

The Great March of
Democracy
*Seven Decades of India's
Elections*

EDITED BY

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*To the founding fathers of the Constitution, who laid the foundation of
the most trusted institution of the Republic of India.*

*To Sukumar Sen, ICS, the first chief election commissioner of India,
who set up the processes and structures for conducting the largest electoral
exercise on the planet.*

*To T.N. Seshan, who took the Commission to new heights of authority,
credibility and visibility.*

III

Confronting the Challenge of Money in Elections

Milan Vaishnav

One of the foundational pillars of modern democracy is vibrant political contestation. According to one classic formulation, post irreversibility, and repeatability.¹ In other words, elections cannot be foregone conclusions; the losers must accept defeat and the winners must subject themselves to elections in the future and embrace the risk that they may lose power. For seventy years and against all odds, India has embraced robust contestation under the framework of regular democratic elections. Today, there can be no doubt that elections and the underlying concept of political contestation have become deeply embedded in the social fabric of the nation.

To say that Indian elections are contested would be an understatement. They are not merely competitive; they can be more aptly described as *hyper*-competitive. In the 2014 general elections, there were 464 parties contesting elections across twenty-nine states and seven union territories. Altogether, 8251 candidates joined the fight for 543 parliamentary seats. Voters went to the polls in record numbers: 66.4 per cent of the eligible voting public cast their ballots

on election day.² One more statistic from the last general elections also stands out: parties and candidates spent as much as \$5 billion on election-related expenditures, according to one independent study. This was two-and-a-half times the \$2 billion price tag the same group of researchers placed on the previous national election held in 2009.³

Costs of Democracy

Today in India, there is a deeply held sense that the costs of elections are exorbitant and are only getting larger. The healthy contestation embedded in Indian democracy has numerous benefits, but also carries with it costs, in the literal sense of the word. These 'costs of democracy' should be a concern—not simply because of the many ways this money could be otherwise put to use in a country where poverty, hunger, and a lack of basic amenities is so prevalent, but also because they have tangible, negative repercussions for the sanctity of democracy.

For starters, money has a powerful selection effect on the candidate pool that is willing to stand for elected office.⁴ Without independent sources of wealth or access to well-heeled networks, the excessive costs of campaigning make it difficult—if not impossible—to stand for elected office. Cash-strapped parties regularly turn to self-financing candidates who will not only cover the costs of campaigning, but also pay parties for the privilege of running on their symbol. Second, the need to raise vast amounts of funds incentivizes the consummation of quid pro quos between candidates and wealthy benefactors. Campaign contributions do not often come for free; backers expect preferential treatment once their candidates are elected. Third, if candidates are required to pay for a substantial portion of their campaign costs, they are more likely to be motivated to exploit their time in office pursuing rent-seeking opportunities that will allow them to recoup their costs while building a war chest for re-election. Fourth, if the citizenry believes that elections are essentially bought and sold, the deluge of money in politics could erode the foundations of democratic

legitimacy. Here, what matters is the *belief*, not simply the reality, that only the ultra-rich are viable candidates.

Regulating the flow of money into politics represents one of the foremost challenges to electoral vibrancy in India. In many respects, India has a great tool at its disposal to confront this challenge—the Election Commission of India, one of the most powerful (and respected) independent election bodies the world over. However, the ECI is fighting this fight with one hand tied behind its back. The structure of India's political economy practically invites corruption as the state remains deeply embedded in everyday economic activity more than a quarter-century following the supposed dismantling of the Licence Raj. Electoral reforms initiated by Parliament in recent years have actually made money in politics *less*, not more, transparent. While it is true that the ECI possesses unprecedented supervisory powers in conducting elections, its authorities to deal with modern methods of political finance are outmatched and outdated. It is impossible to imagine elections without money just as it is not feasible to have democracy without elections. The challenge for India in the years to come is to curb the worst excesses of money in politics, while ensuring a more level playing field for citizens who aspire to be representatives.

Rising Expenditure

There is a lack of hard data on election spending in India because so much of it is opaque, which means official reporting captures a fraction of actual expenditures. But there is a widespread belief that the costs of elections are growing at a rapid clip for at least four reasons.⁵ First, population growth and the growing size of electoral constituencies mean that candidates have to spend larger sums of money on advertising, rallies, and the basic components of electioneering. Second, electoral competition has grown substantially more intense. Today, there are more parties, more candidates, and lower margins of victory in electoral contests at all levels of government. This uncertainty means that political actors

struggle mightily to evaluate the marginal impact of each rupee spent campaigning. Third, popular expectations about 'handouts' distributed by office-seeking politicians have also grown in kind. From the distribution of flat-panel television sets to mixers or just plain cash, elections have become synonymous with gift-giving. Even though politicians freely admit that securing iron-clad contracts to 'buy' citizens' votes is virtually impossible, they fret that not handing out cash or other material inducements will place them at a strategic disadvantage relative to their competitors.

This backdrop of rising costs must be understood in the context of two important structural features of India's political economy.⁶ The first is that the state continues to play a highly interventionist role in the economy, both directly (as a major producer of goods and services) as well as indirectly (through the issuance of licenses, permits, and other regulations). This means that politicians, and the bureaucrats who labour under their watch, can regularly trade policy and regulatory favours in exchange for bribes and campaign contributions.

Firms, for their part, prefer to provide funds anonymously so that they are not punished in the future by parties they have not supported. Furthermore, the state's regulatory powers also mean that successful politicians have myriad ways of enriching themselves by manipulating their discretionary authorities, evidenced by the fact that incumbent candidates regularly report large increases in their assets while in office.⁷

A second important contextual factor is uneven enforcement. It is extremely difficult to track cash payments or other 'black' transactions that might transpire in the course of elections. The ECI has stepped up its surveillance activities in recent years in order to ferret out such suspicious movements, but at the end of the day, its powers have limits.⁸

Stylized Facts on Political Finance

The growth in spending, combined with the state's heavy-handed approach to the economy and uneven enforcement, has

led to a sub-optimal, corrupt equilibrium. This state of affairs can be characterized by a basic set of stylized facts on political finance.⁹ First, there is virtually no transparency in political giving. Anonymous cash donations, which do not leave a clear paper trail, are rampant. Cash also makes it easier for parties and candidates to deliver pre-election goodies without leaving crumbs for enforcement authorities to stumble upon. Non-cash donations are becoming increasingly opaque as well, through a new mechanism introduced by the Narendra Modi government called electoral bonds.¹⁰ Electoral bonds are bearer bonds purchased by firms or individuals from public sector banks that can be deposited with political parties in the form of a donation. An essential element of this new mechanism is the absence of disclosure: neither the donor nor the recipient must disclose the transaction, which allows the giver to protect its prized anonymity. The upside to electoral bonds is that they leave a digital paper trail (as opposed to cash), but this trail is only known to the bank and not the general public.¹⁰

Second, political party finances are not subject to any real scrutiny. Under the law, parties are required to submit annual audited accounts, but there is no requirement that these evaluations be subjected to rigorous, independent evaluation. As a result, party filings are openly dismissed as fabrications. Third, the ECI's regulatory authorities concerning political finance are constrained. For instance, even when candidates flout basic spending regulations (or misstate expenses on their campaign filings), the ability of the ECI to take punitive action is limited. The introduction of electoral bonds, coupled with corresponding changes that have eliminated limits on corporate giving and opened the door to foreign donors have only enhanced the Commission's burden.¹¹

Agenda for Reform

Recent changes to India's political finance landscape do not boost one's optimism that India is gaining ground when it comes to regulating the torrent of money witnessed in recent years. In

the first decade of the 2000s, the ECI—with support from civil society and the judiciary—did manage to marginally increase the level of transparency around political funding. With the 2003 implementation of new candidate disclosure requirements (which mandated that all aspirants to higher office release their educational, financial, and criminal backgrounds at the time of nomination) and the landmark 2005 Right to Information (RTI) Act, the needle was (slowly) moving in the direction of greater openness.¹² Recent legislative moves have cut the other way. The question is, what is the optimal path forward for cleaning up elections and maintaining the health of Indian democracy? I would submit that future reform must move on at least five fronts.¹³

First, there must be greater transparency in political contributions. At the very least, citizens must be able to find out who is making donations and to whom. The best way of ensuring full transparency is to insist on digital giving (something electoral bonds do) but ensuring that these digital payments are fully disclosed (something they do not). To go further, Parliament could legislate that donations of any amount must be linked to an individual's Aadhaar or Permanent Account Number (PAN). After all, it is ironic that politicians in India are in favour of digitizing all manner of government transactions, from real estate to welfare distribution, but have grown suspiciously silent when it comes to their own dealings.

Second, if parties and candidates are willing to adhere to greater transparency norms, there is a good argument for lifting existing candidate expenditure limits in return. At present, the spending disclosures candidates make are vulnerable to severe underreporting. For instance, candidates in India's 2014 general elections laughably declared that they spent only 58 per cent of the prescribed ceiling, on average.¹⁴ If expenditure limits are to be relaxed—or lifted entirely—the ECI should be granted the authority to impose sanctions on candidates who fail to disclose their expenses in a timely manner.

Third, the era of political parties auditing their own books must come to an end. The law must be changed to mandate independent

audits of political party finances. The Central Information Commission (CIC) ruled in 2013 that RTI is applicable to political parties, but also admitted that it has no means of enforcing compliance. Indeed, the CIC itself has turned to the Supreme Court to compel parties to follow its directive.¹⁵ While the legal haggling over RTI will likely go on for years, Parliament could insist that political parties accept third-party audit in exchange for retaining their tax-exempt status.

Fourth, the Representation of the People Act (RPA) 1951—the law which governs most routine aspects of elections—needs a tune-up. More than sixty-five years after its passage, the entire landscape of electoral competition has changed in ways the law's drafters could not have imagined. Take the issue of 'paid news', whereby media houses collude with candidates and arrange for positive coverage (essentially, advertisements masquerading as news) in exchange for under-the-table payments.¹⁶ Right now, paid news is not specified in the RPA as a predicate offence that could trigger disqualification. While the ECI should be pushing the envelope by referring cases for prosecution where there is blatant abuse, the body also requires enhanced legal powers to take action so that its every move is not subject to counter-litigation.

Finally, the elephant in the room whenever political finance reform is discussed is public funding. Advocates of public funding believe that the state should provide resources to parties and candidates so that they need not rely on private donations—especially large corporate donations—which facilitate corruption and cronyism. Public funding, which exists in many other democracies, can only be contemplated in India as and when parties and candidates are willing to sign up to a 'grand bargain' in which they accept reforms that constrain their behaviour. Unless political actors are willing to open up their books, agree to more robust disclosure requirements, and support better enforcement capacity, public funding should remain on the sidelines. Some members of Parliament have floated the idea of introducing matching public grants that would reward candidates who demonstrate that they can transparently collect small donations

from individual supporters.¹⁷ Such schemes must be discussed within the broader context of systemic political finance reform.

A Sisyphian Task

Advocating for reforming the manner in which money in Indian politics is regulated feels like a Sisyphian task. The practical and political obstacles are large, and the short-term rewards are few. This can hardly be grounds for retreat. For starters, a unique constellation of civil society actors, the media, academics, courts, and reformist politicians have managed to drive important changes in political finance in recent years. The entire framework of candidate disclosure—however flawed it may be—exists today because of sustained public pressure. Furthermore, the stakes are incredibly high. The space for the *aam aadmi* (common man) in today's electoral environment is shrinking, thanks to the oppressive financial requirements needed to be a viable political candidate. After ore accounts for suspected criminals, dynasts, industrialists, and celebrities, there is little room for ordinary citizens to serve as the people's representatives.¹⁸

The silver lining in this story is that proposing, and eventually implementing, genuine political finance reform is arguably good politics. The spectacle of demonetization and its aftermath—in which the ruling Bharatiya Janata Party (BJP) turned a highly flawed anti-corruption measure into political gold—serves as a case in point.¹⁹ Not only would genuine reform find favour with voters, it would also tap into a deep-seated frustration with the status quo that business, civil society, and even some politicians regularly express. What is missing now is a far-sighted leader who can mobilize this unique combination of strange bedfellows.

Bollywood Goes to the Polls

1. I have discussed this in greater detail in my book *Nehru's Hero: Dilip Kumar in the Life of India* (New Delhi: Roli Books, 2004).

Part Four: The Path Ahead

Elections, Exit Polls and the Electronic Media

1. This essay is an abridged version of the problem statement published in the August 2016 issue of *Seminar*.
2. Kaushik Basu made a similar remark about economic forecasting.
3. The evidence to support this claim, at least in India, is thin.
4. Jill Lepore, 'Are Polls Ruining Democracy? Politics and the New Machine', *New Yorker*, 16 November 2015.
5. The empirical evidence for this claim is thin. However, it is possible that some voters may be shifting towards parties performing well in initial phases.
6. There would be a huge academic cost of not conducting polls at the time of elections.
7. Of course, there are other polls (surveys) that are conducted for the purpose of market research or purely for academic or for evaluation of public policies.
8. Many of these market-research firms are not sensitive to the nuances of conducting election-related polling in diverse and competitive political environment such as India.
9. Many have made a plea to various polling agencies to be transparent with their methodology. See, for example, Yogendra Yadav, 'Opinion Polls – The Way Forward', *The Hindu*, 12 November 2013; Kartik Shashidhar, 'How to Make Opinion Polls More Honest', *Livemint*, 27 February 2014.
10. Also, voters from weaker sections of society may not wish to reveal their vote choice in public.
11. Fly-by-night operators generally function as workforce aggregators supplying field researchers to large market-research firms.
12. Pollsters often complain that media houses invest in low-cost polls, which means that investigators and data analysts are poorly trained, survey instruments poorly designed, and the achieved sample not representative. It is no surprise then pollsters in India often fail.

13. The one-time infrastructure cost is high, but the same call centre can be used for a variety of other business purposes. CATI data often tends to oversample urban, male, educated and socio-economically well-off individuals.
14. Even if a researcher successfully manages to target a representative sample, they often fail to meet every sampled respondent on the ground due to various reasons. And if there is a systematic bias in who is responding to the poll, the analysis based on such data is erroneous.
15. The use of sampling weights to correct skewness in data has an established tradition in statistics. This is not data massaging or manipulation, as it is sometimes called.
16. In an interview with Yogendra Yadav on the 1989 and 1991 Lok Sabha election predictions, Pranay Roy put this point very succinctly: 'When you get something spot on it's bound to be a bit of fluke: the methodology doesn't allow you to get anywhere but within twenty seats of the final result.' See, Yogendra Yadav, 'Interview with Pranay Roy', *Seminar* 385 (1991): 61–63.
17. Margin of Error is a statistical expression and means that the estimate from a random sample would differ from 'truth' or actual reality, simply due to chance. The higher the sample size, the lower the margin of error.
18. Methodological issues related to survey research have long been debated among scholars. See, Yogendra Yadav, 'Whither Survey Research: Reflections on the State of Survey Research on Politics in Most of the World', Malcom Adiseshiah Memorial Lecture, 2008.
19. See Chhibber Pradeep and Rahul Verma, *Ideology and Identity: The Changing Party Systems of India* (New York: Oxford University Press, 2018).
20. See the discussion between Yogendra Yadav and Ranjit Chib, 'Psephology Is Not a Science Like Microbiology . . . It's Poll Studies. But Everyone Thinks Only of Seat Forecasts', *Indian Express*, 27 January 2008.

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1. Adam Przeworski, Michael E. Alvarez, Jose Antonio Cheibub, and Fernando Limongi, *Democracy and Development: Political Institutions and Well-Being in the World, 1950–1990* (New York: Cambridge University Press, 2000).

2. Milan Vaishnav and Danielle Sinograd, 'A New Era in Indian Politics?' Carnegie Endowment for International Peace, 10 June 2014, <https://carnegieendowment.org/2014/06/10/new-era-in-indian-politics-pub-55883>.
3. The 2009 and 2014 estimates were calculated by the Centre for Media Studies (CMS), a New Delhi-based think tank. See Niraj Sheth, 'Corruption Mays Image of Change in India Elections', *Wall Street Journal*, 9 April 2009; Sruthi Gottipati and Rajesh Kumar Singh, 'India Set to Challenge U.S. for Election-Spending Record', *Reuters*, 9 March 2014.
4. This section draws heavily on Devesh Kapur and Milan Vaishnav, 'Introduction', in Devesh Kapur and Milan Vaishnav, eds. *Costs of Democracy: Political Finance in India* (New Delhi: Oxford University Press, 2018), pp. 1–14.
5. This section draws on the findings contained in Milan Vaishnav, *When Crime Pays: Money and Muscle in Indian Politics* (New Haven: Yale University Press, 2017).
6. Eswaran Sridharan and Milan Vaishnav, 'Political Finance in a Developing Democracy: The Case of India', in Devesh Kapur and Milan Vaishnav, eds. *Costs of Democracy: Political Finance in India* (New Delhi: Oxford University Press, 2018), pp. 15–35.
7. For instance, the Association of Democratic Reforms found that incumbent Lok Sabha members of Parliament elected in 2009 and running for re-election in 2014 saw their assets grow by as much as 145 per cent during their five years in office. See Association for Democratic Reforms, 'Analysis of Assets Comparison of Re-Contesting MPs in the 2014 Lok Sabha Elections', 9 May 2014, <https://adindia.org/research-and-report/election-watch/lok-sabha/2014/analysis-asset-comparison-re-contesting-mps-lok-sa>.
8. Eswaran Sridharan and Milan Vaishnav, 'India', in Pippa Norris and Andrea Abel van Es, eds. *Checkbook Elections? Political Finance in Comparative Perspective* (New York: Oxford University Press, 2016), pp. 64–83.
9. For more on these stylized facts, see Devesh Kapur, Eswaran Sridharan, and Milan Vaishnav, 'Conclusion: Implications for Research and Policy', in Devesh Kapur and Milan Vaishnav, eds. *Costs of Democracy: Political Finance in India* (New Delhi: Oxford University Press, 2018), pp. 273–98.

10. For more on electoral bonds, see Milan Vaishnav, 'Electoral Bonds Prize Anonymity, You Won't Know Who's Bought Them', *Indian Express*, 8 January 2018.
11. In the 2017 Finance Act, Parliament eliminated the cap on corporate giving (which earlier stood at 7.5 per cent of a corporation's net profits over the previous three years). It has also retrospectively changed provisions in the Foreign Contributions Regulation Act (FCRA) to expand the definition of a 'foreign' company (previously, there was a strict prohibition on foreign funding). For more, see Milan Vaishnav, 'Don't Believe the BJP and Congress Claims That They're Cleaning Up Poll Funding', *The Print*, 6 February 2018, <https://theprint.in/opinion/dont-believe-the-bjp-and-congress-claims-that-theyre-cleaning-up-poll-funding/33671/>.
12. Eswaran Sridharan and Milan Vaishnav, 'Political Finance in a Developing Democracy: The Case of India'.
13. Devesh Kapur, Eswaran Sridharan, and Milan Vaishnav, 'Conclusion: Implications for Research and Policy'.
14. Association for Democratic Reforms, 'Analysis of Election Expenditure Statements of MPs: 2014 Lok Sabha Elections', 1 August 2014, [http://www.governancenow.com/files/Analysis%20of%20Election%20Expenditure%20Statements%20of%20MPs%20from%202014%20Lok%20Sabha%20Elections%20\(English\).pdf](http://www.governancenow.com/files/Analysis%20of%20Election%20Expenditure%20Statements%20of%20MPs%20from%202014%20Lok%20Sabha%20Elections%20(English).pdf).
15. Eswaran Sridharan and Milan Vaishnav, 'Political Finance in a Developing Democracy: The Case of India'.
16. Press Council of India, 'Report on Paid News', 7 July 2010, <http://presscouncil.nic.in/oldwebsite/councilreport.pdf>.
17. Baijayant 'Jay' Panda, 'Now Reform Political Funding', *Times of India*, 23 November 2016; and 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, <http://www.ideasforindia.in/topics/governance/a-proposal-for-public-funding-of-elections-and-political-parties-in-india.html>.
18. Milan Vaishnav, 'Votes for Crooks and Cricket Stars', *New York Times*, 9 May 2014.
19. Archana Masih, 'Demonetization Gives Modi A Powerful Narrative for 2019', *Rediff.com*, 6 September 2018, <http://www.rediff.com/news/interview/demonetisation-is-modis-powerful-narrative-for-2019/20180906.htm>.