



The impact of corporate political funding on Indian democracy: A constitutional and legal analysis

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Abstract

The constitutional debate surrounding corporate political funding in India extends far beyond questions of transparency and electoral administration. At its core lies a deeper conflict between democratic equality and concentrated economic power. While modern electoral politics requires substantial financial resources, the increasing dependence of political parties upon corporate contributions raises fundamental concerns regarding political accountability, policy capture, and the integrity of representative government. The challenge is not merely that corporations contribute money to political parties; rather, it is that the scale of corporate wealth enables economic actors to exercise forms of political influence unavailable to ordinary citizens, thereby undermining the democratic premise that each citizen should possess an equal voice in public affairs.

The controversy surrounding the Electoral Bond Scheme, 2018, brought these tensions into sharp constitutional focus. Introduced by the Union Government as a mechanism to promote clean and traceable political funding, the Scheme was presented as an instrument designed to eliminate black money from electoral politics. However, the architecture of the Scheme simultaneously dismantled several transparency safeguards that had previously governed corporate political donations. Through amendments to the Companies Act 2013, the Representation of the People Act 1951, the Income Tax Act 1961, and the Reserve Bank of India Act 1934, the State created a framework permitting unlimited and anonymous corporate donations to political parties through banking channels while denying voters access to information concerning the identity of political financiers.

In *Association for Democratic Reforms v Union of India* (2024), the Supreme Court invalidated the Electoral Bond Scheme on the ground that it violated the voter's right to information under Article 19(1)(a) of the Constitution and undermined democratic accountability. Although the judgment represents a landmark affirmation of transparency in political finance, this article argues that it addresses only one dimension of a broader constitutional problem. The central challenge posed by corporate political funding is not merely informational opacity but the structural incompatibility between concentrated economic power and democratic equality.

This article advances three interrelated arguments. First, corporate political funding presents a constitutional concern qualitatively different from individual political participation because corporations possess economic resources capable of distorting electoral competition and governmental decision-making on a systemic scale. Secondly, the Electoral Bond Scheme represented not simply a failure of transparency but a sophisticated institutional mechanism that enhanced executive informational advantages while restricting public scrutiny, thereby facilitating forms of democratic capture inconsistent with constitutional governance. Thirdly, although the Supreme Court's intervention restored important disclosure requirements, the persistence of electoral trusts, inadequate enforcement mechanisms, and weak institutional oversight demonstrates that the constitutional challenge of corporate influence over democratic processes remains unresolved.

The article concludes that meaningful reform requires more than disclosure obligations. It demands a comprehensive constitutional framework that recognises political equality as a substantive democratic value, strengthens institutional oversight, limits excessive corporate influence, and reduces political parties' structural dependence upon large private donations. Without such reforms, Indian democracy risks evolving into a system in which electoral competition remains formally democratic while policy-making becomes increasingly responsive to organised economic power rather than the collective interests of citizens.

The relationship between wealth and political power constitutes one of the oldest and most enduring problems of constitutional government. Every democratic system is founded upon the principle that political authority derives from the consent of citizens expressed through free and fair elections. Yet democratic participation requires financial resources. Political parties must organize campaigns, communicate with voters, maintain institutional structures, recruit candidates, and compete across increasingly sophisticated media environments. Elections therefore generate a constant demand for funding, creating an inevitable relationship between political actors and those capable of providing financial support.

The constitutional challenge emerges when economic inequality begins to translate into political inequality. Liberal democratic theory assumes that citizens participate in politics as formal equals. Each citizen possesses one vote, and electoral outcomes are expected to reflect the aggregated preferences of the electorate. However, this assumption becomes increasingly fragile when access to political influence is mediated through financial resources. In such circumstances, individuals and entities possessing greater economic power may acquire disproportionate capacity to shape electoral outcomes, influence public policy, and secure access to governmental decision-makers.

Corporate political funding represents perhaps the most significant manifestation of this tension. Corporations are not citizens. They do not vote, possess political rights in the same sense as natural persons, or participate in democratic governance as members of the political community. Nevertheless, modern corporations command economic resources that often exceed the

budgets of governments and political parties. Their capacity to influence public policy through financial contributions therefore raises questions that extend beyond ordinary political participation and enter the domain of constitutional design.

India presents a particularly important case study. As the world's largest democracy, it conducts elections on an unparalleled scale. Simultaneously, rapid economic liberalization since the 1990s has increased the economic significance of large corporations and expanded opportunities for interaction between business interests and governmental institutions. Infrastructure concessions, natural resource allocations, telecommunications licences, public procurement contracts, tax incentives, and regulatory approvals have created circumstances in which governmental decisions frequently possess enormous economic consequences for private actors.

Within this environment, corporate political contributions acquire significance beyond electoral support. They become potential instruments through which economic actors seek access, influence, and favorable policy outcomes. Even where explicit quid pro quo arrangements cannot be established, the existence of substantial financial relationships between corporations and political parties inevitably raises concerns regarding regulatory impartiality, policy capture, and democratic legitimacy.

The traditional defense of corporate political funding emphasizes freedom of political participation. According to this perspective, corporations consist of associations of individuals who possess legitimate interests in public policy. Restrictions upon corporate political contributions are therefore viewed as limitations upon political expression and democratic engagement. This argument has achieved its strongest judicial expression in the United States, particularly following *Citizens United v Federal Election Commission*, where corporate political expenditure was treated as a constitutionally protected form of speech.

The Indian constitutional framework, however, proceeds from different normative foundations. The Constitution is not merely a charter of negative liberties but a transformative document committed to substantive equality, social justice, and democratic accountability. Consequently, the constitutional question is not simply whether corporations possess a right to participate in political processes. Rather, it is whether unrestricted corporate participation is compatible with the broader constitutional commitment to political equality and free and fair elections.

The Electoral Bond Scheme represented the most ambitious attempt in independent India to redefine the relationship between corporate wealth and political finance. Its constitutional significance lies not merely in its design but in the assumptions that informed it. The Scheme proceeded on the premise that donor anonymity was compatible with democratic accountability and that political funding could be rendered cleaner without being rendered more transparent. The Supreme Court's rejection of this premise represents a significant constitutional development. Yet the judgment leaves unresolved the deeper question of whether transparency alone is sufficient to address the democratic distortions produced by concentrated economic power.

This article argues that the constitutional challenge of corporate political funding cannot be reduced to a problem of disclosure. Transparency is necessary but not sufficient. Even perfectly transparent systems may permit forms of political inequality that undermine democratic legitimacy. The ultimate constitutional issue is whether the state can permit concentrations of economic power to acquire corresponding concentrations of political influence without compromising the principle of democratic equality upon which constitutional governance depends.

Keywords: Corporate political funding, electoral bond scheme, democratic equality, political finance, political transparency

Introduction

On 15 February 2024, a Constitution Bench of the Supreme Court of India, led by Chief Justice D.Y. Chandrachud, delivered a unanimous judgment in *Association for Democratic Reforms v. Union of India* that struck down the Electoral Bond Scheme of 2018 as unconstitutional. The Bench held that the Scheme violated the voters' right to information enshrined in Article 19(1)(a) of the Constitution and that the removal of caps on corporate political contributions, effected through amendments to the Companies Act 2013, was inconsistent with the constitutional guarantee of free and fair elections. In language of unusual directness for a court opinion, the Chief Justice observed that "political contributions give a seat at the table to the contributor" and that "this access also translates into influence over policy-making."

The judgment arrived at a moment of acute public scrutiny of the relationship between corporate wealth and political power in India. Between 2018, when the Electoral Bond Scheme was notified, and 2024, when it was struck down, anonymous donors -overwhelmingly corporate entities- channeled approximately two billion US dollars to political parties through an opaque instrument that was deliberately designed to prevent voters from knowing who was financing

their elected representatives. The State Bank of India, a public sector institution, served as the exclusive issuing authority; the beneficiary parties were exempted from disclosure obligations under the Representation of the People Act; and the corporate donors were relieved of both the disclosure requirements and the profit-linked cap on contributions that had previously applied under the Companies Act. The combined effect was a system of unlimited, anonymous corporate funding of political parties - a system that the Supreme Court ultimately found to be incompatible with India's constitutional democracy.

The Electoral Bonds episode was, however, not merely the story of a single flawed scheme. It was the most visible manifestation of structural tensions that have characterized the relationship between corporate political funding and Indian democracy for decades. Those tensions predate the Scheme and, as post-2024 data demonstrates, they have not been resolved by its invalidation. This essay examines those structural tensions: the historical evolution of the legal framework governing corporate political funding in India; the constitutional principles implicated by that framework; the specific harms identified in the Electoral Bonds jurisprudence and in the academic and empirical literature; the comparative international experience; and the reform

architecture that India requires if it is to bring the financing of its democratic processes into conformity with its constitutional commitments.

The central argument of this article is threefold. First, that corporate political funding, when unregulated or inadequately regulated, poses a qualitatively different and more severe threat to democratic integrity than individual private funding, because corporate entities possess financial resources of a scale that can decisively distort the competitive conditions of electoral politics and create structural incentives for quid pro quo governance. Second, that India's existing legal framework, even after the invalidation of the Electoral Bond Scheme, remains inadequate to address this threat, principally because of deficiencies in disclosure, enforcement, and the independence of the institutions charged with oversight. Third, that a constitutionally compliant and practically effective framework for regulating corporate political funding is both necessary and achievable, drawing on the principles articulated by the Supreme Court and on the recommendations of the Law Commission and civil society organizations, provided that the political will to implement it can be marshalled.

The Historical Skeleton: Legislation, Avoidance and Piecemeal Reform

The regulation of corporate political funding in India has a history marked by the recurring pattern of legislative reform followed by creative evasion, and evasion followed by the dilution of the very norms that the reform had sought to establish. Understanding this pattern is essential to assessing the adequacy of the current framework and the prospects for meaningful change.

The Pre-Reform Era: Cash, Black Money and the Unregulated Market

Prior to the amendments introduced in the early years of this century, the financing of Indian political parties operated almost entirely outside any effective regulatory framework. The nominal legal constraints that existed, including the Companies Act 1956 provision permitting corporate donations subject to a profit cap and board resolution requirement, were widely circumvented through cash donations that left no audit trail, through contributions routed via trusts and intermediary entities, and through in-kind support (the provision of vehicles, personnel, media space, and logistics) that was not captured by any disclosure regime.

The structural causes of this opacity were well understood. Indian electoral campaigns had become extraordinarily capital-intensive enterprises: the cost of a competitive parliamentary election had, by the early 2000s, grown to figures many orders of magnitude in excess of the official expenditure limits that candidates were nominally required to respect. The gap between official limits and actual expenditure was bridged primarily by corporate and wealthy-individual donations, almost entirely in cash. Political parties, for their part, had no statutory obligation to maintain audited accounts or to disclose the sources of their income to any regulatory authority. The Election Commission of India, despite its constitutional mandate under Article 324 to supervise and conduct elections, had no statutory power to compel parties to disclose funding sources, and its guidelines were routinely ignored.

The result was a system in which corporate funding of political parties operated as an unregulated private market: businesses donated to parties and candidates in exchange for expected policy or regulatory benefits, and neither the public nor any independent regulatory body had any systematic visibility into the transaction. This system was structurally corrupt in the sense that it created pervasive, institutionalized incentives for public officials to govern in the interests of their corporate funders rather than in the public interest - whether or not any specific transaction could be characterized as bribery in the narrow criminal law sense.

The 2002–2013: Reform Wave and Its Limits

The first significant legal reform in this area came from the judiciary rather than the legislature. In *Union of India v. Association for Democratic Reforms* (2002), the Supreme Court held that voters possess a fundamental right under Article 19(1)(a) to know the criminal antecedents, educational qualifications, and assets of candidates contesting elections. While this judgment did not address party funding directly, it established the crucial precedent that the right to information extends to the conditions of electoral choice, a principle that would later be applied to demand disclosure of funding sources. The Court's direction to the Election Commission to collect and publish candidate affidavits was subsequently challenged by Parliament through Section 33B of the Representation of the People (Third Amendment) Act 2002, which sought to nullify the judgment. The Supreme Court struck down this provision in *PUCI v. Union of India* (2003) as unconstitutional, reinforcing the judiciary's commitment to the right to electoral information.

At the legislative level, the Companies Act 2013 represented the most significant statutory reform of corporate political funding prior to the Electoral Bond episode. Section 182 of the 2013 Act imposed three substantive conditions on corporate political contributions: a limit of 7.5% of average net profits over the preceding three financial years; a requirement that all contributions be made by account payee cheque, bank draft, or electronic transfer; and a mandatory disclosure obligation requiring each company to include in its profit and loss account the total amount contributed and the identity of the recipient party. Simultaneously, Section 29C of the Representation of the People Act 1951 required political parties to file contribution reports with the Election Commission disclosing the source of any contribution exceeding ₹20,000. These provisions, taken together, represented a meaningful step towards a transparent corporate political funding regime, imperfect and porous, but directionally correct.

In practice, however, the regime's effectiveness was substantially undermined by the ₹20,000 threshold below which no disclosure was required, by the absence of independent audit requirements, and by the chronic failure of parties to file compliant contribution reports or to face any meaningful sanction for non-compliance. The Election Commission lacked the statutory authority to penalize non-compliant parties beyond the withdrawal of tax exemptions, a sanction it was reluctant to impose, and the parties had no incentive to comply with norms whose enforcement mechanism was toothless. The result was a formally improved but practically inadequate transparency framework.

The Finance Acts of 2016 and 2017: Deterioration in the Semblance of Reform

The Finance Acts of 2016 and 2017 introduced amendments to the Companies Act, the Representation of the People Act, the Income Tax Act, and the Reserve Bank of India Act that together constituted the legislative foundation of the Electoral Bond Scheme. The stated justification for these amendments was the promotion of "clean money" in political funding by channeling donations through the formal banking system and away from cash. This justification was, as the Supreme Court would later find, largely pretextual.

The substantive effect of the amendments was threefold and regressive. First, the Finance Act 2017 removed the 7.5% profit cap from Section 182(1) of the Companies Act, permitting companies, including newly incorporated shell companies with no meaningful business activity, to make unlimited political contributions. Second, Section 182(3) was amended to eliminate the requirement that companies disclose the identity of the recipient party in their profit and loss accounts, destroying at the company level the only disclosure mechanism that had previously applied to corporate political donations. Third, Section 29C of the Representation of the People Act was amended to exempt contributions received through electoral bonds from the disclosure obligations that applied to all other contributions exceeding ₹20,000. The Income Tax Act was simultaneously amended to exempt electoral bond contributions from the disclosure conditions that had previously been attached to political parties' income tax exemption.

The net effect was the creation of a legal framework in which corporations could make unlimited donations to political parties through a state-issued instrument, without disclosing the recipient publicly, without the recipient disclosing the donor publicly, and without any of these transactions being visible to the Election Commission, the Income Tax Department, or ordinary citizens. The only entity that possessed the complete picture, knowing both the identity of the purchaser and the identity of the liquidating party, was the State Bank of India, which was bound by confidentiality obligations and was, in any event, a government-controlled institution subject to the influence of the ruling party.

The Constitutional Framework: Free and Fair Elections, Right to Information and Equality

The constitutional challenge to the Electoral Bond Scheme raised three fundamental questions about the relationship between corporate political funding and the constitutional architecture of Indian democracy: whether unlimited corporate funding violates the principle of free and fair elections as an element of the basic structure; whether anonymous funding violates voters' right to information under Article 19(1)(a); and whether the removal of the profit cap was manifestly arbitrary and therefore contrary to Article 14. The Supreme Court's answers to these questions, set out in the judgment of 15 February 2024, constitute the most comprehensive judicial statement on the constitutional dimensions of corporate political funding in India's history.

Free and Fair Elections as Basic Structure

The principle of free and fair elections as a component of the basic structure of the Indian Constitution was

established in the early constitutional jurisprudence and has been repeatedly affirmed. The basic structure doctrine, first articulated in *Kesavananda Bharati v. State of Kerala* (1973), prohibits Parliament from amending the Constitution in a manner that destroys or abrogates its essential features, of which free and fair elections is unquestionably one. A system of elections in which the financial resources available to competing parties are determined by the volume of corporate donations, donations made in exchange for expected reciprocal advantages, is one in which the formal equality of the ballot is undermined by a structural inequality of financial resources that reflects not the relative support of citizens but the relative capacity of competing parties to promise regulatory and policy benefits to corporate donors.

The Supreme Court, while declining to strike down the amendments on basic structure grounds alone (having found sufficient grounds in Articles 14 and 19), endorsed the principle that "the ability of a company to influence the electoral process through political contributions is significantly greater than that of an individual" and that "contributions from companies are essentially business transactions aimed at securing reciprocal advantages." This characterization is constitutionally significant: it acknowledges that corporate political funding is qualitatively different from individual political expression, involving as it does entities whose financial power may bear no relationship to their share of the citizenry and whose motivations are, by their commercial nature, transactional rather than expressive.

The Right to Information: Article 19(1)(a) and Electoral Alternative

The constitutional foundation for the transparency requirements applicable to political funding is the right to freedom of speech and expression under Article 19(1)(a), which the Supreme Court has consistently interpreted to include the right to receive information and, specifically, the right of voters to information that is material to the exercise of their franchise. In *Union of India v. ADR* (2002), the Court held that voters' right to know the antecedents of candidates was a constitutive element of the right to free expression in the electoral context, because an uninformed vote is not a free vote.

The 2024 judgment extended this principle to political funding, holding that the identity of the entities financing a political party is information that is directly material to voters' ability to assess the party's likely behavior in office and to evaluate the risk of policy capture by financial interests. The Court applied the proportionality standard to find that the non-disclosure provisions of the Electoral Bond Scheme pursued the legitimate aim of protecting donor privacy and reducing black money in political funding, but that this aim did not justify the complete suppression of disclosure, the least restrictive alternative being a regime that disclosed donor identities to the Election Commission (and thereby to voters through a public register) without necessarily publishing them in real time or in a manner that could expose donors to retaliation.

The Court's reasoning on the right to information has implications that extend beyond electoral bonds. It establishes the principle that any scheme of political funding that is structured to prevent voters from knowing the identity of corporate donors is presumptively

unconstitutional unless the State can demonstrate that the non-disclosure is proportionate to a compelling interest. This principle applies with equal force to the use of electoral trusts, which have proliferated in the post-bond environment, and to any other vehicle designed to insert an anonymous intermediary between the corporate donor and the political recipient.

Article 14 and the Invalidity of Unlimited Corporate Funding

The removal of the 7.5% profit cap from Section 182(1) of the Companies Act, permitting unlimited corporate donations without regard to the company's financial standing, profitability, or legitimate business purpose, was held by the Supreme Court to be manifestly arbitrary and therefore in violation of Article 14. The Court noted that the amendment permitted loss-making companies, including shell companies incorporated for the sole purpose of routing political donations, to make unlimited contributions. This created a vehicle for the laundering of undisclosed wealth into legitimate political funding that had no rational relationship to any legitimate regulatory objective. The Court also observed that the removal of the cap created a structural asymmetry that violated the principle of a level playing field between competing political parties, because the parties most capable of attracting large corporate donations, inevitably those in or proximate to power, would enjoy a financing advantage unrelated to popular support. The broader Article 14 argument, that the scheme as a whole was manifestly arbitrary because it was structured to serve the interests of the ruling party while pretending to serve the public interest of transparency, was not resolved explicitly in the judgment, but the Court's analysis of the "information asymmetry" created by the scheme (where the SBI held complete knowledge unavailable to voters and the Election Commission) is consistent with a finding of manifest arbitrariness.

The Electoral Bond Scheme: Build of a Constitutional Breakdown

Design of the Scheme and Its Structural Imperfectness

The Electoral Bond Scheme was notified in January 2018. Under the Scheme, an individual or company could purchase bearer bonds in specified denominations (ranging from ₹1,000 to ₹1 crore) from the State Bank of India during designated sale windows. The bonds were payable to bearer and could be liquidated only by an eligible political party, defined as a party registered under the Representation of the People Act that had secured at least 1% of votes polled in the last general election to the Lok Sabha or a state legislative assembly, through a designated bank account. The bonds had a validity period of fifteen days from the date of issuance, and any bond not liquidated within this period was to be returned to the SBI, with the proceeds transferred to the Prime Minister's National Relief Fund.

Several structural features of the Scheme, individually and in combination, produced the constitutional deficiencies identified by the Supreme Court. The anonymity of the bonds, which were bearer instruments carrying no record of the purchaser on their face, was the most fundamental. The effect of anonymity was not merely to protect donors from public scrutiny (a potentially legitimate objective in a context where some donors might reasonably fear political retaliation for supporting opposition parties). Its more

significant structural effect was to prevent voters, political competitors, and regulatory authorities from identifying the pattern of financial flows between corporate interests and the political party in government — a pattern that is directly relevant to assessing the risk of regulatory capture.

The combination of anonymity with the removal of the profit cap, so that loss-making and shell companies could participate without limit, compounded the constitutional deficiency. As the Supreme Court noted, the scheme created a situation in which "unscrupulous elements" could incorporate companies for the primary purpose of routing funds to political parties through anonymous and opaque instruments. The Court observed that this "has increased the opacity of funding of political parties, and the danger of quid pro quo for any benefits passed on to such companies or their group companies by the elected government." The scheme was, in short, a sophisticated mechanism for institutionalizing quid pro quo arrangements between corporate funders and the government of the day, while providing both parties with legal insulation from scrutiny.

Experimental Evidence of the Scheme's Impact

The data that emerged in the wake of the Supreme Court's direction for disclosure, ordering the SBI to submit details of bond purchases to the Election Commission, which published the information in March 2024, confirmed the concerns that critics had articulated from the outset. The BJP, as the governing party at the Centre, received approximately 47% of all bonds liquidated, with the Congress party, TMC, and several regional parties receiving the remainder. The data revealed a striking pattern: several of the largest purchasers of electoral bonds were companies that were simultaneously subject to regulatory investigation or enforcement proceedings by agencies such as the Enforcement Directorate, the Central Bureau of Investigation, and the Income Tax Department, agencies whose operations fall under the supervision of the central government.

Post-2024 data has revealed a further structural problem: the invalidation of the Electoral Bond Scheme has not resolved the underlying dynamics of corporate political funding; it has merely redirected the flow. Between 2018 and 2024, the scheme generated an average of under \$350 million in total donations per year. In 2024–25, the first full financial year after the ban, electoral trusts contributed over \$450 million to political parties, a figure substantially higher than the average annual flow through the bond mechanism. This data suggests that the demand for channels through which corporate entities can make significant political donations, with whatever degree of privacy can be secured, has not diminished with the abolition of the specific instrument found to be unconstitutional.

Quid Pro Quo: The Structural Corruption Argument

The concept of "quid pro quo corruption", the exchange of political donations for specific governmental benefits, is familiar from comparative constitutional law, most notably from the US Supreme Court's First Amendment jurisprudence on campaign finance. In *Citizens United v. Federal Election Commission* (2010), the US Supreme Court held that the government's anti-corruption interest sufficient to justify restrictions on political expenditure was limited to quid pro quo corruption, the direct exchange of money for a specific political act, and did not extend to the

more diffuse interest in preventing the "undue influence" of wealth on the political process. The Indian Supreme Court in the Electoral Bonds case took a fundamentally different and, it is submitted, more constitutionally sound approach. Rather than limiting its concern to the narrow category of direct quid pro quo transactions, the Indian Court recognized that "access", the ability to participate in policy-making discussions, to have regulatory concerns heard, and to shape the agenda of the institutions that govern commercial activity, is itself a form of structural advantage that flows from corporate political funding and that distorts democratic governance regardless of whether any specific exchange of money for a specific official act can be proven. This is the structural corruption argument: that a system of unlimited corporate political funding corrupts democratic governance not primarily through discrete bribery transactions but by creating a permanent structural bias in favor of the interests of major corporate donors across the full range of policy, regulatory, and legal decisions made by governments they have helped to elect.

The structural corruption argument has particular force in the Indian context because of the breadth of governmental discretion that remains available in India's mixed economy. The allocation of natural resource concessions, the grant of infrastructure contracts, the setting of regulatory tariffs, the prosecution (or non-prosecution) of corporate malfeasance, the passage of legislative amendments favorable to specific industries, and the issuance of regulatory approvals all involve significant governmental discretion. In each of these domains, a company that has made substantial political donations to the governing party has a structural advantage over one that has not an advantage that is unrelated to the merits of its case and that reflects the private transaction between funder and funded rather than the public interest that the regulatory process is meant to serve.

The Legal Framework After the Electoral Bonds Judgment

The Reinstalled Regulatory Construction

The Supreme Court's invalidation of the Electoral Bond Scheme restored the pre-2017 regulatory architecture for corporate political funding. Under this restored framework, the 7.5% profit cap on corporate contributions under Section 182 of the Companies Act is once again operative. Companies are required to disclose the amount contributed and the identity of the recipient party in their profit and loss accounts. Political parties are once again subject to the Section 29C disclosure obligation in respect of contributions exceeding ₹20,000. The income tax exemption for political party income under Section 13A of the Income Tax Act is once again conditional on compliance with the disclosure requirements that the Finance Act 2017 had suspended.

In formal terms, this represents a return to a moderately functional transparency regime. In practical terms, the effectiveness of the restored framework depends critically on enforcement, and the enforcement mechanisms that existed before the Electoral Bond Scheme were demonstrably inadequate. The Election Commission's powers to compel compliance with contribution reporting requirements remain largely advisory; the penalties for non-compliance are limited; and the Commission lacks the investigative resources and institutional independence from the executive that robust enforcement of political funding regulations would require.

Electoral Trusts and Post-Bond Corporate Funding

Electoral trusts, registered under Rule 17CA of the Income Tax Rules, 1962, are entities set up specifically to receive contributions from corporate donors and to distribute them to registered political parties. They offer corporate donors a degree of privacy while technically complying with the disclosure requirements applicable to trusts as intermediary vehicles. Since the invalidation of the Electoral Bond Scheme, corporate entities have migrated substantially to electoral trusts as the vehicle of choice for political donations.

The proliferation of electoral trusts post-2024 raises a significant transparency concern. While trusts are nominally subject to disclosure requirements, the chain of beneficial ownership, identifying which corporations have contributed to which trusts and thereby funded which parties, is not always visible in the publicly available data. The use of multiple layers of intermediary vehicles, together with the continued absence of effective enforcement of disclosure norms, means that the substantive transparency objective of the Electoral Bonds judgment is at risk of being achieved in form but evaded in practice. The observation of ADR researchers that the 7.5% cap and disclosure requirements "are not happening" in practice, despite being legally required, is a sober assessment of the gap between the regulatory architecture and its actual operation.

The Foreign Contribution Magnitude

A parallel and underexamined dimension of the corporate political funding problem in India concerns the regulation of contributions from foreign sources. The Foreign Contribution (Regulation) Act, 2010 (FCRA) prohibits political parties and candidates from receiving contributions from "foreign sources", defined to include foreign companies, foreign nationals, and foreign governments. However, amendments introduced in 2016 and 2018 retroactively amended the definition of "foreign source" to exclude Indian subsidiaries of foreign companies from the prohibition, a change that was found, in a significant judgment, to have been motivated by the desire to retrospectively legalize the foreign funding that the BJP and the Congress had already received from the Indian subsidiary of Vedanta Resources, a UK-based company.

The Foreign Contribution (Regulation) Amendment Bill 2026, introduced in the Budget Session of Parliament, has attracted criticism from civil society organizations for its proposal to require prior central government approval for investigations under the FCRA. Critics argue that this provision would further insulate political funding arrangements, including those involving foreign-influenced corporate donors, from independent scrutiny, by requiring the government that benefits from the funding to approve any investigation into its sources. Whether or not this concern proves justified will depend on how the provision is implemented and how robustly it is scrutinized by the courts, but the direction of legislative travel is not encouraging for the cause of transparency.

Comparative Perspectives: What India Can Learn

The challenge of regulating corporate political funding is not unique to India; it is a pervasive feature of contemporary democratic governance across a wide range of political systems. A comparative survey of the approaches adopted in other major democracies reveals both the range of options

available and the structural conditions that determine whether regulatory frameworks succeed in achieving their objectives.

The United Kingdom: Donation Caps and Comprehensive Disclosure

The United Kingdom's Political Parties, Elections and Referendums Act 2000 (PPERA), establishes a framework that combines comprehensive disclosure obligations with caps on donations and expenditure. Political parties are required to report all donations above £500 to the Electoral Commission, which publishes the information on a publicly searchable register updated quarterly. Donations above £7,500 must be reported within 30 days. Overseas donations are prohibited. The Electoral Commission is an independent statutory body with investigative and enforcement powers, including the authority to impose fines of up to £20,000 for disclosure violations. The expenditure limits applied during general election periods, capping national campaign spending at approximately £19.5 million per party, have been reasonably effective in preventing the most extreme forms of financial arms race. The UK framework is far from perfect (the 2016 Brexit referendum campaign revealed significant enforcement gaps in respect of digital advertising expenditure and third-party campaigning), but its combination of transparency, caps, and independent enforcement provides a working model for reform in the Indian context.

Germany: Party Funding Translucence and the Constitutional Court

Germany's framework for political party funding, shaped by a series of decisions of the Federal Constitutional Court, which requires parties to publish annual accounts disclosing the sources and amounts of all donations above €10,000, with immediate public disclosure required for donations above €50,000. The Grundgesetz (Basic Law) subjects political parties to a constitutional requirement of internal democracy and imposes on the state a duty to ensure that the conditions of electoral competition are reasonably fair. The Constitutional Court has struck down several attempts to dilute disclosure requirements, holding that transparency in party funding is constitutionally mandated as a condition of democratic legitimacy. The German experience is instructive for India because of the Federal Constitutional Court's willingness to intervene directly in the design of political funding legislation, an approach that the Indian Supreme Court's Electoral Bonds judgment suggests the Supreme Court of India is prepared to take.

The United States: The Citizens United Problem and Its Lessons

The United States presents, in important respects, a cautionary tale. The Supreme Court's 2010 decision in *Citizens United v. FEC*, holding that the First Amendment prohibits restrictions on independent political expenditure by corporations, unleashed a torrent of corporate political spending that has fundamentally altered the structure of American electoral finance. The subsequent proliferation of "Super PACs", political action committees that can receive unlimited corporate and individual contributions for "independent" political spending, has created a system in which major corporations and their affiliated billionaire shareholders can deploy enormous financial resources to

influence electoral outcomes without meaningful constraint, so long as the expenditure is nominally "independent" of the candidate's own campaign. The American experience demonstrates the risks of constitutionalizing corporate political speech as equivalent to individual political expression, a risk that the Indian Supreme Court's 2024 judgment has explicitly declined to accept, by affirming that corporate political donations are qualitatively different from individual political expression and that their scale requires different regulatory treatment.

Brazil and South Africa: The Menace of Inadequate Reform

Brazil's experience is instructive as a cautionary parallel. The Brazilian Supreme Federal Tribunal struck down corporate political funding in 2015, finding it unconstitutional. This reform was welcomed as a step toward reducing the influence of corporate money in Brazilian politics. However, the prohibition was accompanied by an increase in public funding of parties and by the expansion of other mechanisms through which corporate interests could influence political decision-making outside the formal donation framework. The subsequent revelation, through the Lava Jato (Car Wash) investigation, of systemic corruption involving state-owned enterprises and major private contractors demonstrated that prohibiting overt corporate donations does not eliminate the structural relationship between corporate wealth and political power, it merely changes its form. South Africa's post-apartheid framework, which long had minimal disclosure requirements for private political funding, introduced mandatory disclosure legislation only in 2018, against significant political resistance. The South African experience illustrates the difficulty of achieving transparency reform when the major parties subject to disclosure are also the parties that must vote for the disclosure legislation.

The Impact on Democratic Governance: Machineries of Damage

Equal Opportunity and Electoral Rivalry

The most immediate harm caused by unregulated corporate political funding is the distortion of the competitive conditions of electoral politics. A system in which political parties' financial resources are substantially determined by the volume of corporate donations, donation that reflects not popular support but the capacity of parties to promise regulatory and policy benefits, creates a structural advantage for parties that are in power or that credibly aspire to power, at the expense of parties that genuinely represent the interests of those social groups with fewer corporate connections.

This structural inequality in campaign finance translates, over time, into structural inequality in electoral outcomes: parties that are well-funded can campaign more extensively, reach more voters, deploy more sophisticated voter targeting, and respond more rapidly to their opponents' messages. Parties that are poorly funded cannot do these things even if they represent the preferences of a majority of voters. The result is a skewed electoral competition in which financial resources, derived from corporate donations that reflect the interests of a narrow economic elite, come to play a disproportionate role in determining which parties are competitive and which are not.

Policy Seize and Regulatory Malformation

Beyond its effects on electoral competition, corporate political funding creates structural incentives for policy capture, the distortion of legislative and regulatory decision-making in favor of the interests of major corporate donors at the expense of the public interest. The mechanism of policy capture does not require explicit bribery transactions. It operates through the structuring of access: corporate donors have greater access to elected officials, to their advisors, and to the regulatory bodies that elected officials supervise. This access advantage translates into informational advantages, agenda advantages, and relational advantages - the personal and institutional relationships built through the funding relationship create obligations of reciprocity that shape decision-making at the margin.

In India's context, the domains in which policy seize is most consequential include: natural resource allocation (the award of coal blocks, spectrum, mining leases, and other state-controlled assets); infrastructure contracting (the award of government contracts for roads, ports, airports, and power generation); the setting of regulatory tariffs in sectors such as telecommunications, pharmaceuticals, and financial services; the administration of tax and customs law; and the management of the government's enforcement discretion in financial crime and environmental regulation. In each of these domains, the government's decisions create or destroy enormous economic value, and a corporate entity that has made substantial political donations to the governing party enjoys a structural advantage in securing favorable outcomes, an advantage that is unrelated to the merits of its case.

The Depletion of Voter Confidence and Democratic Validity

A third category of harm is more diffuse but potentially more corrosive in the long run: the depletion of voter confidence in the integrity of the democratic process. When voters know that the major political parties are substantially funded by corporate entities whose donations are made in exchange for expected policy benefits, they rationally conclude that the democratic process is rigged in favor of those interests and that their votes do not determine who actually governs. This perception of democratic futility drives disengagement from the political process, reduces the accountability of politicians to ordinary voters, and creates fertile ground for anti-democratic political movements that promise to break the perceived nexus between corporate power and political authority.

The data on opacity in Indian political funding is particularly damaging to democratic legitimacy because it is not merely anecdotal, it is statistically documented. The ADR's finding that approximately 60% of contributions to the six major political parties over nearly two decades came from undisclosed sources means that the majority of the funding of India's democratic institutions has operated outside any meaningful accountability framework. The inference that voters are entitled to draw from this data, that the major parties' financial arrangements are systematically structured to prevent public knowledge of their corporate patrons, is precisely the kind of inference that destroys trust in democratic institutions.

Towards a Constitutionally Compliant Reform Architecture

The identification of the harms caused by unregulated corporate political funding, and the constitutional

framework within which any reform must operate, points towards a set of interlocking structural reforms. These reforms must be understood as a coherent package: no single measure will be sufficient, and the history of political finance reform in India demonstrates that partial measures are systematically subverted when the underlying structural incentives for opacity remain intact.

Comprehensive and Tiered Revelation

The most fundamental reform required is the implementation of comprehensive, real-time disclosure of political donations, accessible in a public and searchable register maintained by the Election Commission. The Law Commission's 255th Report recommended mandatory disclosure of all contributions above ₹20,000, with donor name, address, and PAN card number, along with daily fines for non-compliance and de-registration for persistent defaults. These recommendations remain sound and should be implemented in full. The Supreme Court's proportionality analysis in the Electoral Bonds judgment suggests that disclosure to the Election Commission, even if publication of donor identities is deferred briefly to protect against retaliation in genuinely sensitive cases, is constitutionally required and cannot be replaced by disclosure to the SBI or other bodies subject to executive influence.

In addition to party-level disclosure, the reform framework should require disclosure at the corporate level. Every company making a political donation should be required to disclose the amount and the recipient in its annual report, in its statutory filings with the Registrar of Companies, and in a dedicated political spending disclosure filed with the Election Commission. The elimination of the profit cap by the Finance Act 2017 must remain reversed, with the 7.5% cap reinstated and applied without the loopholes that had allowed it to be circumvented through loss-making and shell company vehicles.

Unfettered Enforcement and the Role of the Election Commission

Disclosure requirements without effective enforcement are, as India's experience amply demonstrates, meaningless. The reform framework must therefore strengthen the enforcement powers and institutional independence of the Election Commission of India. The Commission should be granted statutory authority to: conduct audits of party accounts; impose meaningful financial penalties for non-compliance with disclosure obligations; refer suspected violations to law enforcement agencies; and, in cases of persistent and deliberate non-compliance, initiate de-registration proceedings. The Commission's Commissioners should be appointed through a process that is insulated from executive influence, the model suggested by the Supreme Court in the recent judgment on the Election Commissioners' appointment process (*Anoop Baranwal v. Union of India*, 2023) points in the right direction.

Equally important is the reform of the corporate governance framework for political donations. The requirement for a board resolution authorizing each political donation, which exists in Section 182 of the Companies Act but has been routinely ignored in practice, should be strengthened to require shareholder approval for any political donation exceeding a specified threshold. This reform would address the significant harm that flows from the use of corporate funds for political donations without the knowledge or

consent of minority shareholders, a harm that the Supreme Court acknowledged in the Electoral Bonds judgment.

Public Funding and the Reduction of Demand for Private Corporate Money

Experience from comparative jurisdictions suggests that disclosure and enforcement reforms, while necessary, are not sufficient to address the structural dynamics of corporate political funding if they are not accompanied by measures to reduce the demand for private corporate money in the first place. The principal driver of this demand is the widening gap between the escalating costs of competitive democratic campaigns and the financial resources available to parties through individual membership fees, public donations, and state subventions. A comprehensive reform framework must therefore include a substantial increase in state funding for political parties, conditioned on compliance with financial disclosure obligations and internal party democracy requirements.

State funding should be allocated through a formula that reflects both electoral performances, measured by vote share in recent elections, to reflect popular support, and the parties' compliance record with financial transparency requirements. Parties that fail to meet disclosure standards should be ineligible for state funding, creating a powerful positive incentive for compliance. The funding should be sufficient to enable competitive campaigning at the national level, reducing the structural dependency on corporate donors that currently makes both major and minor parties vulnerable to the capture dynamics described above.

Refining Electoral Trusts and Closing Post-Bond Escapes

The rapid growth of electoral trust donations in the wake of the Electoral Bond judgment, from under \$350 million annually under the bond mechanism to over \$450 million in 2024–25 through trusts, demonstrates that the reform agenda cannot be limited to the specific instrument found to be unconstitutional. The use of electoral trusts as vehicles for partially anonymous corporate political funding must be addressed through amendments that require trusts to disclose, in real time, the identity and amount of every corporate contributor and the identity and amount distributed to every beneficiary party. The chain of beneficial ownership must be visible to the public and to the Election Commission, not merely recorded in internal accounts that are never audited.

More broadly, the post-2024 regulatory framework must include a comprehensive prohibition on the use of any intermediary vehicle, whether an electoral trust, a company, or any other legal entity, to channel political donations in a manner that breaks the direct link between the corporate donor and the political recipient for the purpose of obscuring the donor's identity. The constitutional principle established in the Electoral Bonds judgment, that voters have a right to know the identity of those who finance the parties seeking their votes, applies with equal force to every vehicle through which corporate money enters the political arena.

Institutional and Political Challenges to Reform

Any honest assessment of the prospects for corporate political funding reform in India must grapple with the institutional and political obstacles that have historically

prevented the implementation of the reforms that the Law Commission, the Election Commission, the Supreme Court, and civil society organizations have repeatedly recommended. These obstacles are structural rather than accidental: they reflect the fact that the major political parties that would need to enact or implement the reforms are precisely the entities that benefit most from the opacity and permissiveness of the current framework.

The most fundamental obstacle is the collective action problem inherent in legislative reform of political finance. Any party that unilaterally adopted more stringent transparency standards while its competitors continued to benefit from opacity would be placing itself at a competitive disadvantage. The incentive to free-ride on the opacity of the system is structurally embedded in the current framework, and the history of partial reforms that have been systematically subverted through legislative loopholes (as with the Finance Acts of 2016 and 2017) illustrates how this incentive operates in practice.

The second major obstacle is the weakness of the institutional framework for enforcement. The Election Commission's independence from the executive has been a recurring concern in Indian constitutional discourse, and its effectiveness as an enforcement authority for political funding regulations depends critically on the caliber and independence of its commissioners, the adequacy of its investigative resources, and its willingness to challenge powerful parties. The Supreme Court's 2023 judgment directing reform of the Election Commissioner appointment process addresses one dimension of the independence problem, but significant institutional strengthening will be required before the Commission can function effectively as a political finance regulator.

The judiciary has played, and will continue to play, a critical role in this domain, as the Electoral Bonds judgment demonstrates. But judicial intervention has structural limitations as a mechanism for achieving systematic reform: courts can invalidate specific instruments and establish constitutional principles, but they cannot design and implement comprehensive regulatory frameworks on an ongoing basis. The Association for Democratic Reforms has filed multiple public interest litigations over two decades seeking improved political finance transparency, and the judiciary's record of supporting the right to electoral information has been consistent and progressive. The challenge is to translate judicial mandates into effective legislative and administrative implementation, a task that ultimately requires political will that is generated by informed and engaged civil society rather than merely by constitutional litigation.

Conclusion: Democracy, Corporate Power and the Undone Agenda

The Supreme Court's judgment in *Association for Democratic Reforms v. Union of India* (2024) is a landmark in the constitutional jurisprudence of Indian democracy. It establishes, with the authority of a unanimous Constitution Bench, that voters have a fundamental right to know the identity of those who finance the political parties that seek their votes; that corporate political funding is qualitatively different from individual political expression and demands different regulatory treatment; and that the anonymity created by the Electoral Bond Scheme was not merely inconvenient or imperfect but constitutionally incompatible

with the guarantee of free and fair elections. These are important and durable constitutional achievements that will constrain the design of any future political finance legislation.

But the judgment has not resolved the structural problem that the Electoral Bond Scheme so vividly illustrated. Corporate political funding in India has, since the scheme's abolition, migrated to electoral trusts and other vehicles that are formally compliant with the restored regulatory framework but that continue to operate with a degree of opacity that falls far short of the transparency that the constitutional right to electoral information demands. The 7.5% profit cap has been reinstated, but its enforcement depends on the effectiveness of disclosure and audit mechanisms that have historically been inadequate. The Election Commission's powers to compel compliance remain limited. The structural incentives that drive major corporations to seek political influence through financial donations remain entirely intact.

The unfinished agenda of corporate political funding reform in India encompasses at least four interconnected tasks. The first is the implementation of a comprehensive, real-time, publicly accessible disclosure regime that covers all vehicles through which corporate money enters the political arena, direct donations, electoral trusts, in-kind support, and any other form of corporate political expenditure. The second is the strengthening of the Election Commission's institutional independence and enforcement powers, so that disclosure requirements are backed by credible and effective sanctions. The third is the reform of public funding of political parties to reduce the structural dependency on corporate donations that currently makes the major parties vulnerable to policy capture. The fourth, and most fundamental, is the cultivation of a political culture and a civil society robust enough to hold political parties accountable for compliance with political finance regulations, not merely through litigation, but through the sustained public pressure that is ultimately the indispensable condition for effective democratic governance.

The constitutional framework, as elaborated by the Supreme Court, from *Union of India v. ADR* (2002) through the Electoral Bonds judgment of 2024, provides a principled foundation for this agenda. The Court's consistent and progressive reading of the right to electoral information, its recognition of the structural differences between corporate and individual political participation, and its application of the proportionality standard to political finance regulations establish the constitutional parameters within which reform must occur. What remains to be provided is the legislative and administrative architecture to give those parameters practical content.

The health of Indian democracy depends in significant measure on how well India manages the relationship between corporate wealth and political power. The Electoral Bonds judgment has established that this relationship cannot be managed through opacity and unlimited access. The remaining challenge is to build, on the constitutional foundations the Court has laid, a framework that is transparent enough to allow citizens to see who funds their democracy, fair enough to allow competitive politics without financial capture, and robust enough to enforce the rules against those who would circumvent them. That is the constitutional challenge that India's political finance debate must now address.

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