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**TRANSPARENCY AND ACCOUNTABILITY IN THE FUNDING OF
POLITICAL PARTIES AND ELECTION CAMPAIGNS**

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I. INTRODUCTION

1. Our representative and participatory democracies function largely within the political party system. All over the world political parties have evolved to become a mainstay of our system of parliamentary government.^{1 2}

2. Political parties aspire to dominate the political debate, in and outside parliament, by their agenda-setting power and access to the media, which they hope will enable them to exert and enhance their influence at elections.

3. In their quest to accede to power, they are expected to formulate a policy encompassing all aspects of modern life. In order to get their message across to the electorate, they incur increasing election expenses. This compels them to become well-structured organizations forming a fine-mazed network not only on a horizontal line (subject-based structure: e.g. party headquarters, research and study centre, youth movement and women's wing), but also on a vertical line (territorial structure: e.g. national party headquarters and local and regional branches, with varying degrees of autonomy, which coincide with the boundaries of the constituencies for national, local or regional elections). Other organizations linked to a political party by conviction, but not necessarily a part of it, are, for example, labour unions, health insurance organisations and newspapers. This structure enables them to stay in touch with the general public.

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1. This report focuses mainly on the funding of political parties and their associated accountability, as a collective, to the people that elect them. It does not deal as such with codes of conduct for members of parliament and the executive, which have done much to address accountability issues as they apply to elected representatives individually.
 2. This report is based inter alia on two global comparative studies, one by the International Institute for Democracy and Electoral Assistance and the other by the National Democratic Institute for International Affairs: AUSTIN, A. and TJERNSTROM, M. (ed): *Funding of Political Parties and Election Campaigns*, International Institute for Democracy and Electoral Assistance (IDEA) Handbook, 2002 and BAER, D. and BRYAN, S.: *Money in Politics*, National Democratic Institute for International Affairs (NDI) study of party financing in 22 developing countries, 2005, and on the evaluation being conducted by the Council of Europe–GRECO (Group of States against Corruption): http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/ReportsRound3_en.asp.

4. It is hardly a surprise that this kind of organization and the activities that political parties display need extensive funding. Furthermore, political parties operate in a given geographical, cultural, economic, social and political context. Other factors that also serve to increase their costs are low levels of income, literacy and access to technology, vast disparities between urban and rural areas, travel costs and the presence of multilingual communities.

5. With waning membership, parties are obliged to turn to donors - physical or legal persons - in order to face the ever growing election campaign costs and the day-to-day management of their organization. However, this money chase carries certain dangers and can give rise to big money politics. The influence donors gain and the risks of bribery and corruption could endanger the democratic process.

6. Several countries, therefore, under growing pressure from civil society, have introduced, legislation regulating the financing of political parties and their election campaigns. This process was generally initiated as a result of corruption scandals or as part of the democratic transition process in new democracies.

7. In addition, there exists today also a strong legal incentive. The United Nations Convention against Corruption, which entered into force on 14 December 2005, is the only legally binding universal anti-corruption instrument. Article 7.3 provides that "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."

II. FINANCING OF POLITICAL PARTIES AND ELECTION CAMPAIGNS

8. In most cases, the legislation regulating the financing of political parties and election campaigns forms a triad. The three themes addressed are: the financing of political parties and election campaigns; the regulation of election campaigns and campaign expenditure; and transparency, monitoring and accountability. A fourth theme which is also inspired by the objective to achieve transparency in politics, but which is largely the subject of separate legislation or a code of conduct, concerns the obligation of elected officials and high-ranking civil servants to disclose their interests (offices, functions and occupations) and assets.

A. FINANCING OF POLITICAL PARTIES AND ELECTION CAMPAIGNS

1. Analysis of existing legislation

9. In order to maintain a vibrant parliamentary multiparty democracy, there has been a general tendency to provide political parties with public funding in combination with a regulation of their private sources of income. The nature of public funding and the methods used to determine its size vary from country to country due to factors such as constitutional framework, political history, electoral system (e.g. majority system or proportional representation and constituencies based on ethnic and regional interests), cultural practices of gift-giving and patronage, and the power of civil society.

(i) Public funding

10. Public funding seeks to provide parties and candidates with essential resources to perform their functions and promote equality in their access to resources. This funding can be direct or indirect.

11. Generally speaking, direct funding implies that the State provides subsidies to political parties on an annual basis or during an election period. This type of funding is often established on the basis of election results, that is, the number of seats in parliament or the percentage of voter support, and/or the number of contributing members or the amount of donations. In some countries, the State will reimburse a part of the campaign expenditure to candidates who have obtained a fixed percentage of the votes cast.

12. The importance of public subsidies varies according to the sources of authorized private funding. For instance, if donations and campaign contributions from legal persons are forbidden and individuals are allowed only to make capped donations, public funding will be comparatively more important and represent perhaps up to 90 per cent of the party's income. One of the methods used for calculating (a part of) the public subsidy is the match technique: every unit of currency a party receives as a contribution or private donation will be matched by a State subsidy. A liberal policy regarding private funding of political parties and candidates often goes hand in hand with a rather limited public funding system and vice versa.

13. Indirect public funding of political parties is mostly provided in the form of free broadcasting time on television and radio during the election campaign, tax subsidies, the free use of public buildings for political meetings and of public election billboards.

(ii) Private funding

14. Private funding of political parties comes from individuals and legal persons directly to the political party although it may be subject to rules of disclosure and campaign spending limits. With regard to private sources of income, comparisons drawn on a worldwide basis reveal quite substantial differences. There are, of course, great similarities, but in the matter of donations, differentiation is the rule. For example, donations from corporations are strictly forbidden in some countries, authorized without any limits in others or capped. Donations by individuals (natural persons) are always allowed, but again, sometimes legislation imposes a ceiling, which can be relatively low or high.

15. Private and/or corporate donations to political parties and candidates are sometimes stimulated by tax deductions. This incentive benefits the donor, of course, but can also be qualified as a form of public funding. However, this method raises questions regarding respect for the principle of the neutrality of the State and the relative advantage it bestows to parties and candidates that appeal to a more affluent electorate.

16. The issue of the private funding of political parties is often viewed as a question of political equality. If the private funding of political parties is not transparent, it could undermine the gains of a representative democracy, where each vote is of equal value and representatives remain accountable to the people who elect them.

17. With regard to private funding, three areas of concern deserve to be highlighted.³ First, inadequate resources result in political parties and candidates pursuing relationships with donors, who may expect certain gains if the political party or candidate comes into a position of power. Second, unequal resources result in some political parties being better resourced than others. This is more often the case of governing parties. Third, campaign financing that comes from donors who expect a legislative or other benefit might undermine the democratic process or public confidence in this process since the political party would be accessing compromised resources.

3. See the two global studies cited in footnote 2.

2. Best practice guidelines

18. It is to the benefit of the public, and to democracy as a whole, that political parties are adequately funded in order for them to carry out their work. Democracy comes at a price. However, corruption in the funding of political parties must be addressed in order to prevent commercial or criminal interests from "capturing" political parties.

19. The reality is that money and politics are entwined and it is necessary to establish realistic mechanisms that will mitigate the negative influence of money on political life. A factor that has impacted on this reality has been the rising costs of election campaigns.

20. In many countries, the funding of political parties has been identified as a serious problem and steps have been put in place to deal with this. These steps include public funding of political parties or candidates, bans or limits on private political contributions and control over political expenditures.

21. Public funding of political parties aims to level the playing field for parties by ensuring equal access to funding. This is particularly beneficial to smaller parties, for whom State funding is their main source of financing. This can serve to broaden the democratic spectrum and offer citizens a greater choice in whom they prefer to represent them. Public funding should, therefore, not only benefit political parties which are represented in parliament, but also parties not represented in parliament which have obtained a fixed percentage of the votes and which, therefore, represent a socially relevant set of ideas. In other words, the public financing system may not serve as an "incumbent protection racket". A disadvantage of public funding is that it may result in the establishment of bogus political parties in order to obtain political funding. A further disadvantage is that complicated methods or formulas for allocating resources to political parties can benefit large political parties to the detriment of smaller ones. Lastly, public funding rarely diminishes the need for political parties to access private funding. On the other hand, public funding could be used as a leverage to promote gender equality in politics.

22. Limits on private political donations are based on the notion of reducing the disparity in political influence between large donors, small donors and non-donors. Limits on party and candidate expenditures are aimed at levelling the playing field by enforcing a ceiling on total expenditures, normally only for the period of the election campaign.⁴ A negative outcome of imposing limits has been that fundraising or the acceptance of donations continues under the table.⁵

23. Aspects of private donations which also should be addressed concern the admissibility of anonymous donations, cash donations, donations by foreign natural and legal persons, foreign States, foreign international organisations, non-governmental organizations (NGOs), State-owned enterprises and enterprises responding to a call for tenders. In particular, funding by foreign donors should not be permitted for the purpose of election campaigns as political parties should represent the interests of the people in their own countries. An exception may be made for foreign sources such as political foundations. Funding by foreign donors for political parties outside of the election campaign process requires consideration as some political parties would not be able to survive without such funding.

4. See § 26.

5. MANIKAS, P. and THORNTON, L.: *Political Parties in Asia - Promoting Reform and Combating Corruption in Eight Countries*, research conducted by the National Democratic Institute for International Affairs (NDI) and the Council for Asian Liberals and Democrats (CALD), 2003.

24. The idea of a global benchmark for the funding of political parties has also been mooted. However, the challenges to this include different democratic systems and constitutional structures and an international standard that would have to take into account the fact that political parties themselves are all different.⁶ There is no one-size-fits-all system.

B. REGULATION OF ELECTION CAMPAIGNS AND CAMPAIGN EXPENDITURE

1. Analysis of existing legislation

25. "Free elections and freedom of expression, particularly freedom of political debate, together form the bedrock of any democratic system".⁷

26. With regard to campaign spending, there is a general tendency to restrict campaign spending by imposing statutory limits on the expenditure of parties and candidates during the election campaign as defined by law. The United States of America constitute a notable exception to this rule because these limitations are held to be unconstitutional violations of the First Amendment, which guarantees and protects free speech.

27. Several reasons are advanced to justify campaign spending limits, such as the fight against bribery and corruption, the principle of equality of arms in order to ensure a level playing field in the electoral competition and the integrity of the election process. As a rule, these limitations are never considered to be an impediment to free speech as long as they are considered necessary in a democratic society and, pursuant to the principle of proportionality, high enough to guarantee the quality of the political debate and to enable parties and candidates to effectively advocate their programme and candidature.

28. Any legislation regulating campaign methods and financing must also take into account the role third parties play during the election campaign. Imposing spending limits on parties and candidates while permitting single-issue organizations or interest groups which do not present candidates for election to intervene without restriction in the election campaign guarantees almost certainly that campaign regulations will be circumvented.

2. Best practice guidelines

29. There has been a call for reduced spending on elections and election campaigns. However, the execution of this guideline should take into account the low levels of income, literacy, access to technology and vast disparities between urban and rural areas in some countries.⁸

30. Another issue concerns the question whether some forms of election campaigning should be regulated or even banned. Election campaigns are more and more fought out over the Internet. Public and private radio and television channels are used to get the election message across to the general public. This has led to an explosion of election expenditures. Considering the growing trend of media ownership concentration and the close links between some newspapers and private channels with particular political parties, measures should be taken to ensure the integrity and the fairness of the electoral process and, in particular, the diversity and independence of the press. This implies, for example, that all political parties are given equal access to pre-election programmes on radio and television, whether State-owned or private.

6. EWING, K.: *Corruption in party financing: the case for global standards* in Global Corruption Report, 2001.

7. European Court of Human Rights, *Bowman v. United Kingdom*, 19 February 1998, consideration 42.

8. See § 4.

C. TRANSPARENCY, MONITORING AND ACCOUNTABILITY

1. Analysis of existing legislation

31. Accountability and transparency must permeate the entire process of political financing, thus "Sunlight is the best disinfectant".⁹ Consequently, States that have introduced legislation regulating the funding of political parties and election campaigns would normally also have set up a monitoring mechanism and a wide range of penalties or measures by which parties, candidates and other persons or groups involved (e.g. third parties) can be held accountable for any violations of the relevant legislation or made to comply with it.

32. The monitoring mechanism implies first of all the obligation for parties, candidates and other persons or groups involved, such as third parties, to submit detailed and comprehensive financial reports. Regarding political parties, this report is established on an annual basis following a scheme approved by the competent authorities and not unlike the schemes used by companies (balance sheet, income statement and notes). The report often consolidates the accounts of all the entities in the party's sphere of activity, including its local branches, and identifies ongoing party expenditure and electoral expenditure. Concerning elections, political parties and candidates are obliged, sometimes already during the campaign, but certainly within a reasonable time after the elections, to submit detailed accounts of their campaign expenditures and sources.

33. Legislation has also been enacted requiring political parties to install internal and financial controls in order to enforce good governance. In some instances, the finances of political parties are externally audited by independent auditors and the results made public. Exemptions, however, are sometimes authorized for candidates, for example, whose campaign spending does not exceed a certain threshold or who do not benefit from a refund of their campaign expenditure.

34. The reports, which are made public, are submitted to a supervisory body, with varying degrees of independence, which has at its disposal the necessary human and material resources and investigative powers to carry out a control. This body, therefore, usually has the authority to take non-punitive measures or to impose administrative sanctions and submit alleged criminal and tax law violations to judicial and tax authorities for further investigation.

35. Lastly, a number of countries have introduced an array of sanctions and non-punitive measures to enforce compliance with the law. Sanctions may be criminal (e.g. imprisonment, fines and temporary deprivation of the right to vote and to be elected), administrative or electoral (e.g. annulment of an election and ineligibility with loss of seat) and financial (e.g. temporary withdrawal of public funding, refusal to refund campaign expenditure and loss of the tax deduction benefits).

2. Best practice guidelines

36. Mandatory disclosure of political party finances and election expenditures contributes to greater transparency and gives the public an opportunity to understand the factors that might inform the actions of a political party. Individual disclosures in the form of codes of ethics are also important in ensuring that funding is not channelled through individuals, but is in fact meant for the political party.

9. Quote from U.S. Supreme Court Justice Louis Brandeis

37. Disclosure of donors also presents problems for political parties. Many donors do not wish their identity to be revealed and disclosure laws could discourage them from contributing to the political party. Donors may also wish to fund more than one political party, but would not wish this information or the amount they have funded to be known by the political parties.

38. Disclosure laws and other forms of regulation seek to limit or restrict the negative impact of anonymous, foreign or business sources of funds to political parties, however, these laws have been difficult to enforce and donors and political parties have found loopholes to circumvent them.

39. Legislation regulating the funding of political parties and election campaigns that does not provide for a control and sanction mechanism risks being circumvented, thereby undermining its efficiency and credibility. Consequently, an independent monitoring mechanism ought to be introduced that is responsible for a thorough, effective, efficient and impartial supervision of the accounts of political parties and the expenses involved in election campaigns and their presentation and publication.

40. Violations of relevant legislation should be subject to non-punitive measures and/or sanctions that should be effective, proportionate and dissuasive and enable the oversight body to uphold the legislation in question.

III. WOMEN AND CAMPAIGN FINANCE

41. "Campaign finance has been identified as a central component for achieving gender equity in the political realm. Despite the fact that women's representation in national parliaments has significantly increased, the lack of economic resources is one of the main obstacles to achieving gender parity in parliaments." ^{10 11} This conclusion is predicated on a number of factors, which partly exceed the domain of the financing of political parties and election campaigns and warrants, therefore, a separate chapter on the gender perspective.

1. Analysis of existing legislation

42. In order to increase women's political participation and achieve gender parity in parliament, legislation has been introduced in a number of countries. Different strategies have been put in place: from the introduction of the proportional representation system and quota systems within parties' structures and their candidates' lists, to measures lifting barriers of unequal access to financial campaign resources, to the introduction of public funding and caps on donations and campaign expenses. ¹²

10. TOVAR RESTREPO, M., *Campaign Finance for Women: Challenges, Incentives and Recommendations*, in *Is parliament open to women? An appraisal*, Conference for Chairpersons and Members of Parliamentary Bodies Dealing with Gender Equality, 28–29 September 2009, Geneva, Switzerland, Inter-Parliamentary Union, Reports and Documents No. 62, 2010, 90 pp, see p. 38.

11. See also: Electoral financing to advance women's political participation: A guide for UNDP support, United Nations Development Programme, 2007, New York, USA, 40 pp.; Women's Environment and Development Organization (WEDO), *Women Candidates and Campaign Finance, Global 50/50 Campaign - Get the Balance Right*, 2007, New York, USA, 25 pp.; The International Knowledge Network of Women in Politics (iKNOW Politics), *Consolidated response on financing women candidates in Muslim countries*, 9 pp.; WEDO, *Women and Campaign Finance - the High Price of Politics*, Factsheet, New York, USA, 6 pp.

12. See § 21 and the studies in footnotes 10 and 11.

2. Best practice guidelines

43. Democracy is a matter of shared responsibility between men and women. Consequently, legislation on the financing of political parties and election campaigns ought to reflect this concern for the three themes addressed above.

IV. CONCLUSIONS

44. Whereas the accountability and transparency mechanisms outlined above have sought to limit corruption and ensure that the electorate has insight into the financial practices and internal processes of political parties, these mechanisms alone are not sufficient.

45. The fear that public confidence in the democratic process is being undermined by political funding mechanisms is a cause for concern not only for States, but also for international organizations and between States. The decision of the IPU Third Standing Committee to request the development of this report and future resolution may be cited as a case in point.

46. The starting point for such a global accountability framework should be transparency and a regulatory framework that requires political parties and candidates to account for their funds.

47. Political parties themselves should be part of the solution and become agents of change and function in a transparent and accountable manner.

48. In this regard, there may be a need for the provision of technical assistance and training in the establishment of financial accounting systems or the development of codes of conduct for the political party and its members.

49. Civil society organizations and the media should serve as watchdogs to educate citizens about the funding of political parties and to continuously monitor the exercise of power.