



# An invitation to corruption?

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## **An invitation to corruption?-The Electoral Bond Scheme inhibits the citizen's capacity to meaningfully participate in political and public life**

- Early this year the government introduced an Electoral Bond Scheme purportedly with a view to cleansing the prevailing culture of political sponsorship.
- But the programme's failings have been so blindingly obvious, and its consequences so utterly devastating to rectitude and transparency in government.

### **Too opaque**

- In its present form, the scheme permits not only individuals and body corporates, but also "every artificial juridical person," to purchase bonds, issued by the State Bank of India, in denominations of Rs.1,000, Rs.10,000, Rs.lakh, Rs.10 lakh and Rs.1 crore, during specified periods of the year.
- Issued in the form of promissory notes, once a bond is purchased the buyer can donate it to any political party, which can then encash it on demand.
- The government claims that since these bonds are purchased through banking channels the scheme will eliminate the infusion of black money into electoral funding.
- But not only is this argument palpably false, as a simple reading of the scheme's terms shows us, the programme also virtually endorses corruption in political funding.
- Neither the purchaser of the bond nor the political party receiving the donation is mandated to disclose the donor's identity.
- Therefore, not only will, say, the shareholders of a corporation be unaware of the company's contributions, but the voters too will have no idea of how, and through whom, a political party has been funded.
- Just as damaging to the most basic democratic ideals is the elimination

of a slew of other barriers that were in place to check the excesses of corporate political sponsoring.

## **Two judgments**

- The dangers inherent in untrammelled funding of political parties, especially by corporations, have been apparent for many years.
- Even as early as in 1957, in a pair of judgments outstanding in their lucidity and prescience, the Bombay and the Calcutta High Courts warned Parliament of the perils in allowing companies to freely add to party coffers.
- In entreating Parliament to act, the judgments were recognising a bedrock principle of democracy: that public action ought to be guided by transparency and fairness.
- Unfortunately, however, in the years since, every effort has been made to endorse opacity in political funding.
- The electoral bonds scheme, which represents the latest such assault, unless immediately rescinded, may well irredeemably damage India's democratic edifice.
- As petitions filed in the Supreme Court point out, the scheme suffers from at least two foundational defects.
- One, that it was incorporated on the back of a series of amendments made to legislation, including the Representation of the People Act, the Income Tax Act and the Companies Act, which were introduced in the form of a money bill.
- And two, that the scheme flouts a number of fundamental rights.
- Article 110 of the Constitution allows the Speaker to classify a proposed legislation as a money bill, only when the draft law deals with all or any of the subjects enlisted in the provision.
- These subjects comprise a set of seven features, including items such as the imposition of a tax, the regulation of the borrowing of money by the government, the custody of the Consolidated Fund of India, the appropriation of money out of the consolidated fund, and any matter incidental to the subjects explicitly mentioned in Article 110.
- Hard as we might try, though, it's impossible to see how the provisions pertaining to the electoral bond scheme could possibly fall within any of these categories.
- The Finance Act, through which these amendments were introduced, therefore did not deal with only those matters contained in Article 110.

## **Fundamental rights**

- The scheme is equally destructive in its subversion of the fundamental rights to equality and freedom of expression.
- When the power of that vote is diluted through opacity in political funding, democracy as a whole loses its intrinsic value.
- Ultimately , the electoral bonds scheme suggests two possibilities: one, that the government doesn't understand the Constitution; or, two, it does, and has expressly set out to transgress it.

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