

Conclusion

Implications for Research and Policy

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In this concluding chapter, we set out to do five things. First, we offer several stylized facts that summarize the current realities of India's political finance regulatory ecosystem. Second, we briefly review an important recent development on the policy front for political finance: Prime Minister Narendra Modi's sudden and dramatic decision to 'demonetize' the Indian rupee in November 2016. Third, we discuss the motivations for pushing for deeper legal and regulatory changes and outline the central tenets of a 'grand bargain' for electoral reform that combines both carrots and sticks in order to curb some of the most distortionary impacts that money is having. Fourth, we briefly assess the question of whether the Aam Aadmi Party (AAP) represents a new model of politics that combines internal party democracy with greater transparency in electoral funding, as some analysts have argued. Fifth, we conclude with some thoughts on a future research agenda. The research on money in politics, in India and across the developing world, is still in its infancy. It is our sincere hope that this volume will motivate other researchers to advance the research frontier. Quite simply, there is much more to be done.

CURRENT STATE OF PLAY

The chapter in this volume by Sridharan and Vaishnav outlined the legal and regulatory framework governing money in Indian politics. Drawing from that chapter, we offer the following five stylized facts, which make clear the severe infirmities associated with the status quo.

First, while a democracy cannot function without elections, India's democracy risks becoming defined solely by elections as the institutional foundations of the Indian state struggle to discharge their functions.¹ Broader institutional weaknesses have led elections to become the sole yardstick to measure India's democracy, a burden that comes with an increasing price tag.

Second, contemporary Indian politics is a cash-intensive business. Given the premium placed on anonymity and undocumented transfers, it is not surprising that cash reigns supreme when it comes to political finance. Indeed, political parties report the vast majority of their donations as cash gifts and politicians—as the chapters by Chauchard and Björkman, and Witsoe demonstrate—regularly engage in the large-scale distribution of cash or other material inducements on the eve of elections. While cash does not equal black money, a heavy reliance on cash does facilitate a natural nexus with black money.

Third, details concerning political contributions are few and far between. In the majority of cases it is impossible to identify who is making contributions, and to whom. Since contributions below a Rs 20,000 threshold need not be disclosed under Indian law, there are incentives to repackage contributions below this arbitrary cut-off. As one of us has written, 'The oldest trick in the book is for donors to break up their offerings into bite-sized chunks, thereby obscuring their fingerprints.'²

Fourth, political parties are not subject to any system of independent audit. This does not mean that parties' accounts are not audited. To the contrary, parties are required to submit audited accounts to the

¹ For a recent analysis of this issue, see Devesh Kapur, Pratap Bhanu Mehta, and Milan Vaishnav, eds., *Rethinking Public Institutions in India* (New Delhi: Oxford University Press, 2017).

² Milan Vaishnav, 'Purify the Parties', *Indian Express*, 6 January 2017.

Election Commission of India (ECI) on an annual basis. However, they are under no obligation to subject their finances to independent, third-party scrutiny. In fact, many politicians privately admit that party finances are usually given the 'Good Housekeeping' seal of approval by a handpicked chartered accountant who will sign off on just about anything presented to him or her.

And fifth, the ECI is badly outgunned when it comes to taking on those who seek to circumvent existing campaign finance laws and regulations. The agency does not have adequate power or resources to sanction candidates and parties for even blatant misrepresentation on disclosure forms such as candidate affidavits or election expenditure statements. For instance, the law requires that candidates submit expenditure statements to the ECI within 30 days of an election, but many either fail to do so in the time prescribed or submit these forms with misleading or missing information. Currently, the commission lacks the statutory authority to levy even a slap on the wrist, let alone the sort of punitive penalties that are essential to ensure behavioural changes from those who openly flout the rules on the books.

Demonetization

2016 and 2017 were eventful years as far as money in Indian politics is concerned. The Modi government's demonetization gambit, which initiated a high-stakes crackdown on black money, merits special discussion given its relevance for the subject at hand. The chapter by Sridharan and Vaishnav covers the second major development in 2017, a slew of initiatives to 'reform' political finance passed as part of the Finance Act.³ To avoid repetition, we focus here on the demonetization announcement.

³ There was also a third development that deserves mention: amendments contained in the 2016 Finance Act retrospectively changed provisions in the Foreign Contributions Regulation Act (FCRA) that define what a 'foreign' company is. The changes were enacted in order to circumvent a 2014 Delhi High Court ruling that the BJP and the Congress had illegally accepted donations from the London-based multinational, Vedanta. Under FCRA (prior to the 2016 amendments), foreign contributions to political parties were strictly prohibited. To avoid embarrassment, India's two leading parties joined hands to rewrite the law rather than risk legal jeopardy.

On the evening of 8 November 2016, Prime Minister Narendra Modi addressed a hastily organized news conference to declare to a nation-wide television audience his government's intent to 'demonetize' the Indian rupee. With almost immediate effect, the government announced the existing five-hundred- and one-thousand-rupee notes—which together accounted for roughly 86 per cent of outstanding currency—would cease to function as legal tender. For a specified window of time, Indians could deposit the old currency in their bank accounts or exchange old notes for newly designed five-hundred- and two-thousand-rupee notes embedded with new security features.

The move fulfilled a campaign promise made by then-candidate Modi in 2013 and early 2014 to address the scourge of black money in the Indian economy, a significant share of which (at least in its liquid manifestation) is allegedly held in high-denomination currency notes.⁴

Among official explanations for the benefits of demonetization were curbing the use of undocumented cash for elections. Critics alleges that the move was intended to disadvantage smaller, regional parties with large cash holdings ahead of crucial assembly polls scheduled for early 2017. Although the ruling party might also suffer if it possessed undocumented cash, it would stand to gain in relative terms given the fact that national parties have access to diversified sources of income (unlike many of their smaller rivals).⁵ Whatever the motivations, at first glance, demonetization did not lead to a marked decline in the reliance on cash or other material inducements during elections. In early 2017—just months after demonetization was announced—five states (including Uttar Pradesh, India's most populous state) went to polls.

⁴ For instance, then-candidate Modi once proclaimed, 'When we bring back the black money, we will give it to regular salary holders. We must honour their patriotism. Till the time we don't bring back black money, such thefts will continue. So to stop new thefts and such cases, all black money should be brought home to teach one and all a lesson.' See 'Flashback: Here's What Modi Promised India on Black Money', *Rediff*, 29 October 2014, accessed 20 June 2017, <http://www.rediff.com/news/report/flashback-heres-what-modi-promised-india-on-black-money/20141029.htm>.

⁵ Some commentators have even speculated that the Modi government provided its BJP party colleagues with advance warning, allowing them to take appropriate measures to minimize the party's cash exposure. There is no definitive evidence we know of that supports or refutes this claim.

According to India's chief election commissioner, these state elections saw an 'unprecedented number of seizures of all manner of inducements to the voter'. The total haul of undocumented cash, liquor, and drugs seized during the run-up to the election surpassed Rs 350 crore, more than three times the amount seized during the previous assembly polls in 2012.⁶ While at least some of this increase could be a reflection of enhanced enforcement, the numbers certainly do not indicate the obsolescence of cash. Indeed, in Uttar Pradesh alone, the ECI sized more than Rs 115 crore in cash during the campaign, three times the cash recovered in the previous state assembly election.⁷ As one Election Commission official concluded, 'The massive and unprecedented cash seizures from the poll-bound states prove that demonetization has had no effect on use of money power in elections.'⁸

The debate over the precise impacts of demonetization is beyond the scope of this book. However, the short run evidence suggests that, as far as political finance is concerned, the effect on money in politics has been minimal. By design, demonetization has the greatest potential impact on the stock of black money, but it does little to address the flow. As one writer pointed out, demonetization is like liposuction: it represents a one-time reduction in body fat. But if the body wishes to maintain its new physique, a healthy diet and regular exercise are required.⁹

WHY REFORM?

Before wading into the details of a possible reform package, one needs to stop and ask why reform is needed in the first instance. In our view, there are at least four reasons.

⁶ Nistula Hebbar and Devesh K. Pandey, 'Leaders Must Tell Voters Not to Take Bribes, Says CEC Nasim Zaidi', *Hindu*, 9 March 2017.

⁷ 'Assembly Elections 2017: Cash, Liquor Seizures Go Through the Roof', *Press Trust of India*, 26 February 2017, accessed 20 June 2017, <http://www.livemint.com/Politics/O7fPAf4qxMTDfjyGqxpLRP/Assembly-elections-2017-Cash-liquor-seizures-go-through-the.html>.

⁸ Bharti Jain, 'Despite Note Ban, Dirty Cash Flows for Elections', *Times of India*, 21 February 2017.

⁹ Milan Vaishnav, 'Why India's Demonetisation Alone Won't End Dirty Money in Politics', *Alphaville* (blog), *Financial Times*, 28 November 2017.

First, there are major positive and normative implications of rising financial barriers to run for political office in India. It is becoming increasingly difficult to be a viable candidate for elected office, especially at the state and national levels, without either being independently wealthy or having access to large pools of liquid financial resources. While there is nothing inherently wrong with well-resourced individuals contesting and holding office, the concern arises when *only* individuals who are financially well off are able to win political office and serve as the peoples' representatives. On the one hand, this has an adverse selection effect on the quality of candidates willing to run for office. And, on the other, by sharply narrowing the pool of potential candidates who can run for office, the equality of participation that is essential for the substantive content of democracy suffers. As research from other countries has shown, the composition of the political class is inextricably linked to their policy preferences and, therefore, policy outcomes.¹⁰

Second, the opacity of political finance has numerous ramifications for electoral politics. It provides an avenue for the generation and transmission of black money, which deprives the state of resources due to the loss of tax revenue. It facilitates corrupt exchange because those seeking to influence politics can finance campaigns without any public trace. Furthermore, the lack of transparency strengthens the power of party elites at the expense of rank-and-file members, eroding internal party democracy and the institutional integrity of political parties.

A third important ramification has to do with public trust. The perception that elections can be bought and sold can inflict lasting damage on democratic legitimacy. Even if money has diminishing returns, there is no doubt that money does influence political outcomes (for instance, as discussed above, by determining who enters the electoral fray and who does not).

Fourth, the profusion of political parties (in 2015, 1866 parties were registered with the ECI) and the opacity of political finance are not

¹⁰ Martin Gilens, *Affluence and Influence: Economic Inequality and Political Power in America* (Princeton: Princeton University Press, 2013); and Larry Bartels, *Unequal Democracy: The Political Economy of the New Gilded Age*, 2nd ed. (New York: Russell Sage Foundation and Princeton; NJ: Princeton University Press, 2016).

coincidental but causal. Many political parties are simply conduits for money laundering. Consequently, it is not just that black money undermines the electoral process, but political parties themselves are important players in nurturing the black money ecosystem. In December 2016, the Election Commission delisted 255 political parties that existed only on paper and had not contested a local body, assembly, or Lok Sabha election since 2005.¹¹ Many political parties in India today exist in name only; they derive tax benefits yet have no intention of contesting elections seriously.

But even if citizens find reforming political finance to be a worthy objective, the next question to ask is why political parties would ever want to reform the system, especially given the fact that the prevailing opaque equilibrium is so deeply entrenched. One possibility is that reforms might reduce the costs of campaigns for which politicians need to raise funds. Privately, many politicians fret about the rising costs of elections and even honest, well-intentioned *netas* acknowledge that one needs to find ways of making money while in office if only to pay for the next election. As one aspiring politician in the state of Andhra Pradesh lamented to one of the authors in 2014, 'If I am lucky enough to win [election], next time I'll need even more money. How does one remain honest and succeed in politics in this country?'¹²

Parties and candidates also recognize the fact that money, while an important factor, often does not win elections on its own. Indeed, India is notable for its high turnover in office at both the central and state levels. While state-level anti-incumbency declined in the decade of the 2000s (especially compared to the politically tumultuous 1990s), incumbency at the level of the individual candidate is still markedly low, compared to advanced democracies such as the United States.¹³

¹¹ 'Election Commission Delists 255 Political Parties Existing Only on Paper', Indo-Asian News Service, 23 December 2016, accessed 20 June 2017, <http://www.hindustantimes.com/india-news/election-commission-delists-255-political-parties-existing-only-on-paper/story-aYb0McyM1KWpwwy-acxKedI.html>.

¹² Milan Vaishnav, *When Crime Pays* (New Haven: Yale University Press, 2017), 117.

¹³ See the discussion of anti-incumbency showing that incumbents who have an advantage in raising political funds in a rent-seeking political economy are regularly voted out of office in E. Sridharan, 'Electoral Finance Reform:

There is another reason politicians might find political finance reform in their self-interest: the reduction of entrenched corruption can actually be politically rewarding. One needs to look no further than Prime Minister Modi's demonetization exercise for evidence. After demonetization was announced in early November, it endured a rocky rollout. The government and Reserve Bank of India (RBI) repeatedly tweaked the rules governing the implementation; by one count, there were 54 changes in just 42 days.¹⁴ Newspapers carried images of bank queues on a daily basis, while reporting suggested a poorly conceived and executed strategy for reconfiguring old ATMs and injecting a fresh supply of newly fashioned rupee notes into circulation. Be that as it may, the move proved to be electorally popular (or, at the very least, minimally damaging). In the state polls that followed demonetization, the ruling BJP did exceptionally well, forming governments in four of five states on offer. The party won a three-fourths majority in the biggest prize—Uttar Pradesh—where the implementation issues were most likely the most acute, given its size and largely rural character.¹⁵

Anecdotal, many voters cheered the move. Millions of Indians appeared willing to stand in serpentine queues because someone else higher up the food chain was getting squeezed. As one farmer remarked to the *Financial Times*, Modi 'may have hit us in one eye, but

The Relevance of International Experience', in *Reinventing Public Service Delivery in India: Selected Case Studies*, ed. Vikram K. Chand (New Delhi: Sage, 2006): 376–8, especially Tables 11.1 to 11.4. There is considerable analysis on anti-incumbency in India. See Yogesh Uppal, 'The Disadvantaged Incumbents: Estimating Incumbency Effects in Indian State Legislatures', *Public Choice* 138 (2009): 9–27; Leigh Linden, 'Are Incumbents Really Advantaged? The Preference for Non-Incumbents in Indian National Elections' (unpublished paper, University of Texas-Austin, 2004); Gaurav Sabharwal, 'National Spillovers of Local Elections: Evidence from India' (PhD Diss., Princeton University, 2017).

¹⁴ Mohak Gupta, '54 Demonetisation Changes in 42 Days: Here Are 9 Major Ones You Need to Keep Up With', *India Today*, 20 December 2016, accessed 20 June 2017, <http://indiatoday.intoday.in/story/demonetisation-changes-8-major-currency-announcements/1/839305.html>.

¹⁵ The BJP formed governments in Goa, Manipur, Uttarakhand, and Uttar Pradesh but lost power in Punjab. Going into the poll, the BJP was the incumbent party in Goa and part of the ruling coalition (along with the Shiromani Akali Dal) in the state of Punjab.

he hit the rich in two eyes.’¹⁶ Another feather in Modi’s cap was that demonetization made clear where the prime minister stood on the issue of graft—in stark contrast to the opposition. Modi shrewdly portrayed those who opposed demonetization as being pro-corruption, arguing that they were ‘brazenly standing in support of the corrupt and the dishonest’.¹⁷

In pushing for reform, a number of other actors could be important players. Large, multi-state industrial conglomerates could be allies in the political finance reform process because they need to maintain working relationships across party lines with different governments in various states and in New Delhi. If reform efforts succeed, the demand for ‘donations’ would see a reduction. Civil society groups and the media are also natural partners because they have often acted as watchdogs against corruption, using instruments like public interest litigation and the Right to Information (RTI) Act to address opaque government and party functioning.

Admittedly, this is highly optimistic. The opaque system of political finance is inextricably interlinked to weak governance and this equilibrium favours many powerful actors from politics to business and even in civil society. But if a political opening were to materialize, what might be the core elements of election finance reform in India?

REFORM AGENDA

The preceding discussion makes clear that reforming political finance is an increasingly pressing concern for India’s long-term future, and may even be politically rewarding in the short run. However, this begs the question: What reforms *should* India adopt to improve its system of regulating money in politics? There are no easy answers here. While many commentators have advocated for instituting a system of public funding, our firm belief is that a public financing system only makes sense as

¹⁶ Amy Kazmin, ‘Modi Tightens Grip on Power with Uttar Pradesh Poll Win’, *Financial Times*, 12 March 2017.

¹⁷ ‘PM Modi Likens Parties Opposing Demonetisation to Pakistan Helping Terrorists’, *Press Trust of India*, 22 December 2016, accessed 20 June 2017, <http://indianexpress.com/article/india/pm-modi-likens-parties-opposing-demonetisation-to-pakistan-helping-terrorists-4439799/>.

part of a 'grand bargain' that requires candidates and parties to adhere to much more stringent transparency and disclosure requirements, with concomitant severe penalties for transgressions. In exchange for such concessions, public funding might make sense for India. However, in the absence of such reforms, there is nothing to stop parties from having their cake and eating it too—accepting public funds *and* private, undocumented funds. We discuss both elements of this grand bargain below, starting with the steps political actors must take.

Contributions

As noted above, there is little or no transparency when it comes to party contributions. Even with the new rules stipulated in the 2017 Finance Act, there are numerous loopholes that parties can exploit to avoid disclosure. Requiring only donations under some (arbitrarily chosen) fixed ceiling to be declared practically invites cheating.

Going forward, there should be complete transparency with respect to each and every rupee of political giving. The best way of ensuring this is for parties to go completely digital. In the wake of demonetization, many Indians turned to digital payment methodologies and away from cash (even if this switch was not completely voluntary). Arguably, parties are much better equipped to make this change, and doing so would ensure a record of all contributions they receive. To deter those who would want to game the system, would-be donors could be required to submit either their Permanent Account Number (PAN) or Aadhaar numbers, which conclusively link a specific individual with a specific contribution. Indeed, given the strong thrust towards digitization on programs for the poor, it is unclear why what is good for the poor is not good for political parties, which cry themselves hoarse in the name of the aforementioned poor. If a complete migration to digital payment systems is a bridge too far, there should be a cap both on the absolute amount of funds parties are allowed to raise in cash, as well as a share of their overall contributions.

Spending

If parties are willing to adhere to greater transparency, it might be time to substantially loosen limits on candidate spending (with periodic

revisions to take inflation into account). Candidates openly flout the strict limits in place, and the administrative effort required to monitor the limits is considerable; data suggest that candidates report spending just over half of the prescribed limit, which politicians and regulators alike describe as ludicrous. As a result, the whole exercise of candidate expenditure reports has become a wasted effort; nobody takes these disclosures seriously.

Candidates have a point when they gripe about the rigid limits on candidate spending. Given the competitiveness of elections, the ballooning number of voters, and the expectations placed on campaigns, there is considerable room for revisiting the issue of spending limits. Unreasonable rules will justifiably lead even reasonable people to flout them and the ECI has blame to shoulder in this regard. But, again, this should only be done if candidates agree to submit complete expenditure statements in a timely manner, with clear penalties, such as being debarred from holding any political office in case of severe transgressions. This will require enhanced enforcement; candidates are already required to submit their expenditure statements within 30 days of an election, but many openly flout this deadline (since election authorities—state and local officials deputized by the ECI—have often moved onto the next thing). The ECI must plug this enforcement gap and insist on strict punishment for those who break the rules. It should also consider instituting random audits to deter fuzzy accounting.

Political Parties and Their Accounts

Political parties are the essential link between voters and candidates. While they serve a public purpose, they are private associations of citizens who come together to advance their interests. But despite their necessity for democratic politics, their internal workings have always left much to be desired. As the British statesman Benjamin Disraeli put it, 'There is no act of treachery or meanness of which a political party is not capable; for in politics there is no honor.'

Political parties were not mentioned in the original Indian Constitution. The 52nd amendment passed in 1985—known as the anti-defection amendment—both recognized parliamentary political parties and regulated shifts in the affiliations and votes of

their elected members. From 1989, a new provision (Section 29A) in the Representation of the People Act, 1951, framed rules for the 'registration' of political parties requiring that a party's rules 'contain a specific provision that the association shall bear true faith and allegiance to the Constitution of India as by law established, and uphold the principles of socialism, secularism and democracy and the sovereignty, unity and integrity of India'. But, once registered, there is little regulation on the functioning of political parties; in 2002, the Supreme Court ruled that the ECI does not have the explicit power to deregister a political party.

With regard to political finance, there are no limits placed on the spending of political parties. Indeed, they can expend an unlimited amount on a candidate's campaign, as long as the party uses those funds to promote the party programme without invoking the individual candidate by name. On the contributions side, there are restrictions on foreign contributions (although these were weakened by recent amendments to the FCRA law) but, as of the 2017 Finance Act, no limits on corporate giving.

Looking ahead, the biggest action item for reform insofar as parties are concerned has to do with auditing their books. While political parties must file audited income tax returns on an annual basis, there is no requirement of an independent, third-party audit. While the 2017 Finance Act strengthens the requirement that parties submit these returns within a defined time period, it is silent on the issue of auditing. In the future, party accounts should be subject to independent scrutiny either by the Comptroller and Auditor General (CAG) or a slate of respected auditors the CAG recommends. After all, the disclosure of false accounts is not much better than no disclosure.

While there is little doubt that political parties need greater regulation and accountability, specifying the nature of this accountability and identifying who would be the regulator are far more difficult than might appear. Are political parties private or public entities? In 2013, the Central Information Commission held that the RTI Act applied to political parties on the grounds that they were 'public authorities'. The rationale stated in its order was that, 'it would be odd to argue that transparency is good for all state organs, but not so good for political parties, which, in reality, control all the vital organs of the state'. The order was fraught since private entities can discharge a public function

and conversely, 'merely because an entity is public does not mean a public law remedy should apply to it'.¹⁸

At the time of writing, Public Interest Litigation (PIL) suit in support of the CIC's ruling was pending before the Supreme Court. While we do not yet know how the Supreme Court will act, it is ironic that private firms are far more regulated than political parties under the status quo. Indeed, just because a firm is private does not mean that it is not subject to corporate governance standards. Given their tax-exempt status, political parties should be subject to higher standards, but who would enforce those standards? While the ECI would be the logical body, it faces its own set of challenges.

Election Commission Powers

The ECI is widely recognized as one of the most powerful elections agencies in the world. Its constitutional mandate gives it broad powers over the conduct and superintendence of the electoral process. Having said that, it is hardly all-powerful. Many of its powers to regulate money in politics stem from the Representation of the People Act (RPA), and this legislation is badly in need of an anchor. Even when politicians flout rules on campaign spending, the ECI has struggled to take punitive action due to gaps in, or legal ambiguity about, its enforcement powers.

New disclosure and reporting requirements will only be effective if the ECI has well-defined tools at its disposal to take action when these rules are broken. For instance, there is a legal question about whether the ECI can punish politicians who engage in the practice of 'paid news' (that is, colluding with media houses to provide positive coverage in exchange for a fee) since 'paid news' is not actually specified as a predicate offense in the RPA. Similarly, the ECI has requested the government to bring legislation that would grant it the explicit authority to nullify an election if there is evidence of widespread bribery of voters. While the commission has cancelled polls on such grounds before, it has done so under its broad constitutional authority (which leaves it subject to litigation).¹⁹

¹⁸ Pratap Bhanu Mehta, 'Party Fixing', *Indian Express*, 6 June 2013.

¹⁹ Anubhuti Vishnoi, 'Government Moves on EC Proposal to Cancel Election Over Bribery', *Economic Times*, 5 May 2017.

While it is tempting to invest much greater powers in the ECI, a note of caution is warranted since it also creates greater temptation for political parties to try and weaken the institution through other means (such as selection of its commissioners). The idea of independent institutions with Solomonic judgement is often a chimera. Indeed, one could argue that the ECI has contributed to the problem of mounting election costs, in some part at least, by increasing the duration of the electoral cycle. While multi-phase elections might increase the integrity of the electoral process at the booth level, they undermine integrity at a higher level and may well be a case of the best being the enemy of the good.

Public Funding

Only when there is a political consensus about the need to embrace the aforementioned reform agenda should the government contemplate establishing a system of public funding. Assuming that such a consensus materializes, state funding could be provided by combining three elements: a basic slab, an amount based on vote share in the previous election, and a matching grant to the amount raised by the party. The matching grant component should *only* be provided to match donations by cheque or digital payment with donor identities disclosed. The idea is to incentivize parties, through the carrot of matching grants, to raise donations transparently. To encourage small donations, the government could consider increasing the matching amount for donations under a certain size.²⁰ For instance, Gowda and Santhosh recommend a larger matching ‘multiplier’ for small donations under Rs 20,000 that are linked to a PAN card of a registered voter (which now could be extended to an Aadhaar number).²¹

Donors could claim tax benefits by contributing by cheque, and, in the process, create a legal, transparent system for adequate flows of

²⁰ Baijayant ‘Jay’ Panda, ‘Now Reform Political Funding’, *Times of India*, 23 November 2016.

²¹ M.V. Rajeev Gowda and Varun Santhosh, ‘A Proposal for Public Funding of Elections and Political Parties in India’, *Ideas for India* (blog), 21 April 2017, accessed 17 October 2017, <http://www.ideasforindia.in/article.aspx?article=A-proposal-for-public-funding-of-elections-and-political-parties-in-India>.

party funds. At today's per capita income levels, parties like the Indian National Congress, which claims 30 million members, and the BJP, which claims over 100 million, should not find it difficult to raise adequate funds from large and small sources both. A matching grant system of state funding could help incentivize donations from a large number of members and supporters, which might also have the benefit of making parties more responsive and, thus, reinforcing intra-party democracy. State funding will have to be administered by the ECI to ensure a level playing field.

There is, of course, the outstanding question of how public funding would work in a context of highly centralized political parties. Revitalizing membership (through the fundraising mechanism) will help create pressure from below, but the ECI might need to weigh in more heavily to encourage internal democracy by laying down conditions of holding regular internal elections. It will be important for any public financing system to ensure a smooth flow of funds to candidates, not just at the national level, but also at the state and local levels. This would provide funds to lower-level political functionaries to nurse their political networks and finance elections campaigns, while maintaining some degree of independence from the party high command by providing a financial floor. The quantum of state funding, however, should be adequate, or it will not be effective in checking illicit fundraising. One option, raised by Gowda and Santhosh, is to mandate that a percentage of public funds be spent only at a constituency-level bank account to ensure that a significant share of money is spent at the local level to strengthen grass-roots party organizations.

There is, however, an additional wrinkle arising from the fact that local elections are playing an increasing role in election finance and their superintendence is vested with state election commissions and not the ECI. Should public financing be extended to local elections as well? If the grass roots are so important to the foundations of democracy, then it becomes even more important to have healthy roots if the plant is to thrive. But public funding for the quarter of a million panchayat elections is a formidable task. After all, elections at the most local level (the gram panchayat) are supposed to be party-less. Public funding of candidates would be massively complicated, both in the terms of the volume of funding and the logistics.

We wish to emphasize that it is important to tread carefully on matters of party regulation. Additional regulation of political parties requires significant public debate given that regulatory behaviour in India has historically erred on the side of too much, rather than too little. Political parties need to operate according to some broad parameters, but the state's role should be limited, since in principle, these are private associations with a public purpose.

THE 'AAP MODEL'?

Recently, a promising political finance model emerged from the Indian polity in the form of the Aam Aadmi Party. Initially, the AAP was the only major political party to have consciously adopted transparency in fundraising and expenditure.²² The party, which formed in November 2012, emerged from a widespread, spontaneous, but also well-organized, anti-corruption movement led by a broad coalition of activists called India Against Corruption (IAC). IAC was founded by Arvind Kejriwal, a former civil servant and anti-corruption and RTI activist, with the well-known social activist Anna Hazare as its public mascot.

The movement eventually split with one faction, led by Arvind Kejriwal, taking the electoral plunge. To distinguish itself from existing political outfits, AAP initially adopted a number of structural innovations, including an apparent assistance of internal party democracy. It promised to hold elections at all levels of the party every three years, with an executive committee of the party being elected by local council members and an internal *Lokpal* to investigate allegations of

²² See AAP's website for fundraising details: <http://aamaadmiparty.org/>. For detailed accounts, see Prashant Sharma, 'From India Against Corruption to the Aam Aadmi Party: Social Movements, Political Parties and Citizen Engagement in India', *International IDEA Political Parties and Citizen Movements in Asia and Europe* (2014), 39–54. Also see Mayank Jain, 'AAP's Fund Raising: Six Charts about How Much They're Getting and Where It's Coming From', *Scroll.in*, 14 January 2015, accessed 20 June 2017, <http://scroll.in/article/700261/aaps-fund-raising-six-charts-about-how-much-they're-getting-and-where-its-coming-from>; 'AAP Funding Takes Centre Stage in Delhi Elections', *Business Standard*, 4 February 2015; and 'How Aam Aadmi Party is Feeding Its Coffers', *Economic Times*, 12 January 2015.

wrongdoing against any office bearer. And prior to the 2013 Delhi assembly elections, the party leadership established a process of citizen engagement in order to select its slate of electoral candidates.²³ This system of internal party democracy is necessary context for what the party decided to do on the issue of electoral finance. Initially, the party pledged to function in a fully transparent manner, placing every donation and all expenditures on the party's website, and promising to update in real time with details of donations by date, amount, and location. In the Delhi assembly elections of February 2015, which the party won handsomely, AAP accepted donations in cash only up to Rs 20,000; donations between Rs 20,000 and Rs 1,000,000 were accepted by cheque or online transfer, while large donations over Rs 10 lakhs were acceptable only via cheque and subject to the party's PAC for verification.²⁴ The PAC supposedly scrutinizes each large donation by checking the validity of the company and its taxpayer identity information, whether it is listed on the Registrar of Companies, and whether the donation is channelled through a registered bank. It also does a simple Internet search to ascertain whether the individual or company stands accused of any criminal wrongdoing. What AAP claims it cannot do is independently verify the donor's private detail; in other words, it has to trust that donor filings are authentic.²⁵

Can the AAP model last and can it survive geographical expansion? Sadly, it did not take much time for the sheen to begin wearing off; indeed, there are clear signs that the new model is struggling. Politically, AAP increasingly resembles most other parties in India: run from the top-down and organized around a single charismatic leader (Kejriwal, in AAP's case). Shortly after the Delhi victory, two senior members

²³ At the time, it required every aspirant to a party ticket produce signatures from 100 voters in his/her constituency, which are then scrutinized by a screening committee, resulting in a short list of five names which were released for public feedback before party volunteers rank the candidates via a secret ballot using a preferential voting system. The party's Political Affairs Committee (PAC), taking the result of the ballot into account, held a final set of interviews before choosing the party nominee. In the 2013 election, AAP used this system to select 33 of the party's 70 assembly candidates.

²⁴ 'AAP Funding Takes Centre Stage in Delhi Elections.'

²⁵ 'How Aam Aadmi Party is Feeding Its Coeffers.'

of AAP—Prashant Bhushan and Yogendra Yadav—were expelled for engaging in ‘anti-party activities’. Prominent individuals who have left the party complain that AAP has absorbed all of the trappings of a ‘high command culture’ that it once railed against.

Data compiled by ADR on the backgrounds of electoral candidates filed by AAP in recent elections also suggests that there are signs that the party has sacrificed probity and a clean record in exchange for ‘winability’. When it comes to fundraising, AAP has taken a 180-degree turn from its initial position touting full transparency; the last balance sheet on the party’s website dated back to 2014 and the webpage containing a list of donors has long been listed as ‘under construction’. During the 2017 Punjab assembly elections, in which the AAP made a strong push, one of its senior leaders claimed that it could no longer place the names of its donors online because they were being continuously harassed by opponents.²⁶ The AAP’s partisans might defend this U-turn as indicative of the broader challenge of marrying transparency and scalability when it comes to fundraising: large donors, whose support will likely be needed for AAP’s expansion, are not easily amenable to transparent funding. On the other hand, one could make an equally compelling case that principles are the first casualty of ambition and, in this case, the ambitions of one person (Kejriwal) pushed the party to expand more rapidly than its original model of fundraising based on probity would allow. In other words, the fundraising model adapted to the ambition rather than the other way around.²⁷

FUTURE RESEARCH

A book like this raises as many questions as it answers. Given the limited scholarly work on money in politics in India (and in the developing world, more broadly) and the numerous hurdles that stand

²⁶ Chitleen K. Sethi, ‘Punjab Polls: AAP Asks for Donations, but Donors to Remain Incognito’, *Hindustan Times*, 22 December 2016.

²⁷ It should be noted that, in its 2014 campaign, the BJP ran into the problem of donor reluctance to disclose identities in its relatively successful online fundraising campaign. Online funds, however, only accounted for roughly 10 per cent of the BJP’s raised funds in that election—with the other 90 per cent coming from traditional fundraising methods. Arvind Gupta (BJP online campaign head), in conversation with one of the authors, 11 December 2015.

in the way of empirical work in this area, the issues requiring future exploration are too many to count. Rather than providing a comprehensive list of all of the outstanding questions we can think of, we instead focus on some of the unresolved issues that we found to be of greatest interest.

Variation in Election Spending

One of the most visible puzzles when it comes to election expenditure is the enormous heterogeneity across states. Anecdotally, elections in the southern states of Andhra Pradesh and Tamil Nadu seem to be orders of magnitude more expensive than elections in states such as Gujarat or Delhi. Tamil Nadu, in particular, has gained international notoriety for the staggering amounts of money that are allegedly spent in pursuit of elected office.

In April 2017, ECI authorities cancelled a by-poll to be held in the state's R.K. Nagar assembly constituency on the grounds that the widespread pre-election distribution of money and other gifts had 'vitiated' the atmosphere. Media reports indicated that a faction of the ruling AIADMK allegedly handed out Rs 89 crores to voters in the run up to Election Day.²⁸ Documents recovered by tax authorities suggest that the party aimed to reach 85 per cent of voters in the constituency; if the money were divided evenly, this would amount to roughly Rs 4,000 per eligible voter.²⁹

This is not the first time Tamil Nadu has found the spotlight thanks to the flood of election money sloshing around. In the 2016 state assembly polls, the ECI was forced (for the first time in its history) to cancel polls in two constituencies on account of the large-scale distribution of cash and other handouts during the campaign. Seven years earlier, Tamil Nadu made the headlines when the son of DMK president M. Karunanidhi, M.K. Azhagiri, supposedly flooded a parliament

²⁸ J. Sam Daniel Stalin, "'89 Crores Paid, 4,000 Per Voter': How Minister Planned Chennai By-Poll", *NDTV*, 9 April 2017, accessed 20 June 2017, <http://www.ndtv.com/tamil-nadu-news/89-crores-paid-4000-per-voter-how-minister-planned-chennai-by-poll-1679015>.

²⁹ J. Sam Daniel Stalin, "'89 Crores Paid, 4,000 Per Voter': How Minister Planned Chennai By-Poll."

by-election in Thirumangalam with a torrent of cash.³⁰ The episode gained notoriety when Wikileaks made public a US diplomatic cable that provided sordid details of the scheme, which soon became known as the 'Thirumangalam formula'. According to the cable, an aide to Azhagiri confessed that the DMK leader distributed Rs 5,000 to every voter in the constituency using an innovative delivery mechanism: an envelope tucked into the morning newspaper delivery (along with a DMK voting slip).³¹

Anecdotal evidence suggests that candidates standing for parliamentary elections in Tamil Nadu often spend between Rs 25 and 50 crores on their election, while aspiring candidates in Delhi spend between Rs 10 and 25 crores (numbers current as of 2013–14). These are not hard numbers, but suggestive figures based on available fieldwork and reporting. Similarly, an assembly election in Delhi could set a major party candidate back between Rs 1 and 5 crores while a regional poll in Andhra Pradesh could cost twice as much (if not more).³² The costs of elections also seem to vary within a locality in a given state. Chauchard's work in this volume on state elections in Mumbai reports election spending by major party candidates between Rs 1 and 16 crores.

But the variation in election spending across states does not, on first glance, appear to be about income alone. Delhi's per capita income is almost double that of Tamil Nadu's and Maharashtra's almost 50 per cent greater than Andhra Pradesh's. What are the factors behind this variation, across and (possibly) even within states? Are the stakes different and, if so, what are they? For instance, is the 'prize' of winning Tamil Nadu greater than Maharashtra? Even if one restricts attention to the major parties in a given state, do different parties employ

³⁰ Dharani Thangavelu, 'Tamil Nadu's History of Cash for Votes', *Mint*, 10 April 2017.

³¹ U.S. Consulate Chennai, 'Cash for Votes in South India', diplomatic cable, 13 May 2009, accessed 10 January 2015, https://wikileaks.org/plusd/cables/09CHENNAI144_a.html.

³² Vaishnav narrates the story of a first-time candidate standing for state election in Andhra Pradesh who spent Rs 10 to 12 crores on his campaign, an amount 30 to 40 times the expenditure ceiling mandated by the ECI. See Vaishnav, *When Crime Pays*, Chapter 4.

different political finance strategies? Or is there pressure to conform to the behaviour of others? If so, how does information regarding election spending travel and is there room for misperception, deliberate or otherwise?

The Stakes in Politics

If we accept that candidates and parties spend a lot of money, the question becomes why politicians are prepared to spend so much to win elections. What is at stake in winning elections? Clearly, the stakes must be high if aspiring politicians are prepared to spend so much. If that is the case, controlling election finance may well be a Sisyphean task akin to plugging the holes in a leaking dike when one should really be focussing elsewhere.

The stakes in politics can be symbolic, material, or ideological. Spending in campaigns might be a case of 'conspicuous consumption', symbolically similar to lavish weddings or splurging on religious festivals. The semiotics of conspicuous consumption are rooted in status-seeking behaviour. In a status-conscious society with different groups vying for social mobility, high spending on elections in India may have a 'signalling' function to members of the community. There is considerably more wealth in India than in the past, and conspicuous consumption now requires greater resources than earlier, since what was conspicuous two decades ago is *passé* today.

Alternatively, the stakes in politics may simply be more crassly material. Investing in election campaigns might be akin to an investment decision where there are material pay-offs for the winner. As long as the material pay-off (conditional on winning) is greater than the probability of winning times the campaign investment, campaign spending is simply a case of an investment under uncertainty.³³ The material pay-offs are, of course, a reflection of rent-seeking behaviour, which is possible because of weak governance institutions. Unfortunately, this behaviour creates a self-enforcing dynamic, since elected officials would hardly want to improve governance and limit their own rent-seeking opportunities.

³³ The pay-off of winning could, of course, include avoiding the long-term losses of losing.

Finally, it is possible that the stakes may be ideological. This clearly has been a driving factor in escalating election expenditures in the United States. However, in India, the greater prevalence of rent-seeking behaviour has attenuated the ideological drivers of electoral politics. While there are differences in political platforms, politicians in India are relatively promiscuous in shifting their positions and joining alliances in the pursuit of power—and the rents that come with it. One could argue that party ideologies are crucial in presenting citizens with different visions of the future and are at the heart of electoral competition. But when the differences become deeply polarizing, they begin to threaten democracy itself.

Reforming electoral finance will be more difficult unless the stakes in acquiring political power are reduced. India's first-past-the post electoral system creates a winner-take-all high stakes game. A greater weight to proportional representation might attenuate the stakes, but might also make governments more difficult to form. Strengthening public institutions would reduce rent-seeking opportunities and, with it, the attendant financial stakes of capturing power. Moving certain polarizing issues out of politics into the realm of law could reduce the political stakes.³⁴ And finally, if politics is the only road to achieving societal goals, the stakes in controlling that road will be that much higher. Civil society, markets, and social movements all offer complementary pathways and strengthening them are likely to (at least modestly) diminish the stakes of politics—and rein in the galloping demands of electoral finance.

Measurement

One impediment to studying election expenditure, especially as it relates to gift giving (which is believed to account for a large percentage of election budgets), is following the money trail. Kapur and Vaishnav's chapter in this book, which leverages fluctuations in cement consumption, and Sukhtankar's work on sugar mills are both examples of how researchers can use novel, indirect methods of tracing how

³⁴ William N. Eskridge Jr., 'Pluralism and Distrust: How Courts Can Support Democracy by Lowering the Stakes of Politics', *Yale Law Journal* 114 (2005): 1279–328.

campaign funds are channelled.³⁵ While neither offers precise data on the quantum of funds spent, they both help elucidate the mechanisms through which money raised is spent.

Another recent entry in this literature is a paper by Anirban Mitra and colleagues.³⁶ The authors devise an ingenious method of studying vote buying: examining the consumption patterns of households using survey data. Using National Sample Survey (NSS) rounds on household consumption expenditure (which has detailed data on the date on which the survey was fielded) and state assembly elections data from 2004 to 2011, the study compares a household's consumption immediately prior to an election with consumption several days before and after the election in a state. Because of the staggered nature of state elections, the researchers can compare consumption patterns in a state that is going to polls with a 'control group' of households in neighbouring, non-election states. Working with fine-grained data on hundreds of commodities, the authors find that household consumption, including the consumption of staples, local liquor, and saris, exhibits a substantial spike just prior to the day of elections. While these findings largely confirm what we already know—that the distribution of material inducements (commonly dubbed 'vote buying') is rampant—the uniqueness of the methodology provides a level of detail on this distribution that has not previously been available.

The use of large-scale sample survey data represents an important innovation that can be leveraged in the future. Surveys, more generally, could be usefully employed to develop estimates of the sources, methods, and uses of money in politics. Bussell's contribution in this volume, based on survey data collected in three north Indian states, is a good example of one such effort. Researchers interested in electoral opinion surveys might also consider adding a module on the flow of money around elections as there is arguably less measurement error in

³⁵ Sandip Sukhtankar, 'Sweetening the Deal? Political Connections and Sugar Mills in India', *American Economic Journal: Applied Economics* 4, no. 3 (July 2012): 43–63.

³⁶ Anirban Mitra, Shabana Mitra, and Arnab Mukherji, 'Cash for Votes: Evidence from India on Election Financing and Dynastic Politics' (working paper, International Growth Centre, 28 December 2016).

what individuals or households report receiving from politicians than what candidates or parties claim to be spending on voters.

Adverse Effects of Greater Competition

The consensus in the political science literature is that electoral competition is, by and large, a positive attribute when it comes to democratic accountability and fostering better governance. Where competition is weak or absent, incumbents face little incentive to improve the level of responsiveness to their constituents because voters have no credible exit option. As competition increases and exit options grow, incumbents must step up their game or risk being voted out of power. This dynamic results in better governance outcomes, as several empirical studies have shown.

However, the effects of competition may not be unambiguously positive. In India, one could reasonably argue that there is a severe downside to greater competition: namely, the surging costs associated with elections. As Kapur and Vaishnav argue in the conclusion to their chapter on builders and politicians, 'more competition might also trigger greater electoral expenditure, as parties look to gain an advantage over their competitors.' Competition is typically measured in terms of the number of viable political parties in the fray, but another aspect of competition the authors highlight is the frequency of polls. With the advent of the 73rd and 74th Amendments to the Constitution, which ushered in a three-tier structure of local body elections across rural and urban India, there are nearly three million elected positions in India. Due to the staggering of local, state, and national elections, in any given state, it seems that another election is always around the corner. Political actors at all levels are mobilized for elections at every level to raise funds for their candidates.

In principle, greater political competition, decentralization (that is, greater number of elected sub-national bodies), and more frequent elections can enhance citizen accountability of elected representatives. But each of these benefits also comes with a financial cost with respect to increasing electoral expenditure. While competition may have a great many positive repercussions for democracy and governance, researchers also need to ask whether too much democracy can be a bad thing. Indeed, this appears to be one of the motivations behind Prime

Minister Modi's call for the ECI to consider the merits of conducting simultaneous as opposed to staggered elections in India.

Elections, Elections Everywhere ...

With all the attention showered on local, state, and national elections, other varieties of electoral politics often get short shrift. In the Indian case, student politics represents a fascinating venue for future research since it is in India's universities that many political leaders often get their start. Because campuses often serve as the proving ground for the politically inclined, the stakes are high—which means that they too are subject to the influence of money and muscle. With few exceptions, there is little empirical work on the role of money in these political fora. One exception is ethnographic work by Craig Jeffrey, who studies the political strategies of Jat student leaders in Meerut, Uttar Pradesh.³⁷ Jeffrey reports that Jat student leaders typically spent between Rs 150,000 and 300,000 (in 2004–5) on election-related expenses such as posters and handouts, vehicles, and feasts for students. For the student leaders Jeffrey studied, politics also functioned as a business; student union leaders at one local university could earn between Rs 800,000 and Rs 10 lakhs in a year working as a broker/fixer on campus.

The role money plays in student politics is an area crying out for research. Student politics in some way is a microcosm for the nation's politics, so it is inherently interesting to study. But it also sheds light on two other issues: the first is how politics becomes a vocation, even for college-aged youths in India, in a country where employment opportunities in the formal sector are few and far between. Relatedly, the influx of money in student politics also has ramifications for the larger endeavour of higher education in India itself, which is in a state of disrepair.³⁸

But more broadly, money and elections are pervasive in a wide variety of nominally apolitical settings. Elections for leadership selection in numerous sports bodies in India are afflicted by large amounts

³⁷ Craig Jeffrey, *Timepass: Youth, Class, and the Politics of Waiting in India* (Palo Alto: Stanford University Press, 2010).

³⁸ Devesh Kapur and Pratap Bhanu Mehta, eds, *Navigating the Labyrinth: Perspectives on India's Higher Education* (New Delhi: Orient Blackswan, 2017).

of money (of which the Board of Control for Cricket in India is a prime example); the same is true of most professional bodies (the Medical Council of India is an especially egregious example). Indeed, from institutions of civil society to institutions of market governance (such as *mandis* that regulate local agriculture markets), and from dairy cooperatives to urban housing societies, elections are the principal mechanism of leadership selection. And in many (if not most) instances, money plays a role. Just how much of a role and with what consequences is poorly understood.

FINAL THOUGHTS

This book represents some of what we have learnt about how money in Indian politics is regulated, sourced, and spent, why such large sums are spent, and what impact this money has on the political system more broadly. But there is much we do not know about the interplay between money and politics in India—and there could hardly be a more pressing issue for social scientists. While there is a shared consensus that money is important, there is (probably) too much of it, and policymakers should be seized by the influx of money, there is no clear agreement about some of the basic facts that guide the routine flow of money. The aim of this book is to shine a light on the areas where researchers and policymakers can begin looking—in the quest for a more comprehensive and informed understanding of one of democracy's critical ingredients.