Financing Electoral Campaigns: 
A case for Reforms and the Role of Media.

The availability of financial resources to political parties can have a tremendous impact on the electoral process in democratic societies, so formidable that at times it may critically influence what is considered as the democratic nature of the election itself.

Political analysts feel that if a ruling party holds a considerable bureaucratic advantage over the opposition parties and benefits from superior access to material resources and funds, there is no doubt that the principle of equal opportunity is compromised. Similarly, if political process is achieved primarily through monetary advantage, the principle may also be threatened. Money from political donations could influence and even control the flow of information.

Herbert E. Alexander, in his article "Money and Politics" states that “the distinguishing characteristics of money are that it is transferable and convertible without necessarily revealing its original sources”. The convertibility of money, he feels is of particular advantage in politics.¹

Among others, the dangers in public funding include the possibility of "institutionalizing of existing party organizations over local ones, freezing relationships among major parties or dominant coalitions, or locking out new or emerging movements while maintaining current parties in existence perhaps after their support has diminished", feels he.²

Some of the following questions emerge when one looks at the campaign financing:

(a) Should the taxpayer pay for financing the electoral campaigns of the political parties in general?

¹ for details see Herbert E. Alexander, Comparative Political Finance in the 1980s (New York: Cambridge Uni. press, 1989).
² Ibid.
(b) Should the taxpayer finance the losing parties, candidates, or the parties he owes allegiance to?

(c) Should the big business houses and foreign interest groups pay for the political process?

(d) Should there be auditing of these funds or do disclosure or certain book keeping requirements and the general penal law of the country suffice to maintain a clean financial campaign?³

Each country has adopted different approaches on campaign expenditures.

Here below, we examine the approaches followed by the three countries, the pros and cons of each system and the reforms initiated by the concerned bodies in the respective countries to cleanse the system and media’s effort to focus the issue.

**Financing electoral campaigns in the USA**

In the early years, political funds were spent primarily for printing costs. Much of the presidential campaigning took place in the print media and pamphlets were subsidized by political faction favouring one or another candidate. As per records, Abraham Lincoln’s winning general election campaign reportedly cost about $100,000 and his contender Stephen Dorgla’s campaign about $50,000. One century later John Kennedy’s campaign cost about $9.7 million to defeat Richard Nixon, whose expenditure on this account came to about $10.1 million.⁴

The total cost of electing a president in 1988 was about $500 million which included $200 million spent by the two major political party candidates, funds spent by all the candidates who sought their parties’ nominations by the nominating conventions of the parties, and by third party and independents’ campaigns. The overall expenditure for the 1992 Election is estimated at about $3 billion. ⁵

**Sources of funds**

Andrew Jackson, first elected president in 1828, generally is discredited for bringing in the “spoil system”, rewarding with favours and government jobs to those

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⁵ Ibid. Also refer Ibid. n.17 for details.
who had contributed to his campaign. With the end of the civil war in 1865, corporations and individuals who had amassed fortunes from American industry began to pay a major share of presidential campaign costs. Those sources increased in importance when the US Congress passed the Civil Service Reform Act of 1883, which prohibited officers and employers of the US from seeking or receiving political contribution from each other.\(^6\)

**Reform efforts**

After the turn of the century, concern over the influence of corporations in the federal elections process led to an enactment of a number of campaign finance regulations. The first federal prohibition of corporate contribution was enacted in 1907. Four decades later, the ban was extended permanently to labour unions. In 1911, the law was amended to require primary, convention and pre-election financial statements of all candidates for federal office and to limit the amounts that could be spent by the candidates for the House of Representatives and the Senate. In 1925 the Federal Corrupt Practices Act codified and revised federal campaign finances legislation, though without substantial change. It remained the basic campaign finance law until 1972.

In the 1970s some political reforms took place at both the federal and state levels. These were embodied in the Federal Election Campaign Act of 1971 (FECA), the Revenue Act of 1971, and the FECA Amendments of 1974, 1976 and 1979. These laws replaced the Federal Corrupt Practices Act of 1925, widely regarded as inadequate in regulating both the flow and disclosure of money in elections.\(^7\)

The major features of these laws which affect all Federal candidates include, disclosure of receipts and expenditures by candidates and committees; limitations on contributions by individuals and by political committees including parties and political action committees (PACs); and an independent regulatory agency - the Federal Election Commission - to administer the disclosure and (for Presidential Elections) the public financing system and civil enforcement of the law. Presidential elections are financed in large part through a voluntary public financing system providing matching

\(^6\) Ibid. n. 4.

funds to candidates in primaries and flat grants to parties for their nominating conventions and to party nominees in a general election. Public funds are provided to political parties in conjunction with limits on campaign expenditures; no such limits however, govern candidates.

The five major sources of campaign funds legally available to Federal candidates include: the US Treasury (only for presidential candidates) financed through a dollar check off on tax returns; individual citizens giving directly to candidates; political parties; PACs, and the candidate’s own personal resources.

The current law governing federal campaign practices is based on two principle statutes viz., the Federal Election Campaign Act of 1971 amended in 1974, 1976 and 1979 and the Revenue Act of 1971. The major features of current law are:

**Contribution limits:** Applied to a Calendar year unless otherwise stated for those limits applied on a “per election” basis. A primary election is conducted separately from a general election.

- **Individual:** $1,000 per candidate, per election; $20,000 to a national party committee per year; $5,000 to any other political committee per year, and aggregate total of $25,000 in contributions per year.

- **Multi-candidate political committees:** $5,000 per candidate, per election; $15,000 to a national party candidate; $5,000 to any other Political Committee. (A multi-candidate committee is one with more than 50 contributors which has been registered for at least six months and except for a State Party Committee, has made contributions to five or more Federal Candidates).

- **Other political committees:** $1,000 per candidate, per election; $20,000 to a national party committee; $5,000 to any other political committee.

- **Party committees:** $1,000 or $5,000 per candidate, per election (depending upon whether or not committees qualify as a multi-candidate committee); $5,000 to any other political committee. For National Senatorial Campaign Committee, or National Party Committee, or combination of both: $17,500 to Senate candidate, per year in which election is sought.

**Prohibited contribution:** (1) Contributions from foreign nationals, national

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banks, or corporations and labour union; (2) cash contributions in amounts of more than $.100; (3) anonymous contributions of more than $50.

Candidate limits: Candidates accepting public funding (in presidential elections) may contribute $.50,000 from personal and immediate family funds.

Expenditure limits: This clause is applicable only to Presidential candidates accepting public funds. In primaries, nationwide limits have been set at $.10,000 plus COLA (Cost of living allowance) plus additional 20 percent for certain exempt fund raising costs and state limits on $.20,000 plus COLA or 16 cent per eligible voters plus COLA; in general elections, $.20,000,000 plus COLA. Also parties accepting public funds for maintaining conventions are limited to $4 million plus COLA. (COLA Calculated using 1974 as base year). In 1992, the national limits were : $.27.6 million (plus $.5.5 million for fund raising) in primaries $.55.2 million in the general election, and $11.0 million for the conventions.

Party spending limits: In addition to direct contributions, political parties may bear expenditure on behalf of their nominees in the general elections as follows : for a House candidate in a State with more than one district, $.10,000 plus COLA; for a Senate candidate or at - large House candidate, additional expenditure if above $.20,000 plus COLA or 2 cent per eligible voter plus COLA; State political parties may make expenditures for their House and Senate candidates equal to that allowed for national parties, or they may designate the national party committee as its agent for the expenditure. In 1992, the parties could spend up to $.10.3 million in the Presidential race.

Public funding: It is available on optional basis to presidential candidates and political parties for nominating conventions. Primary candidates who qualify by raising at least $.5,000 in each of the 20 States by contributions from individuals of $.250 or less matched equally with Federal money, up to one-half the Primary spending limit; minor party candidates in prior election; new party candidates may receive an amount proportionate to the vote they received vis-à-vis the major party candidates are eligible for retroactive funding, if they receive at least 5 percent of the popular vote. Major parties are eligible for public funds for nominating conventions, up to the full amount
of their spending limit, minor parties may receive a lesser, proportionate amount.\(^9\)

**Disclosures:** All candidates for Federal office and all political committees operating in Federal elections are required to file regularly scheduled reports; Presidential candidates and most political committees file with the Federal Election Commission, while House and Senate candidates must file with the Clerk of the House and the Secretary of the Senate, respectively. Reports must include total amounts of cash in hand, receipts, transfers, loans, rebates, refund dividends, interest and, for Presidential candidates, public funds must identify contributors in excess of $.200.\(^10\)

Federal Election Commission (FEC) is an independent, regulatory agency with six voting members appointed by the President with advice and consent of Senate and two non-voting, ex-officio members - Clerk of the House and Secretary of the Senate. The law says that of these no more than three shall be of the same political party, which, for all intents and purposes in USA, means that there are going to be three Democrats and three Republicans. The FEC administers disclosure provisions of the law and public funding programme for Presidential elections, has civil authority to enforce the law's provisions; criminal violations are referred to Justice Department for prosecution; it conducts hearings and investigations, writes regulations implementing the law, and issues advisory opinions on request in order to interpret the law.\(^11\)

On a question whether an Institute like FEC could regulate elections, if it was funded by the US Congress? William Kimberling of the FEC said “The Commission is designed to be an independent regulatory commission. We are not specifically beholden of the Federal Election Commission to the Congress for what we do”.\(^12\)

Despite it being a multi-member body and requirement of four votes to do anything, it forces parties to work together to enforce the law, to pass regulations and to punish folks who violate it. “I like that process. It ensures bi-partisan administration of decision-making” said Kimberling.

All data is open to public and certainly to the media. The data includes records of who have contributed what and to whom, and how much. The FEC assists

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\(^9\) Ibid.
\(^10\) Ibid.
\(^11\) Ibid.
\(^12\) Based on interview with William Kimberling, Deputy Director, Federal Election Commission, on 27 November, 1996 while on a field visit to Washington DC.
the media by issuing briefs; they also keep records on about 4,000 PACs (Political Affairs Committees) and identify their interests. It functions on the principle that all record are open, and that every political contribution, whether to a Political Affair Committee directly or whether to a candidate directly, is matter of public record available to anyone, and in fact is also available over FEC’s Web site. Complete transparency is maintained by the Federal Election Commission.

**Presidential election of 1992: an expenditure overview**

During the 1992 election, George Bush and Bill Clinton each received $55.2 million dollars each from a fund created by taxpayers who designate one dollar of their income tax. The FECA deemed the level of funding sufficient to run the whole presidential campaign. Due to amendments and interpretations of the law over the years, public funding, the analysts feel, is by no means all that the presidential campaign now spend.

The law provides that the presidential campaigns can for example, raise and spend additional money for their legal and accounting fees. The aspirants can also use their national party committees to spend money on their behalf and can also pay for “Institutional advertisement”, which promote all party candidates but do not specifically mention them by name.

The observers feel that Bush and Clinton had a lot of infamous “Soft Money” to fiddle with during their campaign. The ground rules for such money are decided by state laws, not by federal law. If, for instance, an individual’s contribution is gratefully accepted by the national campaign his money can be passed on to states where such a contribution is held legal. According to estimates, the Clinton team spent about $.40 million in “Soft” money, and Bush spent $.25 million. Ross Perot did not accept federal funding. Contributions to his campaign were limited as the law provides -- $1,000 from an

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13 Mr. Kimberling took the present researcher around to show the documentation and availability of reference material for the media. A lot of data about candidates as to who contributed how much was also available on FEC’s Web Site.

individual and $.5,000 from a political action committee. Perot spent an estimated $.69 million which was largely out of contributions that he made to his own campaign organisation. The amount was roughly the same his rivals had (Ross Perot’s campaign received contributions of $.4.0 million from other persons according to his year-end report filed with the Federal Election Commission. It is, however noteworthy that Perot suspended his campaign for about two and a half months. Also Perot’s expenditure was for his entire election year while that for Bush and Clinton did not include the money they spent in pursuit of their nominations.

Besides, the observers have noted additional ways in which money is spent in electing a presidential candidate. For example, labour unions and corporations can and do spend unlimited amounts for “internal communications” with their members and employees, including phone banks to call up voters within this pool. Private individuals who want to support the presidential candidate can spend money that does not come under the candidate expenditure limits. Organized groups can form political action committees to engage in “independent expenditure” designed to influence the voter’s choice.\(^{15}\)

In fact, it is impossible to know the extent of overall expenditure in any presidential campaign. Based on the financial reports submitted to the FEC, thirty days after the election, the major categories of funds for the three presidential campaigns can be estimated. The table below details expenditure during the 1992 election:

**Major Categories of Fund - Raising/Expenditure by 1992 Presidential candidates**

<table>
<thead>
<tr>
<th>Category</th>
<th>Head</th>
<th>Bush</th>
<th>Clinton</th>
<th>Perot</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Campaign Committees Public Funding</td>
<td>55.2</td>
<td>55.2</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>2. Legal and accounting</td>
<td>3.0</td>
<td>4.4</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>3. Privately raised, unrestricted</td>
<td>-</td>
<td>-</td>
<td>69.0</td>
<td></td>
</tr>
<tr>
<td>4. Party committees “on behalf of” of the presidential candidates</td>
<td>10.3</td>
<td>10.3</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>5. “Soft Money”</td>
<td>111.0</td>
<td>86.0</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>179.5</td>
<td>179.5</td>
<td>69.0</td>
<td></td>
</tr>
</tbody>
</table>

Source: Congress Research Papers

\(^{15}\) Ibid.
The above data leads to two observations viz. both Clinton and Bush matched each other in attracting political support, if raising funds, is any indication. The major party contenders, had almost equal resources. Secondly, despite spending millions of dollars from his coffers, Ross Perot could not match the major party nominees.

In perspective, spending on elections rose from less than $.150 million in 1952 to more than $.3 billion in 1992. Inflation accounted for part of the rise, along with increased competition and the use of high technology. About $.2.2 billion was spent at the national level for Presidential and Congressional candidates and party committees; the rest went for local and state candidates and ballot issues.\(^{16}\)

**Top soft money contributor to political parties**

The large soft money contributors to Republican party committees in the first half of 1995 were the oil & gas and tobacco industries. Democrat’s top soft money benefactors were lawyers, organised labour and the entertainment industry.

**Top Contributors to Republican Party Committees**

<table>
<thead>
<tr>
<th>Table: 5.2</th>
<th>(In $)</th>
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<tbody>
<tr>
<td>Philip Morris</td>
<td>Tobacco</td>
</tr>
<tr>
<td>RJR Nabisco</td>
<td>Tobacco</td>
</tr>
<tr>
<td>Braun &amp; Williamson</td>
<td>Tobacco</td>
</tr>
<tr>
<td>Atlantic Richfield</td>
<td>Oil and Gas</td>
</tr>
<tr>
<td>Archer Daniels Midland</td>
<td>Agriculture</td>
</tr>
<tr>
<td>Newscorp.(R.Murdoch)</td>
<td>Media/Comm.</td>
</tr>
<tr>
<td>Fortsmann Little &amp; Co.</td>
<td>Securities</td>
</tr>
<tr>
<td>Reliance Group</td>
<td>Insurance</td>
</tr>
<tr>
<td>The Seagram Co.</td>
<td>Liquor</td>
</tr>
<tr>
<td>US Asia commercial Development</td>
<td>International Trade</td>
</tr>
<tr>
<td>American Financial Corp.</td>
<td>Insurance</td>
</tr>
</tbody>
</table>

Source: Congress Research Papers

The entry of “Soft money” has always been an issue in the media ever since it first made its entry into the party coffers. It reached new dimensions during the 1996 campaign, with allegations of such money coming even from across the border from questionable sources.

**Media focus on financial issues: glimpses**

*The New York Times* in a column entitled, *Politics: Clouds over Clinton: Ethical Issues Facing the White House* wrote at length about the various scandals which had caught the public eye. These included the White Water (alleged Clinton’s varied dealings with James B. McDougal, owner of a failing Arkansas savings and loan); missing billing records (whether the White House illegally hid from investigators Subpoenaed records of Mrs. Clinton’s legal work on land deals for Mr. McDougal’s savings and loan); FBI files (the allegations that low level White House aides improperly obtained FBI background files on more than 900 people, including officials
of past Republican administration); Travel office (whether the 1993 dismissal of the White House travel office staff was part of a plan to shift travel business to Clinton’s friend); Withholding documents (whether the White House has misused the legal concept of executive privilege to deny Congress potentially embarrassing documents on the travel office findings and its handling of the anti-drug efforts) and political fund raising. The issue relating to the contribution was whether the White House condemned or aided the solicitation of legally questionable political contributions by John Huang, a long time Clinton friend and ally of Indonesian interests who, according to the *New York Times*, was a top fund raiser for the Democratic National Committee. Money, as was alleged in number of media reports, also came from Israeli sources and also an Indian by the name Gandhi who had some remote relationship with Mahatma Gandhi.17

*The New York Times* further commented that Clinton campaigned on a “Promise to reform Political fund raising” but was dropped from his agenda after Congressional Democrats resisted. “He has”, alleged the Paper, “since become the biggest collector of large political donations in Presidential history”.18

*Time* in its November issue, in the story titled “Star Power”, among other allegations commented that it was not just White Water naming John Huang who was at the center of a growing controversy over foreign contributions to the Democrats, the Justice Department was considering setting up an Independent Council to probe possible campaign - finance - law violations. Americans may be confused about white water, wrote columnist James B. Stewart, and may be giving the Clintons a deserved benefit of doubt pending the results of Stars’ investigation. “But”, warned the author, “any interference with the administration of justice would surely be perceived as a direct challenge to the rule of law. That is what brought down Richard Nixon not the second - rate - burglary that did little to arouse voters in the 1972 election”.19

Lamer Alexander, who ran for Presidential race in 1996, but lost out in the primaries hints that he learnt lessons from his defeat. One reform in the Presidential

18 Ibid.
campaigning, he advocates in an article in the *Campaigns and Elections* is “off with the limit”. Twenty-two years of experience with limits, on giving and spending for Presidential campaign he says were “well-intentioned,” but have achieved precious little. The law provides that Corporations cannot give at all. Political Action Committees could give up to $5,000, individuals up to $1,000 during the primaries and the Government, paying for the General Election. In addition, there were limits on what a candidate may spend in each state, primary and a ceiling on spending for the entire primary. The Federal Election Commission enforces all of this. The limits, laments Alexander, were designed to make things better, but the experience has shown that they have “increased the influence of money and are dangerous to democracy. It is the law of unintended consequences operating in all of its glory”. Instead of adding more limits, suggests Alexander, we should “take the limits off and rely on full disclosure to discourage corruption”.21

In a satirical piece in *US News & World Report*, Christopher Buckley recounts happenings from 11 November, 1996 to futuristic 20 January, 2001, when Bill Clinton will lay down the August Office. What the author tries to underline is that having won the re-election with no worries about contesting Presidency next time, Clinton may not worry about many ethical issues. Not forgetting the alleged pay off from Indonesian sources, the author is bound to pack off the President to an “Indonesian archipelago”?!22

Charles Lewis, Executive Director with the *Center for Public Integrity* in an interview with Susan Page of the *USA Today* remarked that the post-Watergate rules were in essence being laughed at by the campaign industry. Author of the celebrated book *Buying of the President*, Lewis remarked, “The political parties are collectively thumbing their nose at the Federal Election Commission at the loophole-ridden rules”.23

Both major parties, writes, Susan Page, in *USA Today* collected as much more

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21 Ibid.
in unregulated “soft money”, contributions as in “hard money” subject to federal limits. In a three-day West-coast swing in July 1996, Clinton personally raised more than $0.5 million, about half of it in “soft money”. At two lavish parties, couples paid $25,000 each “to have drinks and rub elbows with the President”.

Both parties traded charges against each other about breaking the rules, but “neither sees the FEC (Federal Election Commission) as an aggressive enforcer. In any case, the agency’s decisions after all aren’t issued until years after an election”, commented the scribe on the futility of the system.24

Clinton was elected in 1992 with a pledge to free a political system, he said, that was “held often hostage by freshman Republican class in the House were elected in 1994 promising reforms. Ross Perot’s United We Stand organization identified this as a top priority programme. But all that was enough to help passage of a bipartisan bill that would have set voluntary spending caps on Congressional campaigns, banned “soft money” and outlawed political action committees, which represented various special interests. A filibuster blocked the measure in the Senate; it never even got a positive vote in the House. A separate Republican-backed bill was defeated in the House in July 1994 by 259:162 vote.25

USA Today/CNN/Gallup Poll conducted a tele-poll between 28-30 August, 1995 to know people’s perception about their representatives’ seriousness about campaign reforms. Against a question “should Congress make major changes to the way political campaigns were financed?” a whopping 83 percent responded with a “Yes” and only 13 percent with a “No”, with 4 percent having no opinion on the issue.

In response to another question “will Congress make major changes to the way political campaigns are financed?”, while 30 percent were optimistic, 64 percent respondents felt that Congress would not make any changes and 6 percent did not express any opinion on the issue.26

In a debate on Campaign reforms on the National Public Radio, host Bob Edward’s had a panel of guests on the programme. Ann McBride, President, Common Cause said “... the people most responsible perhaps for killing reforms are the two

24 Ibid.
25 Ibid.
26 As reported in the USA Today, 29 July, 1996.

304
ent now (Bill Clinton and Bob Dole), one for lack of leadership and
tely opposing it.27

Peter Overby, Reporter commented that Presidential campaigns were supposed
to be largely insulated from special interests through the use of public funds - that have
been worth $.166 million in taxpayers’ money for Bill Clinton and $.95 million for Bob
Dole. Despite that, lamented Overby “both candidates raised outside funds on a scale
unimaginable to most politicians”. “President Clinton”, he said, “had specialized in
raising soft money, the unlimited contributions to party committees from separate
accounts, unions and the wealthy. Soft money would be illegal under reforms
legislation that President Clinton says he wants, but with the President available for
receptions, the democrats have raised more than $.70 million in soft money for this
election, almost five times what they raised in the first Clinton campaign”.28

Charles Lewis, Executive Director with the Center for Public Integrity said
“I think the fundamental thing is both men (meaning President Clinton and Bob Dole)
have a willingness to cozy up to large, deep pocketed organizations and shake that
money free as hard as possible. The gambling Industry for example - both men are
very close to the Industry. Casino executives have done fund raising events for both
men. Both men have no interest in taxing gambling revenues at the federal level, just
coincidentally, I guess”.29

Ross Perot, in the same debate opined that he was sure that the corrupt
practices would not be discussed in 1996. “Believe me” he retorted “they will not talk
about lobbying reforms”.30

Kareen Gullo of the Wire Agency Associated Press alleged that both major
parties received millions of dollars in “soft money” in a final rush of giving before the
Presidential election. Donors, according to the report included “insurance companies
and wealthy businessmen”. Quoting from an opinion poll conducted by the CBS
News, Americans by a margin of almost two to one (62 percent to 35 percent) felt it
was politics as usual, the percentage of those calling it a serious issue rose from “29

Manhattan, New York during the Feild visit in November 1996.
28 Ibid.
29 Ibid.
30 Ibid.
percent a week ago to 35 percent now" reported Gullo.

Similarly a CNN/USA Today/Gallup Poll found that 57 percent respondents considered the fund raising allegations serious, while 34 percent did not.  

Media in the USA are waiting in their wings to write more about it as investigations into alleged pay off and soft money progress.

Rita Beamish, Senior journalist with the Associated Press in a personal interview, while speaking on issues that need addressing in the US, mentioned about the financial aspects related to elections. “There are lot of loopholes which need to be plugged”, said Beamish.  

Academic James Carry said, “Clinton was doing it, (meaning accepting donation) openly on the one hand and talking of reforms on the other”.  

Soft money, according to Carry, was an issue, but when the stakes were high, he said, it was unavoidable. He suspected that money could have possibly come from Israel but it would come from Asian sources also, was a bit of news for him.

Royce Crocker, Specialist on American Government, and a researcher at the Library of the Congress said that besides the issue of finances, representation to minorities would take the center stage in years to come. “Some kind of proportional representation will have to be initiated”, he said.

William Kimberling, Deputy Director at the Federal Election Commission felt the spiraling costs of campaigning was one of the major reasons for the financial tangles. The real problem, he said came in the 1960s, with the advent of the jet plane, which was expensive, and the coming of television only compounded the problem. “Well, if you add the costs of massive jet transportation around a country 3,000 miles across, to the cost of television advertising, which is huge, especially in a major media market place - Los Angeles, San Francisco, Chicago - that’s what drove the cost of

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31 As reported by the Associated Press on 20 October, 1996: The CBS Poll was conducted by telephone between 27-29 October among a random nation-wide sample of 1077 adults. The CNN/USA Today/Gallup Poll also conducted a tele-poll of 740 likely voters, between 26-29 October, 1996.

32 Based on Personal interview with the Journalist in New York on 12 November 1996.

33 Based on Personal interview with Professor James Carry, head of the Graduate School of Journalism, Columbia University, New York on 14 November 1996.

34 Ibid.

campaigning up” said Kimberling.\textsuperscript{36}

This meant that candidates seeking federal office could no longer pay for their own campaigns - they had to go “with their hands out to people who had money, to sources of great wealth”.\textsuperscript{37}

On a question put to Kimberling by a contributing editor, Paul Malamud that why not pass laws to force television networks to provide time, thereby lowering the cost of campaigns and reducing the need for large donations, the former cited the examples of certain European democracies doing it. The problem in the USA, he said was that with the kind of Constitution, it was very difficult to “burden the media with this public purpose”. The government, said Kimberling, had no right to do that and it was “not a question of its practicality, but a question of its constitutionality”.\textsuperscript{38}

The reason, the elaborate Campaign finance regulations were initiated by the Federal Election Commission, was because media could not be regulated in the US, said the Dy. Director FEC, If truth be told probably, eighty percent of the political money in this country, said Kimberling, was spent on television and radio advertising but with the constitution which had put prohibitions against a government arrogant enough to control its media, it was a dangerous thought to regulate it..\textsuperscript{39}

\textit{Congress Researcher} in its issue on Campaign Finance Reform questioned “Are fighter laws needed to police the system?”. Quoting Linda Smith, a Fresh Republican from Washington state, who won her House seat with support from religious conservatives and anti-tax group said “Money not only determines who is elected, it determines who runs for office and it determines what government accomplishes or fails to accomplish”. She further opined that “Real reform of democracy must begin by completely breaking the connection between money and politics”. For her part, noted the Researcher, Smith had agreed with her own party’s leadership by pressing for action on legislation spending to set new limits on fund raising and create voluntary spending limits in Congressional Campaign.\textsuperscript{40}

\textsuperscript{36} Based on interview with William Kimberling Deputy Director at Federal Election Commission, during a field visit in Washington, on 27 November, 1996.
\textsuperscript{37} Ibid.
\textsuperscript{39} Ibid.
\textsuperscript{40} Campaign Finance Reform, The CQ Researcher, Vol. 6, No.6, February 1996.
Financing electoral campaign in Germany:

The German campaign financing law has been developed in West Germany since the 1950s as a part of broader issue of funding the political parties. With the actualisation of German unification in 1990, East Germany became a part of the Federal Republic of Germany and the West German law now applies to the entire unified Germany.\(^\text{41}\)

The German system provides a high level of governmental funding to the parties. The constitutional framework explains the importance of the political parties as compared to that of the individual candidates. The influence of individual members in the Federal Diet is further reduced by the creation of parliamentary groups (Fraktionen). Party discipline is enforced within the group members who frequently vote en bloc. For these reasons, the parties, and not the candidates or representatives, are the recipients of governmental subsidies and private contributions during election campaigns and at all other times.

Another cause for the governmental focus on the parties in campaign financing is found in the election system, which, in effect, is a proportional representation system that contains some traits of a relative majority in a single constituency system. In the election to the Bundestag, voters cast two ballots, the first elects a constituency candidate, and in the second list candidates for the indirect seats that are nominated by the parties. There are no primaries as in the US system. One-half of the members of the Federal Diet are the winners of the constituency seats of the first vote. The remaining seats are allocated to the parties in such a manner that each party has a total number of representatives that is proportional to its share of the second vote. Representation in the Federal Diet is limited to parties that win three constituency seats or obtain at least 5 per cent of the overall vote from the second ballot.\(^\text{42}\) This threshold according to analysts, has been imposed because of the bad experience with a


\(^{42}\) Bundeswahlgesetz, repromulgated on 1 September, 1975. BGBI1, P2325. as amended (Bonn : Press -und Informationamt Der Bundesregierung).
multiplicity of parties in parliament during the Weimar Republic between the two World Wars.43

**Various modes of funding**

**Direct funding:**

The campaign financing system based on the five percent of second votes or ten percent of first votes was created in 1967, with the enactment of the law on Political Parties.44 This law was occasioned by a 1966 decision of the Federal Constitutional Court which struck down the then-prevailing practice of the Federal Diet of subsidizing the represented parties by allocations in the budget. This had been done since 1959, after a 1958 decision of the Federal Constitutional Court sharply reduced the parties' income by holding that the then-prevailing tax deductibility of private contributions to the parties violated the citizen's rights of equal opportunities to exert political influence. In 1966 decision, the Court held that the general funding of the established parties through budgetary means was inappropriate, but that it was permissible to make funds available for election campaigns, as long as all parties were given equal opportunity.

Since then, however, the law has been frequently amended. A major reform was carried out in 1984 when a commission of experts studied various abuses, among them tax evasion by private contributors, influence peddling and the spendthrift habits of the parties comprised some of the malpractices.45 The last reform took place in 1988. Throughout the intensive debate on governmental campaign financing, the problem has been perceived in relation to the parties which were provided with more equality of opportunity at the same time more accountability was called for. The size of the subsidy was increased, while insisting that it had to be matched by the overall non-governmental income to the parties.

According to the current federal provisions, reimbursement is granted to the

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parties that campaigned in the election, provided that they met a threshold of 0.5 per cent of the second vote, or polled at least 10 per cent of the first votes cast in a constituency if no regional list of the party had been accepted in the particular land. The threshold has deliberately been kept so low as to encourage small parties.

The allocation of funds is based on the election result. The compensation amounts to apportioning of 5 Deutsche Mark (DM), (equivalent to $.3.50 or about Rs. 125/-) for each person entitled to vote. This amount is allocated to the parties in proportion to the results of the second ballot. For parties campaigning only regionally (without a Land list of candidates), the compensation is 5 DM for every vote obtained in the district where a 10 per cent share of the vote is reached.

In addition to the result-based allocation as detailed above, a base amount is allocated to each party that attained at least 2 per cent of the second vote. The base amount for each qualifying party is 6 per cent of the total appropriation. However, the base amount of a party may not exceed 80 per cent of its result base entitlement. This concept of base amount was introduced in 1989 to support the parties for their continuous expenditure of campaigning irrespective of the election result.

The determination of the compensation is made by the Speaker of the Bundestag (Federal Diet) when the parties apply within two months of the beginning of the new legislative term. However, the entire payment is not made after the election. Only parties that met the pre-requisites for compensation in the previous election may apply for advance payment in the second, third and last year of the four-year legislative term. The yearly advance payment may not exceed 20 per cent of the compensation granted in the last election. In case the legislative term is terminated before the end of the scheduled four year period, the speaker of the Federal Diet may increase the advances but not beyond 60 per cent of the previous entitlement in the election for which they were granted.

Not many conditions and limitations are levied on the receipt of funds. The most important of these is a limitation of the public election compensation to the total income of the party from other sources over a four year period which counted

46 Ibid.
48 Ibid.
backward from the second calendar year following the granting of compensation. This rule, enacted in 1984 is based on the philosophy that the parties may not be preponderantly funded by the government. Another important restriction is the withholding of payment until the party has lived up to its requirement of submitting annual statements of accounts.

Although clause 18 of the Party Law grants compensation only the “necessary expenditure of an appropriate election campaign expenditure” no campaign expenditure have been imposed, nor is compensation based on the actual expenditures. The parties do not apply for compensation on an itemized basis and are instead awarded the flat grants described above. A 1968 decision of the court updated this mode of payment besides providing a generous definition of campaign expenses. The court reasoned that the long term planning of the parties, formulation of their policies and the analysis on which they are based are all legitimate campaign expenses from the very beginning of the new legislative term. Hence it may be assumed that the parties spend more on election campaigning than what they receive from public funds. And, insistence on the itemization of the actual costs may intrude on the constitutional liberties of the parties. The decision however to some extent is superseded by the requirement of rendering public accounts of campaign expenditure that was imposed on the parties in 1984, compensation is still determined by the flat ground method.\(^{49}\)

**Indirect funding:**

Election campaigns are subsidized indirectly through grants given to the political foundations of the parties, through the tax deductibility of contributions and membership dues and through equalization payments granted to parties to adjust for the different level of tax relief that benefits them due to the differences in the amount of dues and contributions income in relationship to a party’s strength. The parties are allowed free advertising time on the public broadcast made at election time. Transportation to the polls is not subsidized, publications and programmes to encourage voting are subsidized indirectly through grants to the political foundations.\(^{50}\)

**Political foundations:**

The granting of public funds to the four civic foundations that are closely

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\(^{49}\) Ibid.

\(^{50}\) Ibid.
associated with the four largest political parties viz. CDU, CSU, SPD and FDP is a long standing practice. These foundations have research institutions, they publish extensively, grant stipends to scholars, and hold seminars and civic education to the people. The Foundations receive block grants from the Federal budget, their amount is somewhere proportional to the representation of the related political party in the Bundestag. The amount received by way of grants is substantial. In 1987, it totaled almost 112 million DM (US $73.9 million). In addition, subsidies are granted for specific activities. The constitutionality of this practice, challenged by the Green Party, was affirmed by the Federal Constitutional Court in 1986, provided the funds are granted to subsidized civic education and provided that the foundations live up to certain criteria of “responsibility, accountability, and independence”.

**Tax deductibility:**

One of the most controversial issues in the German discussion on party financing has been the tax deductibility of political contributions. German tax rates have been quite high and restrictions on deductibility always had serious effects for the parties. In the 1970s, when the deductibility of party contributions of both individual and corporate tax payers was limited to DM 1,800 per year, tax evasions took on scandalous proportions, which led to a reform of the tax loss in 1984 which allowed deductibility of up to 5 per cent of annual income or 0.2 per cent of annual turnover, so as to lawfully encourage the private funding of the parties. The income related tax deductibility was held to be unconstitutional in a 1986 decision of the Federal Constitutional Court, because it violated the equal right of the citizens to influence political process. The court, however, allowed that the setting of a fixed minimum, which was not to exceed 1,00,000 DM per tax payer per year, was permissible.

On the basis of this decision, the tax laws were again reformed and currently the deductibility of contribution and membership dues to political parties is limited, for both individuals and corporate tax payers, to 60,000 DM (US $.40,000) per year. (For spouses filing jointly, the limit is doubled). For contributions to one party in excess of 40,000 DM (US $.26,400) per year, the deductibility is denied if the party did not live

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51 Ibid.

52 *Fünftes Gesetz Zur Aenderung des parteiengesetzes* (Fifth Amending Law to the Party Law) 22 December, 1988, BGB1.I( Source : Inter Nationes, Bonn ).
up to its requirement to disclose the donations in its annual statement of accounts.\textsuperscript{53}

**The equalization payment:**

The equalization of opportunity payment was introduced in 1984 and slightly reformed in 1988. The payment aims at equaling the advantage enjoyed by parties which have a relatively high income from membership dues and contributions. The formula for the payment is based on the relationship between the dues income and the number of members as well as the relationship between the contribution income and the number of second votes. (In 1986, CDU was the “Most-favoured party” and therefore received no equalization payment. The SPD, FDP, CSU, and the Greens received payments ranging from 1.4 million DM (CSU) to 5.9 million DM (Green Party). Of the underrepresented splinter parties, only the NDP (National Democratic Party) earned an equalization payment, the others had a high level of contributions as compared to their political strength. The payment does not exceed 10 per cent of the public campaign compensation earned by the party in the last election. The payment is not counted as governmental funding for purposes of limiting governmental campaign financing to 50 per cent of the overall income.\textsuperscript{54}

**Free Broadcast Time:**

Public television and radio broadcasters allow free time during election campaigns to different parties. The number and time of advertisements is determined in proportion to the previous election result. In practice, free advertisements are not of much advantage, the analysts feel. The maximum length of advertisements is up to 150 seconds and only a few are allotted, and that too shortly before the election. During the 1990 election, the CDU was allotted 8 spots per broadcaster. Paid advertising is not permissible under the Public Broadcasting Agreement. The private broadcasters, on the other hand, who are also required to make appropriate time available to the parties for campaign advertisements can and do demand payment known as “cost-covering fee” which is reckoned to “under hand” payment. It is a wide spread practice to discuss political issues in infomercials broadcasts, interviewers and debates.\textsuperscript{55}

\textsuperscript{53} Ibid.
\textsuperscript{54} Bundestag; Supra note 42( Source Inter Nationes, Bonn ).
\textsuperscript{55} Based on personal discussions with CDU, SPD spokesmen in Bonn, and a cross section of media persons during field visit to Germany in October 1996.
Non-Governmental funding by residents:

Resident individuals and legal entities can make unlimited contributions to the political parties. Contributions to individual candidates traditionally are not permissible. Similarly political foundations, charitable or benevolent organizations, anonymous donors are not allowed to contribute. The channeling of contributions through trade association, and contributions made under the expectancy of political or economic advantage is also prohibited as enacted in 1984 party laws (clause 25), in response to the then prevailing abuses.56

Regulation of foreign contributions:

Contributions from abroad are permitted if they flow from the assets of a German citizen or of an enterprise owned by more than 50 per cent by Germans. Contributions by a foreign party represented in the European parliament or by a parliamentary group or individual member of the European parliament is allowed. Contribution from aliens are allowed, limited to DM 1,000 (US $.666 or about Rs. 22,000).57

Accountability:

The 1949 Constitution required parties to disclose the sources of their funding, a statutory regulation of this duty was first made in the Party Law of 1967. A requirement to account for expenditures and assets was only enacted in 1984. The parties are required to submit annual statements of accounts to the Speaker of the Bundestag who publishes them as a legislative document, after these are certified by a chartered accountant.58

The most noticeable irregularity in party funding happened in the 1970s, when tax deductibility of private donations was severely limited. The most commonly used technique was channeling of party donations through tax privileged organizations. In addition party, affiliated enterprises received bogus payments for services never rendered and these payments were claimed as tax deductible expenditures by the corporate donors. Business enterprises contributed in kind by allowing parties to make

56 Ibid.
57 Ibid.
use of their facilities and staff.\textsuperscript{59}

More than 2000 cases have been investigated, few have resulted in criminal convictions, many cases are still pending. In November 1990, one of the cases, the criminal trial against the entrepreneur H. Merkle ended with a warning, a suspended fine, a mandatory caution to the charitable organizations.

On the whole there is a strong feeling among the observers, analysts, party functionaries and governmental bodies in favour of public campaign financing to allow the parties to carry out their constitutionally guaranteed functions. It is, however, felt that those who pay will not only want their influence to bear upon the subject matter of the election campaign, but also on the party itself. Peter Sperlich feels, a careful and well thought out ruling with regard to party funding is of extreme significance for the functioning of the democracy. How difficult, however, it is to draft a ruling which satisfies these demands is illustrated by the never ending political and legal debate on party funding in Germany. The amendment to the Parties Act in February 1994 has concluded this debate at least temporarily.\textsuperscript{60}

As per the ‘Parties’ Act, the parties have to account for all their revenue. With regard to donations, parties were supposed to disclose the amount and donors' name, if the sum was above DM 40,000. Donations up to an amount of DM 60,000 (approx. Rs. 13 lakhs), were entitled to tax exemption. The Federal Constitutional Court however has now decreed that all donations above the value of DM 20,000 need to be declared and tax exemptions should be granted only for donations up to DM 3,000.\textsuperscript{61}

State subsidies to the parties have also been subjected to drastic changes in recent years. The Federal Constitutional Court had initially acknowledged that the position of the parties in public life as established in the constitution warranted the financing of election expenditures incurred by the parties. The subsequent Act provided for the reimbursement of unavoidable election campaigning cost. All parties which polled at least 0.5 per cent of vote received DM 0.5 per head on the basis of

\textsuperscript{59} Ibid.

\textsuperscript{60} Statistische Angaben : Rechenschalts berichte der Partien, as published in Globus Kar tendienst GmbH, Hamburg, 26 February, 1996.


\textsuperscript{61} Ibid.
second votes in the electoral area. A basic sum regardless of the outcome of the outcome of the elections was guaranteed for each party that polled at least 2 per cent of the votes. This ruling led to considerable public spending, which in peak election years such as 1983 reached a total of DM 317 million (approx. 697.4 Crore rupees) in state grants for the funding of the election. This financial contribution by the state filled in the coffers of the parties as never before. In 1990 this share on an average was over 40 per cent.62

With the decree passed on 9 April, 1992, the Federal Constitutional Court declared fundamental components of state funding of parties as unconstitutional on the grounds that such funding led to an unhealthy relationship between the state and the parties and formation of political will. The court laid down a comprehensive revised version, executed since 1994 with the Amendments to the parties Act. As per the amendment act DM 1.30 per vote is granted for the first five million votes. Every additional vote fetches DM 1. This leads to state subsidies depending on the number of people who voted. The increased amount of DM 1.30 aims at increasing the chances of small and new political parties by taking into account their higher basic expenditure. Now a subsidy independent of the election campaign has also been introduced. For every DM contributed or donated, the Party receives a subsidy of 50 fenning but only up to an upper ceiling of DM 6,000. These amounts must not exceed the funds raised by the party per year. The public grants for all parties together may not total more than DM 230 million (approx. 506 Crore rupees).63

As per the German Government documents, the funding position of various parties as of 1990 stood as under:

SPD was able to accumulate the maximum membership share. CDU had a federal debt of DM 42.83 million marks. CSU had in coffers DM 34.25 million.

As per the records, the SPD, being the strongest member party contributed DM 121.29 million. It spent DM 25.60 million in 1989, keeping a reserve of DM 72.40 million for spending on the campaign.

The CDU collected an amount of DM 84.39 million as membership fee in the

62 Ibid.
63 Dokument 5 dukhr 1122830, naq; ddd, daq : 1990-12. 10, Uhr:13.38, mnr:105, received from the German Election Commission on request.
While it spent DM 42.78 million, it reserved DM 49.49 million towards spending on election campaign. The Grey Panther received a state refund of DM 640,000, the environment party received DM 639,000. The parties obtained DM 132 million from the Government. The following data reflects the sums collected by the parties from the Government in 1990.

Contribution to political parties from the Public Exchequer - 1990 Election

<table>
<thead>
<tr>
<th>SPD</th>
<th>46</th>
</tr>
</thead>
<tbody>
<tr>
<td>CDU</td>
<td>42.5</td>
</tr>
<tr>
<td>Greens</td>
<td>11.1</td>
</tr>
<tr>
<td>CSU</td>
<td>10.4</td>
</tr>
<tr>
<td>FDP</td>
<td>8.2</td>
</tr>
<tr>
<td>PDS</td>
<td>6.6</td>
</tr>
<tr>
<td>Republicans</td>
<td>4.8</td>
</tr>
</tbody>
</table>

Source: German Election Commission

Funding in election campaigns, observes Sperlich, has been made more transparent as the parties are now compelled to handle their finances more carefully as public grants are no longer so easily available. May be the amended Act will help bring about a securable way to curtail election cost, says

The funding position with the parties during the 1994 election was as under: SPD’s total revenue equaled DM 355 million, which included 43 per cent from membership fee, 10 per cent donation, 38 per cent from the government and 9 per cent other revenue. CDU was able to collect DM 280 million which included 33 per cent through membership fee, 20 per cent through donations, 41 per cent from the government coffers and 6 per cent other revenue; the FDP stood at number three in fund collection with a total revenue of DM 70 million which included 18 per cent membership fee, 24 per cent through donations, 34 per cent from the government and 24 per cent other revenue; the CSU, CDU’s partner in the coalition totaled its revenue

64 Ibid.
to DM 68 million which included 27 per cent of membership fee, 26 per cent through donations, 40 per cent from the government and 7 per cent other revenue. Alliance 90/Greens totaled their revenue to the order of DM 53 million which included 29 per cent membership fee, 17 per cent through donations, 39 per cent from the government and 15 per cent other revenue. PDS also collected 34 million which included 43 per cent through membership, 19 per cent through membership fee, 32 per cent grant from the government and six per cent other revenue.

As indicated earlier SPD is the largest revenue collector among all political parties in Germany.

The following table details the amount spent by major political parties between January-December 1994 (the election year) on various mass media:

<table>
<thead>
<tr>
<th>Table: 5.5</th>
<th>Expenditure on use of Mass Media</th>
<th>(In 000DM)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
<td>%age</td>
</tr>
<tr>
<td>Total(all Parties)</td>
<td>93414</td>
<td>100.0</td>
</tr>
<tr>
<td>1</td>
<td>SPD (Bonn)</td>
<td>30997</td>
</tr>
<tr>
<td>2</td>
<td>CDU (Bonn)</td>
<td>23703</td>
</tr>
<tr>
<td>3</td>
<td>FDP (Bonn)</td>
<td>18509</td>
</tr>
<tr>
<td>4</td>
<td>PDS (Berlin)</td>
<td>5723</td>
</tr>
<tr>
<td>5</td>
<td>Alliance 90/Greens (Magdeburg)</td>
<td>3078</td>
</tr>
<tr>
<td>6</td>
<td>CDU + CSU (Bonn)</td>
<td>22</td>
</tr>
<tr>
<td>7</td>
<td>Die Republikanez (Munich)</td>
<td>1012</td>
</tr>
</tbody>
</table>

Source: German Election Commission

Besides the parties listed above, the remaining amount was spent by small parties and also by major parties in various lands.

SPD once again remained the largest spender of money on use of mass media
Party affiliations are quite strong in Germany. As reflected in the figures, a lot of revenue is collected by the parties as membership-fee. As the elections are more or less funded by the Government, the issue of unauthorized or "soft-money" as termed in the US is considered a peripheral one or on the fringe as perceived by various politicians, academics and media persons.

A number of studies conducted around the 1990 election suggest that campaign financing was neither an issue with the media nor the electorate. Unification, Economic Problems, Political scandals of the PDS, Law and Order were some of the major issues.

Campaign financing in India

India is a multi-party parliamentary democracy. The system of proportional representation by means of a single transferable vote is intended to secure the representation in the elected body of all groups or interests in the electorate and to avoid the swamping of the elected body only by the representatives of majority party. This means that every voter of 18 years and above has only one vote irrespective of the number of seats to be filled. If for instance, there are five seats to be filled, the voter does not cast five votes but only one.

Direct funding:

There is no system of public financing of candidates or the political parties. Contesting candidates or their political parties must organize and collect their own funds for election purposes.

Indirect funding:

The electronic media which is part of the Ministry of Information and Broadcasting and is fully funded by the Government allows free broadcast to all recognized political parties once each on TV and Radio. Political advertising is not allowed on the government-run electronic media.

The opposition for long has been charging the government for using the

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65 Ibid.
66 Based on my discussions with various luminaris while on a Field visit to Germany in October 1996 and media scanning. For details about media coverage of issues, refer to Holi A.Semetko and Klaus Schenbach, Germany's "Unity Election" Voters and the Media (New Jersey : Hampton Press Inc.,1994), pp.41-57.
powerful electronic media to propagate the party's policies and programmes in the
guise of governmental information. In fact the question of access to radio and
television transmission was raised in the early 1950s. A major problem was that each
political party, regardless of its size, demanded equal air time. This demand was
rejected by the then ruling Congress party because it was the largest party and fielded
the largest number of candidates in each election. The suggestion of the Election
Commission that each party have one opportunity and the Congress party two
opportunities was rejected by the opposition. Finally in 1977 the formula accepting the
principle of equal time to each recognized party was accepted by all party
representatives. Based on the agreement, a code of conduct for radio and television
transmission was devised which broadly included the following:

- Time will be allotted to parties and not individual candidates
- No political party will attack another on the basis of religion or community.
- Obscene or defamatory language would not be used in these broadcasts.
- Contempt of court must not be attempted.
- Parties will not cast aspersion against the integrity of the President of India.
- There would be no criticism of friendly countries.

Following the agreements, party political broadcasts were first arranged on
Radio and Television during the 1977 State election, with the order of speaking
arranged by drawing lots. At the time of elections, these party broadcasts provide the
only free political communication on the network.\(^{67}\)

**Limitations on campaign expenditure:**

The framers of the Constitution were conscious of the cost involved in the
electioneering. Therefore, to restrain candidates from incurring high expenditures,
they placed a ceiling of twenty-five thousand rupees on each candidate. Consequent
upon inflationary trends, the ceiling on the expenditure of a candidate has continued to
be raised.

Former Chief Election Commissioner T. N. Seshan who has hit world media
headlines as a 'no-nonsense man', wrote to the Prime Minister on 29 September, 1994,
recommending a four fold increase in the ceiling on poll expenses i.e. Rs.1,50,000 in

\(^{67}\) Ibid.
the parliamentary constituencies.

The Government announced on 21 October, 1994 the raised ceiling on poll expenditure, both in assembly constituencies in bigger states to Rs.1.50 lakh and in parliamentary constituencies to Rs.4.5 lakh.\(^{68}\)

Following table illustrates the previous limit and the increased ceiling in parliamentary and assembly constituencies.\(^{69}\)

<table>
<thead>
<tr>
<th>States</th>
<th>Parliamentary Constituencies</th>
<th>Assembly Constituencies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>New Ceiling</td>
<td>Old Limit</td>
</tr>
<tr>
<td>Andhra Pradesh</td>
<td>450</td>
<td>150</td>
</tr>
<tr>
<td>Assam</td>
<td>415</td>
<td>130</td>
</tr>
<tr>
<td>Bihar</td>
<td>415</td>
<td>150</td>
</tr>
<tr>
<td>Gujrat</td>
<td>450</td>
<td>130</td>
</tr>
<tr>
<td>Haryana</td>
<td>450</td>
<td>150</td>
</tr>
<tr>
<td>Himachal Pradesh</td>
<td>415</td>
<td>150</td>
</tr>
<tr>
<td>Jammu &amp; Kashmir</td>
<td>375</td>
<td>130</td>
</tr>
<tr>
<td>Karnataka</td>
<td>450</td>
<td>150</td>
</tr>
<tr>
<td>Kerala</td>
<td>450</td>
<td>150</td>
</tr>
<tr>
<td>Madhya Pradesh</td>
<td>450</td>
<td>130</td>
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<tr>
<td>Maharashtra</td>
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<td>150</td>
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<tr>
<td>Manipur</td>
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<tr>
<td>Meghalaya</td>
<td>300</td>
<td>70</td>
</tr>
<tr>
<td>Nagaland</td>
<td>415</td>
<td>100</td>
</tr>
<tr>
<td>Orissa</td>
<td>450</td>
<td>150</td>
</tr>
<tr>
<td>Punjab</td>
<td>450</td>
<td>150</td>
</tr>
<tr>
<td>Sikkim</td>
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<td>50</td>
</tr>
<tr>
<td>Tamil Nadu</td>
<td>450</td>
<td>150</td>
</tr>
<tr>
<td>Tripura</td>
<td>415</td>
<td>100</td>
</tr>
<tr>
<td>Uttar Pradesh</td>
<td>450</td>
<td>150</td>
</tr>
<tr>
<td>West Bengal</td>
<td>450</td>
<td>150</td>
</tr>
</tbody>
</table>

Source: *Jansatta*, 22 October, 1994

\(^{68}\) *Times of India*, 22 October, 1994.

\(^{69}\) *Jansatta*, 22 October, 1994.
Union Territories/Centrally Administered Territories (In 000 Rs.)

<table>
<thead>
<tr>
<th>Territory</th>
<th>New Ceiling</th>
<th>Old Limit</th>
<th>New Ceiling</th>
<th>Old Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Andaman &amp; Nicobar</td>
<td>150</td>
<td>50</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chandigarh</td>
<td>190</td>
<td>50</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dadar &amp; Nagar Haveli</td>
<td>95</td>
<td>20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Goa, Daman &amp; Diu</td>
<td>95</td>
<td>50</td>
<td></td>
<td></td>
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<tr>
<td>Delhi</td>
<td>415</td>
<td>100</td>
<td>95</td>
<td>50</td>
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<tr>
<td>Lakshadweep</td>
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<td></td>
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<tr>
<td>Pondichery</td>
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<td>10</td>
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<tr>
<td>Mizoram</td>
<td>190</td>
<td>50</td>
<td>20</td>
<td>10</td>
</tr>
</tbody>
</table>

Source: *Jansatta*, 22 October, 1994

In its cover story “Funding the Politician”, India Today has indicated an expenditure of about Rs.1,000 Crore on the 1991 election, minus government expenditure on logistics. The estimate according to the story was derived from extensive interviews with fund raisers and treasury officials of all major and many smaller political parties”.

The following table provides the state-wise expense account. This would reflect the mockery of the present ceiling.
Expense Account:

Spending Averages per State - 1991 Lok Sabha election

Table: 5.7 (in Rs. Lakhs)

<table>
<thead>
<tr>
<th>State</th>
<th>Seats</th>
<th>Average spending</th>
<th>Total Spending</th>
</tr>
</thead>
<tbody>
<tr>
<td>Andhra Pradesh</td>
<td>42</td>
<td>75</td>
<td>6,300</td>
</tr>
<tr>
<td>Assam</td>
<td>14</td>
<td>15</td>
<td>840</td>
</tr>
<tr>
<td>Other North-East States</td>
<td>11</td>
<td>8</td>
<td>264</td>
</tr>
<tr>
<td>Bihar</td>
<td>52</td>
<td>40</td>
<td>8,320</td>
</tr>
<tr>
<td>Gujrat</td>
<td>26</td>
<td>55</td>
<td>2,860</td>
</tr>
<tr>
<td>Haryana</td>
<td>10</td>
<td>45</td>
<td>1,800</td>
</tr>
<tr>
<td>Himachal Pradesh</td>
<td>4</td>
<td>30</td>
<td>240</td>
</tr>
<tr>
<td>Karnataka</td>
<td>28</td>
<td>75</td>
<td>6,300</td>
</tr>
<tr>
<td>Kerala</td>
<td>20</td>
<td>22</td>
<td>880</td>
</tr>
<tr>
<td>Madhya Pradesh</td>
<td>40</td>
<td>50</td>
<td>4,000</td>
</tr>
<tr>
<td>Maharashtra</td>
<td>48</td>
<td>55</td>
<td>7,920</td>
</tr>
<tr>
<td>Orissa</td>
<td>21</td>
<td>20</td>
<td>840</td>
</tr>
<tr>
<td>Rajasthan</td>
<td>25</td>
<td>35</td>
<td>1,750</td>
</tr>
<tr>
<td>Tamil Nadu</td>
<td>39</td>
<td>50</td>
<td>3,900</td>
</tr>
<tr>
<td>Uttar Pradesh</td>
<td>85</td>
<td>40</td>
<td>13,600</td>
</tr>
<tr>
<td>West Bengal</td>
<td>42</td>
<td>30</td>
<td>5,040</td>
</tr>
<tr>
<td>Delhi</td>
<td>7</td>
<td>100</td>
<td>2,100</td>
</tr>
<tr>
<td>Union Territories</td>
<td>8</td>
<td>20</td>
<td>320</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>67,274</td>
</tr>
</tbody>
</table>

Source: India Today, 31 March, 1996

Spent by 7,155 Candidates
Spent on 1,314 assembly seats
Government spending on election (approx.)

Grand Total 1,22,01(Rs.1,220.13 Crores)\(^70\)

\(^{70}\) For increased ceiling refer to Jansatta. 22 October, 1994 and expenditure on 1991 election, India Today, cover story “Funding the Politician”, 31 March, 1996.
As reflected in the graph above, political parties and candidates spent enormous amount of money in running for the public offices. The present ceiling is a far cry from the actual scenario. There has been a mixed response to the hike in ceiling among different Political parties.

V. N. Gadgil the Congress (I) spokesman welcomed the step. Leader of the opposition, Atal Behari Vajpayee, said although it was a step in the right direction, it was a half hearted move. He could understand the rationale behind the fourfold increase, he lamented. The government he felt ought to have taken into account actual expenditure incurred by parties, audited accounts of candidates and then fixed some reasonable limit. False statements about expenditure will be submitted, he feared.71

In order to verify the expenditure of an election, the candidate is required to file, in the prescribed form, a statement of his election expenses with the District

71 Times of India, 22 October, 1994
Election Officer, within thirty days of the declaration of the result. The statement is
not required to be audited before submission. After the statement is lodged, the
Officer notifies to enable the public and the interested parties to verify or challenge its
correctness. If a candidate exceeds the limit in spending, he is guilty of a corrupt
election practice which may cause him losing his parliamentary seat. He may also be
debarrd from seeking election for six years as per The Indian Electoral Law under
section 77 of the Representation of People’s Act 1951.

Academic DN. Gehlot illustrates four evils threatening the Indian electoral
system viz. money power, muscle power, media power and ministerial power, the first
one needing immediate addressing.72

Non-Governmental funding:

In the absence of any support from any formal source, the establishment of a
party fund is of vital interest to each party contesting election. Each party has its own
mode of mobilizing funds. Political contributions for the party fund are raised from a
wide range of sources of which industry and trade are believed to be the principal ones.

The parties collect funds from subscriptions and contributions from members,
donations from sympathizers and other interested elements, and periodical collections
from the public. The parties also get funds in various forms as gifts from foreign
agencies, presentation of purses to party leaders on festive occasions or their birthdays
and of course by befriending and bullying businessmen.

Unlike the developed countries, business in India did not have a systematizes
method for political contributions. Still, the business sector has provided campaign
financing through companies, individuals and some industrial groups.73

Until 1969, companies were not prohibited from making political contributions.
Invariably, the companies amended their memorandum of association to include the
power of the board of directors to make political contributions. A company was
allowed to contribute not more than twenty five thousand rupees or five per cent of

72 N.S. Gehlot, Election and Role of Money power in India, Ibid. n. 71, P 437.
73 Times of India, 22 October, 1994

325
its average net profits whichever was greater.\textsuperscript{74}

Political contributions by companies and their adverse impact on the Indian political process were questioned by some eminent jurists who feared that such contributions could throttle democracy in the country. The ruling Congress Party banned contributions by the companies following which the companies law was suitably amended.

Banning the company contributions left the parties coffers empty. It also eliminated the only legal mechanisms available to Indian businesses, for obtaining access and rendering support to the political parties. In order to control and limit big business, stern measures were taken and the law against monopolies was enacted. With the disappearance of legal mechanism on campaign contributions, noted the Government appointed Wanchoo Committee, ”Black money” became the main source of funds for political parties.\textsuperscript{75}

In 1985, after the assassination of Mrs.Gandhi, Rajiv Gandhi tried to reverse the process and remove the deleterious effect of black money on the political institutions, but there were not many takers of his reforms, even from among his own party men, business and trade unions. At any rate, in 1985, the company law was amended again to allow for political contributions by companies.

Neither any government organisation nor any private company which has been in existence for less than three financial years is permitted to contribute directly or indirectly to any political party or for any political purpose to any person. In any case the contributions by a company in a single financial year shall not exceed five per cent of its average net profit, determined in accordance with the provisions of the companies law, during the three years immediately preceding the financial years. The company's donation to a person who it knows to be carrying an activity for public support of a political party shall also be deemed to be a contribution for a political contribution.

In order to further limit the power of the companies to make contributions, it is provided that an advertisement by a company on behalf of a political party will be

\textsuperscript{74} A. Ramaiya, \textit{A Guide to the Companies Act 408 - 293-A}, 1966.
\textsuperscript{75} Kuldip Nayyar, Funding the Elections, \textit{Indian Express}, 18 April. 1979.
deemed as a contribution. Any contravention of the provisions is punishable with fine which may extend to three times the amount so contributed. Moreover, every officer of the company who is in default may be punished with imprisonment for a term of up to three years and with a fine.

Auditing:
In their annual balance sheet, the companies are required to disclose any campaign contributions that the company had made during the period.

Prohibition on Foreign Contributions:
In 1976, the Government enacted a law to regulate the acceptance and utilisation of foreign contribution with a view to ensuring that political institutions, associations, academic and other voluntary organisations and individuals might function in a manner consistent with the values of a sovereign democratic republic. No person, association or political group is allowed to receive or accept any foreign contribution. In order to receive or accept such funds the person must obtain prior permission of the Central Government. Any contravention of the provision is punishable with imprisonment for a term which may extend to five years, with a fine, or with both. A person who receives foreign hospitality in breach of this law may also be imprisoned for a term of three years or with a fine, or with both.

Chief Election Commissioner T. N. Seshan while speaking on “Election reforms and Corporate funding” at a meeting organized by the All India Association of Industries in Bombay (Maharashtra) lashed at the Corporate Sector for pumping in large sums of money into the electoral process, resulting in “Corrupt Politicians” winning elections that were “neither free nor fair”. The industry had a major role in deciding whether those elected were statesmen or politicians, he added. “Elections in India were the wonder of the world and they were not damaged beyond hope, only a little tarnished. All it required was a gentle cleaning with acid to make it sparkle”, he remarked.

Increasing the limit of election expenses was a big joke, he lamented.

77 The Foreign Contribution Regulation Act, no 49 of 1976.
Politicians spent 300 times against what they were supposed to, he said, "who pays this money?", he asked meaningfully.

Industry and trade, he felt had corrupted the political system and politicians were all too happy to accept money for granting all sorts of concessions.

"Why isn't industry supporting my election reforms?, he asked...

In a paper "Financing of Elections" prepared in 1977 by Dr. VA Pai Panandikar and Dr. Ramashray Roy, at the request of the Prime Minister, the Center for Policy Research made some tangible suggestions. The Paper suggested the following criteria of eligibility for funding of elections:

National or major parties - 20 per cent of national votes cast in parliamentary elections.

Minor or new parties - 10 per cent of national votes cast in parliamentary elections.

Non-party candidates - one-eighth or one-tenth of votes cast in the parliamentary constituencies.

The recommendations included that the states should undertake exclusively the responsibility of financing elections, the central government should finance the parliament elections and the state government should finance elections to the State Assemblies and lower bodies. An election fund on the basis of one rupee per voter according to the votes polled in the last elections, creation of a special funding agency for administering funds, the parties to be apportioned the total fund on the basis of their performance, a ceiling on the amount, the amount to be released to the individual candidates on the basis of nominations by the party, maintenance of accounts by the candidates, cost of campaigning activities of political parties to be within the specified ceiling, independent candidates to be provided funds after the election, provided they secure 10 per cent of the votes, were the specific recommendations made in the paper.

It has been more than 17 years since the paper was submitted during which time a number of political parties have been in the saddle. The Paper is obviously gathering dust somewhere Dr. Gehlot similarly has outlined certain suggestions to curb the malpractices. Some of these include: a) to make annual grants to all recognised political

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78 As reported in the Print Media for details see, The Times of India, Economic Times and Independent, 23 October, 1994.
parties from the Exchequer as in UK and France; b) the Central government to finance the Parliamentary election and the State governments the Assembly elections; c) to the extent possible to hold both central and state elections simultaneously to save on costs towards logistics; d) to introduce electronic voting system; e) the existing law to be amended to reduce the campaigning period from 21 days to 10 days. Parties should however get equal opportunity on the electronic media etc.79

The Election Commission has listed out 150 mal practices in Indian elections in an effort to curb them. It is however, surprising that the role of money which may at time make a mockery of the election process has not figured in the list of maladies. This list reflected in T. N. Seshan’s biography among other things includes maladies in the areas of preparation of Electoral rolls, setting up of polling stations, maladies before election announcement, programming of elections nomination, scrutiny and withdrawals, the period of electioneering, day of poll, re-poll and adjourned poll, casting of votes, election petitions, storage and preservations of polled materials and records, post-election maladies, manipulative tactics of the ruling party and structural weaknesses in election management.80

Fortunately for the Indian democracy, things are changing for the better. In the last about three years or so, the issue of electoral reforms, especially the use of money power in electioneering has occupied the centre stage. Media have played and are still playing a crucial role in keeping the issue alive.

Media Focus on Financial Reforms: Glimpses

The Election Commission until the end of the 1980s was like any other government department which conducted nine General elections smoothly some, problems notwithstanding. Things were not to be the same, however, once the invincible T. N. Seshan, Chief Election Commissioner arrived on the scene and stayed on in that position until 31 December, 1996. Known for his 'no nonsense' attitude, the CEC left no opportunity in lashing out at the politicians, political parties and even civil servants who he thought aided and abetted corruption during elections. The reasons could be umpteen. Seshan proved a “good copy” for the scribes. The media just loved

79 Dr. V. A. Pai Panandikar and Dr. Ramashray Roy, Financing of Election (Paper referred in the library of Planning Commission, New Delhi) and NS Gehlot, Ibid, n. 71, pp.437-447.
him. Seshan, however, did not provide much complementary copy. But then, "bad news" is considered "good news". Sensational makes better reportage in the media. His copy created a lot of furor and some even entertained the idea of impeaching him. Calling the civil servants "call girls"; "I am not CEC of the Government of India, I am CEC of the Republic of India", "get rid of the suitcase syndrome and lead an honest life." (a jibe at the alleged payment of money in suitcase to ex-prime minister Rao by the stock exchange scamster Harshad Mehta in 1992). "No I-card no election" "Corrupt politicians" "elections that are neither free nor fair". His biography "Seshan and intimate story by Govindan Kutty hit the headlines by state wide protests in the southern state of Tamil Nadu for allegedly linking C. N. Annadurai, the DMK founder with the US Central Intelligence Agency (CIA). The book has been banned in the state with a stay order from the Madras High Court.

He once allegedly lashed at the judiciary which led the Supreme Court bench advising him to "keep his mouth shut". For a few days he literally kept silent despite media asking him questions. If not, his words, his pictures hit the headlines showing him at times making faces, other times making paper boats of the pamphlets etc.

The political parties by and large suggested clipping his wings. Two more Election Commissioners were appointed in 1994 under Article 324(2) who were sidelined by the Chief Election Commissioner initially. A special session of the Parliament was invited to pass a Bill.

The controversial Constitutional (83rd) Amendment Bill seeking to provide for a Multi-Member Election Commission with equal powers did not find favour with all the parties. Requiring a two-third majority in the Lower House, the Congress government with its own strength of 262, was not equipped to face the House with the Constitution Amendment Bill.81

*Times of India* in its news story "Government made to eat humble pie over poll Bills", commented that "For the first time in many years the government was made to eat humble pie in Parliament last week on account of its bungling over electoral reforms. Two bills, one of them, among other things amending The Representation of Peoples Act with a view to banning the use of religion during elections and other

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relating to the composition and powers of the three election commissioners which publicized as a sovereign remedy of all that ails our democratic system, were to be passed.  

Whatever the reasons, an average Indian citizen who had taken political corruption as a fait accompli started taking Seshan seriously. His cut outs, his pictures started appearing in fairs and festivals. Seshan in fact has become a household name. During the past over a year he has been visiting Institutes, universities, corporate gatherings, sending his message of electoral reform across. If one were to analyze the print media during the last over two years they deserve accolades. They have kept the issue of electoral reforms a live issue.

In an interesting piece in the Times of India, M. D. Nalpat analyses the impact of Seshan on the electoral reforms. “Going by the spirit rather than law”, Nalpat writes, “Mr. T. N. Seshan has been a cause of a significant reduction of election expenditure”.  

While Mr. Seshan deserves praise for taking at face value the moralistic pretensions of the political class, the Columnist feels, a considerable part of his victory may be due to the steadily increasing accountability which the Indian voter is demanding from the candidates especially with regard to the “financial misdemeanours”. Seshan deserves the credit because thanks to the supposed fear of action by the Election Commission - an action that can have only a very little legal foundation - most candidates, even parties as well, heeded as the Congress and BJP have cut down their campaign expenditure.

In an opinionated article in The Tribune, S C Arora commented on the role of money power thus: “The touchstone of democracy is fair and free elections, when everyone is able to cast his vote without fear or favour. It is a subversion of democracy system when elections are manipulated with the help of money.”

Unfortunately in India, he writes, collecting election expenses is the responsibility of the individual who is seeking election. In the article he has quoted what Prof. K. T. Shah an eminent member of the Constituent Assembly, suggested

84 Ibid.
that “all expenses in connection with election to parliament of all candidates whether at the time of general election or a by-election, shall be defrayed out of the public treasury in accordance with a scale prescribed by Parliament, provided that any candidate securing less than 10 per cent of the votes cast at the election shall not be entitled to claim such expenses”.

Arora puts forward arguments in favour of state funding on three grounds: First, this would reduce the role of big money in elections and may help reduce political corruption; Second, because of the enormity of the cost of elections comparatively poor but “meritorious and ambitious” candidates stand little chance of getting elected; or even getting party tickets to contest because “self-financing” is one of the major grounds on which political parties select their candidates. Third, in some countries the state or the party of a candidate, subsidizes his election.

“Eyewitness”, a video magazine telecast on Doordarshan had a programme on Electoral reforms. Former CEC SL Shahdhar opined that the law should be amended to make it mandatory on the political parties to audit their accounts. Madhu Dandavate, a veteran politician felt the only way to eliminate corruption was state funding of elections.

Seshan felt the punishment for over expenditure (meaning beyond the statutory limit) “should be brutal” ... which he corrected to “heavy”.

Shubhra Gupta, a TV commentator commented that “once again one is constrained to mention T. N. Seshan, the CEC who effortlessly took over a panel discussion on electoral reforms and emerged as a giant speaker. The thing with Seshan is that he makes the most democratic statements in a truly authoritarian style. It’s an unbeatable combination”.

Times of India, in an editorial entitled “Humdrum Hustings” lamented on the “pre Seshan days” when “Covering elections was considered a journalist’s delight, it was so, mainly on account of the spectacular scale on which they were mounted”. The graffiti on the wall, the larger than life cut-outs of the candidates, the squeaking...
loudspeakers were all a history, thanks to the CEC, who in his wisdom decreed that elections were to be purged of these vital inputs, quite unmindful of the effect it would have on the reporter assigned to be “on the campaign trail”, opined the editorial. Thanks to the enterprise, some candidates and parties have been using innovative, media commented the paper. Veerappa Moily of Karnataka sent a message over police wireless that three men were arrested for traveling in a vehicle fitted with a microphone who addressed a meeting from the premises of temple so on and so forth

It was probably for the first time during the 11th round in 1996, in the history of elections in India that the parties and candidates have taken the code of conduct especially with regard to the expenditure seriously, thanks to the landmark judgment of the Supreme Court.

In a lead story “SC makes parties accountable”; Times of India wrote about the strictures from the highest court delineating that the poll expenses incurred or authorized in the election of a candidate by a party can only be expenditure which has “transparent source” as decided by the Court on a petition filed by Common Cause Director HD Shourie; father of firebrand editor/author Arun Shourie.™

Provisions of Section 77(1) of the Representation of Peoples Act, which deals with expenditure by the candidate or his agent “does not give protection to the expenditure which comes from an unknown source”, the Court said. “Bulk of income of a political party by way of contributions/donations is from companies”, it added. Some of the highlights of the judgment included:

- Parties must file return of income for each assessment year in accordance with the Income Tax.
- The Revenue Secretary shall order an inquiry into the non-enforcement of the law regarding filling of returns by parties. Action shall be taken against any officer found amiss.
- All poll expenditure will be presumed to have been authorized by the candidate or his election agent. The candidate can rebut the presumption and show that it was in fact incurred by his party or some other association or by another individual.

™ Times of India, 15 April, 1996
A party which is not maintaining audited accounts and has not filed the return of income for the relevant period cannot ordinarily be permitted to say that it has incurred expenditure in connection with the election of its candidates.91

Despite the Supreme Court judgment, revenue analysts feel that there is a loophole that political parties can exploit, if they were so inclined.

Section 13A of the Income Tax Act which relates to the political parties, specifies that these parties maintain books of accounts for all expenses, but obliges them to furnish to tax officials, the names and addresses of only those donors who contributed Rs.10,000 or more. This provision can be misused. A party can claim that all its donations are Rs.9999 or below. The Court judgment will put individual candidates in a tight spot. In the past, individual candidates, in order, to beat election expenditure ceilings used to claim that a large part of the expenditure was incurred by their parties. But now, the onus of proof is on the candidate. All expenditure for helicopter landings, fleet of cars, banners and posters will have to be accounted for by the candidate. Otherwise the Election Commission will have the power to disqualify him.92

Nearly 1500 election expenditure observers were appointed by the Election Commission for the 11th General Elections. Media sometime commented that the expenditure incurred by the Election Commission in monitoring the fair poll had been larger than the expenditure incurred by the parties. The Election Commission in some Constituencies where big players were involved sent its observers to see the extent of campaigning and gauge expenditure incurred there on.

In an all party meeting in March 1996 to reach a consensus on the ceiling of Poll expenditure, nothing could be decided as parties had varying perceptions on the issue. In fact, the Election commissioners kept hinting to the Government to take decisions, as the Commission was convinced that it was impossible to meet the campaigning expenditure in the amount approved so far (as reported in the media from time to time) but no decision seemed forth-coming.

*The Hindustan Times*, in its editorial commented on the naivete of reasoning

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91 Ibid.
92 *The Indian Express*, 15 April, 1996
in going into the initiative for reducing “The role of money power, to be precise black money power in elections”. While the Election Commission, it reported was in favour of raising the ceiling of poll expenses to a “realistic” level, the Supreme Court reserved its judgment on a public interest petition seeking action against political parties which were not fulfilling their statutory obligation of filing their income tax returns. Commenting on the Court’s style, the editorial wrote “as has become usual for the Supreme Court in recent times, the pronouncement of verdict would be preceded by pronouncement of judicial homilies. Thus there was a flurry of oral observations about the need to eliminate black money in elections and ensure “the purity” of poll.”

The Election Commission suggested Rs. 15 lakhs for parliamentary election and Rs. six lakhs for an Assembly Constituency. Anyone who has contested any election knew how unreasonable the limit was. Perhaps a far wiser method, the paper suggested to do away with the ceiling but make it obligatory for everyone to keep an account of the poll expenses and catch the candidate on the source of income.

“When the law is too weak to apprehend the criminal, there is no point expecting the criminal to obey a less stringent law. It is on this score that even the well-intentioned proposal for state funding of election is unrealistic,” lamented the editorial. 93

India Today in its column “comment” entitled “The case for transparency” warned that the country may be facing an anti-politician wave (The Hawala fall-out), but the legislators and parties were essential to the functioning of any democracy. And in order to fight elections, they needed money. The trap was inevitable because it were the businessmen who by and large funded elections. In return they expect a quid pro quo. This, the Fortnightly observed was at the core of the Jain racket, or any racket from questionable railway deals to Bofors to allegations of parking commission funds abroad. Illegitimate money runs politics. This was because while the law permitted political donations, industrialists were unwilling to pay by cheque. Cash from unaccounted fund in effect ran the whole show, and the recipients too remained unaccountable as they dipped into party coffers for personal expenses. 94

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94 Ibid.
95 India Today, 15 February, 1996

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could be done?” questioned the magazine “The answer it said, “is simpler than it sounds, though politically it could be a minefield: legislate to make the system completely transparent and thoroughly accountable. And this would call for some tough, no non-sense measures.”

India Today in its later issue too provided a “case study” of an urban and a rural constituency to provide a glimpse of the expenditure on contesting one seat. Here is a reflection:

Case Study

Lok Sabha Constituency (Urban):

South Delhi Lok Sabha election 1991

Table: 5.8

<table>
<thead>
<tr>
<th>Cars</th>
<th>One in each block, ten attached to candidate: 30 days cost at Rs.1,000 per day</th>
<th>09</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tempos</td>
<td>Five in each block, cost Rs.900 per day for 20 days</td>
<td>18</td>
</tr>
<tr>
<td>Meetings</td>
<td>One major public meeting with 50,000 people (include. food, vehicle. and Rs.50 for some). Ten street corner meeting per day plus three major meets during 20 day campaign</td>
<td>37</td>
</tr>
<tr>
<td>Local Office exp.</td>
<td>Two temporary officer per block for 20 days at Rs.750 per day with food and drinks</td>
<td>12</td>
</tr>
<tr>
<td>Muscle men for protection</td>
<td>At least ten required round the clock duty for 20 days @ Rs.1000 per day</td>
<td>2</td>
</tr>
<tr>
<td>Polling booth exp.</td>
<td>Nine lakh voter slips, wages for two agents per booth, for Rs.1000 booths, food for each booth.</td>
<td>20</td>
</tr>
<tr>
<td>Posters /banners</td>
<td>One lakh multicolor posters in four varieties, 15 pamphlets, 10-15000 banner and flags, press conferences, ads. in local newspapers</td>
<td>17</td>
</tr>
<tr>
<td>Liquor</td>
<td>For about ten people per slum plus party workers at</td>
<td>1</td>
</tr>
</tbody>
</table>

India Today, 31 March 1996.
an average of Rs.100 per bottle, on the eve of polls

<table>
<thead>
<tr>
<th>Miscellaneous</th>
<th>Cut-outs, donations to charitable organisations, on the spot social welfare etc.</th>
<th>9</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grand Total</td>
<td></td>
<td>125</td>
</tr>
</tbody>
</table>

Source: *India Today*, 31 March, 1996

Case Study:

Lok Sabha Constituency (Rural) Tindivanam, Chennai Lok Sabha Election - 1991

Electorate: 953,935
Panchayat Unions: 10, Wards: 69

Table: 5.9 (In Rs. Lakhs)

<table>
<thead>
<tr>
<th>Cars</th>
<th>Five cars for 18 days at Rs.1000 per day. 12 mike fitted vehicles for 10 days at Rs.1000 per day</th>
<th>2.1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Meetings</td>
<td>Three meetings per assembly seat, total 18-20; plus three major meetings addressed by leaders</td>
<td>6.2</td>
</tr>
<tr>
<td>Posters/Banners/Wall writings</td>
<td>Minimum 30,000 posters, one lakh hand bills, about 20,500 flags, 100 wall paintings @ Rs.4000 per place</td>
<td>7.1</td>
</tr>
<tr>
<td>Cut-outs with lights</td>
<td>At least hundred 20 ft. cut-outs at Rs.800 each plus 13,300 ft. cut-outs at Rs.1000 per ft.</td>
<td>4.4</td>
</tr>
<tr>
<td>Polling-both expenses</td>
<td>Rs.800 per booth for six polling agents and ten party workers per booth; bullock carts for transporting voters</td>
<td>8.0</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>Food, gifts, arches, buntings and balloons, one cycle rally per assembly area @ Rs.20,000</td>
<td>7.2</td>
</tr>
<tr>
<td>Grand Total</td>
<td></td>
<td>35.0</td>
</tr>
</tbody>
</table>

Source: *India Today*, 31 March, 1996

Money comes from all sources - big business houses, rich individual donors and lobbies. Quoting BJP party supremo Atal Bihari Vajpayee, “No one looks at the colour of money while accepting (political) donations”. *India Today* commented on the liquor, transport and tendu leaf lobbies among others filling in the coffers of various political parties. Was there no way out? Quoting Common Cause Consumer activist HD Shourie, Politicians have ignored law. But they can not take the court lightly. the magazine feels it is not a dead end. 

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67 *India Today*, 31 March 1996
For a starter, the magazine suggested, the political parties to reach a consensus on amending tax and corporate laws that would permit the donation of profits - say between 2 per cent and 5 per cent for political purposes. This would be tax deductible and payable by cheque. The same should apply to individuals wishing to make contributions and parties should be required to enact all their transactions by cheque under a regulatory mechanism monitored strictly by the Election commission. And most important the Government must set up special courts to deal speedily with cases filed under the prevention of Corruption Act. The special courts should be mandated to finish such trials within six month period.98

Sen Gupta in the *Economic Times* observed that the politicians and political parties were simply not interested in cutting down their poll spending. “Given the craftiness of our political class”, commented he, “not much may be achieved this time, but there is no getting away from the fact that a beginning has been made. Thanks largely to H. D. Shourie”.99

Going back in the history of elections in India one finds that the loopholes did not always exist. In fact it was about two and a half decade old, until the 1971 election, the expenditure incurred by the candidate and the party was clubbed together to assess whether the ceiling had been breached or not. In that poll, a Jan Sangh candidate Kanwar Lal Gupta challenged the election of the Congress candidate Amarnath Chawla, on the ground that he had exceeded the spending limit. Chawla’s election was annulled by the Court. Subsequently the Indira Gandhi Government brought about an amendment in the law. It introduced Section 77(1) of the Representation of People’s Act which drew a distinction between the candidates individual expenditure and that of the party. And that is how it has been since 1977. “People have lamented the growth of money power in elections, intellectuals have pointed out how candidates of well - heeled parties have had an unfair advantage over others and now this was inimical to the spirit of democracy. Parties have shed crocodile tears over the ascendancy of money power over values in public life, while frantically collecting funds from every conceivable source to outplay their rivals in

98 Ibid.n.99
The journalist spoke of the tradition of weighing the politicians against money. This, he wrote, was nothing but to hoodwink the authorities and those who wished to believe that such money came due to love and affection of the supporters. Such money, he wrote was nothing but the "ill gotten wealth", thus killing two birds with one stone. Similarly purses worth lakhs were "donated" to the leaders by the people. Since it was difficult to reform politician, Sen Gupta feels, the courts can help out by scrapping section 77(1) of the Representation of People's Act and club the expenditure of candidates with that of the parties. In other words it is like going back to the pre 1977 situation. This way it might be more difficult for the candidates to hide their real expenditure. There would still be ways of doing so, such as by getting deflated bills, but a glaring loophole could be made smaller, if not plugged. May be, over a period of time, the premium placed on money in election would diminish and that in turn might help "to usher in a brand of politics that is not so vulnerable to extraneous influence".

Thanks to the Supreme Court judgment, the no-nonsense attitude of the Election Commission and reinforcement of messages in the media, the 11th General Election was far more sober and lack luster, as compared with at least the last three elections since 1984. No harrowing time for citizens from blaring loud speakers, rallies and graffiti on the walls. This time around it was good old personal contact by candidates with their prospective voters. Not much expenditure was visible on printed publicity. Even the two major parties like the Congress and the BJP shied away from commissioning big advertising agencies for working out their strategies or advertising. In fact the election day passed as any other day in India with a few exceptions where incidents of both capturing or intimidation were reported in Bihar.

Seshan has bowed out of office. He has not been "dismissed" at least by the media. Opinionated articles written by various newspapers and magazines speak of the legacy left by him. Balbir Punj summed up saying "Seshan may have gone but

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\(^{100}\) Ibid.
\(^{101}\) Ibid.
**Seshanism will continue**.¹⁰²

The “good work” started by my predecessor will continue, said the current Chief Election commissioner Dr. Gill. In a programme “Focus” in Home TV, Dr. Gill when asked about electoral reforms and financing of elections by interviewer Karan Thapar, hinted about the ensuing meeting with representative of political parties and state election officers to thrash out the issue.

State funding, he said had to be carefully studied. Could our country afford? Also one had to study the parameters and how the political parties would spend the money.

On probing about his personal views on the subject, he hinted that he was more in favour of indirect funding. By this what he meant was that political parties needed funds to reach out to the electorate in this vast country, radio and television with a high reach could be considered for making time available to not only parties but candidates for discussions, deliberation by inducing other segment of the society to make a meaningful interaction. A time sharing formula, he said, could be considered. This may provide “a positive mechanism to reach out to voters”.¹⁰³

After studying the role of money in the conduct of elections, its funding by different sources, not withstanding, the issue is causing a great concern in all the three democracies under study specially USA and India among Intellectuals, Sociologists, well meaning politicians and a concerned citizenry. Democracy, a government which is supposed to be reflective of the aspirations of the common man, seems to have fallen into a trap of the glitter of big money. The reason adduced by political parties and candidates often could be that they need money to reach out to the people through various media of communication, both direct and mediated. It is a vicious circle. Whatever the real and ascribed causes, the problem has become *Frankenstinien*. The media in democratic countries can be credited for keep the issue alive. The job of the media is to focus on issues concerning the society, it however will depend on the political will to make amends so that democracy which is supposed to be “for” the

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¹⁰² Interview with Mr. Balbir Punj, Executive Editor with *Business and Political Observer* was held on 16 December, 1996.

¹⁰³ Interview with Dr. M.S.Gill, CEC was held in a programme entitled “Focus” in Home TV on 30 December, 1996. Home TV is the satellite channel of the largest circulated newspaper in the Capital viz. The Hindustan Times.
people does not become “far” off the people.

The regulation of money power and the extent of funding of different sources is a very relative issue. Democratic societies need to decide keeping in view various socio-economic factors. William Kimberling, in response to a question, put it succinctly: “Sometimes countries get themselves into trouble because they borrow an idea from country A and another from country B and another from country C, and discover that they don’t fit together. The system must be designed for those who are going to have to live with it, and democracies are different from each other.... They are like clothes: their resemblance is close, but they have to be tailored to fit”.104

And how true! Media they say mirror the society and it is hoped the issue which is hanging fire for a long time will find solution, thus strengthening democracy.

104 The views were expressed by William Kimberling, of the Federal Election Commission, in an interview with him in Washington on 27 November, 1996.