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Electoral bonds, the State Bank and the art of evasion

In a landmark judgment on February 15, 2024, a five-judge Bench of the Supreme Court of India declared the electoral bond scheme unconstitutional. This was a scheme which opened the floodgates of unlimited anonymous funding of political parties and consolidated the role of big money in the Indian political system.

Directive and response

To give "logical and complete effect" to its ruling, the top court put a stop to the issuance of electoral bonds, and gave the State Bank of India, or the SBI (the bank that was authorised to issue and encash the bonds), 21 days to disclose two sets of information to the Election Commission of India (ECI) to put up on its website. The first was details of the electoral bonds purchased since April 12, 2019, which would "include the date of purchase of each Electoral Bond, the name of the purchaser of the bond and the denomination of the Electoral Bond purchased". The second was on details of electoral bonds redeemed by political parties for the same time frame. The Court ruled: "SBI must disclose details of each Electoral Bond encashed by political parties which shall include the date of encashment and the denomination of the Electoral Bond".

Just two days before the expiry of the deadline laid down by the Court, the SBI filed an affidavit recording its inability to decode, compare and disclose the requisite data in the prescribed time period. The bank claimed that to protect donors' anonymity, details of purchase of bonds and of redemption were decoupled and stored in separate silos, and there was no central database. Further, it stated that some details such as the number of bonds were stored digitally, while others, such as the name of purchaser and KYC details, were stored physically. In order to



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The voter needs to know the sources of financial contributions to parties well before she casts her vote in the general election

provide donor information, the date of issue of each bond would have to be checked and matched against the date of purchase by a particular donor. This information would then have to be matched against the bond redemption information – which makes up the second silo. According to the SBI, to re-match them would be a task requiring a significant amount of effort. Therefore, it sought an additional four months to comply with the Court's directions to submit the information.

The bank's affidavit

The absurdity of the SBI's request is best appreciated by examining the submissions made by the bank in its affidavit.

The affidavit states that since April 2019, a total of 22,217 electoral bonds were used to make donations to various political parties. Donor details were kept in a sealed cover at the designated branches of the SBI where the bonds could be transacted, and all such sealed covers were deposited in the main branch of the SBI in Mumbai. Further, at the time of redemption by political parties, the original bonds and the pay-in slips were stored in a sealed cover and also sent to the Mumbai branch.

Thus, it can be noted that the names of all purchasers of electoral bonds and the details of encashment of all bonds, including the name of the political party redeeming the bond, date and denomination of bond encashed are readily available at a single location, albeit in sealed covers. Further, since the date of issue and denomination of all electoral bonds are digitally recorded, this would also be accessible at the SBI's main branch in Mumbai. Surely, opening the sealed covers and matching the information would not be a herculean task!

The claim of the SBI, the largest public sector

bank in India, which serves 50 crore customers, that it needs four months to match purchaser and redeemer information for 22,217 electoral bonds is baffling.

It is not surprising, therefore, that the SBI's non-compliance with the directions of the Supreme Court is fuelling public suspicion that the bank is attempting to evade revealing donor identities before the general election 2024 is held.

The centrality of the voter's right to know

In its judgment, the Court held that the voter's right to information includes the right to know financial contributions to a political party because of its influence on electoral politics and on governmental decisions. The Court noted that contributions made by companies are purely business transactions made with the intent of securing benefits in return. That 94% of the electoral bonds, in value terms, were of the denomination of ₹1 crore is an indication of the quantum of corporate funding. The Court ruled that information about sources of political party funding would enable voters to assess if there is a correlation between policy making and financial contributions, and empower people to track quid pro quo.

Once again, it is up to the Supreme Court to call out the SBI's delaying tactics and uphold the voter's constitutional right to know under Article 19(1)a. It needs to ensure that the timelines defined in the judgment for disclosing details of electoral bonds are adhered to, and voters are armed with this crucial information when they cast their vote in the general election. The Bench that was led by the Chief Justice of India had noted in its judgment that "information about funding to a political party is essential for a voter to exercise their freedom to vote in an effective manner."

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France's exceptional women, their imprint on diplomacy

March 4, 2024 will be a day to remember. It marks the inscription in the French Constitution, of the "freedom of women to voluntarily terminate a pregnancy", making France the first country in the world to enshrine it as a constitutional right, 49 years after abortion became legal. At a moment when women's rights are under threat in many regions of the world, this decision also sends out a universal message of solidarity to women across the globe.

Groundbreaking work

To understand the history of women's rights in France, particularly the right to bodily autonomy, one has to go back to the year 1949 when French feminist icon Simone de Beauvoir published *The Second Sex*.

In the second volume of this very long book, which opens with the infamous statement-turned-feminist motto, "One is not born, but rather becomes, a woman", Beauvoir dedicates an entire section to abortion in the chapter on motherhood. In this groundbreaking philosophical work, where she marries feminist thoughts with existential theories, the writer lays the theoretical groundwork for pro-choice advocacy. While challenging the reductionist image of a woman as a mother and caretaker, she champions women's right to the freedom of choice, which is essential to existentialism. According to her, "if a woman is to take charge of her biological destiny, if she is to give life on her terms, then she needs, in addition to contraception, a free, safe and legal abortion service available to her."

She strongly criticises the hypocrisy of her times where innumerable women resort to abortion, yet have to do it clandestinely. Though abortion was largely practised during Beauvoir's times, a woman could be sentenced to up to five years of imprisonment. The absence of the right to abortion is part of the larger institutional oppression against women, which results from patriarchy. She states, "Free, safe and legal abortion should be available to every woman. The alternative to a legal abortion is a backstreet abortion, which often has dire consequences for women, such as haemorrhaging, septicaemia, and death itself". Her statement recalls the poignant autobiographical account by Nobel



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There is great potential for France and India to further women's rights across the world

Prize winner for Literature Annie Ernaux in *L'Événement* where she narrates the story of her illegal abortion back in 1963.

When *The Second Sex* was published in 1949, the text was an immediate success and translated into dozens of languages across the world, paving the way for the legalisation of abortion in France. In line with her philosophical beliefs, Beauvoir was living in an open relationship with French philosopher Jean-Paul Sartre, whom she never married nor had children with. Consequently, she was subjected to criticisms for her disruptive ideas and way of life.

A powerful petition

In 1971, Beauvoir penned the "Manifesto of the 343", signed by 343 eminent women who opened up to publicly claim that they had had an abortion. The petition, published in the French social democratic magazine *Le Nouvel Observateur*, starts with this powerful statement, "One million women in France have abortions every year. Condemned to secrecy, they do so in dangerous conditions, while under medical supervision, this is one of the simplest procedures. Society is silencing these millions of women. I declare that I am one of them. I declare that I have had an abortion. Just as we demand free access to contraception, we demand the freedom to have an abortion." This act of civil disobedience, laying bare the hypocrisy of a system while exposing themselves to potential prosecution, was instrumental in the adoption of the Veil law four years later, which decriminalised abortion for French women. It was named after the then Health Minister and women's rights icon Simone Veil.

The Second Sex remains, until today, a foundational book for modern feminism. It was first translated into Hindi in 1991, by Indian feminist and novelist, Prabha Khaitan, as *Stree Upekshita*, which translates literally as "The Neglecting of Women". Well-versed in western and Indian philosophy, Khaitan had written extensively on existentialism. Nevertheless, there were several omissions and simplifications in the translation.

This is the reason why national award winning Hindi publisher Vani Prakashan decided to commission a new translation in 2022, with

Monica Singh translating it directly from French. The first of the two volumes was recently released last month during the New Delhi World Book Fair, giving Hindi readers full and faithful access to the text.

This speaks of the long-lasting influence of Beauvoir and the esteem with which she is held by feminists worldwide. The fact that abortion has now become a fundamental right, enshrined in the French Constitution, owes much to Beauvoir.

This historic decision is also an occasion to remember another iconic champion of women's rights in Europe, Simone Veil, the revered French politician who survived the Nazi death camp at Auschwitz. She defied institutional sexism to push through the law legalising abortion in France in 1975 when she was Minister of Public Health, and became the first female leader of the European Parliament. Laid to rest at the Pantheon, she is among the eminent figures who still inspires all those who fight for women's rights all over the world. We hope that Simone Veil and Simone de Beauvoir feel proud of how France has carried forward their legacy.

A feminist foreign policy

The heritage of these exceptional women is reflected today in our work as diplomats: France champions a feminist foreign policy, with a dedicated strategy that seeks to mainstream the promotion of gender equality and the rights of women and girls in all its bilateral undertakings, development assistance, and advocacy in multilateral bodies. In 2021, France co-chaired the Generation Equality Forum, which was the most important international feminist event since the Beijing World Conference on Women in 1995, in partnership with civil society and young people.

India has historically made strong international commitments in favour of women's rights, including efforts to implement Sustainable Development Goal 5 (Gender equality), joining the 2019 Biarritz Partnership for Gender Equality, and, recently, gaining membership in the United Nations Commission on the Status of Women. I believe there is strong potential for France and India to do more together to further women's rights around the world.