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The Puzzling Co-Existence of Electoral Democracy and Illegal Campaign Financing in India

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Abstract

Free and fair elections and legal campaign funding are the sine qua non of a functioning democracy. The co-existence of a vibrant, resilient democracy and illegal campaign financing in India is puzzling. Based on the case of India, we provide a general explanation for the coincidence of these two normatively discordant elements. We draw on Niklas Luhmann's concept of 'useful illegality' to show how material incentives might actually have contributed to the enhancement of participation in general elections. James Coleman's principal-agent theory helps us show how the principal (the electorate) selects candidates as agents when they are convinced of their capacity to deliver the benefits they expect. We combine these ideas to cast electoral choice as a rational process whereby candidates and voters are able to communicate, and rationally transact the game of popular elections. Thus, what might come across as illegal campaign and party financing from a normative perspective, is not just a deviance from normative and legal rules. It might actually have been functional for initiating and subsequently, sustaining a vibrant democracy in a post-colonial state that began its electoral journey with great social inequality, poverty and illiteracy.

Keywords

Illegal campaign financing, Luhmann, Coleman, India

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Illegal campaign and party financing are a concomitant of many democracies. In many Latin American countries (Casas-Zamora & Zovato, 2015), in Western Europe and North America (Gunlicks, 2019) as well as in South Asia (Ufen, 2017) or Africa (Sigman, 2015), vote buying and electoral corruption are not exceptional, but more or less a common pattern in dealing with political finances. This allows the assumption that the costs of running a democracy exceed legal limits. Candidates and parties are always in need of more money. One common legislative response to the apparent increase in the costs of politics, and to complaints about plutocratic party finance, is to introduce or to boost public subsidies for political parties and/or candidates (Alexander, 2019; Scarrow 2007, p. 203). However, even in state funded systems of political finances, the available money for running an election is rarely enough. That is why the use of black money in politics is so common. The question is, whether this use of illegal means is a threat to democracies or partly useful to keep the democratic game running.

From a moral point of view, the answers to this question appear to be clear and obvious. The use of black money seems to be an evil distortion of free, fair, and equal elections. However, from a scientific perspective, one needs to analyze the functions black money and vote buying in a democracy. This is not to justify illegal campaign and party financing but to understand how it works and what their consequences are for democracies. Does it really destroy democracies? The purpose of this article is to provide answers to this question by investigating the case of India.

India is not a peripheral case. It is a large country, considered to be the biggest democracy of the world, with an open political system. The article elaborates different perspectives on the case of illegal campaign and party financing in India, drawing on sociological grand theory in order to conceptualize democracy and the functions of illegal campaign and party financing. Our aim is to explore the question whether illegal campaign and party financing is harmful for democracies or whether it is useful from different theoretical angles. The article contributes to this question by introducing two classical theoretical sociological perspectives.

Instead of attributing the deviance to India's alterity, we treat India's political finances as a specific case of a general phenomenon, in order to determine which findings can be generalized and what the peculiarities of the case are. We seek to provide, on the one hand a distinction of normative, functional, and legal dimensions of illegal campaign and party financing, and on the other hand, categorize the explanations of why illegal campaign and party financing is a concomitant of democracies. We discuss the lessons learned and end with some conclusions concerning the further development of democratic useful illegality.

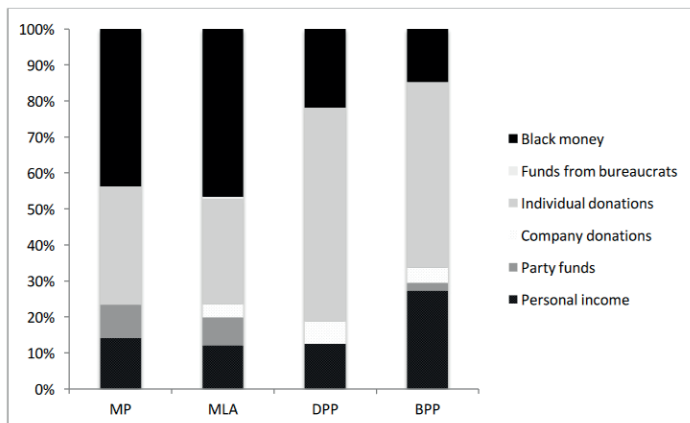
The Problem Stated: Illegal Campaign Financing in India

Alone among large post-colonial states, India has been able to sustain an electoral democracy over the past seventy years since independence from British colonial rule in 1947 and general elections with universal adult franchise began in 1951-52. Although many scandals emerged during the last two decades, Indian democracy appears to be remarkably stable. Strict regulations of political finances in India have made part of electoral donations illegal. However, the need for money in order to attract the attention of the voters is rising. Over thirty-one national and regional parties, 2044 registered unrecognized parties and more than 8,000 candidates contested for the 543 Lok Sabha (lower house) seats in the 2014 parliamentary elections in India. Campaign finances are critical and crucial resources to win a seat.

Besides being the world's largest, India is also perhaps the most expensive as far as the cost of electoral competition is concerned. It has been estimated that the parties and candidates spent around \$2 billion in the 2009 general election and the sums involved in 2014 were to the tune of \$5 billion (Sheth, 2009; Gottipati & Singh, 2014). The sums are estimated to have been twice as much in the election of 2019.¹ Political parties in India generally do not have strong, bureaucratic organizations, nor do they have their own sources of income from membership dues like many European political parties. Come election: parties scramble for cash, workers, and managers to run their campaigns. Some candidates give strategic gifts to motivate voters though explicit bribery is prohibited under electoral laws. We learn from a number of studies that in India there is little transparency about where the vast sums of money come from, nor how this money is spent (see table 1). A candidate can spend up to roughly one million Euro (Rs.70 lakh) depending on the federal state where they are contesting the lower house election. Expenditure limit in the Assembly Elections is 360,010 Euro (Rs. 28 lakh) in bigger states of India. However, this is only half of the story. The sums spent are usually in excess of the legal limits – sometimes by a factor of 50 or more (Sharma, 2019). In order to allocate such vast sums of money politicians “wind up surrounding themselves with relatives and well-connected private businesspeople” (Sharma, 2019).

¹ For comparative purposes, it has been pointed out that the combined 2015-16 United States presidential and congressional elections involved \$11.1 billion (U.S. Federal Election Commission 4/19/2013).

Table 1. Sources of campaign financing in selected Indian States



Perceived Most Common Source of Funding for Peer Politicians. MP = Member of Parliament, MLA = Member of the Legislative Assembly, DPP = District Panchayat President; BPP = Block Panchayat President. Source: Jennifer Bussel (2018).

Voters, for their part, know that there are hardly any untainted candidates. Rarely does an incumbent serve out a term without facing corruption charges. A large share of the money comes directly from the candidates themselves. They are usually wealthy entrepreneurs or sponsored by them. Studies show that in India, the wealthier the candidate, the more likely he or she is to win an election. In addition, the politics ‘business’ is hugely profitable. By winning an office, legislators are able to get great returns on their investments: As a study by Fisman, Schulz and Wig (2014) shows that their “winner’s premium” is around 4 to 10% depending on the prevalence of corruption in the respective Indian states. A different study shows that on average their wealth increases by 222% during one term in office alone. An investment into a costly election campaign soon turns out to be an investment in the contestant’s own career.

However, that is not all. Many of these candidates (24% in 2014) have a criminal record or face charges not just for politically motivated but also for crimes like attempted murder, assault or theft. In addition, they are even more likely to win than candidates with a clean record or no pending cases. This might be attributed to a form of ‘Robin Hood’ aura of the candidate (Biswas, 2017) who steps in when the government fails to do its job.

This institutional weakness in confronting political corruption has led to a pattern where ‘tainted money’ – contributions of possibly illegal provenance - for campaign financing is seen as natural as legal donations are. Although as regards the dark side of the elections where only speculative estimations are available, there is no doubt that ‘black money’ (unaccounted for cash) plays a major role in Indian elections. In a study done by Jennifer Bussell (2018), based on collected data between 2011 and 2014 from surveys of more than 2,500 incumbent politicians, most politicians understand black money to be the most important source of funds. It is not just the top echelon of elections like those to the national parliament or legislatures of the federal states, or the wealthiest of Indian financiers who are involved. The same cycle of cash → elections → cash is repeated ad nauseam at all levels of the electoral pyramid of India (Kapur & Vaishnav, 2018). One study pegged it at 44% in parliamentary elections and 47 % in elections to the regional assemblies, going down progressively to the lowest elections – at the village level (Bussel, 2018).²

The co-existence of a vibrant, resilient democracy and corrupt practices points towards useful illegality of means of campaign financing at the organizational level of political parties, and norms of good governance. The Election Commission of India and the Supreme Court,

² There is a possible selection bias in this study because the data are derived from three Indian States, considered to be high in illegal cash transactions in electoral politics. As such, when extended to the national level, the findings might be an over-estimate (Bussel, 2018).

both of which are politically independent, have stepped in to monitor the electoral process. Their effective intervention contributes to the running of elections on the lines of a free and fair competition. However, in the long run, their intervention needs to be institutionalized through effective, binding and transparent legislation. Only then can electoral democracy deliver on the promise of transparency. No regulation can be effective without self-regulation. That itself is part of a bigger dilemma. Election Commissions and Judiciary can arbitrate and adjudicate but legislation can only be done by legislators. With the amount of criminality and involvement in illegal deals that underpin electoral success, can we really expect poachers to become gamekeepers?

There are no recorded cases of public rejection of top leaders in India. Rajiv Gandhi, who was alleged to have received kickbacks from the Swedish armament company Bofors, or more recently, the Manmohan Singh government, embroiled in controversies about illegal allocation of coal blocs were not publicly sanctioned. Indians appear tolerant in the construction of illegality.

Not surprisingly, measures intended to regulate illegal practices quickly get embroiled in public controversy. For example, to obviate illegal financing of election campaigns, the government of India introduced the method of 'election bonds' in 2018. Electoral bonds are a vehicle through which associations, corporations, and individuals can donate funds legally and transparently to a political party of their choosing via the formal banking system. A report issued by the Centre for Media Studies (CMS) estimates that total election expenditures doubled from 2014 to 2019, with the BJP accounting for around 45% of all election spending (Association for Democratic Reform, 2019).

The disquiet over illegal campaign and party financing cuts at the root of legitimacy and trust in politicians. A public opinion survey in India (Mitra, 2017) found that trust in politicians was much lower than trust in the judiciary and the Election Commission. Even civil servants ranked higher. This might potentially be damaging to democracy. Civil servants can administer, just as the judiciary can arbitrate, but elected political leaders alone can legislate, and set new, binding norms for regulation and compliance.

This gets into three normative dilemmas:

1. The *democrat's dilemma*: Democracy has moved beyond Athens where a few selected men could legislate on problems of the city-state in a public assembly. Modern elections, acting on universal adult franchise, involving huge electorates are enormously elaborate and expensive affairs. State funding to political parties might leave out small parties, and groups that are not yet recognized as parties. Most important of all, being based on voting in the previous election, it does not take into account the shift in public opinion and is thus biased towards the status quo. Leaving all funding to membership alone is not practical for a country like India where the culture and tradition of political parties are young; membership, other than those of parties of the left and right is irregular and not given to paying membership dues. That leaves voluntary contributions as the only legitimate and practical source. Does this corrupt the voting mechanism of a democracy? Once elected, how do these unequal contributions extract a quid pro quo, and influence legislation and administrative action?
2. The *regulator's dilemma*: In order to change the constitution or the forms of campaign financing, one needs majorities in parliament. Those who have benefited from the system will show little inclination to change it to their potential disadvantage. It is like

putting the fox in charge of the henhouse. Who bites the hand that feeds? This problem of self-regulation of regulators is a classic one.

3. The democrat's dilemma and regulator's dilemma join one another in the *state's dilemma*. In modern liberal democracies, elected leaders alone are authorized to exercise authority of the state. However, if the election of these leaders is based on practices that are not legal and voters consider the capacity of candidates to 'deliver' as more important than their commitment to the laws of the land, how can the state function in a manner that is legal, legitimate, just and proper?

Empirical research on illegal campaign financing assumes the existence of a 'democratic mindset' where both candidates and voters are guided by 'norms of propriety'.³ With regard to the regulator's dilemma, parallels are drawn to the prisoner's dilemma, where, in the end, everyone is worse-off. The solution to such problems, from a game theoretical perspective, is found in Axelrod's account of the evolution of cooperation among egoists (1984). A solution to the regulator's dilemma is possible when the players become aware of the cost of indecision (knowledge), regular interaction that makes communication possible (proximity), reciprocity, i.e. tit-for-tat (quick action and counter-action by players) and the threat of durable misery for all concerned. This can help alleviate accountability and compliance. The Indian constitution has moved in this direction by incorporating a set of 'citizen duties' (article 51A of the constitution). The parliament has continuously passed binding legislation such as the Representation of the People Act, and empowered the Election Commission and the judiciary, both of which are independent bodies, which enjoy high trust among the citizens of India to act as

³ An example of this cultural resource to hinder illegal campaign financing can be seen in the Indian media, active civil society and the over-active Judiciary, acting in the name of Public Interest Litigation, have increasingly emerged as defenders of democratic rights and propriety.

regulators and watchdog institutions (Mitra, 2017). However, illegal party financing has not come to a halt yet which suggests a need for a different perspective.

Two Sociological Perspectives on Illegal Campaign Financing

Taking up the perspective of the three dilemmas, we would like to explore them further by using two different theoretical approaches. These approaches are quite common in sociology but are rarely applied to the issue of illegal campaign financing.

(1) Luhmann's approach received some theoretical attention (Weiß, 2016), but without using it as a heuristic method to analyze the topic of illegal campaign and party financing. By referring to Luhmann's perspective, we like to highlight the distinction between the normative self-description of the state, and the functional prerequisites of the electoral system in order to understand democracy. Based on these prerequisites, illegal campaign and party financing is not just a deviance from normative and legal rules, but partly functional for running a vibrant democracy.

(2) James Coleman's perspective is based on an analytical model of Rational Choice-Theory. While rational choice assumptions— at least since the works of Anthony Downs (1957) – are very common in political sciences (McGann, 2016; Stevens, 2018), Coleman's theory is not. By introducing his frame of principal-agent theory to understand democracy, vote-buying, and illegal campaign and party financing, we like to stress on the fact, that part of the illegal financing is in favor of the principal, i.e. the voters, the constituency. This adds to the argument of 'democratic useful illegality' from a different theoretical angle.

The Democrat's Dilemma or Democracy as Usual? The Luhmann Approach

Luhmann's theory takes a societal stand, whereby he sees society as communication based and differentiated into functional systems. The political system is one of these systems, and democracy is understood as just one of several forms of organization of the political

system (Buchstein, 2016, p. 22f.). The function of the political system is to ensure that collectively binding and publicly accepted decisions are made within political organizations. According to his perspective, the political system is based on a form of decision-making that binds collectively by executing power. Power is a communication medium that serves to enforce priorities by introducing sanctions – alternatives that one would rather avoid. The control over the use of power in the political system is ensured by the formal occupation of offices.

(1) Luhmann's approach is a power based one that can be traced back to the Italian social theory of Machiavelli, Pareto, and Mosca, albeit introducing a completely different frame of analysis. His understanding of democracy includes the division of the top of the differentiated political system into government and opposition. All political communication in a democracy is coded to benefit either the government or the opposition. In addition, the government can pick up ideas from the opposition. The legitimacy of political power emerges through the procedures prescribed by the code government / opposition. According to Luhmann, lack of opposition is synonymous with lack of democracy and therefore the prevalence of dictatorship. Against this background, democracy is seen as a structure to regulate the power struggle and occupation of public offices. Its historical advantages have been to allow a non-violent change of public office and to codify the superiority of powers and peaceful ways to exchange it.

(2) As other functional systems, the political system is inclusive. The formal inclusion of the population is recognized as democracy in modern politics. The organization of elections – even in populous countries such as India – is evidence that democracy is realized. Although in India, many citizens are unable to read and write they can make their choice with

corresponding images and symbols. This lack of prerequisites to vote or to run for office facilitates the global spread of the democratic system.

Democracy legitimizes itself by this formal procedure. If they are not satisfied, the voters can “throw the rascals out.” All votes carry the same weight – this became a formal principle of equality, sustainable even in the case of severe social inequality. Once established, democracy leaves hierarchical social status systems intact and leaves it to voters and to the elected government to influence the social inequality pattern of a given nation state. Democracy itself is indifferent even to severe kinds of social inequality as long as formal equality in voting and election is guaranteed. According to Luhmann, the political system emerged as an autonomous sphere of society and does not mirror any more the stratification and status order of the society (Luhmann, 2000, p. 214). Candidates from lower strata of the society can be elected as well; and people from the highest strata of the society may not even be represented in the government or opposition. According to Luhmann’s observations, society is not dominantly structured by classes anymore, but by autonomous functional subsystems like politics, law, economy etc., inclusive to the population.

(3) According to Luhmann's approach, "democracy" is also part of political semantics and at the same time frames a normative requirement for all entities that want to appear as states and gain recognition (Luhmann, 2000, p. 96f.). Democracy represents on the one hand a normative self-description of modern states and is on the other hand a formal mechanism that offers opportunities to exercise power and exchange governments in a peaceful way. While the mode of self-description is a normative one, the power mechanism of democracy is not.

(4) The subsequent question is, if illegal campaign financing is a challenge to the normative self-description of the modern state, is it as well a distortion or elimination of its formal mechanism to regulate the power struggle inside a nation state?

In normative terms, illegal campaign and party financing undermine the concept of free, fair, and equal elections. That is why the Indian state, like many others, creates regulations to control the flow of money to the candidates. Although these regulations are not very effective, they legitimize the state as a democratic one and hold up its democratic legitimation. But is the power mechanism eliminated or substantially distorted by the flow of black money into the election system? Or is it just part of the larger democratic game?

This question again is not easy to tackle. According to Luhmann, the voters are merely an audience whose votes are to be won. How and in which way this happens is contingent. Programs, ideas, values are just means to reach the audience and as such exchangeable. How the voters choose is up to them. Therefore, everything revolves around the management of candidates' perception by the electorate. The means to this end are free of choice as long as no votes are bought directly or voters are forced to vote for a particular person with violence or direct physical threat. If that were the case, we would say that the election is corrupted, or the freedom of choice is eliminated. But if the audience is particularly impressed by money, material incentives, the wealth of the candidates, their criminal energy or demonstrative ruthlessness, this is not a fundamental problem for a democracy. That is, because it translates precisely the impressiveness of the public and the interests of the voters into parliamentary seats, political party shares, and executive power.

(5) When we talk about political organizations of parties and candidates, in order to win elections and access to public offices, Luhmann's early work (1964) on formal organizations is particularly relevant. If organizations want to function, they must be able to rely on

useful deviations. Conversely, one can show that adhering to formal rules strictly impedes any organization. Miners in South Africa, nurses in England or Canada, teachers or pilots have all used work-to-rule strikes as effective means to hinder the organization from running. Each organization relies on control deviations for its functioning, because no organization can phrase formal rules so perfectly and comprehensively that they ensure the functioning of the organization in every given situation.

If nobody can follow all the rules and deviations are necessary for the survival of the organization, how does one regulate the handling of deviations? Especially with the internal unwritten rules, the phenomenon of self-regulation comes into play. As organizations rely on useful forms of deviant behavior from their highly skilled staff to function, their informal cultures suggest certain forms of "useful illegality." In the sociological sense, "useable illegality" generally refers to the legitimate deviation from formal requirements, and not just in the legal sense, to the possible infringement of legal norms. Self-organization then refers to the fact that the formal structures of the organization are supplemented, controlled or suspended by self-created, collective forms of informal regulation that defies formalization. It cannot or must not be formally regulated. They are collectively accepted unwritten rules that emerge and hold because they are considered useful to the organization. Thus, no organization can announce what deviations from formal rules it approves or ignores. Formally, a political organization can not approve of having to bypass some political finance regulations in order to move forward, or that black money is better than the legal bases of donations and state funds. All this is normal in political organizations, and they are not functional without this normality.

(6) According to Hiller (2005), the subsequent perception of corruption in the public is foremost a consequence of the differentiation into functional subsystems that Luhmann had

in mind. It is only on the basis of this differentiation that expectations concerning the independence of the political system are created. According to the norms of democracy, politicians shall not be influenced by external money, but merely by political ideas and future policies. But political organizations have to deal with external money, with the costs of election campaigns or political parties. Thus, the scandals erupting in consequence of the disappointment of these normative expectations are quite common.

A perfectly rational democratic game? The Rational Choice Perspective

Rational Choice (RC) in political science usually draws attention to the fact that voting and other forms of political action are always costly, be it time, money or attention (Downs, 1957). In general, the contribution of an informed voting decision is so low because of the marginal meaning of one's own vote, that it is irrational for most citizens to acquire political information for election purposes. Therefore, it is a 'rational ignorance' of citizens (Buchstein, 2016, p. 22f.). Coleman's theory adds a principal-agent perspective to the usual RC-approach. In recent political science, principal-agent theories are mostly applied to the relation between elected politicians and their administrative units (Cook & Wood, 1989; Alvarez & Hall, 2006), but not as much to the relation between voters and candidates or politicians (Enos and Hersh, 2015; Cole, 2018).

(1) In his understanding of democracy, Coleman is interested in the voters' role as principals, as sovereigns, delegating part of their rights to agents that are supposed to act in their interests. As the principal elects the agents, the crucial question for the voters in a democracy is if they act in their interests (Coleman, 1992, p. 168). The subsequent question is whether the agents, who receive black money or engage in vote buying, act in congruence with the principal's interests. If they do so, illegal campaign and party financing may be legitimate for

the constituency. In Coleman's perspective, to act illegally is not the same as acting in an illegitimate manner. The agents' action can be illegal and legitimate at the same time. If a member of the parliament (MP) exchanged the promise to vote against a bill for personal gain (money, lucrative investment opportunities or a lucrative case for their own law firm), it would be seen as illegitimate and it will probably be illegal as well (Coleman, 1992, p. 169). But if they exchanged their vote on the bill for the voters' promise to support them, or for the promise of the party chairman to promote them, or of the administration to locate a big infrastructure investment in their constituency, it would be perceived as legitimate (Coleman, 1992, p. 170).

(2) Coleman's approach raises the question of democratic sovereignty. Accordingly, we have to ask if illegal campaign financing violates the interest of the principal concerning the constituents and society as a whole. Answers to this question depend on the kind of trade. If illegal campaign financing is related to donations, e.g. of big corporations, expecting the elected MP to return the favor by passing beneficial legislations after the elections, it is clearly illegitimate. But if the illegal money is used to promote the election of candidates from the same region, for a candidate who promises to act in favor of the respective constituency, illegal campaign financing would be in the interest of the principal, though it is illegal. Following Coleman, not all illegal campaign and party financing are against the sovereign's interest. In many cases, it is aligned with the interests of the principal with the consequence that it may be legitimate, but illegal at the same time.

(3) However, we still have to ask how the phenomenon of illegal campaign and party financing is explained by the RC- theory, if and how it is based on the rational choices of candidates (a) and voters (b).

(a) The candidates find themselves in the role of political entrepreneurs, whose idea it is to count as eligible for enough citizens to win the election (Buchstein, 2016, p. 22f.). They

will therefore remain as vague as possible and try to win different groups of voters with partially mutually exclusive agendas. They will also participate in an emotional political debate based on populist demands whenever it serves their purpose (Buchstein, 2016, p. 22f.). In a political system like India's, where most of the candidates appear to rely on black money, 'cheating' – being vague about electoral promises - appears to be the best rational strategy for candidates.

Although scandals emerge from time to time, the enforcement of the regulations concerning political finances is weak. Thus, the risks for offenders to be detected or punished are low. In terms of a cost-benefit analysis, this helps to explain, why many of the Indian candidates engage in non-compliant behavior. If candidates expect many others to take black money, the effects will multiply to the level of systemic corruption. Once elected, why should the elected care to implement a stronger enforcement of the regulations, while capitalizing on the low risks of taking black money to prepare for their re-elections? For elected politicians, it is not rational to stress on the enforcement of bills to ban illegal campaign and party financing beyond the symbolic level of legitimation. We would expect rational actors to keep up double standards in that situation, i.e. keeping up the legal façade to fulfill the normative expectations of the voters and circumventing the legal regulations in their real-life activities to fulfill the requirements of the political system in order to win the elections. Thus, implementing formal regulations that prohibit the inflow of black money and accepting it at the same time, seems to be a perfectly rational game to deal with the requirements of the political system.

(b) For voters, the same is true. In a political system, where most candidates rely on black money, it is rational for voters to choose those candidates who distribute a bigger part

of the money directly among the voters themselves. Vote buying provides additional incentives for voters to elect candidates who act seemingly in the voter's interest, although voters do not know how they will act once they are in office. This veil of ignorance regarding how politicians will act is typical for the democratic game. Very often, even promises that have been important for the electoral success are not kept. That is why it is rational to vote for the candidates providing immediate benefits because future risks and costs are not calculable. If the candidates have a criminal record concerning corruption, i.e. illegal party financing, this may be even more promising concerning the voters' cost-benefit calculus, because they will assume that the share of black money they attract and re-allocate is potentially bigger than that of other candidates. In terms of Coleman's theory, for both sides, the principal and the potential agents, it is a rational choice. If it is in the interest of the principal, although illegal, it will not harm the electoral mechanism in the dimension of the delegation of rights.

Illegal Campaign Financing and Indian Democracy: Lessons Learned

At the core of Luhmann's and Coleman's approaches are the formal mechanisms that relate choices of voters, candidates and politicians in elections. These are power-based approaches. Democracies regulate access to public offices via elections. The ultimate electoral choice lies with voters. For Coleman, democracy is about the exchange of rights and the control of the agents (elected politicians) by the principal (voters). According to these sociological approaches, five different aspects become apparent when dealing with illegal campaign financing and vote buying:

(1) We need to draw a distinction between the excessive normative claims concerning the self-description of the democratic state and the economic prerequisites of running an electoral system. Very often, the formal working of the latter leads to a disappointment of the first. Doing politics is not a dirty business because political organizations rely on money as all

organizations do. It appears to be 'dirty' only because the normative expectations of the democratic system overpower the reality of democratic politics.

(2) Even if the normative expectations are disappointed, in the Indian case, the voters and candidates do not turn their backs on electoral democracy, despite scandals. With a turnout of 67.11%, the 2019 Lok Sabha elections beat the previous elections in 2014 according to the Election Commission (The Times of India, 2019). The disappointment of the normative expectations did not have an impact on the legitimation of democracy in India.

(3) The loosely enforced regulations that led to further labeling of vote buying and black money as illegal did not have an impact on the legitimacy of the electoral system.

(4) Elections are becoming more and more expensive for the candidates. There are many reasons. Among them are increases in the size of constituencies and more 'independent voters' who need to be motivated with gifts before elections – and a steady rise in political competition and the number of candidates" (Subramanian & Venkataramakrishnan, 2019). Parliamentary candidates report having to cave into this practice due to fierce competition (Donovan, 2019).

(5) The informal side of elections with its dark money and illegal payments do not appear to destroy the legitimacy of elections. In contrast to other post-colonial and/or transitional states, India has managed to sustain not only resilient and effective democratic governance but also social change over the last decades (Mitra, 2017, p. 2ff.). This can be attributed to the role of Indian politicians as intermediaries "between the traditional society and the modern state, without being exclusively identified with either modernity or tradition" (Mitra, 2017, p. 5). As voting is confidential, there is no way of tracking down who voted for whom. If vote buying is a common practice like in India, it is eliminating neither the competition for

votes nor the choice for the voters. Although it violates the norms and values of the democratic self-description, it is rather part of the democratic power game and not an impediment against the formal mechanism.

In countries like India, so-called 'vote buying' is a 'democratic' and useful illegality because it provides incentives for the voters to go to the ballot boxes and participate in the elections on a broad scale. By drawing a distinction between normative, operational and legal dimensions, we are able to realize that although vote buying is a curse for the normative self-description of the state, it is a form of useful illegality which acts as a fertilizer for the democratic behavior of voters from the lower strata of the Indian society (Mitra, 1979).

Conclusion

Most democracies have legal norms and agencies (such as the politically independent Election Commission of India) that regulate political party financing, both during and outside of election periods as well as campaign financing. Yet, no matter what, deviant practices seem to erupt, or never stop at all. Regulations are – as we have argued in this essay – not sufficient for compliance. Intense political competition further escalates pressure on contesting parties.

In countries like India, where legal norms of financial rectitude are comparatively lax, enterprising donors in search of pliable candidates and politicians seeking patrons are quite likely to find methods to work around regulations. Under the heat of ferocious competition, zealous supporters and cash from all directions overwhelm regulation and self-regulation. However, just as democracies cannot condone the supremacy of cash over conviction, so can a democracy hardly forbid all forms of cash contribution, short of cutting at the root of the social basis of electoral democracy. This is because democracy needs an engaged citizenry,

and campaign participation and contribution are the most effective way for ordinary voters to express political support.

Instead of the alterity of India, we have argued in this essay that the explanation for illegal campaign financing lies in general factors. It is not India's cultural proclivity towards corruption and illegal practices, which lead the country's political leaders and voters to engage in cash-for-vote deals. The incentive for 'useful illegality' comes from a combination of factors such as the absence of inner party democracy and transparency, self-policing by the party organization, and absence of membership fees as a source of finance. These motivate campaign managers to seek other forms of campaign contributions than those permitted by law. Under these conditions, to a certain extent, illegal cash donations, and vote buying is in fact useful not only to the candidates but also to the voters and does not necessarily lead to the abolition of democracy. On the contrary – it may even lead to greater public engagement in the democratic process. In this context, it is indispensable to differentiate between the normative self-description of a democratic state and its informal rules of how to play the game. While illegal party financing and vote buying is on the formal side frowned upon, it might very well be widely accepted as "useful illegality" on the informal side.

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