

# EVA STALIN IAS ACADEMY

12/24, Muthuranga Mudali St, next to Deepam Hospital,  
West Tambaram-600045

## India's voters deserve a bond — of probity

**T**here are a few basic tenets of good laws and public policies: lack of ambiguity, enforceability, predictability, and accountability. All laws and policies are framed with the purpose of addressing a public issue with a view to improving the situation from when the problem was identified. Therefore, the outcome should be evaluated keeping in mind the objectives behind that law or policy.

In this framework, let us look at the genesis, design, and demise of the Electoral Bond Scheme (EBS).

### A 'clean' channel

In paragraph 143 of his Budget Speech 2017-18, the then Finance Minister stated that the objective of his government was "to eliminate black money".

And there was a problem statement (in paragraphs 164 and 165.): "Even 70 years after Independence, the country has not been able to evolve a transparent method of funding political parties which is vital to the system of free and fair elections. An attempt was made in the past by amending the provisions of the Representation of Peoples Act, the Companies Act and the Income Tax Act to incentivise donations by individuals, partnership firms, HUFs and companies to political parties... The situation has only marginally improved since these provisions were brought into force. Political parties continue to receive most of their funds through anonymous donations which are shown in cash.... An effort, therefore, requires to be made to cleanse the system of political funding in India."

The cause for the problem was stated to be donors' "reluctance in donating by cheque or other transparent methods as it would disclose their identity and entail adverse consequences".

As a solution, the Finance Minister proposed a reform, the EBS, which "will bring about greater transparency and accountability in political funding, while preventing future generation of black money". The outcome, he expected, was that this approach "will change the colour of money".

There can be no gainsaying that political parties – the "essential ingredient of a multi-party Parliamentary democracy" – were surviving on contributions less than ₹20,000 each that did not require a disclosure of the identity of the contributors. This was how black money was allegedly finding its way to the accounts of political parties that enjoyed income-tax exemption. The fact that crores of rupees were spent during elections before and after the EBS is a separate and serious malaise that no law has been able to cure. The EBS too has not succeeded in this despite its stated objective. Thus, while political parties have been enriched through the EBS, money used in election campaigns may have still not changed colour.

There is no doubt that the EBS created a 'clean' channel for funds to flow from the donor's bank account to the political party's bank



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account. The questionable presumption is that since funds used to purchase the bond are drawn from an account in a designated bank, the source of those funds is also 'clean'. The Supreme Court observed that a similar channel existed, and still does, in the form of the Electoral Trusts, which is more transparent.

The information that the State Bank of India has disclosed so far shows that many purchasers bought bonds that seem to be disproportionate to their business income. There are obvious questions about the legitimacy of the sources of the funds being used for the purchase. It cannot be said with certainty that the funds that reached the designated account of the political parties were of the same "colour". There were no safeguards to protect the so-called clean channel from being contaminated.

Defenders of the EBS have argued that if there are doubts about the sources of the funds used to purchase the bonds, this would be easy to investigate. The question is who will conduct the investigation? Will it not be the same agencies that are accused of directing donations to the party in power, be it in a State or at the centre? Therein lies the rub.

However, the real twist in the tale is that according to Section 7(4) of The Electoral Bond Scheme, 2018, the information furnished by the buyer "shall be treated confidential by the authorised bank and shall not be disclosed to any authority for any purposes, except when demanded by a competent court or upon registration of criminal case by any law enforcement agency". It is being said by the 'designers' of the EBS that the bank could not have legally kept any record of the secret number on the bond issued to the purchaser (in keeping with the provision of anonymity enshrined in the EBS). If this is the case, it would be almost impossible to establish any link between purchaser and recipient.

This would mean that, as in the real life example of dispensing currency notes to a bank customer/the common man, the SBI does not have any record of the person who purchased a specific bond. The alphanumeric number in the bond was only embedded to verify the authenticity of the bond and thus meet the audit requirement. The bond was akin to currency – and this is why the Reserve Bank of India (RBI) raised objections in the beginning, which led to the amendment in the RBI Act.

That raises a few important questions.

### Pertinent questions

Will this limited information with the SBI, when disclosed to an enforcement agency, reveal the identity of the purchaser but limit the scope of the investigations only to the sources of funds? Does this not rule out the possibility of providing the donor-political party link, thereby eliminating the clue that would be vital to probe allegations of a quid pro quo? Does it mean that the EBS created fiction – of the enforceability of the law

and the accountability of the bank towards the court and the law enforcement agency? But finally, does not the 'confidentiality clause' apply to "information submitted by the purchaser", which was to be kept "undisclosed till asked for"? How could it mean not maintaining a record in order to fulfil its obligation to enforce the law of the land? If the SBI did not maintain any record, on what basis did it ask for time to collate information on the bonds that would link both the parties? Indeed, on what basis did the Supreme Court observe in April 2019 that the information is not behind "iron curtains incapable of being pierced"?

The SBI's affidavit on March 21 will make it clear whether the law was deficient or illusory in its design or that full disclosure was being dodged.

The Court mandated disclosures mean that there could now be wild allegations of corruption with the possibility of endless investigations under Prevention of Corruption Act, and for the tax authorities also to investigate the sources of funds used in buying the bonds. Thus, those who contributed to the ruling party face allegations of quid pro quo. And those who have not could face the "adverse consequences" the scheme was designed to avoid. If political parties cannot disclose the names of all those who contributed, they create an uneven playing field for donors after their donations helped in creating a permanent non-level playing field among recipients.

This appears to be the opposite of a win-win situation, with the political parties having the last laugh. No wonder, the road to hell is often paved with good intentions.

### It is for Parliament to work it out

Many proponents of the EBS have criticised the Court for not suggesting a 'less worse' method of political funding and dragging political parties to the "dark alleys" of black money. I do not think it was/is for the courts to decide the future course because Parliament has the mandate to find a solution and has 'superior' wisdom in making laws (as was seen in the case of the appointments of the Election Commissioners). A reasonable way forward can only be found through a well-meaning consultative process and not through court fiat, or laws and policies crafted in secret to deal with complex and vexed problems.

Where are we headed with a public debate where the gravity of an offence is sought to be determined by per capita crime? Why are political parties not determined to accept clean money, and not funds that are "furtively slipped under the door"? Will political parties keep holding up the mirror to each other and leave people blinded? People crave for political parties with a difference but not those so different that they look alike. How long can we accept the specious explanation that people get the government that they deserve? I think voters deserve better. They deserve a bond of probity.

Political parties need to ask themselves why they are not determined to accept clean money

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## *Eliminating diseases, one region at a time*

The Carter Center, a leader in the global elimination and eradication of diseases, recently reported that guinea worm disease was close to eradication. From 3.5 million cases a year in 21 countries in 1986, the number had come down to 13 in five countries in 2023, a reduction of 99.99%. This would be the second disease after smallpox to be eradicated and the first one with no known medicines or vaccines. This has created increased attention to disease elimination, the first step in eradication. Ending the epidemics of malaria, tuberculosis and Neglected Tropical Diseases by 2030 is one of the Sustainable Development Goals set by the United Nations.

### **On disease elimination, its focus**

Elimination of transmission, which targets achieving zero transmission in a defined region, is different from eradication, which is the permanent cessation of infection by a pathogen with no risk of reintroduction. It is a highly desirable objective to enhance the health of the people, especially the poor who are most vulnerable to infectious diseases. There are many reasons to recommend disease elimination as a public health strategy. As a national goal it energises the public health system.

The requirements for certification by international agencies are rigorous and preparing for it improves primary health care, diagnostics and surveillance. It will lead to increased involvement of field staff and community health workers, enthused by the clearly defined goal, and attract international support. Above all, it generates high political and bureaucratic commitment, and public support. These efforts positively impact the health system.

But, elimination of transmission is challenging and resource intensive. It imposes an onerous load on the system and could lead to the neglect of other important health functions, especially



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Multisectoral collaboration, encouraging innovation and adopting locally effective solutions which facilitate disease elimination, is more effective at the regional level

for weak health systems. Therefore, disease elimination should be planned only after careful analysis of the costs and benefits and with informed political support to generate the best outcomes with the least adverse impact.

While elimination is scientifically feasible for all the diseases targeted by India, it will be strategic to focus on those pathogens whose impact on the population is high and whose numbers are low enough to make elimination feasible. If the prevalence of a disease in a population is high, at the first stage, the aim should be to reduce their numbers to the level where elimination is practical, through disease control. This will enable an understanding of the processes and cost of elimination and provide an opportunity to strengthen the existing health systems to handle the rigour of implementing elimination.

### **Need for surveillance systems**

The government must be prepared to invest in developing surveillance systems capable of capturing every incidence of the disease, strengthening laboratories for screening and confirmation, ensuring that medicines and consumables are available, and training the workforce on the rigorous requirements of an elimination strategy. Even after elimination is achieved, surveillance has to be continued to detect reintroduction as the pathogen would not have been eradicated.

From this point of view, elimination of many of the diseases targeted by the country may be difficult to achieve for the entire nation within the declared time frame. But they are achievable for some diseases in some parts of the country. For instance, kala azar is now limited to five States in India, primarily prevalent in a few blocks in two States.

India accounts for 40% of the global case load of lymphatic filariasis, which was targeted for

elimination by the World Health Assembly in a resolution in 1997. It is prevalent only in a few States and can be eliminated by a combination of surveillance, vector control, drug administration and morbidity management.

On the other hand, pathogens of some targeted diseases have long incubation periods. They are prevalent in high numbers in many parts of the country, and have developed drug resistance. For them, the strategy of elimination needs to be reworked into a localised and phased one. The diseases that can be eliminated easily in defined geographical regions – States, districts, blocks – can be targeted for elimination within those regions.

After regional certification, such areas can be ring-fenced with better control in the adjoining areas which can then move to elimination, when they are assessed to be ready.

### **From the regional level**

Multisectoral collaboration, encouraging innovation and adopting locally effective solutions which facilitate disease elimination, is done more effectively at the regional level. Smaller units can also redeploy resources to better manage the additional load without affecting other essential tasks. While elimination can proceed region wise, national and State governments should own the process. The phasing of regional elimination to culminate at the national level has to be planned from the perspective of the entire country. Regional implementation needs technical and material support and the progress of regional elimination has to be monitored. Similarly, only the Union government can deal with the spread of diseases across States and at the ports of entry, to control reintroduction. In India, national elimination can be achieved most effectively, by starting with elimination and scaling it up, region by region, across the country.