



Abuse of Money Power in Municipal and Panchayat elections and measures to control it

How money can influence politics



income

Big donors

Small/medium donors

Candidate's personal funds

Officials salary surcharges

Party member dues

Public funding

Party & candidate campaign funds

illegal sources

expenditure

Legal expenses

Brochures/posters
Rallies & door to door
TV/radio ads

Pre-election

Borderline expenses

Constituent services
Voter favours of value

Illegal expenses

Vote buying
Bribing media
Bribing election officials

Post-election

Elected officials

repayment

Legal examples

Patronage jobs
High appointments
Projects in home district

Illegal examples


Kick-backs/bribes
Gifts & favours
Denying access to opponents

Source: USAID
(2003) Money in
Politics Handbook,
p 10



Money Power and Challenges

Political Finance and Control challenges:

- **Lack of independence of enforcement agencies or biased Enforcement Institutions**
 - **Delay by EC or the judiciary in finalising election cases**
 - **Corrupt practices of Media, social media and Paid News**
 - **Popular culture of acceptance of Vote buying**
 - **Absence of legislation or ambiguous legislation**
 - **Lack of political will to control Money Power**
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Finance Minister's 2017-18 Budget Speech

- Bringing about “*greater transparency and accountability in political funding, while preventing future generation of black money*”
- Donors have “*expressed reluctance in donating by cheque or other transparent methods as it would disclose their identity and entail adverse consequences*”.

Recent Amendments in RP ACT, IT ACT and COMPANIES ACT

- **Representation of People Act**

Donations received by a political party through electoral bonds have been exempted from reporting through Contribution Report as prescribed under section 29C, RP Act

- **Companies Act, 2013**

Proviso 1 to s.182 was deleted, removing the limit of 7.5% of average net profits in the preceding three financial years on contributions by companies.

Requirement under Section 182(3) which provides that firms must declare party-wise political contributions in their annual profit and loss statements abolished. Only total lumpsum amount donated needs to be declared by companies

- **Income-Tax Act, 1961**

Section 13A of Act amended, providing that no donation exceeding Rs. 2000 can be received by a political party in cash. However, RP Act limit of Rs. 20,000 on receipt of anonymous donations by political parties retained



SALIENT FEATURES of EBS 2018

Definition (Para 2(a))

Anonymous bearer banking instrument issued in the nature of a promissory note

Eligibility (Para 3)

May be purchased by a person or artificial juridical person, who is a citizen of India/ incorporated/ established in India. Person includes: (i) individual (ii) HUF (iii) company (iv) firm (v) AoP whether incorporated or not (vi) agency/office/branch controlled by such person

Denomination (Para 5)

Denomination of Rs. 1000, Rs. 10,000, Rs. 1,00,000, Rs. 10,00,000 and Rs. 1,00,00,000 Periodicity and Validity (Para 8 and Para 6) Available for purchase for 10 days in January, April, July and October + additional 30 days in Lok Sabha election years; **Valid for** 15 days from the date of issue



SALIENT FEATURES of EBS 2018

Mode of payment (Para 11)

DD, cheque, Electronic Clearing System or direct debit to the buyer's account

Applicability of KYC (Para 4)

RBI's KYC norms applicable to a bank's customer shall be applicable to buyers of bonds

Tax Treatment (Para 13)

Eligible for exemption from income tax under section 13A of the IT Act, 1961

Confidentiality of Buyer Information (Para 7(4))

Information furnished by the buyer not to be disclosed to any authority for any purpose.



Forms of income of candidates

❑ Direct donations

(by citizens, Companies, Business houses, Trusts, Political Parties)

❑ Own disclosed or Undisclosed Savings or Loans

(from banks, FIs, Citizens)

❑ Third-party contributions

(by in cash or in kind, e.g.Free or subsidised campaign services)

❑ State or administrative resources

(Direct or Indirect use of state machinery or man power)



Forms of expenditure


- Advertising and publicity
(Print and electronic media, Social media etc)
- Hidden advertising (Surrogate advertisement, Paid News)
- Non advertising expenditure, including:
 - a. Operational and administrative costs like Polling agents, Kiosks, vehicles, posters, banners agents, Campaign
 - b. Polling, market research, and campaign management, Spin Doctors design and
 - c. Rallies, events, and direct contact with voters
 - d. Distribution of money and other direct benefits to voters, including vote buying



Distributions of expenditure

Data from 10 countries in Europe and Latin America

Mass media (TV and radio)	27 %	
Campaign materials (posters etc)	20 %	
Rallies and meetings	13 %	
Travel and logistics	14 %	
Money ad direct benefits	12 %	(including 2.3 % on
	vote buying)	
Personnel	10 %	





Distributions of expenditure

Data of Candidates from Parliament Elections 2014

Mass media (TV and radio)	7.5 %
Campaign materials (posters etc)	14.5 %
Rallies and meetings	28.3 %
Travel and logistics	32.3 %
Personnel	10%
Other expenditure	7 %

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- 1. Data on Vote buying and Paid News not available*
 - 2. Data on Expenditure of Political Parties not available*

The Tangled Web of Campaign Finance, India



WHO REGULATES POLITICAL MONEY?

INDIAN REVENUE SERVICE (IRS)

ELECTION COMMISSION OF INDIA (ECI)

HIGH COURT / SUPREME COURT

Regulated by

Certain Expenditures Disclosed

Can operate Partner groups

WHO RAISES POLITICAL MONEY?

CANDIDATES

PARTIES

ELECTORAL TRUST

CITIZENS

OTHER ENTITIES

COMPANIES

WHAT DO WE KNOW ABOUT POLITICAL MONEY?

No limits on how much money they can receive

No limits on amount of donation to candidate and party.

No disclosure of donation

Ceiling on election expenditure

These disclose donors above Rs.20,000/- to ECI (Exemption for electoral bonds)

100% tax rebate for donation to parties and to electoral trust.

Election petition to court if ceiling exceeded.

These groups must disclose audited accounts to IRS & ECI

These groups disclose audited accounts to IRS except donation to Electoral trust

These disclose all election expenditures to ECI.

These do not disclose their election campaign expenses for the party or for the candidate to ECI.




Beware!

Abuse of Money in Politics and
corruption
tend to go hand in hand






INDIAN EXPERIENCE

- Regulations by ECI and by Law
 - Open a separate Bank account (Non-statutory)
 - Maintenance of accounts and Inspection (statutory)
 - Ceiling on Expenditure of candidates (statutory)
 - Election Petition for exceeding the ceiling (statutory)
 - Lodging accounts with ECI after election (Non-statutory)
 - Disqualification by ECI for not lodging in time or for lodging incorrect accounts (statutory)
 - SC and ECI restrictions on transport of cash during election (Non-statutory)
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INDIAN EXPERIENCE

- Laws on Corrupt practices and unlawful acts
 - Inducement of voter or any candidate: **Not a cognisable offence**
 - Unauthorised exp. for the candidate: **No Law for Third Party Campaigners' Reporting and Monitoring**
 - Publication in Print media without authorisation and **Real time reporting by the media**
 - Defacement of public property
 - Pre-certification of advertisement in electronic media **and No Law for social media**
 - Paid News expenditure added to candidate: **No Law for Social Media**
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INDIAN EXPERIENCE

- **Administrative Regulations**
 - Model Code of Conduct , limiting number of campaign vehicles and campaign days
 - Party to indicate resources for freebies and resources to be raised in manifesto : **No law for candidates who give doles before filing nomination**
 - Symbols order of the Commission for recognised Parties (**Potent weapon rarely used**)





INDIAN EXPERIENCE

- Plenary power of Commission under Constitution (Art. 324)
- Where there is no law, ECI can issue instructions to the candidate and party during conduct of election
- ECI can derecognize a party, if party violates ECI's lawful instruction



ECI Guidelines for Political Parties

Transparency guidelines for the parties by the Commission

Name and address of all donors to be maintained

Cash payment to candidates by parties prohibited

Cash donations to be deposited in bank account within 10 days and Restriction on huge amount of cash in hand

Copy of audited account to be sent to Commission and uploaded in website



Measures

■ Preventive Measures

- Campaign for ethical Voting through Media
- Village/ Ward level Awareness Group
- Involving schools/colleges/ CSOs as election ambassadors
- Signing pledge for ethical voting

■ Enforcement


- Complaint Monitoring cell at District level
- Flying Squads to act on complaints
- Static surveillance Teams to put checkpost
- Video Surveillance Team to photograph all events, hoardings
- Media certifying and monitoring committee to certify electronic advertisement and to monitor Paid News and social media
- Shadow Observation Register for each candidate





Measures (cont.)

■ Enforcement

- Putting accounts of candidates in website for public viewing, **on real time and after each inspection with comments**
 - Associating Income tax to keep surveillance on cash transport in the constituency
 - Monitoring the production, distribution and sale of liquor during election campaign
 - Monitoring community feasts and doles to constituents **before or during** election campaign (**Candidates to submit statement along with nomination**)
 - EC can disqualify a candidate in case of incorrect disclosure
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Suggestions to be considered by EC

- Introduction of Yellow Card and Red Card by EC on the basis of violations or lapses by candidates or parties noticed during monitoring
- Disclosure at the time of nomination by candidates about Receipt of campaign fund with source, its deposit in a separate bank account and subsequent disclosure of receipts within 24 hours either received from third party or from own source
- Real Time Disclosure of monitoring reports by SEC
- Devising Regulation For Third Party to disclose to EC the election campaign expenditure and reporting during election period after nomination till election
- Banning receipt of donation from any third party in excess of Rs 2,000/- and banning cash receipt and cash expenditure by candidate or third party during election campaign period
- Provision for disclosure of assets and liabilities at the time of nomination



Measures (cont.)

- Introducing regulation for obtaining permission from EC for publishing any defamatory or derogatory or eulogising remarks in media and social media or forwarding messages about a candidate or party **during election notification period**
- State Election Commission is not the regulator of Political Parties (**Report to ECI on violations by Parties**)
- **Banning door to door campaign by candidates or supporters during last 72 hours before election**
- Low level of awareness of voters on acceptance of bribe and **making provisions for uploading evidences for offer of bribe either by voters or by third party**
- Fixing minimum wage rates for skilled and unskilled Polling agents and campaign agents (**To wear badges with photos issued by Candidate and copy to SEC**)





Conclusion

- The Umpire should not only act fairly but should **seem to act fairly** to add credibility to the Constitutional post.
- SEC should issue reasonable time limits for its own actions as self regulation and there should be **reasonable time frame for disposal of each complaint or enquiry.**
- Any number of laws will be meaningless, unless **the law implementing authority acts promptly and fairly.**



Thanks

