

Political Finance Regulation: The Global Experience



International Foundation
for Electoral Systems

Political Finance Regulation: The Global Experience

Edited by Magnus Öhman and Hani Zainulbhai



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Foreword

Political finance questions are squarely in the crossroads of political and governance issues in every society. The resources critical to successful elections simultaneously affect the integrity of public policy and the bond between the political leadership and the citizens. The legislative and regulatory process sanctioning campaign expenditures by political parties and candidates is one of those rare arenas of public policy where everyone engaged in the process of “reform” has the unique expertise provided by their own political campaigns.

“Political Finance Regulation: The Global Experience” is IFES’ effort to contribute to the dialogues concerning political finance which are the staple of election law reforms. Thanks to the support of the United Nations Democracy Fund, IFES has recruited some of the leading experts in the topic of “money and politics” to chronicle experiences in the effort to make assorted national political finance systems more transparent to all. This book is the result of more than two years of seminars, studies and conversations with partner organizations engaged in these debates around the world.

Our intention is not to prescribe “one size fits all” in political finance. Such an approach would be both naïve and impossible. Political finance legislation and regulation are the result of national experiences in campaigns and governance. Just as a citizen’s right to vote in elections in so many societies now are “observed” and “monitored” by the global community, there are now parallel efforts to appreciate and understand the financing of candidates, parties and politics so as to make the process more transparent to all.

Thank you for your interest in this important arena of public policy and debate.



William R. Sweeney, Jr.
IFES President & CEO

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IFES wishes to thank all those involved in the Global Standards for Political Finance initiative since its beginning in 2007. The publication of this book, one of the main outputs of the initiative, would not have been possible without the dedication, hard work, and expertise of a number of individuals and organizations.

Our greatest appreciation goes to Jeffrey Carlson and Marcin Walecki for their expert leadership and innovative approach to the study of political finance. For their assistance throughout the project IFES sincerely thanks Dr. Michael Pinto-Duschinsky, Maya Serban, Jack Santucci, James Turitto, and Yu Theresa Chen.

A number of individuals participated in the ongoing dialogue on global experiences in political finance regulation. For this, we extend our sincerest gratitude to the members of the IFES Advisory Group on Global Standards in Political Finance, to participants in the IFES/FEC International Conference on Political Finance in 2007, IFES/Carter Center Meeting on Campaign Finance in January 2009 and the Political Finance BRIDGE Development Meeting in May 2009. These contributions ensured a truly global approach to the questions at hand.

We are also thankful for the work of our partner organization Transparency International, whose commitment to research in political finance has been especially influential. Finally, IFES gratefully acknowledges the generous support of the United Nations Development Fund (UNDEF) for the 'Achieving Consensus: Global Standards for Political Finance' program.

Magnus Öhman & Hani Zainulbhai

About the Authors

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Dr. Magnus Öhman is IFES Political Finance Advisor. He has written about political finance issues since the late 1990s, with a focus on public funding systems and sustainable solutions. He has worked with political finance initiatives in countries such as Afghanistan, Indonesia, Lebanon, Liberia and Nigeria, and he is co-author of the forthcoming BRIDGE training module on political finance. Dr. Öhman served as IFES Country Director in Sierra Leone in 2007 – 2008, where he among other things assisted the setting up of the first ever political finance disclosure system. He holds a PhD in Political Science from the University of Uppsala, Sweden.

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Introduction

“Political finance is a vital issue for democracy, governance, and development. No matter how flawless are the country’s elections, how active its civil society, how competitive its political parties, and how responsible its local authorities, the role of money in politics undeniably influences the quality of democracy and governance. Only through greater transparency will one fully understand the extent and nature of this influence”¹

It was in recognition of this influence that the United Nations Convention against Corruption (UNCAC) came to include an appeal that all countries should strive to “enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties” (article 7(3)).

In spite of these good intentions, much work remains to be done. Of the 136 countries that were parties to UNCAC by 1 September 2009, sufficient information is available to judge their compliance regarding candidate disclosure in 107 countries. Of these, 61 countries or 57% do not have formal disclosure requirements for the income and expenditure of candidates.² We also need to acknowledge the often significant gap between formal rules and practical application and note that the number of countries that de facto lack effective oversight mechanisms is much higher. Indeed, no country can be said to have finally overcome all difficulties related to political party and campaign finance disclosure.

Political finance is however not only a matter of disclosure. Often defined as encompassing both the funding of political parties and of electoral campaigns, political finance covers a wide range of issues, not least how political parties and public officials behave and in whose interest they act after elections are over (which is the subject of several other articles in UNCAC). The regulation, oversight and monitoring of political funding includes apart from disclosure also contribution and spending bans and limits, direct and indirect public funding and less obvious mechanisms such as limited campaigning periods. Global experience also clearly indicates that regulation and monitoring by government agencies is not sufficient, an active civil society and vigilant media is necessary if effective oversight is to be achieved.

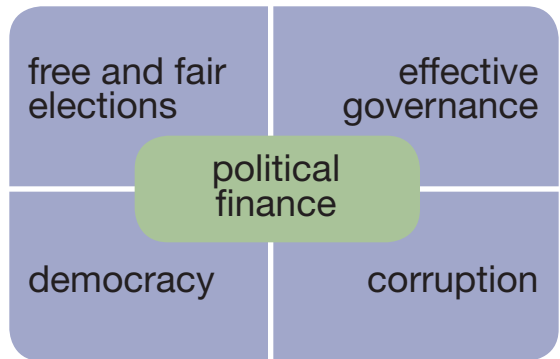
On a general level, political finance exists in the cross section between many crucial aspects of political life. Free and fair elections, democratic politics, effective governance and corruption are all related to political finance, and the financing of political parties and election campaigns can positively or negatively affect them all. Sufficient funds can allow contestants to reach the electorate with their messages, but can also skew electoral competition. Also after elections, resources are needed for an effective dialogue with citizens, but public officials may

¹ Office of Democracy and Governance (2003) Money in Politics Handbook: A Guide To Increasing Transparency in Emerging Democracies. Technical Publication Series. U.S. Agency for International Development, Washington. p 5.

² The situation is somewhat better for political party disclosure. Data is available for 120 countries, out of which 39, or one-third, lack formal reporting requirements. The situation for each country and data sources are available in the concluding chapter of this book.

have obligations to wealthy benefactors, which can impact not only how responsive politicians are to the wishes of the public but also how effectively they manage public funds. Finally, financially secure political parties and politicians can more easily resist temptations of illegal donations, but undue influence of money in politics can also create vicious cycles of corruption and declining public confidence in the political system as a whole.

Because of the central role of political finance in relation to all these areas, IFES has during the last decade assisted projects in over 20 countries aimed at enhancing consciousness and transparency in the funding of political parties and electoral campaigns. In this work, IFES has partnered with legislators, political finance regulators, political parties, civil society and media in various countries in Europe, Asia, Africa, and Latin America and the Caribbean.



This project

The United Nations Democracy Fund (UNDEF) was set up less than two years after the UN General Assembly approved the UN Convention against Corruption, and about half a year before the Convention entered into force. Recognising the need to increase awareness about money and politics worldwide, UNDEF generously included in its first round of funding support to a multiyear IFES project aimed at a broad-based, results-oriented dialogue on global standards and best practices in political finance.³ Through this project, IFES has with its partners conducted a series of activities to raise consciousness about various ways of increasing transparency in the financing of political parties and electoral campaigns.

A coalition of researchers, experts, anti-corruption activists, and practitioners in the field of political finance have been consulted to together clarify and define UNCAC article 7 (3) on transparency in political finance, both within the context of the Convention and the emerging set of global best-practices. IFES prepared a document in 2007 to serve as a basis for this dialogue; Global Standards for Political Finance, which is now complemented through this publication. A survey was conducted among political finance experts in 2008 to increase our knowledge about main problems and effective solutions in political finance. A website exclusively dedicated to political finance was created (www.moneyandpolitics.net), which includes the documents developed in relation to the project, but also other resources in the form of news, reports, legislation and regulation from 40 different countries in English, Arabic, Spanish and French.⁴

Activities were undertaken within all the areas discussed above through a series of important partnerships. IFES worked together with its main project partner Transparency International, the leading global organisation within the field of anti-corruption, in developing the 2008 “Working Paper on Accountability and Transparency in Political Finance”.⁵ The two organisations also organised a panel at the 2008 International Anti-Corruption Conference in Athens

³ For more information about UNDEF, please see www.un.org/democracyfund

⁴ The website also contains links to political finance regulators in 35 countries, and sample materials including reporting form templates.

⁵ The paper is available at www.moneyandpolitics.net and at www.transparency.org.

and we will make a joint effort at highlighting the issues of political party and campaign finance transparency at the UNCAC State Party meeting to be held in Doha in November 2009.

IFES also partnered with leading international election observer groups such as the Carter Center, the Organisation for Security and Co-Operation in Europe (OSCE), the Organisation of American States, EISA (formerly the Electoral Institute of Southern Africa), the Commonwealth Secretariat and the National Democratic Institute for International Affairs (NDI). The work aimed at strengthening the inclusion of campaign finance monitoring in observer mission initiatives and reports. Three meetings in Washington and Atlanta significantly furthered the work in this regard, and a joint IFES/Carter Center mission in Lebanon provided an important test case.⁶

Finally, IFES has together with the International Institute for Democracy and Electoral Assistance (IDEA) worked to increase awareness of political party and campaign finance and its importance in relation to effective and democratic governance. In particular, the two organisations have developed a separate Political Financing Module within the BRIDGE curriculum (Building Resources in Democracy, Governance and Elections), and extended information on the issue in the ACE Encyclopaedia (Administration and Cost of Elections).⁷

To ensure that as much expertise as possible was available to inform the project and to benefit from the experience of experts from all over the world working with everything from regulation, enforcement to monitoring and research, IFES created a Political Finance Advisory Group for the project. A total of 60 leading experts from 37 countries covering all continents accepted our invitation to share their knowledge about different issues relating to political finance. As this book was developed, fundamental questions arising from each chapter were put to the Advisory Group, and their responses helped to improve the final text. Consolidated versions of their answers are available on the www.moneyandpolitics.net website.

This book draws together the experience from the project and its various activities. While it can naturally not cover all areas, individual chapters on finance disclosure, spending limits, public funding and enforcement show the lessons learned in crucial areas. A glossary explains key concepts within the political finance terminology and for those interested in learning more there is a further reading list including key documents and web resources.

Learning lessons from around the world, not enforcing one size fits all solutions

In an important work about political finance, Karl-Heinz Nassmacher wrote that “the attempt to transfer experience has to start with the recognition of differences”.⁸ Michael Pinto-Duschinsky has similarly stated that “No single set of laws and no single method of subsidy is likely to suit every nation, especially as resources needed to apply such laws and subventions vary so greatly”.⁹

6 Participants from organizations such as the Netherlands Institute for Multiparty Democracy, Open Society Forum, the Lebanese Transparency Association, Center for Responsive Politics, the Brookings Institution, John Hopkins University and the US Federal Election Commission also took active part in these meetings. The meeting report and the report on political finance in the 2009 Lebanese elections are both available on the money and politics website.

7 BRIDGE (www.bridge-project.org) has become the industry standard used also by UNDP, UNEAD, International IDEA and the Australian Election Commission. A module development meeting was held in Stockholm in May 2009 which also included participants from the UK Electoral Commission and Transparency International in Germany and Latvia. ACE (www.aceproject.org) is an ever expanding web based electoral knowledge network.

8 Nassmacher (2003) “Introduction: Political Parties, Funding and Democracy” in International IDEA Funding of Political Parties and Election Campaigns. Handbook Series. International IDEA, Stockholm, p 2.

9 Pinto-Duschinsky, Michael (2002) Political Finance in the Commonwealth. Taking Democracy Seriously Series, No. 1. Commonwealth Secretariat, London, p 25.

This attitude has also come to dominate the project through which this book has been developed. As with all IFES activities, the work does not attempt to prescribe or impose any particular approaches or solutions. Instead the intention is to invite a dialogue on what has been learnt so far and how countries around the world can benefit from the experience of others when attempting to understand the importance and influence of money in politics.

While it may be possible to create a set of uniform rules with which most or all stakeholders would agree, this could only be done through making such rules so general and vague as to devoid them of actual meaning. An ongoing dialogue on values to be promoted and on the effectiveness of various solutions in different situation is much preferable.

Key understandings in political finance

While the importance of money in politics has been recognized for a long time (vote buying was reported in ancient Greece), the last few decades have seen a significant increase in attempts to regulate money in politics worldwide through disclosure requirements, various bans and limits and the provision of public funding. Civil society groups are now also more active than ever in monitoring the financial activities of political parties, candidates and elected officials.

As the question of what role money plays in the affairs of political parties and the conduct of election campaigns has received increasing attention worldwide, much experience has been gathered through practical involvement, regulation or monitoring of political finance, and by scholarly attention and international assistance to such activities.

In their efforts to learn from experience, several organizations have developed lists of key lessons learned and understandings relating the issue of political finance. While each such list reflects different experiences and approaches to the issue of political finance, there are recurring themes. In the below table, the various key understandings have been categorized under common headings, and we have subsequently reached the following synthesised common understandings that have influenced the project and this publication;

1. Money is necessary for democratic politics, and political parties must have access to funds to play their part in the political process. Regulation must not curb healthy competition.
2. Money is never an unproblematic part of the political system, and regulation is desirable
3. The context and political culture must be taken into account when devising strategies for controlling money in politics
4. Effective regulation and disclosure can help to control adverse effects of the role of money in politics, but only if well conceived and implemented
5. Effective oversight depends on activities in interaction by several stakeholders (such as regulators, civil society and the media) and based on transparency

These understandings are further elaborated in Tables 1 and 2. Table 1 outlines the different key understandings taken from various sources, as they have been judged to fit into the common or synthesised insights above. Other sources (in many cases not including explicit lists of key understandings but nonetheless outlining lessons learned) have been used in the table to further contextualize and expand these key understandings. Table 2 shows how the syn-

thesized key understandings are supported in the growing number of international obligations that address the issue of political finance.¹⁰

These synthesized key understanding subsequently draw on the experience and knowledge of many organizations and individuals working in all parts of the world. Special gratitude is due to the participants at a workshop organized by IFES and International IDEA in Stockholm, May 2009 and to the members of the above mentioned Advisory Group.

We will conclude this introduction by affirming that just as the Council of Europe Committee of Ministers, we are “convinced that raising public awareness on the issues of prevention and fight against corruption in the field of funding of political parties is essential to the good functioning of democratic institutions.”¹¹

¹⁰ By “International obligations” is here intended texts that articulate obligations through international law, or which provide interpretations of such binding obligations. Naturally, not all such texts will be legally or morally binding for all countries.

¹¹ Council of Europe (2003) Recommendation Rec(2003)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns, Adopted 8 April 2003.

Table 1, Synthesised Key Understandings¹²

Category 1	Key Understandings (Source)
<p>Money is necessary for democratic politics, and political parties must have access to funds to play their part in the political process. Regulation must not curb healthy competition.</p>	<ul style="list-style-type: none"> • Money is a critical component of democratic elections. (IFES) • Political parties and their competition for political power are essential for sustainable democracy and good governance. (IDEA) • Money is an essential part of this process and should be treated as an essential resource for good political practice. (IDEA) • Too much reliance on funding from either the private or the public sector of society is unwise. • Political parties must be part of the solution. (NDI) • Political parties must be stronger to perform their role in society. (NDI) • Public funding should be considered, but tied to party reform. (NDI) • Fairness and integrity in access to the media. (TI 2003) • [T]he need to avoid overregulation and to legislate only what can be enforced and subjected to oversight. (IDEA/OAS) • Stipulation in the law of clear sanctions, correlated with the nature and seriousness of the violation of norms in effect... an exclusive focus of punitive measures does not lead to a fairer funding of political parties, on the contrary, it presents the risk for the sanctions that appear to be disproportionate against the violated norms to not be enforced at all. (PASOS)
<p>Lessons Learned</p>	
<ul style="list-style-type: none"> • Democracy is inconceivable without organisation. (Michels) • A strong democracy requires healthy political parties. In turn, political parties require resources to sustain and operate a basic party structure sufficient to represent people, develop the capacity to contest elections and contribute creatively to policy debate. Parties, therefore, need to raise funds. (IDASA) • [M]oney is instrumental, and its importance lies in the ways it is used by people to try to gain influence, to convert into other resources, or to use in combination with other resources to achieve political power. (Alexander) • Done correctly regulation can actually enhance healthy competition (Loprest) 	
Category 2	Key Understandings (Source)
<p>Money is never an unproblematic part of the political system, and regulation is desirable</p>	<ul style="list-style-type: none"> • Curbing influence peddling and conflicts of interest. (TI 2003) • Unfortunately some activities of political parties are purely partisan.1 (IDEA) • Identified problems: (USAID) <ul style="list-style-type: none"> ▫ Uneven playing field ▫ Unequal access to office ▫ Co-opted politicians ▫ Tainted Politics • References in common parlance to “corrupt” political financing: (Pinto-Duschinsky 2005) <ul style="list-style-type: none"> ▫ Political contributions that contravene existing laws on political financing; ▫ The use for campaign or party objectives of money that a political officeholder has received from a corrupt transaction; ▫ Unauthorized use of state resources for partisan political purposes; ▫ Acceptance of money in return for an unauthorized favor or the promise of a favor in the event of election to an office; ▫ Contributions from disreputable sources; ▫ Spending of money on banned purposes such as vote-buying.
<p>Lessons Learned</p>	
<ul style="list-style-type: none"> • In the long run improper and illegal funds may contribute to de-legitimise parties in particular and the democratic political system in general. (Nassmacher) • Political finance has been responsible for shifts in political patterns throughout the world. It has been responsible for ideological defections, embarrassing resignations, corruption, scandals and, in the extreme, anarchy. (Emelonye) 	

¹² Some comments have argued that political parties are supposed to act in a partisan manner. Perhaps this key understanding from International IDEA should be interpreted such that “unfortunately some activities of political parties are purely partisan in spite of negative effects that they may have on the national interest”.

Category 3	Key Understandings (Source)
<p>The context and political culture must be taken into account when devising strategies for controlling money in politics</p>	<ul style="list-style-type: none"> • Country-specific solutions must be identified (NDI) • There is no single correct policy formula for regulating political finance (IFES) • [T]here is a close connection between political funding and the characteristics of a political system in general, and the political party system in particular (IDEA/OAS) • [P]olitical finance is indissolubly tied to the values of political culture, which means a given solution may be considered positive in one national context and negative in another. (IDEA/OAS) • Political funding is an issue destined to undergo successive legal reforms; thus the importance of bearing in mind its fluctuating, transitory nature. (IDEA/OAS) • The funding of political parties and election campaigns is a complex, controversial issue, one that remains unresolved and for which there are no universal remedies or magical formulae (IDEA/OAS)

Lessons Learned
<ul style="list-style-type: none"> • [P]roblems and solutions vary from country to country. No single set of laws and no single method of subsidy is likely to suit every nation, especially as resources needed to apply such laws and subventions vary so greatly. (Pinto-Duschinsky 2002) • One of the key lessons learned is that there are no general rules for the design of political finance systems in post-conflict situations—a specific approach will depend on the level of international involvement, political sophistication of the local partners, timing of elections, etc. (Carlson, Dahl & Walecki) • ... review and change should be built into the legal framework (Loprest)

Category 4	Key Understandings (Source)
<p>Effective regulation and disclosure can help to control adverse effects of the role of money in politics, but only if well conceived and implemented</p>	<ul style="list-style-type: none"> • Effective political finance enforcement rests a combination of transparency, oversight, and sanctions. (IFES) • Political finance regulator must have a high degree of independence (IFES) • ... any reform of the political funding system [must] be an integral part of an overall electoral/political reform, given that such reform will have ramifications for key factors such as competition among political parties, the conditions of competition, the political party system and hence the credibility and legitimacy of democracy itself. (OAS/IDEA) • Laws and regulations must go beyond regulating finances (NDI) • Effectiveness in the enforcement and supervision of regulatory measures (TI 2003) • Diversity of income and spending limits (TI 2003) • ...the need to examine funding systems not only in terms of the objectives of a certain reform and the effects sought... but also in terms of the effectiveness and the unwanted or negative consequences of regulations, always avoiding the mistake of making abstract evaluations based on ideal models. (IDEA/OAS) • Political funding is an issue destined to undergo successive legal reforms; thus the importance of bearing in mind its fluctuating, transitory nature. (PASOS)

Lessons Learned
<ul style="list-style-type: none"> • [T]he disclosure of political accounts is a necessary—albeit insufficient—condition for holding political actors accountable and reducing political corruption. (Carlson & Walecki) • The art is to find that balance which best accommodates the objective of allowing each party a reasonable opportunity to put across its message; this may well entail a combination of public funding with election expenditure controls. (Goodwin-Gill) • Seemingly sound legal provisions may be dysfunctional in practice, or be poorly observed or enforced (Open Society Justice Initiative) • Without adequate status, mandate and resources [the regulating institution] can turn into a signboard or into a dangerous weapon in the hands of governing parties (Vilks) • [The following is necessary] accountability: in the form of periodic reporting to the oversight entities on income and expenses; and audit: of accounts periodically by an audit firm of good standing. (Dundas)

Category 5	Key Understandings (Source)
<p>Effective oversight depends on activities in interaction by several stakeholders (such as regulators, civil society and the media) and based on transparency</p>	<ul style="list-style-type: none"> • The funding of political activity by parties and candidates should be made an issue of public debate (IDEA) • Access to information about political finance supports official enforcement efforts (IFES) • Civil society should serve as a watchdog (NDI) • Transparency through disclosure and publication (TI 2003) • Civil Society participation (TI 2003) • Promoting transparency in the relation between parties and the citizens they represent, by making public parties' financial documents and guaranteeing wider public access to this data. (PASOS)

Lessons Learned

- In order for any political finance regulation to be implemented, there has to be a way of checking parties' and candidates' finances. Transparency of political finance, via disclosure, is therefore the starting point of any regulatory framework. Transparency also empowers voters to make informed choices on election day. (TI 2005)
- Efforts should be made to provide information and education to all the agents of disclosure—newly established political finance regulators, political groups, candidates, CSOs, media and the general public—about the role of a political finance system and how such a system is essential for creating credible electoral and democratic processes. (Boneo & Dahl)

Table 2, Support for synthesized key understandings in international obligations

Synthesised Key Understandings	International Obligation Text (Source)
<p>1. Money is necessary for democratic politics, and political parties must have access to funds to play their part in the political process. Regulation must not curb healthy competition.</p>	<ul style="list-style-type: none"> • The strengthening of political parties and other political organizations is a priority for democracy (Organisation of American States (Art. 5)) • Political parties should receive financial contributions from the state budget in order to prevent dependence on private donors and to guarantee equality of chances between political parties (Council of Europe 2001(Par. 8(ii)) • political parties may seek out and receive funds by means of public or private financing • [States should] Provide for the formation and free functioning of political parties, possibly regulate the funding of political parties and electoral campaigns, ensure the separation of party and State, and establish the conditions for competition in legislative elections on an equitable basis (Venice Commission (Par. 2) IPU (Art 4(1))
<p>2. Money is never an unproblematic part of the political system, and regulation is desirable</p>	<ul style="list-style-type: none"> • Special attention will be paid to the problems associated with the high cost of election campaigns and the establishment of a balanced and transparent system for their financing. (Organisation of American States (Art. 5)) • Each State Party shall adopt legislative and other measures to: (a) Proscribe the use of funds acquired through illegal and corrupt practices to finance political parties (African Union (Art. 10)) • The electoral law should prohibit the Government to aid or to abet any party gaining unfair advantage (SADC (Art. 3(i)))
<p>3. The context and political culture must be taken into account when devising strategies for controlling money in politics</p>	<ul style="list-style-type: none"> • (International legal documents by their very nature do not call for national variations. The need for adjusting detailed regulations to local conditions is normally implicitly understood, as long as the regulations respect the general recommendations in the international documents. Note that Article 7 (3) of UNCAC state that countries should undertake measures to enhance transparency in political finance that are “in accordance with the fundamental principles of its domestic law”).
<p>4. Effective regulation and disclosure can help to control adverse effects of the role of money in politics, but only if well conceived and implemented</p>	<ul style="list-style-type: none"> • The transparency of electoral expenses should be achieved through the publication of campaign accounts (Venice Commission (Par. 12)) • Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party. (UNHRC (Par. 19)) • States should provide for independent monitoring in respect of the funding of political parties and electoral campaigns... The independent monitoring should include supervision over the accounts of political parties and the expenses involved in election campaigns as well as their presentation and publication. (Council of Europe 2003 (Art. 14))
<p>5. Effective oversight depends on activities in interaction by several stakeholders (such as regulators, civil society and the media) and based on transparency</p>	<ul style="list-style-type: none"> • Each State Party shall adopt legislative and other measures to: (b) Incorporate the principle of transparency into funding of political parties. (African Union (Art 10)) • Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties (United Nations (Art. 7(3)))

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Chapter I

Practical Solutions for the Disclosure of Campaign and Political Party Finance

Jack Santucci & Magnus Öhman



Introduction

A series of recent scandals concerning politicians and financial mismanagement have illustrated the need for public insight into the affairs of the political sectors. In the UK, the Parliamentary expenses scandal forced nearly 20 Members of Parliament to step down, whereas the indictment of former Israeli Prime Minister Ehud Olmert and impeachment of US Governor Rod Blagojevich indicate that political corruption is as present as it has ever been.

Chapter II, Article 7(3) of the United Nations Convention against Corruption (UNCAC) obligates state parties to make good faith efforts to improve transparency in election candidate and political party financing. Political finance disclosure is the main policy instrument for achieving such transparency. Disclosure refers to the timely dissemination of information about parties and candidates' receipts and expenditures of material resources. While other forms of regulations are available for controlling the role of money in the political process - such as spending limits, bans on certain forms of income, and the provision of public funding - effective disclosure is required for such other regulations to function properly. This has been recognized by a series of international organizations, as Table 1 below makes clear.

Table 1, Recommendations on disclosure by international organizations

Organisation	Recommendation
Venice Commission, Guidelines on the Financing of Political Parties, adopted 9-10 March, 2001, para 12	"The transparency of electoral expenses should be achieved through the publication of campaign accounts."
Committee of Ministers, Recommendation Rec(2003)4, Art. 13(a)	"a. States should require political parties to present the accounts referred to in Article 11 [consolidated accounts that include those of directly or indirectly related entities] regularly, and at least annually, to the independent authority referred to in Article 14 [independent monitoring which includes supervision over the accounts of political parties and campaign expenses]."
Transparency International, Policy Position 01/2005, pg 2	"Political parties, candidates and politicians should disclose assets, income and expenditure to an independent agency."
Parliamentary Assembly of the Council of Europe, Recommendation 1516 (2001), para 8 C (i)	"...to keep strict accounts of all income and expenditure, which must be submitted, at least once a year, to an independent auditing authority and be made public"
SADC, Norms and Standards for Elections in the SADC Region, Art. 6.	[The Electoral Commission] should be empowered to ensure that proper election expenses returns are submitted on time, to inspect party accounts, and for parties to have properly audited and verified accounts"

This chapter begins by discussing the different components of and issues in a model disclosure regime. Transparency allows for the enforcement of other policy instruments, and it can be a means to different normative ends. We address those values and the emphasis they place on different aspects of campaign finance disclosure systems. Finally, recognizing that

countries differ along dimensions other than the values they seek to maximize, we consider how to design effective disclosure systems in light of specific political syndromes. These include lack of regulatory capacity or political will and misuse by strong ruling parties of an otherwise good-government policy.

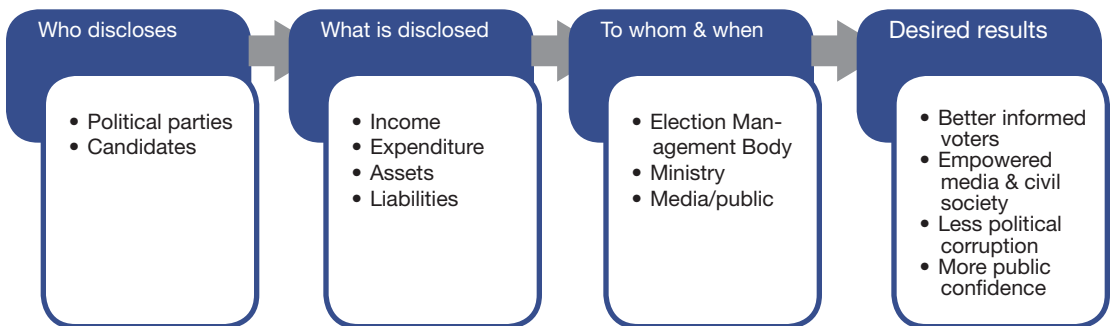
As is done throughout this book, this chapter defines political finance as including both campaign finance (normally engaging both candidates and political parties) and the ongoing financing of political parties. It is possible to monitor both types through disclosure regulations, though some aspects such as the timing of disclosure will of course vary.

Disclosure systems: the building blocks

The main variables in any political finance disclosure system are: Who discloses what to whom and when. Once legislation is in place that addresses these questions, there must be an enforcement body (hereafter called the “political finance regulator”), normally part of the government. Political parties and candidates’ campaign committees (where applicable) should also have internal specialists who ease organizations’ compliance with the legal disclosure requirements. Finally, disclosure legislation will not be enforceable unless it is reasonable and feasible, which will be discussed below.

Who discloses

The organizations responsible under the law for disclosing information will depend on a country’s political institutions and context: for example, its electoral system, extent of decentralization and structure of constitutional bodies. Often, registered political parties and ad hoc campaign organizations will have independent responsibilities to disclose their finances. Whenever possible, each organization should have one or more compliance officers who maintain detailed party records and are principally responsible for meeting legal disclosure requirements.



As mentioned above, we need initially to distinguish reporting related to ongoing activities of political parties from reporting of electioneering activities.

For campaign finance reporting, disclosure systems focus on the participating political parties, the candidates, or both. The responsibility to disclose should, whenever possible, lie with whatever agents do the campaigning. In first-past-the-post systems, for example, it makes sense for candidates to disclose, while in closed-list proportional representation systems, parties should disclose since they will most likely do the electioneering. In presidential systems,

disclosure's emphasis should shift toward the candidate.¹ Depending on the structure of a campaign, the disclosing agent may be a campaign committee, the individual candidate or the political party. The same considerations are valid for local government elections, though the significantly larger numbers of candidates normally involved, and the fact that more candidates may lack fundamental understandings of accounting, need to be taken into account when disclosure systems are designed.

As a general principle, the agent most important for reporting to regulators will depend on the electoral system in use.² The more party-centric a system is, the more it makes sense for someone at the party level to file reports. The more candidate-centric, the more this responsibility should fall to candidates' campaign committees. In the case of mixed and open-list electoral systems, who should disclose depends on the extent to which candidates raise and spend money independently of their political parties. In many cases, candidates in Parliamentary and in particular local government elections have more responsibility for campaign funding than candidates in the more prestigious Presidential elections which the political parties normally prioritize.

However, unregulated money tends to find its way into politics, so candidate and party organizations alike should be required to file reports wherever both receive, borrow and spend money for campaigns. Disclosure systems where only the candidates or the political parties need submit reports often risk creating loopholes allowing financial transactions to be channeled through whatever group need not submit reports.

Regardless of whether the onus falls on a party or candidate, each organization should designate a single treasurer and, wherever possible, subordinate staff to manage all receipts, expenditures, recording and reporting. There are two reasons to have a sole agent. The first is that the task of tracking and reporting on campaign finances tends to be full-time and requires appropriate training in accounting conventions and the requirements of the law. Secondly, having a specialist treasurer-reporter on staff reduces burdens to government and electoral competitors alike. Internal controllers can police parties and campaigns before they make decisions that will cause penalties. Internal regulation may also reduce governments' own regulatory burdens.³ The legislation concerning political finance disclosure should clarify whether such treasurers or internal controllers have legal responsibilities to comply with reporting requirements or whether such responsibilities lie solely with candidates or political party executives.

Where possible, party and campaign auditors should be independent consultants recruited from the private sector and whose careers do not depend on parties' electoral prospects. This is to minimize auditors' incentives to falsify disclosure. In countries such as Canada and Sierra Leone, their regulations specifically state that the auditor used by political parties may not be a member or officer of the party. In practice, such independence is difficult to ensure, but it

1 This is not always the case. In spite of the candidate-focused first-past-the-post electoral system used in Sierra Leone, only political parties are required to submit reports, whereas only candidates do so in Lebanon despite the major de facto roles of political parties and alliances there.

2 For a recent examination of the extent to which "who discloses" depends on the candidate-centricity of electoral systems, see Johnson, Joel (2008) "Democracy and Disclosure: Electoral Systems and the Regulation of Political Finance" in *Election Law Journal* 7(4), October 2008.

3 Walecki, Marcin (2007) *Challenging the Norms and Standards of Election Administration: Political Finance Standards*. (Washington: IFES).

should be a guiding principle in the design of any oversight institution. Even where regulatory bodies are independent, having internal regulators will ease compliance and enforcement for all actors.

In countries where banking is available and commonly used, party and candidate treasurers should conduct all transactions through one account. This makes it easier for regulators to verify compliance with laws. Such systems are used, for example, in Afghanistan and Lebanon and in many elections in the US.

In some countries, donors who support political parties or election campaigns also have to report their own contributions. This approach is less common (around 15 countries globally including Ecuador, India, Papua New Guinea and Singapore), and it is often difficult to enforce. However, offering tax relief in relation to political donations creates an incentive to report, and such disclosure can be a useful complement to the reports submitted by the election contestants themselves.⁴

Disclosure of ongoing political party finances partially serves other purposes than election campaign disclosure. The object is less to assist voters in making informed choices on election day and more to ensure that political parties follow principles of financial transparency and credible accounting. When properly enforced, disclosure requirements can also help to counteract the provision of campaign donations ahead of the formal campaign finance reporting period. This is especially the case in countries where political parties only need to report on their finances during a campaigning period of one or two months before an election. Normally, national party headquarters submit regular reports on ongoing political party activities to a receiving agency, though less centralized systems are possible.

What to disclose

Under ideal circumstances, laws will require comprehensive disclosure of all financial activity, specifying the types of transactions that must be reported. The political finance regulator can then provide detailed instructions regarding what to include in the reports, including possible thresholds and exceptions. There are four basic categories. The first two normally refer to financial flows during a specific period whereas the latter two are “spot checks” showing the situation at a specific point in time:

1. **Income:** Whenever possible, the reporter should disclose the amounts and natures of all contributions. Contributions may be cash, checks, credit card-based or in-kind. In-kind contributions consist of goods and services. Where possible, the cash values of such contributions should be reported at current market value. Full disclosure moreover will include the identity, address, occupation and employer, if applicable, of each contributor. Where corporations may make contributions, the identity, address and industry of the corporate entity will be sufficient.

For disclosure relating to income, a “transparency test” can be applied to see if all relevant information is supplied;⁵

4 Countries using disclosure by donors include Argentina, Thailand and the United Kingdom. Some countries such as Ireland and Russia only require disclosure by donors if the donation exceeds a certain amount.

5 Ward, Gene (2002) Overview of Disclosure and Transparency in Political Funding in Latin America. (Organization of American States Meeting, Vancouver).

- Who gave?
- How much?
- When?
- To whom?
- For what?

The IDEA database on political finance regulations shows that 53% of countries for which data are available require political parties to submit income reports.⁶

2. **Expenditures:** The reporter should disclose all spending, the date and amount of each expense, and who received it. Expenditures include debts and liabilities incurred by the party or candidate during the reporting period.
3. **Liabilities:** The reporter should disclose all loans and advances to the respective party or committee; the lender's occupation and, if applicable, employer; the amount of the loan or advance; its date and the date of its repayment.
4. **Assets:** Reporters finally should disclose the assets of parties and/or candidates. Assets include the contents of bank accounts, sizes of credit lines, and values of capital investments like real estate and vehicles. Disclosing assets is especially important in countries where no other records exist to identify their owners and origins.

Some systems also require additional information to be submitted, such as the identity of the campaign manager or auditor, details on the campaign bank account(s) and, in some cases, how a potential surplus of campaign funds will be disposed.

It is important to note that these categories include finances related to the operation of parties and campaign committees between elections as well as the income, expenses and debts they incur while campaigning.

The disclosure regulations should also specify the period for which income and expenditure should be reported. Reports on ongoing political party activities are normally annual and subsequently cover the preceding year. For disclosure related to electoral campaigns, the most common reporting requirements oblige political parties to report on their income and expenses during the campaigning period, though the reporting period sometimes ends a short time after election day, so that political parties and candidates cannot hide contributions and expenses by delaying transactions until after election day.

An unusual way to report electoral expenditure – Lebanon

In most cases, political parties and candidates report individually on their expenses, while in some cases parties report also on the expenses of their candidates. A different approach has been chosen in Lebanon, where the criterion for whether an expense should be reported is not who incurred it, but whether the expense benefitted the campaign. In other words, if the production of a poster or a TV spot benefitted a candidate, (s)he is obliged to include it in his/her report, regardless of who incurred the expense.

While this is an innovative approach to gain information on third party spending, it has proved difficult for candidates to calculate exactly how much their “share” of expenses incurred by their political party and other groups is. The system was first used in the 2008 Parliamentary elections.

⁶ International IDEA (2008) Political Finance Database. (International Institute for Democracy and Electoral Assistance, Stockholm). Online at <http://www.idea.int/parties/finance/db/>.

For the 2009 presidential elections in Afghanistan, the campaign reporting period had an end point, but no beginning. The notion was that contributions received and expenses incurred that related to the elections should be included in the report, regardless of when they were incurred.⁷

Recording

In addition to making periodic disclosures, parties and candidates should be required to maintain ongoing, up-to-date records of each of the above. These records should follow double ledger accounting conventions.⁸ Such records allow regulators to conduct spot audits, and such audits can be important for ensuring ongoing compliance with political finance laws, and an important complement to the analysis or received reports. Note that the political finance regulator needs to have sufficient capacity, including several knowledgeable auditors on staff, to effectively conduct such activities. Spot auditing implies the authority of regulators to enter parties' headquarters and access their records with short or no advance notice.⁹

Parties and candidates running records should include (where available):

1. Copies of all checks, money orders, credit card records and verification cards¹⁰ signed by the donors of cash;
2. Written loan agreements and copies of the checks, money orders, credit card records or receipts for cash connected to the receipt and repayment of funds;
3. Copies of all bills, invoices and receipts for goods and services purchased;
4. Copies of the checks, money orders or credit card receipts used to pay for them;
5. Documentation of what services were provided in connection with the payment of wages and salaries;
6. Billing statements for any debit or credit card used and corresponding receipts identifying the vendors of goods and services purchased.

Note that political parties and candidates cannot be expected to report on transactions that they have not recorded. Subsequently, if a political finance regulator wishes that contestants should submit reports on certain financial information, they need to inform the contestants in advance. For example, if political parties are supposed to report on their financial transactions during an election campaign, the political finance regulator needs to inform them of this (including the detailed information to be submitted), well in advance of the start of the campaign period. A good example of what not to do comes from the 2009 elections in Indonesia, where the political finance regulator (the National Elections Commission, KPU), issued political finance regulations ten days after the beginning of the official campaign.

Disclose to whom

Most immediately, financial information will be disclosed to the government regulator. Disclosure to the regulator is often relatively straightforward; the compliance officer submits information in whatever format the law requires. The body that receives such reports may be

⁷ Independent Election Commission of Afghanistan, 2009 Candidate Reporting Guide.

⁸ Double ledger accounting practices throughout a country's financial system facilitate disclosure and scrutiny. On one hand, compliance officials will be more likely to have training in this practice when recruited from the private sector. On the other, double ledgers create audit trails, allowing for verification of party and campaign reports against the reports of donors, lenders and expenditure receivers.

⁹ In situations where the political finance regulator may be unduly influenced by the incumbent regime, such powers may, however, be used to harass opposition political parties and candidates.

¹⁰ A verification card is a short form that a donor completes when making a donation. It usually includes a statement of his or her identity and basic contact information.

the Election Management Body, as is the case in the UK, an institution set up specifically to monitor the activities of political parties, such as in Sierra Leone, or to an institution that works generally with issues of financial control, as is the system in Bulgaria.¹¹

Generally, this body must have sufficient capacity to carry out its mandate and must be free from undue political influence by any actor. The capacity the political finance regulator needs depends on what it does with received reports, which varies from simply filing the documents to fully auditing them.

Ultimately however, the submitted information should also reach the public. Public disclosure is more complex, and much responsibility will fall to the regulatory body. Responsible institutions from Bosnia Herzegovina to the US publish received reports on their websites. Party treasurers may also voluntarily disclose directly to the public. This practice has evolved in Costa Rica, for example, leading to greater transparency than one would predict from the legal framework alone.¹²

For disclosure to support process integrity and voter information, reports must reach the media, reform-oriented politicians, academics, watchdog groups and voters.¹³ Three principal channels are through freedom of information laws, printed public gazettes and, increasingly, the Internet. Laws can require disclosure to certain outlets (such as an official, government gazette), but online disclosure remains the cheapest and most efficient way to reach multiple large audiences in many countries.

Information made available to the public should also be tailored to the audience. Civil society watchdog organizations can use raw information, but the media and especially voters will benefit more from summary information about general trends and major actors. To the extent possible, raw information will be more useful in machine-readable formats like spreadsheets or downloadable database files. This format is not useful to the media, which works on a press cycle, or especially the public, which would benefit from aggregated information. NGOs can be useful here for analyzing data and putting it in a format that is easy to understand. Using such procedures, NGOs can inform voters and the media, thereby reducing the workload of regulatory agencies.¹⁴

Where the Internet is not widely available or a practical solution given regulator capacity, regulators can make comprehensive information including copies of checks, receipts for funds spent, et cetera, available during open hours at their offices. This permits watchdogs and academics to conduct independent audits and original research.

When to disclose

When political finance disclosure should take place will depend on the types of activities that

11 Financial reports are received in the UK by the Electoral Commission, in Sierra Leone by the Political Parties Registration Commission and in Bulgaria by the National Audit office.

12 Ninua, Tinatin (2009) Remarks at IFES-Carter Center conference on global standards in political finance. 22-23 January.

13 Zovatto, Daniel (2003) "The Legal and Practical Characteristics of the Funding of Political Parties and Election Campaigns in Latin America" in International IDEA Funding of Political Parties and Election Campaigns. Handbook Series. International IDEA, Stockholm, p 112.

14 The U.S. Federal Election Commission allows users of its website to view candidate finances by donor name, business name, locality of origin, et cetera. Elections Canada offers a similar searchable database. The U.S. non-governmental Center for Responsive Politics uses an electronic database published by the U.S. FEC to generate reports useful to media and the public, such as summaries of contributions by major industries. See further: www.fec.gov and www.opensecrets.org.

disclosure covers, and the intended use of the submitted information (such as detailed auditing or public disclosure).

As discussed above, both political parties and candidates should preferably disclose their finances in relation to electoral campaigns. Party and campaign finance information intended to guide the voters must be available well in advance of Election Day. Whenever possible, standing organizations should disclose all finances regularly throughout the electoral cycle, regardless of whether there have been changes to the organization's account.¹⁵ Election campaign organizations should fully disclose their finances upon incorporation, regularly throughout their existences, after the election, and upon closing all accounts.

A financial reporting system in relation to an electoral campaign could include the following reporting obligations.

Different administrative measures can facilitate speed in public reporting by regulators: electronic online disclosure by parties and candidates, standard forms, optical scanning technology and databases to which finance information can be uploaded directly.

Reasonable and feasible: rules of thumb for legal frameworks

Pre-campaign report	Contestants report on their assets and liabilities at the start of the election campaign.
Intra-Campaign report	During the campaign, contestants report regularly on their income and expenditure.
Post-election campaign	After the elections, contestants report on their income and expenditure during the entire campaign period. This report can also include the contestant's assets and liabilities after the elections.

No disclosure regime will be enforceable unless the burdens it imposes are bearable. Laws must have reasonable aims, and complying with them must be feasible for regulators and organization treasurers alike. Reasonable requirements are logically consistent with a country's political, infrastructural and economic characteristics. For example, real-time, online disclosure would not be a wise use of resources in a country without widespread Internet access. Feasible reforms are requirements that parties, candidates, and regulators actually have the capacity to comply with and enforce, respectively. Requiring disclosure of every donation greater than €1 would be so burdensome that parties would not bother to comply, and regulators would not bother keeping track of reports. Because regulation is meaningless without enforcement, political finance systems must be designed with the constraints of country context in mind.¹⁶

¹⁵ Parties in the United Kingdom and campaign committees in the United States submit quarterly reports. See GRECO (2008) Third Evaluation Round: Evaluation Report on the United Kingdom on the Transparency of Party Funding. (Strasbourg: GRECO), p 14.

¹⁶ This figure is for donations to national parties. Lower thresholds exist for donations to local parties or to candidates. Legislation passed in July 2009 raised the national threshold to GBP 7,500 (approximately USD 11,800).

Common thresholds and exceptions for disclosure

Even when transparency is the main goal of disclosure, some exceptions need to be made to the information that political parties and candidates have to submit. In addition, also political finance regulators who strive to make received information public normally make some exceptions.

The most common reason for limiting the information that political parties and candidates have to provide is simply expediency. It is in many cases not feasible to request that every single expense be reported individually with supporting documentation. Many countries set a threshold, below which expenses need only be reported in consolidated form or not at all.

Similar exceptions are common for small donations. A difficulty here is that donors, political parties and contestants may attempt to hide donations they do not wish to become public by splitting them into smaller donations that would each fall under the reporting threshold. As a first step in counteracting this, reporting thresholds should be based on the total amount contributed by a donor during the reporting period, and not on the size of individual contributions. The thresholds for donations that need to be reported vary from the equivalent of \$100 in Afghanistan to \$8,000 in the UK.

Another issue is whether the political finance regulator should publish all information it has received from contestants. Here the most common exception relates to the identity of donors. There will subsequently often be a two-step approach regarding the identity of donors, where very small donations are not even reported to the political finance regulator, which in turn withholds information about slightly larger donations from the public. Even in the US, where complete transparency is the general approach to campaign finance regulation, the addresses of donors are withheld (though not their name and employer).

Tailoring Disclosure Laws to Normative Ends

Depending on the normative goals one wants to pursue, one can structure the specifics of disclosure laws. We will deal with three such goals in this study: competitiveness, transparency, and curbing undue influence. This section defines each goal and briefly discusses its relationship to disclosure system design.

Transparency

Political finance transparency reflects the desire for public information about the sources of political party and candidate resources and therefore their bases of support and expected behavior. The aim is for voters to better understand the policy preferences of parties and candidates, leading to more informed choices on Election Day.

Disclosure timing, the level of detail disclosed and regulator effort to disseminate this information are important considerations in ensuring transparency. As one aphorism goes, “access delayed is access denied.”

Because voters are presumed to have limited time and resources to draw their own conclusions from disclosure data, it is critical that regulators make vigorous efforts to disseminate this information in digestible parts. This means summarizing data in logical ways and distributing it through many channels. Maintaining records at an office open to the public is one method. Posting it to the Internet, releasing it to print and television news outlets and presenting trends

in reports are other ways to maximize the reach of public information about political money.

Non-governmental organizations and academics can be critical in this effort. The media may in some circumstances be only marginally better than voters at distilling data into meaningful trends. For this reason, it may be advisable for regulators to publish information in popular, machine-readable formats: comma-delimited text files, spreadsheets or databases, for example. This allows independent researchers to quickly use software to analyze the data. The public availability of reports submitted by political parties and candidates can also serve as inspiration for journalists to investigate the financial activities of these groups more closely. What contestants may choose not to disclose is often even more interesting than what they do disclose, and journalists are often especially well placed for finding out more.

To make information meaningful, it is necessary for regulators to provide information about donors. The above section detailed what items should be disclosed. With respect to each, transparency may depend on knowing the identity, address, occupation and employer of each contributor or recipient of political money. Where corporate entities are allowed to make contributions, the identity, address and industry of each will be sufficient. With respect to the goal of transparency, information regarding donors will enable voters to learn about parties' and candidates' relationships to particular industries and pressure groups.

Finally, timing of disclosure is critical for transparency. If voters receive useful information after, on or too near to Election Day, they will be less likely to use it. This implies that regulators must release raw information to civil society and the media at least several weeks in advance of an election so that the latter can make it useful to voters.

Curbing Undue Influence

An actor has undue influence when the distribution of resources is such that another actor does not have meaningfully equal bargaining power. Undue influence is said to exist when “a person is overpowered and he is induced to do or forbear an act which he would not do or would do if left to act freely.”¹⁷ A political group may exert undue influence if it can unilaterally dictate the contents of policies or reforms. Such a group can gain this influence through elections by helping favorable candidates and political parties win, or between elections by bribing elected policy-makers. Alternatively, a group that controls state agencies and resources may exert undue influence by diminishing the integrity of electoral processes or using public goods and services to its exclusive, electoral benefit. The latter is sometimes referred to as abuse of incumbency, or to adopt a terminology common in the former communist bloc, the abuse of administrative resources.

Undue influence can manifest in government consideration for great wealth or special interests beyond that implied by an election mandate. Specifically, the lobbies of certain groups may enjoy special access to lawmakers by virtue of their abilities to contribute materially or in kind to campaigns. As a result, public policies become biased in favor of their desires, instead of catering to wider constituencies.

While undue influence is difficult to detect and even harder to prevent, enhancing transparency can be a useful way of reducing the problems. Disclosure laws can minimize them by providing voters with information as to who contributes to political parties and election cam-

¹⁷ Black's Law Dictionary, 5th edition, 1979.

paigns, as discussed above, or by enabling responsible agencies to identify and prosecute violations of ethics and lobbying rules. Before elections, effective disclosure results in incentives for fair play by parties and candidates averse to the costs of punishment (whether these costs be financial, administrative or political). After elections, disclosure information bolsters electoral accountability by allowing the media, civil society and voters to link policies to prior patterns of financial support. The key policy instrument here is increasing the scope and detail of disclosure. Requiring disclosure also in-between elections can help to deter quid-pro-quo donations, where financial contributions are given with the understanding that politicians will respond by providing contracts, tax relief etc to the benefactor.

Another form of undue influence comes from within the state. Where powerful actors have access to government resources, they may use these to affect the outcomes of elections. Using state vehicles and media in campaigns are two examples. The key instrument for detecting this form of abuse is disclosure of the nature and sources of in kind loans and contributions, especially between elections. More difficult to detect, ruling parties may promise jobs, contracts and patronage to certain actors in return for their efforts to get out the vote. Detailed disclosure information can help activists and regulators identify this form of undue influence. If the beneficiaries of government decisions closely track geographic, employer or industry patterns of giving, for example, one may have uncovered evidence of misconduct. In countries where the government uses illegitimate means to win elections, it is especially important (though unfortunately less likely) that the agency in charge of receiving and analyzing reports from political parties and candidates is independent and well resourced.

Vote buying constitutes undue influence because it causes voters to falsify their political preferences, which may have long-term implications for them, in return for short-term material gain. Vote buying is one of the most difficult phenomena to detect. Close scrutiny of party and candidate spending against what visibly appears to have been purchased may reveal evidence of it. As such, the need to control vote buying underscores the importance of expenditure disclosure.

Competition

A third, broad goal concerns fostering competition. Depending on how one conceives of competitiveness, however, the implications for political finance system design change. What each conception shares with the others, though, is recognition that all campaigns rely on tools that have monetary value.

In one view, competitiveness implies a “level playing field” or baseline ability for all serious parties and candidates to disseminate their messages.¹⁸ Operationally, this means access to television, print media, billboards, rally venues, and the like. The twin dangers are that a campaign may not have enough money to tap these resources or that a rival campaign’s resources may so exceed those of the former that the former’s message is effectively muted. There is subjective judgment involved in determining how “level” a level playing field is. At one extreme end, “level” may seek to eliminate all disparities between competitors, whereas a milder interpretation focuses on all contestants having access to sufficient resources to make their voices heard.

¹⁸ Casas-Zamora, Kevin (2009) Remarks at IFES-Carter Center conference on global standards in political finance. 22-23 January.

The competitiveness goal implies a number of political finance regulations designed to make competitors more equal in their resourcing. These include contribution and expenditure limits, a limited campaigning period and public financing of party and campaign activities. These underscore the need for detailed and frequent disclosure, respectively. Without details about the identity, occupation and employer of a donor, it may not be possible to enforce contribution limits. One donor may give several times under slightly different names, through a spouse or children, or through an employer. Likewise, an employer may give multiple times through its employees.¹⁹

Expenditure limits and public financing, on the other hand, imply frequent and comprehensive disclosure throughout the electoral cycle. Depending on the system used for public funding, regulators need regular information about campaign assets to accurately calculate an organization's eligibility for such funds. This will in most cases come from disclosure of party accounts. Finally, to ensure a level playing field in terms of expenditures, regulators obviously need to know what political parties and candidates have spent.

Addressing Hurdles to Disclosure

The preceding sections have presumed political conditions that often do not exist. These include an independent and well-resourced regulatory body, political will to enforce and/or respect disclosure laws and free and fair electoral processes more generally. This section presents initial thoughts on how disclosure may be advanced in contexts that lack those enabling conditions.

No political will, weak regulator

If politicians from opposing parties tend to agree on one thing, it is to not restrict practices they perceive to help them win office. For this reason, democracies with institutionalized party systems seldom change their electoral systems. Likewise, attempts to establish independent boundary delimitation procedures are often uphill battles. The same can be said of campaign finance disclosure reform. In a recent IFES survey of experts and regulators, many respondents thought that the strongest argument against disclosure was that "It is impossible to enforce because there are always ways around it."²⁰ Even in the United States, disclosure laws in place since 1910 went unenforced until 1975, when Congress created an independent regulatory agency on the heels of a major scandal. In this situation, the question becomes how to effectively design and implement reforms when parties and politicians refuse to comply with disclosure laws.

As a first step, regulatory authority can be vested in an independent agency. Ruling parties may use their control of the state to prevent enforcement. Institutional independence can minimize the effectiveness of such strategies. By insulating the regulator's budget, staffing, and continuation in office from the discretion of elected branches, the independent model may give regulators the political space and resources to enforce disclosure laws without fear of dismissal or other reprisals. In many respects, the political finance regulator needs to adhere to the same criteria as an independent election management body. In many countries the

¹⁹ The US-based Federal Election Commission and the Center for Responsive Politics, a NGO dedicated to finance transparency, expend significant resources determining the total amount an individual has given.

²⁰ IFES (2008) Political Finance Survey Report 2008. The survey included academics, reformers and election stakeholders. N=107.

regulation of political finance is indeed the responsibility of the election management body.²¹ Formal institutional independence may not be adequate for ensuring enforcement, however. Since regulators will in almost all cases depend on elected officials for their appointments, they may be equally likely to be disposed to the desires of politicians as to the mission of the regulatory agency. Even if the regulator takes its independence and its mandate of overseeing political finance seriously, resources may be so limited as to prevent effective investigation. When institutional independence is not enough to ensure enforcement, reform needs to be more fundamental. Popular support for reform is often required, and sadly such support can often only be mobilized in the wake of political corruption scandals.

Abuse of disclosure by strong ruling parties

Complete disclosure necessarily involves revealing the donors and recipients of political money. Depending on the levels of social peace and institutionalization of democratic norms in a society, this can present significant risks. One example of this is Ukraine where then President Leonid Kuchma in 2002 gained information through stringent disclosure requirements that was subsequently used to harass opposition parties through subordinated tax authorities, fire inspectors and state police.²² The risk of harassment as a result of disclosure is even more pronounced in post-conflict states, where “tensions and the ever-present threat of violence make it difficult to attain international standards of transparency.”²³

We can expect disclosure to be a tool of harassment in less-than-free countries where elections nonetheless matter. That is, ruling parties in weakly institutionalized democracies have strong incentives to abuse disclosure when they face relatively strong competition for office. In these contexts, efforts to lobby for transparency-enhancing political finance reform should be wary of possibilities for harassment of the opposition. On the other hand, the need to protect their donors from harassment is an argument habitually utilized by politicians more concerned about losing donations from publicity-shy donors than in the safety of their supporters.

The likelihood of harassment can force a tradeoff between transparency and personal security. On a basic level, one can adjust disclosure thresholds and the information disclosed accordingly. By setting the contribution and expenditure thresholds relatively higher, the contributions by “regular people” become protected. Yet high disclosure thresholds will not protect the most influential donors to opposition campaigns.

Another option is omitting disclosure of specific identities: the names of donors, persons receiving money, and their employers for example. Depending on the likelihood of harassment, it may or may not be advisable to omit disclosure of industries as well. If the number of actors in a particular industry is few, the likelihood an individual will be identifiable increases. Naturally, there will be a point when removing increasing amounts of information about income will remove the point in submitting such reports at all.

It can be argued that transparency may not be the most important priority in the most unfree

21 For a brief discussion of the independent election management model, see International IDEA (2006) Election Management Design: The IDEA Handbook, pp. 7-11.

22 Walecki, Marcin (2004) “Ukraine: the authoritarian abuse of disclosure” in Global Corruption Report 2004, ed. Transparency International. (London: Pluto Press), pp. 41-2.

23 Boneo, Horacio and Dahl, Bob (2006) “Lessons learned about political finance in post-conflict societies” in Political Finance in Post-conflict Societies. (Washington: IFES/USAID), p 13.

countries. When harassment of opposition is likely, it may be more important to prioritize competitiveness over transparency and fair play, since the policy instruments involved do not necessarily reveal persons' identities. The importance of civil society and the media (and indeed the international community) in exposing serious threats to the personal security of contributors should also not be forgotten, and they may be the most effective monitors of political finance transactions. This is because, in many of the type of countries concerned here, it is unlikely that independent and resourceful political finance regulators would be allowed to function.

Recommendations

While each country has to design its own disclosure system, some lessons can be learned from the last few decades of financial reporting regulations worldwide.

1. Disclosure is the cornerstone of political finance oversight. Without effective disclosure, other regulations like spending limits or bans on certain types of contributions are nearly impossible to enforce. Getting the disclosure system right is therefore crucially important for addressing the problems that political finance regulations are intended to target.
2. Effective oversight of political finance is normally beyond the reach of any single actor. By making the information public, the political finance regulator can get assistance from media and civil society (and indeed from competing political parties) in monitoring the finances of candidates and political parties.
3. Creating a completely watertight disclosure system is most likely impossible. Care should be taken to ensure that no glaring loopholes are left in the reporting requirements (such as only demanding reporting during a very brief campaign period or excluding political parties or candidates from the reporting obligations).
4. At the same time, it is important to ensure that the disclosure requirements do not place an undue burden on the contestants. Overly complicated reporting requirements discourage compliance and often add little valuable information. Indeed, huge quantities of information are likely to make it more difficult for regulators, media and civil society actors to find the really interesting pieces of data.
5. In line with the above, make sure that the disclosure system takes into account local factors, such as the burden on the political finance regulators and the reporting bodies; the level of financial expertise and literacy among candidates; the technologies available for reporting and dissemination and the timeframe available for the submission, auditing and publication of financial reports.
6. Introducing disclosure requirements necessitates an open dialogue with those who are set to report, including discussions on the detailed reporting systems and training sessions with political party and candidate representatives.
7. Be prepared to reform any disclosure system over time. New systems always require fine-tuning, whereas even established systems need to be reviewed regularly to adjust to variations in how political finance functions overall in the country.

Conclusion

This chapter has focused on basic issues in political finance disclosure systems. While the topic can seem bewilderingly complicated, the design of a system is fairly straightforward. First reformers must decide what their normative goals are: more informed voters, more equal footings on which parties and candidates compete, or more equitable access to politics across socioeconomic groups, for example. From this decision, reformers can envision an ideal disclosure system in terms of key regulatory dimensions: what is disclosed, who discloses, how often, and to what type of regulatory body. Finally, one must consider what requirements make sense in the country context and what will be feasible for regulators, political parties and campaign actors to live by, given the resources available to them. The process of developing these procedures should as much as possible be conducted in dialogue both with those who will be required to submit reports and with those who will be the intended users of the disclosed information (regulators, media, civil society and ultimately the electorate).

Given that different regulatory frameworks foster different normative outcomes, there is no model political finance disclosure system. Formal political institutions have further implications for each of the key system variables, such as variation in constitutional designs and the characteristics of electoral systems. Beyond that, levels of technology, literacy, social peace and civil society development will vary. Every context has its own set of best practices.

One aim of this chapter has been to start thinking about practical solutions, the place of political finance reform in a hierarchy of needs, and its implications for reform priorities. Some countries may need electronic disclosure while others need more far-reaching reforms of accounting conventions. On examining the variables in disclosure systems and how they might operate in different countries, we learn that the list of best practices is fairly short. To ratify a generic disclosure law is simple. Meaningfully implementing the UN Convention against Corruption, however, requires identifying specific goals and problems. Once those are agreed upon, reformers can design disclosure systems that maximize their goals and minimize the pitfalls.

Chapter II

Practical Solutions for Spending Limits

Marcin Walecki



Introduction

“Without limits on total expenditures, campaign costs will inevitably and endlessly escalate. ... Besides backing up the contribution provisions, expenditure limits have their own potential for preventing the corruption of federal elections themselves.”

Supreme Court Justice White (dissenting in Buckley v. Valeo court case)

To achieve a fair and competitive system, a country should offer a level playing field in which any political actor can participate. Among the main provisions of political finance laws serving the above purposes are spending limits. Spending limits maintain equality of arms between candidates, an important principle in democratic societies and in the electoral process.

Over the last few decades growing concern with the rising cost of electoral campaigns resulted in proposals aiming at limiting campaign expenditure. In many countries reform minded politicians argue that those who have access to significant amounts of money may take over the election campaign simply because they can afford to dominate channels of political communication (e.g. media, billboards, public events), thus undermining the fairness of the process. The logic of this argument is based on the assumption that unregulated political finance fails to guarantee a level playing field in the competition for power.

Indeed, effective political communication is a key factor when competing for votes and unrestricted spending may allow the communications of some to overwhelm the communications of others, thereby creating an unfair advantage in the electoral system. Provisions limiting spending on election expenses are based on the principles of fairness and accessibility. In the electoral context, accessibility is understood in terms of removing barriers to entry to electoral competition, and fairness is understood as the achievement of a level playing field for political actors and reducing the possibility of unfair advantage for one over another by reason of wealth.¹

Historically, the regulation of campaign expenditure was a response to a variety of electoral abuses. The introduction of the Corrupt and Illegal Practices Act of 1883 in Britain was characterized by Charles Seymour as ‘a landmark in the development of democracy in England’.² The main characteristic of the 1883 Act was the introduction of limits on the permitted election expenditure in each constituency, backed up by strong regulations to ensure enforcement. The limit was set at £710 for the first 2,000 voters in the candidate's constituency, and then £40 for every additional 1,000 voters. Strict record keeping was required as proof that expenses were not being exceeded.

In the United States the 1910 Federal Corrupt Practices Act established campaign spending limits for political parties in House general elections. However, the 1910 Act only covered single-state political parties and election committees, carried few penalties and was rarely

1 Diane R. Davidson, Political Financing in Canada: Achieving a Balance, Paper presented at the Annual Meeting of the Law and Society Association: “Law and Society in the 21st Century: Transformations, Resistances, and Futures” Humbolt University, Berlin, Germany, July 25-28, 2007.

2 He also argued that, the Corruption Practices Act ‘sought to curtail the irregular and illegitimate expenditure that had grown up in place of the old-fashioned bribery’. See Charles Seymour, Electoral Reform in England and Wales (Devon: David&Charles Reprints, 1970), pp. 454-455.

enforced. In 1911, the FCPA was amended to extend the Act's requirements to U.S. Senate candidates and primary elections. The 1911 amendments also required financial disclosure by candidates for the first time, and established limits on the amount of money candidates were allowed to spend on their campaigns. House campaign expenditures were held to \$5,000 and Senate expenditures to \$10,000, or the amount established by state law (whichever was less).

In many modern democracies limits on party and campaign expenditures are used to avoid excessive increases in the cost of party politics, control inequalities between parties and restrict the scope of improper influence and corruption. Allan Ware, a professor of politics at Oxford University, suggests that, "One means of attempting to stop a 'feeding frenzy' among parties in their search for funds is to restrict how much they spend on a very costly activity—namely election campaigning."³ There are few other arguments in favor of spending limits. Firstly, unrestricted spending can give an unfair advantage to those with access to money and may make politicians dependent on large contributors. Secondly, spending limits are also a means to prevent candidates or parties from indirectly buying votes (by, for example, inviting potential voters to expensive events with free music, gifts, food and drinks). Thirdly, spending limits can prevent the political debate at election times from being distorted by having the discussion shifted away from matters of general concern to center on issues which have substantial financial support.

In general, spending limits provisions are usually contained in election laws or laws dealing specifically with party finance or election finance. Out of the 104 countries studied by Michael Pinto-Duschinsky, 41 per cent contain any spending limits.⁴ Ceilings on election expenditure are often set by the legislature, the electoral management body (EMB), or other authority tasked with implementing political finance regulations. In the cases where the ceilings are set in law, such limits are set either by determining a ceiling or by applying a formula (for instance, a multiple of the average monthly wage)⁵ with a provision for adjustment according to prevailing levels of inflation.

Statistics show that spending limits in Europe are subject to greater regulation in young democracies than in established democracies. Moreover, strict limits on parliamentary candidates' expenditures are a well-known feature of the Westminster model of political finance regulations.⁶ Still, limits focusing only on parliamentary candidates 'do little under modern conditions to control political expenditure as a whole'⁷, because most modern campaign expenditure is national.⁸ With the advance of centralized direct mail, telephone banks, posters and billboards, the absence of a comprehensive system - including national spending limits - makes little sense to depend on the local limits. In Canada, spending limits for political parties and candidates were first introduced in 1974 and expanded in 2003. They are considered to be the cornerstone of Canadian democracy. In 2003, limits were raised and a broader definition

3 Peter Burnell and Alan Ware (eds.), *Funding democratization* (Manchester: Manchester University Press, 1998), p. 240

4 Michael Pinto-Duschinsky, *Journal of Democracy*, Vol 13 nr 4, October 2002

5 In the case of presidential elections, Bulgaria, Poland and Slovakia set a definite quota limit, while Russia and Ukraine use a specific formula (the minimum wage multiplied by 300,000 and 100,000, respectively).

6 In the case of presidential elections, Bulgaria, Poland and Slovakia set a definite quota limit, while Russia and Ukraine use a specific formula (the minimum wage multiplied by 300,000 and 100,000, respectively).

7 Pinto-Duschinsky (1981), p. 268.

8 The total expenditure of the Labour and Conservative Parties at local and national levels during the 1997 General Election was about £60 million of which nearly 90 per cent was national expenditure. Yet, in 1880, the national expenditure by the two main political parties amounted to 2 per cent of the total expenditure.

of election expenses was included. Regulated expenses now include public opinion surveys, leaders' tours and staff salaries. The spending limits also include third parties. According to the Canadian legislation, a "third party" is a person or group other than a candidate, registered political party or an electoral district association of a registered political party.

One should also stress that once the political finance system imposes caps on the spending of candidates and parties to limit an unfair advantage, there must be limits on others (so called "third parties"). Otherwise wealthy supporters or action groups could spend money directly for the benefit of one candidate or in order to prevent the election of another. If spending limits apply only to a candidate/party only attacks against a candidate might go unanswered on account of the limit on the amount of money a candidate is allowed to spend. In order to be effective, spending limits will need to apply to interest groups as well. In Britain, for example, the new electoral spending cap on party organizations of some USD 30 million (GBP 20 million) each is accompanied by a cap on pressure groups of USD 1.5 million (GBP 1 million) each. Even this will not solve the problem of evasion. If there is a limit on a trade union of USD 1.5 million, what is to stop that union from creating several sub-units, each of them formally independent and each entitled to spend USD 1.5 million. The ability to proliferate "independent" committees and pressure groups undermines the prospects of effective spending caps. Some experts argue that the restrictions on third-party expenditure can help to ensure that candidates remain independent of the influence of powerful interest groups.

Problems with spending limits

Limits on campaign expenditure should by no means be perceived as an ideal legal mechanism that states should utilize in attempting to reduce the cost of politics. Spending limits can contribute to a conflict between two fundamental principles of modern liberal democracy – the need to secure political equality and the need to secure political liberty. The problem arose in two interesting cases. Firstly, in the United States in the *Buckley v. Valeo* case when the Supreme Court held the three main spending limits provisions to be unconstitutional. These included a limit on independent expenditures, a restriction on the amount of private resources which the candidate could use, and a total spending limit on candidates running for federal office.⁹ In the landmark *Buckley v. Valeo* decision, the U.S. Supreme Court, influenced by First Amendment and freedom of speech considerations, undermined comprehensive legislation passed in the aftermath of Watergate. Secondly, in *Bowman v. U.K.*, the Court found that a very strict restriction on spending related to an election by a private person was an unreasonable infringement of freedom of expression. The Court found the section 75 of the 1983 Act, for all practical purposes, as a total barrier to Mrs. Bowman's publishing information. The Court questioned if it was necessary to limit her expenditure to GBP 5 in order to achieve the legitimate aim of securing equality between candidates. It concluded that the restriction in question was disproportionate to the aim pursued. The European Court reminded that free elections and freedom of expression, particularly freedom of political debate, together form the bedrock of any democratic system.

Furthermore, in some countries the artificially low legal limits on permitted campaign spending make the reporting of political party expenditure irrelevant, as happens in India and Israel. In

⁹ In the view of the US Supreme Court, 'The concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment ... The First Amendment's protection against governmental abridgement of free expression cannot properly be made to depend on a person's financial ability to engage in public discussion.' See *Buckley v. Valeo*, 424 US 1 (1976), at pp. 48-9.

addition, research conducted by the author has pointed out that spending limits make disclosure provisions harder to enforce. Polish as well as the Russian¹⁰ and Ukrainian examples (see table 1) show that spending limits have proved in practice to be irrelevant, having been introduced at unrealistically low levels. Not only have they failed to curb the political finance “arms race”, but their failure has also under-mined confidence in the entire system of political finance regulation. These rules have also made it difficult to assess true levels of expenditure. Since no party desires to be sanctioned for breaking laws on spending limits, they will often report spending below the limit. Moreover if opposing political parties all flout the laws concerning spending limits and disclosure, “non-aggression pacts” can occur. As a result voters, CSOs, and media can’t receive credible information necessary to monitor campaign finance.

Table 1, Financing a Presidential Election Campaign: Major Candidates’ Official Spending in Russia, Ukraine, and Poland

Russia				
Presidential Elections 1996* Candidate	Lebed	Zhirinovskiy	Yavlinskiy	Yeltsin
Expenditure (US\$ million)	2.83	2.72	2.72	2.42
Presidential Elections 2000** Candidate	Zhirinovskiy	Titow	Yavlinskiy	Putin
Expenditure (US\$ million)	0.869	0.866	0.840	0.451
Ukraine				
Presidential Elections 1999*** Candidate	Moroz	Tkachenko	Kuchma	Vitrenko
Expenditure (US\$ million)	0.214	0.195	0.154	0.125
Poland				
Presidential Elections 1990 Candidate	Mazowiecki	Walesa	Tyminski	Cimoszewicz
Expenditure (US\$ million)	0.597	0.581	0.351	0.192
Presidential Elections 1995 Candidate	Kwasniewski	Walesa	Pawlak	Kuron
Expenditure (US\$ million)	1.373	1.121	0.544	0.535
Presidential Election 2000**** Candidate	Kwasniewski	Krzaklewski	Olechowski	Kalinowski
Expenditure (US\$ million)	2.29	2.31	0.42	0.46

Notes: *Official spending limit US\$2,850,000. **Official spending limit US\$920,000. ***Official spending limit US\$385,000. **** Official spending limit for 2000 US\$2,600,000. Not applicable for 1990 and 1995

There are a few additional challenges to spending limits which are worth discussing. Most importantly, they are particularly difficult to regulate and to enforce. The introduction of spending limits can lead to a number of important policy decisions such as time-period during which spending limits apply, items of spending to be counted as “campaign” costs, and organizations to be included within the spending limits. According to Herbert E. Alexander: [E]xpenditure limits are illusory in a pluralistic system with numerous openings for disbursements ... [W]hen freedom of speech and association are guaranteed, restricting money at any given point in the campaign process results in new channels being carved through which monied

10 The way in which the reported statistics have reflected changes in spending limits is demonstrated by the financial accounts of the Russian parties and electoral blocs. During the 1993 election campaign, national blocs officially spent \$3.7 million; two years later spending limits were imposed, allowing individual candidates to spend no more than approximately \$100,000, and electoral blocs no more than \$2.4 million. The officially reported campaign spending figures naturally decreased in line with the new regulations. In the 1999 elections to the Russian Duma, individual candidates were allowed to spend only the equivalent of \$65,000 and electoral blocs \$1.6 million. Not surprisingly, the press reported that, in fact, national blocs spent considerably more than the allowed amount, which of course politicians were unable to declare without laying themselves open to prosecution.

individuals and groups can bring their influence to bear on campaigns and officeholders.¹¹ For example, if a spending limit is defined as “campaign spending” only (applying to a set period of time before an election), it will be possible for a party to print campaign literature, put the billboards up, present its’ broadcasts, and send direct mail in advance of the set period. An important factor must be taken into consideration where the application of limits in transition countries is concerned—inflation or, as has been the experience of some of these countries, hyperinflation.¹² All things considered, some experts argue that the ‘ban on paid political advertising on TV is arguably far more effective than formal limits on parties’ spending in limiting the costs of electioneering.’¹³

Spending Limits and International/Regional Organizations

Several international governmental and nongovernmental organizations (such as the Organization of American States, The Council of Europe, the World Bank, the ACEEEO, and Transparency International) have advocated standards and best practices related to spending limits. Problems associated with the high cost of election campaigns have also been recognized by a number of important international documents such as the Inter American Democratic Charter adopted in 2001 and the General Comment No. 25 adopted by the UN Human Rights Committee in 1996.

Most of the international governmental and non-governmental bodies suggest that states should limit expenditures in order to make party politics as inexpensive as possible. Some recommendations go even further suggesting, “shortening campaigns; providing equitable access to the media including free media time to the candidates during prime time; banning or capping paid political advertising” and “subsidized access to the media”.

11 Herbert E. Alexander, ‘Approaches to Campaign and Party Finance Issues’, in Karl-Heinz Nassmacher (ed.) *Foundations for Democracy: Approaches to Comparative Political Finance* (Baden-Baden: Nomos, 2001), p. 198.

12 In Bulgaria, a 1991 spending limit was applied to the 1997 elections, but by 1997 inflation had reduced the BGL to a fraction of its 1991 value. Candidates’ maximum allowable expenditure on the campaign, 30,000 BGL, had been reduced to the equivalent of just US\$20.

13 See Pinto-Duschinsky (2001), p. 22.

Table 2, Recommendations on spending limits by international organizations

Organisation

- Council of Europe
- EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION)
- (Draft) CONVENTION ON ELECTION STANDARDS, ELECTORAL RIGHTS, AND FREEDOMS

Recommendation:

To create equal conditions for all candidates and political parties (coalitions), the Parties shall establish a reasonable maximum size of the election fund of a candidate or political party (coalition), which they may spend on the conduct of their own election campaigns.

Organisation

- United Nations
- General Comment No. 25: The right to participate in public affairs, voting rights and the right of equal access to public service (Art. 25) : . 12/07/96. CCPR/C/21/Rev.1/Add.7, General Comment No. 25. (General Comments)

Recommendation:

Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party.

Organisation

- INTER-AMERICAN DEMOCRATIC CHARTER
- (Adopted by the General Assembly at its special session held in Lima, Peru, on September 11, 2001) Article 5

Recommendation:

The strengthening of political parties and other political organizations is a priority for democracy. Special attention will be paid to the problems associated with the high cost of election campaigns and the establishment of a balanced and transparent system for their financing.

Organisation

- SADC PARLIAMENTARY FORUM NORMS AND STANDARDS FOR ELECTIONS IN THE SADC REGION
- Adopted by the SADC Parliamentary Forum Plenary Assembly on the 25th March 2001 Windhoek,

Recommendation:

The funding of election campaigns is an area where the misuse of public funds is common and the playing field is not even. Experience in most countries is that the ruling party is well resourced (financially and assets wise) while opposition parties are poorly funded. Ceilings on political expenditure are either not there or ignored by all. The rich engaged in lavish expenditure to win votes.

The Electoral Commission should therefore be legally empowered to prohibit certain types of expenditures so as to limit the undue impact of money on the democratic process and the outcome of an election. It should be empowered to ensure that proper election expenses returns are submitted on time, to inspect party accounts, and for parties to have properly audited and verified accounts.

Organisation

- Transparency International
- TI policy position N°1/2005

Recommendation:

To control the demand for political financing, mechanisms such as spending limits and subsidized access to the media should be considered.

Organisation

- COUNCIL OF EUROPE
- COMMITTEE OF MINISTERS
- Recommendation Rec(2003)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns

Recommendation:

States should consider adopting measures to prevent excessive funding needs of political parties, such as, establishing limits on expenditure on electoral campaigns.

Organisation

- Statement of the Council of Presidents and Prime Ministers of the Americas
- “Financing Democracy: Political Parties, Campaigns, and Elections”
- The Carter Center, Atlanta Georgia March 19, 2003

Recommendation:

Invest in the democratic character of parties rather than long or negative campaigns. The pressures of fundraising should be reduced by controlling the factors that escalate campaign costs. Measures could include limiting spending; shortening campaigns; providing equitable access to the media including free media time to the candidates during prime time; banning or capping paid political advertising;

Organisation

- ACEEEO
- RECOMMENDATION ON THE RULING OF ELECTION CAMPAIGN FINANCING OF CANDIDATES AND POLITICAL PARTIES October 2001

Recommendation:

The allowed campaign expenditure of candidates and political parties shall be limited.

Table 3, Campaign Expenditure Limits: Myths and Realities¹⁴

Myth	Reality
1. Spending limits violate candidates’ freedom of speech	Some argue that “money is speech” and that expenditure restrictions are therefore unacceptable burdens on the freedom of speech. This argument is grounded in the unacceptable notion that, in a democracy, those who have more money are entitled to more speech, and therefore greater influence over elections and public affairs. This is diametrically opposed to the basic “one-person, one-vote” principle of democratic equality. Further, allowing unfettered campaign spending enables well-financed candidates to drown out the voices of their opponents, reducing the overall quality and diversity of public debate.
2. Spending limits help incumbents and handicap challengers	At first, it might seem that since incumbents tend to enjoy greater name recognition and challengers often have to spend large sums to catch up and win races, spending limits would amount to “incumbency protection.” The facts do not bear this assumption out. Incumbents raise so much more money than challengers that a spending limit will actually tend to level the playing field and help challengers remain competitive. U.S. House incumbents, for example, out-raised challengers nearly 7 to 1 in the 2002 election cycle. Not surprisingly, these incumbents won 90% of the time.
3. Spending limits prevent candidates from running effective campaigns, limit voter information and therefore dampen participation	The notion that candidates need to raise huge amounts of money and saturate the airwaves with 30-second ads in order to run “effective” campaigns is relatively new. In fact, few would argue that attack ads or flagwaving spots are the best way to inform voters about important campaign issues. Reasonable spending limits will allow candidates to get their messages out with more substance and less flash. Freed from dialing for dollars constantly, campaigners can pursue opportunities to reach voters through avenues that cost more time than money (such as public forums, door-to-door campaigning, etc.).
4. Spending limits are untested and a potentially dangerous idea	The first spending limits law for congressional candidates was enacted in 1911 and updated in the Hatch Act of 1939. Unfortunately, these laws featured no enforcement mechanism, so spending limits were often ignored. However, Albuquerque, New Mexico, has enforced spending limits nearly continuously since 1974. The city points to many advantages of the policy including higher than average voter turnout; greater public confidence in local than in federal elections; and increased competition. This has led to overwhelming local public support for spending limits.

¹⁴ Source: The State PIRGs’ Democracy Program (see www.buckbuckley.com/pdfs/spending_limits_myths.pdf).

Table 4, *Ceilings on Expenditures in Europe and Other Established Democracies*¹⁵

Country	Ceiling on party election expenditure	What is the ceiling
Belgium	Yes, per election cycle	EUR 1 million
Bulgaria	Yes, per election cycle	Over EUR 1.5 million
Canada	Yes	Registered political parties and candidates must not exceed the election expense limits calculated by the Chief Electoral Officer under the formulas provided in the Canada Elections Act.
France	Yes	In presidential elections, a party and its candidate may spend more than 16 million EUR in the first round and more than 20 million EUR in the second round. For parliamentary elections, both parties and candidates have a ceiling of 40,000 EUR plus more than 0.20 EUR per inhabitant.
Hungary	Yes	The ceiling is per candidate and per election.
Ireland	Yes	The ceiling is per candidate and per election.
Italy	Yes	The ceiling is per candidate and per election. There are additional limits for parties that present candidates in all constituencies.
Latvia	Yes	For parliamentary elections: 0.20 Centas per voter
Lithuania	Yes	1,000 times the average minimum wage for a list of candidates in a multi-candidate electoral area
Poland	Yes	More than EUR 3,500,000 (presidential elections)
Portugal	Yes	EUR 3,008,600
Spain	Yes	per election cycle Established for each electoral cycle by the general accounting court
United Kingdom	Yes	GBP 18,840,000 (This figure is for political parties only and excludes candidate spending)
United States	No/Yes	Generally no limits but there are limits for certain local elections and voluntary limits for the presidential election.

Conclusion

Because of the democratic belief that all should have equal opportunity to compete for political office, democracies have generally controlled the flow of money into politics, creating a framework of spending limits within which political parties, individual candidates, and third parties should operate. Well designed and realistic spending limits can enhance fair political competition. Keith Ewing, a professor of law at King's College, describes competition in an environment without spending limits as "inviting two people to participate in the race, with one participant turning up with a bicycle, and the other with a sports car."¹⁶ Furthermore, limiting the costs of politics can reduce the incentives for accepting large corrupt donations.

Yet, when arguing in favor of spending limits public discussion of the costs of democracy is often based on two assumptions: (a) many politicians and scholars believe that in their own country the election costs are higher than in other democracies¹⁷ and that (b) election costs

¹⁵ Source: International IDEA www.idea.int and author's own research

¹⁶ Keith D. Ewing, *Money, Politics and Law* (Oxford: Oxford University Press, 1992), p. 15

¹⁷ Still, it is widely believed that Israel is "the most expensive democracy per voter in the world" see Arian Asher, *The Second*

are rapidly rising.¹⁸ In many countries this discussion is based on wrong assumptions without any comparative research or considering in sufficient detail what is a real cost of politics and how much money is necessary for effective communication.

The results of recent comparative research into the cost of politics also question some of the arguments used by the supporters of spending limits. Nassmacher argues that the revenue possibilities determine the current “costs of democracy” – public subsidies are partly responsible for more expensive campaigning. If this is the case then the substantial public funding introduced in many democracies might be undermining another instrument of financial regulations. The argument that the demand exceeds the supply of funds (leading to a search for corrupt funding) might not be completely valid. In fact we might be trying to limit the cost of politics and yet we provide additional funds to make it more expensive.

Finally, in non-democratic regimes, imposing low and strict limits on campaign expenditure might marginalize opposition and, as a result, aid the non-democratic regime, by allowing it to take advantage of other resources, such as state-controlled TV, public administration, etc. In practice spending limits tend to make life harder for opposition parties and candidates. This is because ruling parties are able to enforce them selectively as seen in a number of post-soviet countries. In the most extreme cases, unrealistic spending limits can seriously limit freedom of speech. Election campaigns constrained by such a low spending limit are insufficient to provide voters with adequate information about candidates’ policies and platforms. Thus, under these circumstances the absence of spending limits may contribute to a more open and lively political discussion.

Republic. Politics in Israel (Chatham, N.J.: Chatham House, 1998), p. 155. Also Menachem Hoffnung, ‘Public Financing, Party’s Membership and Internal Party Competition’, in *European Journal of Political Research*, 29/1 1996, pp. 73-86.

¹⁸ To quote only one example from Germany, campaign expenditures between 1953 and 1965 increased by 300 per cent, whereas the general price index rose from 100 in 1950 to 137 in 1965. See Uwe Schleth and Michael Pinto-Duschinsky, ‘Why Public Subsidies Have Become the Major Sources of Party Funds in West Germany, but Not in Great Britain’, in Arnold J. Heidenheimer (ed.) *Comparative Political Finance* (Massachusetts: D.C. Heath and Company, 1970), p. 27.

Chapter III

Practical Solutions for the Public Funding of Political Parties and Election Campaigns

Magnus Öhman



Introduction and Background

Any effort to regulate the finances of political parties and candidates should acknowledge that money can have both positive and negative effects on democratic politics. One area in which such an acknowledgement forms a natural part is the provision of public funding. In most cases where public funding is provided, the aim is both to enhance the positive role played by political parties and to help curb some of the excesses of money in politics.

This chapter will define the key variables in the provision of public funding in multiparty systems, and at identifying recommendations on what should be borne in mind when attempting public funding reforms. The study acknowledges the vast difference between regions and countries, and does not prescribe any single solution. Instead, it encourages law makers and implementers to focus on the goals they wish to achieve with the public funding system, and to use these goals to guide the system being put in place. Many studies on public funding of political parties and election campaigns only include democratic countries, and often only consolidated democracies. This is understandable given the lack of information from most emerging democracies and solidly undemocratic states. However, this approach risks missing important dynamics involved in this issue.¹ This study will also discuss ways through which some regimes have sought to use public funding of political parties to strengthen their own position rather than to encourage political pluralism.

Public funding has been used in various forms for quite some time; in the US the “frank” can be seen as an early form of public funding introduced in 1775.² It should be stressed however that funding political parties and election campaigns is not a European or Anglo-Saxon invention. Other early cases of public funding for political parties were Uruguay, Costa Rica and Argentina in 1928, 1954 and 1959 respectively,³ while the practice was first adopted in Europe (West Germany) in 1959. Overall, public funding is in most countries to use Nassmacher’s expression “a relatively modern phenomenon”⁴ and many Third Wave democracies have adopted public funding of some kind since the re-introduction of multiparty politics.⁵ While the impact of these reforms has varied between different countries, Casas-Zamora sees the expansion of public funding as “arguably, the most important trend in contemporary political finance”.⁶

The issue of public funding has also received increased attention from international organizations. Table 1 is reproduced from “Public Funding Solutions for Political Parties in Muslim-Majority Societies” and shows how different institutions have deliberated about the role of public funding.⁷

1 A notable exception is Pinto-Duschinsky’s study on political finance regulations which included 104 countries. Pinto-Duschinsky (2002b).

2 Mutch, Robert E (2002) p 44.

3 Posada-Carbó (2008) p 21.

4 Nassmacher (2009) p 289.

5 Data on public funding used in this paper is based on the International IDEA database on party organization, International IDEA (2008), but has been extended by other sources. See further below.

6 Casas-Zamora (2005) p 10.

7 IFES (2009) p 29f.

Table 1 Recommendations on public funding by International Organizations

Organisation (Year)	Recommendations
World Bank (2001)	<ul style="list-style-type: none"> Consider public funding. Many countries established partial public funding, recognizing political parties play a public interest role: they make an essential contribution to political contestability and the decentralized expression of diverse values and interests. Public funding reduces the scope for private interests to “buy influence” and can also help reinforce limits on spending because electorate is resistant to excessive public expenditure.
Council of Europe (Venice Commission) (2002)	<ul style="list-style-type: none"> In the field of public funding of parties or campaigns the principle of equality of opportunity applies (“strict” or “proportional” equality). All parties represented in parliament must qualify for public funding. Public funding might be extended to political formations representing a large section of the electorate and put up candidates for election. Funding political parties from public funds must be accompanied by supervision of the parties’ accounts by specific public bodies.
The Carter Center/ Organization of American States (2003)	<ul style="list-style-type: none"> Mixed funding systems with a substantial public component are recommended. Public funds should be provided as a substitute for or a complement to private donations at all phases of the political and electoral process. Public funding for ongoing party activities and campaigns should be allocated by a mix of proportional rules and flat subsidies to all parties that meet reasonable thresholds.
Transparency International (2005)	<ul style="list-style-type: none"> Careful consideration should be given to the benefits of state funding of parties and candidates and to the encouragement of citizens’ participation through small donations and membership fees. To control the demand for political financing, mechanisms such as spending limits and subsidized access to the media should be considered.
Council of Europe Committee of Ministers (2003)	<ul style="list-style-type: none"> The state should provide support to political parties. State support should be limited to reasonable contributions. State support may be financial. Objective, fair and reasonable criteria should be applied regarding the distribution of state support. States should ensure that any support from the state and/or citizens does not interfere with the independence of political parties.

Goals of public funding

There is no ultimate public funding system. This is often acknowledged, but often the only reason given is that no two countries are the same, and that any public funding system must therefore be adjusted to suit the circumstances. While this is true, it is equally important that public funding may be introduced for very different reasons, and that two identical countries would require different funding systems if they are trying to achieve different goals. The importance placed in Scandinavian countries on supporting non-electoral activities of political parties would for example be anathema in the US, where the main function of political parties is electoral. Subsequently, each country must adapt any funding of its political parties or election campaigns by the state coffers to its political and party systems, economic capacity and traditions, and it must also take into consideration the goals that one hopes to achieve with such a system.

What are then the goals that public funding systems are commonly hoped to fulfill? It may be beneficial to study the goals and benefits outlined in some recent texts discussing public funding in different geographical contexts.

Table 2 Goals and benefits of public funding⁸

Nassmacher	<ul style="list-style-type: none"> • First, granting to parties and candidates the essential resources for the exercise of their functions, promoting equality in their access to and use of resources, and correcting any privileges which may affect that equality; and • Second, promoting and stimulating citizens' participation and involvement through private funding and achieving the maximum impact of civil society in politics. This objective also imposes limitations on the amounts and the modalities of private contributions.
Pildat	<ul style="list-style-type: none"> • Because parties are seen as the key political institutions for modern democracy, [the state should provide support] in order to facilitate or guarantee their continued existence. • [Also] providing equal opportunities, fairness and equality for a healthy political competition... • ... for a healthy political atmosphere... resources are provided to parties... to facilitate a more equal level playing field by enabling new, small... parties to compete... with the dominant and financially more privileged ones. • [In addition] is the desire to restrict the influence of private money and to limit its potential for distortion of the democratic political process.
IFES	<ul style="list-style-type: none"> • Public funding may strengthen the autonomy of politicians, prevent political finance-related corruption and enhance financial transparency • Public funding can protect political equality of opportunity and electoral competition • Public funding can provide political actors with adequate resources for essential democratic activities, increasing the institutionalization and stability of parties • Public funding can be a powerful lever to secure compliance with other political finance regulations
Casas-Zamora	<ul style="list-style-type: none"> • [It] strengthens the autonomy of politicians, prevents political finance-related corruption and enhances financial transparency. • [It] protects equality of opportunity and electoral competition • [It] provides political actors with adequate resources for essential democratic activities, increasing the institutionalization and stability of parties.
Australian Parliament Joint Select Committee	<ul style="list-style-type: none"> • It removes the necessity or temptation to seek funds that may come with conditions imposed or implied. • It helps parties to meet the increasing cost of election campaigning. • It helps new parties or interest groups to compete effectively in elections. • It may relieve parties from the 'constant round of fund raising' so that they can concentrate on policy problems and solutions. • It ensures that no participant... is hindered in its appeal to electors nor influences in its... actions by lack of access to adequate funds.
SADC	<ul style="list-style-type: none"> • [Funding necessary due to] poor resource background of most parties • Funding should be introduced to foster uniformity and leveling the playing ground.

These and other discussions on public funding allow us to identify the following potential goals of public funding systems (in no particular order);

- Increase capacity of political parties and candidates to reach the electorate and thereby allow voters to make more informed choices (shorter term)
- Level the playing field between political parties and candidates with different level of resources (in elections)
- Increase institutionalization of political parties (longer term)

⁸ The table utilizes the following sources; Nassmacher (2003a) p 8, Pildat (2005) p 33f, IFES (2009) p 16f, Casas-Zamora (2008) p 10f, Australian Government (2008) p 34 (reflecting the goals/benefits outlined by the Joint Select Committee on Electoral Reform in 1983), SADC Parliamentary Forum (2001) p 8. Emphasis added.

- Reduce political corruption (mainly dependence of politicians on influential donors)
- Reduce the role of money in politics (whether corrupt or otherwise)
- Using public funding to influence the behavior of political parties (regarding financial transparency, gender equality, minorities etc)

Many of these goals are interrelated, but efforts to achieve them may counteract each other. For example, providing significant funds to all electoral competitors may increase their chances to reach the electorate, but it may also fragment the party system and as such impede the institutionalization of political parties. To conclude this discussion on goals of public funding systems, we can note that it is possible to design structures that address several perceived flaws in the existing system of political finance, but it may not be advisable to attempt to do everything at once.

Which countries use public funding?

The first question to answer is how common public funding mechanisms are. Of the 183 UN member states that have a *de jure* multi-party system, information regarding direct public funding is available for 174.⁹ Of these, 58% have legal provisions for direct public funding to political parties in some form or other.¹⁰

Secondly, why do some countries but not others use public funding? Policy is never created in a vacuum, and this is particularly true regarding anything that relates to the rules of political competition. There have been few attempts to understand the factors that explain why some countries use public funding while others do not. Pinto-Duschinsky has noted that Commonwealth countries and very small states are less likely to use public funding, whereas countries using a proportional representation electoral system are more likely to do so.¹¹ Ikstens et al have claimed that state capture may be a deterrent to introducing public funding in Central and Eastern Europe, whereas Nassmacher rather sees this reluctance as a result of these countries communist past.¹²

It was argued in the introduction to this study that a complete understanding of the phenomenon of public funding requires that we study all countries, not only democracies. Indeed, the use of state support for political parties is in no way exclusive to democracies. While the group of countries that use public funding contains more free and less unfree countries than the group that does not (using the Freedom House coding), the difference is so small as to be statistically insignificant.¹³

It is reasonable to assume that public funding would be related to the overall level of corruption. Corrupt politicians may avoid public funding as indicated by Ikstens et al above, or they

⁹ Naturally, many countries with *de jure* multiparty systems are *de facto* dominated by one political force. The main data source for information on public funding is the International IDEA political finance database, International IDEA (2008). This database is however not complete and is being updated currently, and I have therefore complemented its data with other sources (available upon request).

¹⁰ As has been shown elsewhere, the fact that public funding is legally mandated does not mean that it is actually provided. Öhman (1999) *passim*.

¹¹ Pinto-Duschinsky (2002b) pp 75ff.

¹² Ikstens, Smilov & Walecki (2002) pp 6ff, Nassmacher (2003a) p 9.

¹³ Using the Freedom House combined scores for each country for the year 2008, Freedom House (2009).

may use it to support their own political parties or election campaigns. Unfortunately, corruption is notoriously difficult to measure, but we can note that there is no statistically significant correlation between direct public funding of political parties and the country's 2008 score in the Transparency International Corruption Perceptions Index.¹⁴

Pinto-Duschinsky's argument that there is a correlation between public funding of political parties and electoral systems is however supported by recent global data. Less than one-quarter of countries using a First-Past the Post electoral system use direct public funding of political parties, while nearly 85% of countries with Proportional Representation elections do so. Explaining this correlation requires additional research, but it is likely that an underlying factor of political culture related to the relative importance given to political parties is of special importance both for the choice of electoral system and of funding structure.

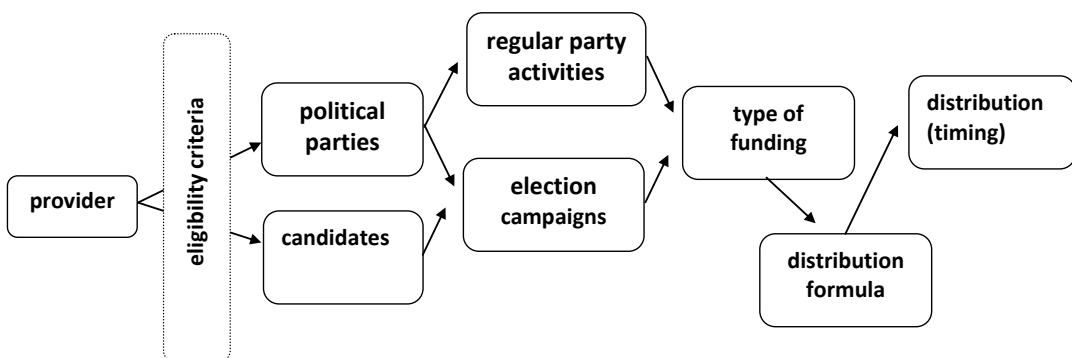
The below table shows the share of countries in different regions that use direct public funding.

Table 3, Use of direct public funding in different regions

Region	Share of countries using direct funding of political parties
Americas	53%
Africa	50%
Australasia	41%
Europe	89%
Middle East	38%

Overview of a typology

There are many ways of providing public funding. This study will briefly discuss seven factors that should be taken into account, as illustrated in the figure below.



1. The provider of funds

In many countries, the distribution and management of public funding is administered by the national Election Management Body. Indeed, in some countries (where the actual election ad-

¹⁴ Calculated from Transparency International (2008).

ministration is largely the responsibility of local institutions), the managing of political finance issues is one of the main tasks of the electoral commission (such as in the US). In other cases, the Ministry of Finance or Administration is responsible, whereas in Sweden, a special council of judges appointed by Parliament manage the provision of public funding.¹⁵ In Germany, calculating the funds to be distributed to each political party is the responsibility of the President of Parliament (Bundestag).¹⁶

If the rules regarding the provision of public funding to political parties and/or candidates are clear, the administration of such a system should place few demands on the administering institution. The main concern is that if politicians are given the prerogative to decide the amounts to be distributed, the system becomes “open to short-term manipulation and rapid increase”.¹⁷ If on the other hand the provision of public funding to political parties and/or electoral campaigns is combined with disclosure requirements and spending or contribution limits, it becomes important that the administering body has both capacity and perceived as well as actual independence.¹⁸

To relate to the discussion about goals above; if the goal of public funding is to enhance the capacity of political parties by providing them with additional funds, the administration of such funding can be very straightforward. If on the other hand the focus is on reducing corruption in the political sphere, then public funding will need to be combined at the very least with financial reporting requirements, and the task of the political finance regulator will be more demanding. If the goal is to reduce the overall cost of election campaigns, the decision on amounts should not be in the hands of the politicians.

Table 4. Types of distributing bodies

Type of distributing body	Comment	Example
Election Management Body	Can form natural part of election management, but can also distract from the practical arrangement of elections	Kenya, US
Parliamentary/administrative institution	May be suitable where the public funding of political parties is a long-established and noncontroversial issue	Germany, Albania, Cameroon

2. Eligibility criteria

Another question to be addressed is what political parties and candidates should be eligible to receive public funding. The most inclusive solution is to provide funding to all registered political parties and all electoral candidates. However, this may be prohibitively expensive (the United Kingdom for example had 385 registered political parties in 2009).¹⁹

It may also lead to new political parties being formed with the sole goal of receiving public funding, which is hardly conducive to democratic development. At the 1990 National Conference in Gabon, delegates were invited to form political parties, which would receive government aid. More than 70 self-declared parties were created. Each was granted around US \$34,700 and a four-wheel drive vehicle for the legislative electoral campaign. Most of these

¹⁵ Riksdagen (1972).

¹⁶ German Bundestag (2009).

¹⁷ Casas-Zamora (2005) p 34.

¹⁸ This issue is dealt with further in the chapter on disclosure.

¹⁹ Electoral Commission (2009a).

parties disappeared after receiving the state funding and have not reemerged since.²⁰

Therefore, most countries using public funding introduce some kind of threshold for political parties to receive funding. Such a threshold could exclude all parties without parliamentary representation, or those with less than a certain number of seats. Another alternative (for campaign funding) is to demand that political parties or candidates have received a certain number of votes, or presented a certain number of candidates. An unusual model exists in the UK, where only opposition parties are eligible to receive the “short money”, which makes up the bulk of public funding.²¹ South Africa also used an unusual model for determining eligibility regarding the pre-election public funding made available in 1994 (the first post-Apartheid elections), namely that the party needed to show that it had gained at least 2% support in a “credible” opinion poll, or collected a certain number of supporting signatures.²²

Table 5. Types of eligibility criteria

Type of eligibility criteria	Comment	Example
Percentage of votes received	In previous election or in election for which funding is distributed (the latter only possible for funding in the form of reimbursement)	Turkey, Sweden, Germany
Seats won in elected body	In previous election or in election for which funding is distributed (the latter only possible for funding in the form of reimbursement)	UK, Finland, Netherlands

Another issue is if political parties should continue to receive public funding for a certain period after they have ceased being eligible (mainly after a party has failed to retain any seats in Parliament). The idea is that political parties should be given the opportunity to reorganize and return the Parliament if they can convince the electorate in the following election. In Sweden, political parties that have been forced to exit Parliament continue to receive funding for some time.²³ This has happened to the Christian Democrats, the Green Party and New Democracy which departed Parliament in 1988, 1991 and 1994 respectively. The Christian Democrats and the Green Party subsequently returned in the following election with 7% and 5% respectively of the vote and have remained in Parliament ever since. New Democracy on the other hand, which had exited Parliament with only 1.2% of the vote in 1994, failed miserably in returning in the 1998 elections, gaining less than 0.2%.

One question that seldom occurs in established democracies is what should happen with disbursed public funding if a political party decides to withdraw from an election. It may seem logical that funds should then be returned, and that is what the government suggested for a new law being considered in Ethiopia. However, the opposition complains that “how could one party give the money back if it campaigned and spent the money, but was then forced to withdraw because of harassment and intimidation?... [this clause was] intentionally done so that all the parties, with the intimidation and severe harassment they may suffer, are forced to participate in elections just to keep the ruling party company”.²⁴

²⁰ Öhman (1999) p 10.

²¹ The names refers to Rt Hon Edward Short, the Leader of the House of Commons at the time the system was introduced. Kelly (2009).

²² Öhman (1999) p 18.

²³ The exact time frame can vary in accordance to the principle of gradual reduction (“avtrapping”), but in practice it will normally be one mandate period (four years). Statens Offentliga Utredningar (1999), p 164.

²⁴ Ethiopolitics(2009).

A high threshold for public funding can encourage mergers of smaller parties and electoral coalitions. This can be beneficial for party capacity and institutionalization, and help to increase the competitiveness of elections and the quality of government. On the other hand, excluding smaller political parties can reduce the number of opinions given a voice in the political dialogue, and serve to preserve the status quo. In some cases, a government party has ensured that the threshold is placed so high as to exclude the opposition completely. In Zimbabwe, only political parties that received at least 15 seats qualified for public funding, something only the governing ZANU-PF managed to do in both the 1990 and 1995 elections, before the Supreme Court ordered the threshold to be altered to 5% of the votes.²⁵

Subsequently, it is not possible to determine what a reasonable threshold is for political parties or candidates to receive public funding – this will depend on the goals one is trying to achieve. Candidates in South Korean elections must gain 10% of the vote to qualify for public funding, whereas the German Federal Constitutional Court invalidated a 2.5% threshold in the 1960s, ordering it to be lowered to 0.5%.²⁶ Generally, a low threshold will favor political pluralism and could help to level the playing field. On the other hand, a very low threshold could counteract party institutionalization by encouraging party fragmentation, and it could lead to frivolous candidacies or party formations.

Perhaps the best advice is that “[t]o some extent precautions against frivolous candidates are legitimate as long as such discrimination does not exclude new political movements from effective participation in the political competition.”²⁷ Limiting public funding to political parties that have already gained representation in elected bodies means running the risk of excluding new political movements.²⁸

*Table 6. Threshold for public funding*²⁹

Country	Votes/seats needed for qualify
São Tomé and Príncipe	none
Denmark	1,000 votes
Germany	0.5% of votes
Finland, Netherlands	One seat (minimum 0.67% of votes)
Slovenia, Estonia, Hungary	1% of votes
Uruguay	1.5% of votes
Canada	2% of votes
Spain, Lithuania, Poland, Slovakia, Czech Republic	3% of votes
Costa Rica, Italy	4% of votes
Georgia, Croatia, Tanzania	5% of votes
Turkey	7% of votes

²⁵ EISA (2007).

²⁶ National Election Commission, Republic of Korea (2009), Kommers (1997) p 210f.

²⁷ Nassmacher (2003a) p 14.

²⁸ Scarrow has also emphasized how lower thresholds for public funding can give smaller parties an easier goal to strive for than gaining parliamentary representation. Scarrow (2006) p 624.

²⁹ Data from von Arnim & Schurig (2005) p 66f, Nassmacher (2009) p 311, International IDEA (2003) 214, Bryan & Baer (2005) p 55, East African (2009) and Genckaya (2009) p 46.

3. Recipients of funds

Whilst political parties are the logical recipient of ongoing public funding, funding for electoral campaigns can also be provided to candidates. The latter is more common in electoral systems focused on candidates rather than on parties, and such funding can further reduce the role played by political parties in elections. Public funding to candidates is less common than to political parties, but such systems are used for example in the US, Moldavia, Mozambique, and South Korea.³⁰ Distinguishing between recipients is important, as a “public funding system which is good for candidates may not be good for parties. While candidates want money to win their own races (preferably by trouncing their opponent) parties prefer to allocate funds in potentially close contests.”³¹ One report about political finance in Belgium noted that the high level of public funding to political parties and absence of such funding for election campaigns goes far in explaining the “political monopoly for parties [in elections], which had become a key source of financing for candidates”.³²

Providing public funds directly to candidates can reduce their dependency on personal fundraising (which can help to combat corruption), and can encourage less wealthy candidates (including women) to step forward. However, it can also serve to decrease party discipline, and so threaten the ability of parties to aggregate and channel the opinions of the electorate, which in turn can lead to reduced confidence in the party system as a whole.

If the country uses proportional representation with no opportunity for the voters to alter the list ranking, most campaigning will be by and for the parties, not individual candidates. In such cases, providing public assistance to candidates makes little sense. On the other hand, if elections are dominated by candidates, such as the controversial 2008 parliamentary elections in Belarus where 94% of the elected MPs were (at least nominally) independent, public funding could only meaningfully be provided to candidates.³³

A distinction should also be made between the provision of public funding to the party central and to regional and local party branches. The latter can encourage decentralization and perhaps internal democracy, but may jeopardize party cohesion. One study has concluded that the provision of public funding to local party branches in Croatia has given them “a relatively high degree of financial autonomy”.³⁴

There are also some other options. The funding, including salaries, given to elected officials can also be considered public funding, especially in countries where elected officials are required or expected to provide money to their respective political party. Such support often also includes administrative staff, research etc by the parliamentary group/caucus. In addition, public funding can be provided to groups belonging or related to political parties, such as women’s and youth wings. Such funding can help to encourage the role of marginalized groups within political parties, especially if measures are put in place to safeguard that the funds are actually spent by those groups. Some countries also provide funding to political party-related aid organizations, working to support multipartyism and democracy abroad. Whether such support should be defined as public funding is a matter for debate. Such fund-

30 Ikstens, Smilov & Walecki (2002) p 44, EISA (2009).

31 La Raja (2006) p 5.

32 GRECO (2009a) p 17.

33 IPU (2009).

34 Epstein (1989) p 340, Petak (2001) p 22.

ing exists for example in Germany, Norway, Sweden, and the UK.

Again, the recipient to be chosen for public funding relates to the goals it is intended to fulfill. If a level playing field is the main objective, where candidates dominate elections, funding should be provided to them directly. If the wish is to increase the capacity and institutionalization of political parties overall, funding should naturally be directed to the party (and the issue of supporting lower levels of the party machinery should be addressed).

Table 7. Types of recipients

Type of recipient	Comment	Example
Political parties	The most common recipient for public funding	Albania, Honduras, Czech Republic
Candidates	Normally only used for Presidential candidates and/or for parliamentary candidates in single member district elections	US, Mozambique, South Korea
Party-related organizations	Such as women's and youth wings or research-focused organizations	Sweden, UK

4. Activities being funded

A distinction is normally made between public funding aimed at election campaigning and at ongoing activities, with the former targeting the capacity of parties to get their election message across, whereas the latter are normally intended to assist the long term institutionalization of political parties and support their non-electoral functions such as educating the public and aggregating their opinions. In the UK, for example, public funding is provided to the political parties in the form of Policy Development Grants, intended to “assist in developing policies for inclusion in manifestos for elections...”³⁵ While states providing public funding most commonly use both types, an exclusive focus on non-electoral funding is rare. The most common ways to target funding as either electoral or non-electoral is through the timing of providing funds (see further below) and through specifying how funds can be used. In the US, public funding (matching funds) is also available for Presidential aspirants in the primary elections, and the major political parties are also entitled to public funds for the nominating convention of their Presidential candidate.³⁶

The former version is more common, and can help to increase competitiveness and reduce the power of incumbency. This is however unlikely to work in many situations if there are not active measures to combat unjust/illegal utilization of state resources by incumbent parties. However, if the purpose is to strengthen the interaction between political parties and the electorate; to encourage a lively policy debate and public confidence in the parties, it may be more useful to provide funding during non-election periods. It can be argued that there is little point in supporting lively election campaigns if the parties have not engaged the public in debates about their preferences.

On the other hand, money alone will not make parties engage in policy debates, and the experience from many emerging democracies is that most parties tend to hibernate in-between elections. Under such circumstances, introducing public funding may increase the importance

³⁵ Electoral Commission (2009b).

³⁶ Federal Election Commission (2009).

of money in party politics and the misuse of political funds. Such reforms should therefore be combined with strict control and it may be useful to specify on what the funds can be spent. A lack of data means that we should be careful in drawing conclusions on how common each system is globally, but the information available indicates that around two thirds of all countries that use public funding provide funds both for election and non-election related activities. Few countries exclusively offer non-electoral assistance.

Which activities public funding should target depends on the goals that the funding is set to achieve. Supporting election campaigns can help to level the playing field and assist voters in making informed choices. Supporting ongoing party activities may support party institutionalization and the longer-term aggregation of the opinions of the electorate. It may seem ideal to use both types of funding, but it will place an increased burden on the state coffers. This may explain why the group of countries that only provide campaign related assistance almost exclusively consists of emerging democracies.

Table 8. Types of activities funded

Activity funding provided for	Comment	Example
Election campaigns	The most common form of public funding (may or may not identify specific allowed forms of campaign spending)	Albania, Honduras, Czech Republic
Ongoing party activity	Aimed at non-electoral activities such party administration and citizen outreach	Finland, Samoa, Switzerland
Specific party activities	Funding earmarked for example for re-search or international development	Sweden, Netherlands, Mexico

5. Types of public funding

An important distinction is between direct and indirect funding. In the former case, money is given directly to the political party (or candidate, see below). Such funding gives maximum freedom to the political party in controlling how these funds are used. Subsequently, the provider does not control the use of directly provided funds; though such controls can be introduced through the introduction of specific spending restrictions (see below).

Indirect funding normally means that political parties (or candidates) are given access to services at no or reduced cost. The most common form of indirect funding is subsidized access to media. This is normally limited to election periods and publically owned media. The purpose is to increase the chances of all political parties to reach the attention of the electorate, and thereby to level the playing field.³⁷ Other forms of indirect funding include the official use of state resources (transport, offices, postage systems etc) for campaign purposes or ongoing activities.³⁸ Less common outside of established democracies are tax deductions either for political parties themselves or for those contributing to the party coffers.

Indirect funding of political parties can be a good way of ensuring that the support is used for the indented purpose. It may reduce the temptation for political parties to accept private funding that comes with strings attached, and it may help to level the playing field more effectively

³⁷ Sometimes the provision of access to public media is combined with a ban on political parties using advertising in campaigns. If so, the indirect funding can also be said to limit the role of money in elections.

³⁸ This should not be confused by unofficial (mis)use of state resources by incumbent parties or leaders.

than direct funding. Where a single party dominates the political scene, direct funding may for example not guarantee access to the media if such media does not act independently. If on the other hand they are given free airtime, this problem is reduced.

*Table 9. Types of indirect funding*³⁹

Type of indirect funding	Example of country
Tax exemption/benefits	Australia
Free/subsidized access to media	New Zealand, India
Free/subsidized Transport	Moldavia
Printing/distribution of materials	Spain
Free use of government property	Hungary
Free or subsidized party offices	Italy
Exemption from candidate deposits	Kazakhstan
Support to Parliamentarians or groups within Parliament	UK

6. Distribution mechanisms

The issue that often receives the most attention is how public funding should be distributed, or how much of the funds should be provided to each political party or candidate. Two general principles can be discerned. The first is that all contestants should receive the same amount of funding, to ensure an equal playing field. According to this notion, each contestant should have the same chance of competing, and the funding provided must therefore not distinguish between them. Distribution systems based on complete equality are sometimes used for candidates, less commonly for political parties.⁴⁰ The second principle is that the funds received by contestants should depend on the support that they hold among the electorate. This is built on the notion that public funding should not affect the political process in a manner not consistent with the wishes of the people. The practical implication is that contestants should receive a share of the public funds that is proportional to the support that the contestant has received from the electorate. This support is normally measured through the votes received or seats won in the preceding election (for ongoing party funding and for campaign funding provided before elections) or in a just concluded election (for campaign funding received after an election). Calculating the support based on votes can be considered preferable if a non-proportional electoral system such as First Past the Post is used.⁴¹ One criticism that has been targeted against basing public funding distribution on past performance is that it does not allow for changes in public support in-between elections, and in particular for the emergence of new political parties. Tham has for example claimed that in the case of Australia, this system “does inevitably mean that established parties enjoy a financial advantage over newer parties”.⁴²

Giving all parties the same amount will reduce the dominance of larger parties in politics, and it can be especially important where the government party dominates the political scene (in such countries, proportional distribution can actually make the playing field less even). Using proportional distribution has also been criticized for making entry more difficult for new par-

³⁹ Sources for this table are Nassmacher (2003b) p 37, Australian Government (2008) p 29, Pildat (2005)p 10f, Ikstens, Smilo & Walecki (2002) p 34 & 44, Nassmacher (2009) p 299 and OSCE/ODIHR (2007b) p 15.

⁴⁰ Equal funding for political parties has been used in countries such as Chad, Gabon, Thailand, and Azerbaijan. Öhman (1999) p 26, International IDEA (2003) pp 213ff.

⁴¹ Nassmacher (2009) p 317.

⁴² Tham (2007) p 23. Quoted with the permission of the author. This issue is discussed further below.

ties, but this system also has its benefits. It means that more money is given to those parties that the electorate actually supports (the funding is treated not as a right of the individual parties but as a privilege that they need to earn). Non-proportional systems may also lead to political parties being formed solely to benefit from this funding.

Most countries use a combination, with all parties getting the same share of part of the funds available, whereas the rest is distributed proportionally. Around 80% of all countries providing direct assistance (and for which data is available) use this method, normally basing the distribution on the results in the previous election. With such combinations, it becomes very important what share of the total public funding is calculated proportionally, and this varies significantly between countries. Table 10 gives some examples of how such distributions have been calculated.⁴³

Table 10. Distribution calculations in different countries⁴⁴

Country	Share proportional*	Share equal
Chad, US, France, Canada	0%	100%
Lesotho	50% (c)	50%
Bosnia & Herzegovina, Macedonia	70% (s)	30%
Colombia, Mexico	90% (v)	10%
Tunisia, Denmark, Italy, Morocco	100% (v)	0%

*“v” refers to funding proportional to the votes the political party has received, whereas “s” refers to funding proportional to the seats held by the party, and “c” to the number of candidates fielded.

There are other alternatives. In the Maldives, political parties receive funding in accordance to their number of members. While this has led to the unusual situation that the government party is not the largest recipient of public funding, the system risks creating a skewed incentive structure for membership recruitment.⁴⁵

Another option is to base the distribution on how much money the party or candidate is able to raise itself, often called matching funds, as used in the US and in Germany.⁴⁶ With this system, the state will match each dollar raised with a certain percentage or until a determined ceiling (\$250 in US Presidential primary elections).⁴⁷ An advantage with this is that it allows for public funding in accordance with the contestants’ public (financial) support also before an election, and it also encourages contestants to report received contributions, thereby enhancing transparency. If not combined with a ceiling for private contributions, it does however encourage the reporting of fictional private contributions, which may be very difficult for low-capacity political finance regulators in emerging democracies to detect. Some countries also provide funding on the basis of the number of candidates that each political party field in an election. This can be seen as a reasonable measurement on the level of involvement of the party in the campaign. It does however not in itself say anything about the popular support enjoyed by the respective parties.

43 Note that the distribution formula may have changed in some countries since the publication of the sources for this table. Sources are Öhman (1999) p 8f & 28, Nassmacher (2009) p 314. (funding for political party conventions in the US is distributed equally), Casas-Zamora (2005) p 34, EISA (2006), Ikstens, Smilov & Walecki (2002) p 23, Transparency International & Carter Center (2007) p 51, Lujambio (2002), Damgaard (2006) p 284, Utter & Strickland (2008) p 104, Treneska (2007) p 111, and Elobaid (2009) p 84.

44 “v” refers to funding proportional to the votes the political party has received, whereas “s” refers to funding proportional to the seats held by the party, and “c” to the number of candidates fielded.

45 The Maldivian (2009).”

46 Casas-Zamora (2005) p 34.

47 Federal Election Commission (2009) p 2.

Table 11 Basis for distribution formulas

Basis for distribution formula	Comment	Example
Percentage of votes received	In previous election or in election for which funding is distributed (the latter only possible for funding in the form of reimbursement)	Andorra, Italy, Costa Rica
Seats won in elected body	If based on seats won in previous election, does not take into account changes in public support in-between elections	Benin, Bulgaria, Finland
Number of candidates presented	May create incentive for parties to present candidates simply in order to gain funding	Cape Verde, France (mix)
Number of members of political party	Party membership rolls are often notoriously unreliable, not least in emerging democracies	Maldives, Germany (mix)
Matching funds	The amount each party receives depends on the amount it has raised privately	US, Canada

Level of public funding

A related issue concerns the relationship between public and private. Nassmacher has noted that ‘Because parties cannot become public agencies but have to remain private organizations; **public funding should only partly cover party expenses**’.⁴⁸ The need to strike a balance between public and private funding has become as close to a common understanding as is possible in the debate on political finance.⁴⁹ Such a combination is now also the most common form of funding structure globally.

However, there is no consensus on what this balance should be. It is not always easy to estimate the share of party income that comes from public sources, as information available may not always be reliable, and both private and public income can be defined in different ways. However, parties in Spain and Mexico depend on around 90% of funding from the state, whereas in Egypt the amounts of public funding are so low that they are seen as “symbolic”.⁵⁰ Public funding then becomes more of a charade to give the semblance of a level playing field than serious reform aimed at political equality. The dependence on public funding has also (at least in Europe) tended to vary depending on the type and ideology of political parties, although there have been significant variations during the last decades. Small political parties tend to depend on public funding significantly more than larger ones.

Table 12 Level of public funding in different countries⁵¹

No public funding	Afghanistan, Bahamas, Ghana, New Zealand
Private funding dominates	UK, US, Italy, Australia, Egypt
Private and public funding at par	Denmark, France, Japan
Public funding dominates	Austria, Sweden, Hungary, Mexico, Portugal
Only public funding	Uzbekistan ⁴⁸

48 Nassmacher (2003a) p 14, emphasis in original.

49 See for example van Biezen (2003) p 13, as well as the statements by the Carter Center/Organisation of American States and the Council of Europe in Table 1.

50 Ammar (2009) p 60.

51 The sources are Ortin & Schultz (2000) p 2, Tham (2007), GRECO (2009b) p 6 and Walecki (2006) p 4.

52 In the much criticized 2007 Presidential elections in Uzbekistan, candidates were not allowed to collect private funds or use their own resources for the campaign. OSCE/ODIHR (2007) p 4.

7. Timing of distribution

Funding that is aimed at supporting election campaigns is provided before and/or after the election itself. If funds are provided before an election it can be used to fund the campaign directly, but if proportional funding is used this will (normally) have to be based on previous performance by the political party, which can impede changes in the public support for different parties from fully affecting the election outcome.⁵³ Delaying the distributing of public funding until just before election day has also been used by undemocratic regimes to undermine effective opposition.⁵⁴ Alternatively, funding can be provided as refunds after the elections. This allows for the amounts to be adjusted by the performance in the just concluded electoral contest, and matching funds can also be used to strengthen the ties between parties and their supporters. Another advantage is that funds can be withheld if the political party or candidate fails to comply with financial reporting requirements.

Providing campaign funding after the elections however often means that political parties need to borrow money to cover their campaign expenses. This can entail difficulties for parties that cannot offer securities for such loans, especially in situations where the electoral outcome is difficult to predict. In regions where the banking sector is badly developed, such a system may also be a significant obstacle for smaller political parties, and may increase the reliance on a small number of wealthy benefactors. Indirect funding such as media access can be provided before the elections to help alleviate such problems, and direct funding can of course be provided both before and after elections. Naturally, systems can be created where part of the funds are provided before the elections, and part afterwards.⁵⁵

Ongoing funding is normally provided on an annual basis or more frequently (quarterly in Bulgaria, Canada, and Croatia). The main criteria are that the provision of such funding is predictable and regular. A less suitable option is for the public funding to be provided on an ad-hoc basis, which has been the case in Brazil, Chad, and Gabon.⁵⁶

Table 13. Timing of distribution

Timing of distribution	Comment	Example
Before election	Distribution formula must normally be based on previous performance	Argentina, Russia
After election	Can be disadvantageous for political parties and candidates who face difficulties in raising funds in advance	Canada, Colombia, France
In-between elections (ongoing funding)	Used (normally) to assist non-electoral activities of political parties	Ireland, Cape Verde, Portugal

Using public funding as incentive for reform

While public funding is most commonly introduced to achieve the goals discussed earlier in this study, it is sometimes also used to achieve other aims as well. The most common is to

⁵³ An exception is funding based on the number of candidates presented by a political party. International IDEA (2003) p 211.

⁵⁴ This was the case in the 1996 Presidential elections in Equatorial Guinea, where much of the funding was not provided until four days before the elections. Öhman (1999) p 9.

⁵⁵ This is the case in Bolivia. Lee van Cott (2003) p 35.

⁵⁶ International IDEA (2003) p 214 and Öhman (1999) p 26.

increase the transparency and control over contestant income and expenditure. In order to receive public funds, political parties and candidates normally (though some countries such as Finland, Sweden, and Namibia are exceptions) have to report on how public funds are used. In several countries, reporting requirements are extended to also cover private funds. The threat of withdrawing public funding can be considered one of the most important tools in ensuring compliance with reporting requirements for political parties and candidates.⁵⁷

Another common goal with public funding is to reduce the level of electoral spending through tying the provision of such funding to spending limits. This is used for Presidential elections in the US, and President Barack Obama was the first candidate who declined public funding, which allowed him to legally raise unprecedented amounts for his campaign.

Other opportunities are also available. France tied part of its public funding to gender equality in 1988. If a political party has a gender difference of over 2% of candidates, the party loses a percentage of its public funding corresponding to half this difference.⁵⁸ The effect is not entirely clear. While admittedly the share of women in the National Assembly has risen from an abysmal 4% in 1980 to 18% in 2009, other factors will help to explain this change.⁵⁹ Political parties have also been somewhat slow to adjust to these rules, leading to their collective loss of €7 million in public funding between 2003 and 2007.⁶⁰ A similar approach was adopted in Croatia in 1993 with an additional 10% of public funding to be provided to political parties for each elected Parliamentary candidate of the “underrepresented gender”. Again, the effects of this reform can be debated. While the representation of women did increase from 5% to 8% and then 23% in 1992, 1995 and 2000 respectively, there are many factors which may explain this phenomenon, including the fact that the 1992 elections were only the second multiparty elections in Croatia since the country’s independence. Also, there have been no further improvements in the representation of women in the two most recent elections.⁶¹

57 In countries such as Lebanon, the fear that introducing public funding would bring demands for larger transparency has been a significant factor behind decisions to avoid such reforms. Sarkis-Hanna & Ekmekji-Boladian (2009) p 72.

58 GRECO (2009) p 6. See further Ballington (2003) p 165f.

59 Stokes (2005) p 160 & IPU (2009b).

60 GRECO (2009) p 6.

61 Šinko (2009), p4, 14.

Potential problems

Introduction

So far, we have discussed the goals of public funding systems and how such systems can be designed. Possible downsides with such funding have been identified, but we now need to directly address the potential problems with public funding. As with the goals discussed above, a useful starting point is problems that have been identified in existing writings.⁶²

Table 14 Potential problems with public funding

Neill report	<ul style="list-style-type: none"> • Taxpayers should not be compelled to contribute to the support of political parties with whose outlook and policies they strongly disagree. • it could cause an existing party system... to ossify, with the existing parties hand-somely supported out of the public purse but with new parties finding that they had to struggle hard to break in. • If the political parties were to become reliant on state funding, they might be tempted... to abandon the strenuous efforts that some of them now make to raise money at the grassroots (by means of raffles, whist drives, garden fêtes and so on). • [Public funding might] make the parties, in effect, part of the state. Instead of representing the citizens vis-à-vis the state, the parties would be tempted to represent the state vis-à-vis the citizens
Nassmacher	<ul style="list-style-type: none"> • The independence of parties may be undermined by financial reliance on the public purse. This is a major problem in countries during transformation, where dominant parties are in power. • Decisions about the amount and allocation of public funding may be unfair to opposition parties. • Opinion polls have shown that financial subsidies for parties are extremely unpopular with ordinary citizens.
Casas-Zamora	<ul style="list-style-type: none"> • [Public funding] does not replace private donations and has a limited effectiveness against corruption. • [It] stifles electoral competition and ossifies the party system • [It] provides parties with resources that jeopardizes social embeddedness, internal democracy and autonomy
Australian Parliament Joint Select Committee	<ul style="list-style-type: none"> • It can undermine the independence of the parties and make them dependent upon the state. • It can lead them to ignore their members and broader civil society. • Decisions about the amount and allocation of funding may be unfair to smaller, newer and/or opposition parties. • It can entrench the position of the major parties and ossify the party system. • Opinion polls indicate that public funding can be very unpopular with ordinary citizens who may view it as a political hand-out or rort [sic]. • Citizens may not agree that political parties are a high priority in terms of public expenditure.
ACE Encyclopaedia	<ul style="list-style-type: none"> • Public funding increases the distance between political elites (party leadership, candidates) and ordinary citizens (party members, supporters, voters) • Public funding preserves a status quo that keeps the established parties and candidates in power • Through public funds, taxpayers are forced to support political parties and candidates whose views they do not share • Public funds to political parties and candidates takes money away from schools and hospitals to give to rich politicians • Political parties and candidates both take the decision and collect the money • Political parties risk becoming organs of the State rather than parts of civil society

⁶² The table makes use of the following sources; Neill (1998) p 91f, Nassmacher (2003a) p 8, Casas-Zamora (2008) p 11, Australian Government (2008) p 35, ACE (2009).

From table 14, it can be stated that these are some of the most commonly cited potential problems with public funding of political parties and/or candidates:

- Delinking/etatization (political parties lose their connection to the people)
- Petrification/ossification (the party system fails to adjust to new trends in support)
- Domination (government parties can use public funding to solidify their position)
- Unpopularity (public funding of political parties and campaigns is simply unpopular)

Unfortunately, almost all studies on problems with public funding relate exclusively to established democracies, and we therefore have very limited knowledge about the effects and potential problems of public funding in other parts of the world.

Delinking from members and supports

If political parties receive sufficient funding from the state, it is feared that they will no longer need to seek the support of their members, and therefore pay less heed to their wishes. Parties may eventually come to represent the state more than the citizens. Genckaya has argued that “in Turkey direct state aid has made eligible political parties economically dependent on this source of funds” and Nassmacher has emphasized that;

“If the initial transition to democracy calls for a massive infusion of public money into party coffers, the political finance regime should provide for such subsidies to be terminated or reduced after a period of time. If parties do not develop permanent linkages with segments of civil society they will not contribute to sustainable democracy. Equally, if such linkage does not produce financial rewards, in the long run it will not be rooted deeply enough.”⁶³

Public funding has in many countries been used for such a short time that results may not yet be visible. There are also so many factors influencing the activities of political parties that simple correlations are difficult to establish (there has been a significant reduction in party membership in most established democracies, regardless of their political finance regulations). One study has it that in Western democracies, the introduction of public funding does not seem to have affected the growth or decline of party membership.⁶⁴ As has been emphasized above, how a public funding system is designed can impact its effects as much as if public funding is provided at all. If delinking of political parties and candidates from members and supporters is a major concern, using matching funds and tax credits for (smaller) contributions to encourage public participation may be one solution.⁶⁵

Petrification of the party system

A common argument against public funding is that it may close the party system against newcomers, and/or lead to a “freezing” of the relative strength of parliamentary political parties, referred to as the petrification or ossification of the party system. In the words of one scholar; “[s]ince the allocation of money is in some way based on previous election results, parties that did not compete in the last election – typically, new parties – will be disadvantaged. Thus, the introduction of state subsidies is a feature more advantageous for major parties than for small

63 Genckaya (2009) p 49 & Nassmacher (2003a) p 15. The two civil war factions in Mozambique received millions of donor dollars to ensure their peaceful participation in the 1994 elections. Öhman (1999) p 15f.

64 Pierre, Svåsand & Widfeldt (2000) p 18.

65 Pinto-Duschinsky (2002b) p 27.

parties.”⁶⁶ However, a recent study of 25 democracies showed that “[n]owhere have public subsidies contributed towards a closing or freezing (i.e. ossification/petrifaction) of the party system”.⁶⁷ While many European party systems have remained noticeably stable during the post-war era, this petrifaction started before public funding systems were introduced.⁶⁸

Solidification of incumbency

A related argument is that providing public funding can serve to solidify the dominance of one political party, not least (but not only) in emerging democracies. Alexander noted that “[p]ublic funding can add to the power of the government if the party in power gains control over the funding of its opposition. The advantages of incumbency extend to the formulas used to define who gets public funding and under what conditions.”⁶⁹ In the case of Tanzania, it has been claimed that the dominance of the governing CCM “is bound to get worse as parliamentary parties in Tanzania are entitled to public financing... [and the CCM has] been getting the lion’s share of these funds”.⁷⁰ Another interesting case is South Africa, where it is doubtful if the public funding provided serves to increase political pluralism given that the governing ANC receives nearly two-thirds of the distributed public funds.⁷¹

Of course, we must not exaggerate the importance on money in winning elections, even in emerging democracies. Using data from 2000, Saffu noted that “The gross inequality of resources between governing parties and opposition parties, shown in a ruling party’s ability to outspend all the opposition parties put together by 15:1, as in Ghana, probably by a bigger margin in Kenya, and by as much as 30:1 in Senegal... affects the fairness or democratic quality of the elections.”⁷² While this may be true, it should also be noted that since 2000, government parties have lost elections in all three of these countries.⁷³

It is very unpopular

Another problem with public funding is that it tends to be very unpopular with the public, who fail to see why their tax money should be used to pay for political party or candidates activities. In emerging democracies, it is especially difficult to make the case for diverting funds away from education, health care, or food production into the hands of politicians and their political parties. One study noted that “There is also a strong view that a country like Pakistan, where more than half the population lives below poverty line and which has limited financial resources cannot afford to spend huge sums of money on funding political parties and candidates”.⁷⁴ As Pinto-Duschinsky has it, “in most countries state aid has been popular with the political class and highly unpopular with the electors.”⁷⁵

Perhaps less weight need be attached to popular opinion if public funding truly fulfils the stated goals. There is however no consensus whether that is the case. One prominent scholar has stated that “the experience of many countries shows that public financing does not satisfy the demands of party leaders for ever more funds and there is little indication that it reduces the

66 Bolin (2007) p 6.

67 Nassmacher (2009) p 361. Walecki has made similar findings in Poland. Walecki (2006) p 6.

68 Nassmacher (2003b) p 134. See also Casas-Zamora (2005) pp 41ff.

69 Alexander (1989) p 18.

70 Liviga (2009) p 14.

71 Idasa (2003) p 9.

72 Saffu (2003) p 29. Saffu was using data by Mouhamet Fall.

73 Senegal in 2000, Kenya in 2002 and partially in 2007 and Ghana in 2000 and again in 2008.

74 Pildat (2005) p 19.

75 Pinto-Duschinsky (2002a) p 78.

incentive for corrupt contributions.”⁷⁶ On the other hand, the Neill report found many supporting the statement that “whatever the disadvantages of state aid, the provision of it had had the effect in their country of making the political process substantially cleaner than it would otherwise have been.”⁷⁷ Another report on Mozambique found that providing “adequate public funding for the political parties in a timely manner limits the risk of violent confrontation and partly eliminates the need of the former combatants to resort to the old ways of obtaining their funding through violent methods.”⁷⁸

Nassmacher is however undoubtedly right in his statement that “[t]he impacts of public funding have been studied for a few countries only”, and more research is needed before the effects of public funding systems become evident in most countries.⁷⁹

Increased campaign spending

Though not normally listed as a problem with public funding (as it is rather the negation of a proposed advantage than a separate problem, see table 2), the possibilities for public funding to help reduce the importance of money in politics is another concern. In some regions, one reason for regulating political finance has been an attempt to reduce the amounts spent on election campaigns. If sufficient public funding is combined with rigorously enforced spending limits, it may reduce campaign spending overall. However, spending limits are often difficult to enforce. A recent study shows that countries with high levels of public funding also tend to have high campaign spending levels.⁸⁰ Pinto-Duschinsky has added that “A party or candidate who obtains public monies, knowing full well that such monies are equally available to competitors, will not therefore stop looking for more money with which to outspend and outmaneuver political opponents”.⁸¹

Recommendations

As should be clear at this stage, this study will not recommend a certain one-size-fits-all solution. However, some conclusions can be drawn about lessons to be kept in mind when designing and implementing public support to political parties and election campaigns.

- Lawmakers considering the introduction of public funding or to change existing systems should carefully consider what goals they are trying to achieve with such reforms. The experiences from other countries can be very useful in designing a funding system, but lawmakers should be aware that other countries may try to rectify different perceived problems.
- A close dialogue with the stakeholders themselves is crucial to guide the process. A key advice is to together identify the problems that such a system should address, and let this guide the way that the system is implemented.
- Once the goals have been identified, the design needs to take into account the peculiarities of the political structures, including the electoral system, power relationships, and the nature of the political party system.

76 Pinto-Duschinsky (2002a) p 23.

77 Neill (1998) p 91.

78 Dahl & Tello Castro (2006) p 113.

79 Nassmacher (2009) p 24.

80 Nassmacher (2009) pp 144ff.

81 Pinto-Duschinsky (2002b) p 78f.

- Do not expect public funding to cure all ails it is set to target, and do expect most effects to take time. Keep an eye out for perverse results of the funding provided.
- Be prepared to make modifications of the system if it proves counterproductive, ineffective, or simply too unpopular.
- Politicians will need to justify the funds they receive through engaging in responsible politics. Access to public funds should be seen as a privilege which parties and electoral candidates (as a whole) earn through their behavior, not an entitlement.
- While I do not recommend one solution over any other, it would be a mistake to introduce public funding without requiring political parties and candidates to report on how the funds are used, and what their other sources of income are.
- More generally, public funding of parties and candidates should be seen as one tool among many that can be used in combination to achieve the desired outcomes, including spending and contribution limits and bans.
- Finally, while public funding can help to combat negative aspects of the private financing of politics, its use must not hinder free speech or the involvement of the electorate in the political process.

Conclusion

While a necessary part of the political process, money in politics is never unproblematic, and a series of mechanisms have been developed to counteract the negative roles that money may play. These include disclosure requirements and limits on income and spending and limiting the period of allowed campaign spending. These are however negative ways of regulating finance, and if implemented in an incorrect manner risk reducing the capacity of political parties and candidates to play their role in a democratic society. The notion of public funding adds a positive approach of assisting the capacity of political contestants while simultaneously countering the perverse impacts that public funding may have.

A lot has been learned about public funding during the last decades, and this study has attempted to draw together some of these lessons learned. The fact remains however that as public funding is a relatively new phenomenon in most countries, there is still a lot we do not know about its effects. In the words of Pinto-Duschinsky;

“Public subsidies for electoral politics appear to have produced neither the benefits promised by supporters nor the drawbacks feared by critics. On the one hand, public subsidies have clearly failed to cure the problem of corrupt political funding... On the other hand, the fear of some critics that public funding would cause parties to decline by reducing their incentives to recruit new members and raise money from existing ones does not seem to have been justified.”⁸²

⁸² Pinto-Duschinsky (2002b) p 78f.

We should end where we started, by emphasizing that how a system of public funding should be designed depends on what goals it is intended to achieve. The final table aims at setting out how a designer of a public funding system may wish to regulate each of the seven aspects of public funding system design discussed above if focusing on each of the six goals discussed in the beginning of the study. This table is not intended to provide any ultimate truths, rather to serve as a starting point for discussions.

Table 15. Considerations for each aspect of public funding given the intended goals

Goal \ Aspect	Increase capacity in election campaigns	Level the playing field	Institutionalization of parties	Reduce political corruption	Reduce role of money in politics/elections	Encourage reform
Provider of funds	Any institution with minimal administrative capacity	Agency able to penalize abuse of state resources	Any institution with minimal administrative capacity	Capable agency with investigatory powers	Agency that can enforce spending and contribution limits	Agency that can oversee adherence to reformist agenda
Eligibility criteria	All significant contestants must be funded	As liberal as possible	Strict enough to discourage atomization of political parties	All significant contestants must be funded	All significant contestants must be funded	At least part of funding only available to those willing to reform
Recipients	Parties or candidates depending on who does the most campaigning	Parties or candidates depending on who does the most campaigning	Political parties only	Parties or candidates depending on who is most at risk of engaging in corrupt practices	Parties or candidates depending on who is the main campaigner, and parties in-between elections	Groups that drive reforms (youth, women, minority wings)
Activities funded	Election campaigns	Election campaigns	Non-electoral activities	Election campaigns and crucial party activities	Most costly aspects of election campaigns	Internal dialogue, youth & women's wings
Types of public funding	Direct and indirect funding focusing on main areas of campaigning	Direct and indirect funding focusing on areas where largest incumbency effect exists	Indirect non-electoral assistance but mainly direct funding	Direct/indirect funding combined with strict contribution limits	Indirect funding combined with strict spending limits	Indirect funding encouraging reforms (e.g. media time for women candidates)
Distribution mechanism	Mix equal/proportional	Equal	Based on number of members or proportional	Mix equal/proportional	Mix equal/proportional	Benefitting reformist political parties
Timing of distribution	Before elections	Before elections	Ongoing	After elections	Before elections	Once commitment to reform shown

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Chapter IV

Practical Solutions for Political Finance Enforcement and Oversight

Hani Zainulbhai



Introduction

“Too many rules. Too little enforcement.”¹ This aphorism coined by political finance scholar Dr. Michael Pinto-Duschinsky sums up one of the greatest challenges to political finance reform. In the process of reform, enforcement is simply too often an afterthought. Article 7(3) of the United Nations Convention Against Corruption seeks to promote transparency by encouraging states to take legislative and administrative measures aimed at enhancing transparency in the funding of political candidates and political parties. Yet, the goals of transparency and accountability where money and politics are concerned depend on a functional system of enforcement.

The first chapters of this book examine three important policy instruments for increasing transparency and accountability, namely disclosure, public funding, and spending limits. With respect to disclosure, political finance expert Dr. Karl Heinz-Nassmacher has also noted that the real problem here is in fact a lack of enforcement.² The lack of enforcement of these regulations, or non-enforcement,³ tends to lead to larger and more problematic consequences such as a general disrespect for the law, thereby contributing to the larger problem of corruption.⁴ In efforts to enhance transparency and accountability, enforcement should be a key component.

Acknowledging that there is no one ideal model of enforcement, and that the unique political, economic, and social circumstances of a particular country come into play, this chapter examines enforcement mechanisms as they relate to each of these policy instruments, and in the wider context of international and regional obligations.⁵ Article 7(3) raises the issue of transparency, a normative goal central to the issue of money and politics. Here we will consider transparency and two additional normative goals – increasing competition and curbing undue influence – in the context of enforcement.

At times, we will assume certain conditions, such as institutional capacity, political will, and respect for the rule of law. The chapter begins with a brief look at the overall goals of enforcement systems, followed by a look at types of enforcement agencies, before considering these aspects within the framework of detection, prevention, and sanction. Finally, the chapter takes a look at the major challenges to the enforcement of political finance laws and regulations.

Goals of Enforcement Systems

The structure of an enforcement system differs from political system to political system, but the basic goals of any functioning system should be the same - detection, prevention, and sanction. A system of political finance enforcement is a complex institutional arrangement combining a variety of instruments and actors.⁶ Cooperation between the instruments and actors is essential to approximate the overarching goals of detection, prevention, and sanction,

1 Michael Pinto-Duschinsky (2001) Political Finance in the Commonwealth. Taking Democracy Seriously Series, No. 1, Commonwealth Secretariat, London, p 25.

2 Karl-Heinz Nassmacher (2003) “Monitoring, Control, and Enforcement of Political Finance Regulation”, Funding of Political Parties and Election Campaigns Handbook Series. International IDEA, Stockholm, p 143.

3 Enforcing Political Finance Laws: Training Handbook. (Washington: IFES/USAID, 2005), p 14.

4 Shari Bryan and Denise Baer (eds.) (2005) Money in Politics: A Study of Party Financing Practices in 22 Countries. National Democratic Institute, Washington, p 22.

5 Enforcing Political Finance Laws: Training Handbook, p 2.

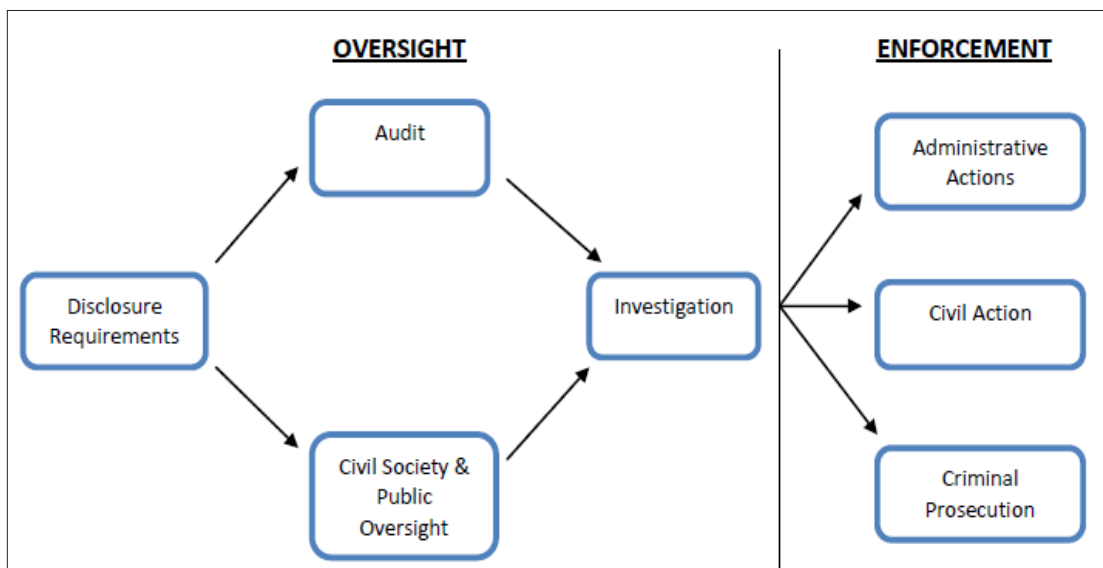
6 Enforcing Political Finance Laws: Training Handbook, p 8.

and ultimately, our three normative goals. Within this framework, the chapter also looks at the possible arrangements of these instruments and actors by considering some basic questions. Among these, what political finance laws and regulations should be enforced? Who should be monitored by the enforcement system? When is it appropriate to enforce regulations? What tools are available for enforcement? These are some of the questions this chapter seeks to address in the global context.

The mere presence of the necessary instruments and actors by no means guarantees a working system. A certain level of cooperation among these components is essential. Along the way we will encounter the following instruments and actors:

- Internal Control (doctrine of agency, accounting standards, banking system);
- Financial reporting and audit;
- Control by an enforcement agency supported by investigation mechanism;
- External monitoring (civil society, the media, competing parties, voters); and
- Prosecution and sanctions (administrative, criminal and political sanctions).⁷

Relationship between elements of the oversight and enforcement process



Source: Jeffrey Carlson, ACE Encyclopedia, Political Finance Enforcement, forthcoming.

Of the actors involved, enforcement agencies (also referred to as political finance regulators) arguably play the most central role within the larger enforcement system. While other institutions take on important tasks, the primary regulator is often responsible for a combination of the elements involved in detection, prevention, and sanction. As such, effective enforcement is seldom possible in countries where no enforcement agency exists. Because of the overlapping roles of enforcement agencies with regards to detection, prevention, and sanction, we will first examine them outside the context of these goals.

⁷ Enforcing Political Finance Laws: Training Handbook, p 8.

Enforcement Agencies

Scholars have already established that there is not one ideal type of enforcement body for a country, so we need not revisit this question. Instead we will consider what characteristics contribute to the success of a regulating body irrespective of a country's political system, history, and political context. At the same time, we must recognize that these factors can directly shape the kind of enforcement agency a country has. Many former French colonies retain some institutions of the French political system for instance. In both Lebanon and Cote d'Ivoire, the ministry of interior is responsible in some capacity for political finance regulation and enforcement. In many Eastern European countries, once bound by the same political ideology, experts note a trend towards enforcement by the State Audit Office.⁸

Types of Enforcement Bodies

A number of bodies may be given the responsibility of political finance enforcement and in many countries different bodies deal with different stages of the enforcement process. In Lebanon, the Supervisory Commission on the Electoral Campaign (SCEC), the Minister of Interior and Municipalities, and the Constitutions Commission are each responsible for political finance regulation and enforcement in some capacity.⁹ Globally, political finance regulators include electoral management bodies, anti-corruption commissions, independent bodies, judiciary bodies, and ministries. Some additional bodies, such as parliaments, constitutional courts, or tribunals, may also be given political finance enforcement responsibilities.¹⁰

There is growing international consensus on several characteristics essential to the success of an enforcement body having to do with its level of independence. Three factors contribute to their independence. First, appointments to the enforcement body should be made independently of the government when possible. If this is not an option, certain checks should be instituted. At the very minimum, it would be desirable for Parliament to confirm the appointments. Appointments made by the government could lead to biased or partisan enforcement, where opposition parties face a disproportionate amount of pressure from political finance regulatory bodies or law enforcement agencies compared with government or government-supporting parties. Second, those appointed to the body should be granted security of tenure. Lastly, it is important that the body have a certain level of independence with respect to their funding; mainly it should not be subject to government intervention. These last two conditions for independence ensure that the body and its appointees are not penalized either financially or personally by the government for taking action against those who violate political finance laws and regulations.

The functionality of an enforcement body may be limited by other factors despite a relatively high level of independence. The division of responsibilities among several enforcement bodies is one such factor. A lack of cooperation among the various bodies in the enforcement system often results in gaps in the system and a confusion of responsibilities, thereby complicating the process. Further limiting the ability of the regulating bodies is often a lack of resources and lack of authority to exercise the full range of sanctions or to conduct an investigation. Most agencies are plagued at some level by a lack of resources. This could include financial and

8 Daniel Smilov and Jurij Toplak (eds.) (2007) *Political Finance and Corruption in Eastern Europe*. Ashgate Publishing Company, Burlington, p 7.

9 Magnus Öhman, "Framework Analysis of Political Finance in Lebanon." 2009. p 2.

10 *Enforcing Political Finance Laws: Training Handbook*. p 12.

human resources, and of course time. When there are shortages of human resources and time, almost always the case, prioritization is key. Funding shortages, on the other hand, may be severe enough to lead to absolute non-enforcement.

To work around funding shortages, enforcement bodies should develop a system of prioritization for enforcement cases. While it may seem intuitive to prioritize cases to most efficiently utilize available resources, developing an effective system of prioritization and reviewing this system regularly is crucial to the performance of any enforcement body.¹¹ One of the main setbacks to enforcement bodies is a lack of administrative and human resources, making intelligent management of time and available resources all the more crucial. When considering a system of prioritization in which resources are utilized efficiently, the criteria for prioritizing is often the scope of the enforcement case.

For example, in the United States the Federal Election Commission developed a system to rank enforcement cases based on the following criteria:

- The intrinsic seriousness of the alleged violation;
- The apparent impact the alleged violation has on the electoral process;
- The topicality of the activity and the development of the law and the subject matter.¹²

Similar to the issue of resources, both less established and more established enforcement bodies are confronted by issues stemming from a lack of authority. In Bulgaria, the National Audit Office is the primary political finance enforcement body, though its limited authority seriously curbs its functionality. The office has the authority only to report on violations.¹³ In cases where there is reason to believe that a criminal offence has been committed, reports from the National Audit Office are handed over to the Sofia City Prosecution Office for investigation.¹⁴ With respect to a well-established body, only in 2009 was the UK Electoral Commission granted new powers to investigate breaches of party and election finance law and to impose civil sanctions through the passing of the Political Parties and Elections Act following a string of highly publicized political finance scandals.¹⁵

Table 1. What Body is Responsible for Administration and Enforcement of the Regulations?

National Electoral Management Body	Regulatory Body Specially Created for this Purpose	Government Department	Other
45 countries (48%)	9 countries (10%)	20 countries (22%)	19 countries (20%)
TOTAL = 93 countries			

Source: Reginald Austin and Maja Tjernström, eds., 2003, pp. 185-187¹⁶

11 Enforcing Political Finance Laws: Training Handbook, p 47.

12 Enforcing Political Finance Laws: Training Handbook, p 47.

13 Dobrin Kanev (2007) "Campaign Finance in Bulgaria." Political Finance and Corruption in Eastern Europe. Ashgate Publishing Company, Burlington. pp 47-48.

14 Bulgarian National Audit Office. "Financial Control of Political Parties." Accessed on 9/24/2009. Available at www.bulnao.government.bg/index.php?p=2344&lang=en

15 "Political Parties and Elections Act 2009: A summary Guide to What is Changing." UK Electoral Commission, 2009. Accessed on 9/25/2009. Available at http://www.electoralcommission.org.uk/_data/assets/pdf_file/0007/78919/PPE-Act---A-summary-guide-to-what-is-changing.FIN.pdf

16 Updated data is expected to be released in 2009-2010.

Table 1 illustrates the prevalence of various enforcement institutions around the world. International IDEA has also reported that of the 93 countries, 20 countries have two or more bodies administering and enforcing political finance regulations. Whether the task of political finance regulation and enforcement falls to one body or several, the tasks of any political finance system remain the same:

- Designing reporting forms and reporting procedures;
- Receiving audited or non-audited reports;
- Publishing financial reports and auditors' reports;
- Initiating inspection and public inquiries; and
- Executing sanctions.¹⁷

In his analysis of the political finance framework of Lebanon, Magnus Öhman shows how the components of each of these tasks are divided between the three main bodies involved in political finance regulation and enforcement in Lebanon (the table references relate to the Lebanese Elections Law).

Table 2. Mandate of the Supervisory Commission on the Electoral Campaign (SCEC)

Task	Deadline	Reference
Compliance with opening and maintaining an Electoral Campaign bank account	Must be reported by the candidate to the SCEC	§55(1)
Compliance with the sources and type of campaign funding and contributions	Through ongoing analysis and studying received reports	§56
Compliance with the ceiling on campaign spending	Trough ongoing analysis and studying received reports	§57
Compliance with permitted items of campaign spending	Trough ongoing analysis and studying received reports	§58-59
Compliance with reporting requirements on campaign spending	The SCEC can take cases of non-compliance to the courts	§62(1)
Referring documents to the Constitutional Council	The SCEC report shall be attached to legal challenges (by candidates) against election of particular candidate	§62(2)

Table 3. Mandate of the Council of Ministers/Minister of Interior and Municipalities

Task	Comment	Reference
Make decision on campaign spending limit	Suggestion by Minister decreed by Council	§57

Table 4. Mandate of Constitutional Council

Task	Deadline	Reference
Make decision on challenges (including such concerning breaches of political finance regulations)	Challenges submitted by losing candidates (and SCEC?)	§62(2)

Source: Magnus Öhman (2009) "The Political Finance Framework in Lebanon", p 3-4.

¹⁷ Enforcing Political Finance Laws: Training Handbook, p 13.

No matter which type of body or bodies is ultimately responsible for political finance enforcement, enforcement is the most meaningful when conducted during the campaign period.¹⁸ In carrying out real time enforcement, the internet has proven to be an effective and growing tool where real-time disclosure is practiced regularly. While there have been some conscientious efforts around the globe to enforce political finance laws and regulations in a timely fashion, this requires certain resources not available to all enforcement bodies. Nevertheless, online databases have been set up by an array of enforcement agencies, including the Central Election Commission in Palestine and the International Election Commission in Afghanistan. A number of former Soviet-bloc countries, such as Latvia and Lithuania, have made notable progress in this area as well. More advanced online database systems include the United States Federal Election Commission (FEC) and the New York City Campaign Finance Board (NYCCFB), Elections Canada, and the Instituto Federal Electoral (IFE) of Mexico, with the UK Electoral Commission set to launch its online system in 2010. In some cases where the internet has been introduced as a tool for enhancing transparency in the area of enforcement and regulation, its use has proved unsustainable often as a result of funding shortages or a lack of other resources.

The availability of these reports via the internet allows civil society and media the opportunity to analyze and monitor the information and possibly detect irregular patterns of income or expenditure.

Detection

Detection entails uncovering political finance irregularities and violations by conducting regular audits of campaign finance reports. There are three standard processes through which violations of political finance laws and regulations are reported: monitoring, complaint, and referral.

- Monitoring: violations discovered through review of financial reports or an audit
- Complaint: individual or an organization may file a complaint; which alleges violations and explains the basis for the allegations
- Referral: possible violations discovered by other agencies and referred to the main political finance enforcement agency (political parties for example)¹⁹

For each process, there are certain accepted methods and tools. Perhaps the most common, is the audit, a monitoring tool used to ensure compliance with political finance laws and regulations. To conduct an audit, however, some level of financial records must be available.²⁰ Audits can allow for an increased level of transparency when conducted by an entity outside of a political party such as the political finance regulator, the tax authority, or an independent authority. Disclosure rules generally require campaigns to report contributions, expenditures and other financial transactions, along with relevant documentation to verify the reporting.²¹

18 Marcin Walecki (2006) "Assessment of enforcement of political finance laws by KNAB Division of Control of Financing of Political Parties" Ramboll Management, Denmark, p 8.

19 Enforcing Political Finance Laws: Training Handbook, pp 8-9.

20 ACE Encyclopedia, Political Finance Enforcement, forthcoming.

21 Enforcing Political Finance Laws: Training Handbook, pp 54-55.

However, no auditing entity has the capacity to review the vast amount of financial transactions which may be disclosed during an electoral cycle. A common practice among agencies with the required authority is to conduct random sample audits of political parties/and or candidates given this lack of resources.²² They may also choose to audit political parties and candidates based on their previous record. Political parties and political candidates receiving public subsidies and those with a history of violating political finance laws and regulations or with expenditures exceeding a certain amount may be more likely to be audited.²³ The discovery of potential irregularities, errors or fraud, or potential violations through an audit could lead to further investigation by the political finance regulator if they have the authority to do so.

Oversight is another valuable mechanism for detection. Civil society and the media can be particularly influential if a formal complaints process exists.²⁴ From Argentina to the Philippines, Latvia, and beyond, civil society organizations and the media have proven that they can be a major force. Monitoring of campaign finances allows civil society and the media to identify gaps in the regulatory process and also propose alternative solutions.²⁵ Their participation can be especially important where existing enforcement institutions may be weak, ensuring that regulation and enforcement of campaign finance is not completely abandoned. Their role also extends into the important area of prevention and is discussed further in the next section.

Prevention

In the realm of political finance enforcement, we can apply the old idiom “prevention is better than the cure.”²⁶ Many experts and practitioners have acknowledged this by recognizing that it is simply impossible to rid the political process of all the negative influences of money in politics. Despite this recognition, very little research has been conducted on how to prevent political finance violations compared to how to detect and sanction these types of violations. Historically, increased political finance regulation and enforcement has most often been motivated by scandal. In the United States, for example, the Federal Election Commission, the independent regulatory agency responsible for the enforcement of national campaign finance law, was established in 1975 directly as a result of the Watergate Scandal.²⁷ Prior to the scandal, disclosure requirements established by the Corrupt Practices Act of 1910 were largely unenforced by the House of Representatives. The Watergate scandal highlighted the need for an independent body in the US to enforce campaign finance law.

Germany’s Flick Affair provides another example of scandal and its consequence for political finance regulation and enforcement.²⁸ The Christian Democratic Union (CDU) had for a long time channeled donations from German companies and lobby groups through clandestine organizations in order to evade taxes among other illegal reasons. The CDU’s practices were finally exposed in the 1980’s leading to the introduction of a new party financing law in 1984.²⁹ The overall goal of prevention involves encouraging political parties and candidates to change

22 Not all political finance regulators have the authority to audit political parties and/or candidates.

23 ACE Encyclopedia, Political Finance Enforcement, forthcoming.

24 Enforcing Political Finance Laws: Training Handbook, p 61.

25 Monitoring Election Campaign Finance (2005) Open Society Institute, New York, p xi.

26 Remarks by Lisa Klein at the IFES/International IDEA BRIDGE development meeting in Stockholm, Sweden. May 18-19, 2009.

27 Office of Democracy and Governance (2003) Money in Politics Handbook: A Guide to Increasing Transparency in Emerging Democracies. Technical Publication Series. U.S. Agency for International Development, Washington. p 34.

28 Karl Heinz-Nassmacher, quoted with permission from the author. Discussion Issue 1, 2009. Available at www.moneyandpolitics.net.

29 Christoph Nesshover (2000) The CDU Financial Scandal, An AICGS report.

their practices so that scandals of such proportion do not arise in the first place. Ironically, publicizing violations at this level and of a smaller proportion can be an effective way of encouraging parties and candidates to comply with regulations in place.

The role of civil society and the media is again important with regards to prevention. By exposing campaign finance violations and shaming those involved, civil society and the media can influence the actions of other political parties and political candidates. Many enforcement agencies are required to make campaign finance reports available to the public and the most convenient method of doing so is via the internet. Where compliance with measures to make reports public is low, however, civil society and the media are able to apply some pressure by demanding these reports.

Another important ingredient for prevention is internal control within the political party. Within political parties, a system which incorporates ‘doctrine of agency’ in which a designated ‘agent’ authorizes all campaign expenditure and checks incoming donations for potential violations of the rules, should in theory have a better record of compliance. This system ensures that political parties’ financial agents have a clear responsibility for the management of the financial resources.³⁰ A few factors can make the process of compliance a bit obscure and potentially undermine good intentions to prevent violations. For one, political finance provisions are not necessarily found in one law. They may appear in a variety of laws such as party finance or election finance laws, election laws, political party or anti-corruption law making it difficult for political parties and candidates to keep track of the laws and regulations. This is further complicated by the fact that provisions in different laws may contradict one another.

Finally, the concept of risk assessment could also be applied as a possible method of prevention.³¹ Political finance enforcement bodies could adopt a similar methodology used to assess risk in other areas by establishing criteria to determine those political parties and candidates less likely to comply with political finance laws and regulations. Parties’ and candidates’ with a history of violations might be coded as higher risk. A number of other criteria would also need to be considered. This kind of targeted methodology could also be applied in considering what type of political finance laws and regulations are the most crucial to enforce.

What to Enforce

The role of the political finance regulator is to aid in remedying violations and deter political parties and candidates through the use of sanctions. It may, however, be important to work towards the prevention of a specific and particularly debilitating problem within the larger political finance system. Each political finance regulation can be linked to a specific normative goal. In deciding what regulations should take priority in terms of enforcement, one should consider these goals - increasing transparency, increasing competition, and curbing undue influence, essentially adopting a system of prioritization.

For instance, effectively enforced regulations on disclosure can lead to a more transparent political financing system giving the public the resources to make more informed voting choices. The knowledge that submitted financial reports will be carefully scrutinized can deter political parties and candidates from engaging in illegal or simply dishonest financial activities. How-

³⁰ Enforcing Political Finance Laws: Training Handbook, p 49.

³¹ Remarks by Lisa Klein. IFES/International IDEA BRIDGE development meeting in Stockholm, Sweden, May 18-19, 2009.

ever, if the most pressing need is to increase competition to level the playing field among candidates and political parties, as has been the case in many Eastern European states, then the priority should be to enforce regulations on public funding and perhaps spending limits. Finally, if the primary goal is to curb undue influence and the abuse of state resources, then the appropriate enforcement agency should focus on the enforcement of such regulations dealing with in-kind subsidies and political broadcasting among others.

Regulations on public funding, spending limits, and disclosure constitute only a small part of what any enforcement system should ideally enforce. There are four main types of political finance legal provisions which should be considered if enforcement is to be taken seriously. Along with regulations, these include, financial conditions governing candidacy for public office, subsidies, and prohibitions.³² Financial conditions governing candidacy for public office and subsidies are among the easiest categories to enforce, while prohibitions and other types of regulations present a greater challenge.³³

The first category, conditions governing candidacy, generally includes the declaration of assets and financial deposit systems. Failure to comply with such provisions is grounds for prohibiting parties and candidates from participating in electoral races making them practically self-enforcing. Subsidies are also relatively easy to monitor and could include public funding subsidies to political parties and or candidates, free or subsidized media broadcasts by political parties and candidates, and tax relief and subsidies-in-kind.³⁴ Political parties and candidates are the first to know whether public funding subsidies and media broadcasts have in fact been disbursed. Actual distribution of the subsidies is typically the responsibility of the electoral management body or a government department. As noted in chapter III, 58% of the 174 UN member states with a multi-party system have legal provisions for direct public funding. The mere existence of these provisions is no guarantee of implementation. Ethiopia, for example, introduced public funding legislation for legally registered political parties as early as 1993. To date, no opposition political parties have received sufficient public funding.³⁵

Prohibitions and regulations (which include a wide range of provisions discussed later) are among the most difficult political finance provisions to enforce. Prohibitions may include corrupt and illegal practices such as abuse of state resources and vote buying along with banned contributions such as foreign and anonymous contributions and contributions from business corporations or government contractors. Prohibited practices are especially difficult to enforce given that these practices often exist at all levels.

At the lower level, corrupt and illegal practices may be widespread and completely blatant, making it extremely difficult to curb. In the lead up to the June 2009 Lebanese elections, the extent to which vote-buying has become an accepted part of the electoral process was increasingly apparent. Though vote-buying is illegal in Lebanon, incidences of vote-buying were so common leading up to the elections that in most cases few measures were taken on the part of political parties and candidates to conceal their actions. The practice is widely accepted by many constituents as well. The New York Times quoted one respondent, “Who-

32 Enforcing Political Finance Laws: Training Handbook, p 26.

33 Enforcing Political Finance Laws: Training Handbook, p 26.

34 Enforcing Political Finance Laws: Training Handbook, p 27.

35 Wondwosen Teshome B. (2009) “Political Finance in Africa: Ethiopia as a Case Study.” International Journal of Humanities and Social Sciences. 3:2. p 121.

ever pays the most will get my vote...I won't accept less than \$800," illustrating how deeply rooted the illegal practice is.³⁶ Similarly in Thailand, Election Commission chairman Apichart Sukhaggonond has openly expressed that vote-buying is widespread and politicians openly buy votes.³⁷

At the higher level, corruption and illegal activities are practiced with a great deal of skill and secrecy, making such schemes more difficult to uncover. Once uncovered, considerable resources are required to reconcile the violation. Where provisions against corrupt and illegal practices are enforced and sufficient penalties imposed, these acts can serve as effective deterrents.

The sheer number of types of political finance regulations makes them difficult to enforce. Common political finance regulations include the following:

1. Disclosure rules;
2. Spending limits;
3. Contribution limits;
4. Measures to control use of public resources for campaign purposes;
5. Rules on personal use of candidate funds;
6. Political broadcasting rules;
7. Rules concerning the funding of internal party contests;
8. Rules concerning the funding of referendums.³⁸

Several of these regulations fall under the categories of either limits or bans. Bans on foreign funding are relatively common. Where they exist, receipt or acceptance of foreign funds by a political party or candidate is grounds for sanction. Either a political party or candidate has received or accepted foreign funding and violated the law, or they have not. The dollar amount in such cases is for the most part irrelevant. The enforcement of limits, on the other hand, requires more work on the part of the political finance regulatory body or auditing entity. If a limit has been exceeded, the responsible enforcement body must calculate when the limit is exceeded and determine which transaction put the political party or candidate over the limit in order to impose sanctions.

Sanction

Sanctions are the main tools available to enforcement agencies. There is consensus among some regional and international organizations, that sanctions are essential to effective enforcement of political finance law. The prevalence of sanctions in the legal framework of countries, though often not enforced, also speaks to their acceptance globally as an important tool for regulation and enforcement.

³⁶ Robert F. Worth "Foreign Money Seeks to Buy Lebanese Votes." The New York Times. 22 April 2009. Accessed 10/14/2009. Available at http://www.nytimes.com/2009/04/23/world/middleeast/23lebanon.html?_r=1&hp

³⁷ "EC: Vote buying unique to Thailand." Bangkok Post (online). 28 Sept 2009. Accessed 9/28/2009. Available at <http://www.bangkokpost.com/breakingnews/155428/ec-vote-buying-is-only-in-thailand>

³⁸ Enforcing Political Finance Laws: Training Handbook, pp 29-30.

Table 5 International and Regional Support for Sanctions

Committee of Ministers, Recommendation Rec (2003)4, Art. 16	“States should require the infringement of rules concerning the funding of political parties and electoral campaigns to be subject to effective, proportionate, and dissuasive sanctions.”
Venice Commission, Guidelines on the Financing of Political Parties, adopted 9-10 March, 2001, para 14	“Any irregularity in the financing of an electoral campaign shall entail, for the party or candidate at fault, sanctions proportionate to the severity of the offence that may consist of the loss or the total or partial reimbursement of the public contribution, the payment of a fine or another financial transaction or the annulment of the election.”
The Carter Center, Statement of the Council of Presidents and Prime Ministers of the Americas, ‘Financing Democracy: Political Parties, Campaigns, and Elections’ March 19, 2003. p. 3.	“The enforcement of political finance laws and regulations requires the existence of independent oversight authorities and an effective system of sanctions to end impunity.”
Transparency International, Policy Position No. 2/2005, p. 3.	“The violation of party finance regulations must be effectively sanctioned.”

Once a violation has been investigated, sanctions ranging from mild to severe may be imposed by the appropriate enforcement body. Sanctions are crucial as they aid in remedying violations and can range from simply the return of banned contributions, or in more extreme cases, removal from elective office.³⁹ In order to be effective, sanctions must be proportionate to the corresponding violation. Excessively harsh sanctions against violating parties or candidates may discourage enforcement rather than serve as a deterrent, especially in cases against the governing party. Going back to our normative goals, overly harsh sanctions also could have negative effects on the goal to increase competition. New, inexperienced, small, or local parties are often at a disproportionate disadvantage when excessively harsh sanctions are put in place and enforced.⁴⁰

On the other hand, overly lenient measures are also problematic. Political candidates and parties may find the cost of violating laws and regulations to be less than the cost of compliance, thereby discouraging it.

The main categories of sanctions include:

1. Financial sanctions including modest administrative fines;
2. Larger fines for serious violations;
3. Criminal sanctions for significant violations that undermine the integrity of the elections;
4. Loss of reimbursement for election expenses, withdrawal of public funding, ineligibility for

Sanctions in Latin America

Data from 8 countries reveals that sanctions are in fact one of the weakest dimensions of political finance systems in parts of Latin America. The use of indicators on the legal framework and adherence to the law in practice highlights a few points. The most common type of sanction among the 8 countries is the cutting of direct cash subsidies. Evaluation of the legal framework on sanctions is relatively positive in Colombia, Costa Rica, Nicaragua, and Peru. However, with the exception of Colombia, their performance has been poor with regards to actual application of the law. Alternatively, where laws were relatively less demanding or non-existent, compliance was high (Argentina, Panama). This is not always the case, though, and the data points out that compliance remains weak in Guatemala and Panama where regulations are not particularly demanding.

Source: The Crinis Project. pp 30-32.

³⁹ ACE encyclopedia, Political Finance Enforcement, forthcoming.
⁴⁰ Walecki (2006), p 26.

- future funding;
5. Financial benefits transferred or accepted by a party in violation of specified prohibitions are forfeited for the benefit of the state treasury;
 6. Loss of parliamentary seat, disqualification from standing for future elections, and ineligibility for appointment as public official;
 7. Dissolution of party; and
 8. Cancellation of election.

Some of these sanctions (1 and 2 for example) can be grouped as administrative penalties which function like “traffic tickets” and can be applied for either minor or simple infractions of the law as well as more serious violations.⁴¹ In the event that criminal violations are discovered, the enforcement agency can choose to impose criminal sanctions, which implies prosecution. In many cases the enforcement agency will not have the authority to prosecute. Whether prosecuted by the enforcement agency itself or another entity, the process of criminal prosecution can be burdensome and time consuming. The regulatory body may also have the option to file civil actions in court.

Major Challenges to Enforcement

Third-Party Funding

Third-party contributions and expenditures comprise a significant portion of political finance transactions and pose a significant challenge to the regulation of political finance. These are defined as goods or services paid for or expenditure incurred on behalf of, a political party or candidate by a different entity.⁴² The lack of regulation and enforcement of third-party funding threatens the transparency of political financing since these contributions and expenditures are often determined to be in-kind donations, and are kept off the books. Furthermore, spending limits, which aim to level the playing field by setting a ceiling on expenditure, can also be seriously undermined by third-party funding.

There are several reasons why political finance transactions of third-parties are often overlooked. First, it is difficult to ensure that laws that central parties must abide by are passed down to third parties. Second, subsidiaries are most of the time challenged by an even greater lack of resources than the central parties themselves. Chapter I on disclosure reveals an innovative approach to the reporting of third-party funding in Lebanon. Parties and candidates are required to report on expenses which maybe have benefitted their campaign. In practice, few approaches to monitoring third-party funding have proved very successful. Enhancing internal party control by introducing a cognizant financial agent responsible for all campaign income and expenditures can certainly help.

Biased Enforcement

Partisan enforcement is a serious problem with the ability to undermine the equality of candidates and parties participating in the political process. There are several motives behind partisan enforcement, primarily having to do with self-preservation. For instance, the regulator may feel pressure to act favorably toward the governing party or parties supporting the government for fear of retribution against them. The extent of biased enforcement may extend

⁴¹ Enforcing Political Finance Laws: Training Handbook, p 43.

⁴² Enforcing Political Finance Laws: Training Handbook, p VI.

further, however, and opposing parties or candidates may be subject to an increased level of enforcement sometimes even including non-existent breaches of the law.⁴³ The independence of the enforcement agency, with respect to its funding, tenure, and appointment process, is key in the prevention of such behavior.

Exploitation of Loopholes in the Law

The continued development of political finance systems has resulted in an overwhelming amount of nuanced laws and regulations on the subject. As political finance systems advance, so do political parties and candidates. Both at the lower and higher levels, political parties and candidates are able to adapt to political finance laws, often by exploiting loopholes.⁴⁴ Where weak enforcement institutions exist, the need for adaptation is in reality non-existent. Political parties and political candidates are often able to disregard laws and regulations at little or no cost to them.

In systems with stronger institutions, political players have become especially adept at evading the law. The use of techniques such as double accounting and a reliance on independent expenditures are commonplace. In some cases, lawyers may be used to analyze the legal framework to identify loopholes of which they may take advantage. When rules and regulations are not necessarily violated, but circumvented, enforcement agencies become essentially powerless. As new regulations are imposed, new loopholes are exposed and the cycle continues.

This cycle has led to a substantial number of nuanced campaign finance laws in the United States, where some have joked that no more than six lawyers in the world fully comprehend US campaign finance law. Other factors have contributed to the volumes of campaign finance law on the books in the US, and their funding system, in which public funding at the presidential level has become an anomaly, naturally varies from other countries. Despite differences among funding systems and specifically enforcement systems; the exploitation of loopholes is a universal issue, democracies and non-democracies alike.

The prescription for a relatively sound system of regulation and enforcement seems simple enough – clear, unambiguous, realistic, and regularly updated political finance laws. The clear definition of certain political finance terms in the law is essential to avoid confusion, which may lead to a misinterpretation of the law.

Bans on Foreign and Corporate Funding

Foreign and corporate funding often plays a large role in the political process and in many cases is completely unregulated. Data from 2003 indicates that among 111 countries, 64% have no bans on foreign funding. Meanwhile, 80% of countries have no bans on corporate funding.⁴⁵ Where bans on foreign and corporate funding do exist, money-laundering schemes and a variety of other techniques are often used to evade them. This is a particularly difficult area for enforcement agencies, as a number of ways exist for wealthy foreign individuals, corporations, or labor unions to make contributions to a political party or candidate without technically violating prohibitions in place.

43 Enforcing Political Finance Laws: Training Handbook, p 75.

44 Enforcing Political Finance Laws: Training Handbook, p 17.

45 Reginald Austin and Maja Tjernstrom (eds) (2003). Funding of Political Parties and Election Campaigns. International IDEA, Stockholm, p 199.

Some notorious ways of evading foreign funding bans include setting up branches of the political party disguised as other organizations like think tanks or party foundations, sometimes referred to as “off-shore islands” of political parties. In other cases, foreign contributors and political parties or candidates may simply be able to take advantage of a loose definition of “foreign” in the prohibition. Similarly, there are plenty of sophisticated ways for corporate donors to circumvent prohibitions on corporate funding. Within a corporation, partners may make individual donations, for which the company later reimburses them indirectly.⁴⁶ The influence of corporations has been difficult to curb even in more advanced systems of enforcement.

Conclusion

Enforcement and political finance regulation are inextricably linked and throughout this chapter we have seen examples of the complicated relationship between the elements of an enforcement system. While enforcement systems naturally vary from country to country, commonalities do exist and certain practices have been adopted across a range of states hoping to limit the negative influences of money in politics. Some international and regional organizations have made a point to support and encourage these practices to add some weight to the issue. Among these organizations there is some consensus on basic enforcement issues such as the independence of political finance regulatory bodies, the need for sanctions, monitoring of party and campaign finance, and a clearly defined legal framework to name a few.

Regional and international organizations that have recommended regulations for political finance face the same problem as many individual countries where laws and regulations may exist, but a viable system of enforcement is absent. Furthermore, like other agencies dealing with the issue of political finance, regional and international organizations face limited powers to actively enforce recommendations and provisions. The Council of Europe’s Group of States against Corruption⁴⁷ (GRECO) has set up a notable compliance procedure which assesses actions taken by member states to implement its recommendations, several of which deal with political financing. Comprehensive reports on each member state and their possible violations with respect to each recommendation made by the group are made public on the group’s website. The third evaluation round launched in January 2007 deals specifically with two issues, one of which is the transparency of party funding, also the focus of UNCAC article 7(3).⁴⁸

In November 2009, the third session of the Conference of the State Parties to the United Nations Convention against Corruption will take place in Doha. Having set out recommendations in the Convention, the Conference will aim to review its implementation, a step toward increased monitoring by members of the international community.

46 Enforcing Political Finance Laws: Training Handbook, p 29.

47 GRECO is comprised of 46 European member states. For more information see http://www.coe.int/t/dghl/monitoring/greco/default_en.asp

48 Council of Europe, GRECO. Accessed on 10/19/09. Available at http://www.coe.int/t/dghl/monitoring/greco/general/4.%20How%20does%20GRECO%20work_en.asp

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Conclusions

Magnus Öhman



A few hours before I sat down to write these conclusions for a book that is the product of two years of work, the trial of former Israeli Prime Minister Ehud Olmert commenced. He is charged with using his office as major and minister to enrich himself and to improperly appoint party associates to government posts. The Olmert case (and we should note that he is vehemently denying the charges) is only one in a long row of scandals relating to money in politics that have been uncovered during the last few years.

Nonetheless, we should remember that each scandal represents a case of abuse that has been exposed and which with some luck can also be sanctioned. It is the many cases that are never uncovered or penalised that we should be really concerned about. Therefore, it is crucially important that all countries strive to increase transparency in political finance as called for in the UN Convention against Corruption.

The purpose of this book has been to bring forth lessons learned worldwide during the last few decades in key areas within political finance, and point to commonalities and areas of divergence. The roles of different stakeholders in making the funding of political parties and candidates more transparent have been discussed, such as legislators, regulators, political parties and candidates, media and civil society. Particular attention has been given to disclosure, spending limits, public funding and enforcement. Hopefully, anyone interested in the issues of money in politics has found something to interest them in the preceding pages.

As was stated in the introduction, the work has been inspired by five key understandings that have emerged through IFES work with political finance in over 20 countries, but also from studying lessons learned and key understandings of other organisations that are active in this area. It is now time to revisit these key understandings and see how the findings in the different chapters relate to each point.

1. Money is necessary for democratic politics, and political parties must have access to funds to play their part in the political process. Regulation must not curb healthy competition.

While many of the approaches outlined in this book are designed to reduce the role of money in politics and to limit certain forms of income and expenditure, none of them are meant to remove funding from the activities of political parties and election campaigns completely. Money is necessary for political parties and election campaigns to play their role in a democratic society, and the electorate must not be stopped from showing their preference also through its wallets and purses. Without sufficient funding, candidates and political parties cannot interact with the electorate and learn their wishes or explain their political platform and vision.

The notion of disclosure and transparency of political funding is built on an underlying recognition that while such funding needs to be monitored and sometimes controlled, it is at the same time a vital part of the political process. Spending limits for example are intended to do just that; limit, not stop spending.

Not only is money necessary in the political process, it is also necessary for private funds to play an important role in the activities of political parties and election campaigns. While public

funding can be a useful tool to reduce the dependence of political actors on wealthy benefactors, it should not replace funding from those who favour a certain political party or candidate. It is crucial to remember that political parties and candidates are supposed to compete with each other for the support of the voters. Only allowing public funding would be to treat political parties as public institutions, and such an approach “not only drains the politics out of politics; it gives the state (and potentially, unscrupulous officials) considerable power over governing parties and (more ominously) oppositions.”¹

2. Money is never an unproblematic part of the political system, and regulation is desirable

While money is a necessary ingredient in modern politics, it should at the same time be evidently clear from the preceding chapters that money often has undesirable effects on the effectiveness and responsiveness of the political system. Political contestants around the globe show great ingenuity in finding ways of funding their activities, and they do not always shy away from activities that may not be in the interest of democratic or responsible governance.

The ability of wealthy contributors to buy appointments, public work contracts and specific policies not only makes a mockery of democratic governance, it also entails massive waste of often scarce public funds. Whether it is paying opposition congressmen to switch sides in Peru, kickbacks in Poland or Presidents enriching themselves from the state coffers in the Democratic Republic of Congo, the inventiveness of politicians is often astounding. The preceding chapters further tell of political parties and candidates that offer to sell nominations, channel money through clandestine organisations to avoid taxes and engaging in other illegal or simply immoral activities. Neither are these types of activities new. The cash for honours scandal (where benefactors were given life peerages as rewards for their contributions) that broke in the UK in 2006 was a repetition of the events that brought down a British government in 1922.

This is the rationale behind the UN Convention against Corruption calling on all states to increase transparency in political life so that such abuses can be revealed and punished. While money may be free speech, it cannot be free speech spoken in silence.

In some contexts, disclosure may not be a sufficient form of regulation. Certain types of contributions and expenditure may need to be banned outright, and where the financial discrepancies between contestants are especially large, spending limits and public funding may be necessary to ensure truly competitive elections.

3. The context and political culture must be taken into account when devising strategies for controlling money in politics

It has been a major theme in this book that while there are common understandings and experiences regarding money in politics, what role it plays and how it can be regulated, each country must consider what it is trying to achieve with political finance regulations and how

¹ Johnston, Michael (2005) Political Parties and Democracy in Theoretical and Practical Perspectives – Political Finance Policy, Parties, and Democratic Development. National Democratic Institute for International Affairs, Washington, p 16.

these goals can be realised given the country's political situation and overall context. Many factors from political tradition and the levels of popular participation in politics to the electoral system, judicial structures and established accounting procedures must be taken into account. The ability of political parties and candidates to comply with detailed reporting requirements is another factor to take into account, not least in emerging democracies with low levels of education. Analysing campaign bank account statements can be a good way of monitoring campaign finance transactions, but only if there is significant banking sector penetration in the country.

We must also realise that not only do the societies we live in differ from each other, there are also differences in how we want them to function. This is not least evident in how we view the role of parties in the political system. In some countries they are seen as having a crucial role of mobilising citizens and aggregating their opinions also in-between elections. In others, focus is much more on individual candidates, and political parties are seen as having a much smaller role to play in politics.

There is subsequently a real danger in uncritically adopting systems of political finance regulating from other countries. To repeat Nassmacher's warning that was cited in the introduction, "the attempt to transfer experience has to start with the recognition of difference". This does not mean that there are not significant similarities or that lessons cannot be learned from other countries (if it did, this book would make little sense). What it does mean is that legislators, regulators and non-government actors must carefully consider their own goals and situation when deciding which lessons from other countries that they should take to heart.

4. Effective regulation and disclosure can help to control adverse effects of the role of money in politics, but only if well conceived and implemented

A significant part of this book has been devoted to outlining various regulatory options available for controlling political finance and preventing, detecting and sanctioning illegal and illegitimate behaviour. Such activities do work, and they have helped to expose shady transactions and modify the way that political parties and candidates act in many countries. As the late Khayyam Zev Paltiel stated, "compulsory reporting and disclosure of... income and cost had a sanitizing effect" on political parties and elections in Western democracies.²

However, as has been seen over and over again in many countries, simply introducing an impressive sounding law will not get you anywhere. The regulations and disclosure requirements must not only take into account the local context (see above), they must also be designed with enforceability in mind. Pinto-Duschinsky's oft repeated statement that political finance suffers from "too many rules, too little enforcement" is no less relevant today than in the past.

The chapter on enforcement provides ample examples of how well-meaning regulations either fail to have any effects at all or even prove counter-productive. Implementing effective disclosure is often hampered by loopholes easily identified and used by political contestants.

² Paltiel quoted in Nassmacher, Karl-Heinz (2006) "Regulation of party finance" in Katz, Richard S & Crotty, William J (eds) *Handbook of Party Politics*. Sage Publications, London, p 454.

Another excellent example of the need to carefully conceive and implement political finance regulations are limits on how much political parties and election campaigns can spend. As was seen in the chapter on this topic, spending limits are a popular way of reducing the cost of elections and levelling the playing field. However, as the chapter also shows, such limits are often honored more in the breach than in the observance. In particular, without disclosure regulations that are effectively enforced, no one will even know if candidates and political parties comply with spending limits, and therefore abuses cannot be sanctioned.

Even worse, the implementation of political finance regulations is sometime done in a manner that unduly benefits some parties and candidates over others. The chapters of this book tell of governments who misuse disclosure regulations and public funding to harass or fragment the opposition. We have also seen above how even the provision of public funding, normally seen as a way to increase the capacity of all political parties and electoral campaigns and to reduce disparities in income, can be used to weaken the opposition either through making them illegible for funding or through using a system that encourages fragmentation.

5. Effective oversight depends on activities in interaction by several stakeholders (such as regulators, civil society and the media) and based on transparency

As is pointed out in the chapter on enforcement, without a capable and independent government regulatory body, it is very difficult to create effective oversight of how political parties and election campaigns collect and spend money. When the necessary regulations are in place, such bodies have the authority to demand the submission of financial statements and (when they have sufficient capacity) they can also carry out on the spot audits of the parties' and campaigns' accounts.

Nonetheless, experience from a wide range of countries indicates that the existence even of a vigilant, independent and capable regulatory body is not sufficient for effective oversight, and that different stakeholders depend on each other. Civil society groups can play a very important role in monitoring the activities of political actors on the ground. In many cases, the capacity not least in manpower of local NGOs widely exceeds that of the government regulator, and vigilant efforts by such groups have uncovered scandals in several countries. Effective oversight is also unlikely unless journalists help to make people aware of the importance of money in politics, and investigate and expose cases of political fraud and abuse of state resources. As has been pointed out above, scandals have generally proven to be the most effective inspiration for political finance reforms. It was after all the Watergate scandals that lead to the creation of the Federal Electoral Commission in the US.

Just as reformers and regulators can benefit from the assistance of civil society and media in pushing through new regulatory reforms, so can the information in formal disclosure reports be of great use for non-government actors. If nothing else disclosure reports create an official version of the financial transactions of political parties and candidates, with which information available to journalists and civil society groups can be compared.

Finally, political parties, candidates and elected officials have a crucial role to play. They must

resist the temptation of receiving illegal donations or funds from contributors who demand their favors to be returned. They have to rise above vote-buying and the abuse of state resources. While it is difficult for individual parties and candidates to remain clean if the system is crooked, corrupt practices will eventually make it so that the elected posts they are striving for are not worthy of their attention.

A few final words

We hope that this book will be of help to those interested in issues of the role that money plays in politics, and how this role can be managed. While much has been learnt during the last few decades, there is a continued need for research and for the exchange of experiences. Not least, institutions working with political finance oversight (governmental and non-governmental) in different regions have much to learn from each other, and should find ways of sharing what they have learnt. Arenas are needed for political finance regulators in Africa, journalists in Latin America, civil society groups in Asia and legislators in Europe and so on. Governments should cooperate to increase their ability to adhere to their commitments to political finance transparency, as expressed in the UN Convention against Corruption. As a first step, those countries that have not yet introduced disclosure procedures for candidates and political parties should learn from those that have.

There is no end point. The experience from countries that have worked with political finance oversight for a long time is not only that achieving an acceptable level of control takes a long time, but also that the work to improve the methods of identifying abuses must continue indefinitely. This should not discourage anyone however, for in this regard the work with political finance issues is no different from the ongoing struggle to protect and strengthen democracy in our societies.

IFES is looking forward to continue the work to enhance the transparent and responsible use of money in politics in cooperation with existing and new partners around the world.

Table 1, UNCAC state parties with disclosure systems as indicated by Article 7(3)

UNCAC State Party	Party discl.	Cand. discl.	UNCAC State Party	Party discl.	Cand. discl.	UNCAC State Party	Party discl.	Cand. discl.
Afghanistan	yes	yes	Georgia	yes	yes	Norway	yes	no
Albania	yes	no	Ghana	yes	yes	Pakistan	yes	no
Algeria	no	yes	Greece	yes	yes	Palau	no	n/a
Angola	no	yes	Guatemala	yes	no	Panama	yes	yes
Antigua and Barbuda	no	yes	Guinea Bissau	no	no	Papua New Guinea	yes	n/a
Argentina	yes	yes	Guyana	no	yes	Paraguay	yes	no
Armenia	yes	yes	Honduras	yes	no	Peru	yes	no
Australia	yes	yes	Hungary	yes	no	Philippines	yes	yes
Austria	yes	no	Indonesia	yes	no	Poland	yes	yes
Azerbaijan	yes	yes	Iran	n/a	n/a	Portugal	yes	yes
Bahamas	no	no	Iraq	n/a	n/a	Qatar	n/a	n/a
Bangladesh	no	no	Israel	yes	yes	Romania	yes	no
Belarus	yes	yes	Jamaica	no	yes	Russia	yes	yes
Belgium	yes	no	Jordan	n/a	n/a	Rwanda	yes	no
Benin	yes	yes	Kazakhstan	yes	yes	Sao Toe & Principe	yes	n/a
Bolivia	yes	no	Kenya	yes	no	Senegal	no	no
Bosnia & Herzegovina	yes	no	Korea, Rep.	yes	yes	Serbia	yes	no
Brazil	yes	yes	Kuwait	n/a	n/a	Seychelles	yes	n/a
Brunei Darussalam	no	no	Kyrgyzstan	no	yes	Sierra Leone	yes	no
Bulgaria	yes	no	Latvia	yes	no	Slovakia	yes	yes
Burkina Faso	no	no	Lebanon	no	yes	Slovenia	yes	yes
Burundi	no	no	Lesotho	yes	n/a	South Africa	yes	no
Cambodia	yes	no	Liberia	yes	yes	Spain	yes	yes
Cameroon	no	no	Libya	n/a	n/a	Sri Lanka	n/a	yes
Canada	yes	yes	Lithuania	yes	no	Sweden	no	no
Cape Verde	yes	yes	Luxembourg	yes	no	Tajikistan	yes	yes
Central African Rep.	no	n/a	Macedonia	yes	no	Tanzania	no	no
Chile	yes	yes	Madagascar	no	n/a	Timor Leste	yes	n/a
China	no	no	Malawi	no	no	Togo	n/a	n/a
Colombia	yes	yes	Malaysia	no	n/a	Trinidad & Tobago	no	yes
Congo, Republic	no	no	Maldives	n/a	n/a	Tunisia	n/a	n/a
Costa Rica	yes	no	Mali	yes	n/a	Turkey	yes	no
Croatia	yes	n/a	Malta	no	yes	Turkmenistan	n/a	n/a
Cuba	no	no	Moldova	yes	no	Uganda	yes	no
Cyprus	no	no	Mauritania	n/a	n/a	United Arab Emirates	n/a	n/a
Denmark	no	no	Mauritius	no	n/a	United Kingdom	yes	yes
Djibouti	no	no	Mexico	yes	no	United States of America	yes	yes
Dominican Republic	yes	no	Mongolia	n/a	n/a	Uruguay	no	no
Ecuador	no	no	Montenegro	yes	no	Uzbekistan	yes	n/a
Egypt	n/a	yes	Morocco	yes	no	Venezuela	yes	no
El Salvador	yes	no	Mozambique	yes	yes	Viet Nam	n/a	n/a
Ethiopia	no	no	Namibia	no	n/a	Yemen	yes	yes
Fiji	no	no	Netherlands	yes	no	Zambia	no	no
Finland	no	yes	Nicaragua	yes	no	Zimbabwe	yes	yes
France	yes	yes	Niger	yes	n/a			
Gabon	no	no	Nigeria	yes	no			

Notes: Table developed by Jack Santucci, showing whether UNCAC state parties have introduced financial reporting requirements for political parties (first column) and candidates (second column). A country has been coded as "yes" if it has any reporting requirements for each category. Note that these requirements may not be enforced. "n/a" denotes a lack of data or in some cases that political parties cannot legally exist.

Main sources: Country reports by GRECO (see www.coe.int/t/dghl/monitoring/greco); Griner, Steven & Zovatto, Daniel (eds) (2005) *Funding of Political Parties and Election Campaigns in the Americas*, IDEA/OAS; ACE project; International IDEA database on political finance (see www.idea.int); national legislation.

Political Finance Glossary

Administrative Resources

Euphemism used in some countries (especially in the Former Soviet Union) to describe the abuse of state resources.

Audit

An audit is an examination of an entity's financial statements, financial records and banking information prepared by the entity's financial agents for other interested parties outside the entity, and of the evidence supporting the information contained in those financial statements.

Campaign Expenditure

Expenditures incurred by or on behalf of a registered political party or candidate to promote the party or candidate during an election cycle or in connection with future elections, including expenditure that has the aim of damaging the prospects of another party or candidate.

Campaign Finance

Refers to transactions that are related to an electoral campaign. Transactions may include formal, financial, or in-kind donations or expenditures.

Campaign Income

Income raised by or on behalf of a registered political party or candidate to finance the election campaign of a party or candidate.

Campaign Spending Limit

A maximum amount that a candidate's campaign can spend during the election period.

Candidate Spending Limit

A maximum amount that a candidate can give or loan to his or her own campaign.

Campaign-related Funding

The allocation of resources acquired and spent by electoral candidates and political parties during an election cycle.

Ceiling

An upper limit on campaign expenditures. Sometimes also refers to the upper limit on what individuals and political parties can contribute.

Conflict of Interest

The situation where a person has incompatible interests which hinder her or him from acting for the common good. For example when government officials take campaign contributions from people whose economic interests are affected by government policy-making.

Contribution Limit

A maximum amount of money that an individual or political party may contribute to a candidate's campaign or to a political party.

Contributions

Money, or anything else of value (such as mailing lists, telephones, billboard space) given to a candidate's campaign or political party by an individual or organization.

Co-opted Politician

An elected official who receives significant financial support from wealthy donors that, in turn, influence the official to make certain policy choices.

Cost of Corruption

Amount lost due to public funds being diverted or withheld.

Democratically Financed Elections

An electoral system in which candidates'

campaigns are funded with resources that come from the people as a whole, rather than an elite few.

Direct Public Funding

Money provided to political parties or candidates by the government during election campaigns or for regular party financing – usually as bank transfers, but sometimes as hard cash or checks.

Disclosure

The requirement that candidates and political parties report the amounts and sources of their campaign contributions to the electoral management body, government auditing agency or electoral enforcement agency. Effective disclosure works when these accounts are detailed and made available for public scrutiny.

Donations

See Contributions.

Equitable Playing Field

An electoral contest in which competing candidates have resources that are commensurate to their abilities to fundraise and receive campaign contributions with which to run their campaign.

External Contribution

Money donated to a candidate's campaign or political party by an individual residing outside the country in which the election is being held.

Floor

A minimum or set amount of finances or other public resources (e.g., free media or postage) available to all eligible candidates in a public funding system.

Formal Transactions

Donations and expenditures that occur within the scope of the law and can be augmented by public financing of campaigns.

Hidden Advertising

Material that appears in the media as objective reporting or analysis but in reality promotes one candidate or party or attempts to discredit another.

Hybrid Funding System

A system of financing elections and political party activities by which a portion of the campaign funds used by candidates comes from the government, usually in the form of a grant that matches private money raised.

In-Kind Contribution

A contribution of goods, services, or property offered free or at less than the usual charge.

Independent Expenditure

An expenditure of money for advertisements or other communications which expressly advocate the election or defeat of a candidate, which is not made in conjunction or coordination with any candidate or candidate's campaign committee.

Indirect Public Funding

Resources with a monetary value that are provided to political parties or candidates by the government for the election campaign or for regular party financing, such as transport or free media time.

Individual Contribution

Money contributed to a candidate's campaign committee or a political party by a single person (or more than one person on a single check).

Informal Transactions

Financial donations and expenditures that occur outside the scope of the law. They can range from vote buying to unaccounted, in-kind support from public and private enterprises, and to the abuse of public resources.

Level Playing Field

An electoral contest in which competing can-

didates have equal resources with which to conduct their campaigns.

Loophole

A way of avoiding or getting around the law, usually associated with an omission or ambiguity in the law itself.

Matching Funds

Public money given in a specific ratio to candidates who succeed in raising prescribed amounts of private money in individual contributions of a certain size. This is commonly found in the United States.

Misuse of Administrative Resources

The use of state and public sector powers and resources (including coercive capacities, personnel, financial, material, and other resources) by incumbent politicians or political parties to further their own prospects of election, in violation of legal and/or other norms and responsibilities governing the exercise of public office.

Money Laundering

Making a campaign contribution to an elected official (or a political party) through one or more third parties as a device for disguising the source of a contribution and getting around contribution limits.

Money Trail

The flow of campaign and regular party financing through the political system. Following the money trail is one of the methods journalists and regulatory bodies use to monitor illicit contributions and expenses.

Monitoring

The systematic and objective observation and documentation of a particular process over time.

Pay to Play

A reference to the shadowy nature of money in politics: in order to be assured access and

influence with elected officials, a person or group has to make significant contributions to those officials' re-election campaigns.

Payoff

The return on a campaign investment made by a vested-interest contributor e.g., special appointments (such as ministerial positions), tax breaks, subsidies, regulatory exemptions, or uncompetitive bids for government projects.

Plutocracy

The wealthy elite who dominate politics by virtue of public officials' dependence on their campaign contributions, or by virtue of their ability to use their money to win major public office themselves.

Political Corruption

The abuse of entrusted power by political leaders for private or group enrichment or for the preservation of power

Political Finance

Candidates and political parties' income and expenditures, which are formal and informal, as well as financial and in-kind. These transactions may occur within or outside of the campaign period, or they may not be directly related to a campaign at all.

Political Finance Regulator

(also Enforcement Body or Enforcement Agency) A government body or agency mandated to oversee and control the flow of the country's political finance system. It ensures that parties, committees and candidates comply with the limitations, prohibitions and disclosure and reporting requirements. The agency has the duty to enforce obligations arising out of political finance regulations.

Political Party Expenditures

In presidential systems, money spent by political parties on behalf of their presidential and congressional candidates in the general election. In parliamentary systems, money

spent by political parties during the election campaign.

Political Party Finance

Non-campaign financial or in-kind donations to political parties, organizations and associations, and expenditures made by these groups. Political parties may receive public financing, often as the result of garnering a certain percentage of the vote in an election.

Private Funding System

A system of financing elections and political party activities by which the majority of a candidate's or political party's campaign income and expenditures are funded from private contributions.

Public Financing/funding

Campaign funding or regular party funding supplied by the government to eligible candidates or political parties.

Quid Pro Quo

From the Latin, "something for something," what vested-interest campaign contributors get from elected officials as a result of their strong financial backing (this may include a tax breaks, subsidies, appointments, regulatory exemptions, or uncompetitive bids on government contracts).

Regular Party Funding

Non-campaign related finances, including donations and expenditures, of political parties, organizations and associations spent on an annual basis to maintain routine party operations.

Third-Party Contributions & Expenditures

Goods or services paid or expenditures incurred on behalf of a candidate or political party by a separate, unconnected entity.

Tainted Politics

A corrupt political system that is heavily influenced by dirty or illicit money and undermines the rule of law.

Transparency

The degree to which an institution's finances, policies, methodology, and operations are made available or known to the public.

Unequal Access to Office

A concern that certain socio-economic constituencies lack minimum financial resources to run a campaign or get meaningful representation.

Uneven Playing field

The risk that large sums of money can give unfair advantage to certain candidates and/or political parties, effectively diminishing the competition.

Vote-buying

A form of political swindling that is intended to increase the number of votes a particular candidate or political party receives in an election by providing money or other benefits to constituents in exchange for their vote.

Vouchers

A form of in-kind public financing by which eligible candidates and/or political parties receive certificates entitling them to a specified amount of free campaign resources, such as postage or media time.

Further Reading

Web Resources

Campaign Finance Research Commons

- <http://cfinst.org/community/>
- Online library of primary resources, academic research and NGO reports in political finance with an emphasis on the United States. Users register to discuss content and share their own.

Elections Canada

- www.elections.ca/intro.asp?section=fin&document=index&lang=e
- Canada's independent regulatory commission with database on disclosure and contribution limits in riding (district) and party leadership contests, comparative analyses of the U.S. and Canadian political finance regimes.

Group of States Against Corruption (GRECO)

- www.coe.int/t/dghl/monitoring/greco/
- Contains detailed country reports investigating the compliance with undertakings in the legal instruments of the Council of Europe against corruption, with specific reports on political funding. Site in English and French.

IFES Political Finance and Public Ethics Program

- www.moneyandpolitics.net
- News, handbooks, reports, activist and regulator tools and academic research on money in politics. Materials in French, Spanish, Arabic and English.

International IDEA: Political Finance Database

- www.idea.int/parties/finance/db/index.cfm
- The database Regulations contains information on the laws on funding of political parties for more than 100 countries in the world. Most information is from 2002 and was last updated November 2006. Further updates expected during 2009 or 2010.

Transparency International

- www.transparency.org
- TI publishes the annual Global Corruption Report, Bribe Payers Index and Global Corruption Barometer. Also includes regional and national reports. Political corruption is one of TI's five global priorities.

U.K. Electoral Commission

- www.electoralcommission.org.uk/
- United Kingdom's independent regulatory commission with detailed information on political finance legislation, public funding, enforcement, database of registers, statement of accounts, and party finance analyses.

U.S. Federal Election Commission

- www.fec.gov
- The United States' federal-level, independent regulatory commission. Features an extensive disclosure database with machine-readable data, guidelines on reporting and details on enforcement mechanisms.

Print Resources

Austin, Reginald, et al. 2003. *Funding of Political Parties and Election Campaigns*. (Stockholm: International IDEA).

- www.idea.int/publications/funding_parties/upload/full.pdf
- IDEA's treatment addresses conceptual approaches to political finance regulation with special emphasis on public financing and donor equality. Regional case studies are included.

Bryan, Shari and Denise Baer. 2005. *Money in Politics: A Study of Party Financing Practices in 22 Countries*. (Washington, DC: National Democratic Institute of International Affairs).

- www.justiceinitiative.org/db/resource2/fs/?file_id=16300

- This study identifies common challenges in political finance and explores workable solutions that can be applied in unrelated political cultures by political parties, governments, international development agencies, and democracy and governance implementers and academics.

Carlson, Jeffrey and Marcin Walecki, 2006. MAP – Money and Politics Program: Applying Lessons Learned. (Washington, DC: USAID/IFES).

- www.moneyandpolitics.net/researchpubs/pdf/MAP_Guide_to_Applying_Lessons_Learned.pdf
- This study identifies important lessons learned during the four years of pilot programs focused on implementing political finance laws and regulations, attempting to consolidate best practices for political finance programming.

Fischer, Jeff, Marcin Walecki and Jeffrey Carlson, eds. 2006. Political Finance in Post-Conflict Societies. (Washington, DC: USAID/IFES).

- www.ifes.org/publication/0b087c527792ae130507f80957ad3f2b/Political%20Finance%20in%20Post-Conflict%20Societies-small.pdf
- Drawing on eight case studies, the authors review lessons learned and best practices in the design of political finance systems for post-conflict contexts.

Johnson, Michael. 2005. Political Parties and Democracy in Theoretical and Practical Perspectives. (Washington, DC: National Democratic Institute).

- www.ndi.org/files/1948_polpart_janda_110105.pdf
- Johnston relates political finance regulation to a “contention” view of political parties and describes how varying goals and party system characteristics jointly imply different reforms.

Nassmacher, Karl-Heinz (2009) The Funding of Party Competition, Political Finance in 25 Democracies. Nomos.

- An exploration of key questions about modern-day party funding such as, is illegal funding of parties a real problem, has new campaign technology caused a ‘cost explosion, and what are the impacts of public funding for sustainable democracy?

OSI Justice Initiative. 2005. Monitoring Election Campaign Finance: A Handbook for NGOs (New York: Open Society Institute).

- www.justiceinitiative.org/db/resource2?res_id=102367
- This handbook lays out key concepts and research design strategies for monitoring party and candidate finance activity when regulators do not exist, lack capacity or lack will.

Pinto-Duschinsky, Michael. October 2002. “Financing Politics: A Global View.” Journal of Democracy 13(4).

- www.moneyandpolitics.net/researchpubs/pdf/Financing_Politics.pdf
- A leading expert (Oxford University/IFES) expands the definition of political finance corruption, reviews example scandals and surveys trends in disclosure and public subsidy in 104 countries.

Training in Detection and Enforcement Project. June 2005. Enforcing Political Finance Laws: Training Handbook. (Washington, DC: USAID/IFES).

- www.moneyandpolitics.net/projects/tide/toolkit.html
- The TIDE manual covers strategies for improving regulation and enforcement, institutional mechanisms for enhancing discovery of information and ethics from a regulator perspective.

Ward, Gene, et al. 2003. Money in Politics Handbook: A Guide to Increasing Transparency in Emerging Democracies. (Washington, DC: USAID Office of Democracy and Governance).

- www.usaid.gov/our_work/democracy_and_governance/publications/pdfs/pnacr223.pdf
- This primer emphasizes disclosure, covering the need for reform, basic variables in regulations, strategies for advancing disclosure and a framework for understanding country contexts.

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United Nations Convention Against Corruption, Article 7(3)

Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.

Cada Estado Parte considerará asimismo la posibilidad de adoptar medidas legislativas y administrativas apropiadas, en consonancia con los objetivos de la presente Convención y de conformidad con los principios fundamentales de su derecho interno, para aumentar la transparencia respecto de la financiación de candidaturas a cargos públicos electivos y, cuando proceda, respecto de la financiación de los partidos políticos.

Каждое Государство-участник также рассматривает возможность принятия надлежащих законодательных и административных мер, сообразно целям настоящей Конвенции и в соответствии с основополагающими принципами своего внутреннего законодательства, с тем чтобы усилить прозрачность в финансировании кандидатур на избираемые публичные должности и, где это применимо, финансировании политических партий.

Chaque État Partie envisage également d'adopter des mesures législatives et administratives appropriées, compatibles avec les objectifs de la présente Convention et conformes aux principes fondamentaux de son droit interne, afin d'accroître la transparence du financement des candidatures à un mandat public électif et, le cas échéant, du financement des partis politiques.

تنظر كل دولة طرف أيضاً في اتخاذ التدابير التشريعية والإدارية المناسبة، بما يتناسب مع أهداف هذه الاتفاقية ووفقاً للمبادئ الأساسية لقانونها الداخلي، لتعزيز الشفافية في تمويل الترشيحات لانتخاب شاغلي المناصب الرسمية وفي تمويل الأحزاب السياسية، حيثما انطبق الحال.

各缔约国还应当考虑采取与本公约的目的相一并与本国法律的基本原则相符的适当立法和行政措施，以提高公职竞选候选人经费筹措及适当情况下的政党经费筹措的透明度。



International Foundation
for Electoral Systems