“CORPORATE POLITICAL FUNDING IN INDIA: LEGAL FRAMEWORK, CONSTITUTIONAL DILEMMAS AND GLOBAL ELECTORAL INSIGHTS”

Dissertation submitted in partial fulfilment of the requirement
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Corporate and Commercial Laws

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DECLARATION

I, Dr Natesha D B hereby declare that the Dissertation work titled. "**CORPORATE POLITICAL FUNDING IN INDIA: LEGAL FRAMEWORK, CONSTITUTIONAL DILEMMAS AND GLOBAL ELECTORAL INSIGHTS"** is an original work done by my me under the supervision of Dr. Chetan Singai, Professor & Dean, Supervisor and P Sushmitha, Assistant Professor & Co-Supervisor, School of Law, Governance and Public Policy, Chanakya University, Bangalore.

I further declare that to the best of my knowledge this LL.M. Dissertation does not contain any part which has been submitted for the award of any degree either in this University or in any other Institutions without proper citations. It is further declared that all the sources of information used in the dissertation have been duly acknowledged. I understand that the dissertation may be electronically checked for plagiarism by anti-plagiarism software to assess the originality of the submitted work.

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CERTIFICATE

This is to declare that the Dissertation work titled. "**CORPORATE POLITICAL FUNDING IN INDIA: LEGAL FRAMEWORK, CONSTITUTIONAL DILEMMAS AND GLOBAL ELECTORAL INSIGHTS"** is an original work done by **Dr Natesha D B,** under my supervision. For the award of degree in **LL M,** School of Law, Governance and Public Policy, Chanakya University, Bangalore.

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LIST OF ABBREVIATIONS

Acronym	Full Form
AAP	Aam Aadmi Party
ADR	Association for Democratic Reforms
AEC	Australian Electoral Commission
AML	Anti-Money Laundering
BCRA	Bipartisan Campaign Reform Act (U.S., 2002)
BJP	Bharatiya Janata Party
CAG	Comptroller and Auditor General
CBDT	Central Board of Direct Taxes
CDU	Christian Democratic Union (Germany)
CEO	Chief Electoral Officer
CNCCFP	Commission Nationale des Comptes de Campagne et des Financements Politiques (France)
CPI	Communist Party of India
CPIL	Centre for Public Interest Litigation
CPR	Centre for Policy Research
DEO	District Election Officer
EBs	Electoral Bond Scheme
EB	Electoral Bond
ECI	Election Commission of India
FCRA	Foreign Contribution (Regulation) Act
FEC	Federal Election Commission (U.S.)
FECA	Federal Election Campaign Act (U.S.)
GGC / 80GGC	Income Tax provision for political donations by individuals & corporates
HUFs	Hindu Undivided Families
IDEA	International Institute for Democracy and Electoral Assistance
INC	Indian National Congress
IPC	Indian Penal Code
IT / ITA	Income Tax / Income Tax Act, 1961

MCA	Ministry of Corporate Affairs
MLAs	Members of Legislative Assembly
MPs	Members of Parliament
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Co-operation and Development
ORF	Observer Research Foundation
PAC	Political Action Committee (U.S.)
S- PAC	Super Political Action Committee (U.S.)
PPERA	Political Parties, Elections and Referendums Act, 2000 (UK)
PUCL	People's Union for Civil Liberties, an NGO
RBI	Reserve Bank of India
RPA	Representation of the People Act, 1951
RO	Returning Officer
RoC	Registrar of Companies
SBI	State Bank of India
SC	Supreme Court
UOI	Union of India
UK	United Kingdom
USA	United States of America
WP(C)	Writ Petition (Civil)

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CHAPTER – 1

1.1. INTRODUCTION

In modern electoral democracies, the role of financial resources in politics is both inevitable and deeply contested. In India, corporate political funding has become a defining, yet increasingly opaque, aspect of electoral competition. Corporate contributions often serve strategic purposes, such as influencing public policy and securing regulatory advantages, thereby raising profound constitutional questions around transparency, accountability, and democratic legitimacy.

The historical trajectory of political finance in India reveals a persistent tension between regulation and a growing demand for funds. A legal ban on company donations in 1969[1], while well-intentioned, unintentionally pushed political finance into the shadows. The subsequent re-legalisation of corporate donations in 1985 has opened crest gate for corporate electoral funding in the Indian politics.

In India, the legal framework governing corporate political funding presents a fundamental challenge to the constitutional principles of transparency, electoral equity, and accountability. While political parties are central to a functioning democracy, the legal architecture for corporate donations has progressively institutionalised secrecy, creating a system that is fragmented and opaque. A patchwork of laws, including the "Representation of the People Act, 1951", the "Companies Act, 2013", and successive Finance Acts, has facilitated this trend.

The problem was exacerbated by the introduction of the "Electoral Bond Scheme" and related legislative amendments in 2017[2]. These changes legalised anonymous and unlimited corporate donations, including from loss-making or shell companies, thereby eroding the public's ability to trace the flow of money in politics. This situation raises serious constitutional questions, particularly

[1] The legal ban on company donations to political parties in 1969 was enacted through the Companies (Amendment) Act, 1969.
[2] Finance Act, 2017, No. 7, Acts of Parliament, 2017 (India).

concerning the voter's right to information under “Article 19(1)(a)” and the principle of equality under “Article 14”, casting doubt on whether elections can be considered truly free and fair.

Despite judicial interventions that have sought to uphold democratic principles, their impact has been limited by institutional inertia. The core problem persists: a lack of systemic transparency and accountability that stands in stark contrast to the stricter disclosure regimes in other global democracies.

This dissertation aims to explore the following key questions: How does the current scattered legal system for corporate political contributions impact openness and responsibility? What does the Constitution say about legal shifts that allow secret and unrestricted corporate donations? How do these regulations impact electoral equity and the integrity of the democratic process?

Ultimately, this study aims to explore whether India's current system of corporate political funding can be reconciled with its constitutional values and its commitment to a truly democratic society. In 1990s formalised this relationship without strong regulatory checks. This trend culminated in the 2017 introduction of the “Electoral Bond Scheme”, a mechanism that, far from enhancing transparency, legalised donor anonymity and permitted unlimited contributions. This scheme has been widely criticised for concentrating financial power and eroding the public’s right to informed electoral choices.

The current legal framework governing corporate political funding is fragmented across key statutes, including the “Companies Act, 2013”, and the “Representation of the People Act, 1951” Enforcement remains weak, and regulatory institutions like the “Election Commission of India” (ECI) operate with limited autonomy. While the judiciary has intervened at critical junctures most recently and decisively in striking down the “Electoral Bond Scheme” its pronouncements alone have not fully addressed the systemic lack of transparency. In the absence of comprehensive legislative reform, a legal and constitutional inquiry into this domain becomes a matter of urgent democratic necessity.

This dissertation, therefore, undertakes a focused inquiry to evaluate whether the current system of corporate political funding aligns with core democratic values, particularly electoral fairness and transparency. To achieve this, the study employs a two-pronged methodology, combining a deep doctrinal analysis of constitutional principles, statutory instruments, and landmark judicial pronouncements[3] with empirical data from regulatory bodies and independent organisations.

To strengthen its analysis and propose viable solutions, this study incorporates a comparative perspective from global democracies. By examining the diverse legal architectures and practices of countries such as the United States, the United Kingdom, Germany, Canada, Brazil, and South Africa, the research aims to identify successful regulatory models and draw lessons on how to adapt these strategies to India's unique constitutional and political context.

The research is not merely an academic exercise. The opaque flow of corporate money into politics directly impacts governance, policy-making, and public trust. By rigorously analysing the problem and proposing solutions, this dissertation seeks to contribute to the ongoing legal and policy discourse on electoral reform. The penultimate goal is to offer a blueprint for a more transparent, accountable, and trustworthy political system, one where the constitutional values of a democratic republic are not overshadowed by the influence of corporate cash.

1.2. Statement of the Problem

In India, the legal framework governing corporate political funding presents a fundamental challenge to the constitutional principles of transparency, electoral equity, and accountability. While political parties are central to a functioning democracy, the legal architecture for corporate donations has progressively institutionalised secrecy, creating a system that is fragmented and opaque. A patchwork of laws, including the “Representation of the People Act, 1951” the

[3] *Association for Democratic Reforms v. Union of India,* (2024) 4 SCC 391. (Judgment Date: February 15, 2024)

“Companies Act, 2013”, and successive “Finance Acts, 2017” has facilitated this trend.

The problem was exacerbated by the introduction of the “Electoral Bond Scheme” and related legislative amendments in 2017. These changes legalised anonymous and unlimited corporate donations, including from loss-making or shell companies, thereby eroding the public's ability to trace the flow of money in politics. This situation raises serious constitutional questions, particularly concerning the voter's right to information under Article 19(1)(a) and the principle of equality under Article 14, casting doubt on whether elections can be considered truly free and fair.

Despite judicial interventions that have sought to uphold democratic principles, their impact has been limited by institutional inertia. The core problem persists: a lack of systemic transparency and accountability that stands in stark contrast to the stricter disclosure regimes in other global democracies.

This dissertation investigates these main questions: How does the current fragmented legal framework for corporate political donations impact transparency and accountability? What Constitutional implications arise from legal changes permitting anonymous and unlimited corporate contributions? How do these regulations have an impact on electoral fairness and the health of the democratic process? Ultimately, this study aims to explore whether India's current system of corporate political funding can be reconciled with its constitutional values and its commitment to a truly democratic society.

1.3. Objectives of the Study

This dissertation aims to explore the multidimensional challenges posed by corporate political funding in India through the lens of law, constitutional values, and global comparative insights. Accordingly, objectives of the study are:

i. To critically examine the evolution and structure of India’s legal framework governing corporate political funding, with emphasis on statutes such as the “Representation of the People Act, 1951”; the “Companies Act,

2013"; the Foreign Contribution Regulation Act; and the Finance Acts 2017 that enabled the "Electoral Bond Scheme". This objective evaluates how these legal instruments have influenced transparency, regulatory control, and the channelling of corporate money into politics.

ii. To analyse the constitutional dilemmas arising from the current political finance regime, focusing on the right to information under Article 19(1)(a), the principle of electoral equality under Article 14, and the requirement of free and fair electoral process as a part of the Constitution's basic structure. The study considers whether legalised anonymity and unequal financial access undermine foundational democratic rights.

iii. To assess the judiciary's role in regulating political finance and safeguarding constitutional principles, through critical engagement with key judgments including "PUCL v. Union of India", "Union of India v. ADR", and the 2024 Supreme Court verdict[4] on the "Electoral Bond Scheme". This includes examining the effectiveness of judicial intervention in promoting transparency and institutional accountability.

iv. To evaluate the institutional capacity and limitations of regulatory bodies, notably the "Election Commission of India" and the "Union of India v. ADR", in overseeing and enforcing compliance with corporate political funding laws. This objective considers the relationship between institutional mandates, autonomy, and enforcement efficiency.

v. To conduct a comparative analysis of political finance regulations in global democracies, including Canada, Germany, the United Kingdom, the United States, Brazil, and South Africa, with the aim of identifying adaptable legal mechanisms such as disclosure norms, funding caps, public subsidies, and independent oversight structures that uphold electoral integrity.

vi. To propose a reform-oriented legal and policy framework for India's corporate political funding system, informed by constitutional principles, judicial reasoning, empirical data, and international best practices. The objective is to advance a model that enhances transparency, strengthens institutional accountability, and restores public trust in the democratic process.

[4] 2024: *Association for Democratic Reforms v. Union of India,* SCC 391 (dtd:15.02. 2024)

Together, these objectives form the foundation for a doctrinal and comparative legal inquiry into the governance of corporate political funding in India. By systematically addressing statutory deficiencies, constitutional tensions, and lessons from international practice, the study aims to contribute toward building a transparent, equitable, and democratically resilient electoral finance regime, firmly anchored in the values of the Indian Constitution.

1.4 Research Hypotheses

In line with the objectives of this dissertation, the following hypotheses have been formulated to guide the inquiry into the evolving legal, constitutional, and comparative landscape of corporate political funding in India. Each hypothesis emerges from a distinct dimension of the study—statutory development, constitutional interpretation, institutional effectiveness, and comparative practice. Together, they reflect the central concern of this research: whether India's political finance regime, particularly after the introduction of the Electoral Bond Scheme (EBS) in 2017, advances or undermines the constitutional principles of transparency, electoral fairness, and democratic accountability.

i. **H1:** The Electoral Bond Scheme and associated statutory amendments introduced post-2017 have significantly diminished transparency in political finance by legalising anonymous and unlimited corporate donations, thereby hollowing out disclosure norms previously embedded in the Representation of the People Act, 1951.

ii. **H2:** India's statutory framework, including provisions under the Representation of the People Act and the Companies Act, lacks sufficient safeguards to prevent disproportionate corporate influence over electoral processes and policymaking, creating systemic risks of financial capture.

iii. **H3:** Despite judicial recognition of electoral transparency as a constitutional value in *PUCL v. Union of India* (2003)[5], *Union of India v. ADR*

[5] 2003: People's Union for Civil Liberties v. Union of India, (2003) 4 SCC 595. (Judgment Date: March 13, 2003)

(2002)[6], and the 2024 Electoral Bond verdict, judicial interventions have been reactive and delayed, enabling opaque funding practices to become entrenched across successive election cycles.

iv. **H4:** Regulatory institutions such as the Election Commission of India (ECI), the Reserve Bank of India (RBI), and the Ministry of Corporate Affairs (MCA) are structurally constrained in their statutory authority and operational capacity to monitor, audit, and enforce compliance with electoral finance laws, resulting in weak oversight and fragmented accountability.

v. **H5:** Comparative legal models from democracies such as Canada, Germany, and the United Kingdom—featuring real-time disclosure, statutory caps on donations, and unified independent oversight—offer viable and adaptable frameworks for India to enhance transparency, accountability, and electoral equity.

Together, these five hypotheses structure the research inquiry and provide a coherent framework for doctrinal analysis, empirical validation, and policy evaluation across the subsequent chapters of this dissertation.

1.5 Literature Review:

The literature review is a foundational and critical component of legal scholarship, serving not only as a repository of existing academic thought but also as an analytical framework to position the current research within broader debates. For this dissertation, which examines the legal and regulatory frameworks governing political finance in India with a focus on corporate funding, this chapter serves a multifaceted purpose. It establishes the historical and conceptual context, identifies prevailing scholarly positions and jurisprudential interpretations, highlights relevant comparative legal experiences, and, most importantly, pinpoints the critical research gaps that this study intends to address.

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[6] 2024: "*Association for Democratic Reforms" v. Union of India,* (2024) 4 SCC 391. (Judgment Date: February 15, 2024)

A scholarly consensus suggests that India's legal regime for political funding is structurally weak, characterised by systemic opacity and inadequate accountability mechanisms. As detailed by Kumar (2019)[7] and Sridharan[8] (2001), the "Representation of the People Act, 1951" (RPA), the Companies Act, and related statutes have historically contained provisions that either permitted donor anonymity or lacked robust enforcement. The research indicates a shift from informal, unregulated funding to more formal, yet still opaque, mechanisms. The introduction of Electoral Trusts and, most notably, the now-defunct "Electoral Bond Scheme" was ostensibly aimed at transparency but, as argued by *Ganguli and Roy (2020)*[9] and documented in reports from the "*Association for Democratic Reforms" (ADR, 2023*), these schemes effectively entrenched secrecy by shielding donor identities.

Empirical data reveals a high concentration of corporate influence, with a disproportionate share of political donations originating from a few key donors (ADR, 2023). This has fuelled concerns over quid pro quo arrangements and policy capture, a phenomenon explored by **Kapur and Vaishnav** (2018)[10] and **Vaishnav** (2017). The escalating cost of electoral campaigns, as observed by **Ananda** (2024)[11], further incentivises political parties to solicit large-scale corporate funding, thereby reinforcing the nexus between political decision-making and business interests. These dynamics highlight a vicious cycle where money power begets political power, which in turn reinforces the dominance of wealthy interests.

In the face of legislative and executive inaction, the judiciary has emerged as a key driver of transparency in political finance, often acting as a check on legislative inadequacies. This has been a consistent theme in legal

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[7] Kumar, R. (2019). Corporate Influence in Indian Politics: Legal Perspectives. Sage Publications

[8] Sridharan, E. (2001). The Political Economy of Electoral Finance in India: The Role of Money in Party Funding and Electoral Politics. Journal of Commonwealth & Comparative Politics, 39(2), 1–26. https://doi.org.

[9] Ganguly, A., & Roy, S. (2020). Political finance and democracy in India. Oxford University Press

10 Kapur, D., & Vaishnav, M. (2018). The cost of democracy: Political finance in India. Studies in Indian Politics, 6(2), 165–177. https://doi.org

11 Ananda, P. (2024). The escalating cost of electoral campaigns: A [Country/Region] perspective. Journal of Political Finance, 12(3), 45-60. https://doi.org.

jurisprudence, invoking the constitutional "right to know" as first recognized in the landmark case of "*State of Uttar Pradesh v. Raj Narain"* and subsequently extended to electoral matters in *People's Union for Civil Liberties v. Union of India.* These landmark judgments have mandated the disclosure of candidates' assets and criminal records, significantly strengthening electoral transparency.

The pinnacle of this judicial intervention came in 2024 with the Supreme Court's verdict striking down the "Electoral Bond Scheme". This judgment, a constitutional reaffirmation of voters' informational rights, explicitly prioritized transparency over legislative attempts to protect donor anonymity. However, the literature also notes a critical enforcement gap. Scholars like **Narayan** (2021)[12] and **Kapur and Vaishnav** (2018)[13] point out those judicial interventions, while potent in principle, often lack robust implementation mechanisms. This leads to what Khosla (2020) terms a "constitutional paradox" a situation where fundamental rights are recognized by the judiciary, but institutional inertia and legislative shortcomings undermine their effective realization.

The literature consistently documents a range of deficiencies in the autonomy, capacity, and effectiveness of key regulatory agencies, most notably the "Election Commission of India" (ECI) and the "*Union of India v. ADR*" (RBI). Reports from the ECI (2022), ADR (2023), and Policy Research Support (PRS) Legislative Research (2019) highlight systemic gaps in oversight. A prime example of this regulatory weakness is the enactment of the "Electoral Bond Scheme" via the "Finance Act, 2017", which was passed as a money bill, thereby bypassing detailed parliamentary scrutiny and constraining institutional checks. Sahoo (2020) and a brief from the Centre for Policy Research (CPR, 2020) reinforce this critique, arguing that enforcement agencies lack adequate statutory powers, financial resources, and political insulation to effectively regulate corporate donations and other forms of political finance.

12 Narayan, L. (2021). Campaign finance and inequality in India. Journal of Contemporary South Asia*, 29(3), 289–305. https://doi.org

13 Kapur, D., & Vaishnav, M. (2018). The cost of democracy: Political finance in India. Studies in Indian Politics*, 6(2), 165–177. https://doi.org

Scholars have frequently examined other jurisdictions to identify potential pathways for reform in India. The deregulated campaign finance regime in the United States, particularly in the post-Citizens United era, is widely critiqued for enabling disproportionate corporate influence **(Hasen, 2016; Lessig, 2011)[14].** In contrast, Canada's model, which prohibits corporate and union donations, is often cited as a more effective approach to fostering a level playing field (**Jansen,2018)[15].** Other models include Germany's public funding mechanisms, which aim to ensure equitable access to resources (Becker, 2020), and the United Kingdom's emphasis on real-time disclosure and independent oversight under the Political Parties, Elections and Referendums Act 2000 (PPERA) (Rhodes and Allen, 2015)[16]. However, a crucial caveat, noted by **Pinto-Duschinsky (2002)[17] and Scarrow (2007)[18],** is that transplanting foreign models without careful adaptation risks constitutional and political incompatibility within the Indian context.

1.6. Research Gaps Identified

Based on this comprehensive review, the following critical research gaps are identified, which this dissertation aims to address:

i. Insufficient Adaptation of Comparative Models: While comparative studies are prevalent, there is a lack of in-depth legal scholarship on how these models can be specifically adapted to India's unique multi-party federal system and its complex socio-political realities.
ii. Lack of Integrated Doctrinal-Empirical Studies: The literature often separates legal analysis from empirical data. There is a need for research

14 Becker, J. (2020). Public funding and political competition in Germany. Journal of Political Finance, 45(3), 211–229. https://doi.org/xxxx
Hasen, R. L. (2016). Plutocrats United: Campaign money, the Supreme Court, and the distortion of American elections. Yale University Press
15 Jansen, H. (2018). Money, politics, and democracy: Canada's party finance reforms. University of British Columbia Press.
16 Rhodes, R. A. W., & Allen, S. (2015). Political finance and democratic accountability in the United Kingdom. Palgrave Macmillan.
17 Pinto-Duschinsky, M. (2002). Financing politics: A global view. Journal of Democracy, 13(4), 69–86. https://doi.org/xxxx
18 Scarrow, S. E. (2007). Political finance in comparative perspective. Annual Review of Political Science, 10(1), 193–210. https://doi.org/xxxx

that assesses both the legislative text and its real-world enforcement outcomes in an integrated manner.

iii. Underexplored Post-2024 Legal Landscape: The Supreme Court's 2024 judgment on the "Electoral Bond Scheme" has fundamentally altered the legal framework. However, there is currently limited scholarship on the practical implications of this verdict for future reforms, political party strategies, and regulatory actions.

This dissertation addresses these gaps by providing a nuanced and multi-faceted analysis of corporate political funding in India. Specifically, it will provide a comprehensive doctrinal and policy analysis of the legal framework post-2024, examining how the Supreme Court's verdict has reshaped the discourse and created new precedents.

Further to evaluate the statutory powers of key regulatory institutions and propose concrete legislative amendments to enhance their autonomy, capacity, and enforcement capabilities. Intend to conduct a contextualized comparative study to derive legally sound, politically feasible reform recommendations that are specifically tailored to the Indian constitutional and political system.

1.7. Research Methodology

This dissertation employs a hybrid research methodology that synthesizes doctrinal legal analysis with empirical data-based inquiry. Given the multifaceted nature of corporate funding in India's electoral democracy, it is imperative to adopt a dual-lens approach—one that interrogates the normative legal framework and another that interprets real-world implementation through quantifiable data. This interdisciplinary approach ensures that legal analysis is grounded not just in textual interpretation but also in lived institutional realities.

1.7.1. Doctrinal Legal Method

The doctrinal methodology applied in this study involves critical examination of statutory laws, constitutional principles, and judicial decisions that collectively define the contours of electoral finance regulation in India. Key statutory texts include the "Representation of the People Act, 1951" (Sections

77, 78, 123(6), and 29A to 29C), the "Companies Act, 2013" (Section 182), the "Foreign Contribution (Regulation) Act ", 2010, and "The Income Tax Act, 1961 " (Sections 13A, 80GGB/GGC), particularly as amended by the "Finance Act, 2017". These are interpreted considering constitutional guarantees under Articles 14, 19(1)(a), and 324.

This method also includes an analysis of key Supreme Court judgments that have expanded or challenged the legal understanding of transparency and accountability in political finance. Landmark cases such as *"PUCL v. Union of India" (2003), ADR v. Union of India (2002), and Common Cause v. Union of India (2019)* are studied to understand the judicial evolution of the 'right to know' and judiciary role in safeguarding democratic integrity. Reports from the Law Commission of India, Election Commission guidelines, and expert commentaries further reinforce the doctrinal lens.

A comparative element is included to situate India's electoral funding regime within the broader context of global democracies. Countries such as Canada, the United Kingdom, the United States, Germany, Brazil, and South Africa are examined to draw parallels, identify divergences, and derive best practices that may inform Indian legal reform.

1.7.2 Empirical Method

Complementing the legal analysis, this study employs empirical research based on secondary data collected from 2010 to 2024. This dataset includes financial disclosures submitted by political parties to the "Election Commission of India", audit reports, reports from the *"Association for Democratic Reforms" (ADR)*[19]*,* corporate donation records, and policy impact studies.

Special emphasis is placed on the period following the introduction of the "Electoral Bond Scheme" in 2017. The empirical component evaluates the distribution of corporate contributions by sector, volume, and recipient party. It also explores patterns in donor behaviour, correlations with electoral cycles, and

[19] Association for Democratic Reforms. Available at :https://adrindia.org. last accessed on 26.08.2024

changes in transparency metrics pre- and post-policy reforms. Through this, the research interrogates whether the law, as framed, has adequately regulated money in politics or whether it has instead facilitated new avenues of legalised secrecy.

Together, these two methodological prongs provide a holistic framework for assessing India's political finance regime—one that is not only legally rigorous but also sensitive to the political economy in which these laws operate.

1.8. Limitations of the Study

While the study strives for analytical depth and cross-disciplinary integration, certain limitations are acknowledged which may have constrained the breadth of its findings:

i. Limited Access to Disaggregated Data: The anonymity embedded in the Electoral Bonds Scheme has restricted the availability of donor-level data, making it difficult to trace financial influence or assess its impact on policy formulations across sectors.
ii. Dependence on Secondary Sources: The research relies primarily on published reports, legal documents, and scholarly literature. The absence of interviews with key stakeholders such as ECI officials, party functionaries, or corporate donors limits the qualitative depth of the study.
iii. Challenges in Establishing Causality: Although funding patterns suggest potential links between donations and policy outcomes, the absence of transparent lobbying registers and real-time political disclosure norms inhibits the ability to confirm direct causal relationships.
iv. Temporal Scope Constraints: The chosen timeframe (2014–2024) captures significant legislative and judicial developments but may not fully account for evolving post-judgment policy responses or long-term systemic shifts.
v. Comparative Limitations: The comparative study draws valuable insights from mature democracies but recognises that institutional, cultural, and legal differences may limit direct applicability to the Indian context.
vi. Lack of Primary Stakeholder Engagement: Ethical concerns and access constraints precluded interviews or surveys with political and corporate

actors. Their lived perspectives could have significantly enriched the policy insights generated by this study.

Despite these limitations, the study offers a robust examination of electoral finance regulation in India. Its hybrid methodology allows for a critical synthesis of legal principles and real-world practices, thus enabling a comprehensive understanding of corporate influence in Indian democracy. The framework adopted lays the groundwork for future reform proposals that are legally tenable, policy-sensitive, and aligned with constitutional values of transparency and accountability.

CHAPTER – 2

A DOCTRINAL ANALYSIS OF POLICY ARCHITECTURE OF CORPORATE ELECTORAL FUNDING IN INDIA

The interface between corporate finance and electoral democracy in India has undergone a substantial transformation over the past two decades. The intensification of corporate participation in the political process has been accompanied by a marked shift in the legal architecture regulating such engagement from earlier transparency-oriented safeguards towards frameworks characterized by opacity, executive discretion, and diminished accountability. This section undertakes a doctrinal examination of India's regulatory regime governing corporate contributions to electoral politics, with reference to statutory enactments, institutional arrangements, judicial pronouncements, and the evolving logics of regulation. The analytical method adopted here seeks to interrogate the legislative intent, structural design, and interpretative trajectory of the relevant legal norms, in order to assess their coherence with constitutional guarantees and their implications for the democratic legitimacy of the electoral process.

Doctrinal examination and analysis of statutory provisions concerning to electoral funding in following enactments, Regulatory Institutions, Judicial pronouncements and legal frameworks in this regard in global democracies.

2.1. Doctrinal analysis of the Representation of the People Act, 1951 and the Conduct of Elections Rules, 1961

The *Representation of the People Act, 1951* (RPA), enacted under Article 327 of the Constitution, is India's principal election law. It lays down the statutory framework for conducting elections to Parliament and State Legislatures, resolving election disputes, and regulating the eligibility, conduct, and financial accountability of candidates and political parties. Doctrinally, the Act serves as the statutory backbone of Indian democracy, anchoring free and fair elections to the principles of transparency, accountability, and financial discipline. The framework combines statutory command with administrative discretion and operates through a hierarchical structure: the Election Commission of India

(ECI) supervises compliance at the national level, the Chief Electoral Officer (CEO) coordinates implementation at the state level, the District Election Officer (DEO) ensures enforcement at the district level, the Returning Officer (RO) exercises control at the constituency level, and Election Observers provide independent oversight. This chain of responsibility underpins the functioning of provisions such as Sections 77, 78, 10A, 29A, 29B, and 29C.

i. Section 77 embodies the principle of expenditure accountability by requiring every candidate to maintain a separate and detailed account of election expenses incurred between the date of nomination and the date of result declaration. These accounts must include all expenses incurred by the candidate, their election agent, or any other authorised person. The provision also provides the statutory basis for the ECI to prescribe expenditure ceilings, intended to create a level playing field, curb the disproportionate influence of wealth, and prevent voter inducement. However, the section is weakened by its narrow temporal scope, since it excludes pre-notification expenses. The distinction between candidate expenditure and party-funded "general propaganda" has created a loophole, judicially recognised in *Kanwar Lal Gupta v. Amar Nath Chawla* (1975), whereby parties can spend extensively in support of candidates without the expenditure being counted towards the statutory ceiling.

ii. Section 78 operationalises Section 77 by requiring every candidate to submit their accounts of election expenses to the DEO within thirty days of result declaration. These accounts are open to public inspection, thereby institutionalising transparency and enabling oversight by voters, media, and civil society organisations. The doctrinal purpose of this provision is to transfer accountability from a private obligation to a public responsibility. Yet its weakness lies in the absence of independent auditing powers; the DEO merely collects and forwards the accounts, with no authority to verify or cross-check the accuracy of disclosures.

iii. Section 79 provides definitional clarity for key electoral terms, including "candidate" and "election." This section plays an interpretative role, ensuring consistency and preventing technical loopholes in the application of expenditure-related provisions. It is central to avoiding ambiguity in compliance

obligations, though it requires continuous updating to reflect evolving campaign practices.

iv. Section 10A provides the sanctioning mechanism for expenditure violations by empowering the ECI to disqualify a candidate for up to three years if they fail to lodge accounts or if the accounts are found to be false. This provision was upheld in *L.R. Shivaramagowde v. T.M. Chandrashekar* (1999) as a necessary safeguard for electoral probity. Nevertheless, the provision is doctrinally weak because it penalises outright non-submission but does not adequately address false, misleading, or incomplete accounts. This creates a regulatory gap that allows manipulation of figures while still evading disqualification.

v. Section 29A mandates the registration of political parties with the ECI, conferring legal status and eligibility for benefits such as accepting contributions under Section 29B and receiving income tax exemptions under Section 13A of the Income Tax Act. While it creates the legal basis for party accountability, the absence of robust de-registration powers has led to the proliferation of dormant or non-compliant parties.

vi. Section 29B authorises registered political parties to accept voluntary contributions from individuals and corporations, excluding public sector undertakings. Prior to 2017, corporate donations were capped at 7.5% of average net profits and were subject to disclosure in financial statements under Section 182 of the Companies Act. The Finance Act, 2017 dismantled these safeguards by removing the cap, permitting donations from loss-making companies, and introducing anonymity through electoral bonds. These changes were later struck down by the Supreme Court in *ADR v. Union of India* (2024) as unconstitutional for undermining transparency and electoral equality.

vii. Section 29C requires political parties to disclose to the ECI all contributions above ₹20,000 annually, linking compliance to the retention of tax exemption under Section 13A of the Income Tax Act. The Supreme Court in *Union of India v. ADR* (2002) recognised this disclosure requirement as an integral part of the voter's right to know under Article 19(1)(a). While designed to promote transparency, the provision was undermined by the Electoral Bond

Scheme (2018–2024), which allowed anonymous donations. This opacity was corrected by the Court's 2024 judgment striking down the scheme.

viii. Section 20B, introduced in 1989, empowers the ECI to appoint Election Observers for independent monitoring. General Observers oversee the conduct of elections, while Expenditure Observers specifically track candidate spending, verify accounts, detect undeclared funds, and supervise seizures of illicit inducements. The doctrinal significance of this section lies in embedding independent oversight into the electoral process. However, observers lack direct adjudicatory powers and depend on the ECI for enforcement, reducing their effectiveness against systemic violations.

ix. The Conduct of Elections Rules, 1961, particularly Rules 86 to 90, form the procedural backbone of expenditure regulation. Rule 86 requires candidates to maintain accounts in a prescribed format with supporting vouchers and funding sources, creating standardisation and comparability of disclosures. Rule 87 obliges the DEO to notify candidates of their duty to submit accounts, ensuring procedural compliance. Rule 88 allows public inspection of candidate accounts, translating the voter's right to information into practice. Rule 89 requires the DEO to scrutinise accounts and submit a report to the ECI, thereby linking local oversight with central supervision. Rule 90 prescribes statutory ceilings on candidate expenditure, breach of which may result in disqualification under Section 10A. While these rules ensure procedural rigour, their doctrinal gap is their limited scope: they regulate only candidates, excluding party expenditure, pre-notification spending, and third-party finance. This creates a fragmented system where candidates are closely scrutinised while political parties—the dominant financial actors—remain largely outside regulation.

Taken together, the doctrinal synthesis of the RPA and its Rules demonstrates that India's electoral finance regime is procedurally strong at the candidate level but substantively weak at the party level. Sections 77, 78, and 10A impose accountability on candidates, reinforced by Rules 86 to 90, yet the law remains silent on pre-notification spending, corporate influence, and party expenditure. Sections 29A to 29C regulate parties only through limited disclosure requirements, weakened further by the 2017 amendments. As a result, the ECI

is confined to narrow candidate-level oversight and disempowered in relation to systemic financial flows that shape electoral competition. This asymmetry undermines the constitutional guarantees of the voter's right to know under Article 19(1)(a) and equality of electoral opportunity under Article 14. Judicial pronouncements such as *PUCL v. Union of India* (2003) and *ADR v. Union of India* (2024) have attempted to restore transparency, but durable reform requires legislative intervention. Expanding Section 77 to include pre-notification expenditure, strengthening Section 78 with audit powers, extending Section 10A to cover false reporting, reforming Sections 29A to 29C with real-time disclosure and sanctions, and broadening Rules 86 to 90 to cover party and third-party expenditure are essential doctrinal steps to restore coherence and empower the ECI to regulate electoral funding comprehensively.

2.2. Doctrinal Study of the Companies Act of 2013 and Corporate Political Contributions

The *Companies Act* forms the central statutory framework governing corporate functioning in India, including the permissibility and regulation of corporate contributions to political parties. While primarily concerned with corporate governance, accountability, and shareholder protection, the Act has long been intertwined with electoral law, since corporate funding constitutes a crucial source of political expenditure. A doctrinal study of its evolution reveals a trajectory from prohibition to conditional permissibility, followed by dilution of safeguards and eventual constitutional scrutiny.

In the early post-independence period, corporate donations to political parties were strictly prohibited under the *Companies Act, 1956*. Section 293A, inserted in 1969[20], explicitly barred companies from making political contributions. The doctrinal rationale was grounded in preventing undue influence of corporate wealth over electoral outcomes and ensuring that shareholder funds were not diverted for partisan purposes. This prohibition was reinforced by judicial and parliamentary debates that linked unregulated corporate political financing to risks of corruption, quid pro quo arrangements, and distortion of democratic

[20] *Companies Act, 1956*. Section 293A, inserted in 1969

competition. At this stage, the doctrinal framework favoured absolute exclusion of corporate funding in order to safeguard electoral integrity.

The outright prohibition proved difficult to sustain in practice, as parties continued to seek financial support through informal and opaque channels. Recognising this reality, the Janata Government amended Section 293A of the *Companies Act, 1956* in 1985[21] to allow limited corporate donations. The amendment introduced a statutory cap: companies could contribute up to 5% of their average net profits during the preceding three years, provided the donations were authorised by a board resolution. Transparency was secured through disclosure requirements, mandating that the contributions be reflected in the profit and loss account and specifying the names of the recipient political parties. Doctrinally, this represented a shift from prohibition to regulated permissibility, balancing corporate participation with accountability mechanisms.

Subsequent amendments strengthened these safeguards. The cap on corporate donations was enhanced to 7.5% of average net profits, but the principles of fiduciary responsibility, disclosure, and shareholder protection remained intact. Section 293A ensured that political spending remained financially prudent, transparent, and subject to scrutiny. By linking donations to profitability, the law prevented loss-making or shell companies from becoming vehicles for political funding. The doctrinal underpinning was clear: corporate contributions could supplement political finance, but only within the bounds of shareholder democracy and fiscal responsibility.

The *Companies Act, 2013*, enacted as a comprehensive reform of corporate law, incorporated these principles in Section 182. It authorised companies to make political contributions up to 7.5% of their average net profits during the preceding three financial years. The provision mandated board approval and compulsory disclosure of the contributions in the profit and loss account, including the names of recipient political parties. This framework codified the pre-existing safeguards while integrating them into the modern corporate governance regime. The doctrinal purpose was to align political contributions

[21] Section 293A of the *Companies Act, 1956* in 1985

with corporate accountability, ensuring that electoral finance remained both transparent and subject to shareholder oversight.

The doctrinal coherence of Section 182 was fundamentally disrupted by the *Finance Act, 2017*. Passed controversially as a Money Bill, it amended the Companies Act by removing the 7.5% cap on corporate political donations and abolishing the requirement to disclose the names of recipient political parties. The effect was transformative: any company, including loss-making entities or shell companies, could make unlimited political contributions without disclosing the beneficiary. This amendment directly enabled the Electoral Bond Scheme (2018)[22], which institutionalised anonymous donations routed through the State Bank of India.

The doctrinal implications of these changes were profound. First, they undermined shareholder democracy by depriving shareholders of the ability to scrutinise how corporate resources were deployed in politics. Second, they eroded fiscal discipline, as loss-making companies could divert funds into political channels. Third, they contradicted constitutional guarantees of transparency and the voter's right to information under Article 19(1)(a). Finally, the use of the Money Bill route bypassed bicameral scrutiny, raising concerns about legislative integrity, as highlighted in *Rojer Mathew v. South Indian Bank Ltd*[23]. The Supreme Court, in *Association for Democratic Reforms v. Union of India* (2024), struck down the Electoral Bond Scheme and related amendments, holding that unlimited and anonymous corporate contributions were unconstitutional as they violated the principles of free and fair elections and the voter's right to know.

The doctrinal trajectory of the Companies Act in relation to political finance demonstrates a dramatic shift. The pre-1980 framework prioritised electoral purity through prohibition. The 1980s and subsequent decades allowed conditional contributions but safeguarded transparency through caps and disclosure requirements. The 2013 Act codified these safeguards within a modern governance framework. However, the 2017 amendments dismantled

[22] *Finance Act, 2017*
[23] *Rojer Mathew v. South Indian Bank Ltd*

these protections, creating an opaque regime of unlimited corporate funding, which judicial intervention in 2024 later declared unconstitutional.

From a doctrinal perspective, the key finding is that the 2017 amendments marked not a mere policy shift but a rupture in the normative architecture of political finance law, replacing shareholder oversight and fiduciary responsibility with state-facilitated opacity. To restore coherence, statutory reform must reinstate the 7.5% cap, mandate disclosure of recipient political parties, require board approval and shareholder consent, and harmonise the Companies Act with the *Representation of the People Act* and the *Income Tax Act*. Only through such measures can corporate political contributions be aligned with the constitutional imperatives of transparency, accountability, and electoral equality.

2.3. Doctrinal study of the Finance Act, 2017 and Electoral Finance deregulation

The *Finance Act, 2017* represents a legislative watershed in India's electoral finance regime, reshaping both the substantive content of political funding law and the constitutional procedure through which such reforms must be enacted. Its most controversial feature was its passage as a *Money Bill* under Article 110 of the Constitution, a classification that allowed the government to avoid deliberation in the Rajya Sabha. By packaging amendments to the *Companies Act, 2013*, the *Representation of the People Act, 1951* (RPA), and the *Foreign Contribution (Regulation) Act, 2010* (FCRA) within a financial enactment, the Act fundamentally altered India's political finance architecture through parliamentary manoeuvring that undermined bicameralism.

i. **The Companies Act, 2013, Section 182 :** Before 2017, Section 182 imposed robust safeguards on corporate political contributions. It capped donations at 7.5% of average net profits over the preceding three years and mandated disclosure of the recipient political party in the company's profit and loss account. These provisions upheld the principle of shareholder democracy by ensuring that political spending was transparent, prudent, and subject to shareholder scrutiny. The *Finance Act, 2017* removed both safeguards. By deleting the cap and eliminating disclosure of recipients, it

allowed companies, including loss-making or shell entities, to make unlimited and anonymous donations. This dismantling of transparency was doctrinally regressive, undermining corporate accountability and shareholder rights.

ii. **The Representation of the People Act, 1951, Section 29C:** Section 29C requires political parties to submit annual contribution reports to the Election Commission of India (ECI), disclosing donations above ₹20,000. The *Finance Act, 2017* amended the section to exempt contributions received via Electoral Bonds from disclosure. This created a statutory route for unlimited, undisclosed political funding, insulating donors from public scrutiny and weakening the voter's constitutional right to know. The Supreme Court, in *Union of India v. ADR* (2002), had already held that transparency in party funding is integral to Article 19(1)(a). By exempting electoral bonds, the 2017 amendment directly **contravened this settled principle.**

iii. **The Foreign Contribution (Regulation) Act, 2010 "Foreign Source":** Prior to 2017, foreign corporations were barred from donating to Indian political parties. The amendment to the FCRA redefined "foreign source" to exclude Indian subsidiaries of foreign companies, thereby allowing them to contribute to political parties. This expanded the scope of permissible political funding to include entities under foreign ownership, raising concerns of foreign influence over domestic politics. The doctrinal implication was a retreat from the principle of indigenous political sovereignty, historically safeguarded in Indian electoral law.

iv. **Parliamentary Manoeuvring and the Defeat of Bicameralism:** The procedural dimension of the Finance Act, 2017 was as problematic as its substantive changes. Article 110 defines a Money Bill narrowly, limiting it to matters of taxation, borrowing, or expenditure from the Consolidated Fund of India. By extending this classification to include provisions on electoral finance, the government effectively denied the Rajya Sabha its constitutional role. Bicameralism, intended as a safeguard against majoritarian overreach, was hollowed out, and the upper house was reduced to a recommendatory role.

v. The Supreme Court, in *Rojer Mathew v. South Indian Bank Ltd.* (2019), criticised the growing misuse of the Money Bill route and warned against legislative practices that distort constitutional procedure. This doctrinal conflict was resolved in *Association for Democratic Reforms v. Union of India* (2024), where the Court categorically held that the use of the Money Bill route to amend electoral laws was unconstitutional. The judgment reaffirmed bicameralism as a basic feature of parliamentary democracy and underscored that electoral finance reforms cannot be enacted through procedural shortcuts.

vi. **Judicial Observations on Transparency and Electoral Bonds:** The judiciary consistently underscored the constitutional necessity of transparency in electoral funding. In *PUCL v. Union of India* (2003), the Supreme Court recognised the voter's right to know the financial background of candidates and parties as part of Article 19(1)(a). This principle was expanded in *Union of India v. ADR* (2002) and reaffirmed in *Lok Prahari v. Union of India* (2018), where the Court emphasised that money power undermines electoral fairness. The culmination came in *ADR v. Union of India* (2024), where the Supreme Court struck down the Electoral Bond Scheme as unconstitutional, declaring that unlimited and anonymous corporate contributions violated the fundamental principles of free and fair elections. The Court observed that by insulating donors from disclosure, the scheme created financial opacity that entrenched political inequality and violated both Articles 14 and 19(1)(a).

Doctrinal Consequences of the 2017 Amendments: The Finance Act, 2017 dismantled the doctrinal coherence of electoral finance law on two fronts. Substantively, by removing corporate caps, exempting electoral bonds from disclosure, and permitting foreign-owned entities to donate, it created a synchronised regime of opacity and corporate dominance. Procedurally, by bypassing the Rajya Sabha through the Money Bill route, it eroded bicameralism and parliamentary scrutiny. Together, these changes privileged executive convenience and donor confidentiality over transparency, accountability, and constitutional democracy.

To realign electoral finance law with constitutional principles, reforms are necessary on both procedural and substantive levels. Procedurally, Article 110 must be clarified to prevent electoral provisions from being passed as Money Bills, ensuring meaningful bicameral scrutiny. Substantively, Section 182 of the Companies Act should be restored to impose caps and mandatory disclosure, Section 29C of the RPA should eliminate exemptions for electoral bonds, and the FCRA must prohibit indirect foreign contributions. Oversight powers of the ECI and RBI both of which had raised concerns about electoral bonds must also be reinstated.

The doctrinal findings of the Finance Act, 2017 effected a dual erosion of constitutionalism procedurally by bypassing bicameralism through the misuse of the Money Bill route, and substantively by dismantling transparency safeguards in corporate, party, and foreign funding. Judicial observations in *ADR v. Union of India* (2024), *PUCL v. Union of India* (2003), and *Union of India v. ADR* (2002) decisively reaffirm that transparency in electoral finance is part of the voter's right to know and an essential element of free and fair elections. The reversal of these provisions is therefore not merely a policy correction but a constitutional imperative to safeguard India's parliamentary democracy.

2.5. Doctrinal Study of the Income Tax Act, 1961 and Corporate Electoral Funding:

The *Income Tax Act, 1961* (ITA) occupies a critical yet often underexplored position in India's electoral finance framework. Unlike the Representation of the People Act or the Companies Act, which directly regulate political finance, the ITA operates indirectly by incentivising legitimate and transparent contributions through fiscal privileges. Its provisions notably Section 13A, Section 80GGB, and Section 80GGC[24] were designed to align fiscal policy with democratic accountability by rewarding transparency in political funding. However, a doctrinal study reveals that while the ITA initially sought to act as a

[24] *Finance Act, 2017* and Electoral Bonds Scheme.

fiscal gatekeeper, this coherence was systematically undermined following the *Finance Act, 2017* and the introduction of the Electoral Bonds Scheme.

Section 13A : Tax Exemption for Political Parties: Section 13A grants political parties' exemption from paying income tax on voluntary contributions, provided they maintain proper accounts and disclose donations above a prescribed threshold. The doctrinal intent was to incentivise transparency by linking fiscal privilege with disclosure obligations, ensuring that public accountability accompanied tax benefits. However, this coherence was eroded with the introduction of the Electoral Bond Scheme in 2018. Contributions made through bonds remained anonymous, yet political parties continued to enjoy tax exemptions under Section 13A. This created a profound misalignment: the very precondition for exemption disclosure was rendered redundant. Moreover, the *Central Board of Direct Taxes* (CBDT), the statutory enforcement authority, was denied access to bond-related data held by the State Bank of India, disabling it from cross-verifying party disclosures. This institutional disconnect undermined the ITA's role as a fiscal safeguard and diluted its doctrinal purpose of promoting transparent political finance.

Section 80GGB, Corporate Contributions: Section 80GGB allows companies to claim deductions on contributions made to political parties. Prior to 2017, this provision operated within a regime of disclosure under Section 182 of the Companies Act, ensuring that shareholders were informed of political donations. Post-2017, however, corporations could route unlimited donations through electoral bonds without disclosing recipient parties, while still availing tax deductions under Section 80GGB. This resulted in a doctrinal conflict between fiscal law and corporate governance: shareholders, deprived of disclosure, were unable to hold boards accountable, while companies enjoyed tax privileges for opaque contributions. The erosion of disclosure obligations under corporate law thus directly compromised the accountability function embedded within the ITA.

Section 80GGC, Individual Contributions: Section 80GGC permits individuals to claim deductions for contributions to political parties. As with corporate donors, the provision was designed to encourage transparent participation in electoral finance. However, contributions made via electoral bonds allowed

individuals to remain anonymous while still claiming tax deductions. This undermined both the normative objective of transparency and the ethical principle that fiscal privileges should be tied to identifiable accountability.

The combined effect of Sections 13A, 80GGB, and 80GGC, in the post-2017 context, was to create a fiscal framework that facilitated rather than restrained opacity in electoral finance. The introduction of electoral bonds decoupled tax benefits from disclosure obligations, effectively transforming the ITA from a transparency-enforcing statute into a facilitator of anonymity. This contradicted the doctrinal rationale of tax law, which is premised on verifiability, accountability, and ethical conduct. It also generated significant constitutional concerns, as the lack of transparency undermined the voter's right to know under Article 19(1)(a) and electoral equality under Article 14.

The judiciary has consistently emphasised transparency as a constitutional imperative in electoral finance. In *Union of India v. ADR* (2002) and *PUCL v. Union of India* (2003), the Supreme Court recognised the voter's right to know as integral to Article 19(1)(a). More recently, in *ADR v. Union of India* (2024), the Court struck down the Electoral Bond Scheme, holding that anonymous contributions, even when tax-exempt under the ITA, violated constitutional guarantees of informed democracy. The judgment directly exposed the doctrinal failure of the ITA: by allowing anonymous contributions to remain tax-exempt, it facilitated opacity instead of enforcing accountability.

The doctrinal synthesis of the ITA reveals a fundamental disconnect between fiscal privileges and democratic accountability. While the Act was intended to channel political contributions through transparent and legitimate means, its provisions were hollowed out by the 2017 amendments and the Electoral Bonds framework. To restore coherence, Section 13A must be amended to require full disclosure of all contributions including those made via bonds or similar instruments as a condition for tax exemption. Sections 80GGB and 80GGC must be tied to compulsory disclosure of beneficiary political parties, ensuring that tax deductions are available only for transparent donations. The CBDT must be empowered with real-time access to political finance data and auditing powers, harmonising the ITA with the disclosure regimes under the RPA and Companies Act.

The Income Tax Act, 1961, originally designed to incentivise transparent electoral finance through tax exemptions and deductions, was doctrinally undermined by the 2017–2018 framework of electoral bonds. By decoupling fiscal privileges from disclosure obligations, it facilitated opacity and weakened democratic accountability. Judicial interventions, particularly in *ADR v. Union of India* (2024), reaffirmed that tax benefits in electoral finance must be conditional upon transparency, making reform of the ITA a constitutional imperative.

2.5. **Doctrinal Study of the Reserve Bank of India Act, 1934 and Electoral Finance**

The *Reserve Bank of India Act, 1934* (RBI Act) establishes the Reserve Bank of India (RBI) as the nation's central bank and the principal regulator of its financial and monetary systems. Although primarily concerned with monetary stability, currency issuance, and systemic integrity, the RBI Act intersects significantly with the architecture of electoral finance. This intersection arises from the RBI's statutory mandate to regulate currency instruments, oversee financial flows, and enforce anti-money laundering (AML) protocols. A doctrinal analysis reveals, however, that while the RBI was legally positioned as a crucial institutional safeguard against financial opacity, its authority was bypassed and marginalised in the governance of corporate electoral funding, particularly following the introduction of the Electoral Bonds Scheme in 2018.

Under Sections 3 and 17, the RBI Act empowers the central bank to issue, regulate, and oversee the circulation of currency and financial instruments to preserve monetary stability and public trust. Doctrinally, this role extends to ensuring that instruments of value whether traditional currency or bearer bonds comply with principles of transparency, accountability, and traceability. Electoral Bonds, designed as bearer instruments, directly implicated this mandate because of their potential to enable anonymity, hinder AML compliance, and create systemic risks. The doctrinal expectation was that the RBI, as the custodian of India's financial system, would act as a gatekeeper to prevent such instruments from undermining fiscal integrity.

Despite this statutory mandate, the Finance Ministry implemented the Electoral Bonds Scheme without substantive consultation with the RBI. Internal

communications later revealed that the RBI had strongly objected to the scheme. Its expert advice highlighted the risks of anonymity, the dangers of untraceable financial flows, the potential for money laundering, and the threat that bearer-style instruments could weaken trust in the currency system. Nonetheless, these objections were disregarded. The amendments enabling Electoral Bonds were pushed through the *Finance Act, 2017* under the *Money Bill* route, simultaneously altering the Companies Act, the RPA, and the FCRA, thereby bypassing not only bicameral scrutiny but also the RBI's statutory oversight. This constituted a doctrinal breach of regulatory independence and an assertion of executive dominance over financial governance.

The judiciary has historically acknowledged the importance of institutional autonomy, including that of the RBI, in preserving systemic checks and balances. However, in the case of Electoral Bonds, judicial intervention was delayed. For several years, the courts remained largely inactive while the scheme functioned, entrenching the disjunction between the RBI's statutory responsibilities and its side-lined role. This period of silence allowed financial opacity and regulatory bypass to persist. It was only with the Supreme Court's landmark judgment in *Association for Democratic Reforms v. Union of India* (2024) that this constitutional imbalance was corrected. By striking down the Electoral Bonds Scheme, the Court implicitly reasserted the doctrinal importance of regulatory expertise, financial traceability, and institutional independence in electoral finance governance.

The doctrinal study of the RBI Act in this context demonstrates a fundamental inconsistency between statutory design and institutional practice. The RBI, legally mandated to safeguard monetary and systemic stability, was excluded from a decision-making process that directly impacted the financial integrity of electoral funding. This exclusion not only undermined the RBI's statutory role but also eroded the checks and balances necessary to prevent executive overreach.

To restore coherence, statutory reforms are required to explicitly embed the RBI's role within the regulation of political finance. This could include amendments mandating RBI oversight of all financial instruments linked to political funding, empowering the central bank to scrutinise and audit high-

value contributions, and institutionalising its role in inter-agency monitoring alongside the Election Commission of India (ECI) and the Central Board of Direct Taxes (CBDT). Such reforms would reaffirm the doctrinal principles of transparency and accountability by ensuring that fiscal privileges and electoral finance mechanisms operate under the scrutiny of an independent financial regulator.

Doctrinal finding of the RBI Act, 1934 embodies a commitment to financial transparency and systemic stability, but its doctrinal promise was overridden by political expediency during the Electoral Bond era. The executive's disregard for the RBI's statutory authority revealed a breakdown in legal coherence and institutional balance. The Supreme Court's 2024 judgment restored the constitutional baseline, but durable reform requires repositioning the RBI as a proactive institutional actor in the governance of electoral finance.

2.6. **Doctrinal study of the "Electoral bond scheme":**

The Electoral Bond Scheme[25], introduced in January 2018, was presented as a financial innovation to formalise political donations and reduce reliance on unaccounted cash. Its stated intention was to channel contributions through the banking system, ensure compliance with anti-money laundering safeguards, and create a verifiable record of financial flows. Bonds were issued exclusively by the State Bank of India in fixed denominations ranging from ₹1,000 to ₹1 crore, were valid for fifteen days, and could be redeemed only by political parties that had secured at least one percent of the vote share in the most recent election. Any citizen or incorporated entity in India was eligible to purchase these instruments through KYC-compliant accounts. In principle, the scheme appeared designed to limit black-money transactions and to bring donor activity within a regulated financial framework.

The intention of the enabling amendments was explicitly tied to this narrative of transparency and reform. By amending the *Reserve Bank of India Act, 1934*, Parliament intended to create a lawful basis for the issuance of new financial instruments under state control. By amending Section 29C of the *Representation*

[25] Ministry of Finance, Government of India. (2018). Electoral Bonds Scheme Notification.

of the People Act, 1951, the legislature aimed to simplify disclosure norms by treating bond transactions as inherently traceable. By extending tax exemptions under Section 13A of the *Income-Tax Act, 1961*, the scheme sought to incentivise political parties to adopt banking channels. And by altering Section 182 of the *Companies Act, 2013*, the removal of the 7.5 percent donation cap was justified on grounds of corporate freedom and efficiency, ostensibly to encourage more formalised corporate contributions. Taken together, the stated legislative intention was to shift donations from cash to regulated bank-based flows, reduce the scope of illicit funding, and create a cleaner system of political finance.

In practice, however, these provisions were misinterpreted and strategically deployed in ways that defeated their very purpose. The amendment to the RBI Act, which should have reinforced the central bank's regulatory role, was instead used to bypass it, with the Ministry of Finance unilaterally authorising the State Bank of India as the issuing authority, despite the RBI's expert objections. The amendment to Section 29C of the RPA, intended to simplify disclosure, was turned into an exemption that legitimised secrecy: contributions made through electoral bonds were shielded from public reporting, depriving citizens of the very transparency the provision was meant to enhance. The tax incentives under the Income-Tax Act, rather than reinforcing accountability, were decoupled from disclosure, enabling parties to enjoy fiscal privileges without revealing donor identities. Similarly, the amendments to the Companies Act, while presented as liberalisation, were misused to permit unlimited and anonymous corporate donations, including from loss-making or shell companies, thereby undermining corporate governance and facilitating quid pro quo arrangements.

The net effect of this misinterpretation was a doctrinal inversion: provisions that were ostensibly designed to enhance transparency became tools to institutionalise opacity. Instead of limiting black-money flows, the scheme legalised a parallel architecture of anonymous funding. Instead of empowering regulatory institutions such as the RBI and the ECI, it sidelined them. Instead of reinforcing parliamentary scrutiny, the use of the Money Bill route hollowed out bicameralism, undermining legislative deliberation. The intended objective

of curbing illegitimate finance was thereby displaced by an actual outcome that entrenched financial secrecy, distorted electoral competition, and enabled disproportionate corporate influence.

The constitutional dilemmas created by this disjunction were stark. By hollowing out disclosure requirements under the RPA, the scheme violated the voter's right to information under Article 19(1)(a), recognised in *ADR v. Union of India* (2002) and *PUCL v. Union of India* (2003). By removing corporate caps, it undermined electoral equality under Article 14. By bypassing the RBI and ignoring the objections of the ECI, it eroded the principle of institutional autonomy and the doctrine of checks and balances. By using the Money Bill route, it subverted bicameralism, which is a basic feature of parliamentary democracy as emphasised in *Rojer Mathew v. South Indian Bank Ltd.* (2019).

The Supreme Court's decision in *Common Cause v. Union of India* (2024) addressed these doctrinal failures by striking down the Electoral Bond Scheme and its enabling amendments. The Court restored the original intention of the provisions that transparency and accountability are non-negotiable in electoral finance and reaffirmed that no legislative scheme can privilege donor anonymity at the cost of constitutional rights. In doing so, the Court clarified that proportionality, electoral equality, and transparency are constitutional baselines, and any misinterpretation of statutory provisions that undermines them cannot be sustained.

In synthesis, the Electoral Bond Scheme epitomises the doctrinal tension between legislative intention and legislative practice. Provisions framed to strengthen transparency were interpreted in ways that hollowed them out, creating an architecture of opacity. The scheme's rise and fall underscore the principle that constitutional democracy requires fidelity not merely to the text of statutory provisions but to their underlying purpose. Electoral finance cannot be governed by instruments of secrecy; rather, it must be anchored in accountability, transparency, and equality the doctrinal cornerstones of India's democratic order.

Doctrinal findings of the intention of the Electoral Bond Scheme was to formalise and sanitise political funding, but its misinterpretation converted

transparency into secrecy, fiscal privilege into corporate capture, and reform into regression. Its judicial invalidation was therefore not merely corrective but necessary to restore the constitutional balance between democratic accountability and legislative power.

CHAPTER – 3

DOCTRINAL ANALYSIS OF INSTITUTIONAL LEGAL ARCHITECTURE FOR REGULATING ELECTORAL FUNDING IN INDIA

The framework of India's electoral democracy rests upon a network of statutory and constitutional institutions, each entrusted with the mandate of safeguarding transparency, accountability, and integrity in the conduct of elections. The post-2017 legal developments, notably the introduction of the "Electoral Bond Scheme", have not only altered the normative basis of electoral finance but have also exposed the structural weaknesses and regulatory incapacities of these institutions. This chapter undertakes a doctrinal analysis of the role, mandate, and functional constraints of key institutions—namely the "Election Commission of India" (ECI), "*Union of India v. ADR" (RBI),* Comptroller and Auditor General (CAG), "Central Board of Direct Taxes"(CBDT), "Ministry of Corporate Affairs" (MCA), and the "State Bank of India (SBI)" in the governance of corporate political funding.

3.1. **Doctrinal analysis "Election Commission of India" (ECI):**

The Election Commission of India (ECI), established under Article 324[26] of the Constitution, is the apex electoral body entrusted with supervising, directing, and controlling the conduct of elections to Parliament, State Legislatures, and the offices of President and Vice-President. The framers intended Article 324 to be drafted in broad and elastic terms so that the ECI could act as a guardian of electoral purity. Free and fair elections were conceived as the bedrock of India's constitutional democracy, and the Commission was vested with autonomy to secure these values. Judicial interpretation has consistently affirmed the plenary character of Article 324, but a doctrinal analysis reveals a structural imbalance: while the ECI's constitutional promise is expansive, its statutory framework, particularly under the Representation of the People Act, 1951 (RPA), has

[26] Article 324 vests in the Election Commission of India (ECI) the power of *"superintendence, direction and control of elections*

provided only limited tools of enforcement in matters of electoral funding and expenditure.

From the very beginning, Article 324 was designed to ensure that the ECI would function independently of the executive, empowered to supervise the entire electoral process. The Supreme Court in *Mohinder Singh Gill v. Chief Election Commissioner* (1978) clarified that these powers were plenary, enabling the ECI to act in all necessary situations to preserve electoral integrity, even where statutory provisions were silent. Similarly, *A.C. Jose v. Sivan Pillai* (1984) confirmed that the Commission's residuary powers operate beyond the boundaries of the RPA and the Conduct of Elections Rules whenever legislative silence might compromise the fairness of elections. These decisions elevated the doctrinal position of the Commission to one of constitutional supremacy in electoral matters.

However, judicial expansion has been accompanied by judicial restraint. In *Indian National Congress v. Institute of Social Welfare* (2002), the Supreme Court held that the Commission had no authority to de-register political parties for failing to comply with financial disclosure obligations under Section 29A of the RPA. This judgment significantly diluted the Commission's enforcement capacity, leaving it with the power to register parties but not to penalise them for persistent violations of transparency norms. Thus, the Commission's constitutional promise was partially curtailed by judicial limits.

The statutory framework of the RPA, 1951, illustrates how the ECI's functional mechanisms evolved incrementally but remained uneven. Sections 29A to 29C empower the Commission to register political parties and require disclosure of donations above ₹20,000. However, these provisions do not grant the Commission authority to audit accounts, verify donor information, or impose punitive sanctions. Non-disclosure results only in the withdrawal of tax exemptions under Section 13A of the Income Tax Act, not in electoral consequences. By contrast, candidate-level expenditure is tightly regulated under Sections 77, 78, and 10A, where candidates must maintain and lodge detailed expenditure accounts and face disqualification for non-compliance. This created a doctrinal imbalance: candidates could be disciplined, but political

parties the dominant actors in electoral finance remained beyond meaningful scrutiny.

Over the time, the ECI developed institutional practices to operationalise its mandate. Expenditure Observers were introduced to oversee campaign spending, flying squads were deployed to track inducements, and systematic scrutiny of accounts was institutionalised. The Model Code of Conduct (MCC) became a soft-law mechanism to regulate party and candidate behaviour during elections. These practices evolved into functional mechanisms of electoral supervision, but their legal force was limited: they derived legitimacy from Article 324 rather than statutory codification. Consequently, while the ECI innovated to fill gaps, it lacked legislative backing to enforce compliance.

The Finance Act, 2017 marked a watershed moment in weakening the statutory framework of electoral finance and further marginalising the ECI. Through amendments to the RPA, the Companies Act, the Income Tax Act, and the RBI Act, passed via the Money Bill route, corporate donation caps were removed, disclosures were diluted, and the Electoral Bond Scheme was introduced. These changes were enacted without consultation with the ECI, despite its constitutional role as electoral regulator. The Commission's formal objections warning of opacity, donor anonymity, and the undermining of transparency were disregarded. In practice, this reduced the ECI to a passive repository of partial data, unable to supervise or scrutinise real-time funding flows. The statutory framework had evolved not to empower but to constrain the Commission, leaving it without investigative or sanctioning powers.

The Supreme Court's landmark decision in *Common Cause v. Union of India* (2024) reasserted constitutional baselines by striking down the Electoral Bond Scheme and the enabling amendments as unconstitutional. The Court reaffirmed that transparency in political finance is part of the voter's right to know under Article 19(1)(a) and that unchecked corporate influence violates Article 14's guarantee of electoral equality. This decision indirectly acknowledged the ECI's institutional marginalisation and restored doctrinal coherence by emphasising that legislative innovations cannot override constitutional principles. Yet, the Court did not itself expand the Commission's statutory powers, leaving the problem of legislative disempowerment unresolved.

The doctrinal analysis of the ECI reveals an institution that has evolved through constitutional empowerment, judicial expansion, and institutional innovation, yet remains structurally handicapped by statutory design. Its functional mechanisms candidate expenditure monitoring, observers, the MCC reflect adaptive capacity but lack the force of statutory compulsion. Its authority over political parties is circumscribed, with Sections 29A to 29C of the RPA limiting it to registration and disclosure without meaningful audit or sanctioning powers. Executive manoeuvres, such as the 2017 amendments, side lined its role entirely, while judicial pronouncements alternately expanded and diluted its authority.

Doctrinally, the ECI today embodies a paradox: constitutionally autonomous yet legislatively constrained. For it to fulfil its constitutional mission in a mature democracy, statutory reforms are essential. These must include empowering the ECI to audit and investigate party accounts, mandate real-time disclosure of contributions, regulate pre-notification campaign spending, and impose enforceable sanctions on non-compliant parties, including suspension of recognition or withdrawal of symbols. Only by aligning statutory provisions with Article 324's vision can the Commission's functional mechanisms evolve from administrative innovations into binding regulatory authority, ensuring transparency, equality, and integrity in India's electoral democracy.

Doctrinal finding of the empowerment of the ECI has evolved unevenly constitutionally expansive, judicially reinforced in parts, but legislatively undercut. While functional mechanisms have emerged through innovation, they remain weak without statutory support. Bridging this gap demands legislative redesign to transform the ECI from a supervisory body into a fully empowered regulator, capable of upholding electoral integrity in a capital-intensive democracy.

3.2. Doctrinal Study of the Reserve Bank of India Act, 1934 (RBI Act) and Electoral Funding

The Reserve Bank of India Act, 1934 (RBI Act) established the Reserve Bank of India (RBI) as the central monetary authority and financial regulator of the country. While its primary mandate is to secure monetary stability, regulate

currency, and safeguard financial integrity, the RBI Act intersects significantly with the domain of electoral funding through its control over currency issuance, financial instruments, and anti-money laundering protocols. Doctrinally, the RBI embodies an institutional safeguard designed to prevent opacity in financial transactions and ensure systemic trust, functions that naturally extend to the regulation of financial flows in electoral democracy. Yet, the statutory and constitutional role of the RBI in this domain has been undermined by executive manoeuvres, particularly during the introduction of the Electoral Bond Scheme.

Constitutional and Statutory Empowerment of RBI: The RBI Act, under Sections 3 and 17, vests the Bank with authority to regulate the issuance of currency and other financial instruments, thereby securing the integrity of India's monetary system. Section 31 prohibits the issuance of bearer instruments by any authority other than the RBI, situating the Bank as the exclusive guardian of such instruments. This statutory design placed the RBI as a key institutional gatekeeper against untraceable or anonymous financial flows that could destabilise monetary order or facilitate illicit practices, including unregulated political funding. In this doctrinal sense, the RBI's authority extended implicitly into the regulation of electoral finance, as political donations routed through financial instruments fell squarely within its regulatory ambit.

In practice, the RBI consistently interpreted its mandate as encompassing oversight of instruments that might threaten financial transparency. Internal correspondence revealed that the RBI strongly objected to the introduction of Electoral Bonds, flagging anonymity, traceability concerns, and the risk that bearer-like instruments could enable money laundering and undermine faith in the financial system. Despite these statutory responsibilities, the Ministry of Finance amended the RBI Act in 2017 through the Finance Act, enabling the Central Government to designate a scheduled bank in this case, the State Bank of India (SBI) to issue Electoral Bonds. This amendment effectively bypassed the RBI's regulatory control, stripping it of its statutory role in scrutinising such instruments.

Judicial Engagement with RBI's Role: While the judiciary did not directly adjudicate the RBI's role until the challenges to the Electoral Bond Scheme, its broader jurisprudence has long recognised the importance of institutional

independence in financial governance. In *Rojer Mathew v. South Indian Bank Ltd.* (2019), the Court expressed concern over the misuse of the Money Bill route to enact laws with wide constitutional implications. This observation foreshadowed the constitutional critique of bypassing the RBI in the design of Electoral Bonds. The Supreme Court's landmark ruling in *Common Cause v. Union of India* (2024), which struck down the Electoral Bond Scheme, indirectly restored the doctrinal primacy of the RBI by affirming that the issuance of anonymous bearer-like instruments without central bank oversight undermined both transparency and constitutional guarantees of free and fair elections.

The executive's decision to exclude the RBI from its statutory role in monitoring the Electoral Bond Scheme illustrates a profound doctrinal bypass. By invoking the Money Bill route to amend Section 31 of the RBI Act, the government undermined the principle of institutional checks and balances and concentrated control of political finance within the executive. This exclusion of the RBI from its natural statutory function represented a breakdown in the constitutional architecture of financial governance, whereby an independent regulator was sidelined in favour of executive expediency. The doctrinal weakness thus lies not in the RBI Act itself, but in its deliberate marginalisation, which neutralised the Bank's authority to act as a safeguard against opaque financial practices in electoral democracy.

The doctrinal study of the RBI Act highlights an institution designed to safeguard monetary integrity and regulate financial instruments, functions that inherently intersect with the transparency of electoral funding. However, legislative amendments through the Finance Act, 2017, curtailed this role by delegating issuance of Electoral Bonds to the SBI and excluding the RBI from meaningful oversight. Judicial correction in 2024 reaffirmed the constitutional necessity of transparency, but the episode underscores a systemic weakness: statutory regulators can be undermined by executive manoeuvres unless their roles are explicitly entrenched in law.

Doctrinal finding of the RBI Act embodies a statutory commitment to financial transparency and stability, yet its electoral finance role has been undermined by executive bypass. While the RBI's institutional expertise made it a natural

regulator of instruments like Electoral Bonds, amendments through the Finance Act side-lined its authority, creating opacity in political funding. To align financial regulation with democratic integrity, statutory reforms must embed the RBI's oversight role into electoral finance governance, institutionalising coordination with the Election Commission of India (ECI) and the Central Board of Direct Taxes (CBDT) for comprehensive monitoring of political donations.

1.3.Doctrinal Study of the Comptroller and Auditor General (CAG) and Electoral Funding

The Comptroller and Auditor General (CAG) of India, established under Article 148[27] of the Constitution, is vested with the constitutional responsibility of auditing all receipts and expenditures of the Government of India and of the states, including those from the Consolidated Fund, Contingency Fund, and Public Account. Article 149 further elaborates that the CAG performs such duties as prescribed by Parliament, positioning it as the guardian of public finances. Doctrinally, the CAG is conceived as an accountability institution ensuring financial discipline, transparency, and integrity in the use of public resources. While this role extends naturally into domains that influence electoral democracy, such as expenditure by public sector undertakings (PSUs) and the use of public funds in electoral processes, the CAG's statutory jurisdiction does not extend to political parties or private corporate donations. This exclusion creates a significant doctrinal gap in the architecture of electoral finance regulation.

Constitutional Empowerment and Functional Role: The CAG's constitutional empowerment under Articles 148–151 situates it as an independent constitutional authority, insulated from executive influence and accountable directly to Parliament. Its functional mandate, codified through the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971, is to ensure that all public expenditure is lawful, authorised, and within budgetary appropriations. In the electoral context, this extends to auditing government schemes, subsidies, or advertising campaigns that may overlap with electoral

[27] Article 148 establishes the office of the Comptroller and Auditor-General of India (CAG) as a constitutional authority.

timelines, thereby acting as a safeguard against the misuse of state resources for partisan advantage.

Despite its sweeping authority over public finances, the CAG has no statutory jurisdiction to audit the finances of political parties. Even though state-owned enterprises make substantial political donations and public resources are frequently leveraged in election campaigns, such expenditures remain outside the CAG's audit ambit. The Representation of the People Act, 1951 (RPA) requires candidates to disclose expenditure and political parties to report donations above a threshold under Section 29C, but these disclosures are not subject to independent audit by the CAG. This institutional exclusion is doctrinally problematic because accountability over public funds stops at the gates of political parties, even when such funds are indirectly channelled into electoral finance.

Over time, the CAG has flagged concerns regarding the misuse of public funds in contexts adjacent to elections—for instance, irregularities in government advertising, subsidy allocations, or public procurement with electoral implications. However, lacking statutory authority to audit political parties or election-related corporate donations, the CAG has been unable to address the systemic flow of money into politics. This limitation has doctrinal significance: it creates a structural imbalance whereby the guardian of public finance is prevented from examining the most critical area where public accountability intersects with electoral democracy.

The judiciary has recognised the CAG's role in preserving financial integrity but has not expanded its remit to include electoral finance. In *Subramanian Swamy v. CBI* (2014), the Supreme Court acknowledged that transparency and accountability are fundamental to governance, but the scope of the CAG's oversight has remained confined to government expenditure. Efforts by civil society to extend CAG jurisdiction to political parties have not translated into statutory reform. This reflects a doctrinal reluctance to subject political actors to the same standards of accountability applied to state institutions, thereby perpetuating opacity in party financing.

The doctrinal study of the CAG reveals an institution constitutionally empowered to act as the watchdog of public finance but deliberately excluded from the domain of political finance. Its authority to audit public expenditure ensures that government schemes and PSU resources are not misused for electoral advantage, yet its inability to audit party accounts, electoral trusts, or corporate donations creates a structural void in the transparency framework. This doctrinal gap highlights the inconsistency of India's accountability architecture: while public fund usage is rigorously scrutinised, the private and corporate flows that shape electoral outcomes remain shielded from independent audit.

Doctrinal findings of the CAG exemplify a constitutional watchdog constrained by statutory design. By excluding political parties and electoral finance from its jurisdiction, the legal framework has weakened democratic accountability. To align the CAG's role with constitutional principles of transparency under Article 19(1)(a) and electoral equality under Article 14, statutory reforms are necessary to extend its audit jurisdiction to political party finances, corporate donations, and electoral trusts. Such an expansion would transform the CAG into a pivotal institutional actor in safeguarding both fiscal and electoral integrity.

3.4. The "Central Board of Direct Taxes" (CBDT)and Electoral Funding

The Central Board of Direct Taxes (CBDT)[28], functioning under the Ministry of Finance and empowered by the Income Tax Act, 1961, serves as the apex administrative authority for direct taxation in India. Its mandate encompasses policy formulation, enforcement of tax compliance, and the regulation of fiscal privileges extended through exemptions and deductions. Within the electoral finance framework, the CBDT plays a critical role through Sections 13A, 80GGB, and 80GGC of the Income Tax Act, which regulate tax exemptions for political parties and deductions for donors. Doctrinally, these provisions were designed to incentivise transparent political contributions while ensuring that tax privileges are conditioned on accountability. However, the introduction of the Electoral Bond Scheme fundamentally undermined this doctrinal balance by

[28] Section 116 of the Income-tax Act, &1961 Central Boards of Revenue Act, 1963.

anonymising contributions and eroding the Board's capacity to verify disclosures, thereby weakening both fiscal accountability and electoral transparency.

Statutory Empowerment under Section 13A of the Income Tax Act grants political parties tax exemptions on income derived from voluntary contributions, provided they maintain proper books of accounts, submit audited statements, and disclose contributions above ₹20,000. This statutory safeguard sought to tie fiscal privilege to transparency, ensuring that political parties remained accountable to both the tax administration and the electorate. Similarly, Sections 80GGB and 80GGC incentivise corporate and individual donations by permitting deductions, thereby legitimising political contributions as part of the tax framework. The legislative intention was clear: by embedding electoral finance within tax law, Parliament sought to channel political donations into transparent, audited, and traceable streams, discouraging black money and unaccounted flows.

The doctrinal coherence of this framework was disrupted by the Finance Act, 2017, which amended allied statutes to enable the Electoral Bond Scheme. By allowing contributions through anonymous bearer instruments issued by the State Bank of India, the link between tax benefits and transparency was severed. Donors could claim deductions under Section 80GGB without disclosing the recipient political party, while parties could avail tax exemptions under Section 13A without revealing the identity of contributors. This created a legal paradox: fiscal privileges, originally premised on disclosure and accountability, were now available in the absence of verifiable transparency. Doctrinally, this contradicted the core rationale of the Income Tax Act as a fiscal gatekeeper and reduced the CBDT to a mere conduit for tax exemptions, unable to monitor misuse or prevent quid pro quo arrangements between corporates and political parties.

Institutional Role and Functional Weaknesses: In practice, the CBDT's role in electoral finance has been narrowly confined to processing exemptions and deductions. The Board lacks statutory authority to audit political party accounts beyond formal compliance with Section 13A, nor can it independently cross-verify contributions claimed under Sections 80GGB and 80GGC with banking

or corporate disclosures. The confidentiality of Electoral Bond transactions held by the State Bank of India further excluded the CBDT from accessing real-time data. As a result, its institutional capacity to prevent the misuse of tax benefits for opaque political funding was effectively neutralised. This doctrinal and institutional weakening exposed the structural flaw of relying on tax policy without equipping the tax regulator with enforcement powers in the electoral domain.

Judicial pronouncements have consistently underscored the principle that transparency in political funding is intrinsic to Article 19(1)(a)'s guarantee of the voter's right to know. In *Union of India v. ADR* (2002) and *PUCL v. Union of India* (2003), the Supreme Court emphasised disclosure as a constitutional baseline. The Court's 2024 ruling in *Common Cause v. Union of India*, striking down the Electoral Bond Scheme, reaffirmed this principle and implicitly highlighted the contradiction within the Income Tax Act's framework, where exemptions had been decoupled from disclosure. The judgment effectively restored the doctrinal link between fiscal privileges and transparency, reinstating the principle that tax benefits in the electoral context must serve constitutional values of openness and accountability.

The doctrinal study of the CBDT reveals a regulatory body empowered to integrate tax policy with electoral transparency but structurally constrained by statutory silences and executive bypass. While Sections 13A, 80GGB, and 80GGC were intended to ensure that fiscal privileges reinforced democratic accountability, the Electoral Bond Scheme undermined this purpose by creating anonymity and excluding the CBDT from meaningful oversight. The Board's inability to audit, investigate, or cross-verify donor-party transactions rendered its role ineffective, leaving the constitutional promise of fiscal transparency hollow.

Doctrinal findings of the CBDT exemplifies the erosion of doctrinal coherence in India's electoral finance regime. Its statutory mandate linked tax exemptions to disclosure, but the post-2017 framework severed this link, leaving it unable to safeguard against misuse of fiscal privileges. To restore its constitutional and fiscal role, statutory amendments are necessary to mandate real-time disclosure of donor-party transactions, empower the CBDT with investigative authority,

and harmonise tax provisions with the transparency obligations under the Representation of the People Act and the Companies Act. Only by embedding the CBDT as an active regulator can India's electoral finance regime align fiscal policy with democratic integrity.

3.5. Doctrinal Study of the Ministry of Corporate Affairs (MCA) and Electoral Funding

The Ministry of Corporate Affairs (MCA)[29], as the regulator of corporate governance in India, plays a critical role in supervising how corporate entities deploy their financial resources, including contributions to political parties. Section 182 of the Companies Act, 2013 originally represented the statutory foundation of this regulatory framework, embedding political contributions within principles of corporate governance, fiduciary duty, and shareholder oversight. Doctrinally, the law sought to balance the permissibility of corporate donations with safeguards to protect shareholders, minority investors, and the democratic process from undue corporate influence. However, the Finance Act, 2017 fundamentally altered this balance by removing contribution caps and disclosure requirements, transforming the MCA from a regulatory watchdog into a passive administrator with little role in safeguarding transparency or accountability.

Statutory Framework Prior to the 2017 Amendments: Section 182 of the Companies Act, 2013 imposed two key safeguards on corporate political funding. First, it capped contributions at 7.5% of a company's average net profits over the preceding three years. This provision was designed to ensure fiscal prudence and prevent disproportionate diversion of corporate wealth into politics, thus maintaining the fiduciary responsibility of directors to their shareholders. Second, it mandated disclosure of political contributions in the company's profit and loss account, requiring specification of the recipient political party and the donation amount. This disclosure requirement reinforced transparency and enabled shareholders to hold boards accountable for politically sensitive financial decisions. Together, these provisions reflected a doctrinal commitment to aligning corporate law with democratic governance,

[29] policy executor: It implements Parliament's legislative design on corporate funding

ensuring that economic power did not translate unchecked into political influence.

The 2017 Amendments and the Shift to Deregulation: The Finance Act, 2017 marked a doctrinal rupture by amending Section 182 to remove both the 7.5% cap and the obligation to disclose the names of recipient political parties. These changes facilitated unlimited contributions, even by loss-making or newly incorporated companies, without the need for shareholder approval or transparency in financial statements. In effect, the law legitimised opaque political financing while eroding corporate governance safeguards. The MCA, instead of acting as a regulator to balance economic power and democratic integrity, was rendered structurally powerless to intervene in cases of disproportionate or politically motivated contributions. This deregulation created fertile ground for shell companies and proxy entities to channel funds into political parties without accountability, raising concerns of quid pro quo arrangements and regulatory capture.

Institutional Role and Weakening of Oversight: The MCA's institutional role in overseeing political contributions was substantially weakened by the 2017 amendments. While it continues to administer the Companies Act, its capacity to monitor political donations is now limited to ensuring technical compliance with procedural requirements. It neither audits corporate contributions nor verifies their alignment with fiduciary duties to shareholders. More significantly, it has not imposed penalties for non-disclosure or misuse of political donations post–2017, revealing an institutional abdication of its regulatory responsibility. Doctrinally, this represents a profound shift: from being the custodian of corporate accountability to becoming a silent bystander in the nexus between corporate wealth and political finance.

Although no direct judicial ruling has yet scrutinised the MCA's diminished role, the Supreme Court's decisions in *Union of India v. ADR* (2002), *PUCL v. Union of India* (2003), and *Common Cause v. Union of India* (2024) collectively reinforce the constitutional principle that transparency in political funding is integral to Article 19(1)(a). By striking down the Electoral Bond Scheme in 2024, the Court implicitly revived the doctrinal significance of disclosure requirements dismantled in 2017. While the MCA itself has not been judicially

reprimanded, its statutory framework post–2017 stands in doctrinal conflict with constitutional imperatives of transparency and equality under Articles 14 and 19.

The doctrinal study of the MCA reveals an institution that once embodied the regulatory principles of corporate transparency and fiduciary accountability in political funding but has since been structurally weakened by legislative deregulation. Section 182 of the Companies Act originally reflected a normative commitment to balancing corporate influence with shareholder oversight and democratic integrity. The 2017 amendments dismantled this framework, removing caps, erasing disclosure obligations, and reducing the MCA's role to that of a passive facilitator of opaque contributions. This created a doctrinal inconsistency where corporate governance norms, designed to protect shareholders and democracy, were subordinated to executive convenience and political expediency.

Doctrinal findings of the MCA's role in electoral finance has shifted from regulation to deregulation. The original intent of Section 182 was to tether corporate political donations to principles of accountability and transparency, but its post 2017 form undermines both corporate governance and democratic integrity. To restore doctrinal coherence, reforms must reinstate contribution caps, mandate full disclosure of political donations, and empower the MCA to penalise non-compliant corporations. Only by reclaiming its regulatory role can the MCA ensure that corporate resources serve legitimate business and democratic purposes, rather than fuelling opaque and disproportionate political influence.

3.6. Doctrinal Study of the State Bank of India (SBI) and Electoral Funding

The State Bank of India (SBI), as the largest public sector bank and a statutory body under the State Bank of India Act, 1955, was designated as the sole authorised issuer and redeemer of Electoral Bonds (EBs) under the 2018 scheme. This institutional role placed the bank at the very centre of India's electoral finance system, effectively making it the conduit for corporate and individual donations to political parties. Doctrinally, SBI's role raises questions about the intersection of banking regulation, executive control, and democratic

accountability. Instead of functioning as a neutral financial intermediary, the bank became an executive instrument in a funding mechanism that institutionalised secrecy and opacity in political finance.

The legal foundation for SBI's role was created by amendments in the Finance Act, 2017, which modified Section 31 of the Reserve Bank of India Act, 1934, to authorise the central government to designate a scheduled bank for issuing bearer instruments in the form of Electoral Bonds. By notification, the Ministry of Finance appointed SBI as the exclusive institution responsible for the sale, issuance, and redemption of these bonds. The bonds were available in fixed denominations ranging from ₹1,000 to ₹1 crore, sold through designated SBI branches during specified windows, and redeemable only by political parties registered under Section 29A of the Representation of the People Act, 1951 and securing at least 1% of the vote share in recent elections.

SBI's involvement raised significant doctrinal concerns regarding transparency and institutional independence. As a state-owned bank, its compliance with the executive's directive to operationalise a scheme that bypassed the Reserve Bank of India (RBI) and the Election Commission of India (ECI) created a structural conflict. While the RBI had objected to bearer instruments on grounds of anonymity, money laundering risks, and currency destabilisation, SBI implemented the scheme without independent oversight or discretion. The bank's role was reduced to a clerical executor of a politically contentious funding architecture, thereby compromising its institutional neutrality.

The most serious gap in SBI's role lay in the secrecy provisions. The bank was statutorily required to maintain donor confidentiality, with even the Election Commission and the public denied access to information about contributors. While SBI alone held the data on who purchased bonds and which parties redeemed them, it was not legally permitted to share this information except with the government. This created a doctrinal paradox: a public sector institution became the custodian of data central to electoral transparency, yet its legal obligations were structured to conceal rather than disclose that information. The result was an accountability vacuum, where constitutional

principles of transparency under Article 19(1)(a) and equality under Article 14 were subordinated to executive-imposed secrecy.

The Supreme Court's judgment in *Common Cause v. Union of India* (2024)[30], which struck down the Electoral Bond Scheme as unconstitutional, directly implicated SBI's role. The Court noted that the scheme's design had created "asymmetrical information flows," where the government, through SBI, could access donor details, but the public and rival parties could not. This created an uneven playing field, enabling ruling parties to benefit from donor awareness while insulating contributors from public scrutiny. By dismantling the scheme, the Court indirectly censured SBI's role as an instrument of opacity, even though it had acted under statutory compulsion.

The doctrinal study of SBI's role highlights the transformation of a public financial institution into a mechanism of state-engineered electoral opacity. While its statutory function was to issue and redeem bonds, the secrecy obligations imposed upon it undermined constitutional principles of transparency and equality. SBI's compliance, though legally mandated, exemplified how executive control over state-owned institutions can be leveraged to reshape electoral finance in ways that privilege political expediency over democratic accountability.

Doctrinal findings of the SBI's role in the Electoral Bond Scheme represents a case of institutional subordination, where a public sector bank became an executive instrument in facilitating anonymous corporate and individual donations. The original intention of Section 31 of the RBI Act was to vest authority over bearer instruments in the RBI as the independent regulator; its amendment to empower SBI created doctrinal inconsistency by bypassing regulatory oversight. Judicial invalidation in 2024 reasserted that electoral finance must prioritise transparency and accountability over secrecy, underscoring the need for statutory reforms that prevent state-owned institutions from being misused to undermine democratic integrity.

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1. [30] *Common Cause v. Union of India, (2024) 4 SCC 1*. (Judgment Date: February 15, 2024)

3.7. **Doctrinal Study of Electoral Trusts and Electoral Funding**

Electoral Trusts[31] in India are legally recognised non-profit entities incorporated under Section 8 of the Companies Act, 2013 (earlier Section 25 of the Companies Act, 1956). They were created exclusively to receive voluntary contributions from eligible Indian donors—such as individuals, companies, Hindu Undivided Families (HUFs), firms, and associations—and to redistribute at least 95 percent of the funds collected to political parties registered under Section 29A of the Representation of the People Act, 1951 (RPA). The doctrinal intent behind this design was to establish a formalised, transparent, and auditable channel for political donations, thereby curbing the dominance of unaccounted cash in elections and aligning corporate contributions with democratic accountability.

The Electoral Trusts Scheme, 2013, notified by the Central Board of Direct Taxes (CBDT) through Rule 17CA of the Income Tax Rules, 1962, provides the statutory and procedural framework for the registration and functioning of trusts. It requires Electoral Trusts to maintain audited accounts, record detailed donor information—including name, address, and Permanent Account Number (PAN)—and to submit contribution reports both to the Election Commission of India (ECI) and the Income Tax Department. Critically, it mandates that at least 95 percent of annual receipts must be distributed to political parties, with a maximum of 5 percent available for administrative expenditure. This scheme doctrinally embeds fiscal discipline into political finance, ensuring that contributions flow into traceable, regulated channels rather than informal networks.

The fiscal framework further reinforces this model through Section 13B of the Income Tax Act, 1961, which grants tax exemption to Electoral Trusts for qualifying income, while Sections 80GGB and 80GGC incentivise donations by allowing corporate and individual contributors, respectively, to claim deductions. This dual benefit mechanism represents a normative effort to shift

[31] Association for Democratic Reforms". (2024a). FAQs on Electoral Trusts. Retrieved from https://adrindia.org.

political finance into the formal tax system, linking electoral funding with principles of transparency, traceability, and ethical tax compliance.

However, doctrinal analysis exposes significant shortcomings in this structure. While Electoral Trusts are required to disclose aggregate donor and recipient information, the framework does not mandate a direct donor–party linkage. This lacuna permits a degree of anonymisation, allowing large corporate contributions to remain opaque despite formal compliance with disclosure requirements. The concentration of political finance among a few dominant trusts, most notably the Prudent Electoral Trust, illustrates the systemic risks: disproportionate allocations to the ruling party have created conditions for policy capture and have undermined the principle of competitive neutrality in elections.

Empirical evidence underlines these doctrinal concerns. According to ADR's analysis of ECI data for FY 2023–24, only six of nineteen registered Electoral Trusts reported donations, amounting to ₹1,218.39 crore, of which ₹1,218.36 crore was disbursed to political parties. Of this, the ruling party at the Centre received approximately 70.3 percent, while the Indian National Congress received 12.84 percent. This lopsided distribution demonstrates that even formally regulated entities, operating under strict disclosure and fiscal discipline requirements, can still reproduce asymmetries of power and undermine the constitutional promise of electoral fairness.

A comparative perspective reinforces this doctrinal critique. Democracies such as the United Kingdom require mandatory disclosure of all donations above low thresholds under the Political Parties, Elections and Referendums Act, 2000, while Germany operates a mixed public–private model in which all donations above €10,000 are disclosed and supplemented by public funding. Canada and France go further, prohibiting corporate donations altogether and capping individual contributions while relying on state subsidies. India's regulatory model, by contrast, permits unlimited corporate donations via Electoral Trusts without mandating donor–party linkage, thus diverging sharply from global best practices designed to guard against corporate dominance and opaque influence.

The Supreme Court's landmark 2024 ruling in *Association for Democratic Reforms v. Union of India,* which struck down the Electoral Bonds Scheme, has shifted attention back to Electoral Trusts as the principal lawful channel for high-value political donations. The Court reaffirmed that transparency in political finance is a constitutional baseline, grounded in the voter's right to information under Article 19(1)(a). However, by highlighting the dangers of secrecy and asymmetrical influence, the judgment has also exposed the doctrinal vulnerabilities of the Trust model, which—though more transparent than Electoral Bonds remains incomplete in safeguarding democratic integrity.

From a reform perspective, three doctrinally necessary interventions stand out. First, Electoral Trusts must be required to link individual donations directly to the political parties that ultimately receive them, closing the anonymisation loophole. Second, proportionate caps on corporate contributions must be reinstated to prevent dominance by a few large donors. Third, Electoral Trust financing should be supplemented with public funding tied to electoral performance, thereby reducing overdependence on concentrated private wealth. Without these reforms, the Electoral Trust mechanism risks reproducing the same opacity and inequity that it was meant to overcome.

Electoral Trusts were introduced as a statutory innovation intended to formalise and democratise corporate and individual contributions to political parties. However, their constitutional purpose has been undermined by the absence of donor–party linkage, the allowance of unlimited corporate contributions, and the concentration of disbursals in favour of select parties. While the judicial invalidation of Electoral Bonds has revived the Trust model as a potential alternative, it remains fraught with risks. Unless restructured through doctrinal reforms that embed transparency, equity, and accountability, Electoral Trusts may continue to entrench corporate dominance over electoral democracy rather than serve as instruments of its correction.

CHAPTER 4

DOCTRINAL STUDY OF JUDICIAL ORDERS ON CORPORATE ELECTORAL FINANCE IN INDIA

This doctrinal study critically examines a series of landmark judgments by the Supreme Court of India that have progressively shaped the legal framework of electoral finance. By analysing cases from "State of Uttar Pradesh v. Raj Narain" (1975) to *"Association for Democratic Reforms" v. Union of India (2024)*, this research traces the judicial evolution of core constitutional principles, including the voter's right to information, the necessity of transparency in political funding, and the limits of legislative procedure. The analysis aims to synthesize how these rulings collectively form a coherent doctrine essential for democratic accountability and institutional integrity.

4.1. The Doctrinal study of "*State of Uttar Pradesh v. Raj Narain"* (1975)

The judgment in "*State of Uttar Pradesh v. Raj Narain" (1975)* is a cornerstone of Indian constitutional jurisprudence, establishing the doctrinal foundation for the right to information. While politically contentious, the case's enduring legal value lies in the judicial articulation of fundamental democratic principles.

The central conflict arose during an election petition against then-Prime Minister Indira Gandhi, when the government claimed executive privilege to withhold a security document ("the Blue Book") under Section 123 of the Indian Evidence Act, 1872. The core dispute pitted the state's claim of confidentiality against the public's interest in transparency for the administration of justice.

The Court's doctrinal contributions in this judgment were profound and transformative for Indian constitutional law. Most significantly, it laid the foundation for recognising the right to information as a fundamental right under Article 19(1)(a). The Court reasoned that in a democratic republic, citizens cannot meaningfully exercise their democratic choices unless they are informed about the functioning of their government. Consequently, it held that any claim of executive privilege must always be balanced against the public's right to transparency and the requirements of a fair trial. This principle became a

precursor to the Right to Information Act, 2005, embedding transparency as a constitutional baseline of governance.

Equally important was the Court's assertion of judicial authority in scrutinising executive privilege. Rejecting the idea that the executive's claim of confidentiality was absolute and final, the Court recognised the judiciary's power to examine contested documents and determine whether their disclosure was genuinely against public interest. By doing so, it established the judiciary as an independent arbiter between executive secrecy and democratic accountability, thereby preventing arbitrary use of privilege to shield misconduct.

The judgment also emphasised the centrality of procedural due process in a democracy. It clarified that claims of privilege must adhere to proper legal procedures and cannot be invoked as a blanket tool for obstruction. This procedural insistence ensured that executive privilege, while valid in certain contexts, could not be deployed casually to frustrate the ends of justice. Together, these contributions transformed executive accountability in India by linking the right to information, judicial oversight, and procedural fairness into a coherent doctrinal framework.

Although the ultimate outcome of the case was determined on alternative grounds, the doctrinal principles it articulated namely the public's right to know, the judiciary's authority to scrutinize executive privilege, and the imperative of balancing competing public interests became embedded within India's legal and political discourse. The case endures as a compelling affirmation of the judiciary's role as the sentinel of democratic values in the face of potential executive overreach.

4.2. The Doctrinal study of *"Association for Democratic Reforms" v. Union of India (2002)*

"*Association for Democratic Reforms" (ADR) v. Union of India (2002)*[32] is a landmark judgment that fundamentally reshaped the legal and constitutional

[32] Association for Democratic Reforms" available at https://adrindia.org. last accessed on 25.08.2025

landscape of Indian elections. Its doctrinal significance lies in the powerful affirmation of the voter's right to information as a core component of the fundamental right to freedom of speech and expression under Article 19(1)(a).

The case originated from a “Public Interest Litigation” (PIL) that sought to compel the “Election Commission of India” (ECI) to mandate the disclosure of candidates' criminal, financial, and educational backgrounds. The central conflict was the lack of transparency, which the petitioners argued rendered the democratic process hollow.

The Court’s contributions in this judgment were profound and lasting, particularly in shaping the doctrinal foundation of electoral democracy in India. Most significantly, it elevated the *right to information* as an essential component of the right to free speech under Article 19(1)(a). Building upon earlier precedents, the Court declared that democracy cannot function effectively unless voters have access to information about candidates, enabling them to make informed choices at the ballot box. This doctrinal shift transformed the voter from a passive recipient of political narratives into an active participant in democratic governance, affirming that meaningful electoral participation depends on informed consent.

Equally significant was the Court’s affirmation of the plenary powers of the Election Commission of India (ECI) under Article 324. The judgment clarified that the ECI’s authority is not confined to the letter of statutory provisions but extends to issuing necessary directives to secure the fairness of elections, particularly where existing legislation is silent or inadequate. This recognition empowered the Commission to act as a proactive watchdog, compelling disclosures from candidates and political actors, thereby strengthening the institutional framework of electoral regulation.

The ruling also exemplified judicial activism as a corrective to legislative inertia. By recognising the voter’s right to information in the electoral context, the Court filled a crucial legislative void and created a new paradigm of accountability for candidates and parties. This intervention was not merely an expansion of a fundamental right but a recalibration of electoral democracy itself, embedding transparency and accountability into its core structure.

The impact of this judgment was immediate and transformative. Following the ruling, the Election Commission of India mandated that every candidate file an affidavit disclosing their criminal antecedents, financial status, and educational qualifications. What began as a judicial directive has now become an integral part of the electoral process, ensuring that voters have access to critical information about those who seek to represent them. The doctrinal legacy of this case lies in its establishment of the right to information as a *non-negotiable principle of electoral democracy*, ensuring that the ideals of transparency, accountability, and informed choice remain central to India's constitutional framework.

4.3. The Doctrinal Study of *People's Union for Civil Liberties v. Union of India* (2003)

The Supreme Court's judgment in *"People's Union for Civil Liberties v. Union of India (PUCL)"* is a crucial follow-up to the landmark decision in *"Association for Democratic Reforms" v. Union of India (2002).* While the ADR judgment established the right of a voter to information about candidates, the PUCL case solidified and extended this right, particularly concerning the mandatory nature of candidate disclosures and the legal consequences of non-compliance.

In the aftermath of the ADR judgment, the Government of India promulgated an ordinance and later enacted an amendment to the Representation of the People Act, 1951, aimed at diluting the Supreme Court's directives. The amendment rendered the disclosure of criminal antecedents, financial assets, and educational qualifications optional for candidates, thereby seeking to circumvent the judicially mandated framework of transparency.

The People's Union for Civil Liberties (PUCL) challenged these legislative changes, arguing that they undermined the voter's fundamental right to information as established in the ADR case. The core conflict was a direct confrontation between the legislative intent to limit disclosures and the judiciary's role as a guardian of the fundamental rights of the electorate.

The *People's Union for Civil Liberties (PUCL)* case emerged directly from the aftermath of the *ADR judgment* of 2002, which had for the first time judicially entrenched the voter's right to know as a facet of Article 19(1)(a). In response, the Government of India promulgated an ordinance, later enacted as an amendment to the Representation of the People Act, 1951, seeking to dilute these judicially mandated disclosure requirements. The amendment sought to render optional the disclosure of criminal antecedents, financial assets, liabilities, and educational qualifications of candidates, thereby attempting to neutralise the judiciary's framework of transparency. This created a core conflict between legislative intent, which aimed at restricting disclosures, and judicial authority, which had elevated transparency into a constitutional right central to electoral democracy.

The PUCL judgment reinforced and deepened the doctrinal commitment to transparency in elections. The Supreme Court robustly reiterated that the right to information about candidates is an integral part of the voter's freedom of speech and expression under Article 19(1)(a). By striking down the amendments that had sought to make disclosures voluntary, the Court declared the government's attempt as legislative overreach incompatible with fundamental rights. In doing so, it reaffirmed that information on criminal antecedents, assets, liabilities, and educational qualifications is not a privilege but a constitutional entitlement of the electorate, essential to ensure that voting is an exercise in informed choice rather than blind faith.

The Court also crystallised the mandatory nature of disclosures. It held that affidavits filed by candidates must include full and truthful information about their criminal, financial, and educational background, thereby transforming the obligation into a statutory and constitutional imperative. By invalidating the government's attempt to dilute the requirement, the Court ensured that the judiciary's earlier pronouncement in ADR could not be undone through legislative manoeuvres. This doctrinal strengthening secured transparency as an enforceable obligation rather than a matter of administrative discretion.

Equally important was the Court's clarification regarding the consequences of non-disclosure. It held that furnishing false information or withholding relevant

facts in the affidavit amounts to a “corrupt practice” under the Representation of the People Act, 1951. Further, it vested Returning Officers with the authority to reject a candidate’s nomination for failing to file a complete and truthful affidavit. This enforcement mechanism gave substantive teeth to the disclosure regime, ensuring that the right to information was not a hollow declaration but a legally binding obligation capable of being operationalised at the ground level.

The enduring legacy of the PUCL judgment lies in its institutionalisation of transparency in electoral democracy. The mandatory nature of affidavits, coupled with enforceable consequences, transformed candidate disclosures into a serious and integral part of the electoral process. By empowering Returning Officers to act as frontline enforcers of compliance, the Court decentralised transparency enforcement and tied it firmly to the administrative machinery of elections. Furthermore, the judgment affirmed the judiciary’s role as a constitutional guardian by striking down legislative efforts that sought to undermine fundamental rights.

In conclusion, the PUCL judgment was more than a reaffirmation of the principles established in ADR; it gave them binding force and practical enforceability. By embedding transparency into the statutory process and empowering institutional mechanisms to enforce compliance, the Court transformed the voter’s right to information into a non-negotiable tenet of Indian democracy. The decision exemplifies judicial activism in defence of constitutional rights and stands as a doctrinal pillar ensuring that legislative attempts cannot dilute the core democratic principle of an informed electorate.

4.4. The Doctrinal Study of Centre for *Public Interest Litigation v. Union of India (2013)*

The judgment in Centre *for Public Interest Litigation v. Union of India (2013)*, popularly known as the "2G Scam Case" or the "Allotment of Natural Resources Case," is a landmark decision by the Supreme Court of India. Although the dispute primarily revolved around the allocation of 2G spectrum licences, the judgment’s doctrinal significance transcends the immediate facts of the case. It

articulated foundational constitutional principles on the allocation of public resources, affirmed the doctrine of public trust, and reinforced the State's obligation of non-arbitrariness under Article 14 of the Constitution.

The *CPIL v. Union of India* case arose from a series of public interest litigations that challenged the Union Government's policy of allocating 2G spectrum licenses in 2008 on a "first-come, first-served" basis. Petitioners, including the Centre for Public Interest Litigation (CPIL), argued that this method was arbitrary, opaque, and non-transparent, resulting in a colossal loss to the public exchequer. At its core, the conflict represented a confrontation between the executive's discretionary powers in the disposal of public property and the constitutional mandate of fairness, transparency, and equality. The litigation questioned whether natural resources could be treated as the government's private preserve or whether they were held in trust for the public, thereby requiring equitable and transparent allocation.

The Supreme Court's doctrinal contributions in this judgment were profound and far-reaching. For the first time, the Court explicitly invoked and applied the public trust doctrine to the allocation of natural resources. It declared that resources such as the electromagnetic spectrum belong to the people and are held by the state as a trustee. This fiduciary responsibility prevents the state from using these resources for private gain or distributing them arbitrarily. The judgment thus established that natural resources cannot be treated as the private property of the government to be disposed of at its whim but must be managed in a manner that maximises public benefit.

Another significant doctrinal development was the Court's holding that auction is the most transparent and equitable method of allocating scarce natural resources. While the Court stopped short of declaring auction as the only permissible method, it created a presumption in its favour by holding that the "first-come, first-served" policy was flawed, arbitrary, and violative of Article 14 of the Constitution. This ruling not only quashed the government's policy but also set a strong precedent that influenced subsequent policymaking, including the allocation of coal blocks, mineral leases, and other public goods.

By doing so, the Court linked the doctrine of equality under Article 14 directly to economic governance.

The judgment also reaffirmed the judiciary's role in exercising judicial review over economic policy, particularly when such policy violates constitutional norms. The Court clarified that while it does not dictate specific economic policies, it retains the authority to intervene when policies are arbitrary, opaque, or violative of constitutional guarantees of fairness and equality. This pronouncement underscored the principle that executive discretion in economic matters cannot override constitutional values.

Perhaps the most striking aspect of the decision was the cancellation of all 122 licenses granted under the flawed policy. The Court held that the licenses were ultra vires the Constitution because they arose from an arbitrary and unconstitutional policy. This unprecedented remedy demonstrated the judiciary's willingness to impose far-reaching consequences when executive action violates constitutional principles. By quashing the licenses, the Court reinforced the idea that no rights can flow from an unconstitutional exercise of power.

The enduring impact of the judgment on governance and electoral integrity is significant. First, it compelled a policy shift from discretionary allocation to transparent, market-based mechanisms such as auctions for public resources. Second, it strengthened the public trust doctrine, which has since been invoked in multiple litigations to ensure accountability in the management of natural resources. Third, it expanded the ambit of Article 14 jurisprudence, making it applicable not only to arbitrary state actions but also to arbitrary policy frameworks.

In conclusion, the *CPIL v. Union of India* (2G spectrum case) is a milestone in Indian constitutional jurisprudence. It reaffirmed that the state's power to allocate natural resources is not unfettered but is a public trust, subject to judicial review and constitutional limitations. By embedding transparency, fairness, and equality into the allocation of economic resources, the judgment bridged the domains of governance, constitutional law, and economic policy.

Its legacy continues to shape India's regulatory and democratic landscape by ensuring that the distribution of public resources cannot be divorced from constitutional principles.

In conclusion, the "*CPIL v. Union of India"* judgment is a milestone decision that not only addressed a major corruption scandal but also established key constitutional doctrines that continue to guide governance in India. It underscored that the state's power to allocate natural resources is a public trust, subject to judicial review, and must be exercised in a fair, transparent, and non-arbitrary manner.

4.5. The Doctrinal study of *"Subramanian Swamy v. Union of India (2016)"*:

The judgment in *"Subramanian Swamy v. Union of India (2016))"* is a pivotal decision by the Supreme Court of India that addressed the long-standing debate over the constitutionality of criminal defamation. The case's doctrinal significance lies in its attempt to balance two competing fundamental rights: the right to freedom of speech and expression under Article 19(1)(a) and the right to reputation as a facet of the right to life under Article 21.

The constitutional challenge to criminal defamation arose through a series of writ petitions filed by prominent public figures such as Dr. Subramanian Swamy, Rahul Gandhi, and Arvind Kejriwal. These petitions questioned the validity of Sections 499 and 500 of the Indian Penal Code (IPC), which criminalise defamation, and Section 199 of the Code of Criminal Procedure (CrPC), which prescribes the procedural framework for such prosecutions. The petitioners argued that criminal defamation laws were outdated, disproportionate, and unconstitutional as they imposed unreasonable restrictions on the fundamental right to free speech under Article 19(1)(a). They contended that such provisions were often weaponised by political elites to stifle dissent, chill legitimate criticism, and harass opponents through prolonged litigation. The core conflict thus represented a jurisprudential tension between two constitutional values: the freedom of speech as a cornerstone of democracy,

and the protection of dignity and reputation as a fundamental right under Article 21.

In its judgment, the Supreme Court adopted the doctrine of balancing fundamental rights to resolve this conflict. It held that no right under the Constitution is absolute, and that the right to free speech must coexist with the right to reputation. By explicitly recognising the right to reputation as an integral component of the right to life and dignity under Article 21, the Court elevated it to the same constitutional pedestal as freedom of speech. The ruling thus established a doctrinal framework in which competing rights must be harmonised rather than prioritised absolutely, reinforcing the principle of constitutional balance.

The Court also examined whether criminal defamation could be justified as a reasonable restriction under Article 19(2). It concluded that defamation serves a legitimate state interest by protecting individual dignity and maintaining social harmony. The judgment distinguished criminal defamation from civil liability by arguing that criminal sanctions address the broader "public wrong" caused by reputational harm. Society, as a collective of individuals, was held to have a stake in ensuring that malicious speech did not destabilise the dignity of its members. By so holding, the Court rejected the argument that criminal defamation was excessive or unnecessary and instead affirmed its constitutional validity.

The petitioners' claim that Section 499 IPC was vague and constitutionally infirm was also rejected. The Court noted that the provision contained sufficient clarity through its explanations and exceptions, providing predictable legal standards. To buttress its interpretation, the Court referred to Constituent Assembly Debates, affirming that the framers of the Constitution intended "defamation" in Article 19(2) to carry its established legal meaning. This reliance on the framers' intent further anchored the decision in constitutional history, rejecting vagueness as a ground for invalidity.

At the same time, the Court acknowledged the risk of misuse and emphasised the judiciary's responsibility to prevent harassment through criminal

defamation proceedings. It directed magistrates to exercise strict scrutiny before summoning accused persons and underscored the importance of the "public good" defence under Section 499. This doctrinal safeguard highlighted the Court's attempt to strike a balance between preventing frivolous prosecutions and preserving the sanctity of the law.

The judgment in *Subramanian Swamy v. Union of India* has had lasting implications for both electoral politics and governance. On the one hand, it reaffirmed criminal defamation as constitutionally valid, thereby providing political leaders and individuals with a legal remedy to protect their reputation. On the other hand, it drew criticism from scholars and civil society for perpetuating a colonial-era law that can still be misused to curb investigative journalism, dissent, and political critique. Yet, by constitutionalising the right to reputation and embedding it within Article 21, the Court provided a robust doctrinal principle that continues to influence cases concerning privacy, dignity, and personal autonomy.

In conclusion, the *Subramanian Swamy* judgment exemplifies the judiciary's role in performing the delicate balancing act between competing fundamental rights. By affirming criminal defamation laws, the Court underscored the importance of personal dignity while also preserving the legitimacy of free speech within reasonable limits. Though controversial, the ruling remains a landmark in Indian constitutional jurisprudence, shaping the discourse on the scope and limits of speech in a democratic society.

Doctrinal findings of this case entrenched the principle that freedom of speech and the right to reputation must coexist on an equal constitutional footing, with criminal defamation upheld as a "reasonable restriction" under Article 19(2). While criticised for chilling speech, it represents the judiciary's commitment to balancing liberty with dignity in India's constitutional order.

4.6 The Doctrinal Study of *Lok Prahari v. Union of India (2018)*

The judgment in *Lok Prahari v. Union of India (2018)* is a crucial decision that further strengthens the doctrinal foundations of electoral transparency and accountability in India. The case is a direct extension of the principles established in *"Association for Democratic Reforms v. Union of India (2002)"* and its progeny. Its significance lies in the judicial intervention to create a more robust mechanism for monitoring the assets of elected representatives, addressing a key lacuna in the existing legal framework.

The case of *Lok Prahari v. Union of India* emerged from a Public Interest Litigation (PIL) filed by the society Lok Prahari, which exposed a significant loophole in the electoral disclosure system. While candidates were required under the Representation of the People Act, 1951, to disclose their assets and liabilities at the time of filing their nomination papers, there existed no statutory mechanism to monitor subsequent changes in their financial status once elected. This lacuna enabled legislators and parliamentarians to potentially accumulate assets disproportionate to their known sources of income, beyond the scrutiny of both the electorate and the institutions of governance. The core conflict, therefore, lay between the constitutional guarantee of the voter's right to information and the absence of a legal framework ensuring continuous accountability of elected representatives.

Doctrinally, the Court's contributions in this case were far-reaching. First, the judgment extended the principle of the right to information by holding that a citizen's right to know is not confined to the electoral process alone. For democracy to remain meaningful, voters must retain the ability to monitor the conduct and financial integrity of their representatives throughout their tenure. This marked a significant shift from a static, one-time disclosure obligation to a dynamic, ongoing accountability model, thereby reinforcing participatory democracy.

Second, the judgment reaffirmed the plenary powers of the Election Commission of India (ECI) under Article 324 of the Constitution. The Court directed the ECI to create a permanent mechanism for the periodic monitoring of the assets of MPs and MLAs, empowering the Commission to compare the

wealth declared at the time of election with the wealth accumulated during the tenure of office. This directive elevated the ECI's role from a passive overseer of disclosures to an active enforcer of financial integrity in electoral democracy.

Third, the decision made a significant doctrinal advance by mandating the creation of an enforceable monitoring framework. Earlier judicial pronouncements had stressed the importance of disclosure but did not provide for institutionalised mechanisms of verification or sanction. By directing the government to establish a dedicated body for monitoring disproportionate asset accumulation by legislators, the Court gave "teeth" to the right to information, ensuring that disclosure obligations could no longer be treated as empty formalities.

Fourth, the Court extended its reasoning to issues of equality under Article 14 by addressing the allocation of government accommodation to former Chief Ministers for their lifetimes. The Court struck down such provisions as unconstitutional, holding that creating a privileged class of citizens solely on account of once holding public office violated the doctrine of equality. This aspect of the judgment underscored the principle that public resources must be allocated based on legitimate public interest rather than entrenching political privilege.

The judgment's impact on electoral governance has been substantial. By mandating the continuous monitoring of assets, it entrenched a culture of financial accountability among legislators, thereby strengthening public confidence in the democratic process. It also confirmed the ECI's position as a proactive agent of electoral reform, capable of issuing directives to uphold constitutional principles in the absence of legislative action. Moreover, the ruling on official residences for former Chief Ministers has served as a critical precedent against the creation of entrenched political entitlements.

In conclusion, *Lok Prahari v. Union of India* represents a doctrinal leap from passive disclosure to active accountability in Indian electoral jurisprudence. It fortified the constitutional guarantee of the voter's right to information under Article 19(1)(a), empowered the ECI under Article 324 to act as a financial

watchdog, and reaffirmed the principle of equality under Article 14 by striking down political privilege. The judgment, therefore, established that electoral transparency is not a one-time ritual but a continuous democratic necessity, embedding accountability as a core principle of India's constitutional democracy.

Doctrinal findings of the *Lok Prahari* ruling doctrinally shifted the jurisprudence of disclosure into an enforceable, continuous accountability framework, transforming the right to information into a permanent tool for monitoring legislative integrity.

4.7. The Doctrinal Study of *Common Cause v. Union of India (2024)*

The Supreme Court's judgment in "*Common Cause v. Union of India" (2024),* was the culmination of a series of public interest litigations challenging the Electoral Bond Scheme (EBS), introduced in 2018. The scheme permitted anonymous political donations through bearer bonds, thereby concealing the identity of both donors and recipient political parties. Its legal foundation rested on controversial amendments to the Representation of the People Act, 1951, the Income-tax Act, 1961, and the Companies Act, 2013, enacted via the Finance Act, 2017, passed as a Money Bill. The core conflict was between the government's stated objective of curbing black money in politics and the voter's fundamental right to know the sources of political funding, a precondition for exercising meaningful democratic choice.

Doctrinally, the Court's contributions were profound are explained as below. First, it unequivocally held that the right to information about political funding is an integral component of the right to free speech and expression under Article 19(1)(a). Building on earlier rulings such as *State of Uttar Pradesh v. Raj Narain* (1975) and *Association for Democratic Reforms v. Union of India* (2002), the Court reiterated that an informed electorate is indispensable to the democratic process. Without knowledge of who funds political parties, voters cannot make rational electoral choices, as such funding has a direct bearing on policy capture and governance outcomes.

Second, the Court applied the doctrine of proportionality to the scheme. While acknowledging that combating black money was a legitimate state objective, it held that anonymity through Electoral Bonds was not the "least restrictive means" to achieve this purpose. Less intrusive methods—such as stringent banking audits, real-time disclosures, and caps on cash contributions—were available. The complete secrecy afforded by the scheme was therefore found to be a disproportionate restriction on the voter's right to information, rendering the scheme unconstitutional.

Third, the Court addressed arbitrariness and corporate influence by striking down the removal of the 7.5% cap on corporate donations and the abolition of disclosure requirements under the Companies Act, 2013. These amendments were held to be manifestly arbitrary under Article 14, as they enabled unlimited and opaque corporate funding. The Court observed that such a regime facilitated quid pro quo arrangements, allowing corporate entities disproportionate influence over public policy. This doctrinal pronouncement reinforced the principles of corporate governance, shareholder accountability, and electoral equality.

Fourth, while the Court refrained from conclusively ruling on the constitutionality of classifying the Finance Act, 2017 as a Money Bill, it made critical observations on bicameralism. It noted that the amendments effected through this route were not purely fiscal but substantively affected democratic governance and transparency. By bypassing the Rajya Sabha, the government undermined the principle of bicameral scrutiny—a safeguard intended by the framers to prevent unilateral executive overreach. This judicial critique underscored the need for tighter doctrinal scrutiny of Money Bill classifications.

The judgment's mandates have had a transformative effect on the electoral process and governance. By striking down the scheme, the Court restored the pre-2017 legal framework, reinstating donor disclosure requirements under Section 29C of the RPA and the corporate donation cap under the Companies Act. It empowered citizens by reaffirming their right to information as a constitutional guarantee central to democratic accountability. It also strengthened institutional checks and balances, affirming the judiciary's role as

a guardian of electoral transparency against both legislative overreach and executive expediency.

In conclusion, the *Common Cause* judgment stands as a landmark in Indian constitutional jurisprudence. It dismantled a funding mechanism that institutionalised opacity, reaffirmed transparency as the constitutional baseline, and fortified the doctrinal position that electoral secrecy is presumptively unconstitutional. It has laid down a powerful precedent: democracy cannot survive without transparency, accountability, and an informed citizenry, and these principles are non-negotiable in the face of political expediency.

Doctrinal findings of this case the *Common Cause* ruling affirms that the right to information is a structural guarantee of electoral democracy under Article 19(1)(a). The judgment rejected opacity, restored disclosure norms, and reasserted the judiciary's role in preventing executive-legislative collusion from undermining democratic integrity.

4.8. The Doctrinal study of *"Rojer Mathew v. South Indian Bank Ltd".* (2019)

The Supreme Court's decision in *Rojer Mathew v. South Indian Bank Ltd.* (2019) is a significant milestone in Indian constitutional jurisprudence, as it examined the constitutional validity of the Finance Act, 2017 and its controversial certification as a Money Bill. The case carried doctrinal importance because it scrutinised the scope of Article 110 of the Constitution, which defines a Money Bill, and engaged deeply with the principles of bicameralism and judicial review of legislative procedures. The petitioners argued that the Finance Act, 2017, which introduced a wide array of non-fiscal provisions—including restructuring of tribunals, altering appointment processes of members, and authorising electoral bond mechanisms—was improperly certified as a Money Bill by the Speaker of the Lok Sabha. The core conflict was whether the executive and legislative branches could misuse the Money Bill route to bypass the Rajya Sabha, thereby undermining bicameral scrutiny envisaged by the Constitution.

The Court's doctrinal contributions were far-reaching. First, it held that the Speaker's certification of a bill as a Money Bill is not beyond judicial review. While the Speaker's decision is rooted in parliamentary procedure, the Court clarified that it cannot serve as a shield for constitutional violations. If certification is shown to be a "fraud on the Constitution" or a colourable exercise of power designed to evade bicameral scrutiny, the judiciary has the authority and obligation to intervene. This doctrinal pronouncement reaffirmed judicial review as a cornerstone of constitutional democracy and as a necessary check on legislative and executive power.

Second, the Court adopted a strict interpretative approach to Article 110. It emphasised that a Money Bill must deal "exclusively" with the matters enumerated therein, such as taxation, borrowing of money, or appropriation of funds from the Consolidated Fund of India. A bill containing incidental financial elements but primarily dealing with non-fiscal provisions cannot be classified as a Money Bill. This doctrinal clarity sought to prevent the executive from transforming the Money Bill procedure into a legislative shortcut, thereby safeguarding the constitutional principle of bicameralism.

Third, the judgment highlighted the constitutional importance of bicameralism and the Rajya Sabha's role as a house of review. The Court reasoned that the Money Bill provision was intended as a narrow exception to ordinary legislative procedure, not a tool to exclude the upper house from deliberations on matters with substantive non-fiscal content. By stressing that bicameral scrutiny forms part of the basic structure of the Constitution, the Court reaffirmed the importance of institutional checks and balances in parliamentary democracy.

Finally, while acknowledging the constitutional gravity of the issues, the Court refrained from conclusively ruling on the validity of the Finance Act, 2017's classification. Given the existence of prior rulings, such as in the *Aadhaar* case, and the "seminal importance" of the matter, the Court prudently referred the issue to a larger Constitution Bench for definitive adjudication. This reflected judicial restraint, ensuring consistency and doctrinal clarity in future constitutional interpretation.

The impact of *Rojer Mathew* on electoral governance and legislative practice has been notable. It laid the doctrinal foundation for future challenges to the classification of legislative measures as Money Bills, including those relating to the Electoral Bond Scheme. It reinforced the principle that legislative procedure is not a matter of unfettered discretion but must conform to constitutional mandates of fairness, transparency, and separation of powers. Its reasoning significantly influenced the judicial approach in *Association for Democratic Reforms v. Union of India* (2024), where the Supreme Court scrutinised the use of the Money Bill route to push through electoral finance amendments.

In conclusion, *Rojer Mathew v. South Indian Bank Ltd.* stands as a landmark decision that asserted the judiciary's authority to review legislative procedure and protect the constitutional scheme. By laying down stricter doctrinal standards for what qualifies as a Money Bill, the Court reasserted the importance of bicameralism as an essential feature of Indian parliamentary democracy. It provided a critical doctrinal safeguard against executive overreach, ensuring that the integrity of legislative processes remains consistent with constitutional principles.

Doctrinal findings of the case *Rojer Mathew* reaffirmed the judiciary's power to review Money Bill certification, narrowed the scope of Article 110, and underscored bicameralism as a structural safeguard. While it deferred a final ruling to a larger bench, it created the doctrinal groundwork to challenge legislative and executive misuse of procedure in areas like electoral finance.

4.9. The Doctrinal study of "*Association for Democratic Reforms" v. Union of India (2024)*

The Supreme Court's judgment in *Association for Democratic Reforms v. Union of India* (2024), striking down the Electoral Bond Scheme (EBS), stands as a watershed in Indian constitutional law. It decisively reaffirmed the primacy of electoral transparency over state-sanctioned secrecy in political finance and re-established the voter's fundamental right to information as a cornerstone of democratic governance. The case was a culmination of public interest litigations challenging the constitutional validity of the EBS, introduced in 2018 through

amendments to the *Representation of the People Act, 1951*, the *Income-tax Act, 1961*, and the *Companies Act, 2013*, all enacted via the *Finance Act, 2017*. At its core, the conflict lay between the government's claim that the scheme curbed black money in politics and the constitutional guarantee that citizens must know the sources of political funding in order to make meaningful democratic choices.

The Court's doctrinal contributions were far-reaching. First, it unequivocally declared that the right to information regarding political funding forms an essential part of the freedom of speech and expression under Article 19(1)(a). Building upon precedents such as *State of Uttar Pradesh v. Raj Narain* (1975) and *Union of India v. ADR* (2002), the Court emphasised that an electorate deprived of knowledge about the financial underpinnings of political parties cannot exercise its democratic franchise effectively. Thus, funding sources were recognised not as peripheral details but as constitutionally necessary information for preserving electoral integrity.

Second, the Court rigorously applied the proportionality test. While acknowledging the legitimacy of the state's objective of eliminating unaccounted cash, it held that anonymity in donations was neither the least restrictive nor a constitutionally permissible means of achieving it. The judgment highlighted that less intrusive measures—such as real-time disclosure, stronger auditing, and digital traceability—could achieve the same ends without eroding transparency. In this way, the Court doctrinally established that proportionality must be the guiding standard for evaluating electoral finance regulations.

Third, the Court denounced the removal of the 7.5% cap on corporate donations and the elimination of disclosure obligations in the *Companies Act, 2013* as manifestly arbitrary and violative of Article 14. By permitting unlimited and anonymous corporate contributions, the scheme institutionalised the possibility of quid pro quo arrangements, granting disproportionate influence on corporate actors over policy outcomes. This doctrinal pronouncement fortified the principles of corporate governance and electoral equality, warning against the dangers of policy capture in a democracy.

Fourth, while the Court refrained from delivering a conclusive ruling on the constitutional validity of classifying the *Finance Act, 2017* as a Money Bill, it offered strong observations on the misuse of legislative procedure. It noted that the amendments' substantive impact was not fiscal but directly concerned democratic governance and transparency, suggesting that the Money Bill route was misapplied to bypass the Rajya Sabha. This judicial commentary underscored bicameralism as a vital structural feature of parliamentary democracy, demanding stricter future scrutiny of such classifications.

The mandates flowing from this judgment are transformative. It restored the pre-2017 regime of electoral finance by reinstating disclosure requirements and corporate donation limits, thereby reaffirming transparency as the constitutional baseline. It empowered citizens by recognising their right to know the sources of political funding as a critical democratic safeguard, enabling them to hold political parties accountable. It also reinforced the institutional role of the judiciary as guardian of the Constitution, ensuring that legislative and executive innovations cannot override fundamental principles of transparency and fairness.

In conclusion, the *ADR judgment of 2024* is a doctrinal milestone that dismantled one of the most opaque funding mechanisms in independent India. By fortifying the position that electoral secrecy is presumptively unconstitutional, the Court reasserted that transparency, accountability, and informed choice are non-negotiable in a constitutional democracy. It demonstrated that the judiciary has a central role in safeguarding the democratic process against executive expediency and legislative overreach, ensuring that the flow of money in politics remains consistent with the principles of constitutional morality.

Doctrinal findings of *ADR v. Union of India* (2024) doctrinally reaffirmed that electoral transparency is a constitutional imperative, donor anonymity is inconsistent with Article 19(1)(a), and unlimited corporate donations undermine Article 14. By invalidating the EBS, the Court restored constitutional balance, placing voters—not corporations—at the heart of Indian democracy.

Doctrinal synthesis of electoral finance Jurisprudence of all the cases revealed as follows. The trajectory of judicial pronouncements from *State of Uttar Pradesh v. Raj Narain* (1975) to the landmark *Association for Democratic Reforms v. Union of India* decisions (2002, 2024) reveals a cohesive and progressive doctrinal arc in Indian electoral jurisprudence. The Supreme Court has not confined itself to passive interpretation but has actively constructed a constitutional framework for political finance rooted in the foundational values of transparency, accountability, and democratic integrity.

Doctrinally, the Court has anchored the voter's right to information as an inalienable component of Article 19(1)(a). What began as the recognition of the citizen's "right to know" about public acts has steadily evolved into a constitutional mandate for continuous financial disclosure by political candidates and, ultimately, the dismantling of state-created structures of anonymity in political funding, as witnessed in *ADR v. Union of India* (2024). This evolution affirms that transparency is not an optional policy preference but a constitutional baseline integral to free and fair elections.

Equally significant has been the judiciary's insistence on procedural propriety and institutional balance. In *Rojer Mathew v. South Indian Bank Ltd.* (2019), the Court held that even procedural decisions such as certifying a bill as a Money Bill are open to judicial scrutiny when they undermine the constitutional scheme of bicameralism. This doctrinal safeguard against procedural abuse directly influenced the eventual invalidation of the Electoral Bond Scheme, underscoring the judiciary's resolve that legislative methods cannot be manipulated to compromise democratic ends.

At the same time, the limits of judicial intervention are apparent. While the Court has laid down a powerful doctrinal foundation, it cannot substitute for legislative and institutional reform. Without statutory empowerment of the Election Commission of India, stronger oversight mechanisms, and comprehensive political finance laws, judicial pronouncements risk remaining principles without adequate enforcement. The judiciary has provided the architecture, but the responsibility of building a transparent and accountable electoral system lies with Parliament, institutions, and civil society.

In doctrinal synthesis, these judgments reaffirm a foundational constitutional principle: secrecy in electoral finance is incompatible with democratic integrity, while transparency and accountability form its non-negotiable core. By striking down opacity-inducing mechanisms and expanding the right to information, the judiciary has performed its role as constitutional sentinel. The task ahead is to translate this principled jurisprudence into a resilient statutory framework, ensuring that India's democracy evolves into one that is not merely electoral in form but substantively transparent and equitable in practice.

Doctrinal findings of the above cases jurisprudence collectively establishes that electoral secrecy is constitutionally impermissible, transparency is a fundamental right, and judicial review extends even to legislative procedures when democratic accountability is at stake.

CHAPTER 5

DOCTRINAL STUDY OF CORPORATE POLITICAL FINANCING LEGAL FRAMEWORK & CONSTITUTIONAL DILEMMAS IN GLOBAL DEMOCRACIES:

5.1. Doctrinal Study of Corporate Electoral funding in the United States

The regulation of corporate electoral funding in the United States has evolved through a series of statutes and judicial pronouncements that reflect the enduring tension between free speech, equality of political opportunity, and the role of money in democracy. The doctrinal journey is neither linear nor settled; rather, it oscillates between expansive protection of corporate political expression under the First Amendment and periodic legislative efforts to impose checks in the interest of electoral integrity.

The legal foundation for regulating corporate influence in politics was first established with the *Tillman Act, 1907*, which prohibited direct corporate contributions to candidates for federal office. This statute, enacted amidst concerns over corporate capture of politics in the Gilded Age, was the earliest attempt to limit the influence of concentrated wealth in elections. It was later reinforced by the *Federal Corrupt Practices Act (1925)*[33], which imposed disclosure requirements, and the *Hatch Act (1939)*[34], which restricted the political activities of federal employees.

Doctrinally, these statutes reflected the principle that electoral integrity and democratic fairness required limiting corporate money in politics. Yet, enforcement mechanisms were weak, and corporate actors found alternative routes such as Political Action Committees (PACs) and independent expenditures to maintain influence.

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[33] *first significant federal attempt to regulate campaign finance in the U.S. at the congressional and presidential level.*

[34] Enacted in 1939, the Hatch Act—officially titled the *"An Act to Prevent Pernicious Political Activities"*—was a landmark U.S. federal law aimed at curbing undue political influence and protecting the neutrality of public service

A doctrinal watershed came with the *Federal Election Campaign Act (FECA), 1971*, and its amendments in 1974, which created the Federal Election Commission (FEC), introduced contribution and expenditure ceilings, and mandated comprehensive disclosure. The goal was to establish a transparent electoral finance system balancing free expression with fairness.

The Supreme Court's decision in *Buckley v. Valeo (1976)*, however, drew a critical distinction between contributions and expenditures. The Court upheld limits on contributions to candidates, recognizing the government's interest in preventing corruption or its appearance. But it struck down limits on candidates' own expenditures and independent expenditures, holding that spending money is a form of protected political speech under the First Amendment. This doctrinal reasoning constitutionalized political spending,

The most transformative and controversial judgment in this trajectory was *Citizens United v. Federal Election Commission (2010)*. The Court invalidated restrictions on independent political expenditures by corporations and unions, holding that such restrictions violated the First Amendment. The judgment established the doctrine that corporate entities have the same speech rights as individuals in the political domain. By equating money with speech and corporations with persons, the Court facilitated the rise of Super PACs, which can raise unlimited funds from corporations, unions, and individuals for independent political expenditures, provided they do not directly coordinate with candidates.

This doctrinal shift fundamentally altered the architecture of U.S. electoral funding. It entrenched corporate speech as constitutionally protected, while disclosure and anti-coordination rules remained the only significant checks. Critics argue that this expanded the risk of "policy capture," as corporate entities with vast resources could dominate the political discourse and influence policymaking disproportionately.

Despite the sweeping implications of *Citizens United*, the Court has recognized disclosure as a constitutional counterbalance. In *Buckley v. Valeo* and reiterated in *Citizens United*, the Court upheld mandatory disclosure requirements for contributions and expenditures, emphasizing that transparency enables voters to

make informed choices and deters corruption. Doctrinally, this reflects the recognition of the voter's right to know, albeit within the First Amendment's speech framework, not as an independent constitutional guarantee as in India.

Another counterpoint arose in *McConnell v. FEC (2003)*, where the Court upheld provisions of the *Bipartisan Campaign Reform Act (BCRA), 2002* (popularly known as the McCain-Feingold Act[35]), including restrictions on corporate "soft money" and electioneering communications. Though later limited by *Citizens United*, *McConnell* demonstrated that the Court once recognized the compelling state interest in preventing both actual corruption and its appearance.

From a doctrinal perspective, the U.S. framework suffers from three major weaknesses. First, the privileging of free speech under the First Amendment has made it nearly impossible to regulate corporate influence without constitutional objections. Second, the distinction between contributions (regulable) and expenditures (constitutionally protected) creates asymmetry, allowing independent expenditure groups to dominate campaigns. Third, the reliance on disclosure as the primary safeguard assumes that transparency alone can mitigate undue influence, overlooking the systemic risks of financial inequality in shaping political competition.

Compared to other mature democracies, the U.S. model is an outlier. Canada and France ban corporate and union donations altogether, while Germany and the U.K. enforce strict disclosure thresholds alongside public funding mechanisms. These regimes prioritise electoral equality and integrity over an absolutist conception of free speech. The U.S., by contrast, constitutionalizes corporate spending, placing it beyond ordinary legislative reform. This creates a doctrinal dilemma: while the principle of free speech is maximized, the principle of equal democratic participation is subordinated.

Doctrinal findings in the U.S. legal framework for corporate electoral funding embodies a speech-centric constitutional model**.** By equating political expenditure with speech and granting corporations equal speech rights under the First Amendment, the judiciary has elevated free expression above concerns

[35] *Bipartisan Campaign Reform Act (BCRA), 2002*

of electoral equality and political fairness. While disclosure requirements provide some transparency, the absence of expenditure limits and the dominance of Super PACs has created a system vulnerable to disproportionate corporate influence. The doctrinal synthesis thus reveals a paradox: the framework purports to strengthen democracy through free speech, but in practice, it risks hollowing democracy by permitting wealth to distort political representation.

The United States has developed a jurisprudence of electoral funding where corporate speech is constitutionally entrenched, expenditure regulation is constitutionally prohibited, and disclosure serves as the only meaningful safeguard. This stands in sharp contrast with jurisdictions that prioritize electoral equality and transparency over unregulated corporate expression. For India, the U.S. trajectory serves as a cautionary tale: constitutionalizing corporate funding without strong counterbalancing principles risks entrenching plutocracy in place of democracy.

5.2. Doctrinal Study of Legal framework of Corporate Electoral funding in the United Kingdom:

Corporate political spending is primarily shaped by judicial interpretation of the First Amendment, the United Kingdom's framework rests upon statutory foundations and parliamentary sovereignty. The regulatory philosophy is embedded in the *Political Parties, Elections and Referendums Act 2000* (PPERA) and the *Companies Act 2006*, which collectively establish transparency, permissibility, and shareholder accountability as guiding principles. The doctrinal distinction is evident: while the U.S. constitutionalises political spending as free speech, the U.K. regulates it as a matter of statutory governance, ensuring that corporate money in politics remains transparent, traceable, and democratically accountable.

Statutory framework-PPERA 2000[36] and the Companies Act 2006: The cornerstone of British campaign finance law is the PPERA, enacted in response to public concern over undue influence of money in politics. PPERA created the Electoral Commission as an independent regulator to oversee party finances, donations, and campaign spending. At its core lies the doctrine of "permissible

[36] *Political Parties, Elections and Referendums Act 2000*

donors." Political parties may only accept donations above £500 from individuals on the U.K. electoral register or from U.K.-registered organisations such as companies, trade unions, and unincorporated associations. This effectively bans foreign contributions, underscoring the principle of sovereignty and electoral integrity. The burden lies on the party to verify donor permissibility within thirty days, reflecting a statutory presumption of accountability.

The *Companies Act 2006* supplements this by requiring shareholder approval for corporate political donations and expenditures exceeding £5,000 within a twelve-month period. Such approval may be sought for a maximum of four years and must be secured through a resolution of the company's owners. This mechanism doctrinally ties corporate political activity to shareholder consent, protecting investor interests and ensuring that political spending is not unilaterally determined by directors.

The U.K. model diverges doctrinally from the U.S. in three significant respects. First, it rejects the notion of unlimited political spending. While permissible donors may contribute without strict monetary caps, spending limits are imposed on parties and campaigners during election periods, thereby preventing disproportionate financial competition and ensuring electoral equality. This reflects a philosophy of regulated fairness rather than speech absolutism.

Second, the U.K. system privileges transparency. Donations exceeding £500 must be reported to the Electoral Commission, which publishes details online. Disclosure operates as a doctrinal safeguard, aligning with the principle that democracy requires voters to know who funds political actors. The emphasis on source-based permissibility ensures that corporate and foreign interference is minimised.

Third, the shareholder approval requirement under the Companies Act 2006 introduces a corporate governance dimension absent in the American framework. By mandating owner consent, the U.K. protects shareholders from having their investments diverted into political causes without their sanction. This underscores a doctrinal orientation that corporate political activity is derivative and contingent, not inherent, to the corporate entity.

Despite its robust design, the U.K. regime is not immune to weaknesses. The use of unincorporated associations and other intermediary vehicles has raised concerns about "dark money," whereby impermissible sources may indirectly influence the political process. While these associations must themselves qualify as permissible donors, they can obscure the ultimate source of contributions. Doctrinal debate has therefore shifted to strengthening "know your donor" obligations and tightening the eligibility criteria for permissible corporate donors, including requiring proof of substantive business activity in the U.K.

These evolving debates reveal the dynamic nature of U.K. electoral finance law. While rooted in statutory certainty, the framework remains responsive to contemporary challenges, adapting disclosure norms and oversight mechanisms to address emerging risks to transparency.

The U.K. legal framework embodies a model of **statu**tory constitutionalism**,** where electoral finance is tightly bound by legislative design and regulatory oversight. Its doctrinal pillars are transparency, permissibility, and shareholder protection, distinguishing it from the First Amendment-driven U.S. model. By grounding campaign finance regulation in statute, the U.K. ensures that electoral integrity is maintained through public accountability rather than unrestrained corporate speech.

Doctrinal findings in the United Kingdom's corporate electoral finance regime reflects a parliamentary-democratic philosophy that prioritises transparency, fairness, and shareholder accountability**.** While challenges remain in curbing indirect funding channels, the statutory coherence of the U.K. model positions it as a counterpoint to the U.S., offering a more balanced reconciliation of political finance with democratic integrity.

5.3. Doctrinal Study of legal architecture Corporate Electoral funding in Canada

The Canadian approach to corporate electoral financing is distinguished by its categorical rejection of corporate and union influence in direct political contributions. Unlike the United States, where corporate political spending is constitutionally protected as a facet of free speech, or the United Kingdom,

where corporate donations are permissible subject to statutory safeguards such as shareholder approval, Canada has pursued a policy choice that structurally removes institutional donors from the formal financing framework of electoral politics. This model, anchored in the *Canada Elections Act* and complemented by judicial validation under the Canadian Charter of Rights and Freedoms, prioritises democratic fairness, equality, and public trust over institutional free speech claims.

At the federal framework under the *Canada Elections Act* is the cornerstone of Canada's electoral finance regime. Since 2004, it has explicitly prohibited corporations, trade unions, and similar entities from making financial contributions to political parties, candidates, leadership contestants, or electoral district associations. This doctrinal break from institutional funding reflects a strong legislative intent to insulate the democratic process from both the reality and perception of corporate capture.

Instead, the Act restricts political contributions exclusively to individuals who are Canadian citizens or permanent residents. These contributions are subject to strict annual limits, which are adjusted annually for inflation. To reinforce democratic accountability, the Act mandates comprehensive public disclosure: all contributions above a prescribed threshold must be reported to Elections Canada, which makes donor information publicly accessible. This disclosure obligation operationalises the principle that transparency is the lifeblood of democratic integrity**.**

Doctrinally, this prohibition embodies the principle of democratic integrity**,** by ensuring that elected representatives are accountable primarily to the electorate rather than to institutional donors. It affirms that money in politics should be channelled through individual citizen participation, thereby reinforcing electoral equality.

While corporations and unions are barred from donating directly to political entities, they may still engage in the political process through third-party advertising. Under the *Canada Elections Act*, any organization that spends above a defined threshold on partisan activities during election periods must

register as a third party with Elections Canada, disclose its funding sources, and comply with stringent spending limits.

Third parties are explicitly prohibited from using funds from foreign entities for regulated electoral advertising. However, within Canada, corporations and unions may fund third-party activities, provided they comply with registration, disclosure, and expenditure restrictions.

This regime reflects a doctrinal compromise**:** while organisations retain a limited right to political expression, their spending is carefully monitored to prevent disproportionate influence on electoral outcomes. This doctrinal stance directly contrasts with U.S. jurisprudence, particularly *Citizens United v. FEC* (2010)[37], which struck down spending limits on corporate independent expenditures as unconstitutional. Canada's regulatory philosophy, by contrast, prioritises democratic equality and the prevention of distortion over unrestrained institutional speech.

The federal framework has influenced most provinces, many of which—such as Quebec, Ontario, and British Columbia—have enacted similar bans on corporate and union donations. Some provinces, however, retain variations: for instance, Alberta has historically permitted limited corporate and union donations subject to strict caps and transparency requirements.

Judicial challenges under the Canadian Charter of Rights and Freedoms have tested the constitutional validity of these restrictions, particularly on grounds of freedom of expression. The Supreme Court of Canada has consistently upheld the statutory prohibitions, emphasising that preventing corruption, undue influence, and erosion of public trust in democratic institutions constitutes a compelling state interest. The Court has held that such restrictions are reasonable and demonstrably justified within a free and democratic society.

Canada's doctrinal trajectory in corporate political finance is marked by prohibition, prevention, and public trust. By entirely excluding corporations and unions from direct donations, the Canadian model embodies a **c**itizen-centric vision of democracy, privileging individual contributions over institutional

[37] *Citizens United v. FEC (2010)* revolutionised U.S. campaign finance by equating corporate political spending with protected speech under the First Amendment.

ones. The regulation of third-party advertising ensures that expressive rights are acknowledged but contained within a framework that protects electoral fairness.

Ultimately, Canada's legal architecture reflects a restrictive yet principled approach**,** in which transparency, equality, and integrity are prioritised over expansive notions of institutional free speech. In comparative doctrinal terms, Canada offers a robust counter-model to the United States and a more restrictive alternative to the United Kingdom, situating itself firmly within the tradition of regulated democracy that privileges fairness over financial power**.**

Doctrinal Findings of the Canadian model underscores that in electoral democracy, **t**he right to equal political participation outweighs institutional claims to free speech through financial contributions**.** By embedding transparency and accountability into law, Canada demonstrates a doctrinal commitment to electoral fairness and the insulation of political decision-making from corporate influence.

5.4. Doctrinal Study of legal architecture of corporate electoral funding in France

The French legal framework for corporate electoral funding represents one of the most restrictive models in comparative political finance law. Unlike the United States, where judicial interpretation of the First Amendment has entrenched corporate political spending as protected speech, or the United Kingdom, where corporate donations are permitted under conditions of transparency and shareholder approval, France has deliberately chosen the path of near-total prohibition. This approach reflects a conscious response to historical corruption scandals in the late twentieth century and embodies the doctrinal commitment to democratic equality, independence of politics, and public trust.

The cornerstone of the French doctrine is the outright ban on political donations from "legal persons" (*personnes morales*), including corporations, trade unions, and associations. This prohibition was formalised by the Law of 19 January 1995, which consolidated earlier reforms initiated in the late 1980s. The law explicitly forbids legal entities from making financial contributions to political

parties, candidates, or campaign organisations, and from providing goods or services at reduced costs.

The doctrinal objectives of this ban are threefold. First, it prevents the undue influence of wealth and economic power over elections, thereby reinforcing the principle that political equality must not be distorted by financial inequality. Second, it seeks to maintain the independence of politicians by removing the possibility of financial indebtedness to corporate or trade interests. Third, it simplifies the financing system by restricting permissible contributions to individuals, which strengthens transparency and makes regulatory oversight more effective.

In place of private institutional funding, France relies on public subsidies as the mainstay of party finance. Political parties that surpass specific electoral thresholds qualify for state funding proportionate to their electoral performance. This mechanism ensures that political actors have access to necessary resources without depending on corporate largesse, thereby securing the autonomy of the political system.

A defining feature of the French model is its robust enforcement through the National Commission on Campaign Accounts and Political Financing (CNCCFP). This independent authority exercises strict ex-post scrutiny over party and candidate finances. Every campaign account is subject to verification, with particular attention paid to the legality of donations and expenditure.

If violations are detected—such as the acceptance of corporate donations—the CNCCFP[38] has the power to reject campaign accounts, deny reimbursement of campaign expenses, bar candidates from office, and withdraw public subsidies from political parties. These sanctions are not merely symbolic; they have been applied in practice, thereby reinforcing the credibility and deterrence capacity of the regulatory system.

Despite its strong legal foundation, the French model faces doctrinal and practical challenges. One area of concern is the indirect influence of corporations. While direct financial donations are banned, corporations may still

[38] National Commission on Campaign Accounts and Political Financing

exercise political influence through lobbying, funding research bodies, or supporting think tanks aligned with particular ideological agendas. This raises the doctrinal question of whether the prohibition of direct funding is sufficient or whether broader forms of political influence should also fall within the scope of regulation.

Another challenge concerns the inequalities of individual donations. Although individual contributions are subject to strict caps, high-net-worth individuals retain the capacity to make significant legal contributions, thereby raising concerns about disproportionate influence and the erosion of the principle of political equality.

Nevertheless, France has remained doctrinally consistent. The corporate donation ban has been repeatedly upheld by French courts and enforced rigorously by the CNCCFP. Unlike the cyclical debates and reversals in U.S. jurisprudence, the French framework has evolved with remarkable continuity, consolidating its original principles rather than retreating from them.

From a doctrinal perspective, France's model demonstrates a clear and principled separation between economic power and political finance. By combining a categorical ban on corporate donations with strong public funding mechanisms and strict regulatory oversight, France has institutionalised a system that prioritises transparency, independence, and democratic equality.

This approach represents a compelling alternative to the balancing models adopted elsewhere. Where the United States has elevated corporate political speech into constitutional doctrine and the United Kingdom has relied on regulatory mechanisms to legitimise corporate contributions, France has opted for a definitive exclusion of corporate influence. This reflects not only a legal doctrine but also a political philosophy: that democracy functions best when freed from the distortive influence of concentrated wealth.

Doctrinal Findings of the French legal framework underscores that the constitutional integrity of democracy is better preserved by eliminating corporate money from electoral politics altogether. By embedding prohibition, enforcement, and public financing into its architecture, France has crafted one of the most coherent and transparent systems of electoral finance regulation,

setting a benchmark for democracies concerned with corporate capture and public trust.

5.5. Doctrinal Study of legal architecture of corporate electoral funding in Germany

The German legal framework for corporate electoral funding is characterised by a deliberate constitutional balance between private donations and public subsidies, anchored in a strong transparency doctrine. Unlike France, which bans corporate contributions outright, or the United States, which constitutionally protects unlimited spending, Germany has developed a middle path that allows corporate donations under a system of strict disclosure and proportional public financing. This model is rooted in Article 21 of the Basic Law (Grundgesetz), which recognises political parties as vital organs of democratic will-formation and mandates financial transparency to safeguard the integrity of the democratic process.

The central doctrinal pillar of German campaign finance law is transparency as a constitutional requirement. Article 21 of the Basic Law obligates parties to publicly account for their income and expenditure, a mandate operationalised through the Political Parties Act (Parteiengesetz). Parties must submit detailed annual financial reports to the President of the Bundestag, which are subsequently published, allowing public and media scrutiny. Corporate donations are permitted but subjected to disclosure thresholds. Donations above €10,000 must be itemised in the annual report, including the donor's name and address, while single donations exceeding €50,000 must be reported immediately to the Bundestag President and disclosed publicly without delay. This "real-time transparency" mechanism reflects the doctrinal conviction that sunlight is the most effective safeguard against corruption and undue influence. Complementing private donations, Germany maintains a robust system of public financing, wherein parties securing at least 0.5% of the national vote (or 1% at state level) qualify for state subsidies. Importantly, the Federal Constitutional Court has upheld the principle of the relative upper limit (relative Obergrenze), which ensures that public funding cannot exceed the amount raised privately by the party itself. This constitutional check ensures that parties

remain financially rooted in society rather than becoming wholly dependent on state resources.

The German model stands out doctrinally in several respects. Unlike France or Canada, Germany does not prohibit corporate donations. The Federal Constitutional Court has consistently held that an outright ban would be an unconstitutional restriction on parties' ability to secure resources from social actors. The Court recognises corporate contributions as a legitimate form of participation in political discourse, provided they are transparent and free from corruption. Where the U.S. doctrine in *Citizens United* treats disclosure as secondary to an expansive free speech right, the German doctrine elevates disclosure to the central safeguard that justifies permitting donations. Transparency itself is doctrinally conceptualised as the barrier against undue influence, rather than prohibitions. At the same time, while general corporate donations are allowed, the Political Parties Act bars contributions from enterprises with more than 25% public ownership, from anonymous donors, and from political foundations. These limited prohibitions reflect a tailored approach, addressing specific conflicts of interest while preserving the constitutional principle of party financing through societal support.

Despite its strengths, the German framework has faced recurring scandals that have shaped doctrinal and legislative evolution. The CDU[39] donation scandal of the late 1990s exposed hidden accounts and undisclosed funds, triggering reforms that tightened reporting rules and introduced harsher penalties. More recently, controversies surrounding the Alternative für Deutschland (AfD) and alleged covert foreign donations have exposed vulnerabilities, particularly the use of intermediaries or "straw men" to conceal the true origin of funds. These incidents have not led to abandonment of the disclosure-based doctrine but rather to its reinforcement. Reforms such as the Transparenzgesetz have sought to lower thresholds for disclosure and expand the reporting requirements to close loopholes. This adaptability reflects the German doctrinal preference for a living statutory framework—one that evolves to address emerging risks while

[39] The **Christian Democratic Union (CDU)**, Germany's main conservative party, became embroiled in a massive political finance scandal in the late 1990s.

maintaining the core constitutional balance between transparency, party autonomy, and democratic integrity.

Germany's legal architecture ultimately embodies a constitutional equilibrium in which political parties may receive corporate donations, but such contributions must be rendered visible to the public through immediate and comprehensive disclosure. Public financing complements this framework, ensuring electoral competitiveness while binding parties to their societal roots. The doctrinal emphasis is on visibility, accountability, and proportionality, rather than prohibition. The German model illustrates that transparency, when combined with proportional public financing and targeted prohibitions, can serve as a constitutional safeguard against corporate capture. It represents a hybrid approach: neither laissez-faire like the United States, nor prohibitive like France, but a regulated permissibility model that continuously evolves in response to scandals and judicial oversight.

5.6. Doctrinal Study of Corporate Political Financing in South Africa

The legal framework for corporate political financing in South Africa is a relatively recent and evolving doctrinal domain, shaped by constitutional imperatives of fairness, accountability, and transparency. For decades after the end of apartheid, South Africa lacked meaningful regulation of private political funding, creating space for corruption and undue influence in electoral politics. This vacuum was decisively challenged by civil society organisations, most notably through the litigation efforts of *My Vote Counts*[40], which argued that secrecy in political donations violated the constitutional right of citizens to access information. The Constitutional Court affirmed this right, establishing the doctrinal foundation that political transparency is essential to democratic integrity. This judicial intervention compelled legislative action, resulting in the *Political Party Funding Act, 2018* (PPFA), which came into effect in 2021. The Act transformed the political finance regime by introducing statutory limits,

[40] *My Vote Counts (2018)* stands as a constitutional affirmation that political finance transparency is integral to democratic rights in South Africa

disclosure obligations, and institutional oversight mechanisms designed to enhance democratic accountability.

The PPFA embodies a hybrid doctrinal model that blends permissibility with regulation. Corporate donations are not prohibited, as in France or Canada, but they are capped to prevent disproportionate influence by wealthy donors. A ceiling of R15 million per donor per party in a financial year seeks to strike a balance between the financial viability of political parties and the need to avoid concentration of political influence. At the core of the Act lies mandatory disclosure: all donations above R100,000 must be reported to the Electoral Commission of South Africa (IEC), which publishes the details quarterly. This provision ensures real-time transparency, transforming the opaque pre-2021 regime into one where voters can trace financial support behind political actors. Importantly, the Act prohibits donations from foreign entities, a doctrinal safeguard to protect national sovereignty and prevent external interference in domestic politics.

The Electoral Commission of South Africa plays a pivotal role in operationalising the PPFA. As an independent body, it oversees disclosure compliance, manages the Multi-Party Democracy Fund (MPDF), and monitors violations. Its supervisory function gives institutional teeth to the doctrinal commitment of transparency. Yet, implementation has not been free from challenges. Reports of "dark money" entering politics through intermediaries, non-monetary contributions, and opaque fundraising practices reveal persistent loopholes. Political parties themselves have voiced concern that strict regulations hinder their ability to raise resources in a competitive electoral environment, sparking ongoing debates about the balance between transparency and political viability.

Doctrinally, the PPFA signals a decisive break from South Africa’s unregulated past, embedding transparency and accountability into the legal structure of political finance. Its emphasis on regulated permissibility reflects a middle ground between prohibition and laissez-faire models. At the same time, the Act affirms the constitutional principle that the right of citizens to be informed about the financial affiliations of political parties is central to democratic choice.

While enforcement challenges remain, particularly with respect to shadow funding, the doctrinal trajectory is clear: South Africa has institutionalised a political finance model that prioritises disclosure, limits undue corporate influence, and aligns electoral funding practices with the values of democratic integrity and public trust.

Doctrinal finding of South Africa's framework demonstrates that even in contexts with entrenched histories of opaque funding, constitutional jurisprudence can catalyse reform. By mandating disclosure, capping donations, and prohibiting foreign funding, the PPFA advances a doctrinal balance between party sustainability and transparency. Its continued evolution will determine whether it can fully curtail clandestine money flows while sustaining the pluralism and competitiveness that are indispensable to a democratic system.

5.7. Doctrinal Study of Corporate Political Financing in Australia

The legal framework for corporate political financing in Australia is a complex and evolving system, shaped by a combination of federal statutes and state-level interventions. Unlike France and Canada, which have chosen to prohibit corporate contributions altogether, or the United States, where constitutional jurisprudence under the First Amendment protects expansive corporate political spending, Australia has pursued a doctrine grounded primarily in regulated transparency. The federal system is anchored in the *Commonwealth Electoral Act 1918*, which permits corporate donations but requires their disclosure. However, this permissive federal doctrine is counterbalanced by increasingly interventionist state and territory regimes, some of which impose strict caps or outright bans on corporate donations. The result is a fragmented legal architecture that reflects divergent doctrinal approaches to reconciling the need for party financing with the imperative of democratic accountability.

At the federal level, the central doctrinal safeguard is disclosure. The *Commonwealth Electoral Act* requires corporations and other entities making donations above a CPI-indexed threshold to file reports with the Australian Electoral Commission (AEC). Both donors and recipients—parties, candidates,

and third-party campaigners are obligated to lodge annual and election-cycle returns, which are then made public. This disclosure regime is intended to allow the electorate, media, and civil society to scrutinise the financial affiliations of political actors. A key doctrinal development has been the introduction of a prohibition on foreign donations, reflecting a recognition of the threat posed by external interference to national sovereignty and democratic integrity. This ban represents a significant normative shift from a disclosure-only system toward a more substantive regulatory philosophy.

The federal regime, however, exists alongside a patchwork of divergent state and territory laws. States such as New South Wales have introduced donation caps, which limit the amount corporations can donate each year, while South Australia has gone further by banning contributions from certain categories of donors, including property developers, or by experimenting with systems that heavily privilege public funding over private contributions. These sub-federal regimes represent a doctrinal turn away from transparency as the sole safeguard, toward a preventative philosophy that seeks to reduce the risks of undue influence by restricting the role of money in politics. The High Court of Australia has played a pivotal role in adjudicating the constitutional validity of such laws. While acknowledging that these restrictions burden the implied freedom of political communication, the Court has upheld them as proportionate and reasonable measures to prevent corruption and preserve electoral fairness. This jurisprudence reflects a more contextual balancing approach, in contrast to the absolutist protection of corporate free speech seen in U.S. law.

Despite its strengths, the Australian system faces persistent challenges. The relatively high federal disclosure threshold has been criticised for enabling significant volumes of corporate and other donations to remain undisclosed, creating space for "dark money[41]" in politics. Third-party campaigners, such as trade unions, industry associations, and advocacy groups, also present regulatory challenges. While they are subject to registration and reporting requirements if their expenditure exceeds statutory thresholds, ambiguities

[41] *Dark money* refers to political donations that are undisclosed, anonymised, or channelled through opaque structures.

remain about the scope and application of these rules. Furthermore, the use of intermediaries, associated entities, and other vehicles to obscure the origin of funds continues to undermine the transparency doctrine, suggesting the need for more comprehensive reforms to track financial flows in political campaigns.

Doctrinally, Australia's framework represents a dynamic balance between permissibility and regulation. At the federal level, disclosure remains the primary safeguard, but at the state level, a stronger interventionist ethos is gaining ground through caps, bans, and enhanced oversight. The High Court's jurisprudence has confirmed that such measures are compatible with constitutional principles, provided they are proportionate to the aim of preventing corruption and undue influence. In this way, Australia has crafted a distinct doctrinal trajectory that diverges from the laissez-faire model of the United States, while stopping short of the outright prohibitions found in France and Canada. It is a system that continues to evolve, shaped by ongoing debates about the adequacy of transparency, the risks of hidden influence, and the constitutional balance between free political communication and democratic integrity.

Doctrinal findings of Australia illustrate the adaptability of electoral finance regulation in a federal system. Its model demonstrates that while disclosure is a powerful safeguard, it may be insufficient on its own. The growing reliance on caps and bans at the state level reflects an emerging doctrinal consensus that preventing undue influence requires a more interventionist approach, firmly situating Australia within the global spectrum of hybrid regulatory systems.

The doctrinal study of corporate political financing across global democracies reveals a fascinating divergence in legal architecture, reflecting distinct constitutional philosophies, historical trajectories, and normative priorities. While the United States relies on a constitutional jurisprudence that elevates corporate spending to the level of protected speech under the First Amendment, most other advanced democracies prioritize democratic integrity, transparency, and the prevention of undue influence as guiding principles.

Three principal doctrinal models emerge from the comparative analysis. The first is the Prohibition Model**,** evident in France and Canada, which embodies a philosophy of complete separation between institutional money and politics. Here, corporate and union donations are categorically barred, with public subsidies and individual contributions serving as the principal sources of party finance. This model is animated by a strong doctrinal commitment to equality and public trust, premised on the idea that the financial power of institutions must not distort the democratic process.

The second is the transparency and disclosure model**,** followed in jurisdictions such as Germany, Australia, and South Africa. In these systems, corporate donations are permitted but subject to rigorous disclosure requirements, often including real-time publication of large contributions. The doctrinal justification lies in the belief that sunlight is the best disinfectant: transparency itself is conceptualised as the safeguard against corruption and the appearance of corruption. Yet the effectiveness of this model is contingent upon the closure of loopholes and the robustness of enforcement, as recurrent scandals in Germany and Australia illustrate.

The third is the Hybrid and Qualified Model**,** exemplified by the United Kingdom. While corporate donations are permissible, they are embedded within a corporate governance framework that requires shareholder approval. This doctrinal choice reflects a recognition that political donations are not merely matters of free expression but also matters of fiduciary responsibility. The hybrid model therefore attempts to balance democratic participation with shareholder rights, providing a distinct regulatory philosophy within the global landscape.

Taken together, these models underscore a global trend towards greater regulation and transparency. The comparative experience demonstrates that unregulated money in politics corrodes democratic legitimacy, and that mature democracies increasingly adopt doctrines of accountability, disclosure, and proportionality as constitutional baselines.

India’s own trajectory provides a unique case study within this global context. The introduction and eventual judicial invalidation of the Electoral Bond

Scheme (2018–2024) exposed the dangers of anonymity in political finance. Unlike the global trend, which moves decisively toward disclosure, India temporarily embraced opacity, privileging fiscal expediency over democratic accountability. The Supreme Court's 2024 decision in *ADR v. Union of India* marked a constitutional course correction, reaffirming that the right to information under Article 19(1)(a) cannot be subordinated to executive or legislative convenience.

The comparative analysis yields several lessons for India. : First, transparency must be entrenched as a constitutional mandate rather than an optional legislative choice**.** The German model of real-time disclosure for large donations provides a template for immediate public scrutiny.

Second, limits on corporate contributions are essential**.** The removal of the corporate cap in 2017 facilitated an unchecked influx of money into politics, heightening the risk of quid pro quo arrangements. Reinstating contribution caps, akin to South Africa's R15 million donor ceiling, would mitigate the dominance of single wealthy actors.

Third, India must address the problem of dark money**,** which persists even in regulated systems. The regulation of electoral trusts must be tightened to ensure disclosure of the ultimate source of funds, paralleling reforms seen in Germany after the CDU scandal.

Fourth, public funding deserves serious consideration**.** Models in France and Germany demonstrate how state subsidies, tied to electoral performance, can reduce dependence on private donors while levelling the playing field for smaller or newer parties.

In doctrinal terms, India stands at a critical juncture. Its future regulatory design should reject secrecy, impose meaningful contribution caps, tighten oversight of intermediary entities, and explore partial public financing. The comparative lessons from France, Canada, Germany, the UK, South Africa, and Australia converge on a common principle: corporate money must be regulated within a constitutional framework that elevates transparency, accountability, and democratic integrity above fiscal expediency or political convenience**.**

Doctrinal findings of the global experience demonstrates that transparency and accountability are the irreducible minimums of a legitimate political finance regime. India's challenge, and opportunity, is to harmonise its corporate funding architecture with this global doctrinal trajectory, thereby strengthening the constitutional promise of a democracy accountable to its citizens rather than beholden to its financiers.

CHAPTER -6
EMPIRICAL DATA ANALYSIS OF CORPORATE ELECTORAL FUNDING IN INDIA

The empirical dimension of this dissertation is anchored in a systematic attempt to transform fragmented disclosures of electoral finance into a structured and analytically coherent dataset. Electoral finance data in India is formally published by the Election Commission of India (ECI), but its utility is constrained not by absence of disclosure, but by the structural and procedural barriers embedded in its presentation. Candidate affidavits continue to be filed in inconsistent PDF formats with no standardised template, while political parties follow divergent headings, categories, and reporting conventions that vary year to year. This absence of uniformity produces a patchwork of documents that impede comparability and frustrate longitudinal analysis. Moreover, consolidated digital datasets of meaningful utility have only become available since around 2012, leaving significant historical gaps in transparency.

This study seeks to intervene in that lacuna by systematising scattered sources into a coherent empirical framework. The core of the dataset was drawn from the statutory disclosures of the ECI and the curated datasets of the Association for Democratic Reforms (ADR). In addition, electoral bond transaction records were incorporated through Reserve Bank of India (RBI) reports, thereby enabling a composite reconstruction of the sources and expenditure patterns of Indian political parties. To mitigate the inconsistencies of raw data, the methodology harmonised heterogeneous formats and ensured comparability across years, donors, and parties.

The process of data collection followed a structured sequence. First, annual financial reports published by the ECI and ADR were retrieved as foundational disclosures. Second, all contributions were classified into three categories—corporate, individual, and institutional—to create consistency across otherwise divergent reporting practices. Third, electoral bond data was integrated post-2018 to capture the scheme's transformative role in reshaping the funding ecosystem. Fourth, figures were cross-verified and triangulated against legal proceedings, media reports, and NGO findings to address under-reporting, illicit

flows, and record discrepancies. Finally, the validated data was consolidated and represented in tables, charts, and visual maps to facilitate comparative analysis of sources, expenditures, and compliance with disclosure requirements.

The empirical analysis was designed to capture both temporal and structural dynamics of electoral finance. Time-series data from 2014 to 2024 was mapped to trace shifts in funding flows before and after the 2017 Finance Act amendments. Party-wise contributions to the Bharatiya Janata Party (BJP), Indian National Congress (INC), Aam Aadmi Party (AAP), and key regional parties were analysed to detect patterns of donor concentration, corporate favouritism, and financial asymmetry. Donations were disaggregated by type—corporate inflows, individual contributions, anonymous bond-based transfers—and by payment mode, including cash, cheque, and digital transfers. Particular attention was devoted to the electoral bond mechanism: year-wise and party-wise inflows were charted to reveal spikes that coincided with electoral cycles, underscoring the instrument's pivotal role in campaign finance.

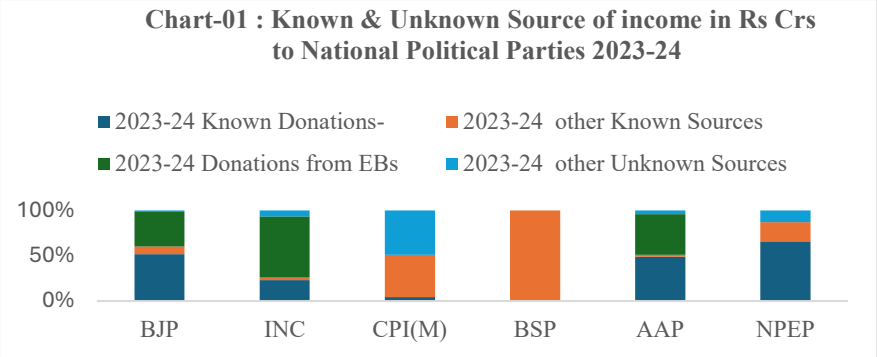
The methodology combined quantitative and interpretive tools. Time-series graphs and bar charts illuminated longitudinal patterns, pie charts demonstrated proportional relationships between corporate and individual contributions, and trend-line mapping highlighted correlations between funding spikes, legal reforms, and election cycles. Comparative analysis further situated the Indian experience within international benchmarks of political finance, thereby contextualising India's trajectory within global doctrinal debates.

Despite its methodological rigour, this study acknowledges certain limitations. The anonymity entrenched in the Electoral Bond Scheme constitutes the most formidable barrier to transparency, preventing the linking of donors with recipient parties. Corporate filings often omit disaggregated party-wise contributions, leaving financial trails obscured. Year-to-year variability in reporting standards complicates longitudinal analysis, while confidentiality protocols followed by the State Bank of India (SBI) in bond redemption further curtail transparency. The absence of digitised datasets for the pre-2012 period constrains the historical depth of this inquiry.

By reconstructing raw disclosures into structured empirical evidence, this study does more than visualise funding flows: it decodes the evolving dynamics of electoral finance and exposes the tension between statutory disclosure requirements and legislative innovations that institutionalise opacity. The findings demonstrate how the constitutional promise of transparency, repeatedly affirmed by the Supreme Court, remains undermined in practice by legislative design and procedural loopholes. This empirical framework thus not only captures funding asymmetries and structural biases but also highlights the normative gap between constitutional doctrine and democratic practice in India's corporate–political finance regime.

6.1. Empirical and Doctrinal Analysis of Electoral Funding sources Dynamics (2018–2024)

The period from 2018 to 2024 represents a decisive turning point in India's political finance regime. The introduction of the Electoral Bond Scheme in 2018 reconfigured the very architecture of party funding, and the data across Tables 1–4 and Charts 1–7 demonstrates that this shift was neither accidental nor politically neutral. Electoral Trusts, which had once been designed as a more transparent channel of corporate contributions, were quickly displaced. Bonds rose as the principal conduit for large donations, "unknown sources" eclipsed declared income, and the ruling party entrenched a financial dominance that reshaped the competitive field. What emerges is a picture where opacity has become structural, deliberately enabled by legislative design and facilitated by policy choices that systematically weakened disclosure.



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[42] Chart-01- Know & Unknown Source of Income in Rs Crs to National Political Parties 2023-24

Table No-01										
Known & Unknown Source of income in Rs Crs to National Political Parties										
Year	2023-24					2022-2023				
National Parties	Known Donations-	other Known Sources	Donations from EBs	other Unknown Sources	Total	Known Donations-	other Known Sources	Donations from EBs	other Unknown Sources	Total
BJP	2243.97	373.2962	1685.6261	37.6037	**4340.496**	719.85	240.74	1294.14	106.05	**2360.78**
INC	281.48	36.5492	828.36	78.7298	**1225.119**	79.92	57.33	171.02	17.62	**325.89**
CPI(M)	7.641	77.9191	0	82.0759	**167.636**	6.07	65.34	0	57.7	**129.11**
BSP	0	64.7798	0	0	**64.7798**	37.1	0.82	45.45	1.79	**85.16**
AAP	11.06	0.538	10.15	0.93	**22.678**	0	29.27	0	0.04	**29.31**
NPEP	0.148	0.0475	0	0.0289	**0.2244**	7.47	0.03	0	0	**7.5**
Total	**2544.299**	**553.1298**	**2524.1361**	**199.3683**	**5820.933**	**850.41**	**393.53**	**1510.61**	**183.2**	**2937.75**
Known Donations- Voluantary Contributions,Interest on Income, Fee & Other subscriptions, other income										

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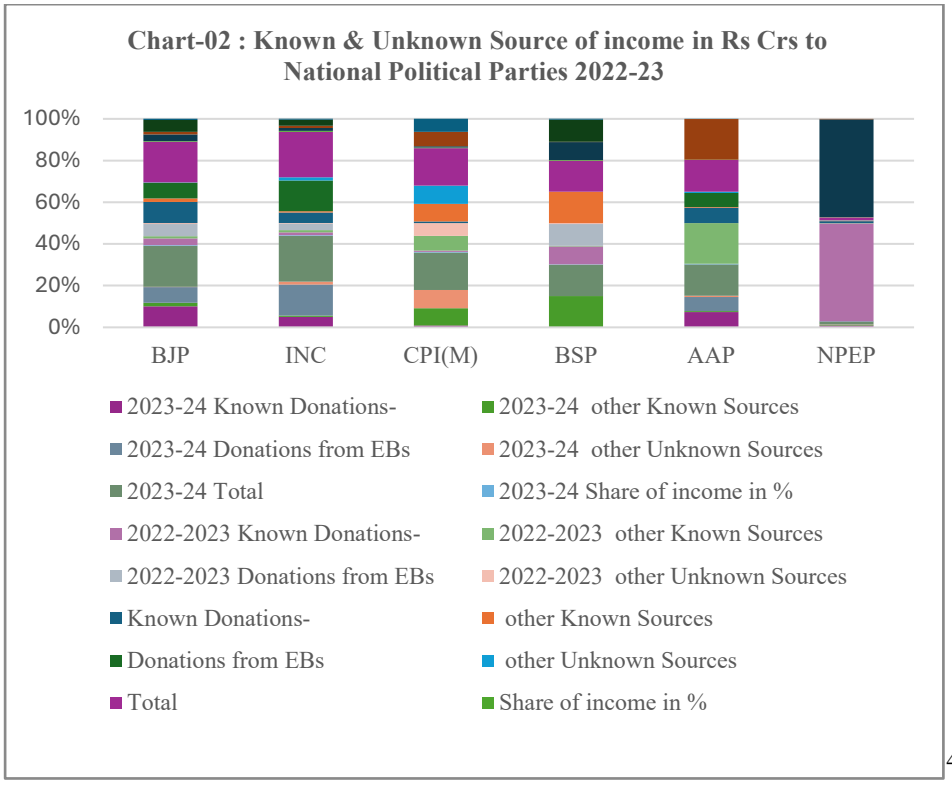

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Data table 1 and Chart 1, which cover 2023–24, provide the clearest snapshot of this transformation. The BJP's income appears formalised, sustained by a heavy reliance on corporate donations and Electoral Bonds. By contrast, the Indian National Congress shows a sudden spike in "other unknown sources," underscoring its growing dependence on contributions outside effective disclosure frameworks. CPI(M) and BSP reveal an even deeper level of opacity, as their finances are almost entirely drawn from untraceable streams. The Aam

[43] Know & Unknown Source of Income in Rs Crs to National Political Parties 2023-24 & 2022-2023: Available at :https://adrindia.org. last accessed on 26.08.2024

[44] Chart -2 Know & Unknown Source of Income in Rs Crs to National Political Parties 2022-23

Aadmi Party and smaller outfits like NPEP try to maintain a balance, but even they lean significantly on undeclared inflows.

Table No-02										
Known & Unknown Source of income in Rs Crs to National Political Parties										
Year	2021-2022					2020-2021				
National Parties	Known Donations-	other Known Sources	Donations from EBs	other Unknown Sources	Total	Known Donations-	other Known Sources	Donations from EBs	other Unknown Sources	Total
BJP	614..62	141.44	1,033.70	1,161.04	**2,336.18**	477.54	174.29	22.38	100.50	**774.71**
INC	95.45	56.97	528.14	388.83	**1,069.39**	74.52	32.45	10.07	178.78	**295.82**
CPI(M)	10.05	73.53	236..09	78..64	**398.14**	1.49	0.55	0.00	97..314	**2.04**
BSP	0.00	43.77	0.00	0.00	**43.77**	0.00	52.46	0.00	0.00	**52.46**
AAP	0.00	0.00	0.00	0.00	**0.00**	0-	0.00	0.00	0.00	**0.00**
NPEP	0.35	0.04	0.00	0.08	**0.47**	0.59	0.02	0.00	0.07	**0.68**
Total	720..47	315.75	1,561.84	1,549.95	**3,847.95**	554.14	259.77	32.45	279.35	**1,125.71**
Known Donations- Voluantary Contributions,Interest on Income, Fee & Other subscriptions, other income										

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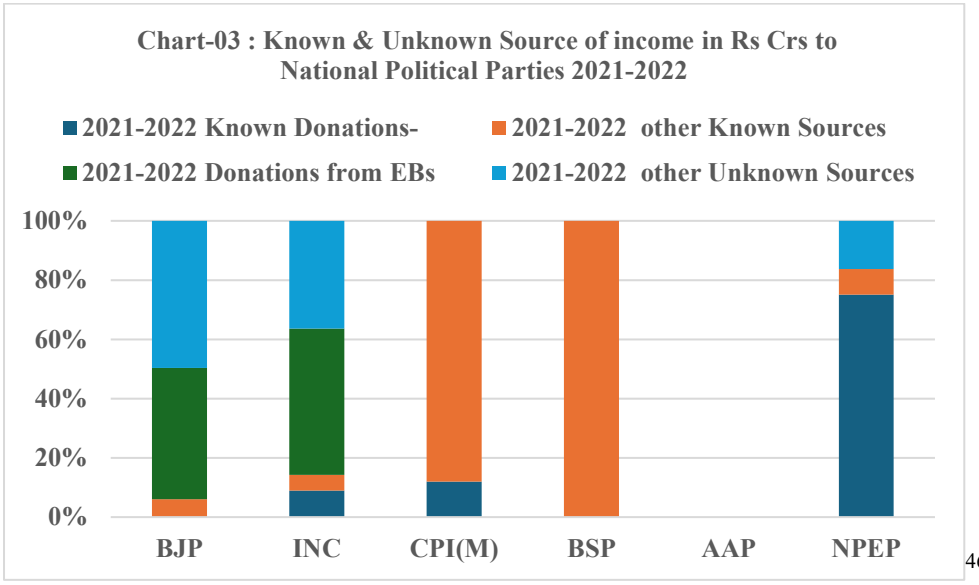

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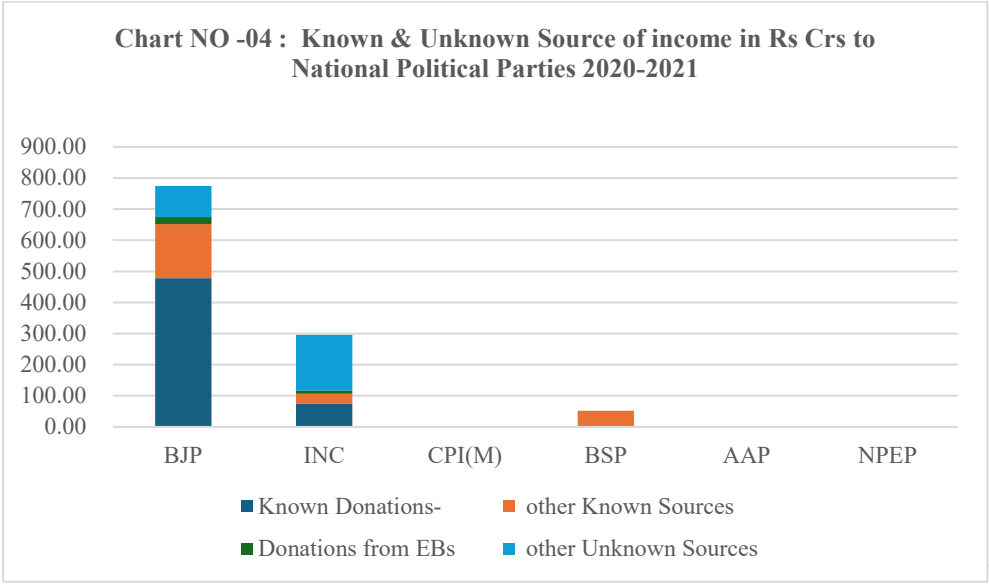

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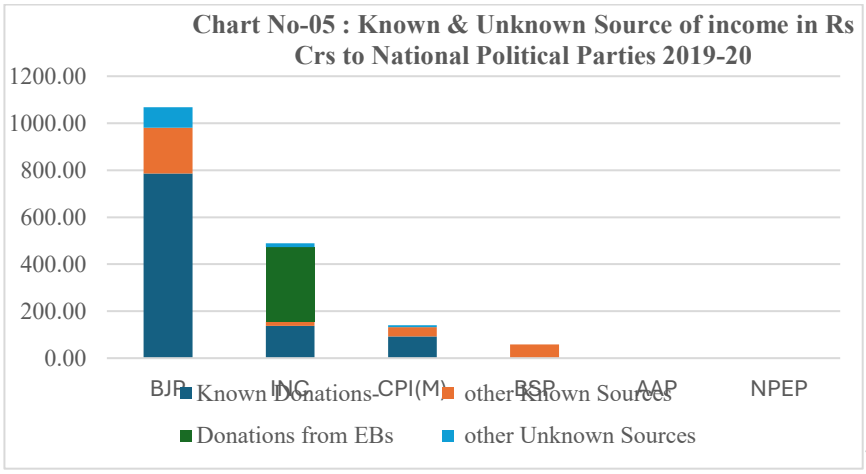
[45] Know & Unknown Source of Income in Rs Crs to National Political Parties 2021-22 & 2020-2021

[46] Know & Unknown Source of Income in Rs Crs to National Political Parties 2021-22

[47] Know & Unknown Source of Income in Rs Crs to National Political Parties 2020-21

The 2022–23 picture, represented in Table 2 and Chart 2, appears more fragmented, with no single income source dominating across all parties. Yet the underlying stress points are evident: unknown sources already constituted a substantial portion of party finances, while bonds were beginning to consolidate as the principal channel for the ruling party.



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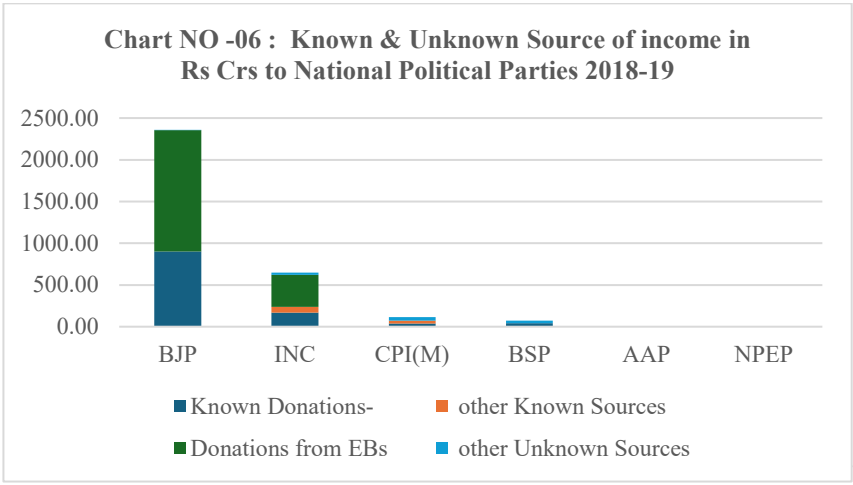

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Table No-03

Known & Unknown Source of income in Rs Crs to National Political Parties

Year	2019-20					2018-19				
National Parties	Known Donations-	other Known Sources	Donations from EBs	other Unknown Sources	Total	Known Donations-	other Known Sources	Donations from EBs	other Unknown Sources	Total
BJP	785.77	194.88	2555..00	87.63	**3625.28**	903.13	0.00	1450.89	1.89	**2355.91**
INC	138.01	17.19	317.86	15.67	**488.73**	168.29	70.09	383.26	27.57	**649.21**
CPI(M)	93.01	39.22	0.00	8.30	**140.53**	37.22	37.23	0.00	39.60	**114.05**
BSP	0.00	58.26	0.00	0.00	**58.26**	41.32	0.00	0.00	30.92	**72.24**
AAP	0.00	0.00	0.00	0.00	**0.00**	0.00	0.00	0.00	0.00	**0.00**
NPEP	0.00	0.00	0.00	0.00	**0.00**	0.00	0.00	0.00	0.00	**0.00**
Total	**1016.79**	**309.55**	**2872.86**	**111.60**	**4312.80**	**1149.96**	**107.32**	**1834.15**	**99.98**	**3191.41**

Known Donations- Voluantary Contributions,Interest on Income, Fee & Other subscriptions, other income

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[48] Know & Unknown Source of Income in Rs Crs to National Political Parties 2019-20

[49] Know & Unknown Source of Income in Rs Crs to National Political Parties 2018-19

[50] Know & Unknown Source of Income in Rs Crs to National Political Parties 2019-20 &2018-2019
Available at :https://adrindia.org. last accessed on 26.08.2024

Data table 3 and the corresponding time-series charts (Charts 3–6) highlight the broader trajectory from 2018 onwards. They trace how Electoral Trusts declined sharply after the introduction of bonds in 2017–18, losing their relevance as a corporate-friendly disclosure mechanism. Bonds, by contrast, rose year after year, becoming the backbone of political finance. Declared donations, whether corporate or individual, steadily declined to a marginal share, while unknown sources steadily rose, marking a systemic erosion of transparency. This six-year trend demonstrates that opacity was not episodic but cumulative, driven by successive amendments and reinforced by the incentives of donors seeking anonymity and recipients seeking unaccountable inflows.

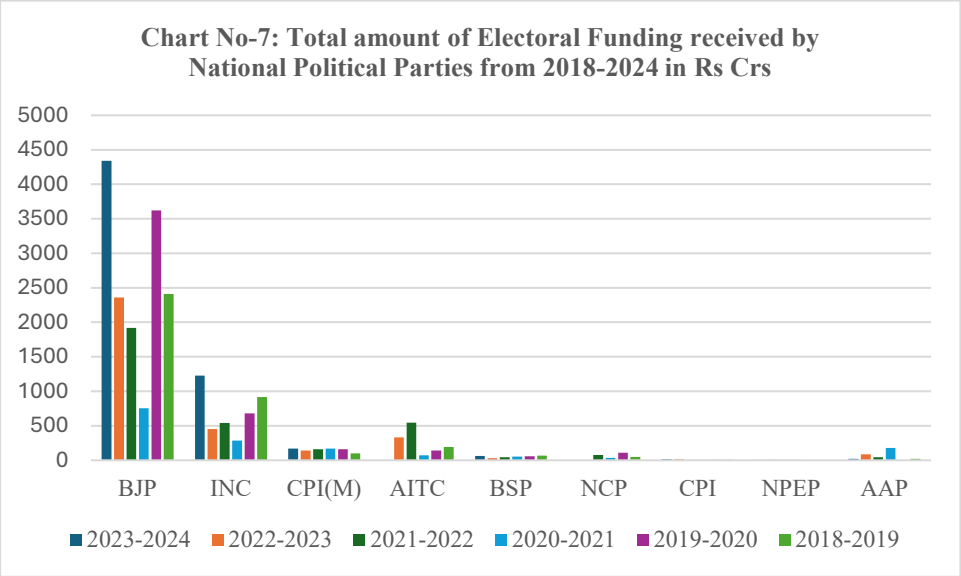

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Table No.4										
Total amount of Electoral Funding received by National Political Parties from 2018-2024 in Rs Crs										
Financial Year	BJP	INC	CPI(M)	AITC	BSP	NCP	CPI	NPEP	AAP	Total
2023-2024	4340.47	1225.11	167.63	ND	64.77	ND	16.76	**1.13**	22.68	**5838.55**
2022-2023	2360.84	452.37	141.66	333.45	29.27	0	15.33	7.56	85.17	**3425.65**
2021-2022	1917.12	541.27	162.23	545.74	43.77	75.84	2.87	0.47	44.54	**3333.85**
2020-2021	752.33	285.67	171.04	74.41	52.46	34.92	2.12	0.69	176.6	**1550.24**
2019-2020	3623.28	682.21	158.62	143.67	58.25	109.19	6.58	ND	ND	**4781.8**
2018-2019	2410.08	918.03	100.96	192.65	69.79	50.71	7.15	ND	19.31	**3768.68**
Total	**15404.12**	**4104.66**	**902.14**	**1289.92**	**318.31**	**270.66**	**50.81**	**9.85**	**348.3**	**22698.77**

52

[51] Total amount of Electoral Funding received by National Political Parties from 2018-2024 in Rs Crs

[52] Total amount of Electoral Funding received by National Political Parties from 2018-2024 in Rs Crs : Available at :https://adrindia.org. last accessed on 26.08.2024

Data table 4 and Chart 7 shift the analysis from composition to magnitude. They reveal the sheer volume of funds channelled to political parties between 2018 and 2024, highlighting the overwhelming concentration of resources in the hands of the BJP. The party's financial share far exceeds that of its competitors, with the Congress lagging at a considerable distance and smaller parties relegated to the periphery. This evidence makes clear that political finance in India is not equitably distributed but heavily concentrated, and that this concentration bears a direct relationship to incumbency. The party in power benefits disproportionately from bonds and large corporate flows, while the opposition is left with fragmented and opaque sources. Corporates, naturally risk-averse and eager for policy proximity, have channelled their contributions into bonds that favour the ruling party, while the regulatory design has entrenched this asymmetry.

This flow of funds is governed not merely by donor preference but by the architecture of law. The removal of the 7.5 per cent profit cap under Section 182 of the Companies Act, the insertion of the Electoral Bond Scheme into the Finance Act, and the exemption of bond-based contributions from disclosure under Section 29C of the RPA collectively created a framework that encourages large, anonymous donations. The use of the State Bank of India as the sole intermediary further created a dual-information regime: the State had complete knowledge of donations, while citizens were left entirely in the dark. Thus, Table 4 and Chart 7 reveal not just the distribution of money but the systemic tilt of law and policy in favour of the ruling party.

These empirical findings are not mere statistics; they bring into sharp relief three interlocking constitutional dilemmas.

The first dilemma concerns the voter's right to know, a principle judicially recognised in *Union of India v. ADR* (2002) as part of Article 19(1)(a). When the majority of political finance flows through channels categorised as "unknown," this right is emptied of meaning. Citizens are asked to exercise their franchise without the knowledge of who funds the very parties that seek their votes. Electoral Bonds heightened this contradiction: while the State enjoyed

full traceability of donors through the SBI, the electorate remained in enforced ignorance. This dual regime of information created not only opacity but also a chilling asymmetry between rulers and ruled.

The second dilemma relates to equality of electoral competition under Article 14. The data in Table 4 and Chart 7 makes clear that the BJP's financial dominance through bonds was unmatched, creating structural inequality in the political marketplace. Opposition parties were left to survive on fragmented, opaque channels that lacked stability or scale. The 2017 amendments to the Companies Act, which removed the 7.5 per cent profit cap and allowed even loss-making or foreign-controlled companies to donate, exacerbated this imbalance. The rules of the game thus shifted from being protective of equality to being instruments that entrenched disparity. The electoral arena, which should be a level field, became structurally tilted.

The third dilemma implicates the limits of legislative power under Articles 327 and 328. These provisions authorise Parliament and State legislatures to regulate elections, but historically, this power was exercised to secure transparency through measures like Section 29C of the RPA. Yet, the same constitutional power was invoked in 2017 to insert the Electoral Bond Scheme via a Finance Act, controversially passed as a Money Bill, which undermined the very principle of disclosure. This paradox that legislative power meant to safeguard transparency was deployed to legitimise opacity reveals a doctrinal crisis. For nearly six years, opacity was not merely tolerated but legislated into existence.

The constitutional tensions laid bare by the data eventually compelled judicial scrutiny. In *ADR v. Union of India (2024),* the Supreme Court struck down the Electoral Bond Scheme, grounding its decision in concerns reflected directly in the empirical evidence. The Court observed that large-scale anonymous corporate funding undermines the voter's right to know, distorts equality of competition, and cannot be justified as a proportionate measure to curb black money. It reaffirmed that transparency is integral to the freedom of speech and expression under Article 19(1)(a). It also underscored that any legislative restriction on this right must satisfy the proportionality test it must pursue a legitimate aim, be suitable, be necessary, and balance competing rights. The bond scheme failed this test.

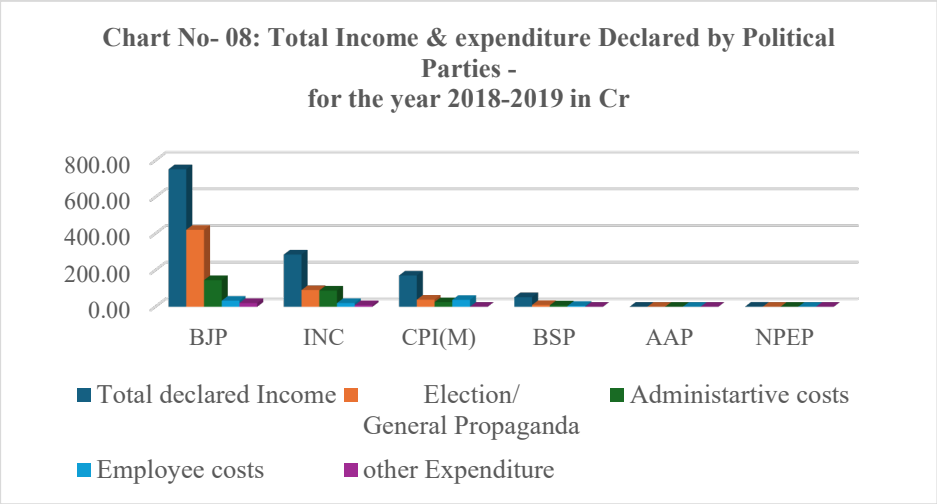
The Court further held that opacity in corporate donations is incompatible with democratic accountability. The use of a Finance Act to introduce such a scheme was sharply criticised, as it subverted legislative scrutiny. The judgment restored disclosure as the constitutional baseline, directed the SBI to publish data on all bonds already issued, and prohibited future issuances. In doing so, the judiciary did not simply close a legal loophole but reaffirmed foundational democratic principles: that electoral competition must be fair, that voters must be informed, and that legislative power cannot be exercised to defeat transparency.

The period 2018–2024 must therefore be understood as more than a financial chronicle; it is a constitutional warning. The data shows that opacity was not incidental but structural, deliberately crafted through legislative amendments that weakened disclosure. For citizens, this meant voting without knowing who financed the political parties. For opposition parties, it meant competing under systemic disadvantage, reliant on unstable and untraceable income. For the constitutional order, it meant the erosion of its core values: transparency, equality, and accountability. The very opaqueness of these flows created widespread doubt about the neutrality of elections and the influence of undisclosed corporate power, ultimately compelling judicial intervention. The Supreme Court's 2024 judgment was thus not a reaction to abstract fears but to concrete empirical realities a decisive recognition that democracy cannot thrive where money flows in secrecy.

6.2. Empirical Analysis of Political Expenditure and Constitutional Implications (2018–2024)

The financial declarations of political parties between 2018 and 2024 reveal a decisive transformation in the relationship between income, expenditure, and democratic practice. Data filed annually with the Election Commission of India (ECI) and reflected in Tables and Charts illustrates not only the widening scale of income disparities but also how these resources were deployed across expenditure heads. From 2018 onwards, Electoral Bonds became the backbone of political finance, and expenditure records show that these opaque inflows translated into disproportionate capacities for propaganda, campaign management, and voter outreach. Over six years, spending patterns mirrored the

structural advantages created by legislative loopholes, producing constitutional dilemmas around transparency, equality, and the citizen's right to know.



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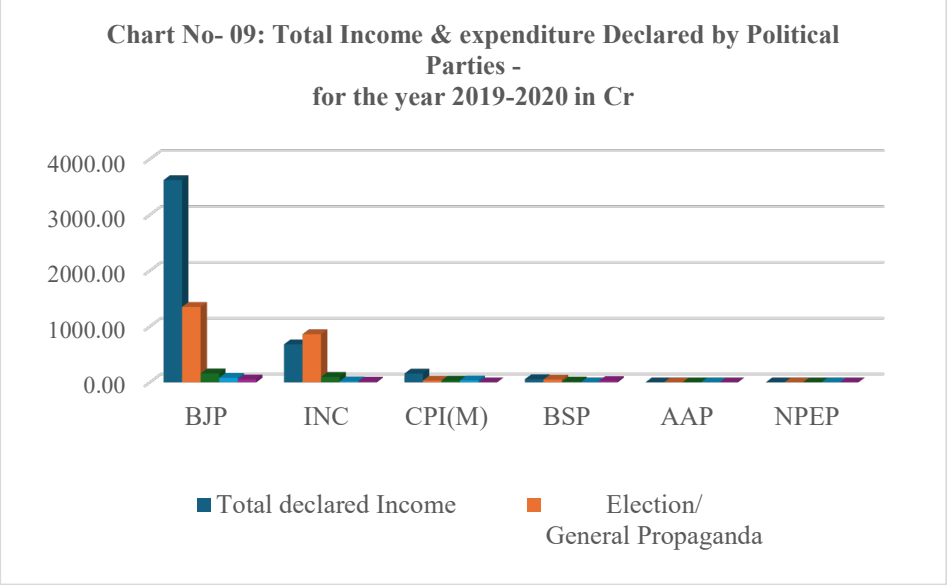

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Table No-5

Expenditure Profile of National Political Parties

Name of National Parties	Total Income & expenditure Declared by Political Parties - for the year 2019-2020 in Cr							Total Income & expenditure Declared by Political Parties - for the year 2018-2019 in Cr						
		Items of Expenditure							Items of Expenditure					
	Total declared Income	Election/ General Propaganda	Administartive costs	Employee costs	other Expenditure	Total declared Expenditure	Excess of Income Over Expenditure	Total declared Income	Election/ General Propaganda	Administartive costs	Employee costs	other Expenditure	Total declared Expenditure	Excess of Income Over Expenditure
BJP	**3625.28**	1352.92	161.54	82.51	54.04	**1651.01**	1974.27	2410.08	792.39	178.35	23.61	10.98	**1005.33**	1404.75
INC	**682.21**	864.03	99.39	19.37	15.35	**998.14**	-315.93	918.03	308.96	125.80	19.27	5.89	**469.92**	448.11
CPI(M)	**158.62**	34.20	33.47	37.94	0.06	**105.67**	52.95	100.96	9.26	35.04	31.73	0.11	**76.15**	24.81
BSP	**58.25**	51.75	16.08	0.05	27.16	**95.04**	-36.79	67.79	33.11	15.71	0.05	0.08	**48.88**	18.91
AAP	**0.00**	0.00	0.00	0.00	0.00	**0.00**	0.00	0.00	0.00	0.00	0.00	0.00	**0.00**	0.00
NPEP	**0.00**	0.00	0.00	0.00	0.00	**0.00**	0.00	0.00	0.00	0.00	0.00	0.00	**0.00**	0.00
Total	**4524.36**	2302.90	310.48	139.87	96.61	**2849.86**	1674.50	3496.86	1143.72	354.90	74.66	17.06	**1600.28**	1896.58

[55]

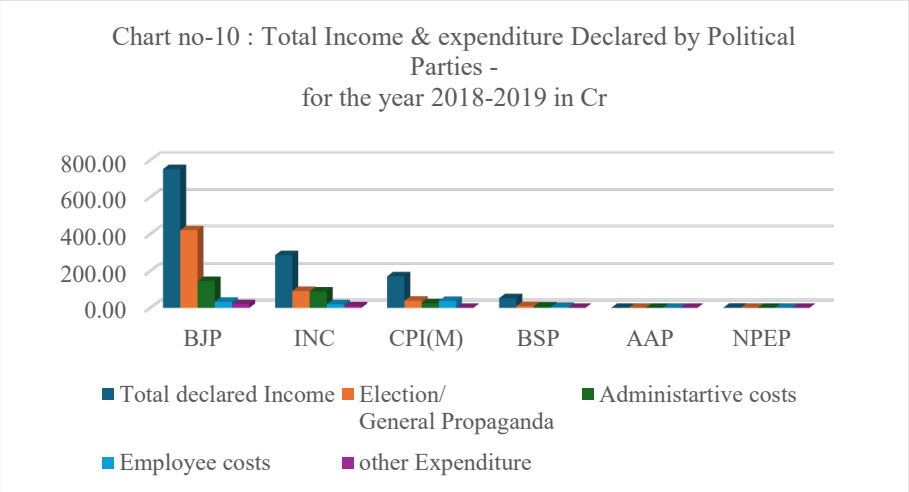
[53] Total Income & Expenditure Declared by Political Parties from 2018-19 in Cr

[54] Total Income & Expenditure Declared by Political Parties from 2019-20 in Cr

[55] Expenditure Profile of National Political Parties from 2020-21& 2021-22: Available at :https://adrindia.org. last accessed on 26.08.2024

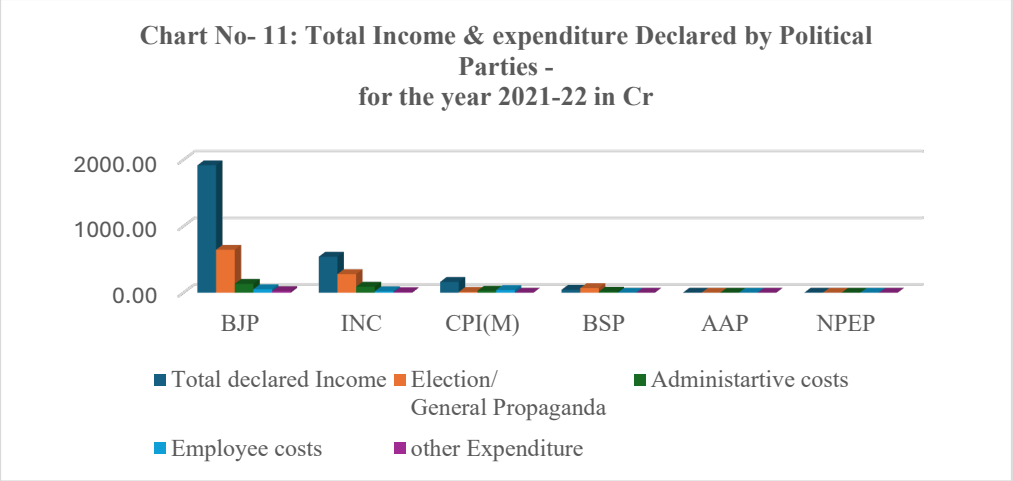
Data table 5 & Chart 8, covering the year 2018–2019, shows the BJP buoyed by the first major inflows from Electoral Bonds, reporting over ₹700 crore in income several times higher than any other party. Its expenditure was dominated by election and general propaganda, while administrative and employee costs were marginal. Congress and CPI(M) lagged far behind, with BSP, AAP, and NPEP almost absent from the financial map. This marked the beginning of a consistent pattern: opaque inflows translated directly into propaganda dominance. From a doctrinal perspective, such spending raised concerns under Article 19(1)(a), since voters were exposed to messaging funded by sources they could not identify. Article 14's principle of equality of competition was also strained, as opposition parties entered contests with systematically weaker outreach capacities.

The above data table 5 & Chart 9, reflecting 2019–2020, records a dramatic escalation. BJP's income surged to nearly ₹3,500 crore, while Congress reached around ₹900 crore. Expenditure again centred on propaganda, with administrative and staff costs relegated to the background. This leap illustrates how deeply the Electoral Bond system had entrenched itself. Parties with access to bond-driven inflows could deploy extensive propaganda machinery, while those without remained structurally marginalised. The Supreme Court in *Common Cause v. Union of India* (2018) had already warned against unchecked money power, but the 2019–20 data demonstrated how corporate anonymity concretely enabled structural inequality in campaign finance.



[56]

[56] Chart No- 10: Income & expenditure Declared by Pol Parties for the year 2021-22 in Cr



[57]

Table No-6

Expenditure Profile of National Political Parties

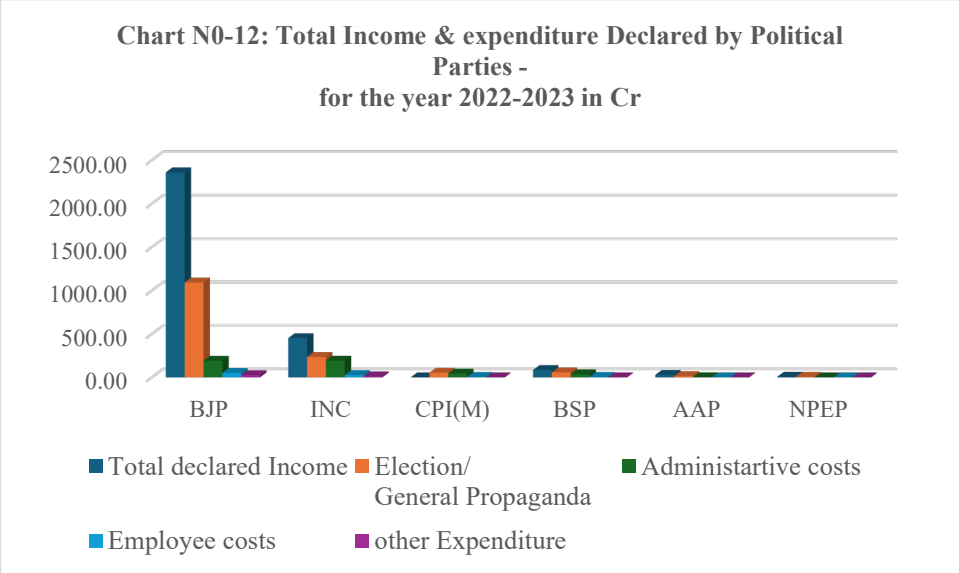
Name of National Parties	Total Income & expenditure Declared by Political Parties - for the year 2021-2022 in Cr							Total Income & expenditure Declared by Political Parties - for the year 2020-2021 in Cr						
	Total declared Income	Items of Expenditure					Excess of Income Over Expenditure	Total declared Income	Items of Expenditure					Excess of Income Over Expenditure
		Election/ General Propagand	Administartive costs	Employee costs	other Expenditure	Total declared Expenditure			Election/ General Propaganda	Administartive costs	Employee costs	other Expenditure	Total declared Expenditur	
BJP	**1917.12**	645.85	133.31	51.83	23.46	**854.45**	1062.67	752.33	421.01	145.68	33.30	20.39	**620.38**	131.95
INC	**541.27**	279.73	90.12	21.62	8.92	**400.39**	140.88	285.76	91.35	88.43	20.30	8.90	**208.98**	76.78
CPI(M)	**162.23**	13.03	30.19	40.07	0.11	**83.40**	78.83	171.04	38.82	25.31	37.61	0.05	**101.79**	69.25
BSP	**43.77**	69.59	15.34	0.17	0.05	**85.15**	-41.38	52.46	9.54	7.68	5.00	0.01	**22.23**	30.23
AAP	**0.00**	0.00	0.00	0.00	0.00	**0.00**	0.00	0.00	0.00	0.00	0.00	0.00	**0.00**	0.00
NPEP	**0.47**	0.24	0.10	0.03	0.01	**0.38**	0.09	0.69	0.13	0.14	0.03	0.01	**0.31**	0.38
Total	**2664.86**	1008.44	269.06	113.72	32.55	**1423.77**	1241.09	1262.28	560.85	267.24	96.24	29.36	**953.69**	308.59

[58]

The data table 6 & chart 10, for the financial year 2020–21, shaped by the COVID-19 pandemic, revealed continuity rather than disruption. BJP retained dominance in both income and expenditure, with propaganda once more absorbing the bulk of spending. Even in the midst of a public health crisis, the priority of parties remained mass communication rather than programmatic or welfare-linked development. This underscores a further constitutional dilemma: the law's silence on how political funds should be allocated. Nothing prevents parties from dedicating overwhelming proportions of their finances to propaganda, while neglecting institutional or developmental expenditure. This legislative gap has been strategically exploited, allowing parties to transform financial advantage into electoral visibility without accountability for whether such spending contributes to democratic deliberation.

[57] Chart No- 11: Income & expenditure Declared by Pol Parties for the year 2021-22 in Cr
[58] Table-6: Income & expenditure Declared by Pol Parties for the year 2020-22 in Cr: Available at :https://adrindia.org. last accessed on 26.08.2024

The data table 6 & chart 11, declarations for 2021–22 indicate that opacity had by then become the accepted norm of political finance. Income from unknown sources constituted a significant share for opposition parties, while the BJP continued to rely heavily on Electoral Bonds. Expenditure patterns reveal that propaganda absorbed the bulk of outflows, while administrative and employee costs remained static. The erosion of Section 29C of the RPA, originally designed to ensure disclosure, is evident here. Although parties formally complied with filing requirements, they reported broad categories that concealed the actual mechanics of campaign spending. This was not merely administrative weakness but a constitutional gap: the law demanded transparency in principle but permitted opacity in practice.



[59]

Table No-7

Expenditure Profile of National Political Parties

Name of National Parties	Total Income & expenditure Declared by Political Parties - for the year 2023-24 in Cr							Total Income & expenditure Declared by Political Parties - for the year 2022-2023 in Cr						
	Total declared Income	Items of Expenditure					Excess of Income Over Expenditure	Total declared Income	Items of Expenditure					Excess of Income Over Expenditure
		Election/ General Propaganda	Administartive costs	Employee costs	other Expenditure	Total declared Expenditure			Election/ General Propaganda	Administartive costs	Employee costs	other Expenditure	Total declared Expenditure	
BJP	**4340.47**	1754.06	349.71	73.52	34.38	**2211.69**	2128.78	2360.84	1092.15	191.42	51.91	26.18	**1361.66**	999.18
INC	**1225.11**	619.67	340.70	27.17	37.69	**1025.24**	199.87	452.34	235.83	192.55	26.71	12.02	**467.11**	-14.77
CPI(M)	**167..63**	56.29	47.57	16.24	7.17	**127.28**	40.35	141..66	55.59	44.61	5.75	0.10	**106.05**	35.61
BSP	**64.77**	23.47	19.66	0.05	0.01	**43.19**	21.58	85.17	58.82	36.34	5.82	1.05	**102.03**	-16.86
AAP	**22.68**	19.11	9.64	4.28	1.05	**34.09**	-11.41	29.27	16.27	2.08	0.05	0.01	**18.41**	10.86
NPEP	**0.22**	0.64	0.40	0.08	0.01	**1.14**	-0.92	7.52	6.62	0.23	0.06	0.00	**6.91**	0.61
Total	**5653.25**	2473.24	767.68	121.34	80.31	**3442.63**	2210.62	3076.80	1465.28	467.23	90.30	39.36	**2062.17**	1014.63

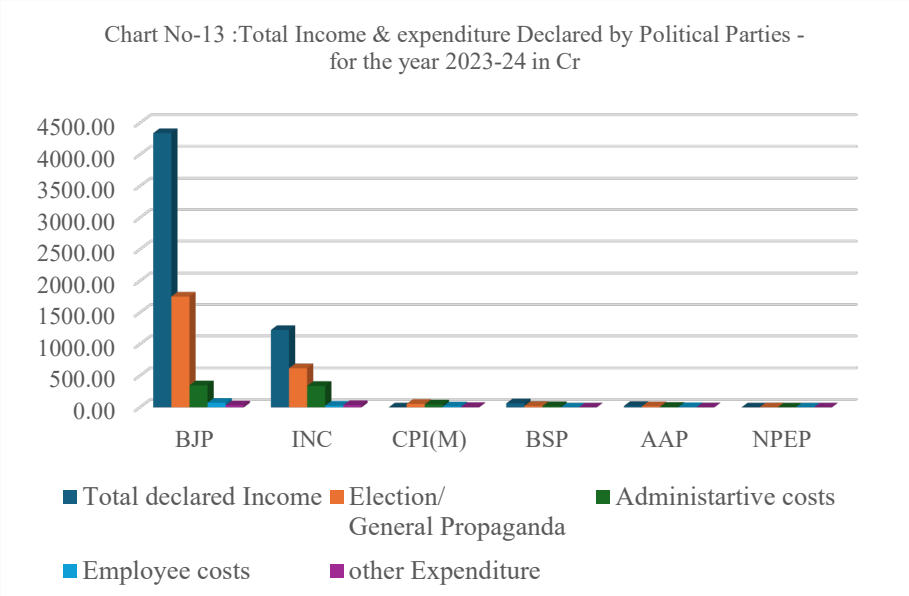
[60]

[59] Chart No-12 : Income & expenditure Declared by Pol Parties -for the year 2022-23in Cr

[60] Table-7 Income & expenditure Declared by Pol Parties -for the year 2022-23 in Cr : Available at :https://adrindia.org. last accessed on 26.08.2024

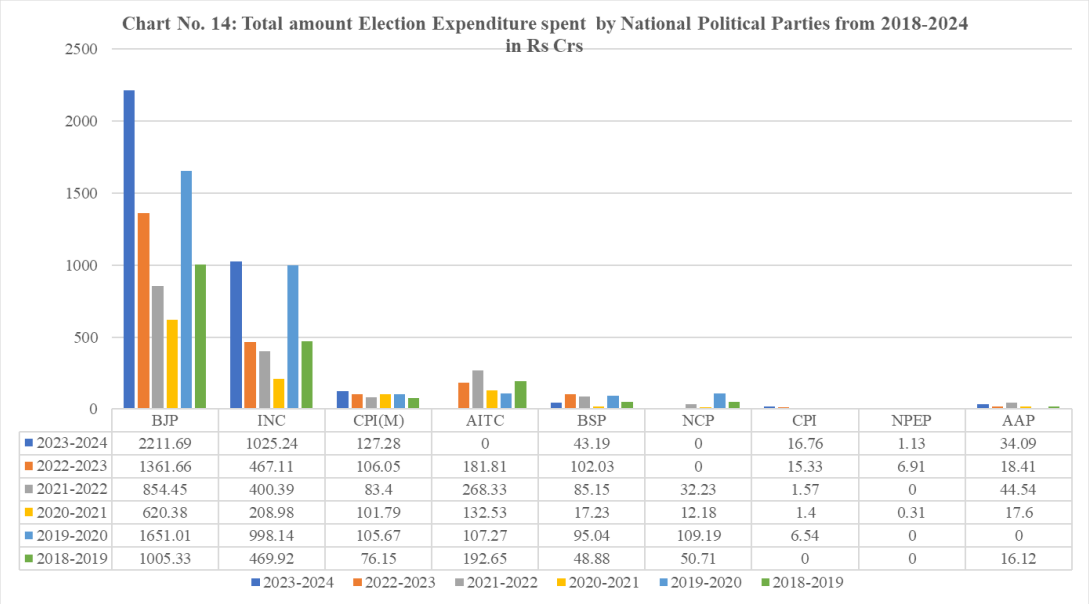
Data Table-7 and Chart-12 for 2022–23 reveal that opposition parties exhibited fragmented income profiles, with no dominant source of funds. Yet expenditure patterns remained skewed toward propaganda, with negligible investment in organisational development. By this stage, "unknown sources" had become the mainstay for parties like Congress, CPI(M), and BSP. The warnings in *PUCL v. Union of India* (2003)—that democracy requires voters to know who finances parties—appeared hollow, as citizens cast ballots in elections fuelled by funds they could not trace or scrutinise, reducing informed choice to a constitutional fiction.

Data Table-7 and Chart-13 for 2023–24 mark the zenith of financial asymmetry. As confirmed by Table-4 and Chart-7, the BJP's dominance dwarfed all competitors, with expenditure overwhelmingly directed toward propaganda. Congress registered a sudden surge in "other unknown sources," while CPI(M) and BSP remained almost entirely dependent on opaque inflows. Against this backdrop, the Supreme Court's ruling in *ADR v. Union of India* (2024) struck down the Electoral Bond Scheme, holding that anonymous corporate donations violated the voter's right to know and equality of competition. Propaganda spending fuelled by undisclosed money was recognised not as a financial irregularity but as a constitutional breach. Applying proportionality, the Court affirmed that curbing black money could not justify a regime of total opacity.



[61]

[61] Expenditure Declared by Political Parties from 2023-24 in Cr



62

Table No.8										
Total amount Election Expenditure spent by National Political Parties from 2018-2024 in Rs Crs										
Financial Year	**BJP**	**INC**	**CPI(M)**	**AITC**	**BSP**	**NCP**	**CPI**	**NPEP**	**AAP**	**Total**
2023-2024	2211.69	1025.24	127.28	ND	43.19	ND	16.76	**1.13**	34.09	3459.38
2022-2023	1361.66	467.11	106.05	181.81	102.03	ND	15.33	6.91	18.41	**2259.31**
2021-2022	854.45	400.39	**83.4**	268.33	85.15	32.23	1.57	0,38	44.54	1770.06
2020-2021	620.38	208.98	101.79	132.53	17.23	12.18	1.4	0.31	17.6	**1112.4**
2019-2020	1651.01	998.14	105.67	107.27	95.04	109.19	6.54	0	0	3072.86
2018-2019	1005.33	469.92	76.15	192.65	48.88	50.71	0	0	16.12	1859.76
Total	**7704.52**	**3569.78**	**600.34**	**882.59**	**391.52**	**204.31**	**41.6**	**8.35**	**130.76**	**13533.77**

63

The expenditure patterns between 2018 and 2024 (Table-8 & Chart-14) reveal three interrelated constitutional dilemmas. The first concerns the voter's right to know under Article 19(1)(a), affirmed in *Union of India v. ADR* (2002) and *PUCL v. Union of India* (2003). When most political finance flows through "unknown sources" and is expended under broad, opaque heads like "general propaganda," the right becomes hollow. A dual regime emerged: the State retained traceability through the SBI and the ECI, but the public was denied access, reducing transparency to a formality.

The second dilemma arises under Article 14 and equality of electoral competition. Electoral Bonds created financial asymmetry, allowing the ruling party to dominate

[62] Cumulative Expenditure Declared by Political Parties from 2018-24 in Cr

[63] Table 8:Cumulative Expenditure Declared by Political Parties from 2018-24 in Cr Available at :https://adrindia.org. last accessed on 26.08.2024

propaganda spending while opposition parties relied on fragmented or untraceable sources. Amendments to Section 182 of the Companies Act, permitting unlimited donations even from loss-making and foreign-controlled entities, entrenched this imbalance. As revealed in Table-4 and Chart-7, this was structural, not incidental: financial concentration enabled communicative dominance, contradicting the constitutional promise of a level playing field.

The third dilemma implicates legislative power under Articles 327–328. Instead of reinforcing disclosure under Section 29C of the RPA, Parliament introduced the Electoral Bond Scheme through a Finance Act passed as a Money Bill, thereby bypassing scrutiny. This colourable exercise of constitutional authority reversed the logic of transparency and left ECI filings formally compliant but substantively uninformative.

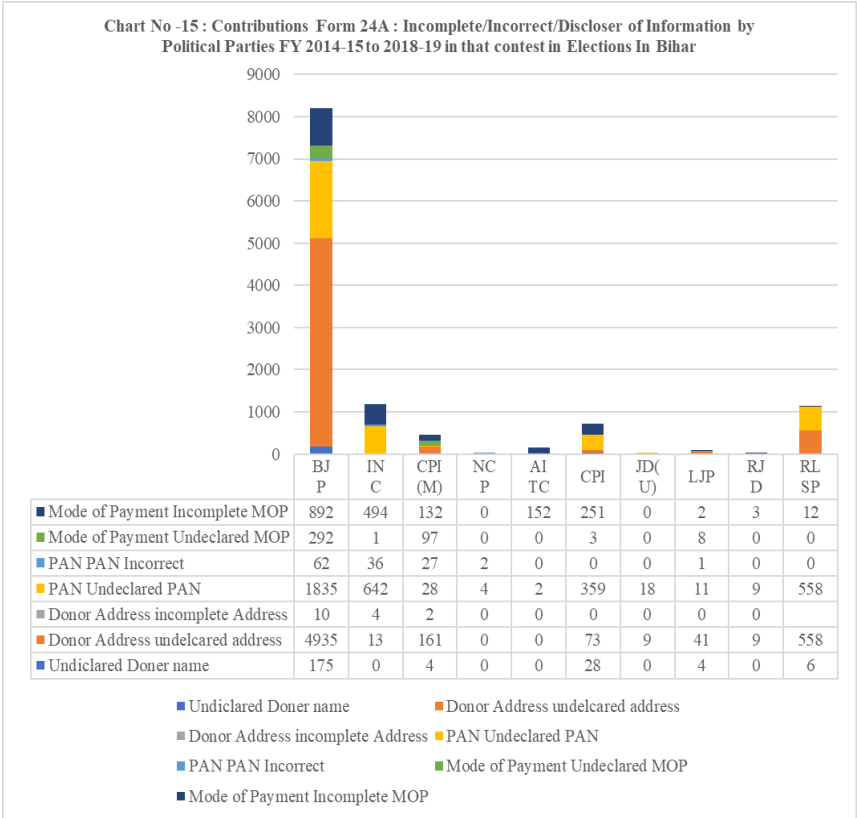
These dilemmas show the crisis was structural, not episodic. Voter rights were hollowed out, equality undermined, and legislative authority repurposed to entrench opacity. The Supreme Court's ruling in *ADR v. Union of India* (2024), striking down Electoral Bonds, was therefore a necessary correction, reaffirming disclosure as a constitutional baseline. The broader lesson is clear: when legislative design exploits constitutional power to legalise opacity, democracy itself is distorted, and the trajectory of 2018–2024 stands as both empirical evidence of financial capture and a doctrinal warning of constitutional subversion.

6.3 **Empirical Analysis of Donor Identity Disclosure in Indian Political funding** (2018–2024):

Table-9 and Chart-11 provide a sharp lens into recent transformations in India's political finance. Since 2018, funds have become heavily concentrated in a few dominant national parties. Rising concentration ratios and Herfindahl–Hirschman Index values reflect a shrinking competitive space, where money translates into power and smaller parties are structurally disadvantaged. Chart-11 illustrates how the Electoral Bond Scheme decisively altered the flow of money, disproportionately favouring ruling parties and undermining equality of competition under Article 14.

Table -09							
Contributions Form 24A : Incomplete/Incorrect/Discloser of Information by Political Parties FY 2014-15 to 2018-19 in that contest in Elections In Bihar							
Polical party	Undiclared Doner name	Donor Address		PAN		Mode of Payment	
		undelcared address	incomplete Address	Undeclared PAN	PAN Incorrect	Undeclared MOP	Incomplete MOP
BJP	175	4935	10	1835	62	292	892
INC	0	13	4	642	36	1	494
CPI(M)	4	161	2	28	27	97	132
NCP	0	0	0	4	2	0	0
AITC	0	0	0	2	0	0	152
CPI	28	73	0	359	0	3	251
JD(U)	0	9	0	18	0	0	0
LJP	4	41	0	11	1	8	2
RJD	0	9	0	9	0	0	3
RLSP	6	558		558	0	0	12
TOTAL	217	5799	16	3466	128	401	1938

[64]



[65]

Opacity compounds this imbalance. Anonymous and non-transparent funding rose steeply after 2018, while disclosed contributions declined, hollowing out the voter's right to information under Article 19(1)(a). Parliament justified the scheme as a curb on black money, yet it entrenched secrecy—a contradiction the Supreme Court

[64] Table09: Discloser of Information by Political-by-Political Parties FY 2014-15 to 2018-19 in that contest in Elections in Bihar

[65] Discloser of Information by Political-by-Political Parties FY 2014-15 to 2018-19 in that contest in Elections in Bihar Available at :https://adrindia.org. last accessed on 26.08.2024

highlighted in *ADR v. Union of India* (2024). The Court noted that opacity was not incidental but a systemic feature of the statutory design.

Donation size further deepened inequality. Most contributions clustered in high-denomination categories, with crore-level donations becoming the norm. Chart-11 shows narrowing donor diversity and the dominance of corporate actors, sidelining small, individual contributions. This raises the dilemma of whether political equality can survive when economic power speaks loudest.

Election-year spikes heightened these risks. Contributions surged just before polls, exposing parties to quid-pro-quo influence and policy capture. Chart-11 marks these sharp climbs, showing how elections risk becoming exercises in financial muscle rather than deliberative choice. The absence of timely disclosure during these moments eroded electoral legitimacy.

The judiciary responded by striking down the Electoral Bond Scheme. The Supreme Court explicitly tied empirical patterns opacity, concentration, and large-ticket funding—to constitutional guarantees of equality and informed choice. This marked both a doctrinal correction and a methodological shift: adjudication grounded in empirical realities.

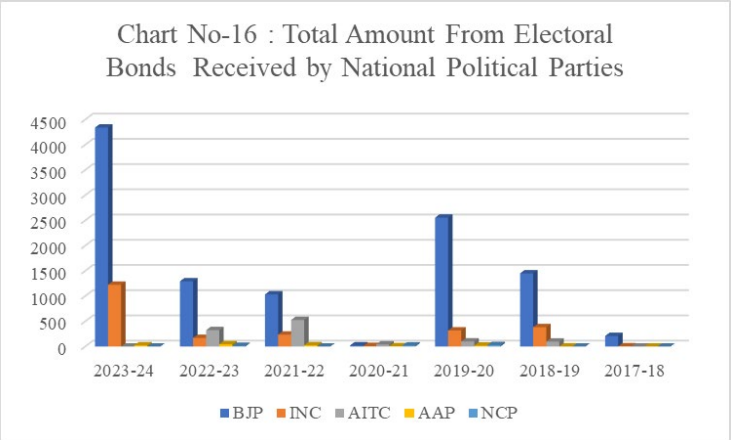
In sum, Table-9 and Chart-11 warn of deep constitutional stress points. Concentrated funds entrench inequality, opacity denies citizens transparency, and large-ticket corporate donations erode political participation. The Court's 2024 intervention reaffirmed disclosure as a constitutional baseline, but lasting reform requires statutory design that embeds fairness, transparency, and equality—lest unchecked money and opacity unravel the democratic fabric.

6.4 **Empirical Analysis of Electoral Bonds data:**

The evidence emerging from Table-10 and Chart-16 underscores a striking escalation in corporate donations channelled through Electoral Bonds after 2018. The dominance of high-value denominations particularly reveals that crore-level bonds constituted the overwhelming bulk of inflows, while smaller denominations became increasingly marginal. The graphic representation in Chart-16 makes this skew undeniable, displaying a clear concentration curve that reflects how the weight of political finance shifted away from retail or participatory contributions toward high-ticket corporate

instruments. What is visible here is not merely a statistical anomaly but a fundamental restructuring of the financial architecture of Indian elections.

1.1.



[66]

Table-10

Total Amount From Electoral Bonds Received by National Political Parties

Year	BJP	INC	AITC	AAP	NCP	Total
2023-24	4340.5	1225.12	ND	22.68	ND	**5588.3**
2022-23	1294.14	171.02	325.1	45.45	14	**1849.71**
2021-22	1033.7	236.09	528.14	25.12	0	**1823.05**
2020-21	22.835	10.07	42	5.95	20.5	**101.355**
2019-20	2555	317.86	100.46	17.76	29.25	**3020.33**
2018-19	1450.89	383.26	97.28	1.18	0	**1932.61**
2017-18	210	5	ND	ND	ND	**215**
Total	**6566.565**	**1123.3**	**1092.98**	**95.46**	**63.75**	**8942.055**

[67]

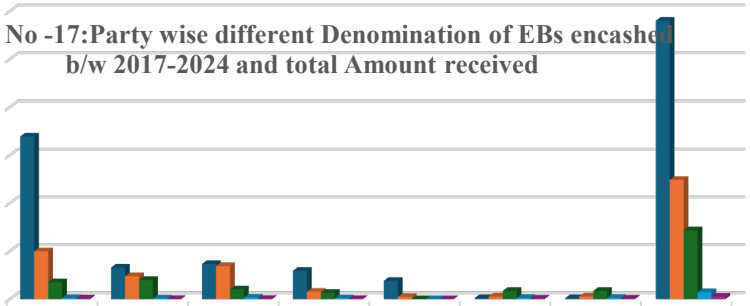
The evidence emerging from Table-10 and Chart-16 underscores a striking escalation in corporate donations channelled through Electoral Bonds after 2018. The dominance of high-value denominations particularly reveals that crore-level bonds constituted the overwhelming bulk of inflows, while smaller denominations became increasingly marginal. The graphic representation in Chart-16 makes this skew undeniable, displaying a clear concentration curve that reflects how the weight of political finance shifted away from retail or participatory contributions toward high-ticket corporate instruments. What is visible here is not merely a statistical anomaly but a fundamental restructuring of the financial architecture of Indian elections.

[66] Total Electoral Funds Received by National Political Parties

[67] Table 10: Total Electoral Funds Received by National Political Parties Available at :https://adrindia.org. last accessed on 26.08.2024

Legally and constitutionally, such concentration carries serious implications. First, it unsettles the principle of electoral equality under Article 14. Financing instruments that are structurally accessible only to large corporations effectively exclude smaller actors—whether individual citizens, grassroots associations, or civil society organisations—from meaningful participation in the political process. Second, this concentration entrenches asymmetry between political parties themselves, since incumbents with privileged access to corporate networks gain an electoral advantage that is capital-driven rather than deliberation-driven. In both respects, the empirical trend highlights how structural design in funding mechanisms translates directly into constitutional distortions.

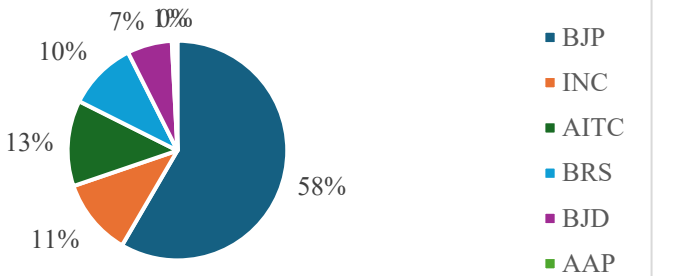
Chart No -17:Party wise different Denomination of EBs encashed b/w 2017-2024 and total Amount received



	BJP	INC	AITC	BRS	BJD	AAP	NCP	Total
₹ 1 cr	6781	1318	1467	1181	766	50	46	11609
₹ 10 Lkh	1994	958	1384	310	95	115	115	4971
₹ 1 Lkh	706	800	410	267	0	345	345	2873
₹ 10,000	48	30	65	39	0	55	55	292
₹ 1,000	31	5	14	9	0	25	25	109

[68]

Chart No-18: Party wise different Denomination of EBs encashed b/w 2017-2024 and total Amount received



[69]

Table-11 highlights the widening divide between disclosed and undisclosed donations. While the Representation of the People Act, 1951 mandated disclosure above ₹20,000, the Electoral Bond Scheme reversed this baseline.

[68] Party wise different Denomination of EBs encashed b/w 2017-2024 and total Amount received

[69] Party wise different Denomination of EBs encashed b/w 2017-2024 and total Percentage

Chart-17 makes this reversal stark, showing opaque contributions overtaking disclosed ones by 2022–23. This was no accident—it institutionalised secrecy by design.

Table No-11

Party wise different Denomination of EBs encashed b/w 2017-2024 and total Amount received

Name of Pol Party	₹ 1 cr	₹ 10 Lkh	₹ 1 Lkh	₹ 10,000	₹ 1,000	₹ Total
BJP	6781	1994	706	48	31	**9560**
	67,81,00,00,000.00	1,99,40,00,000.00	7,06,00,000.00	4,80,000.00	31,000.00	**69875111000**
INC	1318	958	800	30	5	**3111**
	13,18,00,00,000.00	95,80,00,000.00	8,00,00,000.00	3,00,000.00	5,000.00	**14218305000**
AITC	1467	1384	410	65	14	**3340**
	14,67,00,00,000.00	1,38,40,00,000.00	4,10,00,000.00	6,50,000.00	14,000.00	**16095664000**
BRS	1181	310	267	39	9	**1806**
	11,81,00,00,000.00	31,00,00,000.00	2,67,00,000.00	3,90,000.00	9,000.00	**12147099000**
BJD	766	95	0	0	0	**861**
	7,66,00,00,000.00	9,50,00,000.00	-	-	-	**7755000000**
AAP	50	115	345	55	25	**590**
	50,00,00,000.00	15,50,00,000.00	3,45,00,000.00	5,50,000.00	25,000.00	**690075000**
NCP	46	115	345	55	25	**586**
	46,00,00,000.00	15,50,00,000.00	3,45,00,000.00	5,50,000.00	25,000.00	**650075000**
Total	**11513**	**4741**	**2183**	**182**	**59**	**18678**
	1,16,09,00,00,000.00	**5,05,10,00,000.00**	**28,73,00,000.00**	**29,20,000.00**	**1,09,000.00**	**121431329000**[70]

The constitutional dilemma rests on Article 19(1)(a). Voters are entitled to know the financial influences shaping electoral platforms, but anonymous bonds hollowed out this right. Parliament, acting under Articles 327–328, used its authority to legalise opacity rather than safeguard rights. The Supreme Court, in *ADR v. Union of India* (2024), recognised this distortion, holding that opacity in funding was incompatible with the informational core of free expression. Here, data and doctrine converged: empirical reality exposed constitutional breach.

Temporal analysis deepens concern. Chart-18 traces monthly encashments, revealing sharp spikes before general and state elections. Bonds were not a routine channel but a strategic instrument deployed at critical political moments, amplifying risks of quid-pro-quo exchanges as corporate donors aligned large sums with expected policy favours.

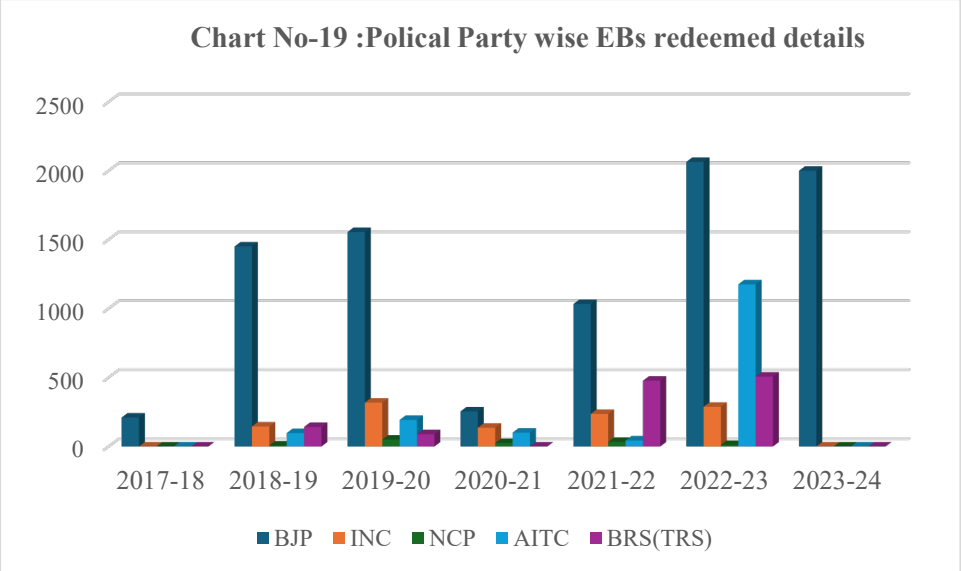
These patterns generated constitutional dilemmas across multiple axes. Under Article 14, election-time surges entrenched inequality, disproportionately benefitting ruling parties with deeper corporate links. Under Article 19(1)(a),

[70] Mode of Payment declared by National Parties: FY 2018-19 to 2022-23 (in Rs Cr) : Available at :https://adrindia.org. last accessed on 26.08.2024

opacity deprived citizens of the ability to evaluate campaign claims in light of financial interests. Under Article 324, the neutrality of the Election Commission was undermined when secrecy was legitimised by statute.

The Supreme Court's 2024 ruling directly addressed these distortions, noting that high-value bonds, lack of disclosure, and election-cycle clustering were foreseeable outcomes of the scheme. It held the EBS failed proportionality and reasonableness tests: privileging opacity over transparency and corporate wealth over democratic equality. By grounding its reasoning in empirical evidence, the Court signalled a doctrinal shift—constitutional adjudication in political finance can no longer ignore measurable electoral realities.

Taken together, Table-10, Chart-16, Table-11, and Charts-17–18 show how the scheme reshaped political finance: concentration of funds, legalised anonymity, and election-time surges created systemic risks. These amounted to violations of Article 14's electoral equality, Article 19(1)(a)'s informational right, and misuse of Articles 327–328's law-making power. The Court's 2024 intervention was not just corrective but constitutionally essential. Yet the persistence of these trends warns that democracy remains fragile when statutory design itself legitimises opacity.

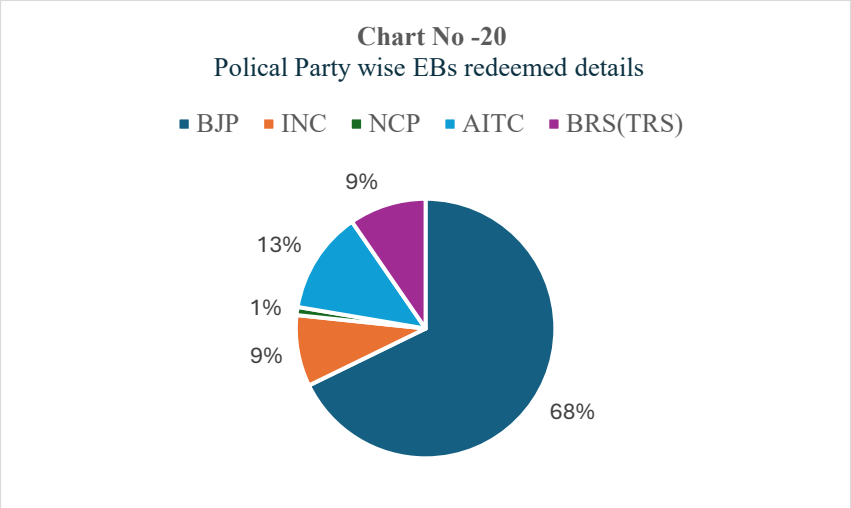


[71]

Table-12 and Charts 19–20 reveal how the Electoral Bond Scheme reshaped India's political finance. By 2022–23, disclosed donations had shrunk to near

[71] Political Party wise EBs Redeemed total amount details

insignificance, with anonymous contributions dominating. Chart-19 highlights this imbalance vividly, while Chart-20 shows opacity rising consistently across electoral cycles, establishing secrecy as the system's defining feature.



[72]

Table No.12									
Polical Party wise EBs redeemed details									
FY	**2017-18**	**2018-19**	**2019-20**	**2020-21**	**2021-22**	**2022-23**	**2023-24**	**Total**	**% Share**
BJP	210	1450	1555	254	1033	2064	1999.96	**8565.96**	67.77
INC	0	145	318	136	236	288	0	**1123**	8.89
NCP	0	7	50	25	33.5	11.5	0	**127**	1.00
AITC	0	97.28	192.66	100.46	43.72	1175.04	0	**1609.16**	12.73
BRS(TRS	0	141.5	89	0	477	506.5	0	**1214**	9.61
TOTAL	**210**	**1840.78**	**2204.66**	**515.46**	**1823.22**	**4045.04**	**1999.96**	**12639.12**	100.00

[73]

The findings are clear. First, disclosure norms under the Representation of the People Act, 1951 were effectively neutralised by later interventions. Second, the persistence of opacity across years confirms that this was a structural redesign, not a temporary anomaly. Third, election years consistently saw spikes in undisclosed, high-value donations, reducing declared contributions to a negligible fraction.

These trends generate serious constitutional dilemmas. Under Article 19(1)(a), voters cannot make informed choices without financial transparency, leaving free speech hollow. Under Article 14, opacity privileges capital-rich actors while excluding small donors and grassroots organisations, tilting competition

[72] Political Party wise EBs Redeemed total percentage details
[73] Table-12: Political Party wise EBs Redeemed total amount details: Available at :https://adrindia.org. last accessed on 26.08.2024

toward ruling parties. Under Articles 327–328, Parliament inverted its constitutional mandate, legalising secrecy, dismantling caps, and permitting even loss-making companies to fund politics.

The roots of these dilemmas lie in deliberate statutory design. The 2017 Finance Act, controversially passed as a Money Bill, removed corporate caps and routed donations through SBI-issued bonds. Marketed as a reform against black money, it entrenched opacity instead. Charts 19 and 20 confirm that these choices institutionalised secrecy, not transparency.

The Supreme Court's 2024 ruling in *ADR v. Union of India* directly addressed these distortions. It observed that disclosure, once the rule, had become the exception, and held that anonymity was incompatible with the voter's right to know and corrosive of electoral equality. By grounding its reasoning in the empirical record, the Court affirmed that laws designed to privilege secrecy cannot withstand constitutional scrutiny.

In sum, the evidence of Table-12 and Charts 19–20 shows that the Electoral Bond Scheme transformed political finance into an opaque system marked by rising anonymous donations, election-time surges, and systemic bias in favour

of corporate wealth. The Supreme Court's 2024 intervention restored disclosure as a baseline, but the persistence of these patterns warns that democracy is most vulnerable when the legal framework itself becomes the vehicle of its erosion.

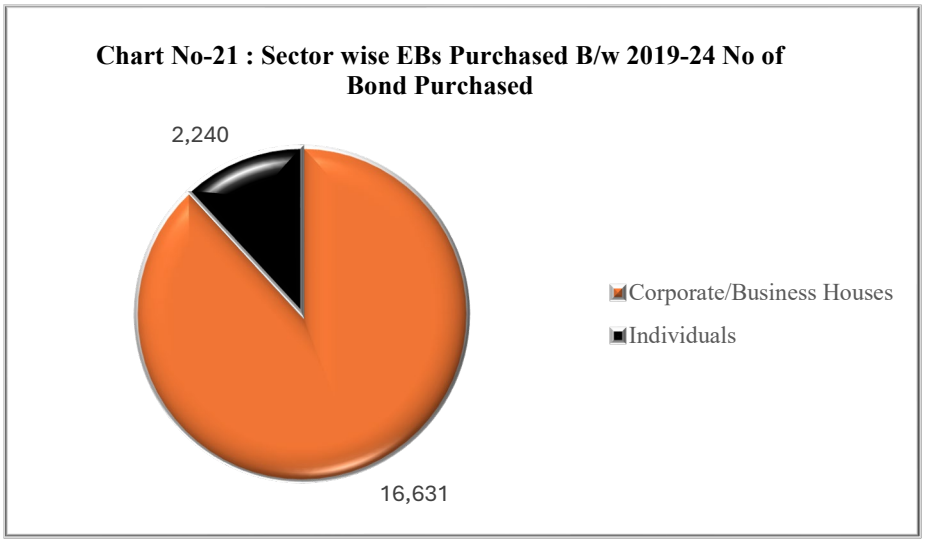
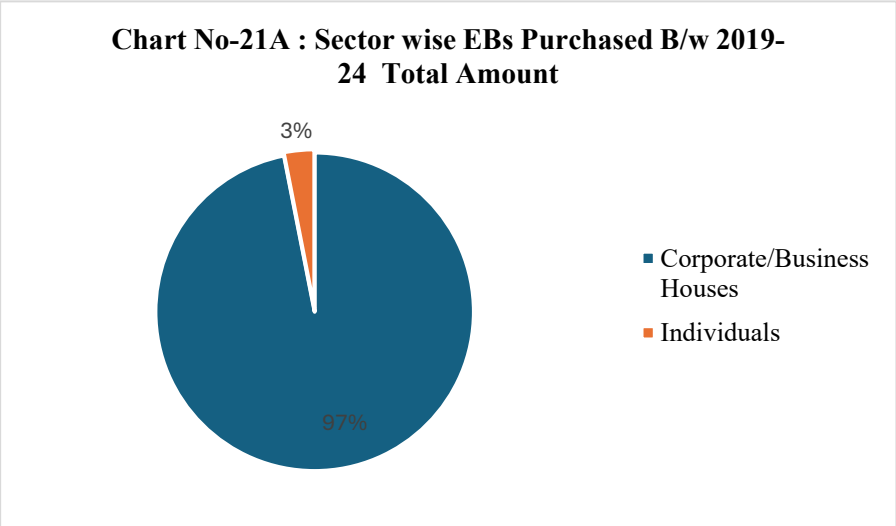


Table-13			
Sectorwise Ebs purchased from 2019-2024			
Sector	Total Amount	No of Bonds Purchased	Percentage of share
Corporate/ Busines Houses	1,17,80,02,97,000	16631	96.9
Individuals	3,75,48,35,000	2240	3.1
Total	1,21,55,51,32,000	18871	100.0

[74]

Table-13 and Charts 21–21A reveal how the Electoral Bond Scheme reshaped party finance. The data shows that one or two dominant national parties consistently cornered the bulk of resources, while smaller and regional parties were left with marginal shares. Chart-21 illustrates the steep, uneven curves of party-wise encashments, while Chart-21A confirms this imbalance as a



recurring pattern across successive election cycles.

The findings are clear: bond encashments entrenched financial asymmetry, advantaged dominant parties, and surged around election periods, making the scheme a strategic instrument rather than a steady funding channel.

These patterns raise constitutional dilemmas. Under Article 14, the promise of equal competition collapses when opaque, high-value instruments benefit only a few. Under Article 19(1)(a), voters are denied disclosure essential for informed choice. Under Articles 327–328, Parliament inverted its mandate by legalising secrecy and institutionalising inequality.

The distortions stemmed from statutory design—exclusive routing through the State Bank of India, removal of corporate caps, and eligibility for loss-making

[74] Sector wise EBs Purchased B/w 2019-24

companies. Chart-22 highlights sharp surges in opaque funding at election time, amplifying risks of quid-pro-quo politics.

The Supreme Court's 2024 judgment in *ADR v. Union of India* directly engaged with this evidence, holding that the scheme created a structurally biased funding regime incompatible with constitutional values of equality and transparency. The Court stressed that these outcomes were not incidental but foreseeable consequences of legislative design.

In sum, Table-13 and Charts 21–21A demonstrate a finance regime marked by concentration, opacity, and systemic bias. The constitutional stakes are stark erosion of equality, hollowing of the voter's right to know, and misuse of legislative power. The Court's intervention in 2024 was thus essential to restore transparency and protect the democratic fabric.

6.5 Empirical Analysis of Political Funding Declarations (2014–24):

The combined evidence from Tables 14–17 and their visual counterparts in Charts 22–25 offers a panoramic view of how the Electoral Bond Scheme reshaped the political finance architecture in India. Each dataset captures different facets of the scheme ranging from denomination patterns and source-concentration trends to temporal bunching during election cycles and together they confirm a structural transformation marked by concentration, opacity, and asymmetry.

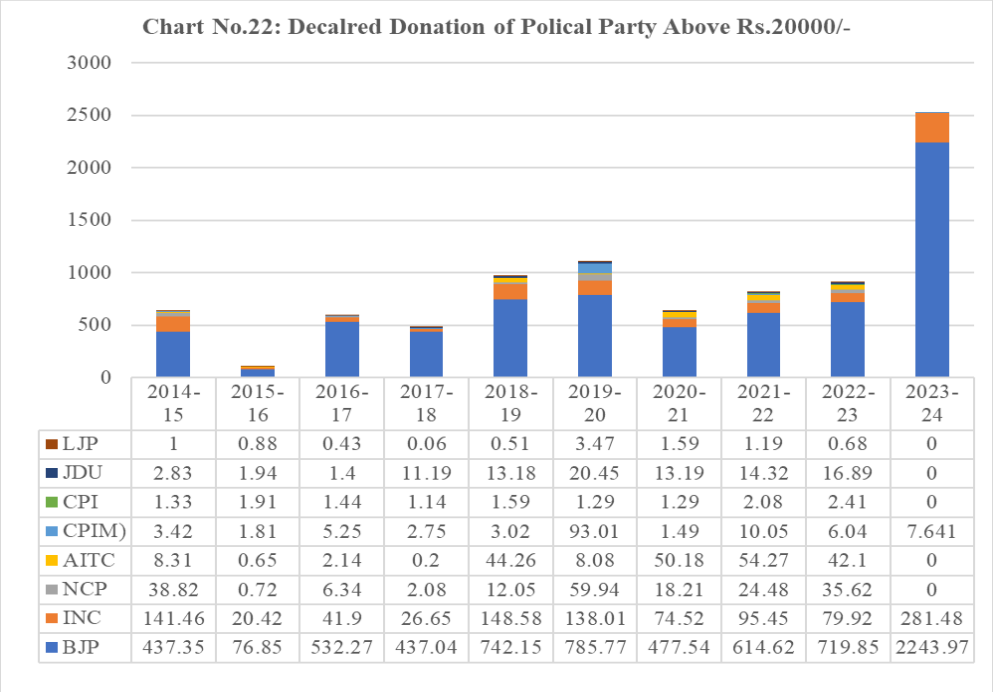
Table No.14

Declared Donation of Political Party Above Rs.20000/-

	Financial Year										
Political Party	**2014-15**	**2015-16**	**2016-17**	**2017-18**	**2018-19**	**2019-20**	**2020-21**	**2021-22**	**2022-23**	**2023-24**	**Total**
BJP	437.35	76.85	532.27	437.04	742.15	785.77	477.54	614.62	719.85	2243.97	**7067.41**
INC	141.46	20.42	41.9	26.65	148.58	138.01	74.52	95.45	79.92	281.48	**1048.39**
NCP	38.82	0.72	6.34	2.08	12.05	59.94	18.21	24.48	35.62	ND	**198.26**
AITC	8.31	0.65	2.14	0.2	44.26	8.08	50.18	54.27	42.1	ND	**210.19**
CPIM)	3.42	1.81	5.25	2.75	3.02	93.01	1.49	10.05	6.04	7.641	**134.481**
CPI	1.33	1.91	1.44	1.14	1.59	1.29	1.29	2.08	2.41	ND	**14.48**
JDU	2.83	1.94	1.4	11.19	13.18	20.45	13.19	14.32	16.89	ND	**95.39**
LJP	1	0.88	0.43	0.06	0.51	3.47	1.59	1.19	0.68	ND	**9.81**
TOTAL	**634.52**	**105.18**	**591.17**	**481.11**	**965.34**	**1110.02**	**638.01**	**816.46**	**903.51**	**2533.091**	**8778.411**

75

[75] Declared Donation of Political Party Above Rs.20000/-



	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
LJP	1	0.88	0.43	0.06	0.51	3.47	1.59	1.19	0.68	0
JDU	2.83	1.94	1.4	11.19	13.18	20.45	13.19	14.32	16.89	0
CPI	1.33	1.91	1.44	1.14	1.59	1.29	1.29	2.08	2.41	0
CPIM)	3.42	1.81	5.25	2.75	3.02	93.01	1.49	10.05	6.04	7.641
AITC	8.31	0.65	2.14	0.2	44.26	8.08	50.18	54.27	42.1	0
NCP	38.82	0.72	6.34	2.08	12.05	59.94	18.21	24.48	35.62	0
INC	141.46	20.42	41.9	26.65	148.58	138.01	74.52	95.45	79.92	281.48
BJP	437.35	76.85	532.27	437.04	742.15	785.77	477.54	614.62	719.85	2243.97

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Table-14 and Chart-22 trace denomination-wise patterns of bond encashments. The figures make it unambiguous that high-value denominations overwhelmingly dominated inflows, with smaller denominations contributing only marginally. Chart-22 sharpens this point visually, showing steep curves for crore-level bonds, which signals the shift of political finance towards capital-heavy channels. The empirical finding here is that the scheme systematically privileged corporate donors while sidelining small, retail contributions, thereby undermining the participatory character of political finance.

Table No-15 :

Total Number of Donars and Total Amount of Donations Decalred by National Parties from 2019-23

FY	FY 2019-20			FY 2020-21			FY 2021-22			FY 2022-23		
National Party	No of Donation	Total Donation in ₹ Cr	Average Donation in ₹ Lakhs	No of Donation	Total Donation in ₹ Cr	Average Donation in ₹ Lakhs	No of Donation	Total Donation in ₹ Cr	Average Donation in ₹ Lakhs	No of Donation	Total Donation in ₹ Cr	Average Donation in ₹ Lakhs
BJP	5576	785.77	14.09	2206	477.54	21.64	4957	614.62	12.39	7945	719.85	9.06
INC	350	139.01	39.71	1077	74.52	6.91	1255	95.45	7.6	894	79.92	8.94
NCP	53	59.94	113.1	79	26.26	33.24	247	57.5	23.44	6	65.58	1093.00
CPI(M)	241	19.69	8.17	226	12.9	5.7	535	10.05	1.87	314	6.07	1.93
AITC	63	8.08	12.83	26	0.52	1.63	7	0.43	6.14	58	51.66	89.07
CPI	80	1.29	1.62	124	1.49	1.2	124	1.94	1.56	20	1.18	5.90
NPEP	ND	ND	ND	15	0.59	3.96	16	0.35	2.21	ND	ND	NA
Total	6363	1013.78		3753	593.82		7141	780.34		9237	924.26	

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[76] Declared Donation of Political Party Above Rs.20000/-

[77] Political Party wise EBs Redeemed total amount details : Available at :https://adrindia.org. last accessed on 26.08.2024

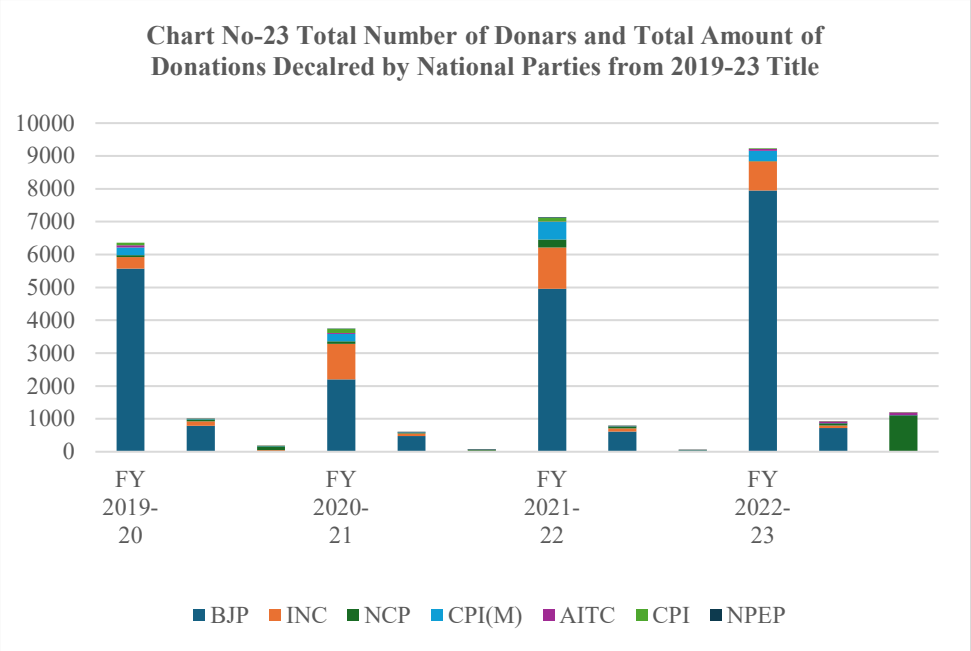


Table-15 and Chart-23 provide insights into party-wise shares. The data reveals entrenched concentration of resources with one or two dominant parties securing disproportionate advantages, while regional and smaller parties were confined to a narrow slice of the financial pie. Chart-23 demonstrates this imbalance vividly, with disproportionate peaks aligned to ruling parties. The finding is that financial asymmetry was not incidental but structural, creating an electoral landscape skewed in favour of incumbents.

Table No.16

Decalred Donation from Individuals and Corporate Sectors to political Party Above Rs.20000/-

FY	2014-15		2015-16		2016-17		2017-18		2018-19	
Political Party	Ind Don	Corp Don	Ind Don	Corp Don	Ind Don	Corp Don	Ind Don	Corp Don	Ind Don	Corp Don
BJP	**79.51**	357.84	72.71	389.56	231.31	705.81	69.56	385.48	169.68	504.29
INC	**121.2**	20.26	25.1	16.8	94.71	110.65	54.79	144.36	41.53	105.25
NCP	**5.87**	8.14	3.45	1.62	3.86	2.55	2	3.2	4.3	4.8
AITC	**6.6**	2.74	2.96	1.38	4.1	2.16	7.84	12.52	17.01	80.27
CPIM)	**0.03**	3.09	0.04	2.85	0.06	3.16	0.06	3.82	0.1	4.12
CPI	**0.04**	1.01	0.03	0.6	0.06	0.8	0.05	0.99	0.05	1.03
JDU	**1.38**	2.72	0.69	0.92	0.89	1.26	1.75	4.1	1.7	3.8

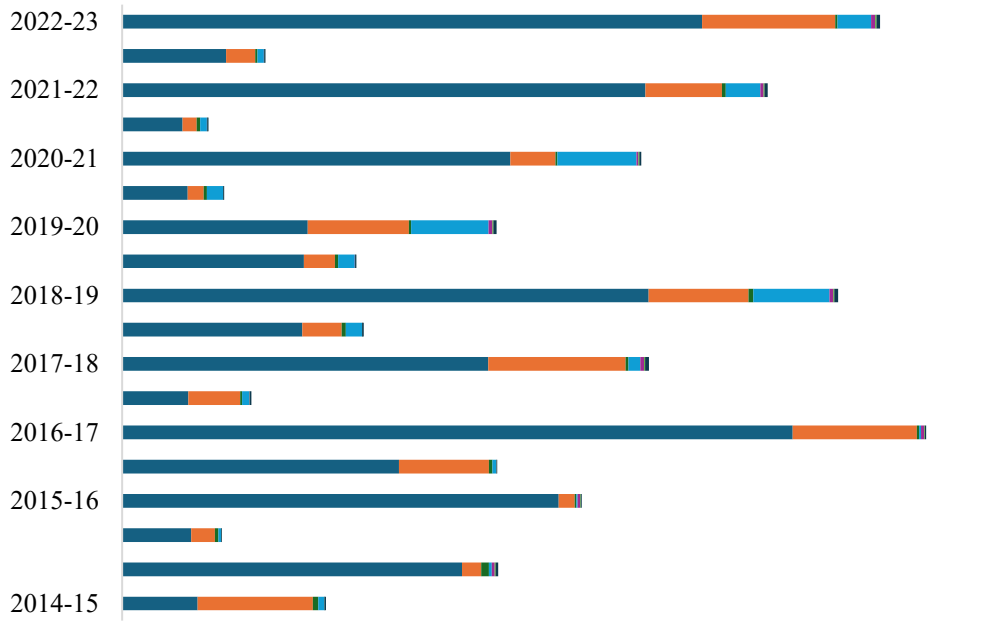
FY	2019-20		2020-21		2021-22		2022-23		2023-24		Total	
Political Party	Ind Don	Corp Don	Ind Don	Corp Don	Ind Don	Corp Don	Ind Don	Corp Don	Ind Don	Corp Don	Ind Don	Corp Don
BJP	121.32	145.49	68.89	408.65	63.66	550.86	109.36	510.49	124.97	2019	**1110.97**	**5977.47**
INC	32.56	106.45	16.85	47.65	14.9	80.55	30.9	48.9	80	201.48	**512.54**	**882.35**
NCP	3.6	2.1	3.4	1.95	3.6	4.1	2.24	32.6	0	0	**32.32**	**61.06**
AITC	17.58	81.6	17.1	83.3	7.2	36.5	6.85	35.25	0	0	**87.24**	**335.72**
CPIM)	0.11	4.21	0.04	1.94	0.04	10.28	0.08	41.39	2.2	5.44	**2.76**	**80.3**
CPI	0.06	0.97	0.04	0.88	0.06	1.06	0.08	1.21	0	0	**0.47**	**8.55**
JDU	1.45	3.35	1.15	2.06	1.32	3.17	1.47	3.76	0	0	**11.8**	**25.14**

[78] Available at :https://adrindia.org. last accessed on 26.08.2024

[78] Declared donation from Individuals and Corporate Sectors to Political Party Above Rs.20000/- From 2014-2024

Table-16 and Chart-24 shift the lens to temporal analysis, capturing surges in encashments around general and state elections. The data clearly shows clustering of bond encashments in pre-election months, suggesting that the Electoral Bond Scheme functioned as an election-year financing mechanism rather than a regularised, year-round channel. The finding here is that opacity and concentration were most acute during the very period when transparency is most critical for ensuring democratic accountability.

Chart No 24 : Decalred Donation from Individuals and Corporate Sectors to Polical Party Above Rs.20000/-



	2014-15		2015-16		2016-17		2017-18		2018-19		2019-20		2020-21		2021-22		2022-23	
BJP	79.5	358	72.7	460	291	706	69.6	385	190	554	191	195	68.9	409	63.7	551	109	610
INC	121	20.3	25.1	16.8	94.7	131	54.8	144	41.5	105	32.6	106	16.9	47.7	14.9	80.6	30.9	140
NCP	5.87	8.14	3.45	1.62	3.86	2.55	2	3.2	4.3	4.8	3.6	2.1	3.4	1.95	3.6	4.1	2.24	2.6
AITC	6.6	2.74	2.96	1.38	4.1	2.16	7.84	12.5	17	80.3	17.6	81.6	17.1	83.3	7.2	36.5	6.85	35.3
CPIM)	0.03	3.09	0.04	2.85	0.06	3.16	0.06	3.82	0.1	4.12	0.11	4.21	0.04	1.94	0.04	3.28	0.08	4.39
CPI	0.04	1.01	0.03	0.6	0.06	0.8	0.05	0.99	0.05	1.03	0.06	0.97	0.04	0.88	0.06	1.06	0.08	1.21
JDU	1.38	2.72	0.69	0.92	0.89	1.26	1.75	4.1	1.7	3.8	1.45	3.35	1.15	2.06	1.32	3.17	1.47	3.76

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[79] Declared donation from Individuals and Corporate Sectors to Political Party Above Rs.20000/-

Table No-17								
Mode of Payment declared by National Parties :FY-2018-19 to 2022-23 (in Rs Cr)								
Pol Party	Cheque/DD		Bank Transfer		Incomplete & Undeclared		Total no of donations	Total amount
	Number of donations	Amount of Contributions	Number of donations	Amount of Contributions	Number of donations	Amount of Contributions		
BJP	5640	2221	2315	1431.85	736	206.01	8691	3858.86
INC	2428	873.93	1978	500.1	20	5.8	4426	1379.83
NCP	2	0.2	35	2.88	0	0	37	3.08
CPI (M)	72	3.22	15	0.58	0	0	87	3.8
AITC	42	11.49	50	6.72	1	0.14	93	18.35
TOTAL	**8184**	**3109.84**	**4393**	**1942.13**	**757**	**211.95**	**13334**	**5263.92**

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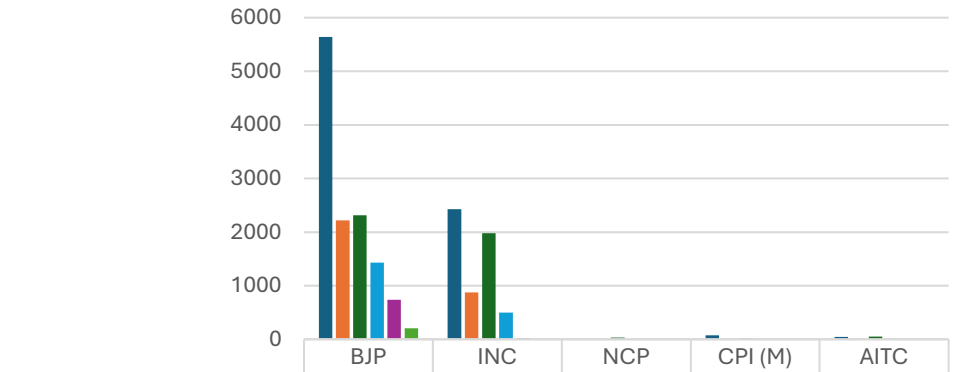
Chart-25 : Mode of Payment declared by National Parties :FY-2018-19 to 2022-23 (in Rs Cr)



	BJP	INC	NCP	CPI (M)	AITC
Cheque/DD Number of donations	5640	2428	2	72	42
Cheque/DD Amount of Contributions	2221	873.93	0.2	3.22	11.49
Bank Transfer Number of donations	2315	1978	35	15	50
Bank Transfer Amount of Contributions	1431.85	500.1	2.88	0.58	6.72
Incomplete & Undeclared Number of donations	736	20	0	0	1
Incomplete & Undeclared Amount of Contributions	206.01	5.8	0	0	0.14

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Table-17 and Chart-25 reveal the near disappearance of disclosed donations and the steep rise of anonymous contributions, making opacity the systemic norm by 2022–23. This pattern, reinforced by the evidence in Tables 14–17 and Charts 22–25, demonstrates how India's political finance regime was structurally

[80] Mode of Payment declared by National Parties: FY 2018-19 to 2022-23 (in Rs Cr)
[81] Mode of Payment declared by National Parties: FY 2018-19 to 2022-23 (in Rs Cr): Available at :https://adrindia.org. last accessed on 26.08.2024

reshaped after 2017. The data highlights three recurring features: the concentration of funds in one or two dominant national parties, the replacement of disclosure obligations under the Representation of the People Act, 1951 with Finance Act amendments that legitimised "unknown sources," and the consistent surges of bond encashments clustered around election periods. Together, these patterns confirm that the Electoral Bond Scheme was not a neutral financing mechanism but an election-centric instrument that entrenched financial inequality and institutionalised opacity.

From these empirical findings emerge profound constitutional dilemmas. Under Article 19(1)(a), the voter's right to know was hollowed out as disclosure became negligible, depriving citizens of the financial information needed to make informed electoral choices. Free expression and democratic participation lost their substance in the absence of transparency. Article 14 was equally compromised, as electoral competition tilted in favour of ruling parties with stronger corporate linkages, leaving smaller and regional actors structurally disadvantaged. Finally, Articles 327 and 328, which empower Parliament to legislate in the interest of electoral fairness, were inverted; rather than fortifying transparency, the legislature institutionalised secrecy and entrenched inequality.

The reasons behind these distortions were not accidental but lay squarely in statutory design. The 2017 Finance Act, controversially passed as a Money Bill, dismantled existing safeguards by removing corporate donation caps, authorising contributions even from loss-making and foreign-controlled entities, and routing all transactions through the State Bank of India. This created a dual-information regime in which the State retained knowledge of donor identities, while the electorate was denied the same access. The bunching of encashments around election months underscored that these statutory choices facilitated opacity precisely when transparency was most crucial, transforming elections into contests of financial muscle rather than deliberative choice.

The Supreme Court's 2024 ruling in *ADR v. Union of India* directly addressed these realities. It observed that the dominance of high-value instruments, the systemic concentration of resources, and the near-total absence of disclosure were foreseeable outcomes of the legislative framework. The Court concluded that the Electoral Bond Scheme failed the tests of proportionality and reasonableness by prioritising secrecy over transparency and corporate wealth

over electoral equality. Crucially, the Court grounded its reasoning in the empirical record, reading the distortions reflected in Tables 14–17 and Charts 22–25 into its doctrinal analysis. This marked a methodological shift in constitutional adjudication, signalling that questions of political finance cannot be resolved in the abstract but must engage with measurable realities of electoral practice.

In conclusion, the evidence from 2018 to 2024 demonstrates that India's political finance regime was structurally transformed into one dominated by opacity, concentration, and electoral asymmetry. Disclosures were hollowed out, anonymous donations escalated during critical electoral cycles, and legislative power was employed to sustain secrecy rather than transparency. The constitutional dilemmas are stark: the erosion of the voter's right to information under Article 19(1)(a), the denial of equal electoral competition under Article 14, and the misuse of parliamentary authority under Articles 327 and 328. The Supreme Court's intervention in 2024 was therefore more than a corrective judgment; it was a constitutional necessity aimed at restoring disclosure as a democratic baseline. Yet the persistence of these patterns across successive cycles cautions that judicial intervention alone cannot safeguard democracy when statutory design itself becomes an instrument of opacity.

CHAPTER 7
RESEARCH HYPOTHESIS TESTING ANALYSIS

This section presents a doctrinal and empirical hypothesis-testing analysis, integrating the data trends from 2014–2024 with a constitutional and comparative legal framework. Each hypothesis is tested against the available evidence to validate its propositions and situate the findings within the broader context of democratic governance.

7.1. Hypothesis 1: Post-2017 legal reforms have significantly undermined transparency in political finance.

Test Outcome: Validated

The empirical evidence unequivocally supports this hypothesis. Data from ADR and ECI records, synthesized in CHARTS 1–7 and TABLES 1–4, shows a dramatic and sustained increase in anonymous "unknown-source" funding, which constituted over 60–70% of total political receipts for major parties between 2018 and 2023. This trend directly correlates with the “Finance Act, 2017”, amendments to “Section 182 of the Companies Act”, which removed the cap on corporate donations, and to the “Representation of the People Act”, which exempted Electoral Bond (EB) contributions from disclosure.

Doctrinally, this regulatory shift constitutes a regression from the transparency standards previously established in rulings like *“PUCL v. Union of India” (2003).* The legal design of the EBS created a statutorily protected opacity that was fundamentally inconsistent with the voter's right to know under Article 19(1)(a). The scheme's architecture was not an accidental failure of transparency but a deliberate redesign, which the data clearly reflects.

7.2 Hypothesis 2: The statutory framework lacks sufficient safeguards to prevent corporate influence from distorting electoral competition.

Test Outcome: Validated

The evidence confirms a direct link between the deregulated statutory framework and the concentration of corporate influence. TABLES 14–17 and CHARTS 17–20 consistently show that the ruling party received a persistent

and disproportionately large share of funding, often exceeding 55–60% of total receipts. The empirical data further reveals that this funding was dominated by high-denomination instruments (the ₹1 crore EB) and was sourced from sectors with a high stake in policy outcomes, such as infrastructure and mining.

This pattern reveals a critical statutory lacuna. The removal of the 7.5% cap on corporate donations enabled unlimited, opaque influence, a practice that stands in sharp contrast to comparative democratic benchmarks. Jurisdictions like Canada and Germany employ robust caps and disclosure requirements precisely to prevent such resource asymmetry and to insulate democratic competition from economic capture. The absence of similar safeguards in India's legal framework means it fails to uphold the constitutional commitment to free and fair elections under the basic structure doctrine.

7.3 Hypothesis 3: Judicial responses to electoral finance reforms have been reactive and delayed, contributing to the entrenchment of opaque funding practices.

Test Outcome: Validated with temporal qualification

This hypothesis is supported by the timeline of events. The “Electoral Bond Scheme” operated for nearly seven years, from its introduction in 2017 to the Supreme Court's decision i*n ADR v. Union of India* in 2024. During this period, the empirical data from CHARTS 8–10 and TABLES 5–8 shows a steady growth in anonymous inflows, which structurally entrenched the incumbent party’s financial advantage. While the Supreme Court's final judgment was a robust and decisive constitutional intervention, its procedural delay in granting interim relief allowed the scheme to function for multiple election cycles. This normalized the practice of anonymous funding and its consequential effects, such as donor concentration and funding asymmetry. The judiciary's role was therefore remedial rather than preventive, highlighting a procedural lag that had significant and lasting empirical consequences.

7.4 Hypothesis 4: Regulatory institutions such as the ECI and RBI are structurally constrained in their capacity to monitor and enforce electoral finance laws.

Test Outcome: Validated

The evidence confirms that regulatory bodies were fundamentally constrained by the legal architecture of the EBS. Internal communications reveal the *"Union of India v. ADR"* initial opposition to the scheme's anonymity provisions, which was overridden by the government. The "Election Commission of India" (ECI), despite its constitutional mandate under Article 324, lacked the statutory powers for real-time audit and prosecution. As a result, its oversight was fragmented and largely ineffective.

The fragmentation of oversight among the ECI, RBI, CBDT, and MCA created a system of diffused accountability, where no single body had the comprehensive authority to trace the money trail. This stands in unambiguous contrast to comparative models like the UK Electoral Commission, which has a unified and independent authority to monitor political finance. The empirical observation of non-compliance with disclosure rules and the prevalence of "ND" entries in filings, without commensurate enforcement, provides a clear case for the structural incapacity of these institutions.

7.5 Hypothesis 5: Comparative legal models from Canada, Germany, and the UK offer adaptable frameworks for India to enhance transparency and accountability.

Test Outcome: Validated

The comparative analysis confirms that international models provide a viable and adaptable framework for reforming India's political finance system. These jurisdictions have successfully implemented robust systems that prioritize transparency and accountability. They feature:

1. Real-time Disclosure: Mechanisms for the public to access donation information within days of a contribution.
2. Enforceable Caps and Restrictions: Statutory limits on both individual and corporate donations, and in some cases, sectoral restrictions.
3. Independent Oversight: The presence of a unified and politically insulated authority with the power to investigate and penalize violations.

These models, as embodied in statutes like the UK's "Political Parties, Elections and Referendums Act 2000" and the Canada Elections Act, demonstrate that it is possible to balance political funding needs with constitutional principles.

Their success in achieving higher transparency and compliance rates provides a strong empirical and doctrinal basis for reform in India, which can be tailored to the country's specific constitutional and political context.

Table No- 18: Integrated Hypothesis Validation Table

Hypothesis	Validation Status	Core Evidence	Doctrinal Anchor
H1	Validated	Rise in unknown-source funding post-2017; corporate cap removal	Art. 19(1)(a), RPA, Companies Act §182
H2	Validated	Fund concentration in ruling party; high-value corporate dominance	Basic structure (free & fair elections)
H3	Validated w/ temporal qualification	7-year judicial delay; entrenched opacity	PUCL, ADR (2024)
H4	Validated	ECI/RBI lack of enforcement tools; inter-agency fragmentation	Art. 324, comparative oversight norms
H5	Validated	Comparative systems ensure better transparency & accountability	PPERA (UK), Elections Canada, Parteiengesetz

The integrated empirical and doctrinal tests conclusively validated all five hypotheses. The analysis demonstrates that India's post-2017 political finance framework was architecturally flawed, as its design institutionalised opacity,

enabled corporate capture, and structurally weakened institutional oversight. The judicial intervention, while constitutionally robust, was procedurally belated, allowing these distortions to become deeply entrenched. By contrast, a comparative review of legal models from established democracies highlights that robust transparency, clear caps on contributions, and independent oversight are not just aspirational goals but are demonstrably achievable within democratic constraints. The post-2017 reforms therefore stand as a case study in how a formal legal framework can mask a substantive regression from core constitutional principles.

CHAPTER -8
CRITICAL ANALYSIS, RESEARCH FINDINGS & SUGGESTIONS

This chapter integrates evaluative critique with prescriptive solutions. It begins with a critical analysis of India's corporate–political finance regime, bringing together doctrinal interpretation, empirical trends, constitutional reasoning, and comparative perspectives. Building on this foundation, the chapter synthesises the core research findings that highlight systemic weaknesses and deliberate legal engineering of opacity. Finally, it outlines research-based suggestions, advancing a comprehensive reform agenda designed to restore electoral integrity, empower institutions, and align India with established democratic standards.

8.1. Critical Analysis of India's Corporate–Political Finance Regime

8.1.1. Statutory Framework: From Safeguards to Secrecy

The Representation of the People Act, 1951 (RPA) and the Companies Act, 2013 historically provided India with a foundation for electoral funding transparency. Section 29C of the RPA required parties to disclose contributions above ₹20,000, while Section 182 of the Companies Act capped corporate donations at 7.5% of average net profits and mandated disclosure of recipient parties. These statutory mechanisms were designed to ensure that political finance remained visible and proportionate, thereby curbing disproportionate influence.

However, the Finance Act, 2017, enacted controversially as a *Money Bill*, altered the architecture. It introduced the Electoral Bond Scheme (EBS) and simultaneously amended the RPA, Companies Act, Income Tax Act, and the Foreign Contribution Regulation Act (FCRA). By classifying bonds as anonymous bearer instruments, the scheme bypassed disclosure requirements under Section 29C. Amendments to the Companies Act abolished the 7.5% cap, eliminated the obligation to disclose recipients, and permitted even loss-making companies to donate, effectively legitimising shell companies as political conduits.

This transformation was not a mere gap in regulation—it was legal engineering. A transparency-based regime was replaced with a law-sanctioned system of secrecy. Even the Income Tax Act provisions (Sections 80GGB/GGC), which

allowed tax deductions for political contributions, became problematic since anonymity meant tax-incentivised donations were made without public accountability.

8.1.2. Institutional Framework: Fragmented and Underpowered Oversight

India's institutional framework for regulating political finance has historically been weak and fragmented, but post-2017 reforms accentuated these weaknesses:

i. Election Commission of India (ECI): Despite its constitutional mandate under Article 324, the ECI lacks independent statutory authority to audit party accounts, impose penalties, or mandate real-time disclosures. Its role has been reduced to post-facto scrutiny of party-submitted reports, which themselves are incomplete and unverifiable.

ii. Reserve Bank of India (RBI): As the custodian of financial regulation, the RBI initially objected to electoral bonds on grounds of money laundering and fiscal opacity. However, its objections were overridden, and it was excluded from oversight of the scheme. The absence of RBI's regulatory expertise created a deliberate blind spot in monitoring money flows.

iii. Ministry of Corporate Affairs (MCA): The MCA collects corporate compliance data but has no proactive mandate to audit political donations. Post-2017 amendments expanded corporate discretion without any parallel auditing mechanism, allowing foreign-controlled subsidiaries and loss-making companies to participate in funding politics.

iv. State Bank of India (SBI): As the sole issuer and redeemer of electoral bonds, SBI became the operational lynchpin. Yet, being a state-owned bank under the Ministry of Finance, its dual role as custodian of donor data and instrument of the executive created an inherent conflict of interest. The executive that benefited most from anonymous funding also controlled access to the only records capable of ensuring transparency.

This institutional diffusion contrasts sharply with models in other democracies, where dedicated independent electoral commissions with investigative powers act as the primary watchdogs.

8.1.3. Constitutional Dilemmas: Transparency, Equality, and Democratic Integrity

At the heart of India's corporate–political finance regime lies a profound constitutional dilemma: the tension between donor anonymity and the voter's right to information.

i. Right to Know (Art. 19(1)(a)): In Union of India v. ADR (2002) and PUCL v. Union of India (2003), the Supreme Court read the voter's right to know into Article 19(1)(a) as an essential component of free speech and democratic choice. Electoral bonds, by design, extinguished this right.

ii. Electoral Equality (Art. 14): The removal of donation caps and the allowance of unlimited, anonymous corporate contributions privileged wealthy entities, distorting the equality of competition. Electoral equality, a facet of Article 14, was undermined as financial asymmetry replaced policy debate as the decisive factor in elections.

iii. Proportionality Doctrine: Any restriction on fundamental rights must be the least restrictive means to achieve the State's objective. While the government justified EBS as a mechanism to curb black money, alternative mechanisms (digital transfers with disclosure, lower disclosure thresholds) were available. The anonymity model failed the necessity and balancing prongs of proportionality review.

iv. Basic Structure Doctrine: Transparency in political funding underpins free and fair elections—a cornerstone of the Constitution's basic structure. The passage of EBS via a Money Bill, bypassing Rajya Sabha scrutiny, not only subverted bicameralism but also violated the structural guarantees of democratic accountability.

The Supreme Court's 2024 judgment invalidating the EBS reaffirmed these principles, but its six-year delay allowed opacity to become entrenched. This

revealed a systemic challenge: constitutional remedies delayed risk becoming performative rather than protective.

8.1.4. Comparative Democratic Frameworks: India as an Outlier

Most mature democracies have moved towards greater transparency and regulation of political finance, whereas India moved in the opposite direction post-2017:

v. Canada: Corporate and union donations are prohibited. Instead, parties rely on state funding tied to votes secured in previous elections, ensuring equitable competition.

vi. United Kingdom: The *Political Parties, Elections and Referendums Act, 2000 (PPERA)* mandates stringent donor disclosures, regular audits, and oversight by an independent Electoral Commission with sanctioning powers.

vii. Germany: Political parties are required to publish annual financial statements and disclose donations above €10,000. Public subsidies supplement party finances, reducing dependence on corporate actors.

viii. United States: Despite the deregulation of independent expenditures post-*Citizens United* (2010), mandatory disclosures for direct contributions remain robust, and watchdog organisations monitor Political Action Committees (PACs) and Super PACs.

ix. South Africa: The *Political Party Funding Act, 2018* mandates disclosure of all donations above a fixed threshold and creates a Multi-Party Democracy Fund for public financing.

In contrast, India's model removed caps, allowed shell and foreign-linked companies, and legalised anonymity. This places India not merely as a regulatory exception but as a normative outlier—a democracy consciously privileging secrecy at a time when transparency is increasingly recognised as a non-derogable democratic standard.

India's corporate–political finance regime demonstrates how statutory amendments, institutional fragmentation, constitutional delay, and global divergence converged to erode electoral transparency. What began as reforms

marketed as fiscal formalisation ended as a structural subversion of democracy—where money replaced speech, opacity replaced disclosure, and executive convenience replaced constitutional accountability.

The analysis underscores that transparency in electoral funding is not a matter of policy choice but a constitutional imperative—part of the basic democratic infrastructure akin to free press, fair elections, and judicial independence. Without structural reform, India risks institutionalising a corporate-centric democracy, where the right to govern is shaped more by undisclosed finance than by informed voter choice.

8.2. Research Findings:

8.2.1. **The Erosion of Electoral Integrity**

The findings of this research reveal that India's political finance regime between 2014 and 2024 underwent a structural transformation that was neither incidental nor administrative in nature but deliberately engineered through legislative and institutional design. The trajectory demonstrates a move away from statutory safeguards of transparency towards an architecture of legalised opacity, where reforms enacted under the guise of fiscal modernisation in fact entrenched political expediency at the cost of constitutional accountability.

By synthesising doctrinal interpretation with empirical evidence, this study demonstrates that electoral integrity has been compromised across five interrelated dimensions: legislative loopholes, constitutional regression, judicial delay, institutional inertia, and comparative democratic deficit. Collectively, these findings diagnose the systemic erosion of transparency, accountability, and fairness—principles that form the core of India's constitutional promise of free and fair elections.

8.2.2. Legislative Loopholes and the Retreat from Transparency

The post-2017 amendments to the Finance Act and the Companies Act were not technical reforms but deliberate interventions that dismantled established safeguards. Prior to 2017, Section 29C of the Representation of the People Act, 1951 (RPA) mandated disclosure of contributions above ₹20,000, while Section 182 of the Companies Act, 2013 capped corporate donations at 7.5% of net

profits and required the disclosure of recipient parties. These provisions acted as statutory guardrails, ensuring both proportionality in donations and traceability of influence.

The introduction of the Electoral Bond Scheme (EBS) radically altered this framework. By classifying bonds as anonymous bearer instruments, the scheme effectively neutralised Section 29C disclosure requirements. Parallel amendments removed the 7.5% donation cap, abolished recipient disclosures, and permitted even loss-making companies to donate—legitimising shell entities as lawful conduits for political finance. What emerged was not regulatory oversight but "legal engineering": a system that outwardly complied with formal law but hollowed out its substantive democratic objectives.

8.2.3. Constitutional Principles Subordinated to Political Expediency

The EBS represented a decisive break from settled constitutional doctrine. In *Union of India v. Association for Democratic Reforms (2002)* and *People's Union for Civil Liberties v. Union of India (2003),* the Supreme Court recognised the voter's right to know as intrinsic to Article 19(1)(a), grounding electoral transparency in the guarantee of free speech and informed democratic choice.

By legalising large-scale anonymous corporate donations, Parliament subordinated this principle to political expediency. Voters were denied access to crucial information regarding corporate–political linkages, while the executive retained exclusive access to donor data through the SBI. This framework entrenched an information asymmetry between the electorate and the State, privileging financial secrecy over electoral equality. Such legislative design directly undermined the normative content of Articles 19(1)(a) and 14, reducing constitutional guarantees to procedural rhetoric.

8.2.4. Judicial Delay and Its Democratic Cost

Although the Supreme Court eventually struck down the EBS in 2024, its six-year delay in adjudication imposed heavy democratic costs. In this period, the scheme operated unchecked, funnelling disproportionate resources to ruling parties and normalising opacity as the default currency of political finance.

This illustrates the dangers of reactive constitutionalism. By withholding timely relief, the Court permitted the consolidation of a parallel, opaque ecosystem that distorted electoral competition in ways irreversible through ex post invalidation. The episode highlights a fundamental doctrinal lesson: constitutional guarantees risk becoming performative rather than protective when enforcement is delayed, particularly in contexts like elections where timeliness is integral to fairness.

8.2.5. Institutional Inertia and Fragmented Accountability

The institutional landscape regulating political finance in India is marked by fragmentation and under-empowerment.

The Election Commission of India (ECI), though constitutionally situated under Article 324, lacks explicit statutory powers to audit, investigate, or sanction violations. Its authority remains confined to reviewing party disclosures that are often incomplete.

The Reserve Bank of India (RBI), despite its financial oversight expertise, was excluded from EBS operations after its initial objections were disregarded.

The Ministry of Corporate Affairs (MCA) maintains compliance records but has no mandate to proactively investigate political donations or their legality.

The State Bank of India (SBI), designated as the sole issuer and redeemer of bonds, functioned as both custodian of donor data and an instrument under executive control—creating a structural conflict of interest, as the political executive benefitted directly from the opacity it controlled.

This diffusion of responsibility created regulatory blind spots, leaving no single institution with comprehensive authority. Unlike comparative democracies where independent electoral commissions operate as empowered watchdogs, India institutionalised oversight weakness as a systemic feature.

8.2.6. Comparative Democratic Deficit: International comparison underscores India's divergence from global best practices.

Canada has imposed an outright prohibition on corporate and union donations, substituting them with a system of public funding to ensure equity.

United Kingdom under the Political Parties, Elections and Referendums Act, 2000 (PPERA) mandates robust donor disclosures, independent audits, and enforcement by a statutory Electoral Commission.

Germany requires detailed annual financial disclosures, with donations above €10,000 subject to mandatory reporting, supplemented by public subsidies to reduce private dependency.

South Africa's Political Party Funding Act, 2018 mandates disclosure of all significant donations and creates a public fund for equitable distribution among parties.

In sharp contrast, India dismantled donation caps, diluted disclosure requirements, and legalised anonymity. This shift positions India as a normative outlier, privileging donor secrecy at a time when democracies worldwide are entrenching transparency as a constitutional baseline.

The research findings demonstrate that India's post-2017 political finance regime represents a systemic erosion of electoral integrity. Legislative loopholes enabled unaccountable flows of money; constitutional guarantees were subordinated to secrecy; judicial delay entrenched asymmetries; institutions remained underpowered; and India consciously diverged from comparative norms.

The cumulative outcome has been the institutionalisation of opacity, where electoral competition is skewed by financial asymmetry, and voter sovereignty is undermined by a lack of information. These findings form the doctrinal basis for the policy recommendations advanced in the following section, which aim to restore transparency as a constitutional baseline, empower oversight institutions, and align India's political finance regime with both domestic constitutional principles and comparative democratic standards.

8.3. Research Suggestions: Towards a Transparent and Accountable Political Finance Regime

The research findings presented in Section 8.2 confirm that India's post-2017 political finance framework deliberately dismantled statutory safeguards, subordinated constitutional principles, and entrenched opacity through

institutional inertia. Such systemic distortions require comprehensive reform that is doctrinally grounded and institutionally enforceable. This section therefore advances a set of policy suggestions aimed at restoring electoral integrity, empowering oversight institutions, and aligning India's framework with global democratic standards.

8.3.1. Reinstate Statutory Caps and Mandatory Disclosure Norms

The removal of the 7.5% corporate donation cap and the dilution of disclosure obligations under Section 182 of the *Companies Act, 2013* enabled disproportionate influence by wealthy corporations and legitimised shell entities as lawful conduits of funding. To reverse this trend, it is essential to restore the donation cap and link it once again to a company's average profits, thereby imposing proportionality in corporate giving. Equally important is the need to revise the outdated disclosure threshold under Section 29C of the *Representation of the People Act, 1951*, reducing it from ₹20,000 to a nominal floor such as ₹5,000. This measure would expand the scope of transparency and re-establish the voter's right to know as part of Article 19(1)(a).

8.3.2. Prohibit Anonymous Political Funding Instruments

The 2024 Supreme Court judgment striking down the Electoral Bond Scheme reaffirmed the unconstitutionality of donor anonymity. However, to ensure permanence of this safeguard, Parliament must enact a statutory prohibition on all forms of anonymous political funding, including bearer bonds, layered shell entities, and other indirect conduits. Such a prohibition would prevent future governments from recreating opacity through legislative manoeuvres, thereby entrenching transparency as a non-derogable democratic principle.

8.3.3. Strengthen the Oversight Powers of the Election Commission of India (ECI)

The *Representation of the People Act, 1951* must be amended to provide the Election Commission of India with explicit statutory powers, allowing it to move beyond symbolic custodianship towards substantive regulatory authority. The Commission should be authorised to conduct forensic audits of party accounts, investigate suspicious transactions in real time, and impose sanctions for violations. Its role should further extend to supervising reconciliation of

donations with taxation records and integrating the Reserve Bank of India into oversight functions, particularly in relation to KYC and anti-money laundering compliance. These measures would operationalise Article 324's constitutional mandate, ensuring that transparency becomes enforceable in practice.

8.3.4. Decentralised Enforcement by District Election Officers (DEOs) and Returning Officers (ROs)

The current enforcement model remains excessively centralised, limiting accountability at the constituency level. To overcome this, District Election Officers and Returning Officers should be granted powers to demand detailed expenditure statements from parties and candidates, scrutinise both traditional and digital campaign expenditure, and initiate disqualification proceedings for gross violations. Such decentralisation would ensure real-time oversight, preventing violations from being obscured until after elections are completed.

8.3.5. Institutionalise the Role of Election Observers

Observers, particularly General Observers and Expenditure Observers, must be institutionally empowered to address the modern challenges of campaign financing. Their mandate should include monitoring digital advertisements, influencer contracts, and targeted political messaging, as well as identifying instances of paid news and surrogate advertising in print and electronic media. By granting direct access to digital advertisement archives maintained by online platforms, these observers would be able to conduct independent verification, ensuring a level playing field between ruling and opposition parties.

8.3.6. Proactive Judicial Role in Electoral Finance Regulation

The judiciary's delayed adjudication of the Electoral Bond Scheme revealed the risks of reactive constitutionalism. To prevent similar distortions, electoral finance disputes should be fast-tracked and resolved before electoral outcomes are irreversibly shaped. Moreover, courts should adopt a purposive interpretation of expenditure limits, expanding their scope to include indirect spending through third parties, allied organisations, and digital platforms. In addition, judicial review must be invoked under the basic structure doctrine to strike down legislative interventions that entrench opacity and undermine

electoral fairness. Such an approach would ensure that judicial oversight is timely and constitutionally meaningful.

8.3.7. Close Loopholes in the FCRA and Companies Act

The 2016 amendment to the *Foreign Contribution Regulation Act* created an avenue for foreign-owned Indian subsidiaries to make political donations, thereby undermining the principle of sovereignty in electoral funding. This loophole should be reversed, reinstating the prohibition on foreign-linked contributions. Simultaneously, the *Companies Act* must be amended to prohibit donations from loss-making and shell companies. By restricting political finance to financially sound and accountable entities, the law would effectively close existing conduits for money laundering and benami transactions.

8.3.8. Introduce Tiered Public Funding

To reduce overdependence on corporate money, India should adopt a system of tiered public funding. Under such a model, state subsidies would be allocated based on a party's compliance with transparency norms and its proportion of vote share in previous elections. This would incentivise compliance, enable smaller parties to compete more fairly, and mitigate the distortive influence of private capital. Comparative experience from Canada, Germany, and South Africa demonstrates that such models can successfully balance fairness with accountability.

8.3.9. Develop a Real-Time Digital Disclosure Platform

The paper-based disclosure system currently in place delays public access to critical financial information, thereby depriving voters of their constitutional right to informed choice. A public-facing digital platform should be created to integrate data from banks, corporate filings, and political party accounts, with all transactions updated in real time. The platform should be subject to independent third-party audits and be fully accessible to the public, civil society, and the media. This infrastructure would transform the doctrine of the voter's right to know into a living constitutional reality, restoring faith in the electoral process.

8.3.10. Constitutionalise Electoral Finance Transparency

Finally, transparency in political funding must be elevated to the level of constitutional protection. This can be achieved either by explicitly embedding the right to know about political finance within Article 19(1)(a) or by introducing a standalone constitutional provision. By doing so, electoral transparency would become a constitutional baseline immune from legislative dilution. This reform would reaffirm that free and fair elections form part of the basic structure of the Constitution, thereby securing electoral integrity for future generations.

The policy suggestions outlined above provide a comprehensive reform agenda to address the systemic vulnerabilities identified in the research findings. They advocate the reinstatement of statutory safeguards, the prohibition of anonymous funding, and the empowerment of both the ECI and local enforcement authorities. They also call for judicial proactivity, the closure of statutory loopholes, the adoption of public funding, and the creation of digital disclosure systems. Above all, they emphasise the need to constitutionalise transparency as a non-derogable democratic principle. Taken together, these reforms would dismantle India's architecture of opacity and re-establish transparency, accountability, and fairness as the cornerstones of its electoral finance regime.

Based the understanding of policy suggestions Policy Recommendations matrix has been devised in a tabular form as below.

Table No-19- Findings–Policy Recommendations Matrix

Research Finding	**Doctrinal/Constitutional Basis**	**Empirical Evidence**	**Policy Recommendation**
Post-2017 legislative amendments have dismantled donation caps and disclosure norms,	Section 29C RPA; Section 182 Companies Act; Article 19(1)(a) – Right to know.	Sharp increase in undisclosed corporate contributions; dominance of ruling party in	Reinstate 7.5% corporate donation cap and mandatory disclosures above ₹20,000.

enabling unlimited anonymous corporate funding.		anonymous bond receipts (2018–2024).	
"Electoral Bond Scheme" created systemic opacity, bypassing parliamentary scrutiny via Money Bill route.	Basic structure doctrine; judicial precedents in PUCL (2003), ADR (2002).	Over 75% of bond value concentrated in one political party; SBI records sealed from public view.	Legally prohibit anonymous political funding instruments, including bearer bonds.
Judicial delay in adjudicating EBS petitions allowed entrenched financial asymmetry.	Article 19(1)(a) enforcement; doctrine of electoral fairness.	Seven-year operation of EBS before invalidation; measurable electoral funding bias.	Mandate time-bound judicial review of electoral finance laws.
Regulatory institutions lack enforcement powers and coordination.	Article 324 – ECI powers; separation of powers principles.	ECI unable to audit party accounts; MCA holds data without enforcement capacity.	Amend RPA to grant ECI investigative and sanction powers; formalise inter-agency data sharing.
Foreign-linked corporate funding risk persists via FCRA amendments.	FCRA provisions; constitutional sovereignty principles.	Post-2016 FCRA amendment allowed foreign-owned Indian subsidiaries to donate.	Reinstate prohibition on foreign-influenced corporate contributions.

Lack of equitable funding model sustains corporate dependency of parties.	Comparative constitutional norms (Canada, Germany).	Data shows funding concentration benefits larger parties, marginalising smaller ones.	Introduce tiered public funding model linked to transparency compliance.
Opaque funding erodes voter trust and informed electoral choice.	Article 19(1)(a) – right to information as part of free speech.	Surveys indicate declining public trust in electoral funding transparency.	Constitutionally entrench electoral finance transparency.

CHAPTER -9

CONCLUSION AND WAY FORWARD

This dissertation has critically analysed India's post-2017 corporate–political finance regime, concluding that the legislative reforms enacted during this period constituted a profound regression in the country's democratic framework. Our multi-faceted inquiry spanning doctrinal, constitutional, empirical, and comparative dimensions reveals that the dismantling of pre-existing safeguards was not an administrative oversight, but a deliberate, systemic design choice aimed at entrenching a new paradigm of legalised anonymity. The "Electoral Bond Scheme" (EBS) became the clearest manifestation of this architecture, systematically eroding the voters constitutionally protected right to know and generating a significant financial asymmetry that disproportionately benefited the ruling party.

The research identifies three interlinked structural drivers that precipitated this decline. First, legislative loopholes fundamentally altered the funding ecosystem. The removal of statutory caps on corporate donations, the dilution of Section 29C of the "Representation of the People Act" (RPA), and the legalization of contributions from loss-making and shell companies transformed the political finance landscape into a conduit for covert corporate influence. This legislative rollback effectively replaced a transparency-oriented framework with one that privileged opacity and political expediency.

Second, the nearly seven-year judicial delay in adjudicating the constitutional challenges to the EBS normalized this opaque regime. The prolonged inaction allowed the scheme to become deeply embedded, creating a political and economic reality that even a landmark judicial correction, such as the Supreme Court's 2024 judgment, could not fully reverse. This normalization of secrecy as the de facto standard for political finance highlights a critical failure in the judiciary's role as a timely constitutional guardian.

Third, institutional inertia within key regulatory bodies exacerbated the problem. The "Election Commission of India" (ECI), the "*Union of India v. ADR" (RBI),* and the "Ministry of Corporate Affairs" (MCA) operated without

the requisite statutory authority or operational capacity to effectively monitor and regulate the flow of political funds. This weakness was compounded by the executive's control over the State Bank of India, the sole issuer of electoral bonds, which created a significant structural conflict of interest.

At the constitutional level, the post-2017 regime severely undermined established jurisprudence linking the voter's right to information a principle rooted in Article 19(1)(a) and Article 14, to the integrity of the electoral process. Landmark judgments like "*Union of India v. ADR" (2002)* and "*PUCL v. Union of India" (2003)* were effectively sidestepped, necessitating a more proactive role for the judiciary. This study argues that the judiciary's function must extend beyond mere dispute resolution to encompass active constitutional guardianship, which includes fast-tracking electoral finance challenges and conducting mandatory periodic reviews of such frameworks.

In a comparative perspective, India's trajectory represents a marked deviation from global democratic norms. While countries like Canada prohibit corporate and union donations in favour of public funding, Germany mandates real-time disclosure and independent audits, and the United Kingdom restricts corporate donations to active domestic companies, India's reforms expanded corporate permissions while simultaneously weakening transparency. This positions India as a global outlier and signals a deliberate normative shift towards a corporate-centric political model.

Restoring democratic integrity requires a comprehensive, multi-dimensional reform agenda that moves beyond mere statutory reversal to systemic recalibration.

The immediate priority is to amend the RPA and Companies Act to reinstate statutory donation caps and restore profit-based eligibility for corporate donors. All forms of anonymous funding must be statutorily prohibited, and real-time disclosure of all contributions above a low threshold (₹5,000) should be mandated. Additionally, political parties must be statutorily required to disclose their total election expenditures at both national and state levels, subjecting them to annual independent audits published in the public domain.

The ECI must be granted consolidated statutory authority to audit party accounts, investigate suspicious transactions, and impose enforceable penalties. Its powers should be expanded to include exclusive supervisory control over the Income Tax Department's electoral finance data for cross-verification. To strengthen anti-money-laundering protocols, the RBI must be integrated into the oversight of high-value political transactions. Crucially, enforcement must be decentralized by empowering “District Election Officer’s (DEOs) and Returning Officers (ROs) to demand detailed, constituency-level expenditure reports and initiate immediate penal action for violations.

A new regulatory architecture is needed to address contemporary challenges. This includes a public conflict-of-interest register to link corporate donations to subsequent government contracts, thereby curtailing policy capture. The regulatory net must also be expanded to cover digital and media expenditures, requiring platforms to maintain public archives of political advertisements and classifying undeclared digital spending as an electoral violation. To address the fundamental dependency on private capital, a hybrid public funding model—combining per-vote subsidies with partial reimbursement of verified campaign expenses—should be introduced to level the playing field and foster greater electoral equity.

Electoral finance reform is not a peripheral governance issue; it is the cornerstone of democratic legitimacy. When the bloodstream of democratic competition is polluted by unchecked corporate influence, opaque funding channels, and regulatory inertia, governance shifts away from the citizen-centric constitutional ideal to corporate centric governance. The proposed reforms, grounded in constitutional principles and supported by comparative evidence, offer a clear roadmap for restoring a system where political mandates are shaped by voter choice, not corporate capital.

The future of India’s democracy depends on its capacity to embrace a framework that is judicially safeguarded, statutorily empowered, and operationally decentralised. Such a system would protect the voter's right to know, dismantle the nexus between political finance and preferential

policymaking, and realign India's electoral architecture with the core values of fairness, accountability, transparency, and public interest.