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ELECTORAL BONDS AND TRANSPARENCY IN POLITICAL FUNDINGS: A CRITICAL ANALYSIS

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ABSTRACT

In this particular article, an attempt is being made to study the impact of the donations received by political parties from the corporate sector in India. This is particularly focused on studying their impact with the help of electoral bonds. In this context, there are various questions that need to be answered. Why do the corporate houses make political contributions? Is it because they believe in the political philosophy for which the party stands, or is there something else for which such donations have been made? There is also one very important question that emerges here. Is it possible to conduct an election campaign without the use of corporate donations? However, this dependency poses a certain problem, as the influence of corporate interests over public policy could become predominant over people's welfare.

While it is true that this scheme regulates donation in a more transparent way via banking channels, this comes at the cost of not making known the identity of donors. Such a move has implications on transparency, an important issue when one considers that the identity of people who fund political parties should not remain unknown. The other interesting point

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raised in the article has to do with whether the scheme is still redeemable in light of the decision rendered in the case of Association for Democratic Reforms v. Union of India.

KEYWORDS: Corporate donations, Electoral bonds, Regulatory capture, Political coercion, Institutional trust.

INTRODUCTION:

Elections have been known to be costly processes in all democracies globally². The reason is that elections funding facilitates good operation of the political party and adequate campaign, message delivery, winning in the election, and other things. In case the political party does not have enough finances, it is unlikely that the message would be delivered to the voters despite having an excellent platform and ideology. There are various issues associated with collection of finances by the political party as well as management of its activities. In this regard, the funding for elections could be sourced from corporations, rich people, and lobbyists³ with particular interests towards the political party or the person fundraising for his/her campaign.

It is due to these issues that there has been an increasing need for more transparency and accountability in political funding. The citizens, along with the civil societies and other groups working towards ensuring that elections happen without any fraud, have always called for a system in which the donations could be monitored properly and kept away from any form of manipulation. In India, it was because of these needs that the Electoral Bond Scheme was introduced in 2017⁴. This is the process through which the Indian government tried to clean up the process of political funding. The main reason behind this process was to stop the usage of cash in political funding.

² International Institute for Democracy and Electoral Assistance, *Funding of Political Parties and Election Campaigns: A Handbook* (2014)

³ *Political Corruption and Party Financing Report* (2018).

⁴ Ministry of Finance, Government of India, *Electoral Bond Scheme, 2018*, Gazette Notification No. S.O. 29(E), dated January 2, 2018

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Electoral bonds are, by their nature, investment tools, which could be purchased by individuals or corporations from specially authorized branches of the State Bank of India⁵. Such electoral bonds are available in pre-defined denominations, from ₹1,000 to ₹1 crore⁶, with no maximum number of such bonds one can buy. Payments in the form of cash towards the procurement of these bonds are not permissible, with transactions being carried out only through banks through cheque or other online payments⁷. This process would ensure that all transactions are documented, unlike the earlier process where a lot of cash transaction took place.

It can also be seen that one of the prominent characteristics of the bonds is that they are bearer instruments⁸. What this means is that although it will be necessary for the purchaser of the bond to fulfill all KYC regulations⁹, the recipient political party will not be aware of who the donor is. The anonymity clause was inserted to save the donor from any kind of coercion or harassment on their part. The bonds are valid for 15 days, during which they need to be donated to eligible political parties. For instance, the eligible political parties should be those that are registered with the Election Commission of India and also managed to secure 1% votes in previous elections.

Electoral Bonds have emerged as one of the most important sources of fundraising since their introduction. As per figures collected by the Association for Democratic Reforms (ADR)¹⁰, an NGO working towards transparency in the electoral process, in the period between March 2018 and November 2022, there was issuance of over 20,000 bonds valued at more than ₹11,000 crore. Out of these bonds, a majority of the bonds have been used by political parties in fundraising. Moreover, there is evidence

⁵ State bank of india, *Electoral Bonds Scheme - FAQs*, available on the official website.

⁶ Reserve Bank of India, *Annual Report* (relevant discussions on banking transactions and financial transparency).

⁷ Reserve Bank of India, *Guidelines on Electoral Bonds Transactions* (2018).

⁸ Ministry of Finance, *Electoral Bond Scheme, 2018*, cl. 7 (Bearer Nature).

⁹ Reserve Bank of India, *KYC Master Directions* (2016).

¹⁰ Association for Democratic Reforms, *Electoral Bonds and Political Funding in India* (2022).

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that suggests that a major share of electoral bonds are bought by individuals during election season, particularly before the general election in 2019¹¹.

However, there have been concerns and criticisms associated with the program. Even though it curtails the need for using cash, the secrecy surrounding the identities of the donors is a significant concern¹². Electoral bonds may facilitate the exercise of undue influence¹³ by corporate firms, rich individuals, or any other group in the political affairs of a party. This is because people are unable to know the sources of financing of any party; hence, one can question whether the decisions being made are driven by personal gains. Consequently, many people view electoral bonds as a move towards making donation more legitimate but failing to promote transparency.

In spite of all of these worries, there is no denying that electoral bonds have made themselves into an essential aspect of India's political finance system. Electoral bonds have regularized political funding, brought in banking systems, decreased black money circulation, and redefined the fundraising process of the parties. While the scheme has made improvements in the process of regularizing political finance, the scheme has also created issues regarding the transparency in the process due to which it can be seen as a two-edged sword¹⁴.

It is only because of the electoral bonds that one realizes the thin line that needs to be struck between funding that is clean and funding that is open. Although electoral bonds have done much to help in solving the problem of cash being used in financing politics, some questions arise with regard to voter ignorance, corporate involvement, and openness within the system. It would be interesting to know the working of electoral bonds in India¹⁵.

¹¹ Election Commission of India, *General Election Report 2019*.

¹² Transparency International, *Political Finance and Transparency Report (2019)*.

¹³ Centre for Policy Research, *Corporate Funding and Democratic Integrity (2020)*.

¹⁴ Association for Democratic Reforms, *Electoral Bonds Analysis Report (2021)*.

¹⁵ Association for Democratic Reforms v. Union of India

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STATEMENT OF THE PROBLEM:

Transparency in political funding has now emerged as a very important aspect of modern-day democracies, including that of India. The need for money is indispensable when it comes to political party functioning as they require funds to conduct their election campaigns, run other party affairs, and interact with the public. The question that arises here is that sometimes the source of such funding is unclear. This creates questions about the possibility of money taking precedence over the will of the people in the political decision-making process.

Use of electoral bonds sought to solve some of these issues and improve the practice of funding. The fact that electoral bonds have to go through official banking institutions and need KYC verification means that less black money would be used for funding purposes. On the other hand, anonymity would protect those who make donations because their identities would remain unknown. While anonymity may help protect potential donors from political intimidation, it also poses serious problems related to accountability and transparency.

The two characteristics of electoral bonds form the basis of the problem faced in this case. First, electoral bonds seek to enhance legitimacy and transparency of financial transactions by involving the banking sector. At the same time, however, it denies the citizenry any insight into the sources of funding for political parties. As such, the citizens lack the capacity to understand fully the nature of the link between the financiers and politics.

The second challenge relates to the inequality in the distribution of the funds across different political parties. Statistics reveal that the majority of the donations made through electoral bonds are made to only a handful of parties. Such donations could be said to give some parties an advantage over others and thus tilt the balance of the playing field. Moreover, it is noteworthy that the timing of the donation could be seen as a strategy towards political gains.

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Hence, the central issue revolves around striking a balance between ensuring that political finance is not only clean and cashless but also open and accountable. Although the introduction of electoral bonds has helped to minimize the use of unaccountable cash, it has brought about the problem of opacity, making it difficult for the general public to monitor political contributions.

RESEARCH OBJECTIVES:

- To analyse the functioning of electoral bonds.
- To study the present constitutional and legal framework governing political funding in India.
- To evaluate the impact of electoral bonds on transparency and accountability.
- To highlight the drawbacks and issues associated with this scheme.
- To suggest improvements for increased transparency in political funding.

LITERATURE REVIEW:

The use of electoral bonds was introduced in India in 2017¹⁶ in order to create transparency in political funding. Previously, Indian political parties had received their political funds through contributions that were made in cash form without disclosing any identities of the contributors. There had been suspicions regarding the manipulation of elections through black money and unknown funding¹⁷. The issue would be sorted out by the introduction of the new method of political fundings. Essentially, individuals and companies would have an opportunity to buy electoral bonds from banks¹⁸ in order to donate to any political party of their choice. It is believed that the bonds can be cashed by the respective political parties.

¹⁶ Ministry of Finance, *Electoral Bond Scheme, 2018*, Gazette of India, 2 January 2018.

¹⁷ Reserve Bank of India, *Annual Report on Currency and Finance* (2017).

¹⁸ Ministry of Finance, *Electoral Bond Scheme, 2018*, cl. 2 & 3.

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The main objective behind the issuance of electoral bonds is to ensure that a certain level of formality¹⁹ is achieved in the donation process. In other words, instead of receiving enormous amounts of cash from donors, it would become easier to keep track of all money going in through electoral bonds. It was hoped that it would be easier for the country to avoid the problem of illegitimate money²⁰ through such measures.

There are some problems that emerged regarding the introduction of such bonds in India despite their many advantages. The first issue that arises in the context relates to the matter of anonymity²¹. This means that electoral bonds could ensure the fact that those who made any donation will not be traced by anyone else apart from banks. Even though the authorities would know about transactions conducted with the help of electoral bonds, ordinary citizens would not have any idea about whom to support. Transparency forms an important pillar in democratic governance²². It is therefore crucial for the citizens to know which parties are receiving funding from various individuals because they have the authority over their country.

A third concern which has been expressed regarding the issue of electoral bonds is that such bonds can favour the ruling party. According to reports, the party that holds power at that time can obtain information regarding the donor through official sources. As a result, there is confidence on behalf of the donor that he will make contributions towards the ruling party. The donors can therefore take advantage of such a provision.

Another change brought about by the electoral bonds in India has been the manner in which companies give money to political parties. Prior to the implementation of this process, there were restrictions in place regarding the amount of money that was

¹⁹ Ministry of Finance, *Explanatory Memorandum to Finance Act, 2017*.

²⁰ Transparency International, *Political Finance Transparency Report (2019)*.

²¹ Association for Democratic Reforms, *Electoral Bonds and Transparency Analysis (2021)*.

²² Election Commission of India, *Report on Political Party Transparency (2020)*.

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allowed to be donated, as well as disclosure requirements where companies were expected to mention these contributions in their financial statements. However, this has since changed with the use of electoral bonds, where companies are able to donate unlimited sums of money²³ without disclosing the party that gets to benefit from the contribution. There is fear that the use of such practices results in favouritism by the government²⁴.

Those who support electoral bonds claim that the introduction of such bonds has made a difference in reducing the cash flow²⁵, leading to more money going into the official banking system. While total transparency has not yet been attained, it is argued that the present process is superior to the previous one, which was entirely opaque. Through the use of the banking channel, it becomes possible for the government to monitor the movement of funds, thereby preventing political parties from obtaining any unlawful funds.

Nevertheless, despite all this discussion on the subject, the majority of scholars claim that electoral bonds have contributed towards reducing transparency²⁶ in certain aspects. Even though there is formalization of money transfers, it is more difficult for citizens to learn about the identities of the donors of political parties. It is especially important within the context of transparency, which is essential in a democratic country since only then people can make a decision.

Several modifications have been suggested by scholars as ways of improving the current system. To begin with, one of the suggestions is that information regarding all the donors should be made known publicly²⁷. In such a case, everyone will be able to know the names of individuals who fund different political parties. This would help to increase the levels of accountability in this system. Another

²³ Finance Act, 2017 (amendments to Companies Act, 2013).

²⁴ Centre for Policy Research, *Corporate Funding and Political Influence* (2020).

²⁵ Reserve Bank of India, *Report on Digital Payments and Financial Transparency* (2018).

²⁶ Transparency International, *Global Corruption Report* (2019).

²⁷ Law Commission of India, *Report on Electoral Reforms* (2015).

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suggestion is that some limitations should be put in place concerning the maximum amount of money that can be donated to political parties.

In addition, one should take into consideration the likelihood of how election bonds could affect small political parties²⁸ and the general political climate. In the case where an excessive dependence exists on contributions from rich individuals or organizations, small political parties will find it challenging to compete with larger political parties.

However, in some instances, comparisons have been attempted between the Indian system of electoral bonds and the other systems that different nations have introduced²⁹. However, in almost all of the countries in the world, the emphasis has been laid on promoting transparency through making the donor identification possible. The uniqueness of the Indian system lies in the anonymity offered by electoral bonds.

To sum up, the existing body of literature includes different opinions regarding the effectiveness of using electoral bonds in the political processes. While one could say that the process has become more transparent when considering the process of donations, it still could lead to increased anonymity for the voters as well as the advantage for large donors and dominating political parties. Hence, one could conclude from the existing literature on electoral bonds that while some advantages might arise from their utilization, the process is insufficient on its own³⁰.

Introduction of electoral bonds in India was aimed at introducing reforms in the area of political funding in the country in addition to eliminating the use of black money during election periods. In spite of the fact that introduction of electoral bonds in India was aimed at making political funding process transparent, several difficulties

²⁸ Association for Democratic Reforms, *Funding Inequality Report* (2021).

²⁹ International Institute for Democracy and Electoral Assistance, *Funding Inequality Report* (2021).

³⁰ Centre for Policy Research, *Electoral Finance and Democracy Study* (2021).

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emerge in the whole process. Some of the main challenges that have emerged in the introduction of electoral bonds include anonymity of donors, favoritism towards the ruling party, and involvement of corporate organizations in political funding. It is agreed upon by different scholars that reforms should be introduced in political funding.

RESEARCH QUESTIONS:

- 1) Do Electoral Bonds Improve or Obstruct the Transparency of Political Financing?
- 2) How can electoral bonds contribute towards ensuring accountability amongst political parties?
- 3) What are some of the constitutional implications in relation to the election bond scheme?
- 4) What reforms are necessary for ensuring political funding transparency?

HYPOTHESIS:

Hypothesis H1: "The use of electoral bonds has led to a significant decrease in voter awareness about funding of political parties in India."

The Hypothesis for the research can be stated as follows: "The use of electoral bonds has led to a significant decrease in voter awareness about funding of political parties in India." The hypothesis means that using the electoral bonds became a hindrance in obtaining the necessary information on funding of the political parties and campaigns by ordinary voters. The idea of electoral bonds in India appeared in 2018. The application of electoral bonds should have made the process of donations to political parties easier by providing a legal way of donation. The use of electoral bonds is possible for any individual or organization in order to make a donation without exposing oneself to the society since it is possible through the bank.

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Before the introduction of electoral bonds, political contributions became at least somewhat transparent, and there was something through which one could know the individuals who contributed to political parties. This ensured that people had better awareness of the relationship between political party contributions and donors. Nevertheless, with the use of electoral bonds, political contributions are still anonymous, and people do not know much about this information. Even though the donor name is available to the bank and the government, it is not known to the citizens. Therefore, people will not know exactly whom those political parties listen to or whom they cater to through financial contributions.

It is crucial that voters are aware of political party finances because it would allow them to know the effects of the contributions on their politics and decision-making processes. For example, when a political party gets financial contributions from a specific firm, then they will definitely act in its favor. In case people are unaware of the financial ties of such political parties, then they will not be able to understand why certain decisions are made and who benefits from them.

The hypothesis also draws attention to the wider significance of decreased transparency. Funding of the political parties should be transparent to ensure their accountability. As soon as people, the media, and other relevant organizations become aware of who is sponsoring political parties, it will be much easier for them to monitor these parties' activities and to check whether there are any signs of conflict of interest or corruption. The fact that electoral bonds do not provide sufficient information about the donors means that the accountability level decreases significantly. In addition, there is the possibility of a decline in the general trust of citizens in political institutions.

To conclude, the hypothesis suggests that due to the anonymity of the contributions via electoral bonds, there is a high possibility that they may be contributing to the reduction in voter awareness regarding political funding in India. Lack of

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transparency does not only reduce the awareness related to the funding sources of political parties; it may even lead to other issues like accountability, impartiality, and confidence in the democratic process. It is crucial to study this hypothesis for better evaluation of the democratic process in India.

H2: "The introduction of electoral bonds has resulted in an increase in the proportion of corporate donations in the total funding of politics, leading to changes in policy orientation towards corporate interests."

The second hypothesis for the research paper is: "The introduction of electoral bonds has resulted in an increase in the proportion of corporate donations in the total funding of politics, leading to changes in policy orientation towards corporate interests." It means that after introducing electoral bonds in India, the proportion of political funding sourced from corporate donations has significantly increased. Prior to 2018, corporations could make monetary donations to political parties in India but within a certain limit. Moreover, in most cases, these donations were required to be declared in their annual financial statements, indicating to the authorities and the general public what was the extent of their contribution to particular political entities.

Nevertheless, after the emergence of electoral bonds, everything changed. First of all, it allowed the company to give more money to the parties and more importantly to do that anonymously. It made it possible to conceal the identity of the companies, which were giving money to the political parties. Such a development creates room for large-scale anonymous contributions to various political parties from corporations, increasing the share of contributions in relation to the total amount of money collected by political parties. Indeed, most specialists note that changes of this kind have had an effect on the financial mechanism of the political system.

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Finally, it should be pointed out that the growing number of corporation's financial contribution would affect political decisions made by the parties. Once receiving the money from the corporations, the political party will have to act accordingly, which means that those organizations will receive some concessions. In particular, they will benefit from tax relief or changes in regulations. At the same time, the influence of corporate funding can hardly be traced immediately because political parties would not want to seem corrupt. However, it will make political parties follow the preferences of the corporate representatives.

In addition, there are some threats to the democracy posed by the hypotheses under study. In usual cases, political parties within democratic systems should focus on the benefit of their citizens rather than other factors. Due to the fact that most financial support provided by corporations to political parties accounts for a large portion of their funding, there are worries that such parties could give preference to their sponsors rather than ordinary voters. This issue creates a lack of accountability because the people will cease having considerable influence on the policy-making process.

It can be concluded that this hypothesis suggests that the emergence of electoral bonds contributes to increasing the degree of control that corporations exert on political parties through anonymity and massive donations. There could emerge some policies that favor corporates rather than the interests of citizens. It is crucial to analyze this hypothesis to learn about how corporate funding affects decision-making. The aim of conducting this analysis is to assess the effects of introducing electoral bonds on the existing democratic system.

RESEARCH METHODOLOGY:

This research paper employs the doctrine-based methodology for conducting research, whereby the process of analysis largely hinges upon the sources of law,

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which include legislative measures, judgments, and other pertinent documents issued by the government. The rationale behind adopting this methodology lies in the fact that the objective of conducting this research is to comprehensively analyze and understand the prevailing legal structure governing political funding in India, especially in light of the recent Supreme Court verdict pronounced on February 15, 2024, declaring the Electoral Bond Scheme as unconstitutional.

Primary sources of laws have been used in the study of the research topic. Some of the sources include the laws and their corresponding sections that have been used to make regulations for political financing. For example, laws like Representation of the People Act of 1951, which is section 29A in relation to the registering of political parties, and the Income Tax Act of 1961, which includes Section 80GGC and 13A for political donations, are among the primary sources of laws that have been considered in the research. Amendments made by the Finance Acts of 2016 and 2017 were also important sources of laws that were critical in establishing the Electoral Bond Scheme, including the removal of restrictions from corporate contributions. Furthermore, attention has been paid to further orders issued by the Supreme Court in March 2024, requiring the release of information relating to the electoral bonds. Moreover, other government notices, including the Gazette Notice of 2 January 2018, announcing the introduction of the scheme, and all modifications thereafter, and even press statements from the Ministry of Finance, have been analysed. Additionally, the guidelines laid down by the Election Commission of India for transparency in political party finances have been studied.

In addition to the primary sources, the research utilizes several types of secondary sources to help and enhance the discussion. Some examples include governmental sources such as announcements of the Ministry of Finance, bulletins of RBI, and debates in Parliament that serve to explain the policy context within which the scheme operates. The Election Commission of India and the Association for Democratic Reforms offer reports and data about funding of politics. Scholarly

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sources like law journals and political science papers have been cited in order to obtain a theoretical understanding. Furthermore, media reports and investigative journalism on various legal websites have been consulted in order to gain a perspective from the public domain.

ANALYSIS AND DISCUSSION:

Electoral bonds were introduced as a reform measure in India³¹ with respect to funding in politics. The electoral bond scheme was introduced in India in 2018. Both individual and corporate entities can now channel their contributions to political organizations through banking systems. It is believed by supporters of electoral bonds that it is a useful tool to cleanse political financing because fewer cash transactions will take place, and there will be more systematic procedures for making contributions.

First, the introduction of the electoral bond scheme is positive since it introduces a level of financial responsibility into political finance. There are no cash transactions involved in the contribution process, meaning there will be no direct use of black money in elections. In addition, there are records of every transaction that takes place in the banking system. Therefore, it implies that it is possible to track the source of the money whenever it is required, hence the scheme is cleaner than the previous one.

But if one views the whole scenario from the perspective of the masses, the picture takes on a different dimension. Firstly, there is the matter of anonymity. The use of electoral bonds allows the identities of the donors to be kept confidential from the public. Consequently, the voter is unaware of the individual or organization financing the various political parties. This knowledge is imperative for a democratic society in understanding the possible influence on political decisions.

³¹ Ministry of Finance, *Electoral Bond Scheme, 2018*, Gazette of India, 2 January 2018.

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Another critical concern is that of disparity in information accessibility. Even though the public cannot discern the names of the donors, it is alleged that the incumbent government can easily procure this information from the banks. As such, there is an imbalance in that the ruling government knows much more than the opposition about their respective financiers. Also, prior legislation that necessitated the publication of significant donor information was repealed.

The next problem involves the aspect of corporate funding. Even companies who make no profit can donate an infinite amount using electoral bonds. Also, they are under no obligation to disclose their contributions to any particular political party. This could lead to an unspoken understanding where companies may expect some favours in return.

This matter was eventually clarified when the Supreme Court made its ruling on the case of Association for Democratic Reforms vs. Union of India. The case was decided in the Indian Supreme Court after non-government organizations brought a challenge against the Electoral Bond Scheme. They contended that the scheme went against the fundamentals of democracy.

The court considered the question of whether anonymity of donors infringes the voter's right to information, whether such a mechanism might lead to corruption, and whether providing for unlimited corporate contributions was a legitimate issue. In its judgment, the Supreme Court of India clearly held that the right to information regarding funding of elections constitutes an integral element of the right to free speech guaranteed by Article 19(1)(a).

Secondly, the Court rejected the government's assertion that the use of electoral bonds increases the level of transparency. The Court stressed that the fact that it is possible to trace the transactions conducted via electoral bonds does not make this mechanism more transparent for the citizens.

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It also identified the dangers associated with quid pro quo transactions, where the firm pays the cash in exchange for favourable policy decisions. This kind of transaction, according to the Court, results in a dangerously intimate relationship between business and politics. Moreover, the amendment to the law, which allowed limitless cash contributions from corporations without any disclosure requirements, was struck down.

Ultimately, the Court found the Electoral Bond scheme to be unconstitutional and requested the State Bank of India to provide details of the contributors and the political parties receiving the contributions to the Election Commission for publication purposes.

In short, even though electoral bonds have ensured that the amount of cash involved in the process has declined and formalized the fundraising process, they have largely eroded transparency from the viewpoint of the general populace. Electoral bonds undermine the very essence of democracy because they prevent voters from knowing who funds political parties.

Elections in India have always been associated with large amounts of black money, underground money³², and financial transactions that have not been documented anywhere. Campaigning activities for political parties have always depended on funding through such methods. In fact, there have been many cases of corruption, favoritism, and misuse of influence due to the involvement of individuals and organizations financially powerful. Electoral bonds were considered as the “modern day solution”³³ for all these problems. The idea was that people or entities can fund political parties through electoral bonds bought from a bank rather than in cash form. The electoral bond is then deposited by the political party into its bank account.

³² Transparency International, *Global Corruption Report* (2019).

³³ Budget Speech, Union Budget 2017-18 (India).

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Nevertheless, although the electoral bond may be considered clean at first glance, it becomes clear that there is a lot of complexity behind this instrument. Most importantly, transparency becomes one of the key aspects³⁴ that should not be overlooked in a democratic state. As in democracy, everyone is aware of the importance of being able to see through the finances that shape the process of elections and financing of political parties, thus, becoming an essential part of understanding why certain politicians act the way they do. As a result, when it comes to the use of electoral bonds, one can see that the transparency factor gets compromised³⁵. It is important to mention that both the banks and the government get informed about who bought those bonds; however, the citizens are unaware of it.

The absence of public information leads to a situation in which doubts can emerge regardless of whether anything wrong happened. It is relatively easy for the political parties to be accountable because it becomes difficult to track the source of funds when electoral bonds are used. In the democratic environment, there will be accountability since it would be necessary for the citizens to know how the political parties have been doing. As far as electoral bonds are concerned, it will be difficult for the citizens to determine the contributors of funds.

There is another factor due to which it will become difficult for the citizens to account for the actions taken by the political parties. It should be noted that the parties will not be required to submit their sources of finance in their accounts. This was previously compulsory; however, due to the introduction of electoral bonds, this process is no longer necessary. It will be impossible for the people to know whether the party is using the funds collected in a positive manner, whether they are biased towards any specific contributor, etc., because they lack information regarding their activities and finances.

³⁴ Election Commission of India, *Report on Electoral Transparency* (2020).

³⁵ Association for Democratic Reforms, *Electoral Bonds and Transparency Analysis* (2021).

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For instance, suppose a big corporation makes a big contribution³⁶ to a political party. Later on, if the firm is awarded a contract, tax incentive, or any other benefit by the government, people might get suspicious about the link between the payment and the political result. Because of anonymity in such donations, it will be impossible to verify the correctness of those assumptions. It does not matter if there is no corruption involved in this case; without any public information, the whole procedure looks suspicious.

Power balance among political parties is another critical problem. In an ideal situation, elections in democratic societies offer an equal playing field for political parties to compete. However, recent research reveals that a considerable amount of donations through electoral bonds have been made to the party that rules the country³⁷. Several factors explain why this happens. First, the ruling party has the mandate to make important policy decisions, which may make donors comfortable in donating money to the ruling party. Firms and rich individuals think that donations to the ruling party help them have good relationships with the government and even make policy decisions favourable to their interest. As such, after some time, there is a possibility that the ruling party will be financially stronger than others and have more resources to use in future elections.

However, the core of the problem revolves around the conflict between transparency and accountability³⁸. Within a democratic system, there is always a need for transparency when making policy decisions and allocating resources among other issues. Therefore, voters should be aware of who funds political parties to avoid any bias or undue pressure on elected officials. Since anonymity is a major feature of electoral bonds, transparency is likely to suffer.

³⁶ Centre for Policy Research, *Political Finance and Quid Pro Quo Risks* (2020).

³⁷ Association for Democratic Reforms, *Analysis of Electoral Bond Data* (2022).

³⁸ International Institute for Democracy and Electoral Assistance, *Political Finance Handbook* (2014).

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The problem is not only about the economic issues related to political campaign financing, as the matter is being discussed in the Supreme Court of India, and thus it touches upon more general topics like constitutional rights of Indian citizens. According to experts, electoral bonds violate their right to get the necessary information³⁹ since anonymity is allowed despite possible negative consequences.

It seems logical to look at other democratic countries to identify how they deal with transparency of political funding. For example, after the US Supreme Court ruling in the *Citizens United v. FEC* case⁴⁰, there was a sharp increase in political expenditures, and much of the money remained dark since the decision made. Nevertheless, there are some disclosure requirements in place.

At that, in the UK, the role of the Electoral Commission⁴¹ is crucial when it comes to ensuring high levels of transparency concerning political donations since the money above a particular sum needs to be disclosed. The same situation is observed in Germany⁴² as public funding and strict donation reporting procedures dominate. Thus, opacity is not the preferable option worldwide.

Among the primary constitutional implications arising from the implementation of the election bond scheme is that of the right to information. Citizens must be entitled to receive information concerning the sources of finance for different political parties so that they may participate in an informed voting process. Right to information is regarded as part of the right to speech and expression as enshrined under the Indian Constitution. However, since the advent of the election bond scheme, the names of those who make donations remain concealed from the citizenry. Consequently, people are unable to tell who makes donations to political parties and whether the parties contribute positively towards the country.

³⁹ Constitution of India, art. 19(1)(a).

⁴⁰ *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010).

⁴¹ Electoral Commission, *Political Finance Regulations* (UK).

⁴² Bundestag, *Political Party Funding Laws* (Germany).

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The question of free and fair elections can be considered as an issue arising from the concept of electoral bonds. As has already been mentioned, the constitution of India requires holding the elections in a balanced manner. In this regard, however, there is an apprehension of the balance being disturbed due to the use of electoral bonds. It has been suggested that the ruling party may be able to find out information about the identity of the donor through various agencies of the government and the banking sector in contrast to the opposition parties.

The other point of debate on account of equality may be regarded as inequality before the law. As the constitution of the country guarantees the equal treatment of all the people, in case some parties are receiving more money than the other parties from unknown sources, it will result in inequality among parties.

An additional issue of concern is the problem that arises in connection with the regulation of corporate funding. Previously, corporations were permitted to give a certain amount of their profits but had to reveal the information regarding the sum. Now, after the reform concerning the scheme, corporations have the right to give unlimited amounts of money, even without any profit and irrespective of the time period for which it has existed. Moreover, they no longer have to mention the particular party to which the money was transferred.

There is also the question of the absence of transparency and accountability. Political parties are institutions in any democratic setup and, therefore, are required to have an open budget. However, electoral bonds undermine this principle because a considerable amount of money can be contributed to a political party without transparency on the part of the donor. In the absence of transparency, it would become extremely difficult to ensure the accountability of the parties.

Further, there is always the danger of the possibility of misuse and corruption. While the idea was to curb black money, it could become an avenue for such activities as

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well. This is so because donations remain anonymous, and, thus, there could be an understanding between the donor and recipient based on *Quid pro quo*, where the donor may expect something like contract from the donor in return for his contribution.

There is an overarching problem associated with the democratic process that comes into play here. Some of the essential qualities of a good democratic society include transparency, equity, and accountability. The ability to donate to political candidates anonymously and without limits poses a potential threat to these principles.

This financial imbalance⁴³ puts an implicit but powerful pressure on the donor and the political parties. Without having to force the company to make any donations, the entire procedure ends up resulting in the creation of a scenario wherein donations can only be made to people holding political power. The opposition parties find it difficult to fund their work as they have no means of doing so; hence, they will not be able to organize, contact the citizens, and even market themselves among the voters. The political competition is rendered impossible as one political party receives significantly more funding than the others.

The proponents of electoral bonds provide a different perspective to the problem. They claim that total transparency might sometimes lead to more problems than solve. Revealing the identities of the donors makes them vulnerable to harassment and threats from their political opponents and rivals. In a highly competitive environment, like that found in India, all people do not feel comfortable making contributions to political parties in public. Under these conditions, anonymity becomes a protection for them⁴⁴. By means of electoral bonds, a person makes his donation to the political party without revealing his identity.

⁴³ Election Commission of India, *Political Party Funding Report* (2022).

⁴⁴ Law Commission of India, *Report on Electoral Reforms* (2015).

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Indeed, this criticism holds some weight as there have been several instances in which misuse of power and harassment have taken place to settle scores against people or entities supporting opposition politics. So there certainly is some fear involved here. Nevertheless, the counter-argument put forth by those who criticize this method is that there are other ways in which this issue could be tackled without compromising on transparency altogether. There are other methods to safeguard the safety of the donors apart from anonymizing the whole process, which include providing them with protection through the law, making sure that the donation is reported to an independent body, and so on.

A series of changes must be carried out in the process of political funding to make sure that the money coming in and the way it is being spent becomes completely transparent. One of the main problems with the current situation is that the funding is completely opaque and therefore not open enough to the public. The first important thing that needs to be done in this situation is to ensure that any information about funding is available to all. That is, political parties must announce the names of their donors and how much they are donating to them.

The second point concerns regulation of those companies who donate to political parties. Not only must the limit of donations by these companies be fixed but also the name of the companies and the amount donated must be disclosed.

The third recommendation concerns making sure there is an improved mechanism for monitoring and controlling the whole procedure. An institution such as an election commission can be created to oversee the operations of political organizations that are allocated finances and even punish those that break the law.

It is essential to pay closer attention to electronic and traceable payments as well. All donations should be made exclusively through banking and internet payments which will leave a definite payment trail. This way, it will be possible to reduce the

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presence of black money and monitor financial movements. State funding for elections is another option that some scholars consider effective when addressing this issue. Under this method, political parties will be granted some funding by the state to cover costs associated with election campaigns. This will ensure minimal private financing.

The crux of the matter lies in a very simple issue: what is more important⁴⁵ in a democratic state: transparency or privacy? While electoral bonds definitely emphasize donor privacy, it is often claimed that transparency holds more weight in such situations. After all, it is crucial for democracy that individuals know where the financing for various political parties comes from. If that knowledge is missing, there is always a risk that decisions will be made in light of monetary interests, which may lead to scepticism about fairness of elections.

The involvement of corporate funding⁴⁶ in the analysis becomes even more relevant. The appearance of electoral bonds has simplified the task for companies to donate anonymously, and it also makes them capable of doing this in larger quantities than before. Consequently, corporations might end up getting even greater power over the political process and policymaking. In this regard, policy-making on taxation laws, industrial policies, government procurement could be directed at pleasing the donors rather than common people. If corporation donations dominate, political parties might be motivated to please their donors rather than citizens.

The Supreme Court decision taken in 2024 concerning the electoral bond case is considered a huge step forward in the direction of promoting transparency regarding political party funding in India. In accordance with the Electoral Bond Scheme, an individual or corporation was allowed to donate money to political parties anonymously. This means that the regular citizen had no idea at all which

⁴⁵ Transparency International, *Political Finance Transparency Report* (2019).

⁴⁶ Finance Act, 2017 (amendments removing corporate donation limits).

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political party received particular sums of money for campaigning. However, it was pointed out by the Supreme Court that it conflicts with democracy because everyone has a right to be informed prior to elections.

Transparency is one of the main consequences that may be drawn from the Supreme Court ruling. Namely, the political funds are no longer hidden from public view. Therefore, there will be more focus on where the money goes, and interested parties can analyse that data critically and pose questions. Furthermore, greater confidence in the process itself can be generated owing to the fact that nothing is concealed from people.

The next outcome resulting from such an approach consists of making it less probable that any firm will be able to affect politicians or political parties. Since no regulation of political finance was carried out, it became possible for companies to provide politicians or political organizations with large amounts of money without leaving traces of this. As a result, the process of decision making could be affected because of the contributions.

Furthermore, another aspect associated with transparency concerns elections. They may become much clearer, and people can know who gives what amount of money to various political parties. In this way, it becomes possible to reveal the differences between political parties, and thus a discussion of justice begins. The degree of transparency might make the elections much more democratic because, besides the amount of money invested into them, winning would depend on many other aspects.

Moreover, the judgement increases the responsibility of the political parties. They will now be compelled to think twice before treating funding as a personal matter and should become more responsible about their fundings and actions. The civil

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society organizations, including the Election Commission, will have the power to regulate political financing.

However, this judgement alone is not going to be a cure-all for political funding. The scheme of electoral bonds has been invalidated, yet an alternative plan for funding has yet to be formulated. This leaves some uncertainties over the process of future political funding. There is also a possibility of emergence of new ways of hiding funding sources.

There were a number of proposed improvements⁴⁷ that could be introduced into the current system while maintaining the validity of the system based on electoral bonds. For one thing, the identity of a donor could be disclosed for large donations but only some time after it has been made. Secondly, setting a limit on the sum that an individual or group might donate will prevent anyone from obtaining too much control over the process. Lastly, implementing more stringent financial controls in the political party system similar to those that operate in the business sector will ensure the legitimacy of the donation process.

In short, electoral bonds cannot be solely classified as either good or bad⁴⁸. First, the scheme has proven to be very successful in discouraging the use of black money. Second, it has posed significant problems related to transparency, accountability, and fair competition. Since it ensures the anonymity of the donor, it compromises the voters' knowledge of who funds their candidates, thereby creating issues of accountability. It may also encourage companies to engage in political matters. Essentially, there must be an enhancement in the current system of financing politics so as to facilitate transparent, legitimate, and safe donations. Here, it will be crucial to achieve equilibrium between both conflicting aspects in order to attain an effective

⁴⁷ Election Commission of India, *Proposed Electoral Reforms Report* (2020).

⁴⁸ *Association for Democratic Reforms v. Union of India*

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process and meet the desires of the people. Undeniably, democracy is not merely about holding regular elections, but it also entails citizens' trust in the process.

RESULTS AND CONCLUSIONS:

It can be concluded from the above study that the implementation of electoral bonds in India was intended to make the process of political funding transparent⁴⁹ and eliminate black money during the elections. According to the theory, using the above approach, individuals and corporates would not directly make cash donations to the party involved but would instead buy bonds through banks authorized for that purpose. In other words, since there will be financial transactions between institutions, it will all be legitimate. At first glance, this appears to be an excellent initiative by the government, as it ensures that there is no black money in the country's electoral process.

But upon close analysis, one would realize that electoral bonds fail in their quest for transparency⁵⁰. One of the major drawbacks of such bonds is the fact that they do not disclose who is funding a political party in an election cycle. Even though banks as well as some governmental agencies have the capacity to track down whoever has made payments to purchase the bond, this information is never disclosed to the general population⁵¹. In a democratic society, transparency is crucial because it enables citizens to know who is funding a particular political party. This, in turn, enables them to gauge possible influences that might be at play.

Another crucial observation from this study was that most of the funds raised using electoral bonds are usually used by the larger parties or the ruling parties⁵². The smaller parties, regional parties, or the opposition parties rarely benefit from such schemes and receive considerably lower amounts of funding compared to other

⁴⁹ Ministry of Finance, *Electoral Bond Scheme, 2018*, Gazette of India, 2 January 2018.

⁵⁰ Association for Democratic Reforms v. Union of India

⁵¹ Constitution of India, art. 19(1)(a).

⁵² Association for Democratic Reforms, *Analysis of Electoral Bond Data* (2022).

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parties. This imbalance in the allocation of funds makes Indian politics an arena where money plays a crucial role. It is apparent that many individuals who donate funds usually prefer donating their contributions to those parties which have significant influence in politics. There could be many reasons why people behave this way. Most individuals might think that contributing money to the ruling party or any other influential party will help them gain some advantage from the government. Despite these benefits never being realized, the absence of transparency means there is no way to verify or disprove such assumptions.

The element of anonymity attached to the electoral bond system also makes it difficult for the citizens to hold politicians accountable⁵³. In the absence of transparency regarding sources of funding, it becomes difficult to raise queries regarding actions taken by these politicians, which may serve their personal benefits, or of the companies or organizations backing them. For instance, suppose a company contributes financially to a political party and the politician in charge gets some legislation passed or some contract awarded. It will be difficult for the people to determine whether any favours were done because of these financial contributions.

However, there are other important lessons which emerge from this study. For example, the availability of information on donations is not always balanced. Certain authorities may possess comprehensive information on the identity of the donors, yet they do not disclose this information to the public, media, and even opposition parties. The lack of transparency results in a situation in which certain players possess more knowledge compared to others. However, in the context of democracy and fairness, everyone has a right to access information on political funding⁵⁴. Without such knowledge, people cannot take responsibility for holding political leaders accountable.

⁵³ Transparency International, *Political Finance Transparency Report* (2019).

⁵⁴ Association for Democratic Reforms v. Union of India

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In conclusion, it can be stated that although electoral bonds have achieved their objective of decreasing the use of cash donations in favour of bank transfers for funding political campaigns, the results are not entirely transparent. While the system has brought much more order into political financing making it easily traceable from an institutional perspective, this very fact makes the process much less clear from a public one. Such lack of transparency creates serious questions of accountability and justice⁵⁵ as well as the trust of citizens in democracy itself. Electoral bonds might contribute to the strengthening of financial power of political parties if there is no transparency in their financing.

In summation, it is important to state that elections bonds are indeed a dual approach to the issue at hand. On one side, this measure will resolve the issue of unaccounted funds; however, on another side, this practice will lead to the emergence of an entirely new dilemma concerning lack of transparency in the funding of politics. In order to make the entire process democratic, certain changes must be made to improve the current situation.

CONCLUSION:

It should be admitted that the appearance of electoral bonds has led to the fact that fundraising practices in Indian politics have been changed completely. The newly introduced policy has been implemented in order to create an organized and secure framework for the donation process. It may seem that such an approach seems to be very reasonable and contemporary. Nevertheless, when analyzing how the process functions in practice, there is a number of issues related to the transparency of information. In fact, after analysing legal regulations and court decisions regarding electoral bonds, it becomes clear that the system ensures absolute confidentiality for

⁵⁵ Election Commission of India, *Report on Electoral Transparency* (2020)

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political donors⁵⁶. Therefore, the citizens do not have any idea who finances various political parties in India and how much money they get.

Another crucial issue that arises in relation to the implications of this study is the significant contradiction that exists between anonymity and transparency⁵⁷. The advantage of protecting individual donors from being harassed by the government, being criticized by voters, or getting into trouble with the government because of their donations can be viewed as an obvious positive point of anonymity. Moreover, anonymity could attract additional funds from people unwilling to support any politician. However, there is also a huge disadvantage, as anonymity prevents the electorate from being able to trace all political influences on a candidate's decision-making process.

Furthermore, the study points out that even though the use of electoral bonds is based on law, there are still areas of lack of transparency in the process. The existing structure allows for political parties to receive substantial amounts of money while not having to disclose any information about the donors to the public. What actually happens under such conditions is that all the information related to the funding of politics stays within a narrow circle of institutions like banks and other relevant authorities but not to the general public. This violates the core principles of a participatory democracy⁵⁸ because citizens are supposed to be able to challenge political influence.

In addition, another aspect that needs to be considered here is the influence of this scheme on trust in public affairs. Although all processes can take place according to the laws, the absence of information transparency can cause distrust among common people. There exists a feeling among many citizens that they lack clear information on political funding by various parties. According to surveys and findings of several

⁵⁶ Ministry of Finance, *Electoral Bond Scheme, 2018*, Gazette of India, 2 January 2018.

⁵⁷ International Institute for Democracy and Electoral Assistance, *Political Finance Handbook* (2014).

⁵⁸ Constitution of India, art. 19(1)(a).

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research studies, most citizens are unaware of the scope and source of the funds of political donations. This proves the assertion that the use of electoral bonds decreases voters' awareness⁵⁹ of party funding. With time, a lack of awareness among citizens will result in their disengagement from politics due to the necessity to get enough information for involvement in political activities.

Ultimately, however, it may be stated that electoral bonds have been successful in improving the formality and safety of political contributions; nonetheless, they have also presented their own set of problems. Inadvertently, the process has resulted in an increase in lack of transparency, which in turn has impacted voter awareness about political funding. Ultimately, the issue that needs to be addressed is how to maintain donor anonymity and at the same time provide the people the information⁶⁰ they need. There must be efforts towards reforming the process in such a manner that it provides sufficient levels of both anonymity and transparency.

In conclusion, the above-discussed case brings out the need for laws to ensure people's understanding and hence democracy. Though electoral bonds can be seen as a way of advancing political financing in India, they also bring out the challenges associated with sustaining transparency in such systems. In case such challenges are ignored, it would pose a threat to the existence of democracy⁶¹ that depends on well-informed people making decisions based on proper information. This, therefore, implies that there is need for reforms in the area of political financing in India.

⁵⁹ Election Commission of India, *Voter Awareness and Electoral Participation Report* (2020).

⁶⁰ Law Commission of India, *255th Report on Electoral Reforms* (2015).

⁶¹ *Union of India v. Association for Democratic Reforms*