

**Background Paper  
on  
Political Finance  
and  
Law Commission  
Recommendations**



**Election Commission of India**

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## **Introduction**

Political Finance refers to funds or resources involved in election campaign of candidate and political parties and also the expenses of the political parties for political activity during the non-election period. The resources for this purpose are either raised by the parties or the candidates on their own, or are provided by way of state funding. The state funding is provided either directly or in indirect manner. Direct state funding is given to political parties and /or candidates in form of money, usually as bank transfer. Indirect state funding refers to transfer of resources by the state or the government to a political party or a candidate for a monetary value in indirect way.

It is needless to say that high cost of election and corruption go hand in hand and it disturbs the level playing field, as all candidates or parties do not have equal access to such funds. The Big Money, used in non-transparent manner, may be black money or tainted money and it undermines the rule of Law, as the elected representatives become captive in the hands of those, who provide such funds. Besides, Vote buying is another manifestation of such non-transparent use of Money in elections. The excessive use of Money Power in elections has been reported by some parties, candidates, media and civil society organisations. Many Parliamentarians have also raised concern in the House about the use of excessive money in election campaign and asking the Commission to take urgent steps to curb such malaise.

Though the Commission has taken several steps in this regard in the recent elections, it faces the handicap for its strict enforcement, in the absence of express legal provisions. The Law Ministry in association with the Election Commission had initiated national consultation on electoral reform, including the reform in Political Finance and transparency norms. A detailed Back Ground paper was prepared (Relevant pages of the Back Ground Paper relating to Political Finance enclosed). But the process remained inconclusive and the matter was referred to the Law Commission, which has submitted its 255<sup>th</sup> report. (Relevant pages on Political Finance are enclosed).

In view of the Law Commission's recommendations, the Election Commission has decided to initiate National Consultation with the stake holders on this important

issue of political finance, and to formulate a strategy paper on urgent implementation of important suggestions.

## **II. Political Finance and Disclosure Norms in India:**

At present, there is no direct state funding of parties in India. However the parties enjoy certain benefits indirectly, which are mentioned as under:

- Providing free electoral rolls to the candidates and recognised political parties.
- Providing free air time to the recognised political parties on state owned media.
- Providing free space in state capitals for the office of the recognised political parties.
- Tax exemption on the income of the political parties.
- Tax exemption for the donors on donations to the political parties and electoral trusts, subject to certain restrictions that they shall not receive donation from foreign source, government companies and other companies as per sec 293 A of Companies Act,1956. (Though the Companies Act has been replaced by the new Companies Act 2013, the Representation of the People Act has not been amended to define companies as per corresponding section 182 of the new Act).
- **Corporate Donations:** In 1968, the government banned corporate donations to political parties. However, amendment of the Companies Act in 1985 allowed corporate donations to political parties under certain conditions. The most important condition was that companies could donate a maximum of five per cent of their average net profit over the previous three years, subject to the approval by the Board of Directors and disclosure in the profit and loss account statement in the audited annual accounts of the company. The limits of contribution to political parties has been increased to 7.5% of the average net profits during the three immediately preceding financial years from the existing limit of 5%.
- Income Tax laws have been amended in 2010 exempting donation of voluntary contributions received by electoral trust to any political party, but correspondingly there is no amendment of the Representation of People

Act,1951, as a result the trusts' are not required to disclose any information to the Commission.

- **Campaign expenditure:** At present, there is only statutory limit on the amount that could be spent on election campaigns of a candidate. Recently, the ceiling of the expenditure incurred by a candidate on campaign has been increased from Rupees 16 lakh to 28 lakh for elections to State Assembly and from Rupees 40 lakh to 70 lakh for elections to Lok Sabha.
- However, there is no ceiling on election expenditure by the political parties. The expenditure made by political parties in favour of their candidates do not count in election expenses incurred by a candidate for the purpose of ceiling. This effectively made the limit on poll expenditure largely irrelevant.
- The candidates are also not required to disclose their pre-nomination campaign expenditure, nor it is considered within the ceilings.
- **Disclosure:**
- The political parties are required to disclose once in a year to the Commission, before the due date of filing of Income Tax return, the names and addresses of persons, donating at a time more than Rs 20,000/- (Sec 29C of RP Act, 1951). If they fail to submit the report to the Commission in time, the tax exemption on the contributions will not be allowed by the Income Tax Deptt., as per provisions of R P Act,1951. Therefore, as soon as such contribution reports are received from the Parties, the Commission forwards those to the Income Tax Deptt. for necessary action. The Commission also forwards such contribution reports to the Ministry Home Affairs, for verification of the foreign source and to the Ministry of Corporate Affairs for verification of the corporate donations under the Companies Law.
- However, the parties are neither required to maintain the details, nor required to disclose to the Commission, if the one time contribution made by a person is not more than Rs 20,000/-. They are also not required to disclose total contributions received by them and therefore anonymous donations are neither restricted nor prohibited. Similarly, if they receive donation from the prohibited companies or source, in violation of Provisions of 29B of the R P Act, 1951, there is no penal provision in that Act against such action by the parties.

- The candidates can raise fund from any source, as there is no restriction under the law on fund-raising by the candidates, nor there is any requirement to maintain and disclose the names and addresses of the persons from whom they are receiving the fund.
- The Parties are required to disclose to the Commission, within 75 days of assembly election and 90 days of Lok Sabha election, the total amount of election expenses incurred by them (As per SC order in Common Cause case). But there is no penal provision, if the parties do not submit the report at all or submit incomplete or incorrect report. The Commission has issued instruction in its transparency guidelines for the political parties that such report submitted should be verified by the Chartered accountant of the Party, but there is no penal provision to ensure this. The Commission puts these reports on its website.
- The Commission has issued instruction in transparency guidelines for the parties that the parties should file the Annual Audited Accounts with the Commission within seven months from the end of financial year. Similarly, the Commission has issued guidelines that the parties should not incur any expenditure in cash, if the amount is more than Rs 20,000/- to a single person in a day (excluding the transactions in areas not having banking facility). In the absence of penal provisions, some parties do not comply with the requirements.
- As required by the Commission, the Institute of Chartered Accountants has issued guidelines prescribing accounting and audit standard for the parties. There is no penal provision for violation of such guidelines.
- During the election process, the candidates are required to produce their Day to Day election expenditure statements three times before the Expenditure Observer of the Commission for inspection and final accounts with bills and vouchers are required to be submitted before the DEO, within 30 days of completion of election. If they don't submit such statement before the DEO, in time and in the manner prescribed, they may be liable for disqualification by the Commission for a period of three years.
- The commission has issued instruction that each candidate should open a separate bank account for election expense and incur all expenses from that

account by cheque, excluding small payments below Rs 20,000/-. But there is no penal provision to enforce this.

### III. Current level of election expenditure and Lok Sabha Election, 2014

During Lok Sabha election 2014 the winning candidates have shown election expenditure as under:

Range of Expenditure (Rs in Lacs)	Number of Candidates	Percentage of Candidates
0 to 35	178	32.7
35 to 56 (50% to 80% of ceiling)	295	54.3
56 to 70 (80% and above)	63	11.6

It may be mentioned that ceilings for election expense of the candidates for Lok Sabha Election and Assembly Election are Rs 70 Lakh and 28 Lakh respectively. It is often admitted by political leaders that the candidates in reality spend many times more than what they disclose to the Commission.

Over and above the candidate's expenditure, the political parties have shown expenditure in Lok Sabha election-2014 as under:

Party Name	Total Expenditure in Loksabha election 2009 (Rs in crore)	Total Expenditure in Loksabha election 2014 (Rs in crore)
Bahujan Samaj Party	21.23	30.05
Bhartiya Janata Party	280.67	714.28
Communist Party of India	5.70	11.73
Communist Party of India (Marxist)	10.26	18.69
Indian National Congress	380.04	516.02
Nationalist Congress Party	26.16	51.34

The reports of state recognised parties are also enclosed in Annexure. All the above reports are uploaded on the website of the Commission for public viewing.

#### **IV. Contribution Reports by Political Parties:**

The national political parties have shown to the Commission, their Annual Contribution report for receipt of donations in excess of Rs. 20,000 in a financial year under Sec 29C of the RP Act, 1951 as under:

Party Name	2010-2011 (Rs in Cr)	2011-2012 (Rs in Cr)	2012-13 (Rs in Cr)	2013-14 (Rs in Cr)
Bahujan Samaj Party	0	0	0	0
Bhartiya Janata Party	14.51	37.33	83	166.77
Communist Party of India	1.18	0.60	0.34	1.28
Communist Party of India (Marxist)	1.566	2.26	4	2.09
Indian National Congress	7.41	10.93	101.75	66.47
Nationalist Congress Party	0.14	2.55	0.05	14.02

The reports of state recognised parties are also enclosed in Annexure. The above reports are uploaded on the website of the Commission for public viewing. The contribution reports submitted before the Commission are reported to be only a small fraction of the total contributions received by some of the parties.

#### **V. Annual Audit Report by the Parties:**

As per transparency guidelines of the commission, all parties are required to submit a copy of their Annual Audited Accounts to the Commission before 31<sup>st</sup> October of the succeeding financial year. The status of Audit reports submitted by the parties is as under:

Name of the Party	Total Income shown in Annual Audited Accounts (F. Y. 20013-14) in Cr	Total Expenditure shown in Annual Audited Accounts (F. Y. 20013-14) in Cr
Bahujan Samaj Party	66.91	19.98

Bhartiya Janata Party	Not submitted	Not submitted
Communist Party of India	2.43	1.32
Communist Party of India (Marxist)	121.87	72.62
Indian National Congress	Not submitted	Not submitted
Nationalist Congress Party	55.42	35.95

The reports of state recognised parties are also enclosed in Annexure. The above reports are uploaded on the website of the Commission for public viewing. However the parties are required to file the Annual Audited Accounts before the Income tax authority, along with their Income Tax Return, which is treated as a confidential document as per the Income tax laws. Though the Chief Information Commissioner of India has declared the National Parties as public authorities under RTI Act, the parties are yet to comply with the direction and the matter is sub-judice.

#### **VI. Reports of various Committees on Political Finance:**

The committees set up on different occasions to examine the issue of political finance and State Funding, had submitted their reports (Copies of Dinesh Goswami Committee Report, Indrajeet Gupta Committee Report, Law Commission Report enclosed). Besides, different organisations and associations have given their views on the issue, on various occasions.

Their recommendations in brief are mentioned as under:

	<b>Recommendations on political finance and State Funding of Elections</b>
Goswami Committee, May, 1990	The Goswami Committee recommended that state assistance only in kind not in cash should be extended only to candidates set up by recognized political parties. It recommended state assistance in kind in respect of (i) provision of prescribed quantity of fuel or petrol to vehicles used by candidates; (ii) supply of additional copies of electoral rolls; (iii) payment of hire charges for prescribed number of microphones used by candidates;

	and (iv) distribution of voters' identity slip.(Chapter VIII)
Indrajeet Gupta Committee, Dec. 1998	On the ground of public interest, the Committee recommended state subvention to political parties so as to establish such conditions where even the parties with modest financial resources may be able to compete with those who have superior financial resources. The Committee recommended that for the present, only the part of the financial burden of political parties (in kind, not cash) may be shifted to the State. Gradually, more and more of their expenses' burden can be progressively shifted to the State.(Chapter II, paragraphs 6.14, 9.2 and 10.2)
Law Commission, (170 <sup>th</sup> report) 1999	According to the Law Commission, it is desirable that total state funding be introduced, but on the condition that political parties are barred from raising funds from any other source. It also held that only partial state funding was possible at the present time given the economic conditions of the country. Additionally, it strongly recommended that the appropriate regulatory framework be put in place with regard to political parties (provisions ensuring internal democracy, internal structures and maintenance of accounts, their auditing and submission to Election Commission) before state funding of elections is attempted. (Paragraph 4.3.4)
Venkatachaliah Committee, 2002	Any system of state funding of elections bears a close nexus to the regulation of working of political parties by law and to the creation of a foolproof mechanism under law with a view to implementing the financial limits strictly. Therefore, proposals for state funding should be deferred till these regulatory mechanisms for political parties are firmly in position. (Paragraph 4.14.6)
Second Administrative Reforms Commission, 2007	A system for partial state funding should be introduced in order to reduce the scope of illegitimate and unnecessary funding of expenditure for elections. (Paragraph - 2.1.3.1.6)
CII Taskforce on Electoral	In 2012, the Confederation of Indian Industry (CII) <sup>1</sup> task force on electoral reforms recommended legitimizing political funding and sought imposition

<sup>1</sup> <http://www.livemint.com/Politics/FTT7q10C36ZEi3N5RMZFNI/CII-task-force-moots-democracy-cess-to-fund-elections.html> accessed on 7th Feb 2015

Reforms, 2012	<p>of a “<b>democracy cess</b>” of <b>0.2% on all income tax payers</b>, including corporates, for funding political activity and elections in the country. It also recommended that the cess be paid directly by the tax payer through cheque into the account of any political party of his or her choice. The full amount of cess or part thereof to the extent not paid to any political party should be paid to the government as a part of income tax payment which will accrue to an “electoral/political pool fund” which the election commission will utilize to support legitimate political activity.</p> <p>As reported in Business Standard, Confederation of Indian Industry has written to the government suggesting that section 182(3) of the new Companies law that calls for full disclosure including naming parties that have been given money to, must be altered. CII believes private industry is apprehensive that full disclosure may lead to a backlash from parties that are 'less generously funded'<sup>2</sup>.</p>
ASSOCHAM, 2014	<p>The ASSOCHAM had suggested creation of a Government fund of Rs 5000 crore over five years for part funding of candidates spending. The campaign spending should also be subject to the public scrutiny for which the Right to Information Act should be made applicable to political parties.</p> <p>ASSOCHAM India<sup>3</sup>, has suggested change in IT Act, it says that the political parties should be brought under the purview of income tax at the rate of 30% in respect of anonymous donations received by them and should also be subjected to penalty for not filing return well in time. “Surprisingly there is no penalty prescribed for not filing the return of income by a political party in time. Thus there is a need to amend provision in the Income Tax Act to provide penalty in case a political party fails to file the return of income in time”.</p>
Law Commission 255 <sup>th</sup> report,2015	<p>Currently, a system of complete state funding of elections or of matching grants, wherein the government matches the private funding (by donors or corporates) raised by political parties, are not feasible given the economic conditions and developmental problems of the country.</p> <p>2. Given the high cost of elections and the improbability of being able to</p>

<sup>2</sup> Why India Inc's demand for secrecy on political funding is valid, Nikhil Inamdar, Business Standard, Mumbai ,November 29, 2013 accessed from [http://www.business-standard.com/article/politics/why-india-inc-s-demand-for-secrecy-on-political-funding-is-valid-113112900526\\_1.html](http://www.business-standard.com/article/politics/why-india-inc-s-demand-for-secrecy-on-political-funding-is-valid-113112900526_1.html) on 7th Feb 2015

<sup>3</sup> Source <http://www.assochem.org/newsdetail.php?id=4798> accessed on 15 Dec 2014; <http://www.thehindubusinessline.com/news/politics/political-parties-should-pay-30-tax-on-anonymous-donations-assochem/article6689121.ece> accessed on 15 Dec 2014

	<p>replace the actual demand for money, the existing system of giving indirect in-kind subsidies instead of giving money via a National Election Fund, should continue.</p> <p>3. The wording of Section 78B of the RPA permits the Central Government, in consultation with the ECI, to supply certain items to the electors or the candidates and this provision can be used to expand the in-kind subsidy to include free public meeting rooms, certain printing costs, free postage etc.</p> <p>4. Any reform in state funding should be preceded by reforms such as the decriminalisation of politics, the introduction of inner party democracy, electoral finance reform, transparency and audit mechanisms, and stricter implementation of anti-corruption laws so as to reduce the incentive to raise money and abuse power.</p>
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## **VII. Arguments for state funding:**

Those who argue in favour of state funding make their arguments on the following grounds:

- Public funding is a natural and necessary cost of democracy and the state has to incur this cost for proper functioning of democracy.
- State funding increases transparency inside the party and also in candidate finance, as certain restrictions can be put along with state funding.
- State funding can help in curbing corruption at high level in government.
- State funding can limit the influence of wealthy people and rich mafias, thereby purifying the election process.
- Through state funding the demand for internal democracy in party, women representations, representations of weaker section can be encouraged.
- Without state funding the parties and candidates raise their own funds, and gradually the economical inequality in the society translates into political inequalities, as the poor and weaker sections are gradually sidelined.
- In view of rising cost and evolution of modern methods of election campaign, the political parties and candidates need support to propagate their programme, thereby shifting their strategy from vote buying to programmatic politics.

- In India, with high level of poverty, ordinary citizens cannot be expected to contribute much to the political parties. Therefore, the parties depend upon funding by corporate and rich individuals.

### **VIII. Arguments against state funding:**

Those who argue against state funding of elections rely on the following grounds:

- The tax payer's money is diverted from developmental activity like building schools, hospitals, roads etc. to the political parties and/or candidates for the purpose of elections.
- Through state funding of elections the tax payers are forced to support even those political parties or candidates, whose view they do not subscribe to.
- State funding encourages status quo that keeps the established party or candidate in power and makes it difficult for the new parties.
- State funding increases the distance between political leaders and ordinary citizens as the parties do not depend on the citizens for mobilisation of party fund.
- Political parties tend to become organs of the state, rather than being parts of the civil society.

### **IX. Election Commission's views on Political Finance and State Funding:**

The Commission has thus far taken the stand that unless radical reforms are carried out in election campaign and political finance, state funding should not be allowed, as it will not be possible to prohibit or check candidate's own expenditure or expenditure by others over and above that which is provided by the State.

In view of high cost of election campaigning in terms of media advertisements and public rallies, use of 'Big Money' in politics is a major concern today. If wealthy individuals and corporates pay to the political party or the candidate in order to make them listen to them, this undermines the core principles of democracy and transfers the economic inequality to political inequality. The Commission is open to idea of expanding the in-kind subsidy for the election campaign, with simultaneous reforms for transparency and accountability of parties and candidates.

**X. Law Commission's 255th Report and Key Issues:** The Law Commission Report has advised that any reform in state funding should be preceded by reforms such as the decriminalisation of politics, the introduction of inner party democracy, electoral finance reform, transparency and audit mechanisms, and stricter implementation of anti-corruption laws so as to reduce the incentive to raise money and abuse power.

These key issues are to be addressed first, so that state funding achieves the desired result.

- (i) **Eligibility Conditions:** While levelling the playing field in allowing the state funding, the parties should not use it as a tool, only for the purpose of getting the funds and disappear after election. There are 1800 parties, that are registered in India, out of which 80% have never participated in any electoral contest in last few years. Therefore, while recognizing level playing field, a threshold limit should be fixed for the parties to become eligible to get state funding. At the same time the threshold limit should not be so high, that only one or two parties already well established get state funding. The threshold limit should also be equitable.

**Issues:**

- The party which gets certain percentage of the valid votes cast in last general election in a state or the country shall be eligible to get state funds, during general elections.
- State funding to eligible parties, may be for two purposes, namely as Policy Development Grant, and/or as in-kind subsidy or reimbursement of certain types of election expenses, based on number of candidates contesting.
- Whether the state funding will be optional? The party and the candidate willing to avail of the state funding, have to abide by the restrictions and transparency norms. Whether the party shall be held responsible for any irregularity or default by their candidates?
- Law Commission has recommended deregistration of Political Parties, which have not contested election in 10 years.

- (ii) **Expansion of in-kind state subsidy:** Presently free air time of media advertisement only through state owned media is given to political parties. In view of modern method of campaign through electronic and print media, social media, bulk SMS etc, big money is involved in such methods.

**Issues:**

- Which part of campaign expenditure should be funded? The Law Commission has recommended that the wording of Section 78B of the R P Act permits the Central Government, in consultation with the ECI, to supply certain items to the electors or the candidates and this provision can be used to expand the in-kind subsidy to include free public meeting rooms, certain printing, costs, free postage etc.
- The amount of state fund is to be used for the Party's campaign expense or for the candidates' campaign expenses? What should be the distribution formula of these expenses, say 40 per cent of campaign through print and electronic media, 30 per cent for posters, banners etc. 30 per cent for campaign vehicle expense.
- Similarly how the independent candidates, contesting for the first time, will be given the campaign expense? The Law Commission has recommended ban of independent candidates.

- (iii) **Contribution Ban:** Certain types of private contributions to political parties should be banned and there should be penal provisions against the party and the donor for the violation. Anonymous donations should be restricted or banned, otherwise the banned organisations will donate in anonymity.

**Issues:**

- Recent Law Commission report suggests that anonymous donations to be received by a party shall not exceed 20% of total contribution received during a year or Rupees 20 Crore whichever is less.

- The Law Commission has recommended that the political parties accounts shall be audited by a panel of auditors selected by CAG. Whether the small parties receiving donation below one crore rupees should be excluded?
- (iv) **Contribution Limit:** There should be upper cap on donations by a donor to a political party in a year. Otherwise, the same problem will persist in spite of state funding and a few wealthy people will donate large sum to the parties. Similarly, there should be reporting of such donation to the public and to enforcement agencies.
- (v) **Regulation on spending:** Since we have cash economy, many candidates or parties will raise funds in cash which will not be reported and the same will be spent during elections. Therefore, adequate safeguard for upper capping the election expenditure of candidate and political party is required.

**Issues:**

- The electors have the right to know, before they exercise their informed choice in elections, about how the funds are raised by the Parties and candidates, and who are their main donors.
- There should be a ceiling on election expenditure of political party.
- The Political parties may be required to disclose their accounts on the date of notification and also during campaign about all big donations received and tentative election expenses.
- If a candidate has incurred any election expenditure which has not been shown in his accounts, whether the Commission shall have the authority to recover the amount of subsidy given to him or the party, with penal interest, besides prosecution?
- Similarly, the difference between the market rate of goods or service and concessional rate or free of cost supply of goods or service to the party or to the candidate by any individual or company will be subject to the ceiling?
- Cash expense in excess of Rs.20000/- to a single person in a day by a political party or candidate (subject to the exceptions)

is to be banned. Law Commission has recommended such ban in respect of the parties and not in respect of the candidates.

- The candidates and political party shall route all election expense through bank account, opened for election campaign purpose. If any expenditure by the candidate is not routed through bank account, it will be deemed as a corrupt practice and a penal provision under IPC should be provided.
- Bribing of voters is made a cognizable offence under IPC.
- If a candidate or party is involved in paid news then such candidate or party will not be eligible to get state fund and shall face disqualification proceedings irrespective of the amount involved.
- Law Commission refers to the Sub-committee report, that has recommended an amendment to the RPA, to provide therein that publishing and abetting the publishing of paid news for furthering the prospect of election of any candidate or for prejudicially affecting the prospect of election of any candidate be made an electoral offence under chapter-III of Part-VII of the RP Act with punishment of a minimum of two years imprisonment. The issue is pending with the Government of India.
- It also suggested that the act of publishing a news item in exchange for consideration should be included as a 'corrupt practice' under Section 123 of the RPA. Further, it should be made an electoral offence separately, so that it not only disqualifies the candidates, but also subjects them, the journalists and media-houses to penal consequences.
- Furthermore, Section 127A of the RPA may be suitably amended, adding a new sub-section to the effect that in the case of any advertisements/election matter for or against any political party or candidate in print media, during the election period, the name and address of the publisher should be given along with the matter/advertisement.

- (vi) **Disclosure Norms and Transparency:** The maintenance of accounts in a common format by the parties and candidates and their disclosure is essential to ensure that the candidates or parties do not spend beyond the limits. Both the funds raised and election expenses are to be made transparent.

**Issues:**

- There should be common accounting method, i.e. mercantile system of accounting, for all political parties, as recommended by the Institute of Chartered Accountants of India.
- The candidates should also disclose their campaign expense accounts and source thereof, on the date of election notification and also during election process.
- Whether the donations in cash in excess of Rs.1,000/-, to party and candidate shall not be allowed? The Commission's transparency guidelines mentions that political parties are required to maintain name and address of all donations, excepting the funds raised in a public rally. Moreover the guidelines also stipulates that all cash donations are to be deposited in the bank account of the party, excepting the amount required to defray daily expenses.

- (vii) **Sanctions for Violations:** It is very essential that the law should provide both procedure for investigation of the violations and penal provisions and prosecution against the defaulting candidates or parties.

**Issues:** The Law Commission has recommended penal provisions against failure of the Parties to disclose the information.

- (viii) **Independent Enforcement Agencies:** The investigation will be meaningless or one sided, if the investigation is left to a branch of the Government which is controlled by the party in power. Therefore, it is necessary that the independent enforcement agency, (may be ECI) should be given the statutory authority to investigate and to award punishments.

- (ix) **Multiple Elections:** Law should be amended to provide for simultaneous election for the State Legislatures and Lok Sabha.

Similarly, the candidates resigning from the seat will not be eligible to contest during the remaining term of that house.

- (x) **One candidate one seat:** A candidate should be debarred from contesting simultaneously in more than one seat for the same house in the same General election.
- (xi) **Inner party democracy:** The parties should hold regular elections for various party posts, in order to be eligible to get state funding.
- (xii) **Criminalisation of politics:** The political party should not give tickets to persons against whom charges for committing heinous crime are framed by a court, prior to six months.
- (xiii) **Parties in alliance:** Parties which form alliance before election and fight together election as alliance partners, shall not be eligible to get state fund to contest election, if they break away from the coalition during the term of the house.

## XI. International Practices:

The International practices in USA, European countries and some countries in Asia shows that there is preference for partial state funding in direct way. The countries such as Germany, Austria, France, Sweden, Finland, Denmark, Israel, Norway, Netherlands, Italy, Canada, US (for Presidential elections), Japan, Spain, Australia, South Korea and UK have introduced State funding in one form or other.<sup>4</sup> Simultaneously, they have also enacted laws to regulate the political parties and put several restrictions and norms for disclosure of financial information in public. There is global increase in direct or indirect state funding of political parties through public subsidies. While considering state funding, it is advisable to take into account the experience of other European and Asian Countries. The summary of restrictions is given in a table below:

Country	Ban on corporate donation to party/candidate	Ban on Anonymous Donations to Party/candidate	Limit on amount a donor can contribute to Party	Limit on amount a donor can contribute to candidate	Provision of Direct public funding to political parties	Limits on amount a political party / candidate can spend
UK	No/No	No. but subject to specific limit	No	No	Yes, regularly provided funding	Yes/Yes

<sup>4</sup> The Committee on State Funding of Elections, Report, Decemeber, 1998, p.pp. 22-23.

USA	Yes/Yes	No, but subject to specific limit	Yes	Yes	Yes, in relation to Campaign	Yes / No
Germany	No/No	No, but subject to specific limit / No	No	No	Yes, regularly provided funding	No / No
Australia	No /No	No, but subject to specific limit	No	No	Yes, in relation to Campaign	No / No
Canada	Yes / Yes	No, but subject to specific limit	Yes	Yes	Yes, regularly provided funding / Yes, in relation to Campaign	Yes/Yes
France	Yes / Yes	Yes / Yes	Yes	Yes	Yes, regularly provided funding / Yes, in relation to Campaign	No / Yes
Sweden	No /No	No /No	No	No	Yes, regularly provided funding	No / No
Portugal	Yes / Yes	Yes / Yes	Yes	Yes	Yes, regularly provided funding / Yes, in relation to Campaign	Yes / Yes
New Zealand	No /No	No, but subject to specific limit	No	No	Yes, regularly provided funding / Yes, in relation to Campaign	Yes / Yes
Ice Land	No /No	Yes / Yes	Yes	Yes	Yes, regularly provided funding	No / Yes
Brazil	No /No	Yes / Yes	No	Yes	Yes, regularly provided funding	No /No
Bhutan	Yes / Yes	Yes / Yes	Yes	Yes	Yes, in relation to Campaign	Yes / Yes
Indonesia	No / No	Yes / Yes	Yes	No	Yes, regularly provided funding	No / No
South Korea	Yes / Yes	Yes / No, but subject to specific limit	No	Yes	Yes, regularly provided funding / Yes, in relation to Campaign	Yes / Yes

Source: Funding of Political Parties and Election Campaigns :A Handbook of Political Finance, International IDEA

**UK:** As per Bridge Water commission report (1870), vote buying was rampant in UK by way of distribution of cash, alcohol and gift items. It also reported that when an honest candidate went for canvassing, the voters asked for benefits and expressed that they will vote for “Mr. Most”. It is also reported that election agents of the British parties ran organisations parallel to religious or charitable institutions to offer free food and service to the voters in mid 19<sup>th</sup> century.

Subsequently, the Corrupt and Illegal Practices (Prevention) Act, 1883 was the first effort ever to regulate the financial dimension of the political competition. The landmark legislation was concerned with the campaign expenditure of candidates and their agents and this started a political finance regime. Thereafter,

the vote buying declined as political leaders shifted from vote buying or distributive politics to programmatic campaign through use of media and public rallies.

The next step was the Honours (Prevention of Abuses) Act, 1925 that restricts selling of titles in exchange for political donations to political parties.

In 1976, Lord Houghton committee on Financial Aid to political parties proposed financial aid to political parties in two forms namely, (i) General Grants to central party organisation for their general purpose (ii) Limited reimbursement of election expenses to parliamentary and local government candidates.

The Political Parties Election and Referendum Act, 2000 (PPERA) established an independent Election Commission and laid down accounting requirements for political parties and control on political donations.

In 2003, the Communications Act was enacted to prohibit political advertising in TV and Radio. Parties are in turn allocated broadcast slots free of charge, using formula set by Parliament.

In 2006, Political funding came under scrutiny, as concerns grew that the largest British political parties were too dependent on a handful of wealthy donors. Sir Hayden Phillips Inquiry Committee, (2006) recommended capping of individual donations at GBP 50,000 and capping spending for political campaign. It also suggested increase in state funding to GBP 25 million and expanding its reach.

In 2011, Kelly Committee on Standards in Public life recommended (i) contribution limit of GBP 10,000 per donor per year, (ii) Existing limit of campaign spending to be cut by 15%, (iii) Policy Development Grant to Political Parties to be given @ GBP 3.00 per vote in Westminster elections and @ GBP 1.50 per vote in devolved and European elections. (iv) Income Tax exemption to be available to donations up to GBP 1000 and also on membership fees to political parties. (Source: Wikipedia)

State funding is provided to (a) opposition parties to facilitate their parliamentary opposition functions in House of Commons (Short Money) and in House of Lords (Cranborne Money) (b) From 2002 parties in parliament are entitled to 2 million pounds (between them) as "Policy Development Grant".

Private funding is also permitted provided that the donor is permissible under the law. For example foreign donors are not allowed to donate. Donations worth over £5,000 to national parties must be declared, as must be donations worth £1,000 or more to local associations.(Source: Int. IDEA)

**USA:** Federal Election Commission Act 1971 was enacted requiring campaign finance disclosure by federal candidates, parties and Political Action Committees (PAC). After Water Gate scandal, Federal Election Commission, a central body was set up in USA by virtue of Federal Election Commission amendment Act, 1974 which also provides for public financing to qualifying candidates for President, during both Primaries and General election and other FEC related organisations.

Simultaneously private funding of political parties are also allowed subject to contribution bans and contribution limits. The corporates, foreign sources and Unions are barred from donating money directly to the candidates and political party committees. Individual can donate maximum upto \$ 2600 to candidate, \$30,800 to political party and \$10,000 to state, district or local party committee in a year. Similarly there are contribution limits on contribution by PAC contribution to state or national party committee. PAC can contribute maximum upto \$5000 to a candidate for his campaign.

Since 2010, the independent expenditure Committees dubbed as super PACs, started doing political spending independently instead of donating to political party or candidate. Unlike PAC, there was no legal bans or limits on contributions, that they can raise from individuals and corporate, or other groups, provided they operated independently. However all Candidates, parties, PACs and Super PACs are required to disclose to FEC, all their donors of over \$200 with their names, address, employer's name, occupation and also all their spending to any individual vendor. FEC maintains the database, publishes the details of donors and campaign expenses in its website and verifies the details.

State funding is limited by way of matching subsidy \$250 for Presidential campaign for the first \$250 of each individual contribution during Primary campaign, financing the major party nominees' general election campaign. To be entitled to receive subsidies in the Primaries, the candidate must qualify by privately raising \$ 5000 each in at least 20 states. In exchange for subsidies, the candidate must agree

to limit his spending according to formula set by the statute. State funding is optional and in recent election the presidential candidates did not opt for state funding. (Sources: Int. IDEA and Wikipedia)

**Germany:** As a consequence of Hitler's rise to power in 1933, political finance was the central issue in Germany. In 1949 Article 21 of Post war constitution stipulated that Political Parties must disclose the sources of their funds to general public. Since 1970, by virtue of the Supreme Court ruling, tax benefit on political donations was limited to individual donors and only on small amounts of donations. Parties get most reliable funding via public grants. Party election grants are supported by free air time on TV and radio as well as bill boards, paid by municipal authorities.

As per Political Parties Act, parties are eligible, if they have polled more than 0.5% of votes in nationwide election (Bundestag, European parliament) or 1% of total valid votes for one of the 16 state legislatures (Landtag), during current election cycle. Individual party grant is distributed based on two criteria: (i) for each party vote polled in most recent state, federal or European election, the party is allocated 70 cents (ii) each euro raised in small amount during the previous year is matched by 38 cents of public money.

Tax exemption by way of 50% tax credit upto 825 Euro per donor per year can be claimed against income tax liability on his total donation of 1650 Euros. The 1994 amendment to Political Party Act prohibited tax benefits for political donation in excess of 3300 Euros.

Apart from prohibition on foreign and anonymous donation, there is no contribution or spending limits.

The allocation of state fund depends on success of the party in European, Bundestag and Land tag elections, on the sum of its membership and deputy fees and on the amount of money, it obtains from donation. The maximum total value of state funding which may be paid to a party in a year is subject to an absolute upper limit. (133 million Euros).

The parties are entitled to accept donation in cash upto 1000 Euros.

Source: "The law on political party amended version of 31.1.1994"

**Australia:** State funding was introduced in 1984. Registered political parties receive direct state funding at each election on the basis of number of votes received in the elections. A candidate or Senate group is eligible to receive election funding, if they obtain at least 4 percent of the normal first preference vote in each electoral contest. They receive a fixed amount per vote currently @ AUD 2.52. The amount payable is calculated by multiplying the number of first preference votes received, by the rate of payment (which is based on Consumer Price Index).

Private donations receive tax exemption up to maximum donation of \$1500 by a donor in a year.

Source: Electoral Act 1918 Section 296 and 297

**Canada:** Public funding of federal political parties is done in three ways:(i) Tax credits, subsidising contribution by individuals upto maximum of \$ 1100 per person's contribution (ii) Per vote subsidies, allocated through votes of Canadians (iii) Electoral expense reimbursement allocated to party during elections

Per vote subsidy is given to the political party that receive at least 2% of all valid votes in last General Election or at least 5% of valid votes in electoral district, in which it had a candidate. The Government allowance is given at the rate of \$ 2.04 per vote received in the last election. (Source: Canada Elections Act, 2004, as amended)

Federal Political Parties receive the significant portion of public funding at election time through electoral expense reimbursement, based on what they have spent, which constitutes 50% -60% of a party expense in elections. Candidates that receive 10 per cent of valid votes, cast in the ridings become entitled to a reimbursement of 60 per cent of allowable election expense.

In terms of indirect public funding, registered political parties can give receipts for tax credit on political contributions. All political parties receive a certain amount of broadcasting time at no cost (TV and radio broadcast) for conveying their message to the electorate.

Political Parties are required to report the identities of the contributors, who have given a total of over \$200 to one riding association or to the central organisation. Anonymous above \$200 is prohibited.

**France:** State funding is done on the basis of previous elections and current legislative representation. Political parties are entitled to receive private donation but donation from moral persons like companies or foreign sources are prohibited.

Source: Election office Minister of interior, France.

**Sweden:** A party is eligible for state subsidy, if it has received at least one seat in Riksdag or 2.5 per cent of votes throughout the whole country at either of the two last elections. The political party can also receive private fund.

Source: Hans lezsater, Information Officer, Election Authority.

**Purtugul:** State funding is done on the basis of current legislative representation and number of candidates put forward in present elections. Monthly payment is made to the party in proportion to number of votes received as per the new party funding law (1998).

The parties are also entitled to receive private funding subject to the conditions. If the donor is a corporate body, the donation cannot exceed 100 national minimum wages and the total donation must not exceed 1000 national minimum wages. If the donor is an individual person the limit is 30 national minimum wages per donor.

Anonymous donation cannot exceed 500 national minimum wages in a year. Public enterprises and companies which are granted concession to provide public services, foundation and foreign government or foreign corporate bodies are prohibited to make any donation to political parties.

Source: New party funding act 1998.

**New Zealand:** The state funding is done based on previous election result and current legislative representations. The political parties can also receive private funding.

Source: Electoral Finance Act, 2007.

**Iceland:** The amount of direct state funding is decided in Finance law. Only political parties having representation in parliament receive direct funding.

Source: Bjorn Fridfinnsson, Ministry of Justice and Ecclesiastical affairs.

**Brazil:** As per the political parties Act, the individual can donate upto 10% of their income; corporates can donate upto 2% of their gross income of the year, before election. Candidates can use upto 50% of their patrimony, registered in the year, before election. Those individuals or corporate who exceeds the limit are subject to various penalties and fine varying from 5 to 10 times of the exceeded amount. The donors can be clearly identified through their CPF or CNP Number.

Direct funding of political parties is given and indirect funding is also permitted during election campaign on the basis of current legislative representation and votes obtained in last election. (Source: Constitution federal de 1988. Article 37 and 38)

**Bhutan:** It is a special case where the campaigns are fully funded by public money. Public election funds bill stipulates that every candidate is allocated BTN 1 Lac ( \$ 4800) and for banners another BTN 20000(\$ 960). The Election Commission also sponsors poster and postcards for the candidates. Candidates are not permitted to receive other source of finance. (Source: International IDEA)

**Indonesia:** The 2009 legislation provides stricter election finance reporting regulation. Political Parties are required to provide financial information both before and after the elections. Yet regulations were difficult to enforce. As much of the campaign income and expenditure have not captured as part of the financial reporting process. (Source: International IDEA )

**South Korea:** In 2012 National Election Commission in South Korea provided KRW 34.39 billion ( \$ 41.15 million) as election subsidies to seven parties and KRW 1.13 billion( \$ 1.35 million) as female candidate nomination subsidy to two parties. The Korean National Election Commission has independent power to investigate election offences and impose penalties. The political party disclose data relating to financial support and expenditure to the Commission within a reasonable time period. Commission audits the entire campaign finance of the party. (Source: International IDEA)

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