

Financing of Election Campaigns

Background Note for the Conference on Effective Legislatures

Political parties and candidates require funds to campaign while contesting elections. Increase in availability of funds could help the candidate get better access to voters and have a positive effect on the electoral outcome. In other words, there is an incentive for candidates to collect higher level of funding. This behaviour could have negative implications for good governance. It might shut out good candidates who are unable to raise sufficient funds. Sometimes funding from private sources could come with implicit strings attached; this could result in the elected politicians taking decisions that benefit special interests rather than the public interest. Politicians in power may misuse state resources and exert administrative pressure on potential sponsors to receive money. In order to restrict these adverse possibilities, most democracies regulate the manner in which election campaigns are financed.

In this brief, we list broad categories of regulations and penalties prevalent in some democracies. We then list the campaign finance laws in India. Finally, we compare practices and restrictions imposed by a few other countries to provide a wider perspective to stimulate debate. A more detailed paper on this subject is available on request.

Table 1: Types of regulations

Regulations	Types	Issues
Public Subsidy	Direct state subsidies to party/candidate. Indirect subsidy: Tax relief, free postage, free airtime on television/radio etc.	Subsidies may just increase the overall spending by an equivalent amount.
Contribution	Bans on some types such as from private companies, trade unions and foreigners Ceilings on amount of contribution by any individual or entity	Entities banned from contributing may fund through others. The ceilings may be evaded by splitting the contributions across several individuals.
Expenditure	Bans on some types such as buying votes from voters or providing food and drinks Ceilings on total expenditure or expenditure per voter	Ceilings are difficult to police. Unofficial supporters may spend on the campaign to evade this regulation
Time	Time limits on campaign period	
Disclosure	Funding details of donors including name, address and amount Details of expenditure	Splitting funding may allow donors to slip below any minimum amount that requires disclosure.

Source: Summarised by PRS based on Transparency International Anti-corruption Handbook.

Table 2: Types of Penalties

Penalty	Types
Financial	Loss of entitlement to public funding Fines
Civil	Temporary loss of right to sit and vote in legislature by a successful candidate Forfeiture of seat Loss of right to vote for a period of time
Criminal	Prison sentences Fines

Source: Summarised by PRS based on Transparency International Anti-corruption Handbook.

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Table 3: Regulations related to election finance in India

Regulation	Provision	Governing law
Contributions to candidates/ political parties	No limits on individual contributions. Corporate contributions to candidates/political parties capped at 5% of the company's average net profits during the three immediately preceding financial years. Ban on foreign contributions to candidates/political parties.	Companies Act, 1956 Foreign Contribution Regulation Act, 1976
Campaign expenditures	Total campaign expenditure by a candidate for a parliamentary constituency between Rs 10 lakh and Rs 25 lakh. For state assembly constituencies, between Rs 5 lakh and Rs 10 lakh. No limit on expenditure for propagating the party's programme. No limit on expenditure for transport of party leaders (max 40 to be declared by the party). Any other expenditure by party deemed to be spent by candidate.	Representation of the People Act, 1951 Conduct of Elections Rules, 1961
Disclosure of expenditure	Candidate to lodge expenditure accounts with the district election commissioner within 30 days.	Representation of the People Act, 1951 Conduct of Elections Rules, 1961
Disclosure of contributions received	Each party to submit to the Income Tax Authority, a report of contributions in excess of Rs 20,000 from individuals or companies, Candidates are required to file an affidavit with the Election Commission disclosing their assets and liabilities.	Representation of the People Act, 1951 Election Commission's order dated 13 th March, 2003
State funding of elections	No direct state funding of elections in India. Candidates of recognized political parties get copies of the electoral rolls and other prescribed materials. Free time allocated on state television and radio for campaigning purposes proportionately amongst the recognised political parties contesting the election on the basis of their past performances.	Representation of the People Act, 1951 Conduct of Elections Rules, 1961
Civil Penalties	An MP/MLA/MLC convicted of bribery shall be disqualified. A candidate failing to lodge election expenses without good reason in the time and manner specified may be disqualified. A candidate who incurs or authorises expenditure in excess of the specified limits may also be disqualified from contesting elections for a period of six years.	Representation of the People Act, 1951 Conduct of Elections Rules, 1961
Criminal Penalties	Publishing election posters or pamphlets without the name of the printer and publisher shall be punishable with imprisonment up to six months and/or with fine up to Rs 2000. Spending on election campaign by any person without the written authority of the candidate carries a fine up to Rs 500. Any person who fails to maintain election accounts as required by law shall be punished with fine up to Rs 500. For corporate contributions breaching the specified limits, the company shall be fined up to 3 times the amount contributed. Senior officers shall be imprisoned up to 3 years and may also be fined. Any person who accepts or assists in accepting any foreign contribution shall be punishable with imprisonment up to five years, or with fine, or with both. A candidate who gives false information or conceals any information in his nomination paper or in his affidavit shall be punishable up to six months and/or with fine.	Representation of the People Act, 1951 Indian Penal Code, 1860 Companies Act, 1956 Foreign Contribution Regulation Act, 1976

Table 4: Comparison of election finance regulations in some countries

USA	UK	Canada	France	Turkey	India
Public Funding					
For presidential elections. Primaries: Matching funds if spending limits are met. Election: Available if private contributions are refused.	Policy development grants of 2 million pounds per annum to be allocated amongst all political parties that have MPs. Short money is available to fund Opposition parties. Indirect support include party political broadcasts, free postage, free use of public buildings as meeting rooms, inheritance tax relief	Direct funding includes reimbursement of certain election expenses. Indirect funding includes tax credits to donors. Free broadcast time, electoral maps, voter lists. The amount of funding takes into account limits on contributions and election expenses, and is also based on matching funding from private sources.	Political parties are funded by a combination of public subsidies and private donations.	Indirect subsidies for parties that garnered at least 7% of vote in the last parliamentary elections. Tax exemption on printing material. Expenses for paper, personnel, transport etc. for campaigning. Free airtime on public radio and TV.	No direct funding. Time allocated on state owned TV and radio networks for campaigning to parties proportional to their performance in past elections. Free provision of electoral rolls and other prescribed materials.
Limits on individual contributions					
Max of \$2,300 per candidate, per election cycle, at most \$108,000 overall in a calendar year.	No cap on contributions to candidates or political parties	Maximum contribution by individuals \$4400 in a calendar year. Maximum contributions to a party or candidate is \$1100 each.	There is a limit on donations from individuals.	There are limits on donations	No limits on donations from individuals.
Bans on contributions					
Bans on direct contributions to election campaigns by corporations, national banks, unions, federal government contractors, and foreign nationals.	Contributions to candidates above £50 and all contributions to political parties must be received only from permissible sources such as an individual registered in the UK electoral register, a Great Britain registered political party, a UK registered company, trade union, LLP, building society, friendly society etc.	Only individuals who are Canadian citizens or permanent residents may make contributions. Ban on contributions by corporations, trade unions and unincorporated associations to registered parties and candidates.	Only individuals may contribute.		Ban on foreign contributions. Companies may donate up to 5% of average profits during previous three years.
Restriction on campaign expenditure					
No general restriction on campaign expenditure.	No restriction on campaign expenditure by a candidate. A registered political party that contests an election in Britain can spend up to £30,000 per constituency subject to £810,000 in England, £120,000 in Scotland and £60,000 in Wales.	Limits on parties under the formulae provided in the Canada Elections Act. There is a limit of \$3000 per constituency and \$150,000 for a national advertising campaign on third party expenditure in support of a candidate.	In presidential elections, a party and its candidate may not spend more than €16 million in the first round and more than €20 million in the second round. For parliamentary elections, both parties and candidates have a ceiling of €40,000 + 0.20 €/per inhabitant	No limits on campaign expenditure.	Limit for national Parliament is usually Rs 25 lakh but may be lower (up to Rs 10 lakh for some smaller constituencies). For state assemblies, the limit varies between Rs 5 lakh and Rs 10 lakh.

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Disclosure requirements					
Candidate committees, party committees, and political action committees must file regular reports with the Federal Election Commission (FEC) and disclose the amounts they raise and spend.	Donations (including loans) over £5000 to a central party unit and over £1000 to a local accounting unit must be reported to the Electoral Commission on a quarterly basis within 30 days of the end of the quarter.	For all contributions above \$200, name, address, amount and date must be reported. The party must file a return outlining the general expenses incurred by the party and all non monetary contributions used.	Candidates to file reports, within two months of the election, indicating all receipts and expenses during the year preceding the voting day. Political parties must file financial reports.	Political parties are required to maintain accounts of incomes and expenditures which are submitted to the Supreme Court by the end of June each year as well as the Chief District Attorney of the Supreme Court of Appeals for information.	Political parties are required to file income tax returns. The details of donors has to be disclosed if donation is Rs 20,000 or more.
Civil penalties					
Fines are imposed for late filing or non filing of reports by political action committees (PACs) or party committees.	Forfeitures of donations received from impermissible sources; disqualification and suspension of right to vote and right to stand for office if convicted of a corrupt or an illegal practice. Disqualification or suspension is for 5 years after the date of conviction in case of a corrupt practice and 3 years in case of an illegal practice.		Failure to file a report or rejection of the report on legitimate grounds may result in disqualification of the candidate. Exceeding spending limits may lead to disqualification. Failure on part of political parties to submit their reports in time may result in their party being deprived of public subsidies.	Sanctions include mainly the confiscation of illegal incomes, forfeiture of the right to state subsidy, return of state subsidies, or the imposition of substantial fines.	Sanctions include forfeiture of seat, ban from contesting elections for a period up to six years.
Criminal penalties					
Criminal sentencing provisions for circumvention of the soft money ban, campaign donations from foreign nationals, employer or union attempts to coerce campaign contributions from employees or union members and contributions made in the name of another person.	Party treasurer criminally liable for failure to deliver statement of accounts in time. Criminal penalties for failure to report details of donations, printing election material without name of publisher, making false declaration, all carry fines and punishment up to 1 year.		The National Commission may also disclose irregularities in the report to the public prosecutor's office. If the public prosecutor determines that irregularities in the reports filed constitute a crime, it will fine the offender the amount by which the expenditure exceeds the permitted ceiling		Fines and imprisonment for offences such as printing election posters without printer's name, giving false information etc. Imprisonment up to 5 years for accepting foreign contribution. Companies breaching contribution limits may be fined up to 3 times the contribution, and senior officers may be imprisoned up to 3 years.

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