away with mandatory approval from their board of directors for political donations.

Mr. Jaitley also lowered the limit for anonymous cash donations from ₹20,000 to ₹2,000. This will not change anything in practice. Parties will continue to funnel black money into their coffers, listing it as anonymous cash donations. Only, now they will have to show 10 times more entries of less than ₹2,000.

Thus Mr. Jaitley's measures are hardly reforms and the opacity surrounding political contributions has worsened. Between electoral bonds and other changes, the finance minister has opened the floodgates for unlimited anonymous corporate contributions to parties. Other amendments to the Finance Bill enable tax authorities to take action on individuals and companies without having to provide a rationale to authorities (except the High Court). The Modi government has thus created a situation where companies can be arm-twisted to contribute to parties, with a possible bias toward the party in power.

The Need for Public Funding

Political finance in India is typically opaque and parties do not usually publish statements of accounts, income and expenditure on their websites. Many parties and candidates resort to unscrupulous methods. The opacity of funding also undermines parties as organizations as only a few leaders hold the reins to the resources and, by extension, decision-making.

John Rawls in *A Theory of Justice* conceived "justice as fairness" where the worst-off person in a system is provided with opportunities to improve his odds. India's political system has become so beholden to money and muscle power that the worst-off person is the honest politician. Parties will not give an honest politician a ticket to contest elections because she lacks the money and muscle power that would have enhanced her “winnability.”

In order to reverse the descent of India's political system into a corrupt quagmire, we propose public or state funding of elections and political parties. Public funding of elections will ensure a fairer world for clean politicians and, by extension, improve democratic governance. This is in line with a study by the Electoral Integrity Project, which found that the most common reforms across countries in recent years have sought to strengthen disclosure and introduce or expand public funding. 68 per cent (116 countries) of countries have provisions for direct public funding to parties, including 86 per cent of European countries.

Proposal for Public Funding of Elections and Political Parties

Three key factors to consider while outlining a public funding system is to determine the amount of funds required, who receives it, and how it must be distributed. We consider it important to distinguish between candidates and parties, since funding candidates is one way to improve internal democracy in parties.

Further, it needs to be ensured that independent candidates without any political party affiliations can also compete fairly in the electoral arena.

For public funding of election and political parties, we recommend a National Election Fund (NEF), operated by the EC with oversight by the Parliament, thereby reducing any suspicion of arbitrariness or interference by the government. The NEF would dispense two types of grants to parties and candidates. One type of grant is a recurring payment to all parties after every election, based on the number of votes they poll, provided they cross a threshold of two per cent of votes polled of the total electors in a parliamentary or assembly constituency. Each eligible vote would fetch the political party ₹50 in grants. Half of this amount is to be disbursed to and spent out of bank accounts operated at the constituency level. The other half would go to the designated central bank account of the party. This will strengthen the capacity of the party machinery at the grass-roots level by providing adequate funds.

The second type of grant consists of matching grants for fully transparent, small donations below ₹20,000 furnished along with PAN card details of the donor. This grant can be disbursed every quarter to parties and candidates who raise such funds based on the formula below.

A matching grant of ₹50 will be disbursed to the party from the NEF, for every ₹100 a party raises in small donations below ₹20,000. The option of choosing whether the matching grant goes to the account of the party or the candidate will be given to the donor. The grant can be spent on any legal election expenditure accompanied with adequate documentation.

The eligibility threshold for matching grants is to raise small donations from at least 0.5 per cent of the total electors in a constituency or 5,000 registered voters, whichever is lesser. This criterion is based on the number of supporters rather than the size of donations. A cap of ₹50 million will be imposed to the total amount of matching grants disbursed at the constituency level across parties and candidates. If the overall small donations exceed this number at the constituency level, then the grants will be disbursed proportionately among parties and candidates. An overall fund of ₹50 billion will be earmarked for matching grants at the national level, over a period of five years, with a pro-rated disbursement cap every quarter. In comparison, ₹198 billion, i.e., four times the amount is allocated for Member of Parliament Local Area Development (MPLAD) funds over a five-year period.

In a country where a vast majority of citizens still do not have access to online banking facilities, it is unrealistic to demand that all donations to parties be made electronically. However, providing matching grants will incentivise parties to move towards a more transparent regime where they are encouraged to eschew big-ticket donations that come with strings attached, but also to fully disclose the details of the small donor. Any party that is registered and meets all the eligibility criteria will have access to both types of grants.

Thirdly, parties' accounts will be subject to audit by the Comptroller and Auditor General. Severe penalties will be imposed for serious breaches in disclosure of small donors below ₹20,000. Rules for internal elections in parties already exist, and will have to be implemented unflinchingly. Parties, now that they receive public funds, will be brought under the purview of the Right to Information (RTI), at least on matters of political finance and expenditure.

Fourthly, to promote transparency, we recommend that a separate account of all media advertisements placed by parties and candidates should be disclosed along with their expenditure accounts. Similarly, all media outlets must list every political advertisement carried by their organisation in an annual report submitted to the EC as well as to the relevant bodies like Press Council of India and News Broadcasters

Association. They should also be subject to external audit. This measure can be extended towards disclosure of budgets for advertising and branding campaigns spent by the Union and state governments.

Finally, implementation is the key for any reform to be effective. Therefore it is imperative that the EC is empowered to take strict but proportionate measures against violators, while not going overboard with a purgatory zeal.

Conclusion

The Dinesh Goswami Committee on Electoral Reforms in 1990 and the 1998 Indrajit Gupta Committee Report endorsed public funding of elections through in-kind subsidies. We go a step further and recommend direct transfers to fund political parties and election campaigns. We expect that our proposal will challenge the prevailing status quo and set in motion a movement towards transparent political funding through infusion of “white money” without strings attached.

Initially, we might see an increase in overall expenses, as candidates and parties merely add public funds to their election war chests. However, public funding will ensure that all serious political forces have access to adequate resources to cross the threshold of competitiveness, thereby encouraging pluralism and providing the electorate with a wider choice of representatives. Our recommendations will incentivise parties to improve transparency through mandatory reporting requirements, embrace grassroots financing from a large donor base, and thereby eschew dependency on corporate funding. The people of India desire and deserve democratic processes that are clean and competitive. Public funding will ensure that their tax rupees are harnessed to this end.

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The views expressed in this article are personal and do not represent or claim to represent the views of the Indian National Congress in any way.

CHALLENGES IN CAMPAIGN FINANCE AND FUNDING

Setting the Agenda for Ensuring Transparency

*Maj. Gen. (Retd.) Anil Verma**

Elections in India are a hugely expensive affair. Large amounts of money are collected by political parties and spent during the elections. Though there is a prescribed ceiling laid down for the candidates' elections expenditure, there is no limit on the expenditure political parties can incur. A large component of this money originates from dubious sources and 70-75 per cent of funding is from unknown sources.² To be fair, elections in India are costly also due to the large size of constituencies, intensity of political competitions, frequency and number of elections and lastly the weakness of the non-electoral system of accounting.

Along with the use of black money in elections, money power is also being used to subvert the essence of democracy. It would not be far from truth to state that politics has been made a profession for personal aggrandisement and family fiefdom by most politicians, and it rests on the principle of quid pro quo. Most political parties or politicians accumulate huge amount of resources while in power. They invest their assets where they can avoid public scrutiny while earning decent returns, for example, in real estate. Subsequently, during elections the money parked in such assets is used to offset election expenses.

Association for Democratic Reforms (ADR) research² on these aspects clearly brings out the influence of money power which manifests itself in the rising cost of elections, increase in number of crorepati MPs/MLAs, assets growth of the re-elected MPs/MLAs and chances of winning for crorepati candidates. These aspects are elaborated in the succeeding paragraphs.

Rising Expenditure by National Parties (Lok Sabha 2004, 2009 and 2014 Elections)

While analysing the total expenditure incurred by the national parties during Lok Sabha elections held in 2004, it was observed that ₹269.42 crores was spent during the election process which increased by 225 per cent during Lok Sabha 2009 elections to ₹875.81 crores and subsequently increased by 49.43 per cent, to ₹1308.75 crores during the Lok Sabha elections in 2014. Thus, over a period of 10 years, the expenditure incurred by national parties during Lok Sabha elections increased by 386 per cent.³

Funds Collected in Cash by Parties During Lok Sabha 2004, 2009 and 2014 Elections⁴

The same analysis by ADR on election expenditure of national parties during Lok Sabha elections also states that the total funds collected by them amounted to ₹2237.28 crores during Lok Sabha 2004, 2009 and 2014 elections of which 45 per cent or ₹1007.81 crores was collected in cash. Funds collected in cash increased from ₹70.29 crores in Lok Sabha 2004 to ₹528.76 crores in Lok Sabha 2009. It reduced to ₹408.75 crores in Lok Sabha 2014 but formed more than one-third or 35.28 per cent of the total funds collected by national parties during Lok Sabha 2014 polls.

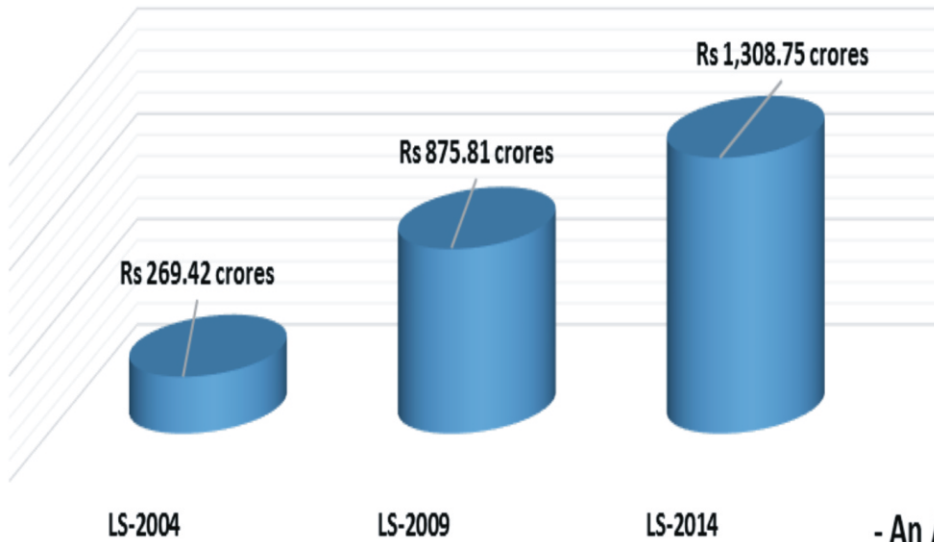
¹ Sources of Funding of National Parties: FY 2004-05 to 2011-12, Association for Democratic Reforms (ADR): <https://goo.gl/9BwHQG>

² Election Watch Research and Reports, ADR: <http://adrindia.org/research-and-report/election-watch>

³ Analysis of fund collected and expenditure incurred by National Political Parties – Lok Sabha 2004, 2009 & 2014, ADR: <https://goo.gl/9dozSZ>

⁴ Association for democratic Reforms: <http://myneta.info>

Expenditure incurred by National Parties during Lok Sabha elections 2004, 2009 & 2014

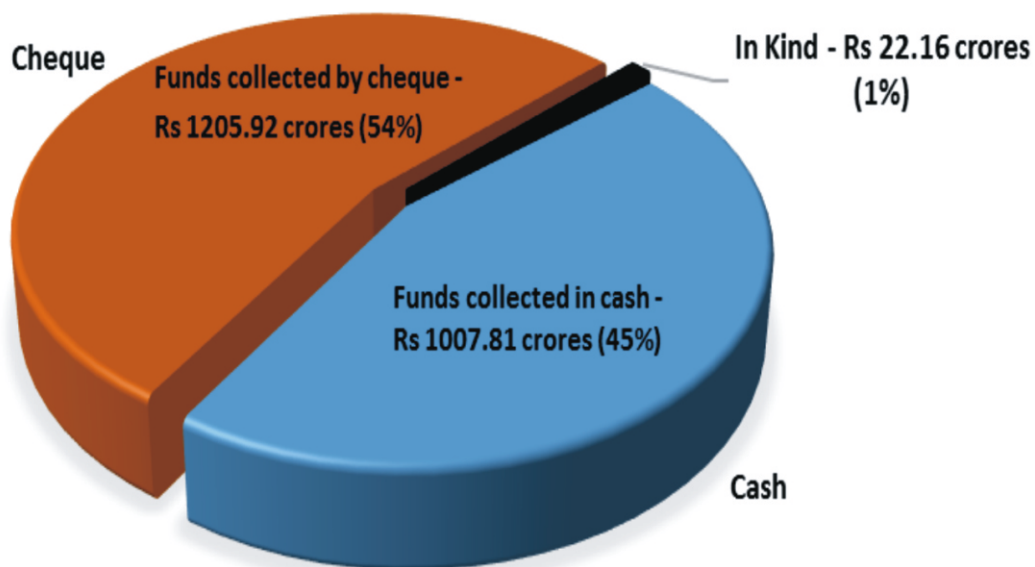


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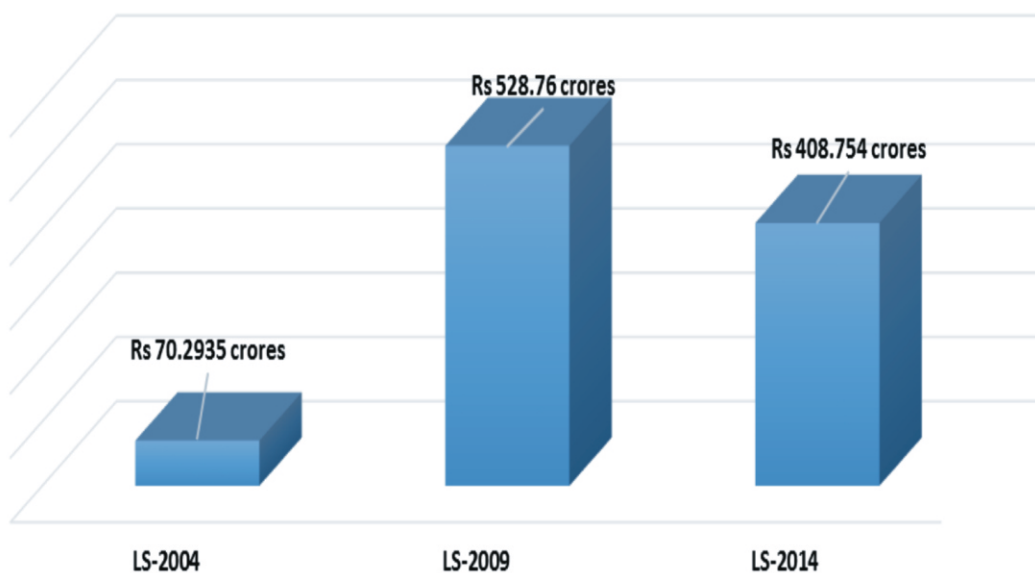
Party-Wise Expenditure during Lok Sabha elections, 2004, 2009 & 2014

National Party	Lok Sabha Elections -2004	Lok Sabha Elections -2009	Lok Sabha Elections -2014	Total expenditure
BJP	102.65	448.81	712.48	Rs 1263.94 crores
INC	149.61	380.04	486.21	Rs 1015.86 crores
BSP	4.21	21.23	30.06	Rs 55.5 crores
NCP	3.86	8.06	64.48	Rs 76.4 crores
CPI	0.52	8.12	6.72	Rs 15.36 crores
CPM	8.57	9.55	8.8	Rs 26.92 crores
Grand Total	Rs 269.42 crores	Rs 875.81 crores	Rs 1308.75 crores	Rs 2453.98 crores

Funds collected in cash and cheque (LS '04,'09,'14)



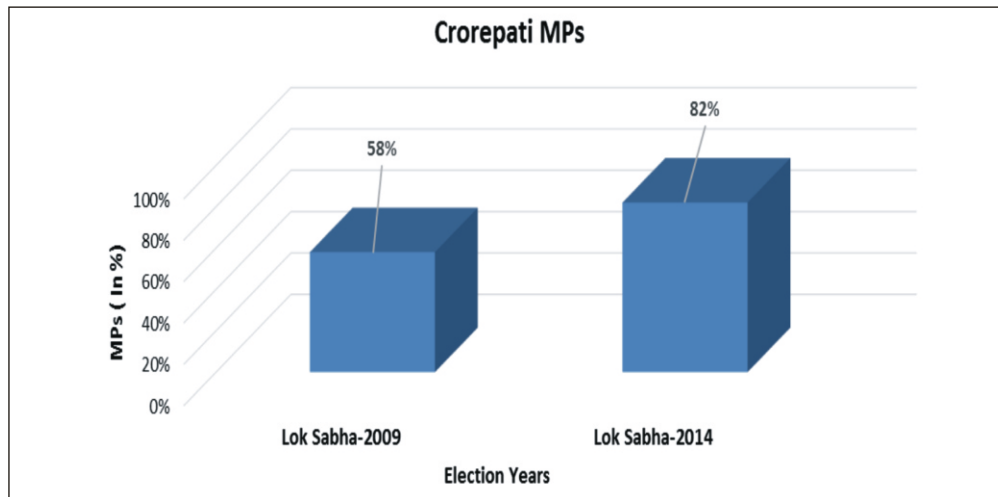
Funds Collected in cash between LS 2004, 2009 and 2014



State-Wise Increase in Number of Crorepati MLAs/ MPs

Apart from finances of parties which showed a marked increase between elections, there is also a consistent trend of an increase in the number of crorepati MLAs in all the states (except in Delhi)⁴. In small states such as Manipur, Meghalaya, West Bengal and Goa, the number of crorepati MLAs has doubled. The pronounced increase could be attributed to the lesser number of constituencies that might affect the average of crorepati MLAs. But it is also to be observed that states like Karnataka and Goa have 93 per cent crorepati MLAs in their current assemblies. Seventy-two per cent (27) of total states have more than 50 per cent crorepati MLAs.

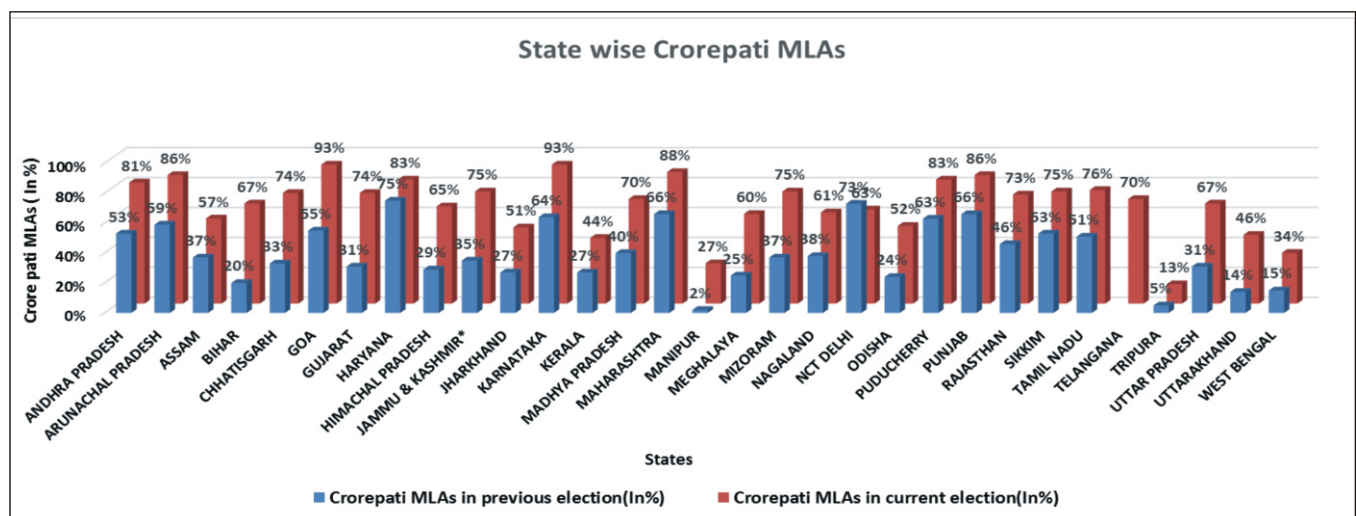
Out of the 542 winners analysed during Lok Sabha 2014 elections, 443 (82%) were crorepatis while out of 521 winners during 2009 elections, 300 (58%) winners were crorepatis.



State-Wise Crorepati MPs

From 76 per cent in 2009 Lok Sabha election, Andhra Pradesh had 100 per cent crorepati MPs in 2014 Lok Sabha elections. In 2009, Chhattisgarh had 13 per cent crorepati MPs, however this percentage reached 91 per cent in 2014 Lok Sabha elections. In states such as West Bengal, Madhya Pradesh and Odisha, the number of crorepati MPs in 2014 have doubled from what they were in 2009. States represented by one or two MPs have 50-100 per cent crorepati MPs.

With increasing cost of expenditure for contesting elections, the 'winnability' of a candidate increases with the assets he/ she has at his/her disposal. By distributing tickets to those with high assets, political parties skew the level playing field and mock the concept of 'free and fair' elections.



Chances of Winning of Crorepati Candidates⁵

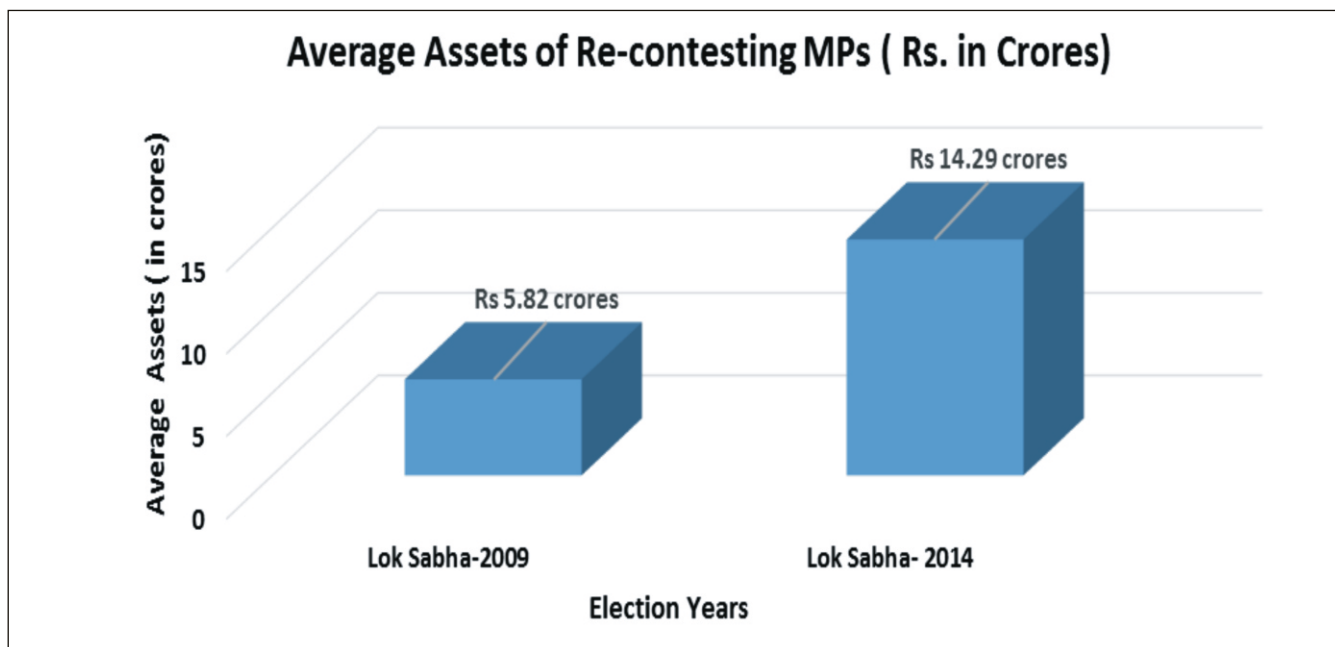
Based on the assets (moveable and immovable) declared by the candidates in 2014, ADR analysed that 415 winners or 77 per cent of the total number of MPs occupied the top three highest asset positions in their

5. Analysis of criminal and financial background details of Lok Sabha 2014 winners, ADR: <https://goo.gl/YuYgxG>

respective constituencies. One hundred and sixty MPs or 30 per cent of all winners have the highest declared assets in their constituency. This shows that the winnability of candidates who had declared large assets is very high.

Among the candidates, there were a total of 450 with assets value of more than ₹10 crores and 132 or 29 per cent of these high asset candidates won in the 2014 elections. Of the 320 candidates with assets between ₹5 crores to ₹10 crores, 70 (22%) won in 2014. When the asset range was analysed between ₹1 crore to ₹5 crores, only 17 per cent out of 1,443 candidates in this bracket were declared winners.

The average asset growth for the 396 re-contesting MPs, between the Lok Sabha Elections of 2009 and 2014 was ₹8.47 crores, an average percentage growth of 145 per cent. This is a disturbing observation as the assets of 396 individuals would rarely increase by ₹8.50 crores in any other profession in India.



Observations

The above analysis brings out the rise in expenditure/income of political parties and sharp increase in the personal assets of re-elected legislators. Chances of winning of moneyed candidates show the influence of money in elections. There is opacity in the source of 70-75 per cent funding of the political parties as also the rapid increase in the income of re-elected legislators. The fact that these official reports/ submissions to the Election Commission (EC) and the Income Tax Department are gross under-reporting is no secret. Former Prime Minister Atal Bihari Vajpayee had stated, "We (legislators) start our careers with a lie". He was referring to the election expenditure statements submitted by the winning legislators.

Recommendations of Law Commission (255th Report) and EC

1. **Report of Law Commission⁵ (255th):** It has given concrete recommendations on expenses and contribution, disclosure, penalties and electoral trusts. It has recommended amendments to the Representation of the People Act (RPA), 1951 and Companies Act, 2013 in order to reform the political parties finance in India. These are discussed briefly in the following paras.

6. Report no. 255 "Electoral Reforms", Law Commission of India: <http://lawcommissionofindia.nic.in/reports/Report255.pdf>

2. **Expenses and Contribution:** Section 77 of RPA imposes a ceiling on the election expenses of a candidate from the date of nomination to the date of declaration of results. It does not cover any period before the nomination, even though it constitutes a major part of the candidates' expenses. This needs to be amended. Secondly, there is no ceiling on expenditure by political parties, hence a cap needs to be put on this. Section 182(1) of the Companies Act 2013 should be amended to empower the shareholders instead of the Board of Directors to authorise corporate contributions.
3. **Disclosure:** It is at the heart of public supervision of political finance and requires strict implementation of the provisions of the RPA, the IT Act, Companies Act and EC transparency guidelines. The December 2016 recommendations of the EC regarding reducing the limit from ₹20,000 to ₹2000 for donation disclosure must be implemented. Accounts of political parties must be audited as per the Institute of Chartered Accountants of India (ICAI) guidelines from a panel set up by the Comptroller and Auditor General of India (CAG).
4. **Penalties:** Recommendations of the EC on tax exemption being given to only those parties which have won seats in the Parliament/state legislature, should be implemented. For failure to lodge election expenses the Section 10A of RPA should be amended to increase the period of disqualification of defaulting candidate from three to five years. However, similar penalties are not imposed on political parties for failure to lodge account of election expenses. A heavy penalty of ₹25,000 daily for delay in submission, after 90 days delay, party should be de-listed and for submitting false information, the party must be fined up to ₹50 lakhs.
5. **Electoral Trusts:** Tax relief is available to Electoral Trusts on donations to political parties however a mild penalty is imposed for failure to submit annual report of contributions to the ECI in the prescribed format before the due date of filing tax returns. RPA should be amended to provide for regulation of Electoral Trusts with appropriate penal provision in case of default.

Conclusion

The legal framework is the starting point for the role that money ought to have in political life. However, laws by themselves accomplish little on their own. Better laws, stronger enforcement, improved financial management within the parties are all measures that have been promoted to improve control over money in politics. But as, politicians themselves design the rules they are supposed to obey, regulation continues to include loopholes, enforcement agencies are not sufficiently empowered and parties do not account for their finance.

The system of ensuring compliance is often weak. Thus, there is a need for broader involvement in the development of political finance regulations by having a wide range of stake holders. The starting point for improvement should be a thorough analysis of the specific needs by the monitoring agencies - identifying whether there is a lack of political will, technical know-how or independency from the parties and candidates they are supposed to monitor. Policy makers must give agencies more power to demonstrate serious commitment towards transparency and increased public trust.

ICT AND INDIAN ELECTIONS

Infotech for Transparency in Election Funding

Gurumurthy Kasinathan (Guru)*

*"Increasing cost of elections leads to unethical, illegal and even mafia provided electoral funding, corruption, criminalisation and black money generation in various forms."*¹

A necessary (though not sufficient) component of democracy is the ability of citizens to choose their representatives to legislative bodies in a fair and well-informed manner. However, there are several reasons why this choice is being increasingly manipulated and distorted.

Elections are seeing more and more funds being deployed in canvassing, and winner lists are featuring more number of millionaires and billionaires. This puts candidates without money power at a disadvantage. Secondly, media is being increasingly manipulated to distort discourse. The craft of new media, as is being practised today, is drowning out reasoned and deep debates on topics and issues. In this article, we will focus on the role Information and Communication Technologies (ICT) can play with respect to two factors - election funding and candidate canvassing.

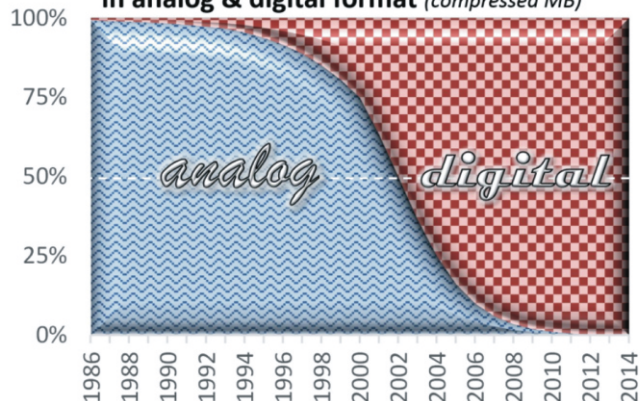
Information and Communication Technologies (ICT)

All ICT is about creating, revising, sharing and storing information, yet digital technologies have made these processes easier and quicker, which has made us part of a 'digital society' or 'information society'. In just around three decades, information stored in digital formats has increased from zero to nearly 100 per cent (see image). These 'digital technologies' have begun playing an important role in our individual and social lives. Time and again, we have seen decisive evidence of the political implications of ICTs, the role they have played in mobilising people, from 1999, in the anti-WTO (World Trade Organisation) protests on the streets of Seattle, the 2008 US Presidential election to influence individual voters and raise small donations, to the 2011 Arab Spring, when people came together to overthrow authoritarian regimes.

Closer home, in 2007, the 'cheap cell phone' ostensibly steered the vote in favour of the BSP, as Dalit activists were better able to network their act together. Similar analyses, identifying the powerful role of social media have made headlines in the 2014 national elections and recent UP elections as well.

ICT can be used to both - further the distortion in election funding and campaigning, or counter these trends. So far, they have mostly been used to make elections less democratic. The free flow of funds out of India to tax havens abroad and their flow back to the country for use in illegitimate, if not illegal, purposes has grown.

**World's technological capacity to store information
in analog & digital format (compressed MB)**



Hilbert, M., & López, P. (2011). The World's Technological Capacity to Store, Communicate, and Compute Information. *Science*, 332(6025), 60-65. www.martinhilbert.net/worldinfocapacity.html

¹ Chapter 4 of the Report of the NCRWC, 2001

While, this phenomenon has preceded ICT, electronic banking or use of digital methods for transferring funds across accounts has made it logistically far easier to wire transfer unaccounted monies abroad and bring it back when needed. As Tatiana Tropina says, "New digital tools for money transfers, such as online and mobile banking, electronic payments, cryptocurrencies, e-commerce providers, and online gambling services, especially if they are combined, provide a countless number of opportunities to distance money from illegal sources of profit or to illegally transfer money from legal sources. New forms of doing business online, and the digital economy as a whole, facilitate the transfer of illegal profits and the aggregation of illicit funds in offshore accounts."

It is easier to keep these digital transactions secret, since the increasing levels of automation of these processes means that fewer people need to be in the know of these. As these transactions get handled more by 'software' and algorithms, increasing number and complexity of fund transfer transactions can be handled in a way so as to involve fewer people and keep transactions confidential.

Transparency in Election Funding

On the other hand, electronic transactions potentially leave behind a trail. Recording and making it available can help to make election funding more transparent. The Bharatiya Janata Party (BJP) government has touted the anti-corruption aspect of e-banking as one of the reasons for the recent demonetisation exercise. This certainly can be made fully applicable to election funding.

In the 2017 Budget, the government has implemented the Election Commission's (EC) recommendation to bring in transparency in political funding by requiring political parties to take donations above ₹2,000 from donors only through cheque and digital payments. This limit can be further reduced to ₹500 per donation, to make it difficult for parties to account for secret donations as cash donations. Any donation above ₹500 should be accepted by a political party or a candidate fighting elections only through check or electronic banking, which will provide a trail of the donation and identity of the donor.

Periodic Publishing of Donations Received

While political parties enjoy exemption from income tax, they are required to keep record of donations received and also file annual returns. Most parties have not been filing their tax returns. The 2017 budget has a provision by which political parties will not be able to claim exemption from income tax if they do not file their returns within the stipulated time (within 9 months from end of the financial year). This must be strictly enforced by the Income Tax Department, which is technically easy to do, even for the few hundred Indian political parties registered.

All political parties must be mandated to publish their annual audited accounts on their party websites every year, within 14 days of completion of the audit. Along with the audited statements, the site must provide a list of all donations received by the party above ₹500. (this can be called the 'Report on all donations above ₹500 received by a party for the year 2015-16').

It should also be required that donations above ₹100,000 be put up on this website list within a month of its receipt. (This can be called the 'Report on all donations above ₹100,000 received by the party for the year 2015-16' and this list should be updated every month). The list of donations must be part of the information filed every year with the EC.

The screenshot displays the official website of the Ministry of Corporate Affairs, Government of India. The header includes navigation links such as 'Welcome Guest', 'Corporate Seva Kendra', 'Forms & Downloads', 'Sitemap', 'Login', and 'Register'. A search bar is present with the placeholder text 'Type here to Search...'. The main navigation menu lists 'HOME', 'ABOUT MCA', 'ACTS & RULES', 'MY WORKSPACE', 'MCA SERVICES', 'DATA & REPORTS', 'CONTACTS', and 'HELP & FAQs'. The 'MCA Services' section is highlighted, showing a breadcrumb trail: 'Home > MCA Services > MCA Login'. The central content area features a 'User Login' form with fields for 'Enter Username' and 'Enter Password'. A checkbox labeled 'External Agency/Bank/Nodal Officials/Business Users' is also present. Below the password field, there is a 'Forgot Password?' link and a CAPTCHA image showing the word 'waves'. 'Clear' and 'Sign In' buttons are at the bottom of the form. To the right of the login form, there is a section titled 'Browser / System Requirements' listing specifications for Windows, JRE, and JDK.

Portal for companies to file returns

All information submitted to the commission should be filed in digital format, similar to the manner in which companies file many of their periodic returns electronically with the Ministry of Company Affairs. The EC should maintain a similar portal for this purpose. The portal can automatically provide reports from the filed returns, so that people can access the lists of all political parties in one place. Also, this will reduce the risk that the list will be removed by the party from its website.

On the lines of companies' reports of meetings of board of directors being formally submitted to the Ministry of Company Affairs, another idea that can be considered is to promote inner-party democracy by requiring parties to formally hold meetings of their key committees periodically and submit minutes of such meetings on the EC portal (the nature and detail of sharing can be worked out to accommodate sensitivities of sharing these discussions – perhaps a simple list of agenda items and decisions could be submitted on the portal).

Post Election Returns

The publishing of information on donations received should also be specifically applicable to elections. The EC must require every candidate for every constituency to file a report within a specified period after the election results are announced. Candidates must provide a list of all donations above ₹500 received by them in this post election report filed with the commission.

All parties contesting the elections must also provide a similar report, for donations received in connection with the elections and funds spent on the elections (this can be called the 'Report on all donations above ₹500 received for any elections'). The EC should report this information on its own website, for every elections. The candidates who have not filed this report after an election, should be deemed ineligible for filing their nomination for any subsequent elections.

Filing the report of donations received, both during the year as well as during elections, by political parties and individual contestants with the EC in digital form, and the publishing of these on the website of the commission is very plausible and will promote transparency in election funding.

The Provision of 'Bearer Bonds' in 2017 Budget

However, the 2017 budget has also introduced a fatal loophole which has the potential to greatly aggravate opaque funding of political parties and hence corruption in election funding. The budget allows for 'bearer bonds' (which will not record the identity) to be purchased by individuals and entities and donated to parties. The budget allows companies to keep the name of the party they contribute funding to as confidential in their financial statements. Earlier, they had to disclose the amount and the name of the party to whom contribution has been made.

As a result of these budget provisions, political parties need not disclose the source of these anonymous corporate donations. Those in power can safely misuse their power to extract rent from companies without any trail of where the funds are coming from. This is a sure recipe for corruption. The bonds should be allowed only on the same terms of the cheque/electronic funds transfer donations, and should have full information about the donors. The Report of the National Commission to Review the Working of the Constitution, (NCRWC) 2001, clearly states that donations to political parties should be transparent and information on these be fully disclosed by both the donors and the receivers.

If the BJP is indeed serious about reducing corruption in donations to political parties, it should make political party funding completely transparent on the lines of the steps suggested, since election funding is one of the main causes for black money generation and corruption. In the current environment, it is believed that parties collect huge funds from corporates and in return provide them favours in designing or implementing policy. This quid pro quo is a sophisticated variation of the licence-permit raj and is a huge reason for corruption.

In addition, the Companies Act should be amended to allow companies to make donations to an election fund, which will be administered by the EC. This could be used by the commission for enlarging its role in electoral oversight and providing a minimum equitable financial support to all candidates (or at least candidates whose net assets are below a specified minimum as per their electoral affidavits). The NCRWC, 2001 also recommended the establishment of such an 'electoral trust' to channelise donations. The EC can allow such donations to be done using simple fund transfer forms on its portal.

Information about Election Contestants

The benefit of storing and sharing information easily and widely with ICT should be applied to information on candidates and parties. While today they spend huge amounts on sharing information about themselves and their ideologies and activities, this is in a typical 'caveat emptor' mode where there are few restrictions on what they say and don't say. This also allows parties and candidates with deep pockets to bombard the mass media with their messages, which can drown out the messaging of other candidates.

Already the commission requires filing of affidavits by candidates, disclosing information relating to their assets and liabilities, and criminal records among others. This information can be expanded, with relevant guidelines, to cover additional data elements that will be useful for people to assess their candidature. This can include manifestos, campaign promises, views on major election issues that are made available by the candidates.

All such information should also have a provision for being directly uploaded on-line by candidates on the EC portal. Reports based on these submissions should also be published there. The raw data should be made available in an accessible format which is published, so that other organisations can download the

data, analyse and publish the same. The reports from Association for Democratic Reforms (ADR), for instance, give us an idea of the profile of candidates and the extent of such reporting can and should be expanded. The commission's portal itself can upload reports that provide answers to many 'frequently asked questions'.

Broadening and Deepening the Debate

Secondly, there must be a formal provision in the public broadcasting system to provide time to candidates to speak to their constituencies, and the Election Commission should work out the guidelines for these in terms of duration of presentations, debates, prior intimation of these programmes so that people are able to tune in. The speeches and debates on state radio and TV systems should be made available on the commission portal as well, for people to view it later. Community radio stations can be given guidelines to provide air time to all candidates in that location to present their views. This can provide possibilities for presentations and reasoned debates amongst candidates, accessible on public broadcasting, and reduce the uneven playing field amongst candidates.

Over time, this can have elements for participation of people in these discussions through phone-in questions. The commission should also enlarge the scope of its own public education efforts during elections. Currently its messages focus on asking people to vote and the rules relating to voting. But if deepening democracy means that more citizens should formally participate in actual election processes of canvassing and debating views, the scope of the commission's public education efforts could expand to encourage active citizen participation in all aspects of the election processes. There have been awareness drives that have actively sought to involve citizens in the electoral canvassing and fund raising. For instance, in the 2016 US Democratic primaries, Bernie Sanders collected most of his funding from a large number of small donations, which was quite different from the funding patterns of the other (Democrat and Republican) candidates. Encouraging this will deepen democracy. In India, various government departments now routinely use WhatsApp and similar social media avenues for pro-active communication to citizens, and the Election Commission too should institutionalise public education campaigns using such methods.

Retaining and Analysing Information

All the information discussed above, should be retained on the portal for at least 15 to 20 years, since it will be useful for people to listen to the views of the candidates who are likely to be re-contesting elections.

The commission should also investigate possibilities of paid news, by analysing patterns of news relating to elections and candidates in print and electronic media. Through data mining, over time, the commission will be able to design algorithms that make detection of such patterns easier. The commission should also design a process in which people can share digital records (images, videos) of events in their constituencies with the appropriate authorities (may be the state election commissions) of violations of the code of conduct or laws relating to elections. The misuse of mass media (both print and electronic) can thus be discouraged through such measures.

Social Media

Social media is a new entrant to the election scene, but threatens to become the most important actor soon. Social media is much more difficult to follow and regulate and can be misused by parties or their fronts to manipulate public opinion easily. In the recent US Presidential elections and the Uttar Pradesh elections, it is reported that parties actively shared fake news and views with a clear motive to manipulate people's opinions. Bombarding messages on social media, trolling people who offer dissenting views, whipping up sentiments in favour of certain positions are all easily possible and are being done, and this can further

vitiating the election atmosphere and make reasoned and well-informed judgements even more difficult. There is a need to create and implement regulation in this area. This should include penalties for sharing news that is false or defamatory.

Internet Governance

The internet is our 'new media'. Publishing news and views is no longer the prerogative of the big media entities, but something individuals can do and are doing all the time, over the internet, through social media. However, unlike the world of the traditional media, in this new world it has been extremely difficult to work out the responsibilities of different actors – the web platforms, the internet service providers (ISP), content creators, content disseminators in the process of publishing.

The fact that the internet is a global platform, with people being able to participate from anywhere makes regulation by national or state bodies very challenging, if not impossible. There is a need for global internet governance policy frameworks and institutions to define, design and support implementation of such frameworks. This will also need to address the issue of foreign government intervention in overt and covert ways, in the election processes of countries. While the Federal Bureau of Investigation (FBI) is probing whether Russia had a role to play in the recent US presidential elections, it is believed that successive US governments have at various times actively intervened to overtly and covertly subvert elections in other countries. This issue will become more prominent as political campaigns themselves become more and more internet based.

Difficult but Essential

The challenge of enforcing regulation is that elections are point-in-time events, with a very huge investment of resources, in the nature of 'big bangs'. Creating any regulatory infrastructure, on the other hand, is time consuming and takes time to mature, and requires to be used on a 'steady-state' mode. One way out is to start small and mature the processes over time and with experience of implementation. Leaving the area out will only vitiate democracy rapidly as elections become more and more vulnerable to big funding and media manipulations.

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CAN INDIA LEARN FROM OTHERS? Lessons from Global Experiences

*Dr Niranjan Sahoo and Rajendran Nair Karakulam**

Democracy costs a lot of money. To fight elections and to run routine political activities, parties and candidates seek donations from all possible sources including illegal and criminal money. As per available data in India, most open source donations of political parties are secured from private businesses. This ultimately has a net negative effect on governance as elected officials ought to return the favours. Besides, the expensive nature of elections acts as a huge barrier for a lot of aspiring candidates to enter politics, thus working as an “entry barrier”. In the absence of adequate funds, smaller and new parties particularly find it difficult to run decent election campaigns. To reduce the dependency on big money and encourage aspiring politicians to participate in the democratic process, a number of democracies have embraced the path of public subsidies and direct funding of political parties and political activities.

Many countries such as Germany, United Kingdom (UK), Brazil, Mexico, even the United States have introduced state funding of elections (in different ways) to address these issues. In fact, countries like Germany and UK have made impressive strides in reducing the role of big money in politics and bringing about modest degree of transparency back to their democratic processes through intelligent use of state subsidies. Yet, India cannot simply take a leaf out of Germany or UK's experience.

It is a vast and complicated country with a diverse and evolving democracy where many institutions are still a work in progress. Therefore, it is pertinent to understand the context of the reforms and the differences in the systems introduced in various countries. This paper will try to analyse these claims, identifying the variations in implementation. It will also try to identify other factors which can help India institute a more workable law with regard to public funding of elections.

Types of Public Funding

Public Funding can be divided into two types in which public resources are made available to parties or candidates. These are indirect and direct funding. Below is a brief description of their nature and key characteristics.

(A) Indirect Public Funding

Under indirect public subsidies, the government provides resources with a monetary value to political parties or candidates. The most common forms of indirect subsidies are in the form of access to publically-owned media, use of public infrastructure for meeting and rallies, free or subsidised public transportation for candidates and key party personnel for campaigning. Free printing and distribution of ballot papers, subsidised office space for party functions, interest free loans to finance basic campaigning expenses and incentivising private donations by tax exemptions are also forms of indirect funding. As per the International Institute for Democracy and Electoral Assistance (IDEA) statistics, more than 68 per cent countries around the world offer some form of indirect subsidies to political parties or candidates.¹

1. Magnus Ohman, “Getting the Political Finance System Right,” in *Funding of Political Parties and Election Campaigns: A Handbook on Political Finance*, International IDEA, p. 53.

(B) Direct Public Funding

Under this scheme, state provides money directly to political parties or candidates to fully or partially meet their expenses. Direct funding system can differ in many forms. On the basis of the goals, the systems differ on the following aspects:

1. Recipient

In most countries direct public subsidies are provided to political parties particularly to party central offices or headquarters, but there are many countries, like US, Australia, Canada, Denmark, Germany, Norway, Spain, Austria and Sweden, which provide direct subsidies to state or regional level party offices.² It is only in handful of countries such as Ecuador, France, Uruguay and the US where candidates receive direct subventions.³

2. Threshold for Eligibility to Access Public Funds

Providing funds to all parties or candidates create the most competitive electoral system. However, the problem with such a system is the proliferation of non-serious parties or candidates who only seek to get funding. Alternatively, a very high threshold, like 10 per cent vote share as in Bhutan and Malawi, would largely favor incumbents and would be against the interests of competition as new parties and smaller parties would be ineligible for public funding.⁴

Therefore, most countries have adopted an eligibility barrier based on performance in the previous election. This is usually based on parliamentary representation like Bolivia and Finland, or vote share as in the cases of Germany and Nicaragua. Some like Sweden and Costa Rica have used a combination of representation and vote share with mixed success.⁵

3. Criteria for Allocation Among Eligible Political Actors

Equality in fund allocation is the hallmark of a sound public funding system. While it may seem that providing equal subventions to all eligible political players is the most democratic method, the idea of providing equal grants to a small party with minimal representation or minor vote share as that given to large parties is a disregard of the opinion of the voters and can cause wastage of public funds. It could also lead to party fragmentation.⁶ Most countries, though, use a system of proportional allocation according to vote share, as in Belgium and Greece or representation as in Finland and Sweden. Germany (along with funds based on votes received) and the US have implemented a system of matching funds that have been raised by the parties through small private donations.⁷

²Kevin Casas-Zamora, "Political Finance and State Funding Systems: An Overview," International Foundation for Electoral Systems, Washington, 2008, p. 12.

³Kevin Casas-Zamora, "Political Finance and State Funding Systems: An Overview," International Foundation for Electoral Systems, Washington, 2008, p. 12.

⁴Magnus Ohman, "Getting the Political Finance System Right," in *Funding of Political Parties and Election Campaigns: A Handbook on Political Finance*, International IDEA, p. 23.

⁵Kevin Casas-Zamora, "Political Finance and State Funding Systems: An Overview," International Foundation for Electoral Systems, Washington, 2008, p. 14.

⁶Magnus Ohman, "Getting the Political Finance System Right," in *Funding of Political Parties and Election Campaigns: A Handbook on Political Finance*, International IDEA, p. 24.

⁷Kevin Casas-Zamora, "Political Finance and State Funding Systems: An Overview," International Foundation for Electoral Systems, Washington, 2008, p. 14.

A key feature of the German allocation criteria is that the amount of funds granted for the first four million votes received by parties, which is 0.85 euro per valid vote, is higher than the amount granted for votes received beyond that, which is 0.70 euro per valid vote.⁸ This is crucial in maintaining a balance between large established parties and smaller, usually regional, parties. In short, the determination of the allocation criteria is a critical factor to ensure the fulfilment of core objectives.

4. Method of Disbursement of Funds

There are two elements involved in the methods of disbursement. These are the purpose and the timing of such disbursement. Based on their purpose, parties can be funded permanently or for election campaigns. Most countries have provisions for regular funding or both regular and campaign funding. Only a handful of countries restrict funds to fund electoral campaigns. Although the intended use may be different from the timing of the disbursement.⁹

In terms of the purpose, there is a clear distinction between West European democracies and Latin and North American democracies. This is due to the difference in the way the political parties itself are viewed in these countries. While the former view political parties as permanent organisations with comprehensive non-electoral democratic functions, the latter view parties only as institutions with the sole function of running election campaigns and supporting candidates.¹⁰

Impact of Public Funding

As illustrated in the beginning, the key objectives behind instituting public funding are to cut the costs of elections, reduce the dependency on 'interested money', enhance political competition by providing a level playing field for smaller and newer political entrants and institutionalising transparency and accountability in the democratic processes. In the following pages, we do a quick fact checking of impacts that public financing of politics makes in different settings and contexts.

1. Effect of Public Funding on Reducing Costs of Elections

The proponents of state funding of elections argue that it helps reduce and limits the enormous costs of campaigning. However, insights emerging from the global experiences provide mixed trends. Negative ones first. Despite direct subsidies given to political parties in Israel and the US, the electoral expenditure continues to grow with each election and parties in both countries continue their dependency on large private donors.¹¹ This is due to the lack of spending ceilings and the existence of catch-all parties.¹² Of course, in the case of America, this is mostly due to the effect of the 2010 Citizens United judgement.¹³ The judgment allowed, what was called,

⁸Section 18 (3), Act on Political Parties, 2004.

⁹Magnus Ohman, "Political Finance Regulations around the World: An Overview of the International IDEA Database," International Institute for Democratic and Electoral Assistance (2012), p. 24.

¹⁰Kevin Casas-Zamora, "Political Finance and State Funding Systems: An Overview," International Foundation for Electoral Systems, Washington, 2008, p. 13.

¹¹Kevin Casas-Zamora, "Political Finance and State Funding Systems: An Overview," International Foundation for Electoral Systems, Washington, 2008, p. 18.

¹²Catch-all parties are typically ones characterized by weakening of membership but expansion of target groups and the party opening to a growing number of interest groups. These parties are much less dependent, for financing, on membership dues and more on funding from such interest groups and business circles. Therefore, public funding without spending ceilings has only resulted increase in funds for the parties to spend. See Hrvoje Matakovic & Irena Cajner Mraovic, Development of Political Parties & Party Funding: Models and Characteristics, Centre for European Studies Working Papers, Vol 7, Issue 1, 2015, pp. 111-125 at 117.

¹³Citizens United v. Federal Election Commission, 558 U.S. 310 (2010).

'independent expenditure', whereby, instead of contributing to a candidate, corporate entities could directly spend on advertisements calling for election of a candidate or for the defeat of another.¹⁴ The exponential increase in expenses in the 2012 presidential election has been attributed to the formation of super-PACs which were allowed by the judgment.¹⁵

However, there are successful examples like Japan and Germany that have reduced the costs of elections and dependency from the private business. Japan has able to reduce its campaign costs¹⁶ through a judicious mix of supporting reforms including imposing bans on corporate donations, imposing spending ceilings, improving transparency along with state funding.

2. Effect of Public Funding on Big Money

One of the key arguments in favor of public funding is that it reduces the dependence of parties on big private donations. In terms of outcomes, the international experience gives a mixed bag. For instance, a close examination of a major case like South Africa saw the gross misuse of public funds especially by the wealthy candidates. On the one hand they continue receiving state subsidies and on the other same parties keep receiving private money through government contracts and other forms of preferment.¹⁷ Even in the US, such funding has not reduced the dependency of political parties on wealthy donors.¹⁸

In terms of checking the growing plutocratic influence on party finance and corruption, the results are not all that encouraging either.¹⁹ For instance, in Israel and US, as noted above, public subsidies have not reduced the reliance on private donations. Similarly, in several Latin American countries particularly Brazil, Argentina, Colombia, Ecuador and Costa Rica, public subsidies have proved rather ineffective in limiting the role of business in the political financing. The easy availability of money from interest groups and business circles to typically catch-all parties also contributed to the failure in Israel and US.

In Latin America, business ordinarily played a central role in campaign funding because there were no other sources available for parties. Political parties in Latin America are typically characterized by weak party organizations, scarcity of fee-paying party members and weakness of interested trade union contributions.²⁰ Therefore, public subsidies in this case failed to replace the need to attract private donations, but were merely an additional source of income for the parties.

However, there are few successful examples as well. Take the case of Canada for instance. Canada introduced public subsidies as a part of a whole set of reforms, including spending

14. Confronting Corporate Money in Politics: A Guide for Individual & Institutional Investors, USSIF Foundation, p. 1 accessed at http://www.ussif.org/files/publications/corporate_money_in_politics.pdf.

15. Why American elections cost so much, The Economist, 9 Feb 2014.

16. See Matthew Carlson, "Japan" in Checkbook Elections: Political Finance in Comparative Perspective, ed. Pippa Norris, Andrea Abel van Es and Lisa Fennis, p. 28.

17. Richard Calland, "South Africa" in Checkbook Elections: Political Finance in Comparative Perspective, ed. Pippa Norris, Andrea Abel van Es and Lisa Fennis, p. 34.

18. Steven M. Levin, "Keeping it Clean: Public Financing in American Elections," Centre for Governmental Studies (2006), p. 4.

19. According to well-known expert Michael Pinto-Duschinsky (2002), "there is ample evidence from around the world that public funding is not an effective cure for corruption." See Marcin Walecki et al., "Public Funding Solutions for Political Parties in Muslim-Majority Societies", IFES and USIP (2009), p. 32.

20. Kevin Casas-Zamora, "Political Finance and State Funding Systems: An Overview," International Foundation for Electoral Systems, Washington, 2008, p. 18.

ceilings, tax incentives for smaller contributions, which have been able to successfully reduce the role of interested money in party financing.²¹ In Sweden, generous public subsidies, which far exceeds private donations and minimal state intervention in party affairs have been successful in reducing temptation for parties to seek anonymous interested money.²² In both these cases, it is necessary to understand that other factors were also responsible for the resultant effect.

3. Impact on Electoral Competition

Does public funding of elections encourage new entrants and promote electoral competition? International experiences suggest that public subsidies fostering competition is a function of how public subsidies are distributed. In countries like Russia, it has been used to stifle political competition and promote authoritarianism. The 2001 law, apart from establishing heavy state subsidisation, introduced other regulations such as limiting private donations, imposing spending ceilings and strict disclosure requirement. This has led to a situation where it is almost impossible to challenge the ruling party.²³

Thus, it has led to creation of a cartel party. However, there is modest evidence of the opposite too. Many new parties have emerged in countries like Canada and Finland, where public subsidies were introduced to reduce proliferation of parties.²⁴ In some instances, particularly in the cases of Israel, Italy and Mexico, introduction of public subsidies has brought greater competition by enabling entry of newer parties and providing smaller parties with the funds to compete with incumbents.²⁵

There are also peculiar experiences particularly with regard to parties that have certain ideological preferences, like the left or socialist parties. It is well known that these parties find it increasingly difficult to compete with right-wing parties due to the fact that huge private funds are readily available to the latter. In some ways, the introduction of public subsidies is helping those political entities as evident in the case of Uruguay.

The public subsidies can also be employed to promote competition within the party. As the global evidence suggests, this can be done by introducing public funding for determination of candidate at the intra-party level. One of the best examples of this is the United States, where candidates can seek public funding to contest intra-party elections for candidature. Another method of tackling this problem is by routing public subsidies directly to lower units of parties and thereby strengthening them and ensuring intra-party democracy.

4. Other Effects of Public Funding

State funding of elections does serve many other purposes as well. One of them is that such a strategy promotes institutionalisation, thereby ensuring greater compliance of transparency norms. A quick survey of literature indicates that the consequences of institutionalisation largely depend on the purpose and method of disbursement of funds to parties/candidates. A comparative analysis of Latin America and Western Europe provides some broad understanding of how party

21. Kevin Casas-Zamora, "Political Finance and State Funding Systems: An Overview," International Foundation for Electoral Systems, Washington, 2008, p.19.

22. Magnus Ohman, "Sweden" in Checkbook Elections: Political Finance in Comparative Perspective, ed. Pippa Norris, Andrea Abel van Es and Lisa Fennis, p. 35.

23. Grigori E. Golosov, "Russia" in Checkbook Elections: Political Finance in Comparative Perspective, ed. Pippa Norris, Andrea Abel van Es and Lisa Fennis, p. 32.

24. Kevin Casas-Zamora, "Political Finance and State Funding Systems: An Overview," International Foundation for Electoral Systems, Washington, 2008, p.20.

25. Kevin Casas-Zamora, "Political Finance and State Funding Systems: An Overview," International Foundation for Electoral Systems, Washington, 2008, p.20.

institutionalisation works. In countries like Uruguay and Costa Rica, although generous subsidies are provided to party members, there is very little evidence of institutionalisation of parties. This can be understood from the fact that between elections; the financial turnovers, membership and party activities remain very low.

Whereas it is the opposite in the case of most western European countries, where permanent subsidies have led to strong party organisations.²⁶ The difference here can be attributed to the different view of parties in both the regions. While in the former parties are merely considered election contesting bodies, the latter consider parties as institutions that are a part of the democratic process. Also, it is always argued that direct subsidies can provide parties with the bare minimum they need for organisational activities.

Similarly, on the issue of whether direct subsidies replace small contributions and membership dues, results are at best mixed. It is argued that public funding could lead to parties' over dependence on state funds and therefore reduce their reliance on members and small contributors for finance.²⁷ But this is countered by the argument that public funds are supposed to reduce parties' reliance on wealthy donors and grant them non-interested money to reach out to the people. In fact, the result in many countries has shown that public funding has not reduced party memberships and small contributions to parties.

For instance, in Sweden and Norway, although parties were generously funded, membership rates have grown. In Spain, which grants public subsidies through a system of reimbursement of campaign finances, a political party, Podemos, used a method of crowd funding on the promise of refunding once the reimbursements were received. This helped them to refuse any income from corporate donors.²⁸ Others like Germany and the US have in fact imposed such regulations on public funding that they encourage donations from small contributors and members by a fund matching scheme. The system of matching funds has incentivised parties to stay close to the electorate and generate funding from the people in small donations.

Conclusion

As seen from the global examples, public funding option at best provides mixed results and greatly varies from country to country. While it has shown plenty of positive hopes in some democracies, the same has failed in many instances. From the global insights, it is clear that in order to ensure effective public funding, a country has to have two-pronged approach - reduce the dependency on corporate/private money (by strict restrictions on limits, strong regulations, disclosures) and infusion of white money through state funding or incentivising various other funding options including tax free donations/loans.

However, seen from the American example, it is extremely difficult to persuade parties to not accept donations from corporate entities, therefore, the solution to the problem lies, not in dis-incentivising corporates, but, in reducing, if not removing, the need of it to parties. Here, public funding has a major role to play as it is an alternative source of finance which can cause parties to not feel the need to seek 'interested'

26. Kevin Casas-Zamora, "Political Finance and State Funding Systems: An Overview," International Foundation for Electoral Systems, Washington, 2008, p.25.

27. Richard S. Katz and Peter Mair, "Changing Models of Party Organization and Party Democracy: The Emergence of the Cartel Party," *Party Politics*, 1 (January, 1995), 5-28; Susan E. Scarow, "Political Finance in Comparative Perspective, Susan E Scarow," *Annual Review of Political Science*, 2007, p. 204.

28. Daniela R. Piccio, "Public funding to political parties: a forward-looking approach" Global Conference on Money in Politics (2015), p. 3.

corporate funds. The model of public funding, though, must not replace small contributions and membership fees as it will have the effect of distancing parties from the masses, rather than, the corporates.

For various factors, India has seen a huge proliferation of political parties, formed on ethnic, religious and other parochial grounds. But due to growing costs of elections, majority of them find it difficult to put up a decent campaign. It is here that public funding of elections especially if that is channelised through candidates can come very handy. It will promote competition for candidature and can bring internal democracy within these parties. Public funding, if implemented properly, can strengthen lower levels of party units to a situation where they can demand democratisation. It can therefore solve the problem of concentration of power in the hands of few and creating dynastic politics. Importantly, if public funding is used as a lever, it can help the state in securing compliance from parties on all these issues.

In short, public funding should not be seen as a magic bullet to solve all problems in electoral finances of any country, but if introduced as a part of a set of reforms, it can contribute greatly to incentivize good practices and disincentivise wrong and illegal ones. Yet, there ought to be in place, the strongest forms of regulations and compliance mechanisms along with restrictions on private donations and campaign expenditures.

ELECTION QUOTES

“Half of the American people have never read a newspaper. Half never voted for President. One hopes it is the same half.”

- Gore Vidal, Screening History

“People never lie so much as after a hunt, during a war or before an election.”

- Otto Van Bismarck

“Elections belong to the people. It's their decision. If they decide to turn their back on the fire and burn their behinds, then they will just have to sit on their blisters.”

- Abraham Lincoln

“Money is the mother's milk of politics.”

- US democrat Jesse Unruh,

also known as the big daddy of campaign finance

WHO SHOULD PAY FOR ELECTIONS? The Debate Continues

*Anumeha**

In India, there is no direct state funding though the political parties enjoy certain indirect benefits. These are in the form of free electoral rolls, air time on state-owned media, land allocations in state capitals for the office of recognised political parties among others. Additionally, there is tax exemption on the income of political parties and for the donors on their contributions to the parties and electoral trusts. These are however subject to certain restrictions, namely, they shall not receive donation from foreign source (Section 29B of RPA, 1951), government companies and other companies as defined under Section 293A of Companies Act, 1956). Section 182 of the new Companies Act, 2013 provides for prohibitions and restrictions regarding political contributions.

It is to be noted that the Representation of People Act (RPA) stipulates that for a party to claim tax exemption, it has to submit a report declaring details of donors who contributed above ₹20,000. On the other hand, there is no legal provision where political parties are debarred from disclosing details of donations below this amount. For this very reason, the Donation Analysis Reports of political parties reveal that the total income from named donors is much less than that from undisclosed contributions less than ₹20,000. As a result, two thirds of the funds cannot be traced and are from “unknown” sources.¹

The amended Foreign Contribution Regulation Act (FCRA), 2010, (passed in the Parliament in the Budget Session, 2016) has cleared the way for foreign-origin companies to give “donations to political parties” by ensuring that “donations made by such [foreign shareholding] companies to entities including political parties will not attract provisions of the FCRA, 2010”². Concerns are being raised about the ramifications of these amendments, effected through the Finance Bill, 2016 and how it may compromise national interest.

Between 2004 and 2010, there were at least 25 instances of Indian National Congress (INC) and Bharatiya Janata Party (BJP) having received funds from the Indian subsidiaries of foreign companies. In March 2014, the Delhi High Court (on a writ petition filed by Association for Democratic Reforms [ADR]), held the two national parties prima facie guilty of violating the FCRA, 1976, for their receipt of donation from UK-based Vedanta Resources Subsidiaries³. The two parties challenged the decision in the Supreme Court, but subsequently withdrew their respective appeals (November 2016), on the plea that the amendments introduced earlier in the year in the FCRA had retrospective effect and hence their appeals had become infructuous.⁴

Though the amendments to FCRA were apparently made to get the two parties off the hook, these currently stand on a sticky wicket. Prof. Jagdeep Chhokar of ADR has pointed out that “since FCRA, 2010 did not exist in 2009 when the donations in question were made and accepted, the law in existence at the time of

1. http://adrindia.org/research-and-report/political-party-watch, file:///C:/Users/ADMIN/Downloads/Analysis_of_Sources_of_Funding_of_National_and_Regional_Parties_FY_2004_05_to2014_15_English.pdf (Last visited April 6, 2017)
2. <http://www.thehindu.com/news/national/foreign-firms-can-now-fund-parties/article8604763.ece> (Last visited on March 28, 2017)
3. Sourced from: <http://www.gktoday.in/iaspoint/current/amendment-to-fcra-via-finance-bill-route-controversy/> (Last visited on April 3, 2017)
4. Sourced from: <http://indianexpress.com/article/india/india-news-india/foreign-funding-bjp-congress-withdraw-appeals-from-sc/a>

performance of the illegal action would apply and that was, and remains, FCRA, 1976”.⁵ The retrospective amendment applies to the FCRA, 2010. The option with the government is that it can yet again try to amend the 2010 Act by inserting an amendment clause, which takes effect from 1976. That would however be legally vulnerable.⁶

Reports of Committees and Commissions- Developments through the Years

State funding essentially implies that the state shall provide funds to political parties to contest elections, and in return, there are restrictions on their accepting funds from public sources. Over the past decades, several government appointed panels and committees have tried to address the issues of transparency in campaign finance and disclosure norms of political parties. Various other stakeholders such as policy makers, Election Commission, corporate sector and the civil society have also debated and offered prescriptions on the subject. The essay below attempts to revisit such key reports, arguments and propositions for accountability in political funding.

Jagannath Rao Committee (1971)

The Joint Committee of Parliament on Amendment to Election Laws was set up in 1971 under the Chairmanship of Shri Jagannath Rao. It observed in its report that the problem of election expenses could be solved only if it is accepted in principle that all such expenditure ought to be a legitimate charge on the public funds and efforts should be made to progressively shift the burden of such legitimate election expenses (borne by the candidate and the political parties) to the state.

Tarkunde Committee (1974-1977)

As early as 1974 and 1977, the Citizens for Democracy, a voluntary organization under the patronage of late Shri Jayaprakash Narayan set up two committees under the chairmanship of Shri V.M. Tarkunde to consider the question of electoral reforms and mounting election expenses. They recommended the provision of assistance from the public exchequer to meet a considerable part of the candidate's election expenses.

Dinesh Goswami Committee on Electoral Reforms (1990)

It recommended the grant of state assistance in kind (in four identified areas) to candidates of recognized political parties. The committee was also of the view that there need not be any ban on private expenditure in respect of other items proposed for state assistance. It was left to the Election Commission to work out the manner/mode of such assistance and its implementation.

Indrajit Gupta Committee (1998)

The committee endorsed state funding of elections, seeing “full justification, constitutional, legal as well as on ground of public interest” for grant of state subvention to political parties. This would allow even the parties with modest financial resources to compete on a level playing field and with a fair chance of success at the hustings.

The committee however, accepted the uniqueness and peculiarity of the Indian conditions as compared to countries which allow partial or complete funding of elections.

4. <http://www.firstpost.com/india/fcra-are-political-parties-unique-organisations-and-thus-above-the-law-3151662.html>

5. <https://thewire.in/83388/bjp-congress-fcra-foreign-funds-supreme-court/> (Last visited on April 10, 2017)

The committee proposed a few conditions for state funding. Firstly, that such funds should be given only to national and state parties and not to independent candidates. There was another rider in terms of poll performance of political parties for which there could be a minimum cut off.

Secondly, in the short-term state funding should only be given in kind, in the form of certain facilities to the recognised political parties and their candidates. The committee noted that though ideally advisable, the (then) economic situation of the country was not conducive to full state funding and that parties should contend with partial state funding to begin with.

Thirdly, in order to be eligible for state funding, political parties and their candidates should have submitted their income tax returns up to the previous assessment year and that political parties should accept all donations above ₹10,000 in the form of cheques or drafts and disclose the names of the donors.

Fourthly, the committee suggested that an Election Fund be created for meeting the expenses on state funding. The initial annual contribution of the central government towards the corpus could be ₹600 crore @₹10 per elector for the total electorate of the then 60 crore population.

The committee had said that it was for the government and Parliament to decide whether there should be any ban on donations by companies and corporate bodies for political purposes, as there was no unanimity among the committee members. There was also no consensus on the inclusion of election expenses of political parties and other associations and individuals in the accounts of election expenses of candidates.

Law Commission of India, 170th Report (1999)

The Law Commission favoured introduction of total state funding, but on the condition that political parties are barred from raising funds from any other source. It also held that only partial state funding was possible given the economic conditions of the country (during that time). Additionally, it strongly recommended creation of an appropriate regulatory framework with regard to political parties (provisions like ensuring internal democracy, internal structures and maintenance of accounts, their auditing and submission to Election Commission) before state funding of elections is attempted.⁷

National Commission to Review the Working of the Constitution (2001)

The National Commission to Review the Working of the Constitution (NCRWC) did not endorse state funding of elections but concurred with the 1999 Law Commission report that an appropriate framework for regulation of political parties be put in place, before it could be even considered.

Venkatachaliah Committee (2002)

In the view of the committee, any system of state funding of elections bears a close nexus to the regulation of working of political parties by law and to the creation of a foolproof mechanism with a view to implementing the financial limits strictly. Therefore, proposals for state funding should be deferred till these regulatory mechanisms for political parties are firmly in position.⁸

7. (Paragraph 4.3.4)

8. (Paragraph 4.14.6)

Second Administrative Reforms Commission (2007)

The report felt that though there was a compelling need for introduction of state funding of elections in order to eradicate political corruption, it should be partial and that too in kind only. This would reduce the scope of illegitimate and unnecessary election expenditure.⁹

CII Task Force on Electoral Reforms (2012)

The Confederation of Indian Industry (CII)'s task force on electoral reforms recommended legitimising political funding and sought imposition of a “democracy cess” of 0.2 per cent on all income tax payers, including corporates, for funding political activity and elections. It also recommended that the cess be paid directly by the tax payer through cheque into the account of any political party of her choice. The part of cess not paid to any political party should be remitted to the government as a part of income tax payment. It will accrue to an “electoral/political pool fund” which the Election Commission could utilise to support legitimate political activity. The CII had also written to the government suggesting that Section 182(3) of the Companies Law that required full disclosure, including naming parties that have been given money to, must be altered. The apprehension of the private industry was that full disclosure could lead to a backlash from parties that are 'less generously funded'.

Associated Chambers of Commerce of India (2014)

The Associated Chambers of Commerce of India (ASSOCHAM) in 2014 had suggested creation of a government fund of ₹5000 crore over five years for part funding of candidates' expenditure. The campaign spending should also be subject to the public scrutiny for which the Right to Information Act should be made applicable to political parties. It has suggested change in IT Act, such that political parties are under the purview of income tax at the rate of 30 per cent in respect of anonymous donations received by them. They should also be subjected to penalty for not filing return well in time.

Law Commission of India, 255th Report (2015)

1. The commission in this report has opined that a system of complete state funding of elections or of matching grants, wherein the government matches the private funding (by donors or corporates) raised by political parties, is not feasible given the economic conditions and developmental problems of the country.
2. It has also suggested the continuation of the existing system of indirect in-kind subsidies instead of giving money via a National Election Fund. This could be expanded to include free public meeting rooms, certain printing costs and free postage among others.
3. State funding should be preceded by reforms such as decriminalisation of politics, introduction of inner party democracy, electoral finance reforms, transparency and audit mechanisms, and stricter implementation of anti-graft laws so as to reduce the incentive to raise money and abuse power.

Views of Election Commission of India on Political Finance

The commission has thus far taken the stand that unless radical reforms are carried out in election campaign and political finance, state funding should not be allowed. In its view, it will not be possible to prohibit or check candidate's own expenditure or expenditure by others over and above that which is provided by the state. In view of high cost of election campaigning in terms of media advertisements and

9. 4th Report of ARC- Ethics in Governance; (Paragraph - 2.1.3.1.6)

public rallies, use of 'Big Money' in politics is a major concern. If wealthy individuals and corporates pay to the political party or the candidate in order to do their bidding, the core principles of democracy are undermined and economic inequality transfers to political inequality. The commission is open to the idea of expanding the in-kind subsidy for the election campaign, with simultaneous reforms for transparency and accountability of parties and candidates.¹⁰

In the view of former chief election commissioner, S Y Quraishi, it is difficult to keep tabs on money spent in elections, monitoring the usage of black money or other forms of transgressions. He therefore disagreed with the idea of state funding but favoured public funding of political parties in order to check corruption. The main issue in his opinion was of black money and not white money.¹¹

Conclusion

No government so far has had the political will to act upon the above suggestions and work towards an accountable and transparent polity. In the absence of this, unbridled expenditure on campaign spending and opacity in submission of sources of funding continues with impunity. The concept of electoral bonds, mentioned in the 2017 budget, instead of incentivising a system of free and fair elections, leaves a lot of scope for corruption, opaqueness and surreptitious dealings.

Before the electors exercise their informed choice in elections, they have a right to know the source of the funds of the parties and candidates in fray. Though there is a general consensus that the country is not ready for direct state funding, partial funding too, should be subject to certain considerations.

There ought to be provisions to ensure that the entire burden is not imposed upon state directly and the tax payers indirectly. For raising of funds by the state, the exemption on income tax given to political parties can be withheld for a year or two. Whether tax exemption should continue for political parties also needs to be debated and discussed. With the EC engaged in conduct of frequent elections, a separate and effective regulatory mechanism/authority for fund allocation and checking electoral malpractices ought to be in place.

There are some questions which need answers. If state funding is allowed, would parties who are so averse to information sharing under Right to Information (RTI), answer queries under the Act? Should they and their candidates also be allowed to spend from their own funds? Finally, do we need a separate law for political campaign financing which enunciates the basic principles and penal provisions for violations?

The most effective measure and the only guarantee for a transparent polity lies in a political culture of simplicity. This is easier said than done, but not impossible to achieve. We, therefore need to work towards the creation of a system where any ostentatious expenditure works to the detriment of the candidate's electoral prospects.

****Anumeha is a Senior Research Analyst at Common Cause.***

10. Reference- Background Paper on Political Finance and Law Commission Recommendations Election Commission of India- accessed at:http://eci.nic.in/eci_main1/Current/BackgroundPaper23032015.pdf (March 22, 2017)

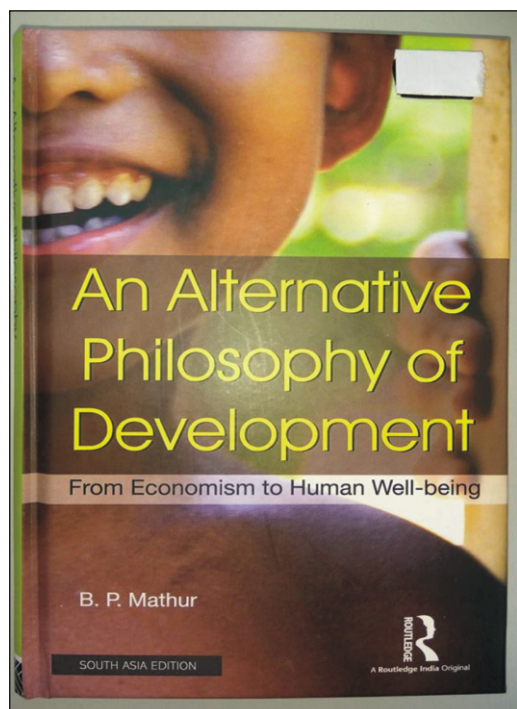
11. <http://www.thehindu.com/opinion/op-ed/Should-elections-be-state-funded-writes-yogendra-yadav-Manish-Tewari-S.Y.-Quraishi/article17314365.ece>

BOOK REVIEW:

*Shambhu Ghatak**

An Alternative Philosophy of Development: From Economism to Human Well-being

Author: Birendra Prasad Mathur, Publisher: Routledge India, First South Asia edition (2017), Price: ₹850 Pages: 248



The book provides a critique of neo-liberal economic policies from multiple perspectives. The reduction of economic development to merely growth in terms of Gross Domestic Product (GDP) has been questioned by the author. Apart from making its own unique arguments, the book also presents an extensive survey of literature and presents to the readers the alternative theories, global best practises and dominant paradigms of development. The author uses a broad canvas and deft brush strokes. He proposes a scheme of fiscal balance taking into account issues of public finance, productive and wasteful expenditure, austerity, debt and overall accountability, and all of it within a moral and cultural paradigm.

Although the author's domain of expertise is governance and public administration, his latest work has gone beyond those known territories. The central thrust of Dr. Mathur's recent book is to put the idea that economics and culture are not separate spheres; rather they are inter-connected.

In his book, Dr. Mathur has taken the pains to give an exposure to his readers on the areas where India has failed as an economy, as a society as well as a democracy. Based on his vast experience as a civil servant and as a serious scholar of development and public administration, the author has explored the underlying relationship between culture and the economic policies that are formulated and implemented by successive governments.

The 18 chapters of the book are divided into four thematic parts: current socio-economic setting; current economic ideology and its problems; rethinking development; and culture as foundation of development.

The first part, dedicated to the socio-economic setting, may attract those readers who are interested in data and statistics so as to provide a realistic picture of the country's socio-economic scenario. The key sectors, which are covered in this section are Education and health, Agriculture and rural crisis, Industrial development, India's external front, and Public finance. The author has utilised and presented relevant data and statistics from reliable sources in a manner which can be easily comprehended by policy makers, researchers and academicians.

At the outset, the author has said that India is socially and economically backward due to two primary reasons, poor governance and wrong economic policies. The Indian value system stands in contradiction to the economic policies that has been pursued by successive governments, he avers. The Western nations have been successful because their economic policies corroborate western value-system like individuality, competition and materialism, he maintains. By blindly imitating the western paradigm of

development, he believes, the country has failed to attain social development, which is sustainable and equitable.

The book compares the Indian and Western economic philosophies and value-systems. The importance of sustainable development and Gandhian way of living has been a central theme. Dr. Mathur goes on to demonstrate how the country can improve its socio-economic standing vis-à-vis the rest of the world in terms of human development and happiness if it pursues sound and inclusive policies that do not contradict the Indian philosophy and value-system. In short, the country's economic policies should synergize with its cultural ethos, emphasizes the author.

While economic development in terms of the GDP growth has been considered the most important objective by successive Indian governments, Dr. Mathur has explained that the real indicators of development are social welfare, happiness and self-fulfillment. The book is a 'must' for anyone who is interested in composite human development not in a linear or mechanical, but in a holistic, progressive and spiritual way.

**Shambhu Ghatak is with im4change.org*

COMMON CAUSE UPDATES

Supreme Court:

Previous Interventions:

Challenging the Ad-hocism in the Appointment and Functioning of the CBI Director: Common Cause had filed a petition in the Supreme Court praying for issuance of an appropriate writ directing the Union of India to appoint a regular director of CBI as per procedure established by law and for quashing the appointment of the interim/acting director. The petition pointed out that even though the central government was fully aware that the Director CBI Anil Sinha was demitting office on December 2, 2016, it failed to convene a meeting of the selection committee to appoint the new director. In order to safeguard the independence of the CBI, a detailed procedure has been laid down in Section 4A of the Delhi Special Police Establishment Act, 1946, as amended by the Lokpal and Lokayuktas Act, 2013. The central government chose to ignore the mechanism apparently through a series of omissions and commissions.

With the appointment of Mr. Alok Kumar Verma as the new CBI director, post approval by the selection committee meeting which was called subsequently, the Supreme Court closed the petition on January 20, 2017. The bench declined the request of our counsel, Mr. Prashant Bhushan to direct the centre to place before the court, the minutes of meeting of the committee to ensure compliance with law laid down by the apex court.

Bar on News Broadcast by Private Radio Stations: The PIL prays for quashing of the unreasonable provisions in the policy guidelines and grant of permission agreements of the Ministry of Information and Broadcasting, which prohibits the broadcast of news and current affairs content on FM and community radio stations. The court had previously tagged this petition with our PIL on crime and violence on TV and some other matters relating to the right to freedom of speech and expression which were dismissed separately on January 12, 2017.

On February 14, 2017, the court observed that the Union of India (UoI) counter affidavit highlighted the gradual progress of the policy guidelines in context of news broadcast by private radio channels. The counter affidavit contended that the revised guidelines permitted community and F.M. radio stations to broadcast news and current affairs sourced exclusively from the All India Radio, in its original form or translated into a local language/dialect.

The court, however, felt that the government should consider extending the content of news and current affairs which was already in public domain. The court granted six weeks to the government counsel to obtain instructions. This matter is posted for hearing on April 5, 2017.

Contempt Petition Against Lawyers Strike: Common Cause has filed a contempt petition against the strike of lawyers in Delhi High Court and all district courts of Delhi on the issue of conflict over pecuniary jurisdiction. In WP (C) 821/1990 (Harish Uppal v. Union of India) the Supreme Court had observed that lawyers had no right to go on strike and could not give any call for boycott. The court also held that lawyers refusing to respond to such a call could not be visited with any adverse consequences by the Bar Association or the Bar Council.

The matter was last taken up on January 13, 2017. After hearing the counsels, the court ordered that reply, if any, be filed within six weeks. The matter is likely to be listed on April 17, 2017.

Challenging the Vires of the Appointments Made to the CVC: The IA filed by Common Cause in November 2016, praying for directions for constitution of a Special Investigation Team (SIT) to thoroughly investigate the evidence gathered in the raids on the Aditya Birla and the Sahara groups was dismissed on January 11, 2017, by the court on account of lack of evidentiary value, being irrelevant and legally inadmissible. On February 10, 2017, the counsel for the Union of India brought the entire original record to defend the appointment of the Central Vigilance Commissioner (CVC) and the Vigilance Commissioner (VC). However, the court said that the records would be seen later. The matter is likely to be listed in first week of April.

Preventing the Export of Logs of Red Sandalwood: Pleadings in the matter were completed on August 22, 2016. Despite an undertaking before the Apex Court, the Union of India (Ministry of Environment and Forests) did not file its vakalatnama and counter affidavit. Respondent No.2, Department of Commerce, too failed to do so despite directions from the court in May and August 2016. Declining to grant them further opportunities, the court directed the registry to process the matter for listing as per rules. On November 23, 2016 the matter was taken up by the court and posted for December 15, 2016 as it did not receive the files and hence could not hear the matter. The matter is likely to next be listed on December 15, 2017.

Challenging the Lokpal Search Committee Rules: After admonishing the centre for causing delay in the selection process on the pretext of the absence of the leader of opposition in Parliament, the court on February 13, 2017, directed that our petition along with all connected cases be listed for final disposal on March 28, 2017, and pleadings, if any, may be completed, in the meantime. Judgment in the matter has been reserved on March 28, 2017.

Inquiry against ex-Chairman, NHRC K.G. Balakrishnan: This matter was taken up on February 13, 2017, when the court directed the centre to file its response on our plea seeking a probe into alleged disproportionate assets amassed by Justice Balakrishnan. The direction came during the hearing of the IA

filed in 2016 by Common Cause seeking an amendment to its earlier prayer for the removal of Justice Balakrishnan as Chairperson NHRC, as he had already demitted the office, rendering the plea infructuous. The bench, comprising Justices Dipak Misra and R. Banumathi, asked the Solicitor General, to file a reply within six weeks. It is likely to be listed on April 21, 2017.

Coal Block Allocation: On January 23, 2017, the Supreme Court allowed the prayer in the IA (13) filed by Common Cause for the constitution of a Special Investigating Team (SIT) to probe the abuse of authority by Mr. Ranjit Sinha while he was the Director CBI. The Court has entrusted the CBI with the enquiry and decided not to appoint an outside body. The Court clarified that it had not expressed any opinion on the merits of the allegations made in the IA nor made any comment on the contents of the report prepared by Mr. M.L. Sharma and his team, except that a prima facie case had definitely been made out for investigation into the abuse of authority by Mr. Ranjit Sinha in terms of the report.

Holding the matter to be of considerable public importance, the court emphasised that it should be taken up with due earnestness. It directed that a copy of the order be provided to the director, CBI so as to enable him, on the next date of hearing, to indicate the composition of his team and the time required to complete the investigations.

During the hearing on January 30, 2017, the court directed the CBI to complete its investigation and file charge sheets in pending coal scam cases as expeditiously as possible, and in some cases by February 2017. The Bench advised the CBI against unnecessary delays in the filing of charge sheets in cases in which the investigation was already over.

The court refused to entertain Mr. Ranjit Sinha's plea to modify investigation orders against him, restricting its order to calling the probe "an enquiry" and not term it as "an investigation". Invoking the SC's recent dismissal of documentary material produced in the Sahara-Birla pay-offs case, the former CBI director on January 30, 2017, sought modification in the court's order of January 27, 2017, order. Mr. Sinha's counsel made a reference to how the Supreme Court refused to even direct the registration of an FIR into the Sahara-Birla pay-offs case in which top politicians, including the prime minister, were accused of receiving kickbacks from Sahara and Birla group of companies for alleged favours.

The Bench, however, refused to entertain his plea as the order had already been passed and a modification could be sought under a separate plea for recall of the order. In the hearing on March 24, 2017, his plea for recall was formally dismissed.

The matter is next listed on April 10, 2017.

Slaughter House Pollution: Pursuant to the court's orders of September and October 2016, a compendium of the Indian Standards governing the slaughtering of animals and management of slaughter houses was prepared along with all relevant material in consultation with stake-holders. The court directed the UoI to print the compendium in sufficient numbers and circulate it to all the state governments and union territories for compliance. The court directed the Union of India to comply with its orders within six weeks from the date of the order.

The court disposed of this case on February 17, 2017, with the observation that the petitioners were entitled to approach the concerned district collector or the judicial authorities, as the case may be, in the event of non-compliance with the Indian Standards, and other rules and regulations.

APPLICATION FORM FOR MEMBERSHIP OF COMMON CAUSE.

1. Name: _____
2. Father's Name: _____
3. Mother's Name: _____
4. Date of Birth: _____
5. Educational Qualification: _____
6. Occupation: _____
7. Permanent Address: _____

8. Mailing Address: _____



(a) Email ID : _____

(b) Phone : _____ Mobile: _____

9. Next of Kin (Name & Address): _____

10. Membership Sought. (Tick any one block):

Categories	Ordinary	Life
Individual (with voting rights)	Rs. 500.00 P.A. <input type="checkbox"/>	Rs. 5000.00 <input type="checkbox"/>
Associate (without voting rights)	Rs. 100.00 P.A. <input type="checkbox"/>	Rs. 500.00 <input type="checkbox"/>

11. Why do you wish to join COMMON CAUSE (up to 80 words)



12. Your expectations from COMMON CAUSE (up to 40 words)



Place & Date:

Signature

Your feedback is crucial for us!

Common Cause journal has been the organisation's voice since its inception. It has always articulated issues of policy, governance and probity which affect the quality of lives of common citizens. However, the biggest strength of the organisation is, and has always been, the constant and steadfast support of our members. We receive a large number of letters and emails about our ongoing interventions and suggestions about future directions. Our members and well-wishers have also been in touch with us through our refurbished website (www.commoncause.in).

We look forward to receiving your feedback about the issue you are holding in your hands.
Edited excerpts of your recent feedback is given below:

I am a great admirer of Common Cause, its activities and individuals who are directly connected with it.

Rama Reddy, via email

Excellent website...

Thomas Bries, via email

Keep up the good work. The main issue seems to be that the SC is avoiding difficult decisions by delaying its judgments. Jayalalitha case is one prime example...

Pradeep Jacob, via email

I am a member of Common Cause and have been interested in the work done. You have been taking up issues that concern the citizens at large...

Prakash Makhijani, via email

Want to contribute and donate. Am very impressed with the causes you fight for.

Dharmendra Agarwal, via email

...I have been keenly observing Common Cause for the last few years. You are endeavoring to make democracy stronger and cleaner. You are also the voice of the voiceless. You are bringing smiles on the faces of poor, disadvantaged, and underprivileged people's faces...I would like to be a member of the Common Cause and be the part of this noble and significant journey.

Dileep Kumar, via email

...I am an IIT Delhi alumni. I am inspired by the work done by Common Cause NGO and would like to contribute...I noticed that Common Cause website doesn't have any option to donate online. Accepting online donations would make it very convenient for common citizens to contribute monetarily. I would like to volunteer to add a online donation support for Common Cause.

Dushyant Bansal, via email

This is with respect to the article you wrote on Common Cause journal entitled "Why are we floundering eight years after getting a new act?" Let me first congratulate you on a great piece. It is very comprehensive and tackles the problems of implementation of the programme (Gram Nyayalayas) judiciously...

Ragini Agarwal, via email