

# The Legal and Practical Characteristics of the Funding of Political Parties and Election Campaigns in Latin America

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## 1. Introduction

This chapter presents a comparative analysis of the legal and practical characteristics of the relationship between money and politics in 18 Latin American countries: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela – by examining the chief characteristics, formal and actual, of their political party and electoral campaign funding systems. It examines the role of the state, political parties and civil society regarding regulations on political finance and their implications for politics and elections and the region-wide process of strengthening democracy. The cost of politics in Latin America is not tackled here; this will remain an issue for many years to come as transparency in political parties' financial activity develops and additional, more reliable information becomes available. The amount of money spent on party politics and electoral campaigns in Latin America remains unknown.

Before embarking on the analysis, we must recognize that there are numerous methodological and practical limitations to the comparative study of political funding. There are still many gaps in our knowledge of the funding variables – international money, personal wealth, changes in money flow related to regulation, secret funds and pressure group activity – as well as in the available (particularly quantitative) information about contributions to and the expenditures of political parties (Nassmacher 1992:237). Among the problems are the following:

- **Political party and electoral campaign funding is relatively new on the Latin American political agenda.** The many corruption scandals clearly indicate a need for political or electoral reform to ensure greater transparency in political funding.
- **Political parties and controlling organizations lack the cumulative experience needed to ensure accurate and reliable data.** This is so despite the presence of regulations in several Latin American countries requiring parties to disclose their election and routine finances. In some cases there are no systems of sanctions; in others they are not

enforced so that political parties are poorly motivated to report accurately.

- **When it is available, information about funding frequently consists of heterogeneous, patchy data which is not suitable for comparative analysis.** This is because of differences in the characteristics of different funding systems, in the frequencies with which accounts must be rendered, in the required coverage of reports or balance sheets, or in the regulations stipulating how political parties must report their financial activity.

Despite these limitations, pioneering research (e.g., Alcántara and Montero 1992; Instituto Federal Electoral de México 1994; Navas Carbó 1998) is gradually overcoming the lack of comparative studies. This research, although it is currently limited to electoral law, is an initial step towards analysing funding regulations region-wide. Moreover, Pilar del Castillo and the present author have carried out comparative research on political party/electoral campaign funding in Latin America, broadening the scope of study and the number of countries analysed (del Castillo and Zovatto 1998). Along these same lines of comparative studies, three other recent works bear mention: *Paying for Democracy in Latin America: Political Finance and State Funding of Parties in Costa Rica and Uruguay* (Casas 2002); *Money and the Political-Electoral Contest: The Challenge of Democracy* (Carrillo, Lujambio, Navarro and Zovatto 2003), and *Political Financing in Europe and Latin America* (Malamud and Posada Carbó, soon to be published).

Finally, it should be pointed out that the government systems of the 18 countries analysed here are presidential systems that vary widely. Thirteen of them have presidential run-off election systems, which also vary substantially. (The countries without these mechanisms are Honduras, Mexico, Panama, Paraguay and Venezuela.) Most of the 18 have proportional congressional representation, but Chile and Mexico, with binominal constituency systems<sup>1</sup> and a combined proportional representation (PR)/majority-based system, respectively, differ from the rest. Bolivia and Venezuela have a personalized PR system based on the combined German model, whereas Ecuador's is a segmented electoral system.<sup>2</sup>

\* The author expresses his grateful appreciation to political scientists and researchers Ileana Aguilar and Tatiana Benavides Santos, whose collaboration was crucial in accomplishing this study.

## 2. Democratization, Money and Politics

The establishment – or re-establishment – of democracy throughout Latin America, during the 1980s and the 1990s, with the exception of Cuba, and the reinstatement of electoral processes as the central element in the competition for political power have led political parties to resume their role as key actors on the political scene. As a result of this, and the fact that a substantial number of presidential election campaigns increasingly rely on media (especially television and radio), political marketing, foreign consultants, opinion polls and focus groups, election costs have risen in several countries in the region. Political parties are therefore under increasing pressure to raise large sums of money, often without inquiring into its origin or even ignoring suspicious or obviously irregular circumstances. The door has thus gradually opened to illegal funding, to the growing predominance of powerful economic groups, to influence-peddling and to the scourge of funding through drug-related activities.

To address these threats, the legal concept of using public resources to help political parties carry out their campaigns, and in certain cases their day-to-day operations, has been introduced over the past few decades (see table 12). Other laws have also been devised to regulate private contributions and to exercise greater public control over the financial transactions of political parties. Despite these measures, parties' independence remains in jeopardy because of their need for ever-larger sums of money. Thus, the issue of "political funding" policy – governing the revenues and expenditures of political parties to cover their election campaigns and day-to-day activities – has become increasingly important in Latin America, as it has in other parts of the world. **A balanced and equitable system of party funding is an indispensable requirement for truly competitive elections.**

The issue is closely related to the current disenchantment with politics. The continual scandals involving corruption and funding through drug-related activities reinforce the aversion many citizens feel towards politics and politicians. In addition, political parties and candidates themselves accuse one another of obtaining funds from questionable sources or handling them in improper fashion. Poll after poll in country after country confirms the poor image citizens have of political parties and their leaders, who are perceived as corrupt, lacking transparency, looking after their own

interests and renege on their campaign promises (Latinobarómetro 1997–2002).

This situation has a number of negative consequences for the legitimacy of the democratic system. The first is the progressive loss of respect for politics, the marked rise in antipathy towards politics and the consequent emergence of "outsiders", quite often using "anti-system" political language. Second, there is an apparent indifference towards politics, especially among the young. This translates, among other things, into a growing number of blank ballots and null votes cast, a decrease in political party membership and identification with political parties, and a significant increase in abstention. Argentina, Colombia, Costa Rica, El Salvador, Guatemala, Mexico and Venezuela are some of the most recent extreme cases. Finally, the gap between citizens and politics has widened as cynicism about politics has grown. All this leads to a progressive loss of confidence in the main institutions of representative democracy. This situation, if not corrected in time, could eventually impair the very legitimacy of democracy as a system.

## 3. The Characteristics of Political Party Funding in Latin America: An Overview

While the individual countries' funding systems vary depending on their relationship with formal, political or cultural factors, certain general characteristics can be discerned.

The most relevant formal characteristics are the following:

- **Type of funding system.** All countries in the region except Venezuela have a **combined funding system**, i.e., political parties receive public as well as private funds to finance their election campaigns and/or meet their ordinary or day-to-day operating expenditures (see section 4.1).
- **Types of public funding.** In most countries in the region, public funding includes **direct subsidies** in the form of cash or bonds and **indirect subsidies** in the way of services in kind, tax breaks, training and so on (see section 4.2).
- **Activities eligible for public funding.** The three main variants are: (a) funding exclusively for the **day-to-day operations** of the political parties; (b) funding for **election campaigns only**; and (c) a **combination of the two**. In Latin America, 10 of

the 18 countries provide public funding for both the day-to-day operations of political parties and election campaigns, and five countries fund election campaigns only. It should be mentioned that over the past ten years some countries have been assigning a percentage of the public funding to pay for the research and/or training activities of political parties (Argentina, Bolivia, Brazil, Colombia, Costa Rica, Mexico, Panama: see section 4.2.1).

- **Distribution or allocation methods.** There are four basic methods of distribution for direct public funding in the region: (a) in equal shares; (b) proportional to the number of votes cast; (c) proportional to the number of votes cast and parliamentary representation; and (d) proportional to the number of votes cast and equally. The second is the most common method, followed by (d) (see section 4.2.1).
- **Legal barriers.** In 12 countries of the region which have legislation providing for direct public funding, some type of legal barrier regulates access to it: Those eligible for the subsidy must obtain a minimum percentage of votes or parliamentary representation either in the current or in previous elections (see section 4.2.1).
- **Disbursement.** No pattern exists for the disbursement of public funding. In some countries disbursements are made after elections (reimbursement); in others they are made in the period preceding elections; and in still others they are divided into two payments, one before and one after the elections (see section 4.2.1).
- **Restrictions on the origin/source of private contributions.** Almost all the countries in the region provide for prohibitions of various types: first and foremost on donations from the government, institutions or foreign individuals; on donations from social organizations (labour unions, special-interest groups, religious groups and so on); on donations from government contractors; and on anonymous contributions (except for collections taken up in public) (see section 4.3).
- **Upper limits on private contributions.** Most countries in the region set ceilings or upper limits on the amounts allowed for private contributions, particularly from individuals, and to a lesser degree on contributions originating from legal entities (see section 4.3.1).

- **Access to the media.** In most of the countries political parties are granted free access to the state-run or private media or to both during election campaigns. Free access to the state-run media is the most prevalent (see section 5).
- **Oversight of funding.** In all the countries except Uruguay there is some sort of organization in charge of monitoring or overseeing political party funding, usually an election management body (see section 6.3).
- **Sanctions.** In the majority of the countries some provision has been made for some type of sanction to punish failure to observe the legislation governing political party and election campaign funding. Pecuniary penalties are the most common form of sanctions; another penalty, although less frequent, involves revoking the party's registration, or eliminating or reducing its entitlement to state funds (see section 7).

In addition to these formal features, certain characteristics of the actual funding structures should be noted.

- **An upward trend in political costs in several countries.** The perception exists among a considerable number of politicians, journalists and experts in the field that elections expenditures are rising in several countries in the region, especially during presidential elections, in part because of the cost of media advertising. However, no consensus has been reached on this issue due to the lack of reliable official information. Given the importance of this issue and the ensuing debate on it, more in-depth research on the matter is urgently needed. For example, in Argentina's 1999 election campaign, between January and October alone both the main presidential candidates assigned nearly USD 90 million<sup>3</sup> for advertising, audio-visual aids, and graphic and advertising materials on public thoroughfares (Gruenberg 2000). Mexico appears to be experiencing a similar trend: Campaign costs for the 2000 presidential elections amounted to nearly USD 234 million. This is a significant issue given that Latin America and the Caribbean together comprise the developing region with the highest number of television sets – 200 – per 1000 inhabitants.
- **Declining membership dues, increasing corporate contributions and narco-funding.** Political parties in

Latin America, as in Europe and North America, have suffered a significant decline in income from membership dues, while the greater part of contributions to them has come from large corporations. In addition, money coming from organized crime and illicit activities such as drug trafficking is believed to have brought considerable influence to bear on campaign funding in many of these countries. Although this mode of funding is typically difficult to detect, given the many ingenious forms it can assume, its influence may be measured by the number of scandals which surface frequently in various countries. There are examples from the 1980s and 1990s in Bolivia (the case of drug trafficking-related videos), in Costa Rica (the Alem and Hank-González cases), in Colombia (drugs money given to support former President Ernesto Samper's campaign), in Mexico (the influence wielded by the Gulf of Mexico drug cartel), in Panama (former President Pérez Balladares admitted that his election campaign had received USD 50.000 in contributions from drug-related sources), and in Venezuela (the alleged involvement of drug traffickers in regional campaign funding). In some cases, for instance in Colombia, the political crises created by such scandals have assumed alarming proportions in terms of the threat they posed to the country's democratic institutions, signalling a warning as to the possible consequences of this phenomenon.

- **The impact of the presidential system.** Particularly in Latin American countries, the presidential system of government has a direct impact on political party funding, as Navas Carbó (1998) has pointed out. The preponderance of the executive over the other branches of government which characterizes the various systems of government in the region gives their presidential elections the utmost importance. This affects the revenue structure of political parties and candidates, particularly with respect to private contributions, which account for the bulk of the funds political parties use to finance their campaigns, as it encourages private donors to channel their contributions directly to presidential candidates in the interest of gaining influence over the office that traditionally amasses the greatest power. Despite the existence of public funding for political parties, *clientelismo* – the practice of obtaining votes with

promises of government posts and so on – and corporatism continue to be factors in political practice in these countries.

- **The impact of party systems.** Political party systems themselves play a fundamental role in the way they finance their election campaigns and their day-to-day operations. Although it cannot be suggested that there is a single political party system in the region, as the systems are very diverse, there is nevertheless one common element which they share. This is the fact that both traditional organizations and the emerging, alternative party political forces evidence a high degree of **personalism** which hinders the development of stable, organized, structured and democratic political parties. In this respect the Latin American political and cultural tradition of rallying the citizenry behind a leader (*caudillo*) appears to have left its mark not only on the operation but also on the funding of political parties, and particularly on the way in which private contributions are channelled for electoral purposes. The willingness of donors in Latin America to collaborate with a political party is often determined by ties of friendship or by common interests shared with a candidate, and is often divorced from ideological doctrine. Again, this results in the **majority of contributions going directly to the candidate or to the candidate's inner circle** of power and not to the formal party structure, thus creating serious obstacles to the exercise of proper oversight of political parties' election and day-to-day finances. This becomes particularly difficult because in most countries the regulations and the enforcement of financial oversight basically rely on the parties or those in charge of their finances to draw up accurate reports, and to a lesser degree on the individual responsibility of their candidates or their closest collaborators.
- **Assimilating democratic values.** Finally, the extent to which leaders and the citizenry at large practise democratic values is critical to the enforcement of the legal framework that defines the political rules of the game, particularly those dealing with political party funding. Because of the very characteristics of institutional development in the region, both financial reporting by the authorities and the oversight of political practice by the citizens are habits of a democratic culture that can only

become ingrained through systematic learning and participation. Although civil society has begun to play a more active role in overseeing the funding of politics as far as circumstances allow, there is still a lack of true commitment on the part of the political actors – both candidates and parties – to adhere to regulations and duly inform the citizens of their financial dealings.

The current situation in Latin America in practical terms can be summarized as follows.

1. Formally, except in Venezuela, **funding systems which combine private and public funding** are prevalent throughout the region. There is no clear trend in favour of or against public funding. Along with this, there is a tendency to reinforce **legal limitations on private contributions** with respect to both their origins and the sums allowed. These formal features contrast, however, with the widespread perception in most Latin American countries that private funds, of which the real total value is not entirely known, exceed public funds – a premise which is supported by the frequent scandals involving corruption, unlawful funding, drug money and so on.

2. This dark side to political funding has inspired reforms aimed at increasing transparency and improving financial reporting. Unfortunately, this process is not advancing as quickly and as thoroughly as it should.

3. **Public funding has served to supplement private funding** rather than to supplant it, as a result of a combination of factors: inadequate regulation, inefficient regulatory authorities, ineffective systems of sanctions and political practices that favour abuse. Therefore, although it is important, **the impact of public funding to date has been rather limited** and has varied from country to country.

4. Another readily observable trend is the introduction of **ceilings on expenditure and limits on expenditure on electoral campaigns**, for instance, in Colombia and Mexico, with mixed results in these two countries. This trend includes a reorientation in the use of public resources, allocating them to strengthen political parties by supporting **research and training activities**.

5. There are **some issues**, such as fair access to the media, especially television, that are **under-regulated** or not regulated at all. Except in a few countries (Brazil,

Chile, Mexico), this is one of the greatest gaps in regulation in the region. In this era of “video politics” the greater part of political parties’ expenditure goes toward television. In many countries **expenditure on television** accounts for 40–70 per cent of all political party expenditures.

6. The Achilles’ heel of the current system and of the vast majority of recent legal reforms is their **failure to provide regulatory frameworks** and an efficient system of sanctions to the entities and mechanisms of monitoring and follow-up. In many cases, these mechanisms usually simply perform “autopsies” on illicit acts that have already been committed. They operate in an improvised, ineffectual fashion vis-à-vis the results of the electoral process.

7. Finally, the **media** have been playing a progressive, encouraging (albeit incipient) role in civil society through surveillance and monitoring of the origin and actual use of the resources handled by political parties.

## 4. Political Party and Election Campaign Funding Systems

### 4.1. Introduction

There are three basic funding scenarios: (a) exclusively public funding, (b) exclusively private funding, and (c) a combination of these two options. Table 12 shows the years in which public funding of political parties was introduced in Latin America.

Generally speaking, in Latin America, as in many countries in continental Europe, **public funding** was chosen for a number of reasons. The main reason was to **avoid or reduce the influence of special-interest groups** and to help create **more equitable conditions** for all political actors during election contests. There was also an intention to provide greater **transparency** in political parties’ finances in an effort to reduce political corruption. Moreover, since political parties play a decisive role in representative democratic systems, it was believed that the state should assure the resources and support necessary for their operation and/or election activities, as well as for their democratic institutionalization and consolidation. In Latin America political parties are regarded to some extent as private associations which do work which is of public concern, and they are thus designated as recipients of public funding.

However, a funding system based on huge public

TABLE 12.

INTRODUCTION OF REGULATIONS FOR THE PUBLIC FUNDING OF POLITICAL PARTIES AND/OR ELECTION CAMPAIGNS	
Country	Year
Uruguay	1928
Costa Rica	1949
Argentina	1961
Peru	1966 (indirect)
Venezuela	Introduced in 1973, eliminated in 1999
Nicaragua	1974
Mexico	1977
Ecuador	1978
Honduras	1981
El Salvador	1983
Guatemala	1985
Colombia	1985
Chile	1988 (indirect)
Paraguay	1990
Brazil	1995
Bolivia	1997
Panama	1997
Dominican Republic	1997

contributions also poses some potential risks, such as that of political parties becoming financially dependent on state resources, losing contact with society and freedom, conforming to the status quo, losing the incentive to increase their membership, or allowing a gap to develop between their central systems and the grass roots. On the other hand, a system based exclusively on private funding may lead to some individuals or corporations having disproportionate influence over political parties and public authorities. Party political groups and candidates could seek funding without due regard to the intentions of the donor. This trend is growing as the rather low regular membership dues do not constitute a significant source of political party funding in Latin America.

With the exception of Venezuela, all the countries covered by this study have **combined systems of funding**. In some cases public funding prevails: The latest (1996) reform in Mexico, for example, while preserving the combined system of funding, dictated that party funding be predominantly public. Colombia, a country overwhelmed by recent scandals concerning the funding of parties with money from drug-related activities, has also tried to head in the

same direction, requiring that presidential campaigns be financed exclusively by the state, although this attempt failed in 2001. A similar attempt also failed in Argentina the same year. In contrast, private funding is predominant in countries like Chile and Peru, which have indirect public funding only.

The growing debate about public funding has spread to a large number of countries in the region in an attempt to ensure a greater degree of transparency regarding the origin of funds managed by political parties and to reduce the probability of political parties resorting to irregular funding practices. Paradoxically, however, scandals over corruption and the political parties' consequent loss of credibility have led citizens to oppose the idea of giving more public funds to political parties.

A comparative analysis of the strengths and weaknesses of the various funding systems shows that **there is no single ideal model**. Each system must adapt to the idiosyncrasies of the particular country and its legal framework, electoral situation and party political circumstances. Legislation on funding must seek to achieve a healthy balance between preventing excessive party dependence on the state and preventing individuals or corporations from wielding excessive influence on political parties and candidates, as well as averting illicit or drug-related funding. The trend to preserve the combined funding system does seem to be beneficial and effective. In each case, each country would have to determine the ratio of public to private funds that seems most effective.

In order to offset the bureaucratizing effects of public funding it may be advisable to establish some sort of **"matching funds"** scheme, such that a percentage of aid is contributed in proportion to the resources political forces raise on their own. However, public funding should not attempt to match excessively large financial contributions.

There should also be clear criteria for adjusting the total amount of public funding to the **economic and financial realities** of the countries. This is the practice in Costa Rica, where parameters such as the overall state of the economy, production growth and the state of the public finances are applied. If this is not done, popular discontent could arise in times of economic crisis if it became apparent that subsidies to political parties were not being adjusted to reflect the situation of the rest of society. It is also advisable for the state to honour its commitment to public funding responsibly

under the terms established so that – among other reasons – political parties are not given an excuse for not complying with other funding regulation requirements, which are becoming increasingly tough.

#### 4.2. Public Funding Systems in Latin America: Direct and Indirect

State funding to political parties is usually disbursed according to two main schemes:

- **direct public funding:** instalments in the form of cash, bonds or loans; and
- **indirect funding:** facilities in the way of services, infrastructure, tax exemptions, access to the media and so on.

##### 4.2.1. Direct Public Funding

There are three principal uses for direct public funding:

- subsidizing election campaign-related expenditure,
- subsidizing the day-to-day operation of political parties, and
- research and institutional strengthening of political parties.

TABLE 13.

ACTIVITIES ENTITLED TO DIRECT PUBLIC FUNDING			
Country	Election campaigns and regular party activities	Only election campaigns	Only regular party activities
Argentina	X		
Bolivia		X	
Brazil	X		
Colombia	X		
Costa Rica	X		
Dominican Republic	X		
Ecuador	X		
El Salvador		X	
Guatemala	X		
Honduras		X	
Mexico	X		
Nicaragua		X	
Panama	X		
Paraguay	X		
Uruguay		X	

The leading trend in the latest reforms and/or reform bills currently being debated points to a public funding structure designed to cover both election campaign expenditures and day-to-day party expenditure. Fifteen countries have direct public funding (see table 13). Ten of these allow for the use of public funds to cover both election expenses and day-to-day party operations (Argentina, Brazil, Colombia, Costa Rica, Dominican Republic, Ecuador, Guatemala, Mexico, Panama, Paraguay). The remaining five (Bolivia, El Salvador, Honduras, Nicaragua, Uruguay) restrict the use of direct public funding to election campaigns. In Costa Rica a reform bill has been introduced to provide for the funding of political parties' permanent operating expenditures, among other objectives.

The introduction of public funding for research, institutional development of party groups, civic education campaigns and training (e.g., in Argentina, Bolivia, Brazil, Costa Rica, Mexico and Panama) has been another important trend in the region. Funding for such activities is essential for the institutional strengthening of democratic political parties and to ensure their continuous operation through incentives that enable them to become more than mere election machines.

Funding should also be used to strengthen the democratic culture and support the development of modern, effective political parties. Nevertheless, it is advisable to avoid funds being channelled directly to political parties for such purposes. It would be preferable to channel them through foundations or institutions which experience has shown to be better prepared to carry out these tasks. Furthermore, pressure is immense within political parties to divert these funds and use them for purposes that are considered more immediate and urgent to the organization.

#### Distribution or Allocation Methods

There are four ways in which the allocation of direct public funding is calculated in Latin America:

1. The formula is determined by the number of votes cast, i.e., the number of votes received by parties in national (presidential or parliamentary) or municipal elections.
2. Funding is distributed equally among the parties.
3. The distribution of funds is determined by a combined criterion: part of the funds is assigned

according to the number of votes cast and part is distributed equally among the parties.

4. The distribution of funds is again determined by a combined criterion: part of the funds is assigned according to the number of votes cast and part is distributed according to parliamentary representation. The predominant method is the first of these; it is found

in Bolivia, Brazil, Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Uruguay. The next most common are the combined formulae found in Argentina, the Dominican Republic, Ecuador, Mexico, Panama and Paraguay (see table 14).

TABLE 14.

LEGAL BARRIERS AND ALLOCATION CRITERIA FOR DIRECT PUBLIC FUNDING		
Country	Legal barrier	Allocation criteria
<b>Argentina</b>	Officially recognized parties must have participated in the preceding elections for national deputies.	Combined (By votes cast/equally)
<b>Bolivia</b>	Parties must attain a minimum of 3% of the total valid votes cast nationwide in the preceding general election (or municipal elections, accordingly).	By votes cast
<b>Brazil</b>	Proportionately to the number of votes obtained in the last election for representatives to the Chamber of Deputies.	By votes cast
<b>Colombia</b>	Above 5% of all votes cast. To qualify for reimbursement of expenditures for parliamentary elections, parties must attain at least one-third of the votes cast for the list that has obtained a seat with the least number of votes.	By votes cast
<b>Costa Rica</b>	Parties must obtain at least 4% of the valid votes cast nationally, or parties registered on the provincial level must attain at least 4% of the valid votes cast in their respective provinces or succeed in electing at least one deputy.	By votes cast
<b>Dominican Republic</b>	Only those parties which have participated in the last two general elections and those who have approved independent candidates may receive funding.	Combined (By votes cast/equally)
<b>Ecuador</b>	Parties must have received a minimum of 0,04% of the votes cast in pluripersonal elections.	Combined (By votes cast/equally)
<b>El Salvador</b>	No legal barrier	By votes cast
<b>Guatemala</b>	Parties must obtain at least 4% of all valid votes cast in the general elections.	By votes cast
<b>Honduras</b>	No legal barrier	By votes cast
<b>Mexico</b>	Parties must obtain at least 2% of all valid votes cast.	Combined (By votes cast/equally)
<b>Nicaragua</b>	Parties must obtain at least 4% of all valid votes cast.	By votes cast
<b>Panama</b>	Parties must obtain at least 5% of valid votes cast in any of the three different types of elections – presidential, legislative or for the heads of local government.	Combined (By votes cast/equally)
<b>Paraguay</b>	No legal barrier	Combined (By votes cast/ parliamentary representation)
<b>Uruguay</b>	Participation in the internal and primary elections is required and at least 500 votes must be attained (the minimum needed to cover the representation quotient).	By votes cast

### Conditions for Eligibility

In some of these countries, a threshold – a minimum percentage of votes cast – has been established by legislation as a requirement for parties to be entitled to public funding. Twelve of the 15 countries whose legislation provides for direct public funding of parties (Argentina, Bolivia, Brazil, Colombia, Costa Rica, Dominican Republic, Ecuador, Guatemala, Mexico, Nicaragua, Panama, Uruguay) have introduced a legal barrier (see table 14). Seven of them require parties to receive a minimum percentage of votes, usually 2–5 per cent of all the votes cast in general or legislative elections. In three (El Salvador, Honduras, Paraguay) the only condition of eligibility for public funding is that the political parties participating in the electoral process be properly set up and registered, regardless of the number of votes received in the current or in previous elections.

### Scheduling the Disbursement of Funds for Election Purposes

The timing established in each country for distributing public funding to political parties not only serves to encourage (or restrict) the electoral participation of some political parties, but also has important consequences for the degree of financial freedom or dependence parties enjoy.

Distribution of subsidies after the election – reimbursement – adversely affects emerging parties

which have few financial resources or are less able to take out credit. However, it has positive effects from the point of view of checking election expenditures. In a sense, this system exerts greater pressure on political organizations to render more detailed, clearer accounts of their revenues from private sources and their actual expenditure on campaigns. It also encourages parties to acquire the habit of keeping permanent, detailed accounting records on state subsidies and on all expenditures covered by public funds.

In six countries (Colombia, Costa Rica, Ecuador, Nicaragua, Paraguay, Uruguay) disbursements are made after elections and amounts are calculated on the basis of the election results. Argentina uses a pre-election subsidy system whereby funds are distributed to the parties before elections take place. With this system, unless a country makes special provision to include new or small parties (as Argentina and Mexico do), political parties participating for the first time may find themselves at a disadvantage. Another group of six countries (Bolivia, Dominican Republic, El Salvador, Guatemala, Honduras, Panama) distribute a part of the funds before the elections and part after. In some cases, distribution is scheduled for after the election but parties may receive partial payment in advance (see table 15).

Finally, in two countries (Brazil, Mexico) ad hoc distribution scheduling systems have been established

TABLE 15.

SCHEDULING OF DISBURSEMENTS FOR DIRECT PUBLIC FUNDS FOR ELECTION PURPOSES					
Country	Before	After	Before and after	Other	Facilities for new parties
Argentina	X				X
Bolivia			X		
Brazil				X	
Colombia		X			
Costa Rica		X			
Dominican Republic			X		X
Ecuador		X			
El Salvador			X		
Guatemala			X		
Honduras			X		
Mexico				X	X
Nicaragua		X			
Panama			X		X
Paraguay		X			
Uruguay		X			

since the timing for the distribution of public funding is not stipulated by the electoral laws. In Brazil, the National Treasury distributes one-twelfth of a special fund in the Banco do Brasil on a monthly basis. In Mexico, the legislation does not expressly establish a date for the distribution of public funds for election campaigns, as it does for day-to-day operational expenditures. For elections held on 2 July 2000, the Federal Electoral Institute decided to distribute the funds allocated for campaign expenditures in six monthly instalments during the first six months of 2000.

#### *4.2.2. Indirect Public Funding*

This section analyses the typical and fundamental characteristics of indirect public funding. In Latin America political parties are entitled to different types of indirect aid and benefits in kind, and this type of funding may come from the state as well as from the private sector.

There are provisions for indirect funding in almost all the countries of the region as supplementary state aid in the form of **services, infrastructure, incentives and support in kind** for party political activities. The most important form of indirect public funding is **access to the state and privately-run media**. This is due to the very nature of present-day political campaigns, which are based essentially on managing the candidates' image and broadcasting political advertisements in every corner of the country. Television has increasingly become a determining factor in establishing a connection and maintaining communication between the candidates and the community. Since the impact of the media on elections merits special analysis, this topic is addressed separately in section 5 of this chapter.

In addition to access to the media, indirect public funding includes other elements which are essential to elections and the operation of political parties, such as **tax benefits, help with transport, help in printing or distributing printed materials** (preferential postal rates or exemptions and so on), **subsidies for parliamentary groups, incentives for election participation, and free use of state property and infrastructure**.

Some of the countries offer tax exemptions on vehicles or equipment imported for use in election campaigns or to defray the day-to-day operations of political parties. Others have introduced exemptions for legacies to political parties or for their revenue-

generating activities. A third group of countries have provision for tax deductions for donors on donations and contributions made to political parties. There is also a trend to introduce subsidies for transport costs on election day: this is the procedure in El Salvador, Honduras, Panama and Paraguay. Another current trend is to provide free use of state buildings for meetings, conventions and so on (Argentina, Brazil, Mexico, Panama). Colombia, Guatemala, Honduras, Mexico and Panama provide help in the distribution of printed materials, preferential postal rates or free postage.

Among the less frequent types of indirect support are the granting of subsidies to parliamentary groups (Argentina) and government incentives for electoral participation. In Colombia citizens are encouraged to participate in elections through incentives such as priority in the awarding of scholarships, subsidized loans, land, housing or government jobs and admission to university for qualified students.

#### *4.3. Private Funding*

There are five main sources of private funding: (a) **membership dues**, (b) **individual donations**, (c) **donations from special-interest groups or economic institutions** (businesses, corporations, industrial associations, labour unions), (d) **credit**, and (e) **party fund-raising activities**.

The term "contribution" can refer to different types of donation: a small sum of money contributed by an individual supporting a given party or candidate; a larger donation made by a corporation, special-interest group or institution, which could eventually give it influence over decisions or facilitate access to decision makers; and "voluntary" donations made in exchange for specific favours such as public contracts, licences and so on.

##### *4.3.1. Prohibitions and Restrictions on Private Contributions*

In Latin America there has been a link between the way political parties fund their election campaigns and significant degrees of **corruption**. Numerous scandals have centred on the connections of party political groups and candidates with money made illegally, in particular through drug trafficking. This has led to **prohibitions and restrictions** being imposed on private contributions.

Most countries in the region have provisions in their electoral legislation to prohibit private donations or

TABLE 16.

PROHIBITIONS ON PRIVATE CONTRIBUTIONS				
Country	Foreign	Social or political organizations	Government Contractors	Anonymous
Argentina	X	X	X	X
Bolivia	X	X		X
Brazil	X	X	X	X
Chile	X			
Colombia				X
Costa Rica	X			X
Dominican Republic	X		X	
Ecuador	X		X	X
Honduras	X		X	X
Mexico	X		X	X
Nicaragua			X	X
Paraguay	X	X	X	
Venezuela	X		X	X

contributions to political parties in one way or another. This is the case in 13 of the 18 countries (Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, Honduras, Mexico, Nicaragua, Paraguay, Venezuela). Five countries (El Salvador, Guatemala, Panama, Peru, Uruguay) have no prohibition of this kind (see table 16). Several trends may be found among these 13 countries. Most of them prohibit any donations from foreign governments, institutions or individuals.

Ten countries (Argentina, Bolivia, Brazil, Colombia, Costa Rica, Ecuador, Honduras, Mexico, Nicaragua, Venezuela) prohibit anonymous contributions, except for those made through public collections (see table 16). These prohibitions were added partly because of the need to combat parties' use of funds originating from illegal activities throughout the region, usually drug trafficking. Despite the allegedly growing connection between drug trafficking and political candidates or parties in some Latin American countries, specific prohibitions on donations originating from illicit activities have been set up in only three countries (Bolivia, Dominican Republic, Nicaragua). Conspicuous by its absence from these lists is Colombia, one of the countries most affected by this phenomenon.

A parallel tendency to introduce limits on both individual and party expenditure is becoming evident in Latin America. This is done to avoid great disparities or unevenness among political parties' resources, on the one hand, and to reduce the size of "plutocratic" contributions and the resulting influence of "fat cats",

TABLE 17.

CEILINGS AND LIMITATIONS ON PRIVATE CONTRIBUTIONS		
Country	Limits on sources of private contributions	Contribution ceilings (maximum amount)
Argentina	X	X
Bolivia	X	X
Brazil	X	X
Chile	X	X
Colombia	X	
Costa Rica	X	X
Dominican Republic	X	
Ecuador	X	
El Salvador		
Guatemala		
Honduras	X	
Mexico	X	X
Nicaragua	X	
Panama		
Paraguay	X	X
Peru		
Uruguay		
Venezuela	X	

institutions or special-interest groups on public institutions and policies, on the other hand.

There are bans on private contributions aimed at the sources of donations in Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, the Dominican

Republic, Ecuador, Honduras, Mexico, Nicaragua, Paraguay and Venezuela. Seven countries (Argentina, Bolivia, Brazil, Chile, Costa Rica, Mexico and Paraguay) have a ceiling on the maximum amount allowable for individual contributions (see table 17).

In some countries **additional requirements** have been imposed on specific types of donations. In Chile, for example, donations above a certain amount must be legally authorized. In Mexico financial contributions must be made by means of numbered receipts showing the donor's personal details, and contributions in kind must be made under a legally valid contract.

#### *4.3.2. Problems in Enforcing Restrictions and Prohibitions on Private Contributions*

Despite the advantages, introducing restrictions and prohibitions can also have side effects which must be kept in mind when contemplating potential preventive measures.

1. Groups or individuals which are prohibited or restricted from participating directly in political party funding tend to seek ways to evade these obstacles. As a result they support their political parties and candidates through indirect financing of independent expenditures, which are difficult for oversight bodies and other parties to detect.

2. Imposing restrictions generally encourages parties to resort to "creative" accounting and practices designed to stretch these limits.

3. Restrictions intended to reduce the influence of special-interest groups on government decisions may lead to new special-interest groups gaining greater influence at the expense of others. This hinders efforts to ensure that government remains free to outline and implement policies.

Although it may be desirable in principle to restrict contributions by legislation, it is **difficult in practice** to achieve effective oversight. This is because in Latin America data on most of the money political parties and candidates use in election campaigns is not available. Venezuela is an example: In 1993, the origin of only one-quarter of all campaign funds used by the four presidential candidates was known (Álvarez 1998:161).

The disclosure of information on party finances has provided positive results in other countries outside Latin America. Germany is a good example of the benefits of disclosure. Indeed, once it becomes a requirement to publicize this information it will auto-

matically give rise to mechanisms that further reinforce the practice. To begin with, all contenders will want to know how their rivals are being funded in order to attack any abnormalities they may detect. Critical examination by the public can also reveal any tricks being used to evade requirements or cover up violations. This would also make it necessary to diversify sources of funding, expose the economic intentions behind political parties and candidates, and bolster citizen participation and confidence in the democratic electoral system.

It should be remembered that prohibitions on foreign contributions even apply to aid in the form of support for **training and education** for political parties. Experience has taught that such aid creates a dangerous **loophole** which makes proper control of the ultimate purposes of such funding difficult. In Costa Rica the Supreme Electoral Tribunal has warned about the dangers inherent in this type of aid. Consequently, and in view of the fact that it is so difficult to prevent such aid from being diverted to serve other purposes, the tribunal has advocated the prohibition of all foreign contributions involving training activities. Nevertheless, these provisions are difficult to enforce in the current context of globalization.

## **5. Political Party Access to the Media**

Concerning political parties' access to the media a distinction must be made between television, radio and the print media.

In the case of television, 13 of the 18 countries studied offer free access to state or privately owned television, or in some cases to both (Argentina, Bolivia, Brazil, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Mexico, Panama, Paraguay, Peru, Uruguay).

There are four main types of access to television during the electoral campaign: (a) a free daily time-slot (Brazil, Chile); (b) a combined system, with some free access but dominated by unlimited paid advertising in privately owned media (Argentina); (c) unlimited paid access (Guatemala, Honduras, Venezuela); and (d) paid access but with ceilings (Costa Rica, Ecuador, Bolivia). Although most of the countries grant free air time to political parties, access to public television is limited mostly to the election campaign period (except in Brazil, Colombia and Mexico). Brazil and Chile forbid paid electoral announcements; in exchange, political

parties are guaranteed a daily time slot for free political advertising during the election campaign. In the remainder of the countries in the region, **paid television** access is provided, sometimes on a limited basis, sometimes unlimited.

As for radio, most countries in the region employ a system similar to that used for television.

In general, state support in ensuring greater access to the media in Latin America has taken different forms: (a) free air time on public television channels and radio frequencies, (b) free air time on the entire radio and television network (assuming that it is state-owned and that the state has the authority to allow private groups to use it), (c) air time paid for by the state and divided between the various parties, and (d) assigning part of the direct public funding available for the purposes of broadcasting political advertising.

Regarding the print media, all countries allow paid access and usually unlimited publishing of paid election announcements.

#### ***Ensuring Equitable Access to the Media: A Difficult Task***

The question of access to the media relates to two basic democratic/electoral principles – **equity** and **access to information**. On the one hand, all political parties must have an opportunity to present their candidates, platforms and election programmes through the media. On the other hand, for the purposes of a “well-informed election”, voters must at the minimum be given the opportunity to be properly informed about all electoral options and proposals.

However, in practical terms the principle of equity turns out to be particularly **difficult to guarantee**. In fact, most countries in the region still have a long way to go to counteract the current levels of inequity on which the different political forces compete. These are chiefly attributable to the following factors:

1. The predominant system combines free media access and the possibility of purchasing additional air time in the private media. This system is highly unregulated and proves very difficult to control.

2. The owners and administrators of the media are frequently associated with powerful economic and political groups. Commonly, even among the collectively owned media, those who hold a controlling interest in these companies have interests that motivate them to favour particular political groups or to offer them better or longer time slots which openly or

covertly benefit them.

3. The low ratings or small audiences that state television and radio stations typically have force even small parties to opt for purchasing air time from private media concerns.

4. The rapid changes taking place in communications technology (e.g., satellite and/or cable television) are giving rise to some gaps in regulations which affect equal media access among political parties.

5. Even though regulations establishing free time slots exist in many countries, very few provide support for the production of advertising, which is usually very expensive.

6. Sometimes biased treatment is given in the news and political programmes in favour of or against certain parties or candidates.

7. National bulletins or nationwide simulcasts broadcast by the state conveying the tangible achievements and outcomes of its policies lend unfair advantages in election campaigns to parties in power.

8. The lack of legislation governing rates hinders media access and control over what the different political parties are charged.

As with direct public funding, it is important to analyse the **distribution** of media air time, frequencies and time slots, and the requirements for **eligibility** to receive such benefits.

There is no defined trend regarding these two issues, and in some cases neither the parties, the eligible candidates nor the distribution schemes are specified. In most countries (Argentina, Bolivia, Dominican Republic, El Salvador, Guatemala, Panama, Paraguay, Peru, Uruguay) air time is distributed equally among the parties. In other cases, a combined method is used whereby part of the air time is distributed equally and another part is distributed according to either the number of seats in parliament or the number of votes cast for each party (Chile, Colombia, Mexico). In Brazil access to the media is distributed according to each party's parliamentary representation.

In short, the relationship between the media, in particular television, and the financing of politics is very complex, even contradictory. On one side, the media play a key role in overseeing the conduct of public officials and politicians. On the other, the electronic media and especially television are in most countries in the region the main reason why in the current times of “videocracy” and “homo videns”

(Sartori 1999:159) political parties need large sums of money to run their election campaigns. **Political parties have had to increase their media budgets substantially as election campaigns have increasingly become television campaigns**, and the pressure to raise large sums of money has led parties to resort to resources obtained through dubious or illegal activities. This is true for parliamentary and presidential campaigns and is not only a Latin American phenomenon. In Italy, for example, corruption clearly began to grow at the end of the 1970s and the beginning of the 1980s, coinciding with the period when election campaigns started to focus more and more on television, while control of television stations began to fall into fewer and fewer hands.

It is therefore important to strengthen the current trend to control the factors that can send election expenditure sky-rocketing. Particular attention should be paid to measures to (a) reduce the length of campaigns; (b) restrict expenditure for media use; (c) facilitate equitable access to both private and public media for all political parties through the use of public resources; (d) promote a professional, pluralistic and objective treatment of political and electoral news; and (e) prevent the concentration of media ownership in few hands.

## **6. Institutions and Mechanisms of Control**

### **6.1. Detailed Financial Reporting by Political Parties**

In almost all the countries studied, legislation requires detailed accounting of revenues and expenditure. In some countries the rendering of accounts to the institutions of oversight specifically relates to public funding, that is, political parties must account for the proper management and use of funds provided by the state. However, there is also a trend in Latin America to set up procedures to account for private contributions as well, and the financial transactions of political parties involving these.

Guatemala and Panama are two countries where detailed accounting is required solely for public funding. In Guatemala, political parties are required to render accounts only on their expenditure for purposes authorized for the use of state funds. In Panama political parties have to justify their election expenditures in order to receive their post-election state funding. In all the other countries parties must disclose

their financial transactions involving both public and private funds.

There are numerous techniques for the purpose of detailed accounting. They include: verification of expenditure (Costa Rica, Nicaragua); accounting of revenue and expenditure, whether or not the accounts are required to be signed by a certified public accountant (Argentina, Brazil, Costa Rica, Ecuador, Honduras, Venezuela); the use of standardized financial balance sheets; accounting for revenues in the form of goods and/or services in kind (Bolivia, Paraguay); account books which detail revenues and expenditures, inventory registers and balance sheets (Chile); public reports of revenues and expenditures (Colombia); reports on the origin, amount and purpose of all types of financing (Mexico); patrimony statements and detailed accounting of revenues and expenditures authenticated by a certified public accountant (Honduras, Venezuela); listings of private donations (Argentina, Brazil, Colombia, Costa Rica, Ecuador, Mexico, Nicaragua, Paraguay); and the auditing of balance sheets and financial balance statements by a qualified firm in accordance with the contract regulations for independent auditing firms (Bolivia).

In all these cases, responsibility for rendering accounts lies essentially with the parties. Few countries require this procedure of candidates or donors.

Only three countries (Bolivia, Brazil, Colombia) require detailed accounting directly from donors. Bolivian law requires that donations made by private national companies appear in the donor companies' accounting records. In Colombia, donations made by any legal entity must be authorized by more than half of the board of directors, board of members or board of shareholders, and this authorization must be duly recorded in the relevant minutes.

In very few countries does the legislation require candidates to render accounts. In Colombia presidential and parliamentary candidates must render accounts of their campaign expenditures to the regulatory authorities. In Honduras there is legislation on the rendering of accounts by independent candidates; the requirements are, in short, similar to those imposed on political parties. In Brazil the financial reporting requirement includes candidates of political parties running for office in the executive branch and the federal Senate, and for the positions of federal, state and district legislators. However, these accounts must be rendered to the financial committees

of the parties themselves instead of an independent controlling entity, by submitting bank statements and detailed records of cheques.

### **6.2. Disclosure**

The monitoring of political party funding in the region essentially comes down to oversight by state institutions. In most countries the citizens know very little about the origin of the contributions political parties receive or how political parties manage their funds.

Although there is a trend in Latin America towards making this information available to citizens by disclosing political parties' balance sheets, this trend is only now emerging. In eight of the 18 countries studied (Argentina, Bolivia, Chile, Colombia, Ecuador, Mexico, Nicaragua and Peru) some type of provision has been made for public disclosure. Even so, this information is usually published in official bulletins, gazettes or newsletters which are only read by a small percentage of the citizens. Publishing the information in official newspapers has no major impact from the point of view of funding controls.

Financial accounting is one of the most effective tools for monitoring the financial transactions of political parties and candidates and preventing or at least reducing excesses in campaign funding and the influence of money from illicit sources. Public disclosure, however, often creates large volumes of information which neither the controlling agencies, the media nor the voters are able to assimilate over a brief period of time. Furthermore, throughout the region this type of procedure is carried out after the elections, making it impossible to detect any improper procedures in time for them to be punished by the voters on election day (Ferreira 1998:77). It is also unusual in Latin America for elected officials to be effectively punished or removed from office for violations of the regulations governing political party and campaign funding revealed through their accounting records.

New mechanisms are therefore needed for political parties and candidates to disclose their financial transactions, the management of their resources and the origin of their funds in a transparent fashion. It is essential for the public to be informed about contributions to election activities or to the ongoing activities of political parties if they are to judge the candidates' rhetoric and the sincerity of their stance on

specific issues. Only with this type of information will voters be able to cast a well-informed vote. The main goal of requiring detailed accounts and disclosing them to the public is "to enable anyone to raise certain questions of political finance for public debate, and to encourage parties and candidates to raise and spend their funds in ways that do not cause controversy. The voting citizen is supposed to act as a referee in cases of financial misbehaviour" (Nassmacher 1992:258).

### **6.3. Oversight Bodies**

Electoral legislation in almost all the countries in the region – Uruguay being the exception – provides for the creation of an entity responsible for the monitoring or oversight of political party and election campaign funding.

In most of the countries the **election management bodies** are in charge of monitoring and overseeing the financial transactions of political parties (Bolivia, Brazil, Chile, Colombia, Ecuador, Guatemala, Honduras, Mexico, Paraguay, Peru and Venezuela). In El Salvador this duty falls to the General Comptroller. The law gives the Corte de Cuentas (Accounts Court) the task of reviewing and settling accounts with the parties, but in practice this duty has been undertaken by the Treasury. In Costa Rica, Panama and the Dominican Republic, both the election management body and the General Comptroller are invested with this authority. Argentina is different in that oversight there is carried out by federal judges with electoral jurisdiction. In Nicaragua, oversight duties are carried out by the General Comptroller, the election management body, and the Ministry of the Treasury and Credit.

Furthermore, in ten of the 18 countries (Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Guatemala, Mexico, Paraguay and Venezuela) there is an authority which is charged with overseeing political parties' **internal activities**. Their responsibilities vary, from managing party resources to overseeing accounts management procedures, approving party balance sheets, bookkeeping procedures and internal audits, or approving the accounts and reports presented to independent auditing agencies. In all, however, they are ultimately responsible for all monitoring or account-rendering procedures.

The existence of an **independent, professional authority** that is capable of efficiently overseeing the use of money in politics is crucial to enhance the transparency which is essential in matters of political

funding. The prevailing regional trend of entrusting election management bodies with this responsibility is therefore encouraging. However, two caveats are in place. First, these institutions need to be made stronger with respect to both their jurisdiction and their economic, technical and human resources, particularly regarding their powers to review reports submitted by political parties. Their capabilities to investigate the origin and use of the financial resources of political organizations should also be reinforced. Second, in some cases (as in Colombia) political parties have excessive influence on election management bodies, and here other kinds of controlling entities may need to be created.

There is a current trend in many countries throughout the region to **strengthen oversight procedures and mechanisms**. For instance, Mexico introduced reforms in 1996, that include (a) oversight of political parties on a permanent rather than a temporary basis, (b) requiring political parties to report their revenues as well as their expenditures, and (c) requiring bona fide audits of financial resources. Such audits should be carried out within strict standards of technical accuracy instead of being restricted to simple, superfluous, pliable tests, as is common practice in many countries.

In keeping with this trend of strengthening oversight mechanisms, other reforms are currently being discussed in addition to those mentioned above. The following deserve mention:

- harmonizing procedures and standardizing the frequency for submitting reports;
- making audits a permanent rather than an occasional practice, since they should help avoid problems and not be restricted to just verifying the legality of situations after the event. As far as possible, audits should be preventive procedures rather than mere autopsies of illicit activities;
- intensifying efforts to disclose the results of audits and reports submitted by political parties, insofar as this is possible. These documents must be made available for inspection by the parties themselves, the media and the citizens. In this regard, some experts suggest that party reports should be audited and published before the elections and not months after, as has been the practice, as their influence if the law has been violated is greatly diminished with the passing of time;

- enhancing the quality of contributor records to make them clearer; and
- requiring the creation of “ethics councils” within political parties, the management of resources through the finance system and not by means of cash transactions, and the introduction by law of the office of sole financial executive (*mandatario único financiero*) as the official entirely accountable for managing party funds (de la Calle 1998:16–17).

## 7. The System of Sanctions (Enforcement)

Most countries included in the study have a system of enforceable sanctions to deal with violations of the regulations governing party funding and election campaigns. Nevertheless, in practice **sanctions have not been followed up with actual enforcement**. Among the reasons for this lack of enforcement are the institutional and technical **weakness** of the bodies responsible for enforcing the respective laws, the **lack of independence** of some electoral and legal entities in relation to the government or political parties, **corruption** and the **practice of bribing officials** in these institutions.

There are two main types of sanctions stipulated by law in the countries of Latin America: pecuniary sanctions or fines, and (although to a lesser extent) penalties such as revoking the party’s registration and reducing or suspending its state funding. In very few instances are there sanctions to prevent elected candidates who have been proven to have violated the law from assuming public office. Even less common is the removal from office of elected officials once they are in power.

There is evidence, however, of a growing trend to legislate for more rigorous measures, among which it is worth pointing out imprisonment for violations of the laws governing election activity or political parties. In Venezuela legislation imposes a three-year prison sentence on candidates who accept anonymous contributions, and sentences are doubled if the money is proved to originate from illicit activities.

Penalties in Latin America apply essentially to **political parties**, their legal representatives, treasurers and so on. Although there is a recent trend to legislate for sanctions that can apply to candidates and/or contributors (Argentina, Brazil, Colombia, Costa Rica,

Ecuador, Honduras, Mexico, Nicaragua, Paraguay and Venezuela), much work remains to be done. It is extremely important to make **candidates and donors more accountable** from a legal point of view, especially since the bulk of private contributions goes directly to candidates or their closest associates (as mentioned above) and often they are not reported to treasurers or controlling entities within the political parties themselves.

Without a strict system of sanctions that includes not only traditional fines but also sanctions that affect individual freedom, regulations on election campaign funding will be ultimately a mere collection of good intentions. Hence, it is important to introduce the administrative and judicial procedures to punish infractions. This should ideally be part of a combined strategy – a “carrot-and-stick” approach – incorporating incentives to encourage voluntary compliance with electoral law as well as a rigorous system of sanctions. Countries in Latin America should continue to toughen sanctions in accordance with the trends in the region, incorporating sanctions that impose a certain period of ineligibility on offending candidates in the event of confirmed violations, or even render an election null and void or remove officials from office after they have been elected.

Above all, it is imperative to strengthen the authorities which are responsible for enforcing such laws. **If those who unlawfully contribute to or receive money for campaigns continue to do so with impunity this will compromise the transparency and fairness that must be ensured in all democratic electoral processes.**

## 8. Conclusions and Recommendations

Up to this point, this analysis clearly bears out two main conclusions. First, during the last decade progress has been made in this field in the Latin American region, albeit with substantial variations among the different countries. After being absent from the forefront of the region's reform agenda, this issue is now getting increasingly greater attention, not only nationally but also in the framework of specialised conferences of experts in the field (Mexico 2001 and Atlanta 2003), by the heads of state throughout the Americas (2001 Quebec Summit) and by the Rio Group (Meeting in Cuzco, Peru 2003) as well as by the political parties themselves throughout the continent

(Inter-American Forum of Political Parties, OAS, Miami 2001 and Vancouver 2002).

Second, the problem of political funding is a complex and undeniable reality for which there are no panaceas. The fact that there are no absolute truths or ideal solutions is all the more true for two reasons: the close link between political funding and the specific characteristics of a political system in general, and of a political party system in particular; and the close relationship between political funding and the values of a political culture.

Three main lessons should be highlighted.

1. It is important to view reform of a funding system not only in terms of its aims and desired effects on the political system and system of political parties, but also with respect to the **effectiveness** of regulations and their **undesirable effects**. This will help avoid the mistake of basing reform on an abstract evaluation or ideal models.

2. Each reform to the funding system should be analysed not separately, but rather as an **integral part of overall political or electoral reforms**. The consequences of reforms affect very important issues such as the competition among parties, the conditions of that competition, the system of political parties and, consequently, the very credibility and legitimacy of democracy itself.

3. It is important to take into account the **fluctuating, transitory nature of reform**, since a hasty solution often brings about negative effects that must be corrected again through new electoral reforms.

Every reform in this field must be aimed at achieving higher levels of **transparency** with respect to party revenues and expenditures. Transparency and public disclosure are crucial in the fight against political corruption. In principle, this need is more pressing with respect to big contributions than small ones, since the greater the contribution, the greater the risk of dependence and corruption. Transparency must be conceived as a democratic value in itself, a tool designed to avoid any wrongful influence of money in politics potentially leading to corruption.

Although transparency is desirable, it is worth asking how realistic it is to demand it where political funding is concerned. At first sight it seems barely realistic given the **complexity** of the issue. One example of this complexity is the difficulty of proving unlawful contributions (whether in the form of money, goods or

services) from individuals, including government officials and companies with links to the government, for the purposes of personal or party gain.

Quite often, contributions and commitments do not reach the parties but go instead **directly to candidates and their inner circle** of supporters. This is particularly relevant in Latin America, where political contests are usually focused more on candidates and personalities than on the party. This is even truer today given the image and credibility crisis facing party organizations and the emergence of local leaders as a result of decentralization. This tends to make transactions between donors and beneficiaries even more secret. Hence, the main party leaders or members are often unaware of private contributions – many of them quite large sums of dubious origin – leaving only candidates and their inner circle informed, a group frequently consisting of private contributors and/or individuals not involved in party activities. This situation is aggravated by the scant prohibitions on anonymous contributions in the electoral laws of the region.

Measures such as requiring parliamentary representatives who receive money to declare it do, in principle, assist efforts to exercise greater control. However, another problem arises in that **third parties** who are not participating in elections can campaign in favour of issues that are very important to certain candidates without contributing funds directly, yet succeed in bribing them through indirect support. Here, too, the issue becomes further complicated. While it is possible to restrict these mechanisms of indirect funding which compromise the complete transparency of the sources of funding for politics, this restriction may be understood as a violation of the right to freedom of expression.

The dilemma is obvious. If laws are intended to be effective in enforcing transparency, they should be very general in nature and apply to everyone, not just political parties or candidates. Otherwise, as stated before, ways of evading control will be devised. That is why it is important not to restrict our focus to strictly legal mechanisms. Over-regulation, moreover, will make regulations difficult to understand and comply with and make it easier to get away with violating them. **It is not by regulation alone** that the pathological diversion of funds and its harmful consequences for the ethics of public administration will be eradicated. In fact, while it is essential to strengthen regulation and the mechanisms and capabilities of oversight, this only

addresses part of the problem. However, this should not prevent us from acknowledging that an improved legal framework may bring about positive consequences for transparency and the rendering of accounts.

In short, the establishment of a transparent funding system which is subject to monitoring must respond to the idiosyncrasies and needs of each country and be based on a comprehensive, holistic and organized strategy. Such a system must evolve through a **combination of effective legal frameworks, with controlling institutions strengthened from an organizational and technical point of view, and vigilance on the part of civil society and the media** in their commitment to monitoring, denouncing and punishing abuse. As stated before, in Latin American countries the institutional capabilities of the entities responsible for enforcing regulations, as well as the participation of citizens and the media, are still developing. As de la Calle aptly stated: “It is not enough for us to travel the route of legal reforms. To a great extent, the topic of political funding concerns both the cultural milieu and civic education” (de la Calle 1998:25).

Until quite recently in most countries in Latin America the culture was fairly permissive with regard to legislation on financial control of election campaigns, and consequently the public has placed little importance on violations of electoral laws. This situation has started to change with growing popular impatience with political corruption scandals. It can safely be said that public opinion is changing and now demands greater transparency and accountability with respect to political funding. This must be capitalized on in order to raise the consciousness of public opinion, the media, watchdog non-governmental organizations (NGOs) and so on, not only about the important role they are meant to play in keeping track of how much is spent, how it is spent and who is funding politics, but also about who is being monitored and through what procedures government work projects and service contracts are being awarded.

Consequently, any proposal for reform of political funding should revolve, among other things, around six main objectives:

- **ensuring effective electoral competition and promoting political equality;**
- **reducing the influence of money** by diminishing its impact and controlling the factors that trigger the

rise of electoral expenditures in each country;

- **improving the use of public money** by investing it in more productive activities for the sake of democracy – such as the strengthening of political parties and the civic culture – rather than long or negative campaigns;
- stopping, or at least curtailing as far as possible, current levels of **influence-peddling and political corruption**;
- strengthening public **disclosure and transparency mechanisms** with respect to both the origin and the use of funds;
- strengthening **rule of law and enforcement capacity** as well as an **effective system of sanctions** to end impunity.

However, it is obvious that legal and institutional reforms will hardly be effective if they are not accompanied by much-needed changes in the way politics are conducted – the attitudes, the values and the very behaviour of politicians – so as to abolish once and for all the model of “self-serving politicians” (*políticos de negocio*). Therein lies the importance of making it an obligation for all elected representatives to report their accounts. This instrument is supremely important not only in the fight against corruption but also in exercising greater oversight – through institutions, parties and public opinion – over elected officials and politicians.

To conclude, our era requires a reconciling of political action with ethics, a new merging of ethics with politics. Political funding plays a pivotal role in attaining this critical goal for the sake of the health and the future of democracy in Latin America.

## Endnotes

<sup>1</sup> Parties (or coalitions) present lists of candidates in two member districts. Electors vote for one candidate, but the votes accrue to the party (or coalition). The two parties with the most votes win unless the first party doubles the votes of the second. The effect is a particular form of majoritarianism in which the largest parties, and especially the second-largest party (or coalition), are favoured.

<sup>2</sup> Ecuador uses a system which in terms of the decision formula is majoritarian, but more than one legislator per district is elected: The candidates from all parties are put in descending order of the votes received and seats are awarded from the top of the list until each seat is filled (*sistema mayoritario con lista proporcional adicional*).

<sup>3</sup> Where USD conversions are inserted, these were provided by the author. Since so many of the figures are only in USD, it has not been possible to make conversions to International \$.

## References and Further Reading

### Books and Reports

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