



Democracy Round Table 2009
“Democracy at Crossroads – The Challenge of Illicit Funding in Politics”

Summaries of presentations by panellists
(as received by 25th November 2009)

Misha Glenny
(Keynote speech)

The revolutions of 1989 and the liberalization of international financial and commodity markets have triggered a epochal change in the nature of global politics and the economy.

The end of communism opened up a huge swathe of territory that had previously enjoyed but a limited connection with the market economies of the West. The process of transition was traumatic, involving a partial collapse of the state. The economy was seized by a potent coalition of organized crime and protection services, monopoly capitalists (oligarchs), and former members of the security services (especially the secret police). The political class had to learn to adapt to democratic mechanisms but quickly discovered that this was a very expensive business. With no formal structures for the funding of political parties, the tri-partite coalition was able very quickly to exert a decisive influence over the political process by dint of its near monopoly on the funding of political parties. Anybody with political ambition had to engage to some degree with the criminalised economy.

This development was not restricted to Eastern Europe. Under the pressure of global market forces, there was a huge opening up of hitherto protectionist economies in large parts of the world. Brazil, India, China and South Africa all stepped up their engagement with the new trading patterns and financial mechanisms, and all suffered in varying measures from the corruption which historically has always accompanied rapidly changing economic processes.

At the same time as this, the mega-corporations of Western Europe, the United States and Japan were making progress in persuading their governments to lift restrictions on the movements of capital, goods and services. The role of the state as a regulator shifted and indeed diminished in certain critical areas of the global economy. The corporations themselves became less wedded to the particular countries where they emerged and increasingly regarded themselves as supranational. The relationship between states and corporations became

paradoxically both symbiotic and hostile. In the advanced industrial world, corporations were expected to manage themselves in accordance with the emerging principles of good corporate governance. But in the emerging markets (filled with so much commercial promise), they were less concerned to behave well and often engaged in corrupt practices to further their interests against those of the competitors.

In some countries, structural corruption has been exacerbated by specific circumstances. This is particularly true of countries unfortunate enough to lie in the production or distribution zones of major narcotics routes, such as Afghanistan, West Africa or Mexico.

Much of the illegal financing of political parties which result from this new historical dynamic can be ascribed to the nature of transitional economics and politics. This is not a new phenomenon and in the past democratic societies have combated it by the introduction of carefully targeted regulation and the removal or alteration of harmful policies.

Some macro-political organizations such as the European Union have developed some extremely effective tools in order to counter the corrosive influence that illicit networks exercise over the political process. The key lies in the strengthening of institutions, especially the central pillars that sustain the rule of law but there are also other major considerations that are not recognised so frequently.

Kwesi Aning, Ghana

The Challenge of Illicit Funding of Politics in Africa

Organized transnational criminal groups pose threats to West Africa's fragile states and to democratic governance processes and institutions. The established link between drug trafficking in West Africa and Europe highlights the need for the wider international community to engage its West African counterparts in fighting the negative impacts of organized crime in West Africa, including its corrosive effects on democratic institutions—parliaments, the judiciary, political parties and the executive arm of government. The international community can build democracy in the sub-region in a significant manner only if the threats posed by transnational organized crime (TOC) are addressed concurrently.

West Africa, and increasingly some of its states – Ghana, Nigeria, Senegal, Togo, Guinea, Guinea Bissau, Mali, Niger and Burkina Faso - are suffering from a combination of factors that make them vulnerable to illicit trafficking, organised crime and terrorism. Mali, Guinea-Bissau, Burkina Faso, Niger are ranked among the last ten of the 177 countries listed in the world. Structural weakness of the Sahelian states economies, characterized by, small domestic markets and over reliance on one or two export commodities, does not only render them vulnerable to external shocks, they are also highly susceptible to security threats. Large country sizes, huge open spaces with few settlements and few law enforcement officers compound already difficult challenges. National institutions in these states are often under-resourced, weak and fragile, as they strive to emerge from poverty and long institutional crises. As a result, criminals are exploiting these conditions to traffic a wide range of products through the Sahelian states, namely: drugs, cigarettes, weapons and ammunitions, counterfeit medicines, engaging in armed robbery, smuggling of petrol and human trafficking. Basically, any commodity with a value is being trafficked. While trafficking by itself poses problems to these Sahelian states, it is the emerging new trend of the deepening collaboration between traffickers and

terrorist/rebel groups that poses particular threats. It is the potential negative ramification of such collaboration that needs to be understood.

The threats posed by the combined forces of traffickers and armed/terrorist groups are enormous because of the fragility of these Sahelian states. As a result, one of the most serious challenges to state survival at the beginning of the 21st century is not only the influx of multiple trafficked goods, but the interlinkages and relationships among these groups. In this new trend, terrorists/rebel groups provide safe passage and protection to traffickers in exchange for a percentage of the total face value of the goods. Through the levying of such 'taxes', rebel groups/terrorists gain substantial financial spin-offs to continue with their activities. Because of such substantial financial spin-offs, traffickers impact public, private sector and community institutions in which a culture of quick and easy acquisition of money is emerging. In some countries, this has bought traffickers friends in high places and penetration of national institutions at the highest levels. Yet another worrying development is that, money made from trafficking activities also coexists and intermingles with licit money from other business.

In all the Sahelian states, there is a noticeable upsurge in using their territorial space as transit points for trafficking purposes. Such developments are occurring because there is an enabling environment that permits different criminal and terrorist/rebel group networks and their local appendages to exploit already established networks for storing goods, providing information on routes, the presence of tourists, and the activities of security forces, provision of warehouses for storage, a warren of safe houses and the connivance, in some instances of law enforcement agencies. These have developed into multiple interlocking facets and reflect the fact that the Sahel region has a long history of trafficking activities, particularly by the Tuaregs, and that the roots of the current collaboration between traffickers and terrorists/rebel groups in fact span several years.

It is important to appreciate that the collaboration between traffickers and terrorists/rebel groups on one hand and the state on the other means that these fights have basically become the frontiers in the Sahelian state's new war. Much like legitimate businesses, the trafficking and criminal networks and their relationship to terrorist/rebel groups are bound together by multiple interests – that of maximizing profit with the minimum of risk and obtaining the financial means to carry out their attacks on governments. The results from this strategic calculation are two-fold: first, criminal enterprises engage in more than one activity to maximize profits; smuggling routes, for example, used for one illegal commodity can often easily be used for others. Second, co-operation exists among and with others engaging in the underground economy including the bartering of illicit commodities between criminal groups.

Increasingly, both traffickers and terrorist/rebel groups explore for weak entry points within state structures and then exploit such institutional fragilities to their economic and political benefit. The Sahelian states exhibit such vulnerabilities and thus allow traffickers to manipulate such opportunities for criminal gains

Addressing the Sahelian states peace and security challenges will require specific and multi-dimensional tools including small arms and light weapons (SALW) control, and counter organized crime, including drug trafficking

Carlos Jiménez Villarejo, España
The keys to public and private corruption in Spain

Over the past ten years there has been a steady increase in the unveiling of cases of both public and private sector corruption, particularly in relation to local administration. Often town/city councils - the main administrators of land and urban processes - have made arbitrary and illegal decisions involving illicit economic commissions (bribes) that prove detrimental to public interests while favouring intermediaries, real-estate promoters and construction companies.

In referring to corruption I am also referring to the most serious forms of economic delinquency as an expression of private corruption, in so far as they represent the appropriation of the assets of commercial companies or represent a serious threat to investors.

Since 1995, the fight against corruption in Spain has been endowed with an essential instrument, an organ of the Attorney General's office – the Special Attorney's office against Corruption and Organized Crime - with jurisdiction over the entire national territory. Significant resources – both police and experts in public accounts/assets and taxation – have been assigned to the Special Attorney's office.

The result, briefly, has been that the revelation that over the past decade public sector corruption has led to a loss of 4 billion Euros from state coffers. And in the 28 most important criminal cases that have been initiated, some 120 public officials have been investigated.

Drawing from this reality and following from an overview of the concept of corruption, this presentation will analyse the structural issues that favour corruption and the legal reforms that we deem necessary to prevent and avoid the phenomenon, while also stressing the need for an efficient judicial response.

The central theme of the presentation will be on the financing of political parties, the weaknesses of the current system and provisions to ensure more transparency in party accounts and internal control mechanisms. The presentation will also focus on deficiencies in the regulation of urban management. The final focus will be on essential elements of prevention: regulation of conflicts of interest concerning civil servants who have relevant decision-making powers; the system of incompatibilities and control of income and assets. I will wrap-up with a brief consideration of the current crisis that processes against corruption is generating within the judiciary, provoked by the latter's unequal response to the phenomenon.

(En Español)

Las claves de la corrupción pública y privada en España

En los últimos 10 años ha habido un incremento constante del descubrimiento de casos de corrupción pública y privada, particularmente en la Administración Local. Los Ayuntamientos, como principales gestores del suelo y de los procesos urbanísticos, han adoptado muchas veces decisiones arbitrarias e ilegales, en las que suelen mediar comisiones económicas ilícitas (sobornos), que perjudican a los intereses públicos y favorecen a intermediarios, promotores inmobiliarios y empresas constructoras.

Cuando nos referimos a la corrupción, incluimos también las formas mas graves de la delincuencia económica como expresión de corrupción privada, en cuanto han

representado un vaciado patrimonial de las sociedades mercantiles o un grave perjuicio a los inversores.

La lucha contra la corrupción mas grave en España tiene, desde 1995, un instrumento esencial, un órgano del Ministerio Público, que es la Fiscalía Especial contra la Corrupción y la Criminalidad Organizada, con jurisdicción en todo el territorio nacional y dotada de amplios recursos no solo policiales sino de funcionarios expertos en el control de cuentas públicas y del régimen fiscal.

El resultado, en esta breve introducción, es que en la última década la corrupción pública ha originado un perjuicio a las arcas públicas de ,aproximadamente, 4.000 millones de euros. Y que en los 28 procedimientos judiciales penales mas importantes han sido perseguidos, también de forma aproximada, 120 cargos públicos.

Desde esta realidad, la Ponencia analizará, tras una síntesis sobre el concepto de corrupción, las causas estructurales que la favorecen y las reformas legales que estimamos necesarias para prevenirla y evitarla, sin perjuicio del mantenimiento de una respuesta penal eficaz.

Los elementos centrales de la exposición serán la financiación de los partidos políticos, las insuficiencias del actual sistema y las previsiones para dotar de mayor transparencia a sus cuentas y a sus mecanismos de control. En segundo lugar, las deficiencias de la regulación de la gestión urbanística. Y, finalmente, un factor esencial para prevenirla, la regulación de los conflictos de intereses de los servidores públicos que disponen de un poder decisorio relevante, el sistema de incompatibilidades y el control de sus ingresos y de sus bienes patrimoniales. Para concluir con una breve consideración sobre la crisis que los procesos contra la corrupción están generando en el Poder Judicial al responder de forma desigual ante ellos.

Humberto de la Calle

En una primera fase, las regulaciones en Colombia sobre la financiación de la política tenían como propósito principal promover un marco de mayor transparencia en la lucha política. Se pensaba que la más amplia y mejor información del elector era un elemento importante en el afianzamiento y la promoción de los valores democráticos.

Un poco más adelante, al objetivo inicial se sumó el deseo de brindar un marco de mayor equidad, evitando posibles desbalances producidos bien por la concentración de donantes, o por la utilización sin límite de dinero en las campañas.

La decisión de transferir dineros estatales para beneficiar la política, especialmente el financiamiento público directo de las campañas, tuvo que ver con esta última finalidad. Este objetivo se logró. El financiamiento público fue elemento esencial para la apertura política que comenzó en 1991. Pero, además, el apoyo estatal comenzó también a fundamentarse en la aspiración a frenar el entorno plutocrático que, se suponía, rodeaba el financiamiento privado, en una especie de *quid pro quo* que minaba seriamente el sustento ético de la democracia. De allí a examinar el efecto de la financiación en manifestaciones de corrupción, no había sino un paso. En la actualidad, es inevitable separar la cuestión del dinero en la política, del estudio de la corrupción política. Y no solo eso. Esta visión es, para muchos investigadores, políticos y gobernantes, un punto central.

En el caso de Colombia, el trasiego descrito tiene contornos superlativos. Con el florecimiento de las mafias, a las cuales no se prestó demasiada atención en un principio, comenzó a aparecer la influencia del dinero ilegítimo en las campañas locales. Vinieron luego los grandes carteles de la cocaína. Carlos Lehder fundó su propio movimiento político. El más sanguinario de todos, el llamado Cartel de Medellín, bajo la dirección de Pablo Escobar, pretendió influir en la política de manera directa, creando también su propio movimiento y, a la vez, llevando al Congreso dentro de uno de los partidos tradicionales, dirigentes políticos que hacía parte de su nómina, o incluso logrando la elección de algunos de sus jefes. El mismo Escobar tuvo un escaño en la Cámara Baja. El Cartel de Cali más bien trató de ampliar su influencia de manera indirecta, introduciendo dinero ilegalmente a favor de sus aliados políticos en campañas de Congreso. Llegó a aportar dinero en una elección presidencial. Últimamente, el fenómeno que se ha detectado es la presencia de grupos armados al margen de la ley, que prácticamente han capturado sectores de la administración, en especial en el nivel regional y mediante la utilización del dinero, de prácticas corruptas y de intimidación. A pesar de que se les ha combatido, ejercen un poder considerable.

La reacción de la opinión pública y, sobre todo, del poder judicial, ha sido persistente y severa. El Cartel de Medellín fue desmantelado. La incursión del Cartel de Cali llevó a más de 20 dirigentes políticos a purgar penas de prisión. Las elecciones presidenciales en la actualidad están exentas del influjo de dinero del narcotráfico. Y en cuanto a la alianza de políticos y paramilitares, la Corte Suprema juzga en la actualidad a cuatro decenas de congresistas.

Sin embargo, Colombia ha aprendido que el control de este fenómeno exige una gran cooperación internacional.

No obstante, la situación sigue siendo preocupante. Y no solo la actuación de grupos al margen de la ley. El efecto de dineros legítimamente aportados a las campañas y la influencia que ejercen los donantes en la formulación de políticas públicas, es un tema generalmente descuidado, pese a su importancia.

En este contexto, la Universidad de Estocolmo -Departamento de Criminología-, bajo la dirección de la profesora Nubia Evertsson, y con el auspicio de la Agencia Sueca de Cooperación Internacional, realizó una encuesta con empresarios -donantes y no-donantes- cuyos resultados confirman un hecho que puede ser común a una variedad de países: que las donaciones a las campañas se hacen, en muchas ocasiones, a la espera de obtener decisiones favorables de los ciudadanos elegidos, y que, por tanto, hay una relación de proximidad importante entre tales donaciones y algunos procesos de corrupción política.¹

Entre las conclusiones del estudio se destacan las siguientes:

La ideología o la identificación programática no es el factor principal para otorgar donaciones. En los cuerpos colegiados, los empresarios apoyan a más de un candidato: 29.4% a más de un representante a la Cámara y 20% a más de un senador. A su vez, 9.5% apoyan a más de un candidato a la Presidencia y 12.5% a más de un candidato a la alcaldía. Sólo un 22.9% de los encuestados tiene una política empresarial institucional para la entrega de donaciones. Las donaciones se deciden *ad hoc*, en cada caso. El 40% entrega donaciones a candidatos que tienen la misma línea política de la junta directiva y otro 40% a candidatos que tienen una

¹ Evertsson, Nubia. *Informe de la Encuesta sobre la financiación de las campañas electorales y la corrupción política en Colombia*. Departamento de Criminología. Universidad de Estocolmo. 2009.

conexión personal con los directivos o propietarios de la compañía. 12% apoyan a los que consideran candidatos honorables y 8% a los que van encabezando las encuestas.

En cuanto a las motivaciones concretas, 38.4% de los encuestados aducen que sus empresas entregan donaciones porque buscan apoyar a sus familiares o amigos; 15.8% porque esperan recibir algo a cambio y 16.4% porque apoyar las campañas hace parte de su responsabilidad social.

El 15.8% espera alguna retribución de los elegidos. Al 45.5 de las firmas se les prometió la celebración de contratos estatales; y al 36.4% el nombramiento de un familiar o alguien cercano a un cargo público.

Con relación al nivel de influencia sobre la legislación general mediante apoyos a las campañas, las respuestas fueron las siguientes. En cuanto a los alcaldes, 49.5% de los encuestados cree que la influencia alcanzada puede ser mucha o moderada. 19.3% cree que es poca o ninguna. Sobre el Presidente, 43.1% dice que mucha o moderada mientras el 33.9 afirma que poca o ninguna.

Por sectores empresariales, se observa que, para los encuestados, los contratistas estatales, las multinacionales y los grandes grupos empresariales son los que derivan la mayor influencia de las donaciones: 81.1%, 84.2% y 90.7% respectivamente.

El 94.4% de las empresas encuestadas manifiesta estar de acuerdo con la afirmación de que las donaciones a las campañas políticas son una práctica de corrupción. También se puede concluir que hay una “marcada tendencia a creer que {las donaciones} son usadas por las firmas para obtener beneficios particulares de los líderes políticos a quienes ellos apoyan (65.1%) y que además estas generan compromisos (71.2%) entre las partes involucradas”.

Y, por fin, el 45.8% manifestó estar de acuerdo en forma parcial o total con la afirmación de que las donaciones a las campañas electorales corresponden a una forma de soborno. Para el 96% es mejor entregar donaciones electorales que ofrecer sobornos.

Frente a todo este preocupante panorama, se observa un cumplimiento muy débil de la ley y unas instituciones electorales sin mayor capacidad real de control.

Por fin, dos hechos merecen ser relevados: un porcentaje muy alto de la financiación privada va a elecciones locales, lo cual es un hallazgo frente a percepciones anteriores. La proporción de donaciones en especie es muy alta. De igual modo, el problema de la financiación ilegal no se presenta únicamente en las grandes ciudades.

Colombia ha logrado éxito en el control de la financiación de las elecciones presidenciales; sigue luchando en relación con el Congreso. Pero ahora vemos que hay todo un territorio inexplorado en otras elecciones, las cuales son precisamente más difíciles de controlar.

Sabemos que todo esfuerzo en esta materia será siempre inconcluso. Pero Colombia con estos descubrimientos, debe refinar y ampliar significativamente sus instituciones y procedimientos.

Elena Panfilova

Specifics of electoral corruption in post-Soviet states

Abuse of the public (administrative) resources of the State is becoming an increasingly recognized tool for the pursuit of the political interests of incumbent political forces in many countries. In particular, the use of such resources for electoral purposes has attracted increasing attention, primarily in post-Soviet countries. Abuse of public resources for electoral purposes is a specific and particularly damaging form of electoral corruption that directly undermines the legitimacy of the democratic process, and may facilitate the preservation of a monopoly of power by one party or political force.

Over the course of last years the term 'administrative resource' became one of the most popular terms in the political and electoral lexicon of post-Soviet states. A striking phenomenon of many elections in these countries was the active engagement of state officials, institutions and media in the election campaign in order to encourage certain results.

The clear emergence of *elections* as a prime field for the misuse of public (administrative) resources raises serious concerns about the consequences of such practices for democracy.

The term 'administrative resource' has emerged in Russia and other countries of the former Soviet Union as a description of the use of official powers for the particular partisan purposes of the political forces that control the state apparatus. The term in Russian refers both to the *powers/resources* that are at the disposal of incumbent political forces and the *use* of those powers for ends that contradict the purposes for which they were established. In last years the term 'public resources' more and more often is being used to describe the phenomenon.

Abuse of public resources in elections is a specific form of corruption where individuals and groups that control the administrative resources provided by public office use those resources in order to further their own political interests.

Democratic states are governed by the principle that the administrative resources inherent in public office are used for purposes that reflect the pursuit of the public interest. In any state that adheres to a concept of the public interest, that concept includes a commitment to political equality and procedural fairness, both in the use of administrative resources in general and the organization of elections in particular. The abuse of administrative (public) resources, by contrast, occurs where these resources are used to further the interests of particular political forces that have access to those resources, in violation of norms governing the exercise of public office.

In democratic states, the principles of political equality and procedural fairness are anchored in a wide range of norms, rules and laws governing the exercise of public office. These include for example:

- prohibitions on the use of the resources of public office for personal or partisan benefit;
- laws establishing the independence of public servants;
- laws and procedures that restrict the use of budget funds for the purposes of one political party or politician;
- regulations that attempt to restrict the influence of the State on the media;

- provisions designed to ensure equal access of political parties and candidates to campaigning facilities during elections.

In 'consolidated' democracies, many of these norms or rules may be in place and functioning. Nevertheless, even the most 'advanced' democracies experience significant problems relating to the misuse of administrative resources.

In transitional or developing democracies such as the Russian Federation, where rules such as those mentioned above tend to be either inadequate, poorly enforced or both, the problem of abuse of administrative resources assume much bigger proportions. In Russia, Ukraine and several other post-Soviet countries administrative resources may be the most important factors deciding elections.

Alina Mungiu Pippidi
Anti-corruption as revolution

Are modernization and democratization a recipe for corruption, as Samuel Huntington noticed in his political development work, or, to the contrary, the gateway to impartial government as suggested Max Weber in his classical work? Alina Mungiu-Pippidi introduces the model of competitive particularism, which she argues is a distinctive development path characterizing many new democracies. Most frequently, when the traditional monopoly of power gives way, such regimes result. Most new democracies get elections before having rule of law or a state which is autonomous from private interest. Power competitors (political parties) spoil the state in their turn. The main prize in the political competition is for the state and all its resources: who seizes the state, seizes the day. These office and resource-driven parties increase when in government the number of available spoils, by politicizing more and more positions, by preferential legislation and particularistic public spending and distribution of public goods. The state capture model where businesses buy influence through bribing is a poor fit to these societies, where there is poor public-private separation, high informality and a unique class of captors which makes the establishment in business, political parties and magistracy. A minority of cases further evolve to impartial government: but most cases lag behind and stabilize in a robust inefficient equilibrium.

Donations to political campaigns are the tip of the iceberg in such situations, where politics privatize illegitimately and permanently all public assets on party lines, both at central and local budgets level. As legislation is particularistic itself, it is difficult to discuss meaningfully what is 'licit' or 'illicit'. The key policy question is what can destabilize this equilibrium and initiate a new cycle of political change, allowing greater autonomy for the state from private interest. The gradual reforms from the good governance package are ineffective as they do not tackle the root cause of political corruption and do not try to identify tipping points, but rather sectoral entry points for reform which cannot change the rules of the game.

As social acceptance of corruption is lower in such regimes than in traditional patrimonial ones, first because the public sector is greater (and on the rise, as actors have to incentives to increase it to have larger spoils' opportunities), and second because due to political competition expectations of a change for the better are greater I argue that grassroots pro-impartiality civil society movements are the necessary complement to the good governance package. The defense mechanisms of people against what Barrington-Moore jr. (1978) called 'predatory elites' vary greatly across societies, as we find competitive particularistic regimes among Latin American and African democracies as well as in postcommunist Europe. But all

these societies have losers, and those can be empowered by anticorruption movements. Examples from successful strategies applied in Eastern Europe are used to prove that 'big-bang' approaches to anticorruption are indispensable to affect the equilibrium in particularistic societies, while simple changes of legislation in highly informal societies is bound to have no impact.

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How can we strengthen regional and international responses?

The control and regulation of financing of democratic politics might seem to be a quintessentially national issue. What role can there be for foreigners in a nation's discussions about its political financing arrangements? The paper hypothesizes that illicit finance in politics is increasingly linked to transnational criminal activity. As a result, states rely increasingly on cooperation from neighboring states, distant financial centers and private actors, to ensure the exclusion of illicit finance from their politics. States and civil society, around the world, will need to work together to share their experiences, analysis, response strategies and resources, and to develop shared norms and policies, to form a collective resistance to the transnational illicit activity which is corroding democratic politics.

Criminal entrepreneurs increasingly target weakly governed states, because the absence of effective (democratic) governance gives actors in these zones a comparative advantage in taking risks – and thus a comparative advantage in the production and distribution of illegality in the global economy. Conflict-affected states seem particularly vulnerable. As a result, regional organizations, foreign powers, and even the Security Council, are increasingly involved in developing responses to the convergence of crime, corruption and conflict. The UN Security Council is considering taking up the topic of organized crime in February 2010.

But there are obstacles to developing effective international response capacity, including:

- a. State resistance to foreign and international interference in domestic politics and law enforcement, and to the development of effective supranational analytical capacity; and
- b. International uncertainty over whether to treat criminalized politicians as targets for law enforcement or political partners.

I will argue that the international community should focus on:

1. **Fostering shared norms through discussion and targeted action amongst states, civil society and politicians themselves.** This could take the form of:
 - **the organization of discussions** of forms of illicit finance in politics, and methods to resist it, **in existing intergovernmental forums** such as regional organizations, through the United Nations General Assembly or the United Nations Economic and Social Council, the Organization for Economic Cooperation and Development, the G-20, the OSCE, or even the OAS CECAD;
 - discussion of establishing of **peer-review forums**, probably at the regional and sub-regional level, for states to discuss challenges to democratic

governance posed by illicit finance. It might also be possible to foster consideration of these issues within the UN Human Rights Council, as a violation of civil and political rights;

- **targeted research** examining for example the relationship between different forms of criminal activity and patterns of corruption and illicit political finance, and case studies of how illicit finance has been resisted in specific cases;
- **civil society and media campaigns to raise awareness** of these issues. Journalists face particular difficulties in researching these issues because of the transnational nature of the activities involved, in addition to their sensitivity
- – so there may be room for an online, secure clearinghouse for journalists to share information on these kinds of issues, and even specific cases;
- **financing litigation** by civil liberties and human rights activists to create negative incentives for politicians' involvement in corrupt practices and illicit finance, for example through ancillary liability for underlying crimes; and
- **fostering discussion through international parliamentary forums**, such as the Inter-Parliamentary Union, to create cross-border solidarity, develop shared norms and foster the exchange of lessons learned.

2. Urgently providing improved guidance for handling illicit finance in conflict and post-conflict situations.

Conflict and post-conflict situations offer a clear rationale for international involvement on the ground, and a clear demand for improved guidance. Events in the Balkans, Afghanistan, Haiti and West Africa all make clear that the international community (including the UN, NATO, OSCE, EU and OAS) lack a common understanding of how to treat criminal actors involved in post-conflict peacebuilding efforts. In each case, that has led to strategic incoherence and risked undermining the entire mission. Clearly, numerous questions remain: Should political actors involved in crime be left untouched, if going after them risks creating political upheaval, or even fostering a return to conflict? Should they be dealt with through policing methods? Are military responses sometimes warranted? What kind of approaches have actually worked in the past? There are a number of ways such guidance could be developed, ranging from the commissioning of research by experts, through to joint reviews by some of the operational bodies who have been involved in these efforts, or considering these issues in the context of a possible UN Security Council debate in February 2010, or through the UN's Peacebuilding Commission. More ambitiously still, states might consider sponsoring a blue-ribbon commission (perhaps modeled on the International Commission on Intervention and State Sovereignty, which coined the concept of 'Responsibility to Protect') to consider existing legal and political norms and develop ideas for fostering a common approach to handling illicit finance in post-conflict peacebuilding situations.

- ## 3. Developing joint analytical capacities.
- This might involve fostering joint crime threat assessments, conducted regionally (as EUROPOL does), or through existing policing and military cooperation structures (e.g. NATO). Experimenting with joint crime threat assessments might help foster trust between governmental actors, allowing recurring and even real-time joint analysis – or even, ultimately, joint law enforcement operations. That kind of

effort seems likely to be crucial to tackling the transnational networks that are increasingly linked to illicit finance in politics. Another approach might involve fostering trust by incorporating independent non-governmental experts into the analysis process. One option would be to create an international platform for independent and governmental experts to work together to develop global or regional organized crime threat assessments – perhaps following a working methodology like that adopted by the Intergovernmental Panel on Climate Change.

Delia M. Ferreira Rubio
Organised Crime and Political Finance
(English)

For a long time the main concern regarding political finance revolved around the ways to avoid State capture by private sector interests. State capture by organized crime in its various forms presents an even more serious challenge to the quality of democracy, the functioning of institutions and the rights of citizens. It is not only a matter of whether the representatives act on behalf of the voters or are employees of large donors. The problem with organized crime is that it makes public officials complicit in the crime or hostages of criminal organizations.

What are the main challenges of illicit financing of political parties and campaigns? First, the clandestine nature of the contributions, secondly, the difficulty of keeping track of cash, and finally, the risks that monitoring bodies and authorities face when investigating this kind of political finance.

Responses should be oriented to:

- Strengthen the capacity and independence of the monitoring and auditing bodies
- Facilitate information-sharing between agencies responsible for prosecuting organized crime
- Lifting of bank and fiscal secrecy in the case of political finance investigations
- Create mechanisms to facilitate tracking the money trail
- Strengthen the capacity of agencies devoted to combat money laundering
- Enhance transparency in political
- Reverse tolerance to corruption

It is also necessary to avoid regulatory models that can create opportunities for the entry of money of criminal origin, such as prohibitions on corporate contributions, bans on private funding or establishing unreasonable limits on contributions and expenditures, which are measures that generate conflicting incentives that facilitate covered cash flow.

Civil society organizations can contribute to the fight against illicit political finance through monitoring initiatives, the generation of standards for disclosure and analysis of their compliance, protection of whistleblowers and channelling of complaints. Programs like CRINIS and ALAC developed by Transparency International and www.dineroypolitica.org of *Poder Ciudadano* in Argentina, work in these directions.

(En Español)

En materia de dinero y política durante mucho tiempo la preocupación central giró en torno a evitar la captura del Estado por parte de los sectores económicamente poderosos. La captura del Estado por parte del crimen organizado en sus diversas formas presenta un desafío más grave para la calidad de la democracia, el funcionamiento de las instituciones y los derechos de la ciudadanía. Ya no se trata sólo de saber si los representantes actúan en representación de los votantes o son empleados de los grandes donantes. El problema con el crimen organizado es que transforma a los funcionarios públicos en cómplices o rehenes del delito.

¿Cuáles son los principales desafíos que plantea el financiamiento de la política con dinero proveniente de actividades criminales? En primer lugar, el carácter clandestino de los aportes; en segundo lugar, la dificultad de seguir el rastro del dinero que se mueve en efectivo, y finalmente, el temor de las autoridades y demás organismos de monitoreo frente a posibles represalias.

Las respuestas deben ir encaminadas, en consecuencia a:

- Reforzar la capacidad e independencia de los organismos de control y auditoría del financiamiento de la política
- Facilitar el cruce de información con los organismos encargados de la persecución del crimen organizado
- Eliminar el secreto bancario y fiscal en las investigaciones relacionadas con el financiamiento de la política
- Generar mecanismos que faciliten el seguimiento de la ruta del dinero
- Fortalecer a los organismos de lucha contra el lavado de dinero
- Ampliar los mecanismos de transparencia en el financiamiento de la política, tanto en los ingresos como en los gastos
- Revertir la tolerancia a la corrupción.

Es necesario además evitar los modelos de regulación del financiamiento que pueden generar espacios para el ingreso de dinero de origen criminal, como las prohibiciones de aportes corporativos, la prohibición absoluta del financiamiento privado o el establecimiento de límites irrazonables a los aportes y gastos. Medidas todas que generan incentivos contradictorios tendientes al encubrimiento del flujo de fondos, lo cual es particularmente atractivo para el dinero proveniente de actividades criminales.

Las organizaciones de la sociedad civil pueden contribuir al monitoreo del financiamiento político, a la generación de estándares de transparencia y el análisis de su cumplimiento en la práctica, a la protección whistleblowers y a la canalización de denuncias. Iniciativas como CRINIS y ALAC de Transparency International y www.dineroypolitica.org de Poder Ciudadano, en Argentina, apuntan en estas direcciones.