



Here is why the electoral bonds scheme must go

Bottom Line: It violates the basic tenets of India's democracy by keeping the knowledge of the 'right to know' from citizens and voters

Electoral bond:

1. The Supreme Court reserved orders on the question of whether or not to stay the electoral bond scheme, ahead of the upcoming State elections. For the last three years, electoral bonds have been the dominant method of political party funding in India.
2. In their design and operation, they allow for limitless and anonymous corporate donations to political parties. For this reason, they are deeply destructive of democracy and violate core principles of the Indian Constitution.

A blow against democracy

1. If democracy means anything, it must mean this: when citizens cast their votes for the people who will represent them in Parliament, they have the right to do so on the basis of full and complete information.
2. And there is no piece of information more important than the knowledge of who funds political parties. Across democratic societies, and through time, it has been proven beyond doubt that money is the most effective way of buying the policy, of engaging in regulatory capture, and of skewing the playing field in one's own favour.
3. This is enabled to a far greater degree when citizens are in the dark about the source of money: it is then impossible to ever know — or assess — whether a government policy is nothing more than a quid pro quo to benefit its funders.
4. The Indian Supreme Court has long held — and rightly so — that the "right to know", especially in the context of elections, is an integral part of the right to freedom of expression under the Indian Constitution.
5. By keeping this knowledge from citizens and voters, the electoral bonds scheme violates fundamental tenets of our democracy.

Saving democracy

1. It is equally important that if democracy is to thrive, the role of money in influencing politics ought to be limited. In many advanced countries, for example, elections are funded publicly, and principles of parity ensure that there is not too great a resource gap between the ruling party and the opposition.



2. The purpose of this is to guarantee a somewhat level playing field, so that elections are a battle of ideas, and not vastly unequal contests where one side's superior resources enable it to overwhelm the other
3. For this reason, in most countries where elections are not publicly funded, there are caps or limits on financial contributions to political parties.
4. The electoral bonds scheme, however, removes all pre-existing limits on political donations and effectively allows well-resourced corporations to buy politicians by paying immense sums of money.
5. This defeats the entire purpose of democracy, which as B.R. Ambedkar memorably pointed out, was not just to guarantee one person, one vote, but one vote one value.

Asymmetry in Funding

1. However, not only do electoral bonds violate basic democratic principles by allowing limitless and anonymous donations to political parties, they do so asymmetrically.
2. Since the donations are routed through the State Bank of India, it is possible for the government to find out who is donating to which party, but not for the political opposition to know. This, in turn, means that every donor is aware that the central government can trace their donations back to them.
3. Given India's long-standing misuse of investigative agencies by whichever government occupies power at the Centre, this becomes a very effective way to squeeze donations to rival political parties, while filling the coffers of the incumbent ruling party.
4. Statistics bear this out: while we do not know who has donated to whom, we do know that a vast majority of the immensely vast sums donated through multiple electoral cycles over the last three years have gone to the ruling party.

Gaps in the government's defence

1. The government has attempted to justify the electoral bonds scheme by arguing that its purpose is to prevent the flow of black money into elections.
2. There are reservations within the government as well as by the Election Commission of India to the electoral bonds scheme.
3. That apart, this justification falls apart under the most basic scrutiny: it is entirely unclear what preventing black money has to do with donor anonymity, making donations limitless, and leaving citizens in the dark.
4. Indeed, as the electoral bonds scheme allows even foreign donations to political parties (which can often be made through shell companies) the



prospects of institutional corruption (including by foreign sources) increase with the electoral bonds scheme, instead of decreasing.

The judiciary needs to act

1. The conduct of the Supreme Court so far has been disappointing. The petition challenging the constitutional validity of the electoral bonds scheme was filed in 2018. The case, which is absolutely vital to the future health of Indian democracy, has been left unheard for three years.
2. The Supreme Court's inaction, in this case, is not neutral: it directly benefits the ruling party which as we have seen, has received a vast bulk of electoral bond funding through the multiple State and one general election since 2018, and creates a continuing distortion of democracy.
3. It is a matter of some optimism that a start was finally made when the Court heard the application for stay before this round of elections. One can only hope that the Court will stay the scheme so that it does not further distort the coming round of elections, and then proceed to hear and decide the full case, in short order.