

Electoral Finance for Political Parties in the Democratic System of India

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Abstract –

The article "Electoral finance for political parties in the democratic system of India" examines the various origins through which political parties in India obtain financial support before and during elections. It analyses the impact of monetary backing on the Indian democratic system. Political parties around the world depend on financial means to interact with the public, present their agendas, and solicit feedback. Parties also utilise finances for this same objective. Our project is mainly financed through private donations. The core of democratic governance is rooted in the electoral procedure. The legitimacy of the government and the representation of the people's preferences are secured through just and unrestricted elections. India, the largest democracy on a global scale, has made significant efforts in reforming its electoral mechanism in recent times. In a democratic system, elections are becoming more and more expensive. Political parties and candidates obtain funding for their electoral campaigns from both disclosed and undisclosed sources. Clear funding sources result in increased campaign expenditure, which has an effect on the overall economy. The predominant use of undisclosed sources by political parties for funding can result in the creation of illegal funds, which can lead to the generation of unaccounted money. This undermines the internal democratic processes of political parties and encourages close relationships between businesses and politics. Ultimately, the growing trend of undisclosed funding by political parties during elections weakens the democracy of India.

Keywords –

Political Funding, Political Party, Crony Capitalism, Electoral bond

Introduction –

In India's democratic system, financing elections plays a crucial role in influencing the political landscape, impacting the functioning of political entities and the integrity of election processes. This monetary assistance, referred to as electoral funding, is extended to political groups, contenders, or election drives to support their electoral undertakings. These resources are employed for a range of objectives such as promotion, organizing events, remunerating employees, creating resources, and carrying out research. Diverse systems and rules are established to monitor the distribution of finances to political organisations.

State funds are allocated to political organisations or contenders according to certain standards, like their achievements in prior elections, with the objective of ensuring equal opportunities and reducing the need for contributions from private sources. Private financing includes donations from people, companies, and groups, leading to worries about potential impact on political choices. Political groups frequently rely on subscription charges from people who join the party, which can be a vital source of income, notably for parties with a substantial number of members. Contenders or political organisations might choose to take out loans to support their election drives, aiming to reimburse the debt through fundraising endeavours after the elections.

Rules regarding financial support for elections are generally enforced to encourage openness, minimize the influence of money in politics, and address corrupt practices. Measures may involve donation restrictions, spending limits, and mandatory

transparency measures for funding sources. Each country has its own unique regulations on electoral financing, with differing degrees of public oversight.

Electoral Funding:

Electoral finance concerns the strategies employed by political parties to secure the funds necessary for their campaigns and daily activities. Political parties need money to promote their objectives, goals, and proposed initiatives in order to gain votes.

In India, there is no direct public financing for elections as seen in some Western countries. However, there are various indirect ways in which public funding is provided. These include giving free access to voter lists, giving subsidized or free airtime on public broadcasting channels for political ads, and offering tax benefits for donations to political parties. In this situation, government finances are assigned to political parties for election-related uses through direct monetary support. However, direct financial backing using taxes is prohibited in India.

Alternative forms of financial support, such as access to media, public spaces for events, and discounted or free transportation, fall under the category of indirect funding. It is controlled in India. Political parties in India mainly depend on private financial backing, which comes from individuals, companies, and electoral trusts.

Electoral bonds: In 2018, Electoral bonds were introduced by the Indian government to revamp political funding by offering a way for individuals, corporations, and groups to donate to political parties without disclosing their identity publicly. These bonds, available through approved banks, permit contributors to designate their donations to their preferred political party. This

method has sparked debate because of the secrecy it provides to donors, raising issues about openness and the likelihood of illegitimate financial influence.

Corporate Funding: In 2017, a significant amendment was made to the Companies Act that removed the cap on the amount a company could donate to political parties (previously capped at 7.5% of average net earnings from the previous three years). Currently, businesses have the liberty to give any percentage of their profits to political parties, provided they disclose these donations in their annual reports. However, the anonymity provision of electoral bonds makes it challenging to track the precise sum contributed by a company to a particular party.

Personal Contribution

People have the choice to give money directly to political parties. Donations that are less than ₹2,000 do not need to be revealed by the political parties. However, donors can receive tax advantages under Section 80GGC of the Income Tax Act for their contributions to political parties.

Foreign Support: Indian political parties are not allowed to receive foreign donations directly. Yet, in 2016, the administration amended the Foreign Contribution (Regulation) Act (FCRA), permitting parties to receive funds from Indian divisions of foreign companies. This move has been criticized for the possible threat of foreign involvement in Indian elections.

Regulations According to Section 29B of the Representation of the People Act (RPA) Political parties are allowed to accept voluntary contributions from individuals or companies, with the exception of a Government enterprise. Section 29C of the RPA mandates that political parties must reveal donations surpassing 20,000 rupees by filing a report with the Election

Commission (EC). Failing to do this promptly will lead to the party losing the eligibility for tax benefits under the Income Tax Act, 1961.

Here are the techniques Indian political parties employ to generate funds:

1. Contributions from Individuals: Political parties are allowed to receive contributions from individual individuals in accordance with Section 29B of the RPA. can accept donations from individual persons as permitted by Section 29B of the RPA.

2. Corporate Sponsorship: In India, regulations concerning contributions from corporate organisations are outlined in the Companies Act of 2013. According to Section 182 of the Act, companies are required to have been in operation for a minimum of three years before contributing to a political party. They are allowed to donate a maximum of 7.5% of the average net profits from the preceding three financial years. These donations need to be revealed in the company's financial records and approval from the board is mandatory. Breaches of these rules could result in fines of up to five times the donation amount, and individuals may face imprisonment for a maximum of six months.

The recent Finance Act, 2017, abolished the maximum limit of 7.5% for corporate donations to political parties by the Government. Additionally, the Act did away with the necessity to disclose these contributions in the financial records of the company.

3. Electoral Trusts: In India, non-governmental organisations help gather voluntary donations from people and local businesses in an organised manner. Electoral trusts established after 2013 are required to reveal information about the funds they receive and distribute, as per guidelines from the Election Commission.

Rules set by the Central Government state that these trusts must allocate 95% of their overall earnings to registered political parties annually.

4. Electoral Bond

Electoral Bonds are financial tools similar to IOUs that can be purchased by businesses and people in India from the state bank of India and gifted to a political party, who can then exchange these bonds for money. The bonds can only be exchanged in the approved bank account of an authorised political party. An individual has the option to purchase bonds alone or in partnership with others.¹

Electoral Bond Scheme – The Electoral Bonds Scheme was introduced in 2018 in India to purify political financing. The main objective behind this scheme was to enhance openness in electoral funding in India. The Government hailed the Scheme as an electoral alteration in a nation transitioning to a cashless and digital economy.

Changes to the Scheme in 2022

Additional period of 15 Days The central Government may specify an extra fifteen-day period during the general elections for the legislative Assembly of States and Union territories with legislature. In 2018, during the launch of the Electoral Bond Scheme, these bonds were accessible for ten days each in January, April, July, and October, as determined by the central government. An extra 30-day period was to be set by the central government during the general election year for the house of people (Loksabha). Electoral Bonds are valid for fifteen continuous days from the issue date, and no payment will be given to any recipient political party if the electoral bonds are deposited after the validity period ends. The Electoral bond deposited in the account of an eligible political party shall be

credited on the same day. Only political parties registered under section 29 A of the Representation of the People Act 1951 (RPA, 1951) that obtained at least 1% of the votes cast in the previous General Election to the Lok Sabha or state legislative Assembly are entitled to receive electoral bonds.²

In a groundbreaking ruling, the Supreme Court of India, with a panel of five judges, unanimously declared the Electoral Bond Scheme (EBS) and its related changes as unconstitutional, which will have a major impact on political funding in India. The court highlighted that the EBS contravened the basic right to access information as stated in Article 19 (1) a of the constitution.³

Supreme court Ruling on the Electoral Bond Scheme -

India's Supreme Court has recently declared the Electoral Bond Scheme (EBS) as against the constitution. The court also deemed the modifications to the Finance Act, 2017, the Representation of the People Act (RPA), 1951, the Income Tax Act, 1961, and the Companies Act, 2013, as unconstitutional. Introduced in 2018, the scheme was found to infringe upon citizens' basic right to information as per Article 19(1)(a) of the Constitution. This scheme permitted undisclosed contributions to political parties via bonds, leading to worries about openness in political funding⁴

Key points from the decision:

1. *Right to Information:* The court decided that voters have the privilege to be informed about political contributions, as it directly affects their capacity to make educated choices. The EBS breached this right by concealing the identities of donors. The Court decided that voters should be informed about political contributions, as it affects their capacity to make knowledgeable choices.

2. *Proportionality Test:* The Court utilised the proportionality test, which necessitates limitations on basic freedoms to achieve a valid objective and utilises the least intrusive methods. The EBS did not pass this evaluation, as it was not the least intrusive approach to combat black money while also upholding transparency.

3. *Impact on Political Donations:* The decision impacts changes that were introduced to the Finance Act (2017), Representation of the People Act (RPA, 1951), and various legislations which had granted electoral bonds immunity from disclosure obligations. Consequently, political parties are now obliged to reveal contributions exceeding ₹20,000.

This decision has the potential to change how political funding is managed in India by demanding increased transparency, which would help avoid significant, unidentified donations that could unfairly benefit specific political parties.⁵

Supreme court Verdict – The Amendment was invalidated supporting voters' access to information. The Supreme Court utilised the proportionality examination to determine if the plan infringed upon the voters' right to information and the openness of the electoral process. The Proportionality assessment acts as a key legal criterion for assessing the equilibrium between government actions and individual basic rights. The Constitution safeguards basic rights specified in part three, such as freedom of speech (Article 19 (1)). Any intrusion on these rights must adhere to reasonable regulations specified in Article 19 (2) evaluated through the proportionality examination. Article 19 (2) permits the state to enforce sensible constraints on freedom of speech and expression. These limitations can be to preserve the sovereignty and integrity of India, state security, friendly relations with other nations, public order, decency or morality, or in matters relating to contempt of court, defamation, or provocation to commit an offence.⁶

The principle of proportionality became more significant in the **2017 case of K.S. Puttaswamy v. Union of India**, which upheld privacy as a fundamental right. This test guarantees that government measures do not excessively violate fundamental rights when pursuing valid governmental interests.⁷

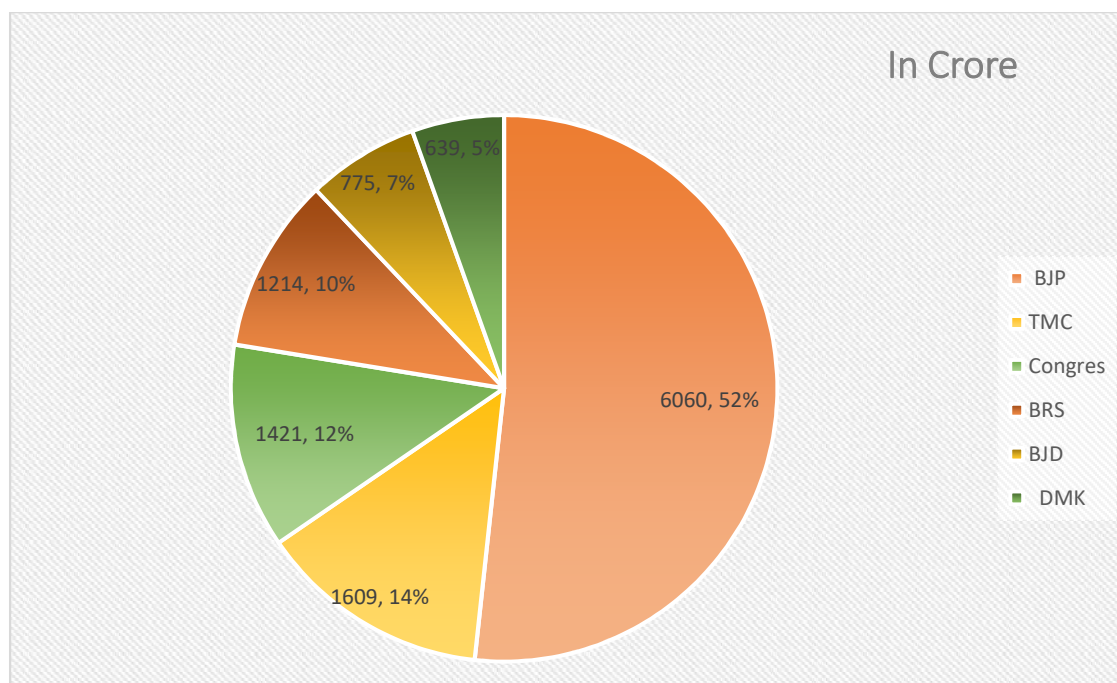
***Government's Argument and State Interests* :**

The government contended that restricting illegal funds and safeguarding donor secrecy are valid state concerns.⁸ Maintaining anonymity of donors was argued to be crucial in safeguarding the donors' right to privacy, which is considered a basic entitlement. The Government argued that the right to access information does not include requesting information that is not within the state's realm of knowledge.⁹ The Supreme Court has stressed the important role of the right to information in promoting participatory democracy and holding the government responsible. The Supreme Court has applied the principle of the double proportionality test, where it balances contradictory fundamental rights - specifically, the right to information and the right to privacy. The court stated that this proportionality test is used when rights conflict with state actions. However, in order to balance both rights, the court goes a step further by guaranteeing that the state selects the least restrictive means for both rights and avoids any excessive repercussions. The Supreme Court noted the presence of less invasive methods, like the electoral trusts system, to effectively achieve the state's objectives. Previously, the Supreme Court had instructed the State Bank of India to disclose comprehensive information to the Election Commission to ensure transparency and responsibility in political funding, in addition to the identity of the buyers.¹⁰ SBI has shared details with the EC about when the electoral bonds were cashed and which political parties received the donations. The State Bank of India (SBI) has been instructed to cease the issuance of more electoral bonds and provide information about such bonds acquired by political parties from 12th April

2019 to the Election Commission of India (ECI). SBI revealed that a total of 22,217 electoral bonds were purchased from April 1, 2019, to February 15, 2024, with the majority going to.¹¹

There are Top ten Political Parties that received electoral bonds include the BJP, TMC, Congress, BRS, BJD, Shiv Sena, TDP, YSR Congress, DMK, JDU, RJD.¹²

Top ten political parties Who received donations as Electoral Bond

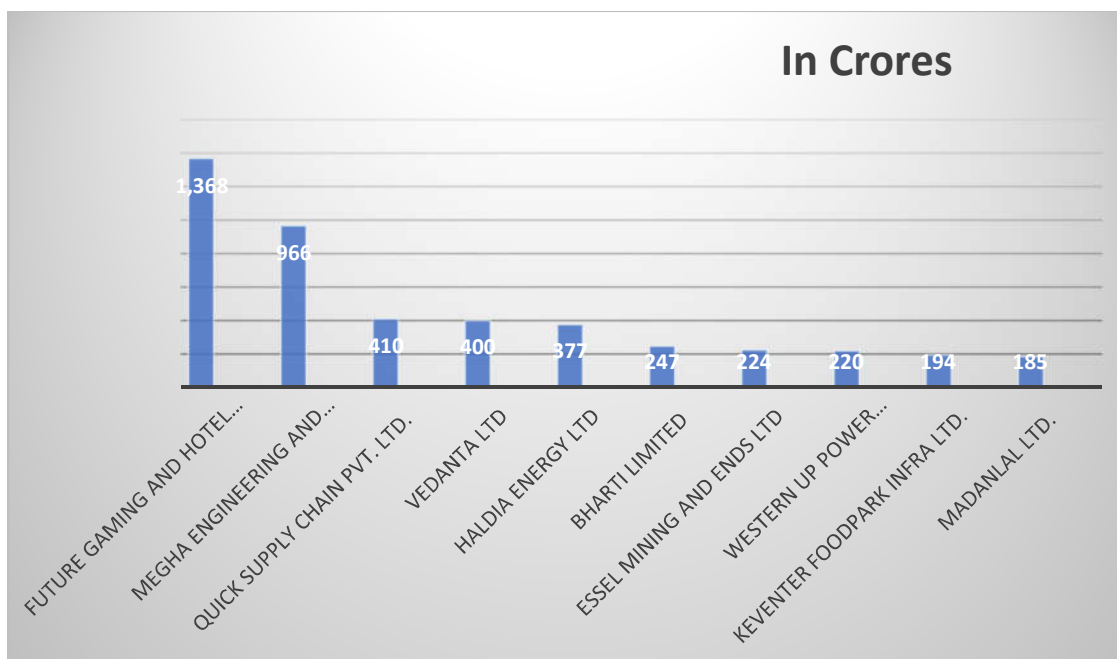


Source: ECI¹³

The electoral commission has released comprehensive information about electoral bonds on its official website, sourced from the state bank of India (SBI), complying with a deadline set by the Supreme Court. The data discloses various notable purchasers of electoral bonds, such as well-known business moguls and corporations like Lakshmi Mittal from the steel industry, Sunil Bharti Mittal of Airtel, Vedanta, ITC, and Mahindra and Mahindra. In addition, a lesser-known entity, future Gaming

and Hotel Services, currently under investigation by the Enforcement Directorate, appeared as a significant buyer with electoral bonds exceeding Rs 1,350 crore in value. Among the recognised companies, Vedanta Ltd owned by Agarwal procured bonds worth Rs 398 crore, while three companies of Sunil Mittal collectively acquired bonds amounting to Rs 246 crore. Lakshmi Niwas Mittal, the steel magnate, purchased bonds valued at Rs 35 crore individually. Megha Engineering based in Hyderabad, which has secured contracts for numerous major infrastructure projects, purchased bonds worth Rs 966 crore.

Top Ten Donors Companies (Electoral Bond



Source - ECI¹⁴

SBI revealed that a combined 22,217 electoral bonds were purchased from April 1, 2019, to February 15, 2024, with the majority being.

Recommendations on funding of political parties.

Indrajit Gupta Committee on state funding of Elections, 1998 : Supported financial assistance for state elections to ensure that parties with restricted funds have equal opportunities. Proposed restrictions: State finances should only go to national and state parties with designated symbols, excluding independent candidates. Suggested starting with non-monetary aid, such as providing certain services to eligible political parties and their candidates. Recognised financial limitations, promoting partial funding rather than complete state funding.¹⁵

Election Commission's Recommendations :

The Election Commission's 2004 report highlighted the importance of political parties releasing their financial statements every year for review by the public and relevant bodies. Verified financial statements, guaranteeing precision, must be disclosed, with audits conducted by firms endorsed by the Comptroller and Auditor General. Parties are not allowed to receive money from other origins.¹⁶

Law Commission, 1999

The 1999 law Commission report suggested revising the RPA, 1951 by adding section 78A for upkeep, examination, and disclosure of political party finances with sanctions for failure to comply.¹⁷

Challenges and Concerns:

Lack of Transparency: With the introduction of electoral bonds and the removal of limits on corporate donations, critics argue that the transparency of political funding has been compromised. ***Money Power in Elections:*** There are concerns about the growing influence of money in elections, leading to an uneven

playing field where parties with access to significant resources can outspend others, potentially distorting the democratic process. **Regulatory Gaps:** Despite existing regulations, loopholes in the system allow for opaque funding practices and the use of illicit money.¹⁸

Global Political funding : The political financing system in India has faced criticism for its opacity, significant reliance on contributions from corporations, and worries about dishonesty. The topic of funding elections is intricate and controversial in numerous nations, with different countries having varied top approaches. Analysing international frameworks can give ideas on enhancing openness, responsibility, and fairness in political financing.

Transparency and Disclosure Laws

United States: Political financing in the United States is closely monitored, with a process of transparency that mandates politicians and political groups to consistently submit thorough accounts of donations received. Despite the presence of gaps, the disclosure obligation enables citizens to monitor contributions.¹⁹

Limits on Corporate Donations

Canada: Canada imposes restrictions on both personal and corporate contributions. This helps to diminish the unfair impact of large businesses on elections and guarantees a fairer political environment.²⁰

Public Funding of Elections

Germany: Germany utilises a public financing system that complements private contributions. Political parties are granted financial assistance from the government according to their electoral support, which diminishes their reliance on major benefactors.²¹

Banning Foreign Donations

United Kingdom: The United Kingdom completely prohibits foreign contributions to political parties, guaranteeing that internal political procedures are not swayed by outside sources.²²

Campaign Spending Limits

France: In France, there are strict limitations on the amount of money that can be spent on presidential and parliamentary election campaigns. Political parties must adhere to these restrictions to prevent the undue influence of financial resources on the political arena.²³

Strengthening Watchdog Agencies

Australia: Australia possesses an autonomous electoral commission that oversees adherence to election regulations, including funding regulations. This autonomous entity aids in guaranteeing responsibility and impartiality in the electoral procedure.²⁴

Digital Reporting and Audits

Brazil : Brazil utilises an electronic system to monitor donations and expenses related to campaigns, with frequent audits carried out by the electoral authority. This allows for faster identification of any anomalies.²⁵

Conclusion: Funding for elections plays a crucial role in Indian democracy, impacting how elections are carried out and political parties operate. Although there are systems in place to control political contributions, there is an increasing call for enhanced openness and change to safeguard the fairness of the electoral system, keeping it clear of financial influence.

Taking inspiration from worldwide methods, India has the potential to enhance the honesty of its political financing systems. Measures concentrating on openness, less reliance on business funding, public funding alternatives, and more robust regulatory authorities can promote the development of a more just and responsible political structure.

Reference

¹ Electoral Bond would be a bearer instrument in the nature of a Promissory note and an interest free banking instrument ,(2 January, 2018) Pres, Information Bureau, Government of India, Ministry of Finance.

<https://pib.gov.in>

² Electoral Bonds and Opacity in Political Funding, (6 July. 2022), Association for Democratic Reforms.

<https://adrindia.org>

³ Why did the Supreme Court strike down the electoral bonds scheme? Explained, (15 February, 2024 , 5:30 PM First), The Hindu.

www.thehindu.com

⁴ Constitutionality of the Electoral Bond Scheme, Association for Democratic Reforms v Union of India, 2024 INSC 113,

The Supreme Court held that the Electoral Bond Scheme was unconstitutional To against the right to information Of voters. Supreme Court Observer.

www.scobserver.in

⁵ In the Supreme Court Of India, Civil Original Jurisdiction (16 February,2024), writ Petitions (C) no. 880 Of 2017, 2024, INC , 113

<https://main.sci.gov.in>

⁶ Why did the Supreme Court strike down the electoral bonds scheme? | Explained, (15 February, 2024 , 5:30 PM First), The Hindu.

www.thehindu.com

-
- ⁷ Supreme Court of India, *Justice K.S. Puttaswamy , (Retd) vs Union Of India on 26 September, 2018*
Bench: Chief Justice, A.K. Sikri, A.M. Khanwilkar, D.Y. Chandrachud, Ashok Bhushan. *Indian Kanoon*
<https://indiankanoon.org.in>
- ⁸ Electoral Bond not the only way to curb Black Money, There are alternative means which are less Restrictive – Supreme Court, (15-02-2024), Live Law.
<https://www.livelaw.in>
- ⁹ Bhaumik , Aaratrika, *Why did the Supreme Court strike down the electoral bonds scheme? Explained* (February 17, 2024) Not proportionally justified to curb black money in electoral financing.
The Hindu
<https://www.thehindu.com>
- ¹⁰ Electoral Bonds - Supreme Court takes note of missing information in data Submitted by State Bank of India. (15 March 2024)
Supreme Court Observer.
www.scobserver.in

- 11 Disclosure Of Electoral Bonds - Details of Electoral Bonds Submitted by SBI, Election Commission Of India.
<https://www.eci.gov.in>
- 12 Disclosure Of Electoral Bonds - Details of Electoral Bonds Submitted by SBI, Election Commission Of India.
<https://www.eci.gov.in>
- 13 Disclosure Of Electoral Bonds - Details of Electoral Bonds Submitted by SBI, Election Commission Of India.
<https://www.eci.gov.in>
- 14 Ibid
- 15 Indrajit Gupta Committee on State Funding of Elections (1998)
- 16 Election Commission Of India, 2004 report.
<https://www.eci.gov.in>

¹⁷ Reform of the Electoral Laws, 1999, MINISTRY OF LAW AND JUSTICE, Law Commission Of India, Government Of India.

<https://www.lawcommissionofindia.nic.in>

¹⁸ Kurmi , Dipak , (02/21/2024), *Indias-electoral-funding-challenges-transparency-and-reforms. ADR, Association For Democratic Reforms.*

<https://adrindia.org>

¹⁹ How Does Campaign Funding work? Caltech Science Exchange.

<https://scienceexchange.caltech.edu>

Public Campaign financing, Brennan Centre for justice

<https://www.brennancenter.org>

²⁰ Jansen, Harold, (7 Feb, 2006) Political Party Financing in Canada, THE CANADIAN ENCYCLOPEDIA

<https://www.thecanadianencyclopedia.ca>

Limits on Contributions, annual report, Elections Canada

<https://www.electionscanada.ca>

²¹ Party Funding – German Bundestag, Deutscher Bundestag.

<https://www.bundestag>

Schmitz, Thomas, (2019), Political Parties and their funding in Germany, Journal Of The University Of Latvia, law.

<https://www.journal.lu.lv>

²² Political Spending and Donations : What are the rules in UK ? (6 June 2024), The Guardian .

www.theguardian.com

²³ Jouan, Barbara , Financing of political parties and electoral campaigns in France ,The role of the French National Commission on campaign accounts and Political Party Financing (CNCCFP), Transparency International, Magyaroszag.7u bbh

<https://www.transparency.hu>

²⁴ Dr. Yee- Fui, Ng, *Senior Lecturer, Faculty of Law Monash* , Regulating Money in Democracy: Australia's Political Finance Laws Across The Federation, *Melbourne Law School, THE UNIVERSITY Of MELBOURNE*.

<https://law.unimelb.edu>

²⁵ Viana Advogados , MJ Alves Burle, (22Feb.2023) In brief: political finance in Brazil, lexology.

<https://www.lexology.com>