

Asian–African Practitioners’ Meeting on Political Finance Regulation and the Eradication of Corruption

20–22 October 2015, Bandung, Indonesia





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A report from a meeting organized by the Ministry of Foreign Affairs of the Republic of Indonesia (MFA), the Non-Aligned Movement Centre for South–South Technical Cooperation (NAM-CSSTC) and the International Institute for Democracy and Electoral Assistance (International IDEA)

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First and foremost, our special thanks go to the NAM-CSSTC Secretariat for its constant support in ensuring the full participation of all the identified participants from Africa and Asia. In particular, we thank Ambassador Esti Andayani, Director-General for Information and Public Diplomacy, Ministry of Foreign Affairs of the Republic of Indonesia, who is concurrently also the Director of NAM-CSSTC.

We also thank Achmad Rofi'ie, the Assistant Director for Programs; Subandiyo Subarjo, Assistant Director for Administration and Finance, and all the team from NAM-CSSTC for all the facilitation support in ensuring this meeting went ahead smoothly in Bandung.

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We are also very grateful to the practitioners who joined us in the meeting, provided inputs and clarified many of the emerging concerns. The workshop and its outcomes would not have been possible without their animated discussion, dialogue and discourse, reflected in the outcomes of this report.

Our gratitude goes to International IDEA colleagues in the Asian, Pacific and African regions, whose advice and support helped us develop the concept for the Asia-Africa Practitioner's Meeting on Political Finance Regulation and Corruption Eradication, including Leena Rikkila Tamang and Adebayo Olorunimbe Olukoshi, International IDEA's Regional Directors for Asia and the Pacific, and Africa and West Asia respectively, for their invaluable leadership and support in bringing this workshop to a successful conclusion. International IDEA's Canberra, Addis Ababa and Stockholm teams made important contributions to the concept and during the workshop to ensure ongoing support and publicize the workshop in social and mainstream media.

Last but not the least, our special thanks to Adhy Aman and Sanjay Gathia of International IDEA for all their efforts behind the scenes to ensure the workshop was held despite the geographical challenges, and that participants had fruitful discussions and outcomes, and for their meticulous work in ensuring that the report reflected all the concerns raised on political finance.

Executive Summary

Political Finance is a topic that has long engaged multiple teams within International IDEA. The Institute has for many years been a leading actor on this topic globally, providing technical assistance to national reform processes and producing several knowledge resources with a focus on political finance regulation. In the light of the challenges related to corruption and the linkages between politicians and organized crime, the Institute has, under the umbrella of Protecting Politics, also started to look at the topic from the perspective of illicit funding. In addition, the Global Commission on Elections, Security and Democracy has actively started organizing activities around this topic.

The Asian-African Practitioners' Meeting sought to deliberate on the main issues pertaining to the regulation of political finance and identify a reform agenda for more effective regulation, compliance and enforcement to prevent and combat corruption in both regions.

Money and politics are inextricably linked. The functioning of contemporary democracies necessitates political financing, and sometimes the combination of private and public funding sources. However, there is a strong need to control unfair and illegal practices and to regulate political finance in the light of the role that political parties play in the democratic process. Attempts to regulate political finance typically include codes of conduct for political parties, disclosure rules, and contributions and expenditure limits. A number of factors are likely to have an impact on the effectiveness of such regulatory regimes, including the quality of the regulation and the level of political will and commitment. The public agencies in charge of ensuring effective implementation of political finance regulations vary from country to country, from government departments, to independent EMB, audit offices and state controllers.

Corruption scandals regularly expose the problem of illegal party financing and the improper influence of financial means on political decisions. Countries such as the Philippines, Thailand and India in Asia, and Nigeria and other countries in Africa have all experienced huge political finance scandals in recent years, followed by mass citizen outcries. Some countries are also faced with organized crime and its role in financing political parties and political activities. The loss of independence for candidates and parties through the influence of big money is a worrying trend. In addition, the growth of campaign expenditure in many countries has increased the challenge of ensuring a level playing field.

A strong political finance regulatory framework is an important tool for ensuring a level playing field for all political parties and candidates. It can help prevent corruption and reduce the political links between money and power in the process.

These Practitioners' Meetings are expected to address some of the burning issues that confront social distortion linked to corruption and the influence of money in the political decision-making process. The Asian-African Practitioners' Meeting aimed to achieve:

- an enhanced understanding of the nexus between political finance and corruption through an exploration of the issues and sharing of experiences between experts and practitioners in the two regions;
- enhanced knowledge of some of the best practices on political finance regulation to ensure fair play in the political contest, thereby reducing corruption and illegal funding; and
- help to identify potential political finance reforms to reduce corruption by identifying the main challenges, proposing ways of tackling them and exchanging country experiences.

Cross-cutting conclusions

In most Asian and African countries, large proportions of the population live in poverty, with little access to educational opportunities and low levels of literacy. This means that there is a power relationship between political and business elites and the majority of the population. Their economic privileges or the availability of resources lead many among the political and business elites to form a donor relationship with their constituents or potential customers/workforce, thereby reinforcing the patronage system for those who are economically disadvantaged. In the political sphere, this forms a consistent relationship between the donor, for those with political and economic power, and the recipient or taker, due to a person's socio-economic status, which alters democratic values and the notion of government for the people, by the people and with the people. Many voters are aware of the fact that political parties indulge in direct and indirect vote buying practices. Many voters expect to be approached by political parties to vote for them in return for some form of remuneration or incentive given prior to the voting.

In addition, legal loopholes lead to many instances of candidates with criminal records and/or outstanding cases against them having recourse to take part in the political process until they have been proven guilty by court. For many, therefore, politics is a means of income generation, gaining policy influence or using public office for personal benefit. This sometimes marginalizes those who intend to go into politics to contribute to the greater good or strengthen and promote participatory democracy. Many politicians and business leaders form an alliance, backing each other. Some will finance political parties expecting policy changes such as a more favourable investment climate. Others form their own political party. As a collective, there is a strong tendency to limit people's freedom to protest against any injustice involving commercial activities or to prevent land disbursement to the corporate sector. This creates a huge gap between politicians and the general public, and in many instances has resulted in a reduced interest in politics and a loss of trust in political parties and elections as mechanisms that can change causes of people's dissatisfaction. Businesses are increasingly concerned only about their investments and look for political stability, irrespective of democratic set-up or the voice of the people. The need for policies, laws and controls to protect corporate interests leads to increasing amounts of direct or indirect influence being used by businesses to control the outcome, implementation or execution of many policies.

The meeting highlighted the increasing resource constraints and challenges faced by oversight agencies, in particular as they relate to:

1. *Oversight and prosecutorial powers.* Most agencies face challenges such as special orders or notifications to curtail ongoing investigations. This is linked to the non-independent functioning of many oversight agencies. Many also lack strong prosecutorial powers to bring offenders to justice and politically bar repeat offenders, who continue to operate with impunity.
2. *Human resources.* There is not enough manpower to cover most of the national districts or regions, so political parties and their supporters can move into hidden corners of districts and regions to influence voters.
3. *Technically skilled people.* People with a good background and understanding of commerce and finance, including the ongoing technical changes linked to e-commerce and e-payments, are absent from oversight agencies.
4. *The constant challenge of enforcing an up-to-date legal approach.* Many of the agencies are working on laws, legal frameworks and mind-sets that are currently unable to cope with the changes that are arising in politics, finance and the commercial world. Legal frameworks are either outdated or lack adequate knowledge of politico-finance links and networks.
5. *Budget allocations.* The legal framework can be developed and strengthened, manpower can be deployed and a technical skills development action plan formulated, but without long-term, sustainable budget allocations, many action plans will fail and attempts to strengthen the monitoring and prosecutorial aspects of oversight agencies will be ineffective.

Cross-cutting recommendations

1. *In-depth study and typology.* Cross-cutting links to political financing were identified in the areas of the extractive industries, the oil industry, land and contract farming, infrastructure development, shipping and fisheries, banking and investments, corporate social responsibility (CSR), health, education, and donors and development agencies. It was agreed that an in-depth study, discussion and deliberation on these various themes should be led by International IDEA and stakeholders to assess these linkages, their extent and depth, and their positive and/or negative influences, as well as the national, intercontinental and international nexus, and identify common patterns in each sector across the two continents.
2. *Human resource development.* The focus on human resource development could start with the relevant training, which could help all stakeholders to understand the changes that have occurred, and where gaps exist in human resources. National level customized workshops could be developed based on the specific needs of a country, and intercontinental workshops conducted on specific thematic areas to facilitate experience sharing and strengthen responses.
3. *Political party management.* Financial transactions by political parties and their representatives should be tracked both inside and outside the country, especially the asset changes mentioned in declarations forms signed before

elections, and any time a politician changes party or indulges in party jumping before and after the elections in particular. It was also recommended that existing political party laws should be reviewed and reassessed to bring them up to date with political changes that have taken place, including making them applicable to the existing pace of change in the political and social landscapes at the national level.

4. *Addressing legal gaps in oversight and regulatory institutions/bodies.* Many existing bodies are facing challenges due to constraints on and gaps in the legal system. This requires attention to strengthen enforcement, which is a major problem even where rules and regulations exist. The capacity to act in real-time, as in the case of India, would be an effective measure to prevent political finance corruption, if not stop it entirely. Independence should not just function on paper, but involve independence in terms of mandate, the appointment of office holders, secure tenures free from political interference, and sufficient resources to conduct monitoring and supervisory roles. The courts should remove any political and legal hurdles to enable work to be conducted un-hindered, protecting the independence and strong mandate of oversight institutions. Many of the oversight agencies have been working without strong coordination with other regulatory or law enforcement agencies. Point of entry links to political finance regulations should be identified and assessed, resulting in strong coordination between all enforcement agencies. This could also be regulated by a new regulatory or legal framework to overcome existing gaps and end outdated practices and redundant legal procedures.
5. *Strengthened national and international measures.* Money provided to individuals and political parties should be accounted for under all circumstances, especially when it is taxpayers' money. Awareness should be raised among political parties, individuals and the wider public about the various standards that are to be respected, especially regarding money in politics and its long-term impact on people's participation in democracy and democratic institutions. Oversight agencies should work with international stakeholders to monitor money sent overseas without accountability, and how it is being spent. The gaps should be identified not just in one law or legal framework, but in all existing laws, legal frameworks and institutions, so that each can be updated, has interconnectivity and provides supportive mechanisms for and to each other. The various donations or contributions made to political parties and/or party representatives should be cross-checked on their source or origin, and whether they are being illegally or illicitly channelled to the voter for vote buying by a third party, thereby undermining the democratic process. Measures should include engaging and getting all relevant stakeholders on board with the public monitoring of public finance, thereby strengthening legal, political and social measures, and enhancing public confidence in the measures being undertaken.

Opening Remarks



Ambassador Esti Andayani

Director-General for Information and Public Diplomacy, Ministry of Foreign Affairs of the Republic of Indonesia

Leena Rikkila Tamang, International IDEA Regional Director for Asia and the Pacific, excellencies, distinguished guests, resource persons and participants, ladies and gentlemen

Assalamualaikum Warrahmatulahi Wabarakutuh

Good Morning—*Selamat Pagi*

Allow me to take this opportunity to welcome you to Bandung, a city that is well known to the people of Asia and Africa. In 1955 leaders from the countries of Asia and Africa gathered in Bandung to call for an end to colonialism and urge strong cooperation on developing their economies. Last April, Indonesia hosted a commemoration of the 60th Anniversary of Asian-African Conference. Delegates representing 109 countries of Asia and Africa, including 35 Heads of State, attended the Conference. The theme of the Conference was ‘Strengthening South-South Cooperation to Promote World Peace and Prosperity’.

The Bandung Message—the outcome document of the 2015 Asia Conference—clearly stated that strengthening South-South cooperation, including triangular cooperation, is a way to develop the countries of the Global South through win-win cooperation. Since the 1980s, under the framework of South-South and Triangular Cooperation, Indonesia has conducted workshops and training for more than 4550 people from 92 countries.

This meeting is another example of Indonesia’s initiative in South-South and Triangular Cooperation. Together with the Non-Aligned Movement Center for South-South Technical Cooperation (NAM-CSSTC) and the International Institute for Democracy and Electoral Assistance (International IDEA), the Ministry of Foreign Affairs of the Republic of Indonesia has organized the Asian-African Practitioners’ Meeting on the Political Finance Regulation and Corruption Eradication. Participants from the countries of Asia and Africa can share their experience in implementing good governance and corruption eradication. Since 2012, Indonesia has conducted four workshops on

democracy and corruption eradication. Towards the end of this year, Indonesia will send two teams of experts on corruption eradication to Tunisia.

Your excellencies, ladies and gentlemen, according to the 2014 Corruption Perception Index of Transparency International: 64 per cent of countries in the Asia Pacific scored below 50; 84 per cent of countries in North Africa and the Middle East scored below 50; and 92 per cent of countries in sub-Saharan Africa scored below 50. The global average score is 43. In countries where the level of corruption is high, we can see that maternal mortality rates are eight times higher than in countries with low levels of corruption, child mortality rates are about one-third higher and the infant mortality is twice as high. The number of people without access to good sanitation is six times higher. Corruption has negative effects on economic development. It leads to inefficient use of public resources, which excludes the poor from public services. Poor people are trapped into poverty.

Democratic political activities require money. Political parties, for example, need money to train their members, to disseminate information and to promote their candidates. Usually, political parties need tremendous financial support to win an election. When in power, they are compelled to conduct acts of corruption to repay their financial supporters. Governments, leaders, parties and politicians can also be corrupted by the existence or the interests of their financial backers. Public interest will no longer be a priority where the financial backer has its own agenda. Thus, regulations on political finance coupled with strong implementation are important.

Transparency and accountability are key to ensuring good governance and eradicating corruption. However, regulating political finance is not easy. We need to create regulations that suit the characteristics of the country so they can be implemented effectively. For example, imposing a contribution ceiling in India has created illegal contributions. Meanwhile, despite a policy of no limitations on contributions, the 2014 Corruption Perception Index for the United Kingdom is 78 out of 100 (good). As a country that has ratified the United Nations Convention against Corruption, Indonesia is committed to combating corruption. The Government of Indonesia is working with other stakeholders such as public institutions, NGOs and the media on combating corruption.

Excellencies, ladies and gentlemen, before I conclude my remarks, I would like express my sincere appreciation to NAM-CSSTC and International IDEA, their resource persons and the participants for making this programme possible. I wish you all a fruitful discussion. Finally, I declare the 'Asian-African Practitioners' Meeting on Political Finance Regulation and Corruption Eradication officially open.

Thank you.

Wassalamu'alaikum Warrahmatulahi Wabarakutuh

Welcoming Remarks



Leena Rikkilä Tamang

*Regional Director for Asia and the Pacific,
International IDEA*

Ambassador Ibu Esti Andayani, Pak Rofie from the NAM center, distinguished participants, and colleagues.

I am delighted to see you all here, safe and sound. Some of you have travelled far and long to be able to attend the Asia Africa workshop on Political Finance and Combating Corruption here in Bandung, the place of the Asia-Africa conference 60 years ago.

This workshop has been organized through the collective collaboration of MoFA Indonesia, NAM-CSSTC and International IDEA in an effort to highlight the challenges, concerns and need to address the issue of money and politics, which are closely linked and intertwined.

The functioning of contemporary democracies necessitates political financing and, sometimes, a combination of private and public funding sources. However, there is a strong need to control unfair and illegal practices and to regulate political finance in the light of the role that political parties play in the democratic process.

Corruption scandals regularly expose the problem of illegal party financing and the improper influence of financial means on political decisions. Countries from both Asia and Africa have experienced huge political finance scandals in recent years, followed by mass citizen protest. The same is true in countries on other continents, including Finland where I come from, and which is often top of the Transparency International list as the least corrupt country in the world. Yet there was a political finance scam there too in elections a few years back. Some countries are also faced with organized crime and its role in financing political parties and activities.

The loss of independence by candidates and parties due to the influence of big money is a very worrying trend. In addition, the growth of campaign expenditure in many countries has made it increasingly difficult to ensure a level playing field.

Political Finance is a topic that has long engaged multiple teams within International IDEA. The Institute has been a leading actor on this topic globally for many years,

providing technical assistance to national reform processes and producing several knowledge resources with a focus on political finance regulation. In the light of the challenges related to corruption and the linkages between politicians and organized crime, the Institute has, under the umbrella name of Protecting Politics, also started to look at the topic from the perspective of illicit funding.

As we know, money and power always involve strong vested interests. So what kind of measures can be enacted in the world of political finance? The menu might include:

- Income bans, donation limits, spending bans
- Spending limits
- Disclosure and publication requirements
- Audit requirements

The key words are probably oversight and enforcement, but oversight is only the half the story. However much noise is made, it is of limited use if the regulations are not enforced. In fact, one of the authorities in this field, Michael Pinto-Duschinsky, has said: ‘there are too many rules and too little enforcement’.

In this workshop we will discuss what has worked in your countries and what has not worked; and how to measure success in combating corruption and overseeing political financing.

Our objectives are to:

- Understand the nexus between political finance and corruption through an exploration of the issues and sharing the experiences of experts and practitioners in the two regions;
- Enhance knowledge on some of the best practices on political finance regulation that ensure fair play in political contests;
- Encourage political finance reforms, thereby reducing corruption, by identifying the main challenges, proposing ways to tackle them and exchanging country experiences; and
- Explore prevention and mitigation measures regarding the use of money in politics for corrupt practices based on stories of success and failures in the two regions.

Due to the growing demand for strong regulation on political finance, International IDEA, an intergovernmental organization with a mission to support sustainable democratic change, has been building expertise in the field to help countries design political finance legislation and battle the corruption linked to political finance and electoral campaigns.

International IDEA's Asia and the Pacific Regional Programme has worked on the topic of political finance in Mongolia and is steadily building up its engagement on the topic in Myanmar.

I want to thank the Indonesian Ministry for Foreign Affairs and the NAM-CSSTC for their collaboration, and all of you who have come at very short notice—we truly appreciate that you have taken the time from your calendar and hope that you will find the discussions and exchanges useful in your own work.

Personally, I look very much forward hearing about experiences you can share, and new ideas that can emerge when two continents meet here in Bandung, Indonesia.

Thank you.

Session 1. The nexus between political finance and corruption

Husni Kamil Manik

Chairman, Komisi Pemilihan Umum (KPU), the Republic of Indonesia

As-salamu alaykum!

In the context of Indonesia, political finance comprises all the funds that are expended on political needs. Such purposes include campaigns run by parties and candidates to gain as many votes as they can in order to win elections, and thus the connection between political finance and corruption.

In recent times there has been a demand for accountability in the public sphere. In a country like Indonesia, political parties or candidates can raise funds to cover their expenses. In Indonesia, political finance means the financial means to run campaigns and advertisements, and to pay party workers and consultants.



Image: Mr Manik (left), Mr Aman (center), and Dr Olukoshi (right), sharing the panel discussion on nexus between political finance and corruption.

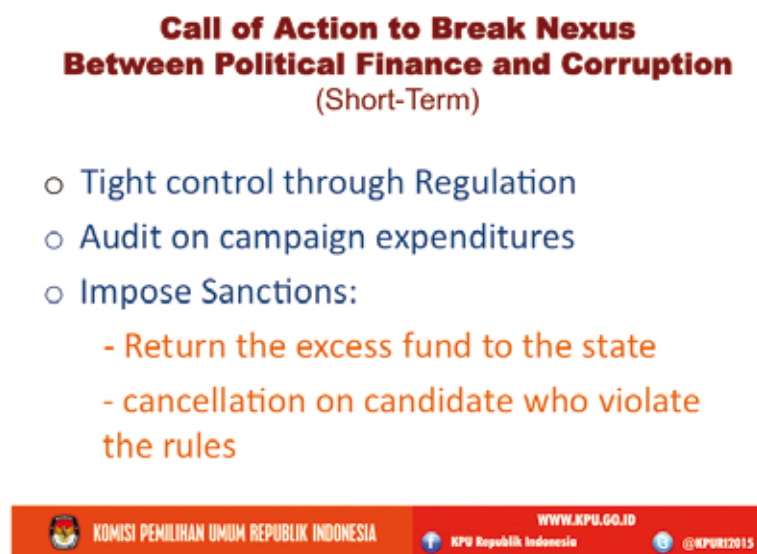
People are concerned as they feel that political finance raises conflicts of interest that lead to corruption. There is a general belief that politicians in power, in the legislature and the executive, tend to listen to donors rather than address their voters' aspirations. Many of these donors belong to corporate sectors, and projects are awarded not to the companies providing the best bids, but rather to those who provide funds during elections. It is a challenge for the General Elections Commission of the Republic of Indonesia (Komisi Pemilihan Umum, KPU) to provide effective political funding and prevent the misuse of funds, leading to corruption in the political arena of democratic Indonesia.

The KPU will enforce its regulations rigorously in the upcoming December 2015 Elections. *Pilkada Serentak* restrictions are imposed on the number of donations and on campaign spending, and there are sanctions for non-compliance and violations of the rules (PKPU No. 8 Tahun 2015). For expenses expenditure, each individual donor can donate a maximum of USD 358, while legal entities or corporations can donate a maximum of USD 40,000.

During the December 2015 Elections, restrictions on campaign expenditure will be enforced by calculating the methods of campaigning, the number of campaign activities, the estimated number of participants in these activities, the cost at local level, coverage areas, geographical conditions, logistical considerations, and the cost of campaign management or consultancy services.

The Commission bears the cost of campaign materials and advertisements, including organizing and broadcasting the national debate between candidates. This is in order to provide an equal opportunity for candidates to present their programmes on various platforms in order to engage the public and show-case their policies. Candidates violating these provisions will be subject to sanctions in the form of disqualification.

Figure 1. KPU call of action against political corruption



The Commission has devised two methods to improve the quality of political financing: one short-term and one long-term. As part of the short-term approach, the KPU has tightened existing regulations and auditing of campaign expenditure, and imposed sanctions involving the return of any funds left unused to the state and the immediate disqualification of any candidate found to be violating the rules. As part of the long-term approach, the KPU's first action was to increase financial subsidies to the political parties proportionately, as the amount of subsidy currently provided amounts to about 10 per cent of the entire election budget. As the state provides funding for electoral campaigns for all political parties, a tough scrutiny auditing process is followed and the KPU works with independent certified public accountants on all its political finance audits. These audit reports are open to the public and the KPU actively disseminates them.

There was a discourse between the KPU and stakeholders to establish a specific body to examine the use of political funding, and the aim is for financial reports to be accurate and factual. This discourse is still developing, and the KPU is still looking for the ideal model that is best suited to Indonesia. The KPU and its stakeholders are open to learning from other countries, including from the Asian and African regions, about what their experience has been, and then analysing what is suitable for the country and what is not in order to develop a good system and a specific body for examining political finance.



Tur-Od Lkhagvajav

Chairman of the Public Council, Independent Authority Against Corruption, Mongolian People's Republic

The previous speaker spoke a lot about the governmental or public sector perception of political finance and corruption. My focus will be more on the people's perceptions and demands.¹

It is important that when we talk about political finance in the context of Mongolia, we look at the issue from three angles: first, the political party finance subsidy used to support party structures and activities specifically during the non-election period/cycle; second, the current state of political party finance and spending, especially during the election campaign period and in the election year; and, third, monitoring of the political party candidates who spend on elections from their own sources of finance, taking into account that individual candidates receive services and often manage substantial sums of money during the election period.

The Transparency International (TI) Corruption Perception Index (CPI)² identifies Mongolia as having corruption challenges, ranking it 80 out of 175 countries even though it is a young democracy, having celebrated the 25th anniversary of the first free and fair democratic election in 2015. On the overview of anti-corruption diagnostics from the people's perception side, there are different tools and diagnostic labels for assessing political finance in corruption. These are really transparent, and go in-depth into the nexus between political finance and corruption. Transparency International has its own assessment tool, Gateway,³ which diagnoses political finance and corruption issues and hosts other tools available worldwide, such as the National Integrity System (NIS) Assessment, the Global Corruption Barometer and the Corruption Perception Index (CPI). International IDEA's State of Democracy Assessment tools⁴, and the BRIDGE courses are also important tools on electoral processes.

¹ Speaking in the capacity of his dual roles as President of the Transparency International and Chairman of the Public Council on Corruption in Mongolia.

² CPI captures the informed views of analysts, business people and experts in countries around the world. For more details see <http://www.transparency.org/research/cpi/overview>.

³ GATEWAY is a web-portal that collects, shares and expands knowledge on corruption assessments. For more details see gateway.transparency.org.

⁴ International IDEA's State of Democracy (SOD) assessment methodology helps citizens assess the quality of their democracy and define priority areas for policy and democratic reform. The SOD enables citizens to periodically monitor the health of their democracy and can contribute to strengthening national and local governments' responsiveness. For details see <http://www.idea.int/sod-assessments/>

The role of the mass media too is very important; their presence and courage in highlighting political corruption in any country is commendable. The advent of social media has opened up many different channels of information sharing for the public to expose problems related to corruption.

One cannot deny the role of key stakeholders such as anti-corruption agencies, electoral commissions, audit offices, influential leaders against corruption, committees working to eradicate corruption, members of parliament, and political figures within and outside the government, all of whom can have an impact and influence on our opinion formers and policymakers for eradicating political corruption.

In 1990 Mongolia was ranked 114 out of 201; in 2014 it ranked 80 out of 199 in the CPI ranking, a far cry from the non-existence of political corruption in the country when it began its democratic process. Legislative reforms have been initiated since 2014, and there are ongoing legislative initiatives related to political finance currently tabled in the parliament: a Draft Law on Political Parties, a Draft Law on Political Financing, a Draft Consolidated Law on Elections and the New Law of Mongolia on Glass Accounts (Transparent Accounts Law) 2014.

Figure 2. Private sector influence in Mongolia

- Private Sector in Political Sphere:**
- **Strong nexus between the private sector & politics: Public view is that the state is captured by business elites and undue influence of multinational mining corporations in the political sphere**
 - **Business & Politicians nexus is highly undermining the political finance regulatory framework**
- **Need to prohibit political donations from business (67%)**

In July 2014 the Parliament of Mongolia adopted the first Accounts Law in an attempt to bring transparency and accountability to the use of state and local government funding and ensure its efficient use, as well as actions concerning the management of public funds and their oversight. The law has been effective since 1 January 2015 for all transactions involving government finances above USD 2500, for all ministries and government agencies, state-owned enterprises, business entities, corporations and public institutions. This new law also provides information on any legal entities that have been sub-contracted by the government for the delivery of public services and works. Although there is an ongoing electoral reform in Mongolia, and new law was introduced in 2012, the General Election of 2012 gained international attention as the most corrupt election in Mongolia to date. The reforms introduced a mixed electoral system and used an automated voting system, using Canadian software for

the first time. There is a widespread belief that Mongolia's electoral design and election campaign system require further improvement, in view of the prevailing high level of political finance corruption.⁵

People are now demanding transparency and accountability, in the context of both legal and illegal political finance. While the legal limitation on political finance is a modest USD 500 for individuals and USD 1500 for companies or corporations, illegal political financing is widespread and rampant. This was revealed during an 2012 election campaign survey. Under the new law on receiving and spending contributions, all financing for parties and candidates, and any sanctions, are to be made transparent.

It has since become apparent that although there are legal limits or caps on political financing, actual spending was more than USD 250,000 on average, nearly USD 15 million above the maximum, which is a huge amount in a parliament of only 76 members.

Based on a November 2014 CPI survey of public perceptions, almost 80 per cent of the public believe that politicians are not transparent, and 72 per cent of respondents considered that political donors have easy methods of concealing or masking their identities, with the result that no one really knows who the largest contributions are from. Party financial reporting is still not transparent, and 91 per cent of the public believe that in election year they do not get to see details of actual donations to and spending by political parties. During the election campaign, 89 per cent of respondent believe that most of the funding comes from the private sector. It is important to understand how strong private sector or business influence is in the political sphere, especially nationwide.

The majority of Mongolians believe that there is a strong connection and interconnection between the private sector and politics. There is also a widespread view that government or state institutions have been captured by business elites, which also takes into account that many Mongolian parliamentarians have a corporate or business sector background. The boom in mining has had an influence, and in the eyes of the private sector natural resources such as copper, uranium and coal are very much to be exploited, using its influence over the political class to have favourable policies adopted.

There is a strong belief that undue influence over and bribery of politicians by multinational mining corporations takes place. This kind of nexus greatly undermines the political finance regulatory framework. Many believe that there should be a total ban on political and national actors from the business sector. This has raised the question of people's aspirations in the immediate, medium and long term of government action on political financing and curbing corruption.

⁵ IAAC has a number of diagnostic tools, including its Annual Research Paper on Political Corruption, and recently for the first time a comprehensive public perception of the state of political financing, commissioned by the Open Society Forum (OSF). OSF has also engaged IAAC as the founding members of Transparency International Mongolia's national chapter, during November 2014, and most recently between December 2014 and February 2015, we have done a comprehensive survey of political party financing in both in non-election and election years, using the tools mentioned above.

Figure 3. Mongolian peoples' aspirations/IAAC polls

- People's Aspiration for Public Actions:**
- **Business influence on public decision-making is far greater & non-existence of formal lobby mechanism is leading to corrupt practices!**
 - **Need for an immediate, medium and long-term public & government actions in breaking the nexus between political finance and corruption!**
 - **Political party financing must be made transparent each time (i.e. election & non-election year): 88%**
 - **Put a cap on party members' contributions: 64%**
 - **Names of donors should be made known overall: 84%**

In Mongolia, business influence in public decision-making, particularly at the policy level, is very great, and the lack of any formal lobbying system or rules leads to more corrupt practices at the political level. This growing menace needs immediate action: 88 per cent of Mongolians believe that political party financing must be made transparent in both non-election and election years. This is because although some provisions have been introduced to cover political finance during the election cycle, during the non-election period it is totally left up to the political party itself, or completely voluntary and left to its discretion. This is a huge gap in the current legal framework. More than 64 per cent of the public believes that there is a need to cap party members' contributions: a minimum fee is prescribed, so a maximum one should be too. Some party members come from a big business or corporate background and have the ability to contribute more than others, which leads to them being automatically elected to positions of power in the party. This goes against the principle of being a democratic party. Many business contributors who get into the executive branch of the government through their large contributions tend to abuse their official government position, leading to public sector corruption.

In addition, 84 per cent of the public believes that a list of all donors (small or big) should be made available to the public to increase transparency in the country. People strongly believe that the political wings of the parties are important stakeholders in making political financing more transparent and accountable to the public, which requires stringent and strict legal sanctions, as well as accountability mechanisms to be implemented, including an independent public watchdog monitoring how political finance is received, administered, distributed and reported.

All unnecessary restrictions on political financial reporting need to be removed, and clear and specific legal provisions are needed with regard to requirements on reporting of all political finance by all parties, both parliamentary and non-parliamentary. About 67 per cent of the public, on the other hand, support government tax exemptions for donors who make small donations, during the election or non-election period, and

the introduction of government subsidies or co-funding for political parties to provide equal opportunities during election periods.

There are basically three overall lessons learned or recommendations from the case of Mongolia that could be considered applicable to other countries in an Asian or African context. First, there is a need for greater transparency, especially in the context of freedom of information acts or laws in the region, and these should be strictly enforced. In Mongolia, there is a belief that this could lead to better and more open government and reduce corruption. At the same time, however, there is a need for increased public participation in making the process more deliberative, democratic and transparent. In Mongolia, there is an ongoing crisis of representative democracy, increasing the need to introduce some form of direct deliberative democratic polling and processes for citizens to directly engage at the policy level.

Second, more proactive promotion of transparency—specifically in political party financing, certification and disclosure of funding from private citizens, businesses or public entities, including direct subsidies—could lead to more transparent and accountable political party entities and more transparent and accountable political parties with wider public support. This should directly influence more in-depth democracy and contribute to more free and fair elections in the country.

Third, Mongolia should eagerly engage citizens and civic groups in the country's governance system, especially to protect whistle-blower(s) and activists promoting greater transparency in the country including in the areas of political finance, promoting and protecting an independent judiciary, strengthening existing anti-corruption watchdogs, or introducing new ones with greater autonomy and prosecutorial powers, while also including the public anti-corruption agencies and civil society watchdogs, facilitating greater justice and bringing corrupt officials to justice.



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From the point of view of International IDEA and others, 'democracy is a permanent work in progress: no country can claim to have achieved the ideal'. There are always gaps that remain un-nurtured.

At the very outset of this presentation I would like to emphasize that, first and foremost, more than the domain of democratic theory and practice, it is important for us, as participants and representatives from the various countries of Africa and Asia, to keep in mind the gap that exists between the democratic ideal and democratic practice on the ground in reality. In many cases, in deep democratic theory, democracy is supposed to be a framework that provides an equal and level playing field for all those who are citizens, but in practice society is reduced by power relationships, making it difficult for certain people to have any kind of equal and generalized access to democratic

institutions and processes compared to those who are powerful and therefore dominate the system.

Second, in order for an election management body to have full mastery of the patterns, levels and quantum of financing that go into the political system, aside from its own project and resources, we need to have an understanding of the extent to which states have an effective mastery of a national territorial system that works to monitor political financing. While setting up the systems, the more formally and completely a state is able to control its national territorial systems, the better are its chances of being able to monitor and track financing of political finance activities. A state that does not control its territory cannot claim to have control over financial and political activities, and this is very widespread in many parts of the African continent. Informality, in markets and political institutions, can be a problem; and even collecting taxes is not happening in some places. To draw international parallels and compare Finland and Nigeria: they are two different worlds. One can be from Nigeria and not be registered with any agency that your birth has taken place so it is not counted in the official records. On the other hand, you cannot be born in Finland and not be registered. This is the difference in national territorial administration. Yet, there are some parts of Africa, such as Tunisia, Morocco, Libya, and to some extent Algeria, where the situation is similar to Finland and all births are registered. Africa is not a monolithic continent. There are instances where tax collection is 100 per cent; but good state administration is not universal at present, and states in some cases have lost control of the governance of certain parts of their territory, which while remaining integral parts of the national territorial system are not under its administration. Such situations complicate the overall equation of monitoring political finance.

Third, there is a gap globally, also reflected in the African continent, relating to the cost of elections and the financing which is available for political parties. It is a huge gap between what is approved by law for political parties in order to finance their election, and what it actually costs to run an election in the present economic situation. They are worlds apart. These three factors put pressure on the candidates to provide additional resources in order to be able to compete, to have a chance to win elections.

We can see from lots of experience across the continent that the various sources of finance that candidates and parties mobilize across the country in order to gain advantage in the electoral game are not easy to manage. The biggest advantage is to the incumbent who gets to use state resources to run the election. One example is the US Presidential Election. When President Obama was campaigning for re-election he could consider himself to be playing the President or the incumbent President running for re-election, whether he is going to campaign in Arizona or to open a school, he will travel using Air Force One and state resources. Second, there is the tendency for those who hold bureaucratic and political office consciously to use public resources for themselves and their political parties in order to finance their operations, thereby emboldening the corruption cycle. Many incumbents running for office, while campaigning, consciously award contracts to those known to them, thereby directly nurturing resources in order to finance their party and themselves. Scandals have broken out in many cases across the continent of Africa. For example, a company that regularly wins contracts in open bids issued by the government for particular services becomes the favoured winner of government patronage, in return for 'voluntary donations' to the governing political party. When legislation prohibits this company or business from operating without

sanctions because of their 'voluntary donations', they set up an independent business to enter the tender process, win the tender through their next voluntary donation, so there is a flow of resources and a plot between the government, businesses and politicians in a triangular relationship that is not always clear.

Fourth, there are examples in the literature and news reports of the increasing role of business in political financing, and that they would like to buy policy by financing particular candidates, facilitating them to be in political office in return for changing policies pertaining to industrial, financial, labour, and health and safety in the workplace issues, so that their company or business can operate without difficulties. This is increasingly happening in Africa, and engagement by business interests directly in policy through the financing of politicians to elicit profits or accelerate business processes favourable to them is undermining democratic processes and participation. Compared to some developed countries, legally registered lobbying groups in the USA can lobby for anything, from tobacco, to alcohol or pharmaceuticals, and they can finance candidates to get all kinds of outcomes. On the other hand, lobbying groups are not formally established on the African continent, but they are emerging where business interests have a stake in a particular policy, and therefore have an interest in financing candidates.

Fifth, a growing phenomenon in West Africa is the increased interest of criminals and fraudsters in financing politicians. This is extremely difficult to track, but there are some spectacular cases.

In Ghana, for example, there is a drug lord who is sponsoring candidates to go into parliament as part of a strategy to take over key state institutions. Now Ghana is in a similar situation to Guinea Bissau, which is more or less reduced to a narco-republic, where the army, police, air force, navy and all key institutions of the government have been taken over by the Medellin Cartel from Colombia, operating from elsewhere via Bissau and sending drugs to Europe. There are instances where even if they have not supported financially any key institution(s) of government, they have financed individual candidates who can provide them with political cover when needed.

In the case of Nigeria, at the last election one person financed himself into the political office even though he was a drug baron, wanted in the USA and undergoing extradition proceedings. He converted just a small percentage of his resources into local currency and was able to overwhelm all opposition, and he was elected a senator of the republic. Everyone knew he was wanted and the police were certain that he was going to be extradited: he bought the best lawyers but also the judges to defend his case in the country. In total he had a team of 48 legal experts appearing for him in the court to argue against extradition to the USA. In order to please his constituents and gather local support, he distributed 50 kgs of rice per household imported from Thailand as community welfare and funded development activity branded with his name. People lined up to collect the gifts from him. He was effectively able to buy himself all the local support required and also gain his freedom. The government found it extremely difficult to ban him, as the courts could not find any justifiable grounds to do so, even though the government supported the US extradition request. The courts ruled that under the Nigerian Constitution, the government did not satisfy all the requirements to prove that the person was a flight-risk and so detention was denied. He was sworn in and he continues to hold political office, enjoying immunity as a Senator of the Federal Republic of Nigeria.

Sixth, there is the issue of funding from individuals who have made themselves rich in natural resource-rich African countries. They have established themselves as kings in their castles. The political system sees them as godfathers. They do not seek political office, but rather those who seek political office, seeking their blessings, patronage, money and support, to get into office. These individuals determine who will occupy what position in different offices, and in some cases are responsible for sponsoring an entire parliament. They do not have any political party loyalty and in some countries they support all parties. All they want from the candidate is that they are loyal to them to get their blessing. These individuals have huge resources at their disposal and thrive as godfathers in such political systems.

Seventh, perhaps peculiar to the African continent, is the role of international donor money, which sponsors candidates. In some countries, donors select a particular political party that they like and provide unrestricted funds in the name of development cooperation for them to contest elections against incumbent governments. There are known cases where donor agencies such as USAID, Sida, the National Democratic Institute (NDI) and various others have adopted candidates in African countries like Kenya, Zimbabwe, and elsewhere, funding them to campaign against the ruling party which they would like to change. While in some instances the involvement is direct, it is also done by engaging NGOs, who get the backlash from government politics, and are therefore engaged particularly to oppose the ruling government. Many political parties on the African continent today receive external donor money just to oppose the ruling party. The moment donor support and money is removed, many such parties have trouble existing as they do not have any capacity to either mobilize or raise funding for themselves. Nor do they have any other support to continue as a party.

Eighth, the role of diaspora money in political financing in Africa should not be overlooked. It is estimated that the total African diaspora sent home about USD 60-billion in remittances in 2014. This is three times the current aid flows, and in some cases twice as much as countries generate from local taxation and locally mobilized sources of revenue. The diaspora money has by default become an important source of finance, as a lot of candidates are able to raise money from this source.

These various sources of political financing completely outclass whatever subsidy the government gives to political parties to start with. While they continue to collect the subsidies offered by the government, depending on the number of seats they have in parliament, and all the formula used to calculate the amount used, in the end by comparison what the government gives is small change compared to all other sources of political financing. It also dwarfs the amount political parties can raise through membership fees, as almost all parties levy a membership fee. Thus, many of the non-governmental sources of political party financing and subsidies are in fact minuscule in relation to private sources of political finance.

In actuality, the grant givers control the political party and make the key decisions, while going through the formal processes to satisfy the electoral management body (EMBs) that they have held a congress and have a political manifesto, with programs and activities. In reality, however, it is the donors and godfathers who really determine who is the candidate for which region, ministry, resource, and so on, and give their political blessing to campaigns for political office.

Many of these trends represent a completely new face on the African continent because when the first Bandung Meeting took place in 1965, many of the African countries and their political parties were fighting for independence. They functioned because of their mass movements for freedom, mass memberships and their contributions or donations from public, and they ran their political machines in a way that was accountable to their constituents, because of the popular support they received. Now the situation is completely reversed; they have a handful of people who bank roll them, pay for their operations, and are ultimately accountable to only a very small elite in the entire socio-economic system of the country. While there are many anti-money laundering laws, there are no laws that compel politicians to put their money in banks, or to prove its source. Many keep their money in bank accounts outside the country, and bring money in on private jets, not controlled or checked by anyone. This is a growing concern. One only needs to look at the election cycle, and the exchange rate for foreign currency to get the arithmetic's of the election cycle, currency exchange and the money spent during elections. This gives a broad picture of the ongoing political finance corruption. This is further reflected in the post-electoral scenario, when the 'investors' call for a return, and exchange rates are once again affected as foreign currency is in great demand.

The real challenge confronting political finance is a code of conduct for political parties: how in the African context the idea of code of a conduct for political parties can be promoted and understood, and then instilled in the political functioning of parties during the electoral cycle and in reporting on political financing. Political finance reform in the African region requires leadership from those who are keen, open and want to put democracy back into the hands of the citizens. This should go hand-in-hand with the institutions and reformers working to monitor and curb political finance corruption.

Session discussions

Participants raised questions, and shared comments and insights on their understanding and country experiences. Where regulations are imposed, they are set up pertaining to spending and contributions. A question arises regarding the challenges or experiences in the light of all the weakness in the implementation regime. When limits are imposed, how can you ensure that a contribution is reported? Political parties and candidates may report part of the contribution they receive but contributions might exceed the legal limit. How can one get to the actual figures?

There are challenges—some of the money collected in donations might be channelled through other sources that can be accounted for. How can the regulations on political finance be enforced when the spending limits or tab expenditure have to be respected?

The Indonesian experience highlights the problem of too many sources of campaign funding, as there are many sources of money used in politics because of the richness of natural resources. Unlawful processes of handling money or donating money to parties and candidates are taking place that threaten the integrity of the results of elections. Funding sources need better management, and these efforts have only taken place in the past 17 years. Before that political financing was liberal in the interests of the authoritarian regimes in most countries, and limitations on who can donate, the amount of donations and other problematic issues have only recently been introduced.

No party has been sanctioned since the reforms have been introduced. Most candidates have submitted their reports more than three times, but no one has been sanctioned based on the reports provided so far.

The problem has been law enforcement. There are rules limiting the amount of donations, prohibitions on foreign donations and prohibitions on donations by state-owned enterprises but based on the reports submitted, despite some evidence that such violations have taken place, until now sanctions have not been possible.

Reasons for non-enforcement include that for the past four national elections and two regional elections, the mechanism for the provision of sanctions has not been properly regulated, incomplete regulations on enforcement, and different levels of understanding between the various law enforcement agencies about the regulations. Even though they have created a centre for law enforcement, these institutions are still unable to effectively enforce the regulations between themselves. Bawaslu, as the Election Supervisory Commission, is part of the law enforcement agency. And because the Bawaslu, the police, and prosecutors do not seem to work well together, each is demanding more administrative authority to investigate and indict perpetrators of political finance violations without having to go through the other. The Election Commission of Indonesia (KPU) is urging the Indonesian Parliament in 2016 to amend the process and update the current electoral law accordingly.

Can the KPU change the amount of subsidy from the state that a political party can receive? Does that power reside with the Election Commission or it is granted by legislation? Is the mechanism for imposing sanctions provided for in legislation or is this something that can be done by regulations?

Two kinds of subsidies are provided for in law. The first, for the organizational purposes of each political party, is paid every month based on the results of the previous general election. The second is for the candidates for the upcoming Head of Region elections. There are 269 elections taking place on 9 December, for 9 provinces, 224 regencies and 36 cities.

The political party subsidy is proportional to the number of votes received in the most recent general election. For the Head of Region election candidates the amount is proportional to the ability of the region to provide the subsidy, according to its revenue and income. The subsidies provided are for the candidates' banners, leaflets and other campaign materials. The subsidy given to the Head of Region election candidates is set to 10 per cent of the entire election budget for that particular election, and that 10 per cent is distributed equally among the candidates, so if there are two candidates in the elections each would get 5 per cent.

The enforcement of sanctions is based on the annual reports provided by political parties, and these reports are audited by the State Audit Board, which is a state body that audits all state finances. If violations are found, this is considered a crime, but no one has been prosecuted yet. Candidates in the Head of Region election must submit preliminary reports as soon as they open their bank account(s). These reports are audited by a public certified accountant. The Commission is currently registering accountant offices. The heaviest sanction would be disqualification of the erring candidate(s). Disqualification can take place even after a candidate has been declared the winner. For the Head of

Regional elections, criminal sanctions are a matter for the Unified Centre of Law Enforcement, and the Commission processes the administrative sanctions.

Indonesia has subsidies for political parties, and funds some advertisements and material for the candidate during elections. Is it given in-kind or in cash? How does the KPU monitor whether the political party spends its own resources? Is there any restriction that it can only be spent this on advertising and nothing more? Is there a gap between the ideal and the reality? How does the KPU manage that gap? How is it possible to fully monitor the banking process? What capacity does the KPU have? Are there any external auditors to effectively manage the reality of day-to-day politics and elections in Indonesia? Are there concrete examples of the constraints and why sanctions have not yet been used? Is it because the person is a big political figure, or are there other challenges?

In the case of Nepal, the linkages with political financing are reflected in policy corruption there. Are there any measures taken to track policy corruption, including financial levers? Is there any recent experience of tracking financiers of political parties or political leaders?

The subsidy is provided based on the law. First, for political parties it is provided in cash, and the political parties have to report their expenditures and have to conform to the guidelines provided by the state. Second, primarily the subsidy has to be used for critical education. For the Head of Region election candidates the subsidies are provided in-kind to provide the materials required for campaigning, such as banners, billboards and leaflets, but the content will be based on the request of each candidate—the photo, slogan and messages will have to come from them. Because, the Commission produces these, the government audits the Commission in terms of the utilization of funds. It is not easy to manage politics and because it is not easy to enforce laws on politicians, the KPU therefore emphasizes preventive measures, ensuring that parties understand the consequences of any violation(s). The KPU regularly meets with political party executives to explain the rules and what sanctions would be applied if they violate the rules. The KPU also trains parties on the report writing, how to develop reports, the preliminary report, the mid-term report and the end of campaign report. This training also involves the auditors, so there is interaction between the auditors and political parties from the beginning. Both get clarity of what is to be documented and audited, so that there is a common understanding of the requirements of political finance reporting.

One example of preventive actions that can eventually enforce regulations is when the KPU was conducting registration of political parties ahead of the January 2014 elections. It held numerous regular meetings with political parties to explain the rules and the requirements of party registration but after verification of registration, apparently only 10 of the 34 parties that had filed for registration could fulfil all the requirements. This meant that 24 parties were disqualified from standing in the elections. The KPU had to inform them and they were not happy with the verification results, and the decision of the Commission. A complaint was filed against the Commission to Bawaslu, which is the Election Supervisory Commission, and to the Administrative Court. The parties followed the legal procedures rather than resorting to violence or political unrest. This was due to the KPUs efforts to constantly educate them and keep them informed of the rules and regulations.

There is donor interest in policy decisions at the local level. In any region, the Head of Region is responsible for a lot of natural resources. Mining companies are interested in donating to potential winning candidates and once these candidates win, they change

regulations to benefit the mining industry. So in the Indonesian experience it is not difficult to make the connection or identify a connection with political financing. However, in recent times it is noticeable that political donations have dwindled and more is going towards religious activities. Now the trend is for candidates to be compelled to give something to the voters, otherwise the voters are not interested in them or their party. This is a serious problem and the Commission is trying hard to fight it. The problem now is different: the regulations are there, the intentions of the Commissions are there but there is a difference of understanding between what the political party expects and what the Commission actually does. The problem is in the understanding gap: what we say and what we do. The problem could become even bigger if the Commission starts giving the political party what they want/demand, or if the subsidy provided in cash is passed on to the people in a hidden way, as the funds once passed to the political party are not controlled by the Commission. At present, the Commission does not control what industry or commercial establishments give, and this makes efforts ineffective and affects the participation of people in the general democratic process. There was a general consensus among the practitioners that new challenges are seemingly emerging in Asian and African countries, particularly regarding the interest of international donors and their use of money for political financing, which affects democracy. There are additional challenges linked to industries and commercial establishments using their 'black money' or 'unaccounted for money' in the political sphere, thereby bending the rules of democracy and democratic values. These practices are also affecting institutional transparency, which previously existed or is being developed in many of Asian and African countries to ensure free and fair elections and eradicate corruption in political financing.

Zimbabwe's example was raised, where the country was under sanctions from the European Union (EU) and the United States over its land policy, and the government was not yielding. The EU and the USA therefore agreed to finance the democratic opposition, on the understanding that the land policy would be revised if it came to power after contesting the elections. Thus the use of democratic methods and institutions by the donor community against the ruling party in support of favourable conditions for the 'funder', including threats of a military coup, and to oppose them both politically and economically is one example of how vested interests determine the political direction of a country. Zimbabwe is a glaring example of a clash of interests affecting democratic practices and national policies.

The continuing challenge is how to develop the strategic strength to help save democracies from perversion by illicit, corrupt and criminal money, which is increasingly dominating political systems at the national level. Many developed countries are considering reducing the cost of elections to a minimum level, but that too is becoming contentious.

In the ongoing situation in Asia and Africa, it is not possible to move suddenly to having a highly democratic election commission monitoring the electoral process. However, it must also be kept in mind that, while power is equal, resources are also adequately distributed, both horizontally and vertically, across regions and across social groups. Legislation to control political financing could also legalize the economic distribution of the resources to be channelled to political resources, because donors, financiers and companies can donate and, by definition, this will mean influence over the political process. Political regulation needs to be understood: is it internally people-driven or externally driven by vested groups or institutions that drive or control it?

Existing systems in Asian and African countries are not democracy but something that is still evolving, as there are many distortions to the political processes, including political finance. Distortions we are witnessing in political parties' attempts to translate economic power into political power, while also attempting to regulate financing. It is these groups that when they come to power control the legislature, and actually enact political finance control, either through oversight organizations, rules or acts, in order to control political finance. So how can political parties that are interested in controlling political finance enact control over political finance?

Is this internally driven or is it in response to donors' demands and externally driven? The question of drivers is very important because if we have to enact more legislation to control political finance, or in order to enforce existing legislation to control political finance, then we have to have a power base to support this. We also need to know whether the drivers of such change are local or international, and equally that we can count on them in order to improve legislation and the enforcement of legislation.

This raises one of the most important or pivotal questions regarding the dichotomy between rural and urban: a small urban minority and marginalized majorities living in rural areas who are illiterate and live in poverty. The informality in political processes, legalizing political financing or legitimizing political finance by ensuring the inability of a state to control: does this relate to any quality and dichotomy between rural and urban, the large majority marginalized rural by the modern, globally oriented urban population? The Mongolian experience is a very good example of an electoral reform, and it can be correlated to the political finance contribution too, as politicians or officials have a lot of discretion regarding undertaking reform.

There is a lot of factional politics in India. In recent government elections in Delhi an NGO-led political party, Aam Admi Party (AAP, the Common Man's Party), contested and won the election, and the election was the cleanest ever conducted in the country. Many other political parties opposed this party and raised concerns that its external donations were given by vested interests that were high jacking the Indian political scene. However, AAP put all its donations on its website, with even the smallest donation being transparent with a clear description of who contributed, how much and where it was spent. There was diaspora money donated to the AAP, and this too was recorded and displayed in a transparent manner. Delhi's government election and an NGO-led party coming to power is a good case study in itself—it is a salutary example that it is possible to break the grip of money on the political system, and moments and cases like these inspire others to consider what alternative methods are possible.

There are examples from African countries, such as Gabon and Congo-Brazzaville, where oil companies like Union Minière du Haut Katanga (UMHK), currently known as Umicore, which originated in Belgium, were tentatively organizing a coup d'état by simply hiring mercenaries to overthrow the ruling regime in order to secure its mineral interests. Companies like Total and Elle now determine together with their home country government who runs Gabon and Congo-Brazzaville. They currently produce 80–90 per cent of the oil in these countries. Anyone wanting to stand for the election needs to be on good terms with these two giant French oil companies.

In Asian and African countries, one of the root problems is their low incomes and high levels of unemployment. The first generation of political party leaders, who really had

no intention of contesting elections in any meaningful way, but knew that there was an allowance for political parties, set up political parties in which they were basically the only member, and then collected the allowances without any accountability or political activity. The cycle for them became collect the money, don't campaign, don't undertake any political activity, spend it on personal expenses, wait for the next election, register, collect the money, and so on, until the political season came to an end.

There is a demonstrated connection between political finance and corruption, and it is the intention of investigating agencies, and social and political reformers to dig deeper into the root causes of the problem. Post-regulation, the focus should be on identifying and implementing contextualized remedies for each country, even though common and cross-cutting issues are emerging, and action plans could be both coordinated and linked to cross-cutting and national level agendas and activities.

Session 2. Case study presentations: Regulatory enforcement challenges and stakeholders' responses



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The role of money in politics is not a new or unusual topic in South Africa. Open any newspaper, turn on the radio, television or online news—there is always some report highlighting a corrupt politician, abuse of state funding, or unusual relationships between politicians and suspect persons. One example is the strategic arms defence procurement package, valued at

USD 4.8 billion, some time back involving influential and high-ranking politicians who were accused of corruption—and the case is still under discussion.

The role of money has been a matter of public prominence and debate, and one of the newest political parties on the block is using the fight for economic justice as its political platform. It is calling for the South African President to 'pay back the money' in a reference to the cost of upgrading his personal residence to the value of an estimates USD 23 million, using public funds. However, the political party leader calling for the money to be returned has himself been accused of corruption in the past and has been in and out of the courts in relation to this.

There is also an illustrative example of a transnational nature involving the investment arm of the ruling party, which entered into a joint venture with the Japanese conglomerate, Hitachi Limited.⁶ The US Security and Exchanges Commission charged Hitachi with violating the Foreign Corrupt Practices Act of 1977 (FCPA) when it inaccurately recorded improper payments to the South African ruling party in connection with contracts to build power plants. In order for the case to be dismissed, Hitachi agreed to settle the charges by paying USD 19 million without admitting guilt. Chancellor House⁷ was the local partner of Hitachi Power Africa, and had a 25 per cent stake in the business.

⁶ <<http://www.politicsweb.co.za/politics/chancellor-house-hitachi-pays-19m-to-settle-anc-br>>

⁷ Chancellor House is a South African group of companies active in the mining, engineering, energy and information technology sectors.

Such behaviour and practices are quite common in South Africa and not limited to any particular political party. However, it is most obvious in the current ruling party, as their role is highlighted due to their political responsibility for running the government. These practices also extend to the wealthy private individuals and families who fund political parties and have influence over the use of state resources. This becomes extremely problematic during elections. Such behaviour also contributes to increasing inequality and the marginalization of the poor and of vulnerable groups, who are less and less heard. Their voices are diminished and their choices limited, and their participation in the political arena is increasingly limited. With preferential access to ministers and government officials, big donors influence politics and political outcomes, having a big impact and contributing to the increasing inequality and marginalization of the poor and of vulnerable groups.

In South Africa there are constitutionally mandated institutions, such as the Office of the Public Prosecutor, that are meant to work on a neutral basis to provide checks and balances, but these institutions have become highly politicized offices and political interference threatens their stature. The African Union Convention on Preventing and Combating Corruption, adopted in Maputo in July 2003, to fight rampant political corruption, is a political consensus among the African states to combat the issue of deep-seated corruption. The aim is to promote and strengthen the mechanism to prevent, detect, punish, and eradicate corruption and related challenges in the public and private sector.

The South African Constitution is very strong and highlights accountability, responsiveness and openness, but it falls short on civic legislation. There is quite strong anti-corruption legislation. However, the Public Funding of Represented Political Parties Act 103 of 1997 does not mention political party campaigning or use of funding, and there are no limits on the amount or frequency of private donations received. Nor is there any legislation governing the receipt of private and political funding. Overall, political will around the issue of political finance and corruption remains very weak, with no clarity or certainty about how more light can be shed on the funding of political party leaders and political parties.

In 2005, the Institute for Democracy in South Africa (IDASA) filed a case against four major political parties, taking them to court in an attempt to get them to reveal who their funders really were.⁸ This was done under the terms of the Promotion of Access to Information Act, 2000, known as the Freedom of Information Law in South Africa. The High Court, however, ruled against IDASA, stating that: 'disclosure of donor funding is not a prerequisite for free and fair elections'.⁹ In the 10 years since the court case, there have not been any new developments and transparency remains the same with no legislative reforms taking place.

There have been discussions about implementing restrictions on the kind of donations that can be given or received, including what kind of anonymous donations should be allowed, along with how many times such donations can be made and what kind of

⁸ <<http://mg.co.za/article/2005-02-09-idasa-goes-to-court-over-party-donations>>

⁹ <<http://www.dailymaverick.co.za/article/2014-07-28-who-funds-our-political-parties-we-deserve-to-know./#.VrBnj7J95D8>>

election expenditures are allowed during campaigns and elections, in order to level the playing field. Public access to such information is important and necessary.

Just before the last election, the Treasurer General of the ruling party suggested the establishment of a Trust Fund to which business could donate, with the funds administered by the Office of the Speaker, for example, which could allocate them according to the representation of the political parties.¹⁰ While enacting legislation should be a priority, the lack of political will across the board is the biggest obstacle, even if political parties are taken to court to reveal their private funding sources.

The media and civil society are strong and well organized in South Africa, and the two will have to target legislative reform for change and its implementation in order to address and curb political finance corruption.



Sotheara Yoeurng

Legal and Monitoring Officer, Committee for Free and Fair Elections (COMFREL), Kingdom of Cambodia

Cambodia held its first national elections administered by United Nations Transitional Authority for Cambodia (UNTAC) in July 1993, reinstating a Constitutional Monarchy after it was abolished in 1970, along with a multiparty democratic set-up after decades of civil war and coups. The first elections were held under the

Funcinpec Party but the Cambodian People's Party (CPP) has been the ruling party since, led by Hun Sen, who has become a powerful political leader of his government since coming to power. Despite pressure from the international community, opposition parties and civil society in Cambodia, there has been little reform or change in the political landscape of the country, including the National Elections Committee (NEC).¹¹

It was only in 2014, after a year of deadlock and political negotiations between the ruling CPP and the Cambodia National Rescue Party (CNRP), the opposition party, that an agreement on electoral reform under an Electoral Committee was agreed. A second political agreement was to establish constitutional bodies and to develop a new law on the organization and functioning of the National Election Committee. A third draft law,¹² the Law on Elections of Members of the National Assembly (LEMNA) was also proposed.

¹⁰ <<http://www.news24.com/Archives/City-Press/Companies-should-fund-political-parties-Zweli-Mkhize-20150429>>

¹¹ While the National Election Committee (NEC) is supposed to function as an independent body, it is not considered a fair and just electoral body, as became clear during the 2013 General Election when there was a big problem after the declaration of the electoral results, especially when many of the voters were aware that their names were not in the voters' list. It is still visibly dominated by the CPP, since the Chairperson and Secretary General of the NEC are from the CPP quota.

¹² The old LEMNA has been almost completely amended and is now referred to as the New LEMNA 2015.

In March 2015 the Cambodian Parliament unanimously passed the LEMNA, an Amended Law of Law on Election of Members of the National Assembly and the Law on the National Election Committee without a word of debate or any attempt to match the reform with promises made by both parties. Later in 2015, another law drafted by a Joint Commission of both elected houses was passed. The changes in the law, however, were not all positive.

The LEMNA and the Law on Commune/Sangkat Council Election are extremely problematic. The restrictions LEMNA puts on civil society organizations operating in the country, freedom of expression and the participation of youth in electoral observation as well as the sharp rise in the curtailment of political expression are particularly problematic. On the other hand, LEMNA has brought some positive changes, such as the establishment of modernized voter registration, whereby voters' fingerprints and photographs are stored to match with names and eliminate double or repeated voting and bogus voters.

In Cambodia, there is a focus on the disclosure of political party financial report, the constitutional limit, the spending limit and the public finance available. Two laws regulate political finance in Cambodia—the Law on Political Parties, 1997, and the 2015 New LEMNA. There are a number of concerns with Cambodia's political finance:

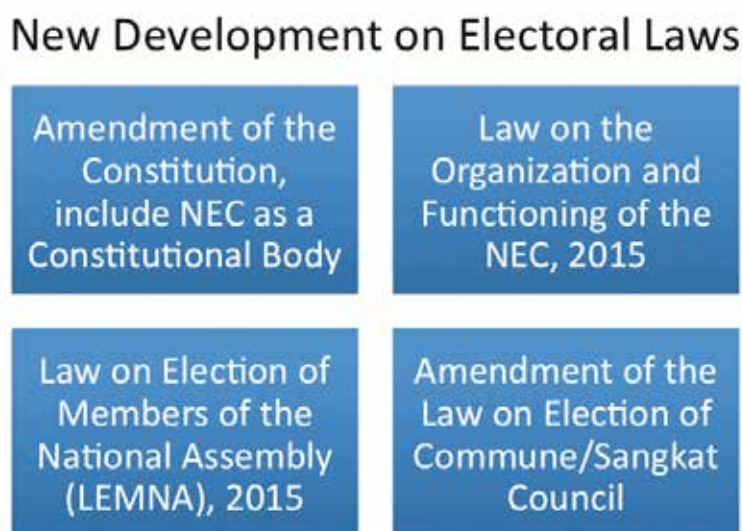
- First, the income of political parties includes contributions from a levy on members. The income levy is a serious issue, especially for the ruling party, as it forces its members to pay very high levies to the party in lieu of the benefits members can receive.
- Second, there is the income from a political party's lawful businesses, which, however, are not directly owned party businesses but business establishments owned by party members, their immediate family members or relatives with companies, corporations and other establishments.
- Third, Cambodian citizens who live abroad in the USA, Canada, Australia, France or South Korea are among the biggest sources of money, especially for the opposition party, as they do not have any major source of income in the country.
- Fourth, there is the public funding of the political parties, which is a proportionate allocation according to the percentage of the total valid votes across of the entire country.¹³ The money must be paid back to the government only if the party fails to receive 3 per cent of the vote or one seat, but this provision has not been enforced so far.

In Cambodia, there is little difference between a public and a private establishment, as they are almost all joined together by investments from the current ruling party. Thus, in most cases they could be said to be semi-public and semi-private. The law is not clear on this matter, and so it is a loophole that can be exploited easily as a hybrid enterprise can contribute money to a political party. There are also many foreign corporations and companies operating in Cambodia that are accused of giving money to the ruling party. NAGA Corporation, for example, which operates the largest casino in Cambodia, is owned by one of the richest billionaires in Malaysia, who gives roughly USD 1 million to the ruling party.

¹³ The number of seats in the National Assembly is now fixed in the new LEMNA 2015 at 125.

Article 31 of the 1997 Law on Political Parties states that registered political parties contesting elections are required to submit reports to the Ministry of Interior, and Ministry of Economy and Finance, before 31 December annually. Penalties can be imposed for violating the article, but in practice it seems to exist only on paper. It is an obligation of every registered political party to report their income, expenses, bank statement, assets, including ownership of property and businesses, and the outcome of levies within the political party. There are no independent auditing agencies in Cambodia and the two responsible ministries are under the control of the ruling party.

Figure 4. The development of Cambodia's electoral laws



It is suspected that reports are manipulated due to the lack of an independent and transparent supervisory body. Most of the information submitted remains out of the reach of the public or civil society, and is denied to the opposition party. The law does give the NEC some authority to examine the reports, but the NEC does not release the information and the ministries ensure that it is kept away from public review.

Article 36 of the law requires a report on all accounting details to be filed every seven years, and the inspecting body to have full access to all the relevant information of the political party. This provision too has been ineffective.

There is a prohibition on the use of state resources, including transportation, for political campaigning under article 80 of the LEMNA. In addition, article 82 prohibits civil servants, members of local authorities the armed forces, police and court officers from actively joining any political party campaign. Yet article 83, in contradiction of article 82, states that civil servants, members of local authorities, the armed forces, police and court officers can participate in election campaign activity, but not during official working hours or in uniform. Many officials take leave to join political party campaigns, as there is a loophole in the provision that is exploited by the ruling party.

Recourse to legal action is impossible as many senior members of the armed forces, the Supreme Court, the Court of Appeals, 4-star Generals, 3-star Generals, commanders in

chief of the army, police, judges and prosecutors are members of the ruling party, and participating in the electoral campaigns themselves. The law on the status of judges and prosecutors does not prohibit judges and prosecutors from joining a political party. It should be noted that the active participation of members of the armed forces and their commanders in chief is illegal according to the law on the General Status of Military Personnel of the Royal Cambodian Armed Forces (1997).¹⁴

Article 86 of the LEMNA emphasizes that every registered political party should have an account book, but there are no provisions on maintaining a proper set of accounts obliging political parties to follow certain procedures. In practice, this can allow a political party to create its own account book and provide the information best suited to it on political finance. Article 90 states that all contributions received by political parties should be deposited in a single account with both expenses and deposits available for the NEC to examine as necessary, but there has been no action on this so far.

Figure 5. Cambodia's political finance regulations



The public has some hope in the newly constituted NEC, as there are four members from the ruling party, four from the opposition and one consensus candidate working together to bring forward proposals for electoral reform. Committee for Free and Fair Elections (COMFREL) and other international organizations, especially the Electoral Reform Alliance (ERA) initiated round table discussions on political finance in 2010, inviting all the political parties to discuss the problems and what regulations could be considered for amendment should a law on political party finance be established. The ruling party representatives, the opposition party and United National Front for an Independent, Neutral, Peaceful, and Cooperative Cambodia (FUNCINPEC) party agreed on the need for a new law but now the parties are keeping quiet. While the discussions were fruitful and the party representatives were keen on the adoption of political finance regulations in parliament, it was disappointing to see them stay silent

¹⁴ Articles 9, 10 and 12 of the Law on the General Status of Military Personnel of the Royal Cambodian Armed Forces (1997), restrict certain rights and prohibit armed forces personnel from actively participating in political activities or expressing political opinions.

on the matter when the regulation was put up for adoption, and not propose any of the recommendations discussed.

Cambodian civil society organizations and International NGOs, especially COMFREL, are still advocating for the framework to be adopted, and are open to seeking international community support, including from International IDEA. A new round table discussion on political finance has been proposed, engaging all political party representatives including the ruling party, and involving local NGOs to promote the political reform necessary and make it law.

Session discussions

In South Africa, does the political party have a nexus or connection with ownership of the media? Does the media work in an unbiased way for politics, political parties, the country and the people? Have there been any benefits to the majority of the population? Has there been any economic development, poverty eradication, improved service delivery or improvements in living conditions like on the scale of Singapore?

Cambodia and South Africa are different countries on different continents: one is a highly heterogeneous federal state, the other a Unitarian, more homogenous kind of nation, but the challenges they face are more or less the same, despite having different histories. South Africa held its first free and fair election in 1993. Cambodia too held elections under UN administration in 1993. It seems that the challenges faced by both these countries are linked to corruption, where both countries' ruling political parties have in a way played a negative role in institutionalizing corruption.

Questions arise over how to set regulations for in-kind political financing contributions. How stringent or effective are legal sanction? Is it the courts, the judiciary or inspecting agencies that are able to bring to account those who have broken the law.

In Cambodia, the provisions on the return of public funding by each political party that does not win one of the 125 seats or 3 per cent of the total valid votes across the entire country, within 3 months from the date of proclamation of the final election result, exist only on paper.

On vote buying, COMFREL reports in 2012 and 2013 concluded that the CPP was spending around USD 15 million on electoral campaigning and a similar amount on vote buying, which included giving cash to voters but also promises of money, housing, pigs, chickens, clothes and health care, among other things, during the electoral campaign. There have been instances of using natural disasters for its own benefit, especially during the electoral campaign, by giving big money or building markets for the people, constructing roads, and increasing the monthly salary of government officials just one week before the election. These are all vote buying tactics.

In addition, all the leaders and officials working in the Red Cross organization are relatives of senior government officials. The chairwoman of the organization is the Prime Minister's wife. These people work for humanitarian relief but with political purposes.

Political agreement between the ruling party and the opposition parties in July 2014 followed huge demonstrations and protests against the 2013 elections, which led to strikes, riots and the death of several people. The opposition was accused of causing chaos and destruction. After the settlement and jailed opposition members had been released, criminal cases against them continued, despite the fact that many politicians have privilege and parliamentary immunity.

Executive control over the judiciary and the courts continues, despite the agreement on political reform and the laws passed to that effect. Threats of civil war have been made by the ruling party if the opposition ever comes to power, and people are reluctant to push too hard for political reform or change due to the fear of a repeat of the Pol Pot regime.

During the 2013 General Election there was a huge social media awareness and education campaign among the people. Due to the opposition party's efforts, it was able to gain 55 seats in parliament. However, now the ruling party is using LANGO to place restrictions on NGOs and INGOs creating public awareness and education on political issues, especially among the rural poor in remote areas.

The LEMNA and the Commune/Sangkat election law were proposed and passed in 2015. Then there was LANGO on the management and administration of civil society groups and the flow of international donations from foreign countries, as well as freedom of association and expression. Now the law is being used to control the Internet and its content.

Before the 2018 General Election a cyber-crime law is likely to be adopted. Concerns are being expressed about restrictions that might be placed on trade unions, which have worked with opposition groups in the past.

Cambodians now face many restrictions and controls in the run-up to the 2018 elections, which are putting the freedoms of expression, assembly and association at serious risk. Not only Cambodian citizens but also MPs from the opposition party have been put under pressure, and threat of mental and physical violence, harassment and intimidation, and so on. Constitutional immunity for MPs does not operate. The CPP still uses the courts to threaten the opposition, especially its leader.

The culture of political dialogue between the two parties created in previous years is now being threatened. This generally restrictive trend in the region, as Thailand, Myanmar and Malaysia also put restrictions in place, challenges the culture of democracy, which has to be built from the grassroots. Perhaps there are lessons to be learned from India for most countries in Asia and Africa, where there are extensive grassroots structures and also strong electoral laws available to provide a level playing field for all.

Session 3. Political finance regulation enforcement and developing institutionalized stakeholder cooperation in response



Judge Fadhila Gargouri

President of the Chamber, Court of Accounts, Republic of Tunisia

The aim of this presentation is to demonstrate the importance of the regulation of political finance, determine the fundamentals for effective regulation, determine the responsibility for regulation and enforcement of regulation, and emphasize the need for cooperation between stakeholders in political finance in order to ensure the transparency of funding, avoid corruption

and ensure concurrency between political parties.

Political finance regulation is often about which body is responsible for the administration and enforcement of regulation and how to improve the role of each stakeholder and cooperation between them. Given the importance of money in politics, and in order to prevent corruption and the negative impact of such financing on democracy, certain guidelines must be observed. The most important are the restrictions imposed on private contributions, the balance between private and public financing, accountability criteria for the allocation of public funding, limits on expenditure, requirements to increase transparency in political party funding and the credibility of their financial reporting, and the establishment of a regulatory mechanism and enforcement of appropriate sanctions for violations of the law.

So what are the necessary conditions for effective regulation? Regulation should always be applied in an objective and non-discriminatory manner. All parties should be subject to the same regulation, and be given equal treatment regarding the application of those provisions.

Figure 6. The relationship between Tunisian oversight and enforcement agencies



The political finance regulator must have a high degree of independence. Regulation and monitoring by government agencies is not sufficient. The active participation of civil society and a vigilant media are necessary for effective oversight. Effective regulation and disclosure can keep control of the adverse effects of the role of money in politics, but only if well considered and implemented; and the best formal regulations come to nothing if they are not enforced effectively. Effective political finance is enforced by a combination of transparency, oversight independence and adopted sanctions. Basic enforcement issues are: the independence of political finance regulatory bodies, appropriate sanctions, the monitoring of party and campaign finance and a clearly defined legal framework, to name just a few. Effective enforcement requires a public institution with a clear mandate, and enough independence and the resources to engage with political finance issues. Public oversight and civil society bodies use investigation and audit, and the enforcement bodies take administrative action, civil action and criminal action. The regulations governing campaign finance exist to ensure that political competition and elections are fair and free of corruption and undue influence. For these reasons it is important to ensure that regulations are taken seriously; hence the need for an effective system of penalties.

A separate body may be given responsibility for political finance enforcement, just as in many countries different bodies deal with different stages in the enforcement process. Effective oversight depends on interactions by several stakeholders, such as regulators, civil society and the media, based on transparency and accountability. The political finance regulator includes an electoral management body, an anti-corruption commission, an independent judiciary body, parliament and a constitutional court or tribunal, which maybe also have responsibility for enforcing the rules on political finance.

In Tunisia, before 2011 the Interior Ministry organized and controlled elections without any element of transparency. Since regulation, the main responsibility for administration and enforcement is with the High Independent Authority for Elections. The High Independent Authority fixes the rules of procedure and financial procedures.

During the campaign, the High Independent Authority ensures compliance with the rules on financing election campaigns. It takes the steps and measures necessary to stop infractions.


The Independent High Authority for Elections consults the Independent High Authority for Audiovisual Communication to agree upon the rules and general conditions for the media during the election campaign. The Independent High Authority for Elections provides the Court of Account with a list of candidates, a list of bank accounts owned by the candidates and the list of persons who are authorized to manage those bank accounts. The Independent High Authority for Audiovisual Communication informs the Independent High Authority for Elections of all the regulations made and decision taken.

The Administrative Tribunal receives any complaints about the preliminary results. Preliminary results of the elections can be appealed before the appellate chambers of the Administrative Tribunal. Post-revolution the Court of Accounts controls party and campaign finance. Oversight of campaign funding by the Court of Accounts may be either document-based or field-based, either comprehensive or selective and either subsequent or contemporaneous. Such oversight is mandatory for candidates and candidate lists that win an election. This oversight is carried out along with the financial oversight of the party in the case of winning parties and lists.

The Court of Accounts prepares a general report on the results of its oversight of campaign funding within six months of the date of announcement of the final results of the elections. The report is published in the Official Gazette of the Republic of Tunisia, and on its website. Civil society is responsible for reinforcing control and implementation. It releases its observations and findings after elections, making recommendations on improving the process and demonstrating the seriousness of the undertaking.

Figure 7. Tunisia's envisioned role of CSOs and Media

Role of civil society and the media

- Political finance regulations have been framed by interaction between the media, legislators and law courts
 - Cooperation between the media , civil society and legislators is needed to transform the momentum created by scandal into better rules to bring about progress toward
- 
- an improved set of rules for money in politics

The enforcement challenges faced are linked to the dependence of the agency on the executive, the lack of human and financial reserves, the absence of an adequate system of penalties and the lack of transparency in the management of political party and electoral campaign financing. The political finance regulations have been framed by interactions between the law courts, legislators and the media. Cooperation between the media, civil society and legislators is needed to transform the momentum created by scandal into better rules and bring about progress on the enforcement of a set of rules on money in politics.

The media in general and investigative journalism in particular have an important monitoring role to play in politics in exposing violations of political finance regulations. The media is often able to uncover violations better than formal enforcement institutions, and can play an important role in educating the public. It is thus a necessary tool of political finance transparency. By exposing scandals and violations by political stakeholders, illegal donations, illicit connections between donors and political party vote buying, as well as the abuse of state resources, the media can generate public pressure on political stakeholders and push the legislature into action. Civil society also has an important function in enhancing transparency in political finance, as it plays a crucial role in monitoring the conduct of parties and candidates. It continues to raise awareness about how money matters in politics, and the negative effects on the everyday lives of citizens. It actively discourages citizens from participating in any form of vote buying, and provides independent monitoring of campaign finance to bring about reform and change.

The division of responsibility among several enforcement bodies, and the lack of cooperation among various bodies in the enforcement system often result in gaps and confusion, and limit the ability of the regulating body to exert its authority and the full range of sanctions or even conduct a full and impartial investigation.

In order to improve the role of each stakeholder, some recommendations based on experience are set out below:

- The supervisory body must remain neutral and objective while auditing and regulating the activity of political parties. Regulation should always be applied in an objective and non-discriminatory manner.
- All parties should be subject to the same regulation and be given equal treatment regarding the application of those provisions, communicate closely with stakeholders, maintain transparency in the enforcement of political law and reject any attempt to influence regulatory body behaviour.
- Greater independence of the audit institution for political party accounts and election campaign spending will enhance public confidence in procedures and help to encourage civil society to provide the institution with the results of their work on observation and monitoring.
- The disclosure of information on party finance is essential; ensuring transparency in political finance is the cornerstone of public oversight. The disclosure requirement should take into account two elements: the aspiration of citizens to obtain information on financial support for a party; and the will of the donor to preserve the privacy of its political preference.

- Sanctions should be concrete and effective, and designed to deter illegal actions. Legislators should specify the types of violation and determine who should be held responsible and which penalties should be applied for each type of irregularity.
- Punish violations of the law: impose electoral sanctions, financial sanctions, and criminal charges that are proportional and imposed via judiciary.
- Civil society must build public awareness about electoral rules on transparency and avoiding vote buying, excessive campaign spending and the abuse of state resources. Civil society should educate citizens on the importance of providing information to the competent authorities.
- Media actors must expose violations by any political stakeholder regarding the collection and spending of funds, in particular accepting illegal donations and illicit connections between donors and political parties, making clear to citizens how such things affect them. This is not just about reporting an individual scandal, but going further to relate the issue to money in politics, and a priority focus on in-depth journalism.
- Finally, map the finances of political parties, including the main donors, and explain the damaging effects of the abuse of state resources.

How to improve the role of each stakeholder and their cooperation? Electoral law should clearly define the role of each stakeholder, the timing of their intervention, the consequences and monitoring of their intervention and the modality of cooperation between them and the electoral law. The text should avoid duplication in the responses of each stakeholder, build their collective response, and strengthen inter-agency cooperation.



Commissioner Luie Tito F. Guia

Commission on Elections (COMELEC), Republic of the Philippines

The Philippines is an archipelagic state. With more than 7,100 islands, there are various ethnolinguistic groups across the country.

The Philippines experienced a 400-year history of colonization by Spain and then a 40-year colonization by the United States. The country is predominantly Christian Catholic, with a considerable Muslim population in the south. It

has also acquired cultural influences from India, China and the Middle East. There is a long-running communist insurgency and a secessionist movement in the south. Both, however, are the subject of peace initiatives, which the Philippine Government is pursuing actively.

The country held its first recorded elections in 1899, and its first presidential elections by popular vote in 1935 after the ratification of the 1935 Philippine Constitution. Between 1972 and 1986, the Philippines underwent a period of authoritarian rule. In 1986, following elections that were widely perceived as fraudulent, the EDSA People Power

Revolution reinvigorated democratic institutions. This was highlighted by the adoption of a new Constitution in February 1987, which provided the framework for the current political and electoral institutions.

The Philippines has held ‘synchronized’ elections since 1992 and every three years thereafter. Traditionally, a single ballot is used for all elective positions.

In the upcoming May 2016 elections each of the estimated 54 million registered voters are expected to elect 32–36 officials, including the following: 1 President, 1 Vice President, 12 Senators, House of Representatives (One per legislative district—FTP) and 1 Party (for the Party-List System of Representation—PR System), 1 Provincial Governor (81 provinces), 1 Provincial Vice Governor, 2–5 Provincial Council Members, 1 City or Municipal Mayor (about 1,700 cities/towns), 1 City or Municipal Vice-Mayor, and 6–12 City or Municipal Council members.

One can therefore say that elections in the Philippines are, in many ways, complex and arduous.

The environment for campaign finance regulation and enforcement

In the Philippines, the judiciary serves as the ultimate oversight institution, with the Supreme Court being the highest court. The Constitution also created independent constitutional bodies to perform specific oversight functions. These include the Civil Service Commission, which regulates selection, appointments and other personnel actions in government; the Commission on Audit, which checks the fiscal accountability and prudence of government agencies; and the Commission on Elections, which is mandated to administer elections. In addition, the Ombudsman’s Office serves as the country’s anti-corruption body, and the Commission on Human Rights, which is tasked to promote respect for human rights.

The Commission on Elections (COMELEC) has the sole authority to administer elections and enforce election laws. Its mandate is to ensure fair elections by promoting a level playing field among candidates. While the legal framework for campaign finance regulations has existed since the 1960s, a lot remains to be done in terms of realizing its intended objectives.

Practice

In the Philippines, we often refer to political finance as ‘campaign finance’. There are various reasons for this. The country has a weak political party system. Politicians usually group themselves together and conveniently designate these groupings as ‘political parties.’” In a strict sense, however, they are not really political parties. After every election, members of Congress usually aggregate towards the ‘party’ of the President for convenience.

Party shifting is a regular occurrence in Philippine politics. The ‘parties’ do not function in between elections. There are no real party-building activities. This is why political finance does not acquire relevance as much as campaign finance. In effect, there is practically no regulation in between elections. Regulations happen, under the existing legal framework, only during campaign periods.

There is significant pressure on candidates to become constantly visible to the public and to obtain as extensive a reach as possible. This has raised the cost of campaigning. Our laws allow campaigning in television, radio and print, with limitations on airtime and print space imposed for every candidate. The price of advertising, however, is usually prohibitive. In addition, vote buying is pervasive in many parts of the country, with voters actually expecting to receive money from their politicians during elections. With the high cost of campaigning, it is no wonder that candidates usually come from the landed and economic elites. Seldom has there been a serious candidate from the lower-income class of the population. In the Philippines, patronage is the principal backbone of political networks.

There is also a prevailing sense of resignation that violation of campaign finance laws is difficult to prosecute, resulting in an attitude of complacency or indifference towards regulation. The focus of the discourse on campaign finance has been skewed towards accounting for campaign expenses (i.e. the amount spent by the candidate) rather than for the source of funds. In other words, the focus has been on how expensive elections has become in the country, rather than on the sources of candidates' funding.

Lack of institutionalized systems

While campaign finance laws have been in place since the 1960s, institutional support for the laws' implementation has been lacking. In COMELEC itself, prior to 2012, there had been no permanent unit whose primary function was to examine the disclosure reports submitted by candidates. Candidates were required to submit their disclosure reports as a matter of course, but these documents were merely filed and kept without being processed. Recently, COMELEC created an ad-hoc Campaign Finance Unit that enabled COMELEC to revisit these reports, and identify and prosecute violators of campaign finance laws. Undoubtedly, this is a significant gain for campaign finance reform advocacy in the country, but many goals remain unachieved.

Outdated legal framework

There has been no change in the legal framework governing campaign finance since 1991. This is largely because there has been no public pressure to legislate new laws. The subject had never captured the interest of the media and other opinion leaders.

For the longest time, in both the election stakeholders' community and in public discourse, the integrity of the voters list and the accuracy of the vote count and result tabulation has been perceived as the most serious electoral problem. In 2010, however, when COMELEC adopted an optical scanning system for the national elections—a move seen by many as having somehow addressed vote-counting integrity issues—interest in campaign finance issues increased. Enforcement and regulation of campaign finance only started in earnest in the last four years after the creation of the Campaign Finance Unit.

Reform areas in campaign finance law

The following sections outline areas where legal reforms could help modernize the outdated legal framework.

- ***Unreasonable cap on campaign spending.*** The law sets campaign spending limits, although there is no limit on campaign contributions. The spending limits are set at unreasonably low amounts: USD 0.06 per voter, political parties at USD 0.10 per voter, and candidates for President USD 0.21 per voter. These unrealistic spending limits do not encourage disclosure. Rationalizing the spending cap is, therefore, a desired reform.
- ***Limitations during the campaign period only.*** Technically, limitations on campaigning only apply during the campaign period, which is the period within 90 days before an election for national positions and 45 days for local positions. The filing of certificates of candidacies, however, are completed long before the start of the campaign period. However, a person is considered a candidate only at the start of the campaign period. The optical scanning system used by COMELEC in elections requires that the list of names of the candidates are finalized early on. Thus, expenditure on public announcements and advertisements after the filing of the certificates of candidacies but before the start of formal campaign period is no longer examined. This is a major gap that requires remedial legislation.

Institutional remedies and actions

As I stated earlier, an ad-hoc Campaign Finance Unit (CFU) within COMELEC was formed in 2012. The CFU undertook a more systematic and purposive management of disclosure reports. COMELEC also publishes the expense and contribution statements of candidates on its website. It is hoped that the interest generated by the publication of the reports will encourage the public to assist COMELEC in enforcing campaign finance laws and regulations.

COMELEC has undertaken more resolute efforts to prosecute violation of campaign finance laws. For example, it disqualified a provincial governor recently for overspending. With more than 700 campaign finance-related cases that COMELEC needs to address, electronic filing of documents was introduced. This made the tracking of figures easier.

In addition, COMELEC has enlisted stakeholders and other government agencies in its more aggressive advocacy for campaign finance regulation reform. It undertook to enter into information and data sharing agreements with other government agencies, to enable it to perform its regulatory role well. It has engaged civil society's support in enforcing the law and has been actively advocating for reform in campaign finance laws. COMELEC has also supported efforts to pass a law that will help develop political parties.

To strengthen its efforts, COMELEC recently entered into MOUs with the Bureau of Internal Revenue and Securities and Exchange Commission. It also is looking to do the same with the Anti-Money Laundering Council and Office of the Ombudsman:

The MOU with the Bureau of Internal Revenue (the national tax authority) covers data and information sharing, to check donation beyond reported expenses for it to be considered as income of candidates. The Bureau imposes a donor tax on unreported donations, while reported donations are exempt from tax. The internal revenue office ruled that if any party or candidate receives more than they spend, that would be considered taxable income.

The MOU with the Securities and Exchange Commission (the regulator of juridical entities) covers data and information sharing to look into corporate shells and attempts

to hide possible violation of contribution laws from prohibited sectors.

An agreement with the Anti-Money Laundering Council could monitor the movement of money used, or to be used for, illegal political contribution. Similarly, an agreement with the Office of the Ombudsman (the anti-corruption body), the Commission on Audit, and the other members of the Anti-Corruption Network in Government could cover information and data sharing on matters relevant to regulating campaign finance.

There are ongoing initiatives for all oversight institutions to come together to explore the possibility of a data-sharing arrangement. Figure 8 shows the proposed inputs these agencies would contribute in strengthening and tightening the enforcement of campaign finance rules.

Figure 8. Linkages between COMELEC and other institutions

Institutional Linkages			
The Bureau of Internal Revenue	The Securities and Exchange Commission	Anti-Money Laundering Council	Anti-Corruption Network in Government
<ul style="list-style-type: none"> • Data and information sharing • Donation beyond reported expenses are considered income of candidates • Unreported donation will be imposed donor's tax (Reported donations are exempt from donor's tax) 	<ul style="list-style-type: none"> • Data and information sharing through a Memorandum of Agreement • To look into corporate shells and attempt hide possible violation of contribution laws 	<ul style="list-style-type: none"> • Monitor the movement of money used or to be used for illicit political contribution 	<ul style="list-style-type: none"> • Information and Data Sharing with the Ombudsman (Anti-corruption body, Audit Commission, Civil Service Commission, etc.)

Engaging CSOs and the media in political finance regulation and enforcement

The recent reforms in COMELEC's campaign finance regulations were energized by the active participation of civil society organizations (CSOs). While campaign finance laws have been in existence for about 40 years already, there has not been significant development until CSOs became active and engaged with COMELEC. CSOs conducted series of round-table discussions with stakeholders on campaign finance issue. They undertook a project to monitor campaign finance practices of candidates. They counted posters and observed political media advertisements.

Media practitioners were also trained on campaign finance reporting and investigative journalism. A media group, the Philippine Center for Investigative Journalism, created its own website on money and politics to publish the financial reports of candidates electronically, compared or cross-matched with the asset disclosures all civil servants are required to make. It revealed insights into the disproportionality between the declared expenses and the actual expenses of some candidates. There were top donors who were

not even in the list of top 100 taxpayers in the country. The website provided campaign finance data from COMELEC, cross-matched with records from the anti-corruption agency (asset disclosure reports), and from the Securities and Exchange Commission (financial reports of entities).

Data collation and comparison resulted in insightful findings. The engagement of CSOs in the implementation of the campaign finance laws has elevated the level of public awareness on the nature and importance of political finance regulations. It has also increased public understanding of the impact of the use of money in elections.

Taking stock and taking action

The engagement with CSOs prompted COMELEC to take stock of its own lack of capacity and skills. The institution responded by instigating a more deliberate engagement with external stakeholders. COMELEC was able to bridge some of our capacity gaps by linking with election monitoring organizations, and with lawyers' groups. Our effort to ensure that disclosures of reports be made available to the public encouraged direct public support. Citizens' support in the enforcement of campaign finance law is critical as this provides grounded information leading to more effective enforcement.

Conclusion

There are insights to be learned from the uphill but crucial duty to enforce and regulate political finance laws in the Philippines. Good governance and effective public service delivery must be the overriding framework in designing an effective political finance regulation regime. Political finance is not just an election issue, it is a governance issue. Therefore, advocacy for campaign finance should be an inter-agency and intersectoral effort. The Justice Department and law enforcement agencies should also be actively involved.

Using the benefits of technology, modern communication facilities and social media, there are many changes taking place. There are many lessons to be learned from other countries harnessing ICT tools for political finance monitoring and knowing more about the best practices. Finally, and most significantly, resolute and consistent political will to enforce political finance laws is important.



Ritesh Kumar Shakya

Under Secretary (Finance), Commission for the Investigation of Abuse of Authority, Federal Democratic Republic of Nepal

The Commission for the Investigation of Abuse of Authority (CIAA) is a prominent anti-corruption institution in Nepal. It is a constitutionally created body, established in 1991. The Constitution of Nepal empowers the CIAA to investigate cases against the persons holding any public office and

their associates who are accused in any way of corruption, and gives it authority to prosecute corruption cases. Along with the CIAA, other agencies are directly, indirectly or partially responsible for anti-corruption measures: the National Vigilance Center (NVC), the Special Court, the Office of the Attorney General, the Judicial Council, the Office of Auditor General, the Election Commission of Nepal, the Revenue Investigation Department, the Department of Money Laundering Investigation, the Nepal Rastra Bank (Central Bank of Nepal), the Central Investigation Bureau, the Independent Review Committee, the Central Arrears Collection Office and parliamentary committees such as the Public Accounts Committee and the State Affairs Committee, as well as Offices of Regional Administration and the CDDS, and the Office of the Financial Controller General.

Along with the Constitution of Nepal, the Commission for the Investigation of Abuse of Authority Act 1991, the Corruption Prevention Act 2002, the Money Laundering Prevention Act 2008, the Special Court Act 2002, the Impeachment Act 2002, the Banking and Financial Institution Act 2007, the Banking Offences and Punishment Act 2008, the Acts and Rules relating to the civil service, the Election Commission Act 2007, the Political Parties Act 2002, the Anti-defection Act 1997 and the Electoral Code of Conduct are just some of the effective measures to monitor political finance and corruption. While, in principle, these instruments are sufficient, in practice enforcement is problematic. Many of the law enforcement measures available in these instruments are commendable, but there are some grey areas.

The CIAA is responsible for investigation and prosecution of corruption linked to public funds. It also has the authority to take departmental action against any public official for improper conduct. Thus, it has two distinct authorities: one as investigator and the other as prosecutor. It also has preventive and promotional roles. In this connection, it collaborates with the various civil society organizations, the media, NGOs, the public and other governmental agencies to prevent corruption and promote public awareness. It thus works as an Ombudsman in investigation and prosecution, and as an adviser too.

The CIAA has been able to gain the trust of the people in the past two years due to its effective performance and independent nature. At present, it is considering ways to strengthen public, civil society and media involvement in its investigations. Due to increased public awareness, it received more than 31,000 complaints last year, and they are increasing.¹⁵ This is a reflection of the increased awareness of corruption controls, and an earnest desire to report corruption to bring about change. There are also compulsory disclosures from public entities and offices: people can ask for information and this has facilitated some level of transparency. It is compulsory for any politician holding a public position and for civil servants to declare their assets every year under the CIAA act. Any failure to disclose can lead to a CIAA fine as well as an investigation of that person's assets and income.

¹⁵ CIAA Annual Report, 2015–16, Page 2

Figure 9. The role of Nepal's CIAA

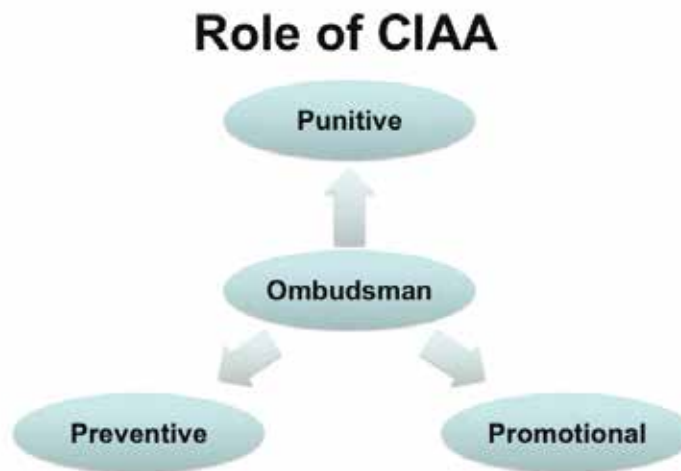
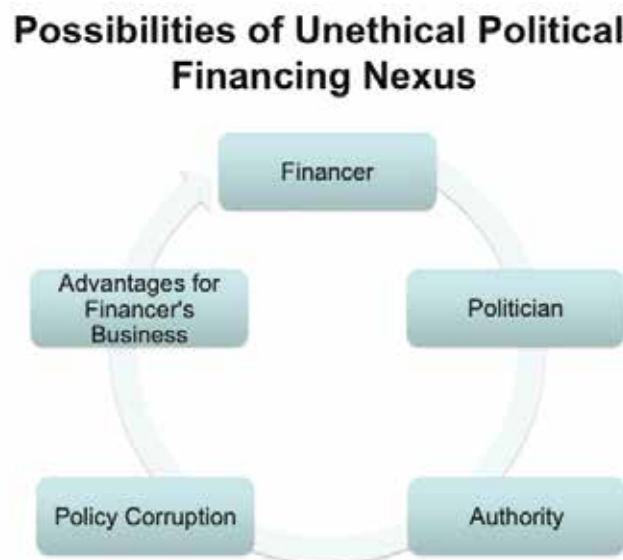


Figure 10. Nepal's possibilities of unethical political financing nexus



There are various means of funding political parties in Nepal. These include a political party's membership fees, along with regular contributions from members as a levy, and some party members who hold public posts also pay an extra levy to the party. There are also fundraising events through trade unions, other sister organizations and the Nepali diasporas. Some party members use their own businesses to contribute to the party for its operational costs. Some politicians use their own resources during elections to pay for full-time cadres, party officials and volunteers to work for them. Restrictions on foreign donations being given directly to a political party mean that most parties use their sister organizations abroad and non-resident Nepali diasporas as members to send foreign donations back home, especially when there is no limitation on such donations.

Any private contributor can donate any amount of money as long as they prove their identity and the source of the resources through which they are paying.

Political parties are obliged to conduct an audit and produce financial statements annually. Financial donations to political parties, and to politicians above USD 49, have to be conducted via banking or financial institutions.¹⁶ Political parties have to disclose the identity and profession of donors who have donated more than USD 243 in their annual report.¹⁷ If the amount of a transaction, cash withdrawal or deposit is more than USD 9,712, it can be investigated by the Central Bank of Nepal.¹⁸ The CIAA works in close coordination with the Central Bank and both cooperate internally with each other.

Nepal does not have any concept of public funding. Nor is there any subsidy for a political party or politicians. If there were public or state funding available to parties on a regulated basis, this would curtail the influence of corporate funders, business groups and other donors, including public servants. Legally financed subsidies, if regulated and sustained, would go a long way to curtailing political finance corruption in Nepal. Concerns have been expressed that if subsidy or public funding is given to political parties, they could get double benefit, as political funding would not end. The funding practice and the intention of the funding are different. The intention of the funding is to gain access to power, proximity to authority, and in some instances to legalize or legitimize laundered money, and get benefits from the authority of politicians once they win public position. Parties and politicians are compromised if their funding is unethical. Some financiers may provide money to get the benefit of their power and seek returned favours. They see it as a long term investment in a particular political party, which they see as providing benefits to their business when in power. Recently, some provision of subsidy to political parties through public funding has been under discussion in a draft political parties act. However, for such a development to take place, political parties must be part of the solution, and they must also abide by a code of conduct. The media can encourage and motivate them by being impartial and raising public awareness of the issue.

The CIAA faces a number of challenges. As an independent constitutional body, the Commission and its Commissioners are accountable to parliament, and political influence has been used in the appointment of commissioners. The jurisdiction of the CIAA extends to public post holders, and it can track and investigate transactions of public finance. While the CIAA coordinates its work with various agencies working on anti-corruption measures, the main nexus and chain remains within the private sector, where the agency does not have jurisdiction. It can only share its information with agencies like the Department of Revenue, for the Anti-Money Laundering Department to continue to take action. The CIAA cannot impose actions on the private sector. The power to take concrete and concerted action is scattered across various agencies, and it is difficult to establish a single chain of command to consolidate and execute the necessary action plan if any evidence is found. On the political financing front, unethical practices and non-transparent financial transactions are taking place in business contributions to political party and politicians. This is one of the main problems to crack. The major

¹⁶ Nepal Election Code of Conduct, 2015, Section 5

¹⁷ Nepal Political Parties Act (2058), 2002, Section 12

¹⁸ Nepal Rastra Bank Unified Directives, 2015, Page 278

challenge is during elections, when voters are provided with cash benefits, which becomes a vote-buying issue, and monitoring this is difficult as parties risk being dissolved if discovered. Funds are also being used to either create new parties, or break political parties. The influence of big finance undermines citizens' participation, while it is directly linked with political financing and some parties get money and benefits, which indirectly undermines citizens' electoral choice and participation. The CIAA only tracks public office holders and the public finance sector but most of the political finance sources are in the private sector, so the CIAA faces challenges and problems in tracking the nexus in this sector, as it does not have jurisdiction.

The CIAA can take two measures: one against corruption and the other against improper conduct. The CIAA is required to track, establish corruption cases through financial transactions and to show the amount, and only then can the case be successful. However, it is difficult to track financial transactions even if it is possible to identify improper conduct. While charges could be brought against a public official for improper conduct in an earlier constitution, this authority has been curtailed in the new constitution. There are difficulties in proving that monetary transactions have taken place between financiers, corporations and political parties. This makes the cases weak under the CIAA. In order to overcome these challenges, it has started to coordinate with the money-laundering investigation department and the revenue investigation department, and to approach other executive departments for their support and help in tracking finances. The agency has problems tracking payments and transactions. There are also limitations on expertise and a lack of technological know-how in tracking political corruption and financial transactions. The measures needed to enforce the anti-corruption provisions under UN Convention Against Corruption (UNCAC) have been scattered among various agencies and legal frameworks. However, efforts are under way to incorporate additional authorities under the CIAA into the new Constitution. To control illegitimate political finance and corruption effectively, there is a need to operate under a single anti-corruption Umbrella Act through a body with strong executive powers and functions, and to make the CIAA that body. The authorities must strengthen it. In the long run, the CIAA should have its own trained cadres with skills in political finance tracking and monitoring.

There is a need for the CIAA to have strong legal teeth to allow it to take action, and jurisdiction over the public and private sector to ensure effective and efficient monitoring of political finance and corruption. The Election Commission of Nepal must be got on board to address these challenges, and the electoral law must be reviewed. The Election Commission of Nepal should be empowered to take action, and develop a strong working relationship with the CIAA to find country-specific solutions to its own problems. The CIAA has coordinated with media, NGOs and other civil society groups, which has been very helpful for informers and whistle-blowers in certain corruption cases. Social media has also been very useful in bringing out information on certain cases. Some NGOs and civil society groups are campaigning against corrupt politicians and parties. As the Nepalese media becomes more powerful and independent, and investigative journalism develops in the country, it is hoped that such developments can help to check political finance corruption.

Session discussions

Laws exist on sources of income for political parties in countries like Tunisia, the Philippines and Nepal, but there are no subsidies currently provided by the state. Indonesia provides 1 per cent per vote to all political parties in state subsidy.

Can the state ask for a report based on the money given to a political party? Can the government demand reports regarding political party campaign financing in the absence of direct funding from the government? Have any political parties been sanctioned recently? Despite the use of freedom of information acts, political parties can still avoid providing information on their financing.

The Tunisian Court of Account prepares its report in approximately six months, and this is considered good practice, but concerns were expressed about the report reflecting the reality of political finance on the ground.

What are the conditions that allow Tunisia to achieve a report that reflects the reality? Are there concerns and problems regarding institutional independence? How are the members of the institution selected? Do the members face any sanctions if they are found to be biased in their job?

In the Philippines, the Election Commission has linked itself with other agencies in order to gather big data. How well has it worked? What are the ongoing challenges? How are these currently being tackled? Are other agencies willing to cooperate with COMELEC in the Philippines?

In Nepal, the discussion reflected the need for a single umbrella agency, but have any efforts been made to seek good collaboration and understanding between the numerous agencies? Does everyone have a good reflection and understanding of their role in the big picture of monitoring political finance and countering corruption?

Given the lack of professional expertise in most Asian and African countries: how are the audits verified of the financial statements received? Is there a National Audit Body, observer, or commission that looks at the election campaign statements and reports? Mongolia revised its 2012 Electoral Law and provides the National Audit Office with the power to receive financial statement and audits, both during the elections and in non-electoral periods.

While some of the Election Commissions and/or investigating agencies collaborate and cooperate with CSOs, the media and NGOs, are there any formal agreements or memoranda of understanding or cooperation agreements with a public watchdog or organization of some kind that relate to oversight or enforcement of the financing rules and regulations?

The Philippines has in-house auditing capacity but Nepal's the CIAA does not have any full time staff of its own. People are seconded from other ministries to the CIAA, but can be recalled at any time to their respective ministries.

In African countries, the challenge is the ability of practitioners or the legal profession to interpret the system, to the advantage of either the politician or the enforcement body. Until jurisprudence is established around particular acts of parliamentary law on

party financing, the rules and regulations are open to interpretation, and thus become subject to those interpretations. It requires the Apex Court to give a definitive ruling, understanding the intention of the legislation and how it should be applied.



Image: Dr Khalid, Judge Fadhila, Commissioner Luie, Mr Ritesh, and Former Commissioner Mr Neel listening to the ongoing session presentation on political finance regulations

Money is a barrier to political participation in any jurisdiction anywhere. While many countries adopt regulation, spending limits are intended to level the playing field so that everyone is potentially able to participate in an election. In the Philippines, nobody cared about the influence of money in politics prior to 2007. Everyone talked about the ills of vote buying, of someone overspending or maybe illegal money coming into the campaign. Everyone talks about the issue now, but no one talks about it from an electoral perspective. No one cares: it is something that everyone accepts. Everyone thought that it was part of what an election was, until there was a focused effort to discuss it as an electoral issue. Conflict of interest arises when the source of funds is from business groups. Suddenly media practitioners are reporting the importance of how much this candidate might spend, or how much this candidate is spending, as it relates to how he will govern if he wins. In other words, it is the impact of money on the outcome of the election that must be put into the public consciousness, and this has happened in the Philippines.

Now candidates have become conscious of how much they receive and spend, how they write their reports and file them with COMELEC, when they did not care before. It is a slow process but when people start to listen, and to appreciate the importance of looking at the influence of money in politics, politicians notice. It is slowly becoming an election issue and a campaign issue. People have started asking: how much are you spending? How are you going to recover that? Now you see investigative journalists talking about elections as a venture capitalism thing: you invest in an election because you want something in return. This was not discussed widely before. Now there is an impetus towards coming up with a Campaign Finance Report in Political Party Development Law. The issue has been pending in Congress for the past 15 years, but never been passed.

With a three-year electoral cycle in the Philippines, local government officials have at the most three consecutive three year terms, while the president has a six-year term with

no re-election, and the constitution does not allow votes for parties, except under the limited party system, which discourages party building. Individuals therefore become important, as the system is single member district First Past The Post, which does not promote teamwork in a party. The electoral system is the main culprit in promoting the political culture of personality-based elections. There is a desire for change, but the environment is slow to adapt, and the demand has to be created among the public by increasing public awareness about the importance of money in politics, thereby creating public demand for the political elites to respond and take corrective action.

Most legal professionals are not aware of the main issues, and so they provide their clients with little or no information about political finance. This gets their clients into trouble with the Election Commission, especially while preparing reports, as many believe that no report is required if there is no subsidy. However, the law requires a report regardless of whether there is subsidy. The interlinking of agencies to address political finance corruption has been successful at strengthening information sharing. It is a new effort so how successful it will be is too early to say. There has been some resistance and bureaucracy, and it has been met with some suspicion from other government units. The initiative on interlinking came from civil society organizations, as they were trying to forge partnerships on data sharing with and among government institutions and to become an inter-agency information-sharing hub between them.

COMELEC has entered into a memorandum of understanding with the Association of Certified Public Accountants, as the Commission lacks professional in-depth knowledge internally. The same is true of many legal aspects, and so it is engaging with a group of lawyers who have volunteered to work on campaign finance monitoring. These are some of the measures that the Commission is taking to address the capacity gap, and find alternative measures by engaging other groups outside the agency.

Civil society participation in the transitional democratic process is what helped Tunisia to successfully build its democratic institutions, and push legal developments and transparency, including international support. An independent judge heads the Tunisian Court of Account, and ensures that the court work is run in accordance with international standards. The report of the Court of Account notes all infractions committed by candidates or political parties, and applies sanctions against candidates who do not comply with or respect the regulations. The report is peer-reviewed at a general meeting of all members to approve all the reports of the court; and the Head Magistrate of the Court is present at all the meetings, even at the lowest level.

Nepal does not currently have any concept of public funding. Nor is there any subsidy for any political parties or politicians. Concerns have been expressed that if a subsidy or public funding is given to political parties, they could get double the benefit as political funding would not end. Funding practice and intentions about funding are two different things. The intention of the funding is to get close to power, or achieve closeness to authority, in some instances to legalize or legitimize laundered money and to obtain benefits from the authorities and politicians once they are in public positions. With public funding also available, politicians and political parties would be getting other money they can use for vote buying to win elections and drive political processes. These are contested issues in Nepal and no final decision has been taken.

Although legal provisions exist for political parties to audit their annual financial statements and disclose them publicly, they are yet to be made operational. Many political parties declare unbelievably low financial spending, which is sometimes less than their own candidates' expenses in an election. Reports like these are unrealistic and there are a lot of unseen transactions taking place to hide actual income and spending. There have been no sanctions imposed by the Election Commission against any candidate or party for improper conduct on financial management or on reporting of political finance.

The CIAA does coordinate its work with the various agencies working on anti-corruption measures. The main nexus and chain lie in the private sector where the agency has no jurisdiction. It can only share the information with the Revenue and Justice Department, and ask the Anti-Money Laundering Department to continue to take action, but the agency cannot insist that actions are taken. The power to take concrete and concerted action is scattered across various agencies, and it is difficult to get a coordinated, single chain of command to consolidate and execute the necessary action if any evidence is found. Thus there is a need for the CIAA to have strong legal teeth and jurisdiction over both the public and the private sector to ensure effective and efficient monitoring of political finance and corruption.

Session 4. Case study presentations: Political finance monitoring, disclosure and reporting



Prasana K. Dash

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Democracy is not merely a change of form of government, it involves a change of heart. (Mahatma Gandhi)

In the recently held 16th Lok Sabha (House of the People/Lower House) elections in India, it was not only white money, but also black money, grey money, tainted money and all sorts of money that came into the political arena. Political finance covers both party finance and campaign finance. The Indian Constitution stipulates the First Past The Post system (FPTP) for elections to the lower house by more than 814 million voters.

There is a highly proactive Election Commission, the Election Commission of India (ECI), which is noted the world over for holding a complex and huge election with competence and setting benchmarks for the conduct of elections not only in the country, but also internationally.

The most recent Lok Sabha elections, conducted in 2014, portray the challenging job of tracking expenditure by political parties across the length and breadth of India—a continent in itself. The pattern of expenditure by all political parties in the various activities of the election campaign were: 7.5 per cent on the mass media, television and radio; campaign materials expenses, 14 per cent; travel and logistics, about 32.3 per cent; personnel deployment expenses, 10 per cent; and other, 7 per cent. These are only the official expenses reported, but quite a lot of the campaign expenditure is now reported by parties.

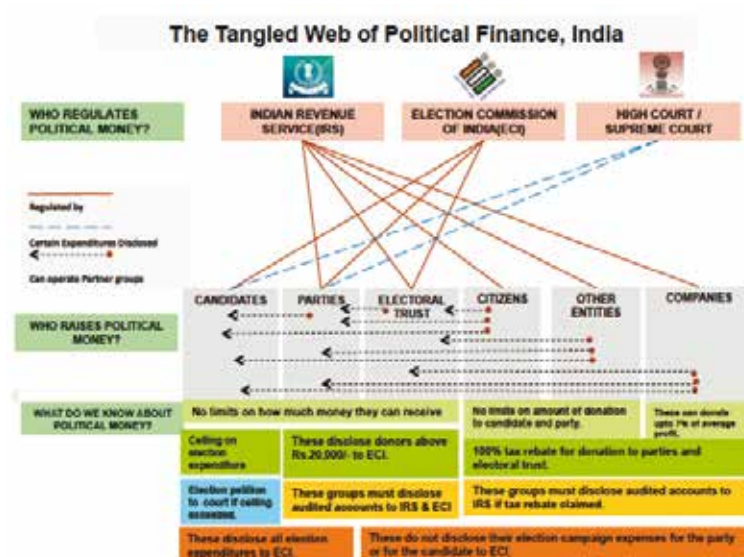
In spite of its best efforts, the ECI has not so far been able to enforce correct disclosure of accounts by the parties—that is the problem area. With official ceilings on the candidates, enforcing correct accounts in a cash economy and the problem of vote buying were the major challenges in the recent election, particularly since the liberalization and globalization of the Indian economy, as more and more business people and tycoons are entering politics and playing key roles in political party affairs. The job of the ECI in controlling campaign expenditure has been made much more challenging and much tougher.

The role of the ECI is to ensure that the expenditure of the candidates is kept under the prescribed ceiling and that illegal expenditure, such as the distribution of money, gifts, liquor and any other bribes among the electors in order to influence them, is curbed. The ceiling of the 15th Lok Sabha elections was about USD 0.11 million. This ceiling was increased almost 2.5 times on the eve of the 16th elections, for Lok Sabha candidates. In the State Assembly elections, the candidate's ceiling was raised to USD 43,000.

The ECI faces difficult challenges in the case of paid for news by the media, as this is a grey area. In the case of paid news, the media comes up with fake opinion polls, which taint others and create public opinion in favour of a particular political party or a candidate, who has paid huge sum for this. The media in India is considered free and vibrant, with more than 1000 media groups operating in the country. Although some are owned by business houses aligned to a particular party, and some are owned directly by political parties, people generally avoid such channels or consider them partial to the party that owns them.

The political parties raise funds from individuals and the corporate sector. There is a corporate limit on donations pegged at 7 per cent of their average profit in the previous three years. As the Indian economy grows, 7 per cent of the profits of a company can come to several hundred million US dollars. Therefore, if a big corporation donates to a particular party, it is a huge amount and the ceiling of 7 per cent is meaningless. The corporate sector is supposed to disclose donations to political parties in their annual reports, but their annual audited accounts are sent to the Ministry of Corporate Affairs, and the Income Tax Department not to the ECI. Therefore, the ECI issues administrative instructions to the political parties to submit their annual audited accounts to the ECI every year, but it is still in the process of enforcing full compliance. When the ECI receives such a report, it puts it on its website for public viewing and asks the corporate affairs department and the income tax department for the necessary verification. This is an area where the ECI faces problems in enforcing compliance by parties in the absence of a law to penalize defaulters.

Figure 11. India's tangled web of political finance



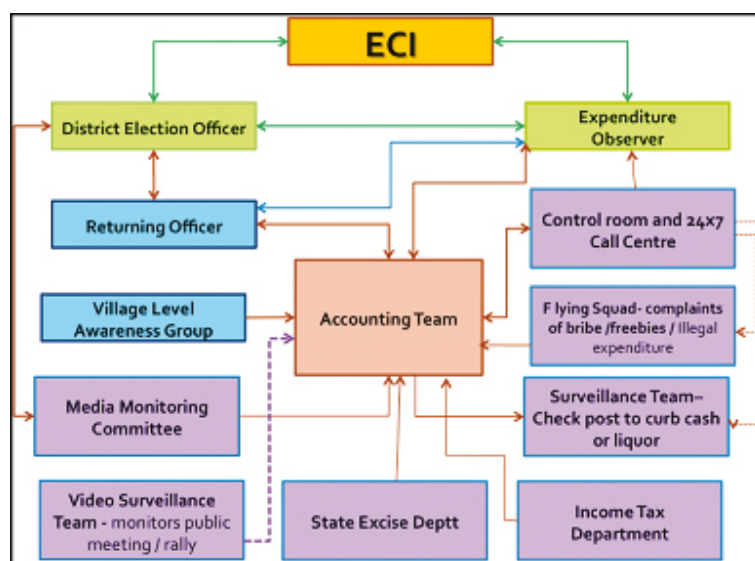
Other business firms, trusts and judicial persons can donate any amount without restriction. There is a new concept of an electoral Trust, a new entity that has come into being in India since the government has allowed donations to such trusts to be tax exempt. There are no laws or rules to control their accounts or to ask for disclosure. The ECI has issued instructions to such trusts to disclose their accounts but in the absence of legal penalties, compliance with the ECI instruction by electoral trusts is another problem area. Legislation is needed in this area.

There is partial state funding in India, as any donation to political parties or electoral trusts is exempt from income tax. Political parties are free to receive donations from any individual, trust or entity, with prohibitions on donations from foreign sources, loss-making companies and government bodies. Non-resident Indians who remain abroad can donate to a political party in India, and it is not clear whether they have their own resources or take funds from foreign sources with a view to influencing the political system in India.

India has the least legislation in the electoral and political finance area, and what law does exist is ambiguous. The Indian Constitution does not contain the words political finance or political party, but seemingly provides for multiparty democracy. There is law on the registration of political parties but there is no law on their deregistration. As a result, there are 1,840 political parties registered according to the most recent information. The ECI does not have any power to deregister them. In post-independence India, the framers of the constitution probably did not envisage that India would be a multi-party democracy after 60 years of independence.

The Representation of the People Act, 1951 defines how political parties are registered but does not mention deregistration. The ECI therefore faces the problem of having too many political parties but being unable to deregister those that are not functioning. The ECI has suggested electoral reform to bring in deregistration, but the parties benefit from the current legal loopholes and are not prepared to allow a new law to be passed. There has been only one amendment to the Representation of People's Act (in 2010), which says that political parties must submit annual contribution reports to the ECI.

Figure 12. ECI coordination at the national and local levels



As noted above, there is partial state funding of elections as corporate and business entities that donate to a political party enjoy 100 per cent tax exemption on the donation amount. No taxes are paid by the party receiving the donations either. This is partial and indirect state funding, as the state forgoes its 30 per cent tax revenue, which it would have collected under the normal tax law.

Second, the ECI allows some free airtime to political parties during elections, but only on state-owned electronic media, not privately owned television channels. This does not translate into a very great benefit for the political party as there is not a big audience for state television. Third, the ECI gives a free copy of the printed electoral roll to all the political parties. Finally, the government gives some free office accommodation in the state capital to recognized political parties that receive a certain percentage of the vote.

Otherwise, there is no direct state funding. The Indian Law Commission submitted a report recently recommending that the ECI consider more of in-kind subsidy for political parties. National consultations with all the political parties, the media, CSOs, the intelligentsia, advocates, lawyers and concerned citizens were carried out by the ECI and it is examining concerns about whether in-kind subsidy should be increased.

There are disclosure requirements under the existing system of regulation. An annual contribution report must be submitted to the ECI on donations in excess of USD 302 from a single person or entity. However, political parties file incorrect reports and report on only about 20 per cent of total funds using the names and addresses of the donors, the remaining 80 per cent is shown as anonymous donations. Most of the donations are reported as received in cash or as below the specified ceiling of USD 302, to avoid disclosing the names of the donors. The ECI also faces challenges as some political parties raise USD 30 million or more, but do not submit a contribution report to the commission or disclose any names of donors. This continues to be a problem as the funds raised remain secret and there is no transparency.

Auditors certified as Chartered Accountants must audit the accounts of the political parties, but the ECI does not have any role in their appointment. Political parties have their own appointed auditors who audit their accounts, and only cursory reports are filed with the commission. According to Court decisions, the election expenditure statement must be filed with the ECI by the political party within 90 days of the election, which makes these reports public by putting it on its website. There is no law for penalizing default or the provision of incorrect information.

The ECI issued transparency guidelines for the parties after several rounds of discussion, having reached consensus on agreed points on avoiding cash transactions. These lack teeth, however, as there is no civil penalty for violations. In the absence of any legal framework, the ECI used consensus building among political parties as a method and instrument for developing the guidelines. The guidelines mention that the name and address of donors should be stored by the party if the donation is more than USD 15. They do not have to disclose this to the commission but, as the law says, disclosure is required when the donation exceeds USD 313.

So, although the Commission could not amend the law, it was able to convince the political parties to maintain their donors' database for all donations received over USD 15 from a person or entity in a single year.

On the consensus-based guidelines, the Commission has the leverage to check the accounts of political parties and because a precedent has been set, it can now develop further guidelines using the same procedure. Under India's Right to Information Act, political parties are treated as public agents. Anybody can now ask for a copy of their accounts and know the names and addresses of donors. So even if they do not disclose the smaller donations to the ECI, maintenance of the donors' database will enable the public to know from where the political parties have got their funding. This was an indirect way for the Commission to get results because there is no explicit legal provision in the country regarding the disclosure of names of donors of less than USD 302.

Cash payments by the parties exceeding USD 302 are prohibited by the ECI. Political parties are required to incur expenditure and make payments through bank account transfers. This is a challenge in India, which is a cash-based economy. Most expenditure occurs in cash, and cash is preferred by people as it leaves no trail.

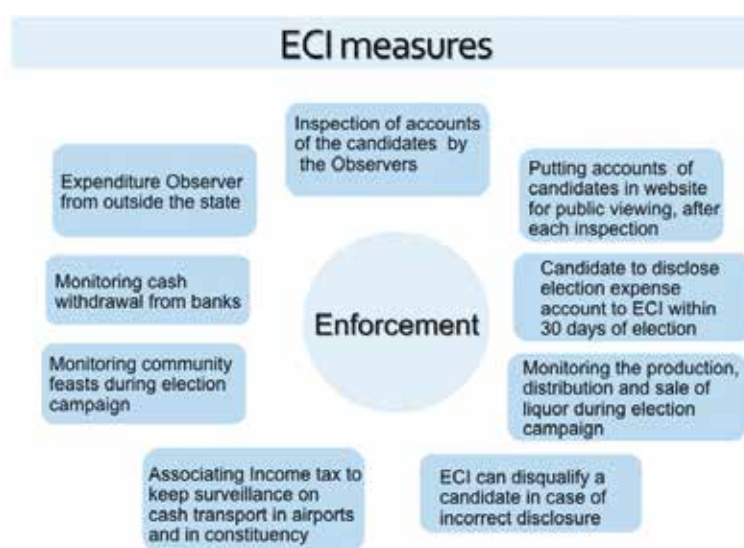
The Commission has also forced parties to receive donations through bank accounts and not in cash, and has restricted receiving donations in cash to public rallies. Any such cash received by the party must be deposited in a bank within 10 days. As noted above, the Indian Revenue Service or the Income Tax Department control citizens' donations, electoral trusts and the parties and other entities. The ECI receives accounts and reports from the political parties and electoral trusts as well as candidates' reports.

The High Courts and the Supreme Court can ask for any account details of any political party and candidate. Under the law, if the candidate exceeds the ceiling on expenditure a complaint petition can be filed in the High Court, which has the authority to disqualify the candidate. By virtue of a Supreme Court judgment, the ECI has the power to disqualify a candidate if that candidate has not maintained his or her accounts correctly. So even if the account does not exceed the ceiling, if she/he has not disclosed the accounts correctly, the ECI can issue a disqualification notice. The Commission has disqualified around 2500 defeated candidates and, for the first time in its history, a winning candidate was recently disqualified by order of the ECI.

The ECI controls campaign expenditure through a tangled web of control mechanisms (see Figure 12, and Figure 13) with the help of Flying Squads and surveillance teams. Candidates are allowed to raise funds from any source, not just from political parties. The Commission has issued regulations that a candidate must open a bank account before the election for campaign purposes and must deposit all the money they are going to use for the elections in that bank account. This helps the ECI to restrict the cash economy to some extent and monitor the expenditure incurred from the account.

During the election process, the candidates are required to produce their accounts before the Independent Election Observer for inspection, which the Commission appoints, three times. Any discrepancy noted by the observer is put on the noticeboard and on the website for public viewing. All candidates are required to close their accounts after the election is over, and the accounts are required to be submitted to the ECI within 30 days of the election. A candidate can be disqualified if the accounts are not disclosed to the ECI in time and in the manner prescribed.

Figure 13. ECI political finance expenditure control measures



The Supreme Court and the ECI have put restrictions on the transportation of cash during elections, as the country is primarily a cash economy. The Supreme Court has allowed the ECI to appoint Flying Squads and teams to monitor cash movements on the road from the date the election is declared until the election is completed. Combining this with the innovative Model Code of Conduct, which is not a law but has achieved consensus among political parties, the ECI regulates political parties and the use of the government machinery during elections. There has been good progress in this area.

The parties promise many freebies to voters before an election in order to induce them to vote for them. According to a Supreme Court judgment, a party must indicate in its political manifesto the method of raising resources to pay for the promises of freebies to voters. How the party will mobilize the resources to fund promises of free education, free meals, providing televisions, and so on, has to be mentioned in the manifesto, as well as whether the money will be raised by extra taxation or by other means.

The Symbols Order issued by the ECI allots symbols to a party to develop its campaign brand. The ECI has the power to withdraw these symbols if a party violates the lawful instructions of the ECI. This is used by the ECI as one of the restrictive powers against parties, and is a major threat that ensures parties comply with ECI instructions.

Where there is unaccounted expenditure by the candidate, where business people sponsor print media advertisements without their authorization, this sometimes goes against the candidates. The Supreme Court has also directed pre-certification of all electronic advertisements by the party or candidate by the ECI, so that there is control of electronic media advertising. But for the print media, one has only to indicate the source and who financed it. There is no requirement for disclosure before the advertisement is published in the newspaper. The major challenge for the ECI, as mentioned above, is that of paid for news during elections. The ECI has plenary powers so that if areas are not covered under any law, the ECI can issue guidelines and instructions to the

candidate and the party, which are binding on them. This was used by the ECI to develop the Model Code of Conduct and other instructions during elections.

The ECI also takes several preventive measures during elections, such as mounting a campaign for ethical voting, and considerable spending is carried out for this purpose by the ECI. The ECI spent almost USD 200 million during the most recent elections on voters' education, and getting a pledge letter signed from more than 300 million voters not to accept any bribes during the elections. The ECI involved schools, colleges, civil society and concerned stakeholders.

There were mechanisms used during the recent elections, such as an accounting team and an expenditure observer group from Central Government, but not belonging to the state, to inspect the accounts of the candidates and political parties. There was a control room and a compliance-monitoring centre in each district, and the public was encouraged to call a toll free number to register complaints. There are 3–4 flying squads in each constituency, which can immediately reach the spot to detect malpractice and document it with a video camera for evidence, which is put in the public domain.

There are also surveillance teams in each constituency to detect the movement of cash in the constituency during elections. The ECI is associated with the Income Tax Department so that if any black money is found during the election campaign period, it can seize it. The ECI also gets the State Excise Department to seize liquor and to control illegal sales that exceed normal sales during elections.

The ECI also sets up a Media Monitoring Committee in each constituency, which scans all the newspapers and electronic media, and records the estimated expenditure of parties and candidates in that media. A report is then sent to the accounting team, which maintains details for each candidate. The District Accounting Team maintains all the details in a shadow register for each candidate. When reports come in from the flying squad, surveillance team, media team and village level awareness groups, if there are any discrepancies, then a notice is issued immediately to the candidate, so that the candidate is informed instantly of any violations. These are also put in the public domain, including the media, as well as details of what or how much the candidate is spending during the election.

Each week during the election campaign, accounts of candidates are inspected and copies are put on the website for public viewing, including any notices issued. There is monitoring of all cash withdrawals during the election and monitoring of community feasts held during the campaign. Parties and candidates sometimes offer community feasts for voters before elections in order to induce people to vote for them. These are stopped by the ECI during the election, unless they are private events such as weddings or social functions.

During the recent Lok Sabha election, the ECI seized USD 47.46 million in cash and 65.9 million litres of liquor, equivalent to around 11 full-sized swimming pools, with a valued of USD 14.34 million, ready for distribution among voters. There was also a huge seizure of drugs, almost 48,000 kg intended for distribution during the election.

While the Commission has achieved some success, it has been criticized for not being able to fully control campaign expenditure. The Courts have supported the ECI by

examining its instructions and upholding its decisions. Hopefully, with the passage of time and with more aware voters, the ECI's job will get easier in the future.



Neel Kantha Uprety

Former Chief Election Commissioner, Election Commission of Nepal, Federal Democratic Republic of Nepal

'Political corruption is a serious threat to nascent democracies, until a democracy is fully democratized and it becomes a threat to all kinds of corruption.'

The role of political parties is vital when talking about institutionalizing and sustaining democracy. Political parties are often considered the pillars of any representative democratic system. They are an essential element of the organization of a modern democratic polity and are crucial for the expression and manifestation of political pluralism. They are instrumental in enhancing the credibility and legitimacy of any governance system. In other words, they are the institutions that have a direct interface with people, and are supposed to be accountable to them. In a multiparty democracy only political parties compete for political power, generate democratic government and shape public policy.

Through electoral process parties gain legitimacy for their plans, policies and programmes, and assume power to govern the nation. Failure to address popular concerns and aspirations means that there is every possibility that people will reject them in elections. In order to restore and preserve citizens' trust in political parties and politicians, it is essential that they should be regulated by clear and unambiguous rules and that their financial transactions are systematic and transparent.

Political party finance: An overview with reference to Nepal

It has become imperative for parties to be more assertive and visible, for which they need substantial financial resources. To be able to perform the tasks expected of them, political parties need to generate an income. Access to media, materials and human resource depends, to a large extent, on the availability of money. Money matters in politics, through which the health and strength of a democracy is enhanced. In a state of acute shortage of financial resources, many political parties with ideal visions, sound principles and robust missions cannot achieve meaningful participation in governance, and eventually cease to retain the limelight.

Therefore, it is essential that any legislative or regulatory framework should contain provisions that provide political parties with sufficient room to obtain adequate resources in a lawful manner in order to transform their promises into reality. However, this money must be legitimate and not be a means of political corruption. Nevertheless, the injection of illegal and suspicious money into politics has become a matter of common concern all over the world, and a challenge to the elections management bodies (EMBs) and democracies of Asia and Africa. Buying elections and candidates are the two most

dangerous aspects of the application of illicit money by political parties and candidates to win or run in elections.

Around the world, various mechanism and means have been applied to prevent the injection of huge amounts of illegitimate money into elections: allowing parties to raise money legally for elections from individual and corporate bodies with penalties for violations, state funding of political parties, subsidies or grants of money for research activities and limitations on granting money to political parties by individuals and profit-making organizations. Nevertheless, the common experience is that the prevention of huge amounts of money coming into elections is easier said than done even in mature democracies.

There is always the question of a ceiling on election expenditure by a political party or a candidate. In the past two decades, the Election Commission of Nepal (ECN) has increased fourfold the spending limit for a candidate to keep it in line with inflation. However, the ceiling on election expenditure fixed by the ECN for political parties and candidates is said to be far too low compared to their actual spending.

It is becoming a matter of ridicule to hear unofficial statements by elected representative that 'he was not spending as much as his peers, but he managed to spend about five times the ceiling the ECN fixed for a candidate'. This provides an insight into spending by candidates, which appears to be more than 20 times the permitted ceiling. So, what the ceiling on expenditure should be for a candidate in an election is debatable. Some political scientists have argued that to reduce the number of violations, the spending limit should be made closer to the amount needed to spend in a political campaign. In order to control unfair contests in the election and to create a level playing field the authority of the ECN comes from the Election Commission Act, Chapters V and VI, which mandate the Election Commission to issue an Election Code of Conduct for political parties, candidates, the government and its employees.

In addition, the ECN is authorized to fix a ceiling on election expenditure for a candidate in a single member constituency under the FPTP system in the same manner as it does for political parties in the PR part of the election. The Election Commission Act, however, does not say what the limit should be or whether it should be low or high. It is a tricky business to deal with electoral campaign finance issues. If the ceiling is high the wealthier candidates would feel comfortable but what would the poorer candidates do, who might be better but cannot spend money to cover the election campaign in the constituency.

In Nepal, where the ceiling on election campaign costs for a candidate has increased fourfold over two decades, the overshooting of the ceiling by candidates has in reality not declined. The official limits mean that candidates rely on the illicit money injected by favoured corporate industries and business houses. Such unaccountable and undisclosed money in election campaigns is a severe challenge to the creation of a level playing field for all candidates. Political parties and candidates in return feel obligated and have to respond to the undisclosed donors in the form of policy changes when in power, which in turn has a detrimental effect on overall governance, let alone the fairness of the elections. In a way restrictions on campaign finance have ramifications by corrupting the entire political system of developing democracies in Asia and Africa.

In the context of Nepal it is surprising that the election expenditure accounts submitted by candidates and political parties tend to be within the permissible limits when actual expenditure generally exceeds the permitted limit. Because of the common interest in not disclosing fundraising sources, political parties and their candidates, especially the major political parties, flout the rules made for controlling money and do not report or make complaints against each other. The politics-business nexus means that both are unwilling to disclose the money politicians receive from donors. The criminal-political nexus also means that both givers and takers do not disclose details of the money they have given or received.

Suggestions

In order to prevent illicit money in elections and break the cycle of political corruption—accumulation of wealth, unlawfully using official power to contest elections without disclosing property holdings and spending the wealth in the elections to win seats, and so on—a number of direct measures are required. These include: strong penalty provisions in electoral campaign finance and related legislation and regulations; transparent mechanisms for raising funds for election campaigns; strict compliance with rules on fundraising activities; serious penalties for violations of campaign finance regulations; systematic accounting and periodic reporting; dissemination of information by EMBs on the ceiling on expenditure for political parties and candidates to enable public scrutiny; a conscious and watchful civil society; and candidate disclosure of mobile and immobile property at the time of nomination to contest the election. The problem is that political parties are the main players in elections and in the legislature. They do not want to be restrained by laws in regard to political party funding and election campaign funding.

Indirect measures

Various indirect but ultimately more effective measures could be adopted to reduce and eventually eliminate political corruption, which is becoming a severe threat to the democratic process. Political corruption is affecting the very heart of electoral integrity, transparency, legitimacy and credibility and the acceptability of elections. Indirect measures to eradicate political corruption from the democratic electoral process include: reforms of the electoral system, systematic and continual civic and electoral education and poverty alleviation through balanced economic development.

Some more perspectives on Nepal

In the context of Nepal, some legal provisions have been put in place to prevent the injection of illicit money into politics and elections. The Election Commission Act, 2013, and the Local Elections Act authorize the ECN to set limits on the expenditure of a candidate or political party in elections. Ceilings on expenditure in the elections were specified in parliamentary and local level elections as well as the Constituent Assembly Elections in 2008 and 2013. Candidates were required to submit their accounts of election expenses within 35 days of the declaration of results. Any candidate found to have spent in excess of the ceiling was subject to non-compliance procedures and the ECN could declare the result void. However, as elsewhere, the amount of money claimed to be spent and the election expenditure returns submitted to the ECN by

the candidates were generally found to be insufficient and unrealistic, but it posed a challenge for the ECN to scrutinize the reality and authenticity of the documents.

According to the Political Parties Act, 1999, political parties have to state their election expenditure in the audit report submitted to the ECN. Failure to submit such a statement of expenditure by a candidate can lead the ECN to impose a fine equal to the amount expended or equal to the ceiling on expense the ECN has set, whichever is higher.

The ECN can have the accounts audited by government-registered auditors. If the audit report shows that a person has expended more than the ceiling set by the ECN or spent unusually, contrary to the fairness of elections, or improperly for unlawful purposes, it may disqualify that person from being a candidate in any election for six years. Where the ECN has so declared, if that person has been elected the election is declared void. The ECN's decision can be appealed to Supreme Court.

Similarly, the election of a person may be declared void by the Election Court if he/she has expended beyond the limitation on expenses prescribed by the ECN, and challenged by any other candidate in the constituency concerned.

However, in practice, the ECN has faced many problems implementing these provisions. Many candidates for the Constituent Assembly elections of 2013 have still not filed their statements of expenditure. Nor has the ECN been able to ascertain the accuracy of the statements submitted. It has no mechanism for examining the truthfulness of such statements. It is a challenge for the ECN to monitor and control the electoral expenditure by political parties and candidates due to loopholes in the formulation of the legislation pertaining to electoral campaign finance. Despite such anomalies, recent proactive actions by the Judiciary have raised hopes among the Nepali populace that corrupt practices in politics will be reduced to a minimum. Recently, the Supreme Court and the Special Court have sentenced several high-level political leaders on charges of accumulating disproportionate property while serving in public office. Some were imprisoned for two years and barred from being candidates in elections.

Reforms recently proposed by the ECN

Having regard to these facts and experiences, the ECN has proposed the introduction of a new regime on political party funding and campaign finance regulation. According to the new proposals, a political party may obtain money from the following sources:

- Political party membership fees and levies raised from its members or office bearers;
- Voluntary financial donations received from Nepal citizens, private limited companies or firms incorporated or registered in Nepal;
- Funds raised by political parties by organizing fundraising events, cultural programmes and the sale of publications; and,
- Annual state funding on the basis of the vote secured by a political party in previous elections.

Similarly, during the election period political parties and candidates contesting elections can receive donations. However, it is proposed that the following entities or individual should not be able to donate:

- Office of federal Government, Provincial Government and local bodies
- Organized institutions owned or controlled by the Government of Nepal
- Public limited companies
- Welfare organizations
- Employees of the Government of Nepal, Government of Nepal undertakings and local bodies
- Foreign citizens and organizations
- Non-governmental organizations
- Anonymous persons or organizations

In both political party funding and election campaign finance, the limitation on the amount it is possible to donate is to be determined by the ECN. Money cannot be donated knowing it is the proceeds of organized crime or money laundering. Political parties and candidates must issue receipts for the amounts received. Accounting, auditing and reporting of the use of money must be made public. In the case of campaign finance, the political parties and candidates contesting elections must appoint agents for receiving such donations. Political parties and candidates must also appoint an authorized person to make transactions.

The ECN may inquire whether a political party has received suspicious money. If found, it can ask the political party to deposit this amount with the ECN, which the ECN, in turn, shall deposit in the consolidated government fund. Failure to do so will entail a fine on the political party. Political parties will be required to submit audit reports every year. Failure to submit an audit report for three consecutive years will lead to the rescinding of the registration of the political party. The ECN can examine election expense during the election period and if excess expenses are found, the candidate's candidacy may be cancelled by the ECN and a fine may also be imposed.

Political parties and candidates contesting elections must maintain accounts of income and expenditure. Once the election is over, they have to submit an audit report to the ECN. If excessive spending is found over the ceiling set by the ECN, the ECN can annul the election results and the candidate will be liable to pay a fine equivalent to the amount spent in excess. Where such a fine is imposed, that candidate shall not be eligible to stand in any elections for six years. Similarly, the election of a person can be challenged before the Election Special Court on the grounds of excessive election expenses over the ceiling set by the ECN. If proved, the Court may declare the election void.

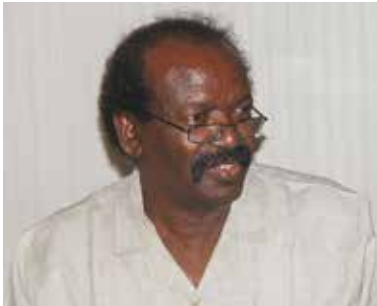
***Nepalese experience of specific issues related to the Bandung meeting,
20–22 October 2015***

- ***Strength of oversight agency in tracking political finance violations of regulations:*** The ECN is responsible for oversight of the political campaign of parties and candidates. Senior government employees and security officers are made responsible for monitoring, and receiving complaints from citizens and candidates contesting elections at the local level. Complaints are adjudicated at various levels depending on the gravity of the offence. Free Media also report on the unlawful use of money, muscle and people in the election campaign. A Complaints Committee under the leadership of the Election Commissioner is constituted to receive all non-compliance reports from contesting parties and candidates. Complaints can be lodged by individuals, any organization, media outlets, (print and electronic), and election observers at the constituency level, district headquarters or Central Office of the ECN. Complaints and reports are adjudicated on based on the provisions of legislation and election codes of conduct pertaining to oversight of political campaign finance and the use of resources by contesting parties and candidates. The complaints and reporting of violations of electoral laws, regulations and codes of conduct by any entities specified are brought based on the Electoral Offence and Punishment Act and the Election Commission Act 2013. This arrangement, however, can track only visible actions and reactions on political finance-related issues. The problem lies in the hidden violations of regulations, which are not reported or proved, and not corrected through legal action against violations.
- ***Attributes for successful implementation of political finance regulation:*** As stated above, the parties and candidates are comfortable about expressing their commitment to adhere to the provisions of electoral laws and regulations as well as electoral codes of conduct developed by the ECN in consultation and agreement with all political parties. When it comes to actual compliance with election campaign financial regulation, however, most of the parties and candidates cross the ceiling fixed by the ECN. When asked for proof of compliance, no substantive records are submitted. Electoral legislation passed by parliament contains intentional loopholes so that the culprits can get away without being penalized. Blame games are played by and between parties and candidates during political campaigns when it comes to breaching political finance regulations. Even if the political finance regulation implementation agency is professionally competent and committed to creating a free and fair environment for elections, malicious intentions go unpunished. The success rate is lower than the non-compliance. Sincerity in political parties and candidates is what EMBs or oversight agencies would expect to correct the situation. Democratic culture needs to be practiced from the grassroots to all levels to eliminate malpractice in the elections process. This is easier said than done.
- ***Cooperation between the oversight body and other stakeholders:*** In Nepal, cooperation among stakeholders is exemplary. From preparation to implementation of elections, political parties meet with the ECN in a regular fashion to share their concerns and provide inputs into any activities being carried out by the commission. From the point of registration of electors at the polling location level, political parties' local representatives are actively involved. During voter education processes for registration and on implementation of the election

code of conduct, until polling day the parties, candidates and media groups work together with employees deployed by the ECN. Long-term observers from civil society organizations and the media also participate in monitoring the registration of voters, political campaigns by parties and candidates, preparations for polling, the quality of electoral material deployed, and electoral activities carried out by electoral authorities at various level are made transparent. All types of media participate in reporting the process. Modern technology is widely used in the preparation process, and implementation by the electoral authorities.

- ***Regulatory body and right to information agencies:*** In order to ensure smooth functioning of all election-related activities, a number of structural arrangements were made. A Joint Election Operation Centre (JEOC) was established and brought into operation to ensure proper coordination and cooperation among the Election Commission and security agencies. With the objective of ensuring transparency and systematizing the acquisition, processing, storage and dissemination of election-related information, a Media Centre was also established. Similarly, a Call Centre was operated for fast delivery of electoral information through a two-way communication between the ECN, the voters and all other stakeholders. Through the Media Centre and call centre, people in general and voters in particular could receive authentic information directly from the Commission on matters relating to electoral process, electoral rolls, polling locations and centers and voters' ID cards, as well as implementation of the electoral code of conduct on the campaign process run by parties and candidates. State-of-the-art technology was used in collecting, processing and disseminating election-related information to make the electoral process accessible to all. Online, real-time queries and requests for registration were the most popular features in managing election-related databases. The ECN website contained updated information in the local languages for everyone to access. Even the electoral roll is made public on the Internet in interactive mode for self-checking of names on the register before going to vote.
- ***Cooperation among the ECN, NGOs and CSOs:*** The ECN has introduced a working together model with all local NGOs and CSOs in the electoral preparation and implementation process. NGO federations, teachers, students, doctors, engineers, forest users and women's groups along with chambers of commerce and industry are regularly invited by the ECN to assist with preparation. The suggestions and concerns of these agencies are taken into account as appropriate in reforms to existing processes or in future reforms. The transparent functioning of the ECN and its garnering of cooperation from civil society, the media and the international community in the electoral preparation process of Nepal is lauded worldwide. Such practice can expose hidden illegal funding by donors in electoral campaigns. In regard to transparent fundraising and donations to parties and candidates, the Federation of Nepalese Commerce and Industry has approached the ECN to introduce a basket fund for financing political campaigns so that all donors are made public and the collective fund can be shared among the parties and candidates based on their size and performance in the most recent election. Such an arrangement might help reduce the tendency to indulge in illegal fundraising practices by donors. This is a new idea and is yet to be introduced in Nepal.

- ***New mechanism for monitoring the behaviour of parties and candidates in elections:*** Senior government officers are assigned as macro-monitors to oversee the overall activities of all stakeholders and also coordinate the field activities of election officials to ensure adherence to the electoral code of conduct in the conduct of elections. Similarly, mid-level officers are deployed as micro-monitors at the polling location level to monitor and report on the setting of polling centres and on E-Day performance. This mechanism has improved the quality of elections in Nepal.



Dr Khalid Ali El Amin Ali

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The attributes of democracy is a political system under which freedom of expression, assembly and association, along with transparency and accountability provide the necessary preconditions for the consideration of political finance. This is a significant issue for the greater improvement of the democratic process.

Political finance, although a very important issue, is a sub-issue of elections, which is in turn a sub-issue of the democratic process—just one of the many issues that determine freedom and fairness in a competitive electoral process. In this sense political finance is significant because it deals with issues related to the furthering and deepening of democracy.

Elections and electoral processes are mechanisms through which the sovereign people exercise their will through the selection of their representatives. They need to function properly to achieve this ideal.

Even in advanced democracies, true representation of the people's will in practice does not always correspond with or come close to the ideal. Countries of Africa and Asia differ in the extent to which they approximate the ideal along a continuum, starting from the more or less democratic and ending with the wholly authoritarian. In between, over time, there have been different shades and forms of people's representation. Even Africa and Asia have come a long way, after prolonged periods of experimentation and despite their ups and downs, there has been a general trend of transition towards greater people's representation in countries that have witnessed prolonged periods of authoritarian rule. The consideration of political finance, its relevance, its significance as a political issue and its relative impact on the fairness of electoral processes in different African and Asian countries, is thus influenced and shaped by socio-economic and political contexts that differ over space (geographically) and time (the differing and changing historical contexts).

Subsequently, there are commonalities or common characteristics as well as differences that correspond to the specifics of historical and cultural values that influence the degree and form of progress made in democratization. Achievements in assuring

civil and human rights, the freedoms of association and expression, as well as free political competition, transparency and accountability have all conditioned the extent to which political finance could be considered an important political issue. In India, with its long experience of democracy, which is by far one of the most—if not the most—developed Asian democracies, with assured political competition, transparency and accountability, political finance regulation has gained prominence and through it we strive to attain further fairness in elections in our quest for greater and truer representation of the people's will. Political finance is thus a significant issue and one that has been taken seriously in India, in terms of both policy and practice, to ensure a levelling of the political playing field for political competitors. The comprehensive system of monitoring violations of political finance regulation and the enforcement of penalties that have been designed and applied is a major advance in India's attempt to strengthen democracy and get closer to the ideal of the true people's will.

On the other hand in countries elsewhere in Africa and Asia, where one party dominates, the fundamental issues of people's rights, human and civil rights, freedom of expression and association rather than political finance regulations are the major preoccupations of writers, academics, journalists, public intellectuals and civil society activists. Freedom of association, freedom of expression, free access to information, transparency and accountability are just some of the necessary preconditions for free and fair political competition to achieve the people's will and genuine representation. Under single party control, where political competitors are totally excluded and distinctions between state and party, and in turn between state resources and party resources, are difficult to make, the issue of political financing could hardly be considered the major issue that ensures fairness of political competition that does not exist. This would be levelling the playing field for a game with only one player. In the absence of the above freedoms, a preoccupation with the restoration of civil and human rights gains primacy over political finance regulation. In fact these are the very conditions—the restoration of political freedoms and the establishment of minimum democratic preconditions—under which political finance becomes relevant and could be considered an important political issue for further enhancing the democratic process.

Although in practice one-party rule, as experiences have shown in many Asian and African countries, is at different times exclusionist and intolerant of rival political parties and groups, which are normally banned or marginalized, the conduct of elections has not been an uncommon event under authoritarianism. To support claims of being democratic and that they represent the people's will, claim legitimacy or in response to external pressure and demands, one-party states often design constitutions, establish election commissions, hold elections and even devise rules for political finance regulation. Under political conditions characterized by the absence of genuine political competition, and the dominance of one party over the state and state resources, levelling the political playing field in such a context seems remote from the notion of political finance regulation, and the accompanying political context of pluralist democracy within which political finance operates as understood in the literature.

However, under both democratic and some authoritarian regimes, political finance regulation figures prominently in election commissions' rules and regulations. Despite the qualitative difference between the two types of regime, and the seriousness with which each takes the issue of political financing, in both there is a significant discrepancy between what is stipulated in rules and regulations and what is actually

pursued in practice. Whether under multi or single party rule, stringent regulations, differing in degrees of strength from one context to another, are put in place to oversee party and candidate finances, and regulate and enforce conformity to political finance regulations, but some or all of these rules are often ignored, and rarely observed in practice. Invariably, monitoring has been weak for a variety of reasons, such as lack of technical capacity, and enforcement has often been negligible because of political interference.

Examining the broader socio-economic, political, cultural and historical context is necessary to understand the relevance and effectiveness of political finance rules and regulations. Different combinations of socio-economic, political and cultural value systems provide contexts that vary from the democratic multiparty to the authoritarian one-party rule, with various combinations in between. When the attributes necessary for democracy are present in particular contexts—freedom of choice, expression and association but with variations in living conditions and the degree of poverty and literacy, and in cultural norms—this can result in a different functioning of the democratic system and varying outcomes of the democratic process.

A culture of patronage and hospitality in a democratic political context, for instance, can defeat in practice the most stringent of regulatory measures to control vote buying. Under single-party rule, where other political groups and parties are excluded and there is no real political competition, and where the demarcation lines between state and party, and between state resources and party resources are blurred, the regulation of political finance and other rules designed to ensure fair elections are of little relevance even if these have been nicely laid down on paper.

Sudan has historically experienced both multiparty and single-party rule since its independence from the British in 1956. The country provides a good example of how socio-economic, political, cultural and historical contexts influence the significance of legislation on political finance regulation, the effectiveness of rules on enforcement and whether political finance regulation makes a difference in advancing democracy and the democratic process.

Sudan under one-party and multiparty rule: context

Sudan has experienced intermittent periods of multiparty rule amounting to only 12 years, while single-party regimes have ruled the country for about 47 years since independence in 1956. Sudan was a large country that, before the secession of South Sudan in 2011, was one million square miles in area. The vastness of the country coupled with poor transport and communication infrastructure led to the geographic, political and economic isolation of the far away regions of South Kordofan, the Blue Nile, Darfur and Eastern Sudan. This in turn led to regional marginalization, and to the emergence of armed movements that fought the central government. The majority of the population lives in rural areas, practicing subsistence peasant agriculture. About 80 per cent of the population was illiterate in the 1960s, and the figure is estimated to be about 40 per cent today. Most of the population are moderate Muslims, about one-third of the people in South Sudan are either Christians, Muslims or practice traditional African beliefs. Immediately after independence, a transitional constitution was adopted was based on the Westminster model to provide the political conditions for multiparty democracy. The 1956 Transitional Constitution, which affirmed

freedoms of association and expression, was meant to lead to an election that would establish a Constituent Assembly, which was then supposed to formulate a Permanent Constitution. No such constitution has been formulated to date.

In general terms, four main parties evolved in the course of the political process before and after independence: two main dominant ones and two smaller ones that proved highly influential in the course of Sudanese political history. The two small but influential parties are the Sudanese Communist Party (SCP) and the Muslim Brotherhood. The two major parties that dominated the periods of multiparty rule were the Umma Party (UP) and the Democratic Unionist Party (DUP). Each of the two major parties was associated with one of the two main religious sects: the Ansar, and the Khatmyia respectively. The two sectarian parties drew support from the rural followers of the leaders of these two religious sects.

In elections held during multiparty periods, most voting followed patterns of religious loyalty. Blind sectarian loyalty ensured the success of candidates nominated by the two leaders of the two main sects regardless of party programmes and party election promises. Thus, some aspirant sections of the modern educated elites joined one of the two main parties to achieve personal ambitions and gain access to political office under the patronage of the two leading religious families: the al-Mahdi and the al-Mirghani families.

At the same time, significant and influential sections of the modern educated elites who were dissatisfied with the two dominant sectarian political parties formed the small but influential SCP and Muslim Brotherhood. Both parties drew support from among the relatively small but educated urban population, both had ideological appeal and attracted highly educated elites, and both demonstrated the political potency of competent and highly skilled political cadres. Thus, both the SCP and the Muslim Brotherhood played significant roles in the history of Sudanese politics disproportionate to their size in terms of popular support.

Multiparty rule: political finance regulation, monitoring and enforcement, 1956–58, 1964–69 and 1985–89

Four elections were held under multiparty rule, and in each election an ad hoc three-member election commission was appointed to oversee the electoral process, which it did by issuing decrees. Among the major rules that the election commissions issued to control and monitor political finance were: (a) that parties and candidates should publish accounts showing sources of funding and expenditure; (b) that candidates must disclose sources of funding, and show and justify expenditure items within 30-days of the election results being announced; (c) that vote-buying and gift making were banned; (d) that the use of public resources and materials by parties and candidates for election campaigning purposes was prohibited; (e) that parties were permitted to receive donations from businesses with no limits set on such donations; and (f) that there was no ceiling on party expenditure.

One important aspect of party and candidate funding was the ability of parties to receive unlimited business donations. Both the sectarian parties, which dominated the periods of multiparty rule after independence, relied heavily on business leaders for their financial support. The two parties drew very little financial support from the vast

voter support base that they enjoyed in the countryside. The rural poor, who provided a permanent, loyal following, did not constitute a membership that paid membership fees or donations. Nor did they participate in party political activities as members. The two parties lacked internal democracy and the participation of supporters in party matters as full members.

Thus, both parties relied on private businesses and business leaders for financial backing, and therefore had no interest in setting limits on business donations. The governments formed after elections, made up of one or both parties in a coalition, therefore reflected the interests of private business and businessmen. In times of coalition, the formation of a government was often stalled or deadlocked for weeks over party shares in the ministries of trade, finance, agriculture and industry—indicating the strength of business interests within the two sectarian parties and the deployment of their influence within governments to serve their own ends.

Violations of political finance regulations were widespread during elections. Vote buying was widely reported during the four general elections held since independence: in 1958, 1965, 1968, and 1986. Gift making was also widely reported but generally ignored or considered part of the culture of hospitality. Patronage relationships pervaded society, and individuals and collectives (village communities) expected something material in return for voting for a particular candidate. In most elections there were no effective monitoring or reporting mechanisms of violations of the regulations, as well as a lack of enforcement mechanisms to impose sanctions or penalties for non-compliance with the regulations.

Violations of most political finance regulations were rarely reported, usually ignored and went unpunished for the following reasons: (a) Sudan is a huge country with poor transport and communication infrastructure; (b) there were limited material and power resources available for the election commissions to undertake their tasks; (c) at the local levels, the commissions employed local government officials whose interests lay in reporting that the elections had been a success and that the electoral processes went smoothly without any problems or violations; (d) the commissions were preoccupied with the daunting tasks of voter registration, voter verification and listing, candidate nomination, impersonation in voting, double voting, observation of balloting, the collection of ballot boxes, vote counting, and so on. The tasks associated with holding successful elections were too huge, resources too limited and the logistical problems too complex for the commissions to handle. Thus, little attention was paid to monitoring and reporting political finance violations. Even when widely reported, violations were ignored and penalties were rarely imposed because of political interference and political pressure.

The conditions described above, associated with political competition and multiparty elections in Sudan, resulted in fragile assemblies that were unable to formulate a permanent constitution and in the formation of unstable, weak governments that in most cases lasted for only a few months. Senior party political leaders and politicians were preoccupied more with political intrigue and political manoeuvring than with attending to people's problems, interests and demands. For the electorate, who were in the main a rural and illiterate populace, candidates would only be seen during election campaigns. Candidates in these rural constituencies would be voted in not on the basis

of party programmes or election promises, but on the basis of being nominated and approved by the leaders of either of the two religious sects. Thus candidates did not need to exert much effort to win re-election.

Political practice during the brief, intermittent periods of multiparty rule was dominated by the two sectarian parties and did not provide a good example of democracy. This added to the frustration of the modern radical elites in the two small parties and provided the conditions for the two major coups. The exercise of democracy within the two sectarian parties was absent and the two sect leaders appointed candidates to run in elections. Party candidates did not campaign to win voters' support on the basis of competing programmes. Voters blindly followed their religious leaders' instructions to vote for the chosen candidate regardless of performance. Real political competition based on party and candidate responses to and the fulfilment of voters' interests, needs and demands could not be contemplated. Thus, democracy in the sense of free political competition and elections as a process in which the will of the sovereign people, or the voters, is transferred to their representatives could not be realized even at its basic minimum. While the few among the educated elites who were content with this form of superficial democracy were elected and gained access to senior political office under the patronage of the two sectarian leaders, quite significant sections of the elites that formed the SCP and Muslim Brotherhoods remained disillusioned, discontented and for the most part excluded from power. This pushed the SCP and the Muslim Brotherhood each to form an alliance with a sympathetic section of the military to overthrow the governments elected under the multiparty system: the SCP in 1969 and the Muslim Brotherhood in 1989. The failure of the sectarian parties to honour their democratic principles, or at least to demonstrate a genuine attempt to nurture and develop the democratic experience, led to their overthrow and to their ultimate demise. When the SCP and the Muslim Brotherhood took power through coups d'état, they excluded the sectarian parties from political life, and established single-party rule that by turns empowered or alienated the ideologically inclined modern elites.

Socio-economic and political context under single party rule in Sudan

Among the first steps that the military took after the overthrow of the dominant sectarian parties were the declaration of a state of emergency, suspension of the transitional constitution, dissolution of the elected assemblies, the imposition of a ban on political parties and the enactment of measures limiting the freedoms of association and expression. After the two major coups, the military and the educated elites attempted to formulate a constitution to legitimize an authoritarian regime under single-party rule: the Sudanese Socialist Union in 1969–1985 and the National Congress Party from 1989 to the present. In both cases the state was incorporated into the ruling party and a distinction could not be drawn between state and party. Political competition, transparency and accountability were totally impaired, and the state organs and impartial oversight bodies fatally compromised. The judiciary, the auditor general and the law enforcement agencies were all restructured and subordinated to the supremacy of the ruling party. Elections were conducted, dominated by the single party, but these lacked genuine competition, freedom of choice and freedom of expression. Candidates had to produce a certificate proving that they were members the SSU in order to be allowed to run for office. Under such conditions, elections were meant to justify the claim to legitimacy that the party represented the 'will of the people' and give the ruling party a deceptive image of being democratic. Accompanied by extensive

election campaigns, in which state finances were spent and state material resources used, elections were also meant to present an image to the outside world that the party commanded popular support.

Political finance regulations under one-party rule

Despite the absence of free political competition, transparency and accountability, and conditions of the denial of human and civil rights, laws were issued to form election commissions mainly to oversee the conduct and the completion of elections. Some political finance regulations were incorporated into the election commissions' laws; and ironically enough these were formulated in more stringent terms than those under multiparty rule. In addition to banning vote buying and the use of state resources, for instance, the 2008 Election commission Law adds a ban on funding from foreign sources, charity organizations and anonymous sources. However, like the political finance regulations under multiparty rule, parties and candidates have to publish detailed accounts showing sources of funding and expenditure, and submit these in a comprehensive report to the Election Commission. Similarly, no limits were set on corporate or business donations to parties and candidates.

While detailed and specific political finance regulations were set in law, specifying what is allowed and what is not allowed in terms of sources of funding and channels of expenditure for parties and candidates, these seem to have very little impact on the outcome of elections. Under the dominance of one party and its absolute command over the state and state resources, as well as the absence of political competition and a lack of transparency and accountability, elections can be expected to be neither free nor fair. These same conditions, which have prevailed since 1989, provide a political environment conducive to corruption and the appropriation of public funds for private gain or political purposes. High-level corruption has been institutionalized. It is now widespread and has reached scales unprecedented in Sudanese history.

The narrative described above more or less accurately reflects Sudanese socio-economic and political conditions for most of the period since 1989. In 2011 South Sudan seceded to form an independent state, leading to the loss of half of Sudan's oil revenue. Socio-economic and political conditions have been worsened by the civil wars ravaging the Blue Nile region, South Kordofan and Darfur, which have added to the destabilization and the waste of the country's meagre resources. Worsening economic conditions combined with political oppression led to civil unrest on a large scale in central Sudan in 2012 and 2013, including in the capital Khartoum. The regime's heavy-handed crackdown on demonstrators resulted in hundreds of youth being killed or injured. While the ruling NCP seems to have lost favour with the Sudanese, the political opposition is not popular either. The majority of Sudanese seem to have lost trust in both the ruling party and the fragmented and weak opposition. After more than 20 years of Muslim Brotherhood rule through a single party, the country has been in a difficult socio-economic and political impasse for quite some time and the danger of the country degenerating into chaos seems quite real. By 2014 the ruling party seemed to have realized the gravity of the situation and responded by loosening some of its grip on freedoms. The Chairman of the Party, the President of the Republic, has recently called for a national dialogue among all Sudanese, including the opposition and the armed movements, to debate and agree on solutions to the country's chronic problems. Reactions to the call have been mixed. Some sections of the opposition joined in the call for national dialogue, but

there has been no clear progress. Other sections of the opposition, including the major armed movements, rejected the call, demanding instead the full restoration of freedoms as a precondition, which the regime has not positively responded to. Whether the call for national dialogue is a genuine attempt to seek solutions to the country's intractable problems or a smart political move by the ruling party and the president to surmount this critical juncture remains unclear.

Conclusions

- Since independence in 1956, Sudan has failed to develop a political system that respects human and civil rights, or provide the conditions for the country's socio-economic and political development.
- The country has experienced both multiparty democracy, based on the British model, and single party regimes that barred pluralism, free political association and competition.
- During the periods of multiparty rule there was a dysfunctional democracy, which had perhaps the sole merit of allowing the freedoms of association and expression.
- Under multiparty rule, political finance regulations existed on paper but were not implemented. The alignment of business and politics tilted election results and policy formulation in favour of the rich and powerful to the disadvantage of the poor majority—under the guise of religious sectarian politics.
- The Sudanese countryside, in which poverty and illiteracy prevailed, provided fertile ground for political finance malpractice and together with the dominance of religious sectarianism, distorted the democratic and electoral processes.
- When they took power, the dissatisfied and discontented modern educated elites, represented by the SCP and Muslim Brotherhood, abolished the distorted democracy dominated by the two sectarian parties and established one-party rule that excluded rival parties, and limited human and civil rights and freedoms.
- Under single-party rule, state and party, and consequently state and party resources, become inseparable; in the absence of political competition, it is difficult to make political finance an issue that provides rigour to and furthers a democratic process that does not exist.
- The period since independence has seen political instability and power struggles at the centre, as well as violent conflicts in the regions for an equal share in power and resources; and,
- The loss of political freedoms, widespread corruption and no improvement in living conditions have led the Sudanese public to lose faith in both the ruling party and the opposition.



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'Financing of political parties reveals the control money has over the democratic process.'

After the 25 January revolution, more than 100 new political parties emerged. Some of these have been officially registered under the regulatory laws but some are still under construction. In spite of the multiplicity, many are non-existent on the street, in that their values and visions are neither recognized nor acknowledged by the people. This opens the door for a questioning of the reason for the emergence of these parties, their sources of funding, and their fate in the next parliamentary elections.

Some of the parties that have emerged since the revolution were established by the small contributions of their members, leaving them with minimal ability to reach out to the people, and putting limitations on their contribution to the democratic process. Some of these parties are resorting to various unconstitutional methods to obtain funding.

Before the revolution, the government paid all parties the equivalent of USD 63,830 annually. It was prohibited for any party to accept foreign funding or donations, unless approved by the responsible authorities. However, these government funds have now stopped, leading parties to accept funds gifted by NGOs, which are often obtained from foreign agencies. The real source of these funds is often obscure, which makes their legitimacy questionable. It is becoming increasingly evident that poorer parties, and those that do not accept foreign funds from NGOs for patriotic reasons, are unable to carry out their political activities, while rich parties that are funded by business leaders who are sometimes led by foreign agendas are more capable of participating in the political life of the street.

Deepening fears over the influence of money on the upcoming elections, as well as the weakness of the available mechanisms for regulation and the need to formulate new mechanisms that allow for the implementation of the relevant legislation or tighter control over the sources of campaign financing and spending.

Egyptian legislation allows for tight control over political money to protect the electoral process from the negative aspects that have recently emerged, leading to a weakening of the confidence of voters in the political process.

There is a need to strengthen control over fiscal spending in the upcoming elections within the framework of existing legislation, by requiring implementation and cooperation by all the parties concerned, under the supervision of the Supreme Committee for Elections, as an institution for overseeing the electoral process in all its aspects. Because of problems with parliamentary elections, irregularities have existed in previous governments and will continue to be so. The Supreme Committee for Elections should enforce genuine control and regulation, because of the many tricks used by the candidates and their supporters regarding spending on electoral campaigns in order to promote their names.

The upcoming parliamentary elections are especially important for Egypt's political future, as they come at a highly complex time economically, socially and politically, linked to the negative harvest of the previous period. The performance of the previous parliament was not positive for the Egyptian parliamentary experience at both the legislative and the supervisory levels. Hence, the upcoming parliamentary elections should use all the regulatory mechanisms stipulated in the constitution, especially in the area of control over the general budget, funding and transparency in regulatory reporting.

The Political Rights Law stipulates that the Supreme Committee for Elections has its own independent budget that is included in the state budget, and that it organizes by establishing the rules and procedures for the expenditure of allocated funds, and a statement of financial transactions by its members and their employees, and other electoral process expenses. It is worth noting that the elections and referendums held in Egypt since the revolution up to the recent presidential elections have cost the state between GBP 300 million and GBP 5 billion.

The absence of a role for NGOs and their absence from participation in monitoring the election campaign contributed significantly to the loss of control over candidates' campaigns. The High Elections Committee (HEC) does not have a professional staff to follow up questions over the electoral process, or monitor breaches by candidates. Granting NGOs authority to follow up elections from the beginning of the publicity until the end of the electoral process helps to reduce the presence of illegal publicity, given the nature of the work of community-based organizations and the experience gained from their interactions with society.

The development of strong safeguards to control elections gives people confidence in the electoral process and encourages participation. It also allows monitoring of the media and civil society organizations, provides transparency during voting and enhances the democratic process overall. Civil society organizations play a pivotal role in monitoring elections, which is one of the guarantees of transparency in the electoral processes taking place in society, ensuring respect for the people's will.

Session discussions

People say democracy first, before we can even consider political finance. This is the proposition that there has to be some prerequisite condition before we can begin to talk about the ideal political finance environment or a desirable political finance environment for politics. There are traditional hospitality norms, and candidates do offer gifts to voters, but the situation becomes more complex during these festivals if elections are held at the same time.

India has festive occasions such as Dussehra and Diwali, where people give gifts to their neighbours, to fellow citizens, and such gift giving is common during this festive occasion. If an election is held during that time, the Election Commission adds these expenditures to a candidate's expenditure account, using surveillance teams to include any social feast held where the candidate is present, even if it is organized by someone else. The entire expense of the social feast is added to the candidate's account.

India has now entered a phase of coalitions, where national level parties are engaging in coalitions with regional parties, especially as national parties are not getting a clear majority. The regional parties are strong in their own local domain, and can threaten to withdraw support at the national level if the national party deviates from agreed policies during the coalition or makes policy changes that are unacceptable to it. By some measures, this has allowed the development of regional parties, with alliances with each other or with national parties. In some cases regional interests have been better expressed or represented.

In the Sudanese situation, the opposition parties are demanding the removal of restrictions on freedoms, and of everything that contradicts human rights, civil rights, and so on. They are calling for a transitional government, formed of professionals with the agreement of all concerned, to supervise an election that brings about a Constituent Assembly that will draw up a constitution. Transitional government is very much the question of the current situation, which is of course subject to dialogue and to lobbying, negotiations and international pressures. However, sometimes there are restrictions in law placed on parties that are formed on ethnic lines, as once the system is opened up on those lines, there is no end to it—as in the case of India, where there are more than 1,860 political parties with all kinds of backgrounds or religious loyalties, ethnic loyalties, regional bases, and so on.

Sometimes disparity and inequality lead to civil war, as in Dafur where tensions led to 50 years of unrest which ended with the secession of South Sudan in 2011. One must also look into the historical inequalities caused by structures or political systems. It becomes easy to manipulate these tensions. These issues must be addressed in a genuine way, by political means and dialogue so that there is space to make peaceful demands and bring change and balance to the system.

One has to be careful however in situations where there is a single political party that controls state resources and almost complete identification or association of the political party with the state. Even when there are ‘cosmetic’ changes, such as splinter groups added as political parties, these are marginal. They are part of the system of justifying cosmetic democracy.

A single party is too powerful to be held accountable by any political group or any organization, because all state organizations belong to the political party and even the Election Commission and the Judiciary are appointed by the President. Other state institutions are gradually fine-tuned and synchronized in order to keep the ruling party in power, and maintain it as the dominant political force.

This situation is almost commonplace in many African and Asian countries, even now. So if maintaining political office under democracy is derived from appeal to the electorate, and the incumbent responds to these demands in order to stay in office with all the resources at his or her disposal, then the incumbent can easily maintain political office by exercising power democratically.

In Egypt, since the revolution there have been many problems and troubles, which do not allow citizens to talk about democracy. There is confusion in the community because the media, from the government side or Muslim Brotherhood side, or other groups each propagate their own side of the story. So people are unable to discuss

democracy, as should happen in an open society. After spending too much money on elections, Egypt now wants to see what happens next. There is some vision and wisdom in waiting to see how the new situation evolves.



Image: Mr Sotheara and Mr Alistair presenting their case studies, moderated by Ms Leena

Session 5. National and international measures for eradicating political finance corruption and strengthening stakeholder involvement

Judge Fadhila Gargouri

President of the Chamber, Court of Accounts, Republic of Tunisia

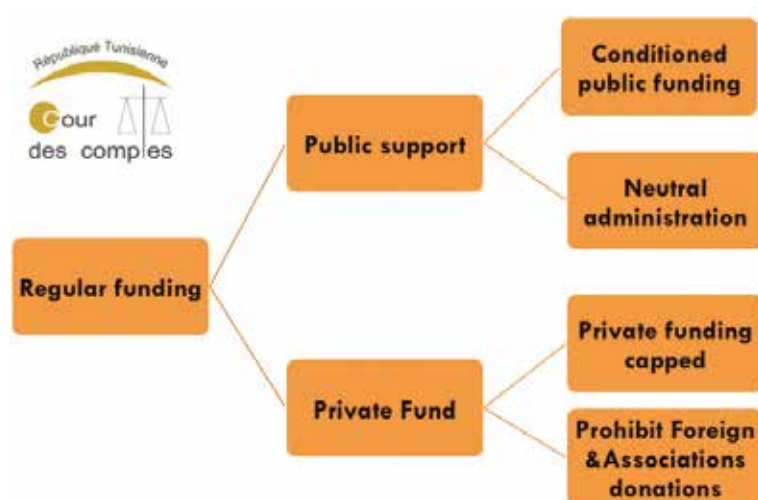
‘If we safeguard elections from corrupt money, we have made the polls reflect the will of the voter.’

The main principles or anchors of regulation of political finance are: first, the impartiality of public administration, the national media and places of worship, their objectivity and fairness in dealing with all candidates without bias or disruption to any electoral campaign of a candidate, and avoiding anything that influences the will of the voters; second, transparency, in terms of funding and methods of disbursement of allocated funds; and, third, equality—securing equal opportunities for all candidates.

There are two objectives behind these principles: to show how the implementation of these principles in financing politics—the revenue and expenditure of political parties and electoral campaigns—can fight against corruption; and to show how they can strengthen the role of different stakeholders in politics in preventing and acting against corruption.

To avoid corruption it is necessary to consider some specific elements, such as regular funding, regulations on expenditure, transparency, and an independent court with available sanctions. One should start with the regular use of resources and gaining public support to fund support.

Figure 14. Tunisian pattern of regular funding of political finance



Public support should be based on conditional public funding and efficient electoral administration. Private funds must be kept in check, and there should be a prohibition on foreign and associated donations. The state should provide support to political parties, but within reasonable limits, with total revenue not exceeding one-fifth of the costs, alongside two-fifths from private financing and two-fifths from self-financing. Besides financial aid, and the use of the media, the candidate should not be allowed to use any other public means or resources such as staff, equipment and transport. The state should thus provide support according to objective, fair and reasonable criteria such as the size of the electoral district, the number of voters and the standard of living.

In Tunisia, candidates use the national media to present their programme on a schedule defined by the Independent High Authority for Audiovisual Communication. Conditional public funding is provided in two tranches:

- The first tranche is paid at least seven days before the start of the campaign and the second is paid to each list that receives at least 3 per cent of the votes cast in the electoral district or obtains a seat in the Assembly of Deputies of the People, within a maximum period of seven days from the date of the announcement of final results.
- The second tranche of public funding is conditional on having used the first tranche and providing supporting documentation to establish that the first tranche was used to cover the costs of the election campaign, by filing the accounts on the first tranche along with the supporting documents.

On private sector funds/support, caps have been set and private financing must not exceed twice the public subsidy provided, or up to the 20 times the guaranteed minimum wage in the non-agricultural sector for legislative elections/donors, and up to 30 times the minimum wage in the non-agricultural sector for presidential elections/donors. This is to ensure transparency in donations and avoid secret donations. Donations to political parties are made public.

Corporate donations to political parties should appear in the accounts of legal entities but this is prohibited under Tunisian law. There should be restrictions or prohibitions on or otherwise strict regulation of donations from legal entities that provide goods or services to the government. There should be prohibitions on legal entities controlled by the state and public authorities making donations to political parties. Overall, there should be an operating environment that ensures the independence of political parties from all interference. Foreign sources, including governments, individuals and legal persons, should be prohibited from contributing to campaign finance. The Central Bank and the Ministry of Finance should take all necessary steps to prevent foreign funding of elections and referendums. The state should reclaim any undisbursed funds and election campaigns should not be considered a means for self-enrichment by political parties. Associations should be prohibited from raising funds to support political parties or independent candidates in national, regional or local elections, or providing them with material assistance. However, this should not restrict the right of the association to express its political views and positions on public affairs.

Pertaining to electoral campaign expenditure, there should be a limitation on election expenses, which should not exceed five times the public funding support. Measures should be adopted by oversight agencies and election commissions to prevent the

need for excessive funding on the part of political parties, by establishing limits on expenditure during election campaigns. There should also be clear definitions pertaining to election expenses, including a clear definition of the campaign period. Measures should be developed and implemented requiring the registration of all expenditure, both direct and indirect, in the context of election campaigns, by each candidate. These measures should cover the sum of all cash and in-kind expenses during the period of the elections. Checks should be performed on the electoral expenses used or paid to settle expenses in electoral campaigns, in pursuit of the confidence of the electorate and to secure their votes. Prohibitions on political party publicity should be placed on any process of publicity or propaganda, whether free or paid for, that adopts the methods and techniques of commercial marketing, aims to promote an individual, position, programme or political party, with a view to attracting voters or influencing their attitudes.

In Tunisia, electoral expenses are defined in law as, ‘the sum of all cash and income expenses committed during the period of election by the candidate, has been consumed or paid to cover the expense of the electoral campaign in pursuit of the confidence of the electorate and secure their votes’.

There is also a need to define electoral offences. One proposed definition is: *‘anyone caught in the act of giving cash or in-kind donations with the aim of influencing a voter, or using the same methods to urge a voter to refrain from voting, whether before, during or after the vote’*.

Developing and instilling transparency within political finance operations requires clear information on all the accounts that a political party uses, specifically for receiving donations, including information on the nature and value of each donation, with donors clearly identified. Transparency measures should also require political parties to present their accounts regularly, with audited annual reporting to all the oversight and control authorities. All candidates are required to publish their financial statements in one of the daily newspapers published in Tunisia within two months of the announcement of the final results of the elections.

Each candidate on the list for legislative elections and the Presidential Election is required to open a single bank account where the amounts allocated for the campaign are deposited, and out of which all expenses are disbursed. Campaign expenses are incurred on the basis of original copies of credible supporting documents, and electoral expenses are to be paid by cheque or bank transfer, if in excess of USD 245 per item. Expenses are not allowed to be split to avoid exceeding this amount.

Independent control should be facilitated through independent monitoring, which should include supervision of the accounts of political parties, and monitoring of election campaign expenditure and its presentation and publication.

The Tunisian Court of Accounts oversees campaign funding by assessing that all expenses in relation to the campaigns of candidates are made out of the single bank account opened for that purpose. In addition, each candidate must keep credible accounts, including comprehensive and accurate data about all incoming and outgoing transactions in connection with campaign funding. The Court checks that revenues come from legitimate sources, the electoral nature of expenses, a candidate has

maintained an electoral ledger of expenses, and that the candidate has not committed electoral crimes. The Tunisian Court of Accounts conducts verification of the documents produced, cross-checks the financial reports and assesses complaints from civil society. It also conducts field visits, and sometimes visits the public meetings, events, parades, gatherings and electoral rallies, as well as the parties.

There is also monitoring of party and winners' lists, in three ways:

- Resources: no income from legal persons is accepted, or from foreign sources, and income must not exceed the public funding provided by the state, including no funding from associations.
- Evaluation of election expenses: cross-checking the distribution key, so that no ceiling as per the law has been exceeded and there are no irregular expenses.
- Compliance with the law: cross-checks on financial statements are undertaken, including the publication of accounts in newspapers, and the auditing of accounts by designated auditors, according to obligations to ensure transparency for the public.

Figure 15. Tunisian control of party and winners list



In addition to these measures, in Tunisia there are financial sanctions, electoral sanctions and imprisonment. Violations of the rules on political party finances and electoral campaigns are subject to effective, proportionate, and deterrent measures.

- Financial penalties are imposed on candidates that disrupt the work of the Court of Accounts by being late in providing the necessary documents required for the Court to discharge its oversight functions. The rules also allow rejection of the financial statement of a candidate who has exceeded the ceiling on expenditure, and they are additionally penalized with a fine equal to 10 per cent of the ceiling.

- An electoral penalty is imposed if the financial statement is not deposited, allowing the Court of Accounts to order the annulment of the membership of every member of the Assembly who ran for election on that list. Candidates who are convicted of receiving foreign funding for their electoral campaign might not be allowed to run in future in Legislative and Presidential Elections.
- A punishment of imprisonment for a period of five years can be given to a presidential candidate who receives foreign funding.

Effective implementation of these measures requires cooperation between all the various stakeholders responsible for the administration of election campaigns, and each to obtain the cooperation of other national stakeholders in turn. The electoral laws, and their application, should clearly define the role of each stakeholder administration, and control their interventions, the consequence of monitoring their intervention, the modality of cooperation between them, and the required data and documentation. The application of electoral law should avoid duplication of the responses of each stakeholder with national measures to eradicate corruption, which requires action at the international level too.

Consider the following international measures:

- Encourage countries to respect international standards when developing legal frameworks on funding parties and campaigns; disseminate international good practice.
- Preparation of a charter of ethics to be adhered to by political parties. In Tunisia 12 political parties have signed a credo to respect the principles of political finance, such as transparency, neutrality of administration and equality in candidate election.
- Conclude an international agreement on cooperation on the fight against corruption and the funding of political life.
- Finally, help countries with recent experience of democratization to fight against corruption and the influence of money in politics by facilitating the development of strong and effective regulations and their implementation, supported by adequate capacity building measures.

Conclusions and recommendations

- It is important that international standards and best practice to provide a good control system must be accompanied by deterrent sanctions that are applied effectively.
- Public funding can be a guarantee of fairness and accessibility in politics, but find the right combination that takes account of the resources of the state and the needs of the parties.
- Private financing can strengthen the efforts of candidates, transparency and the existence of constituency and equality restrictions. Foreign funding may pose risks; there is a need to set up the necessary mechanisms to find out.
- To achieve equality in the democratic process, and transparency in political funding, it is desirable to prohibit any form of anonymous donations.

- The declaration of political donations can make it easier to detect political corruption and shed light on potentially suspicious transactions.

In order to improve the electoral processes of future elections, the Court of Accounts in Tunisia has recommended the following actions:

- Address the gaps in the electoral court and consolidate all legislation relating to elections under one comprehensive court; review the restrictions on campaigns and campaign finance to improve the regulations.
- Detail and clarify the roles of the various institutions involved in the election processes in the electoral cycle and the role they play in monitoring political finance and corruption at all stages.
- Review the restrictions on campaigning and campaign finance to ensure candidates can conduct meaningful campaigns without resorting to violations of the law, including reviewing the procedures for granting public funding.
- Strengthen the organizational and management capacities of oversight agencies.
- Increase the transparency of the work of oversight agencies, the Independent High Authority for Elections in the case of Tunisia, and develop a more effective and comprehensive communication strategy to engage with relevant stakeholders and the general public; develop their confidence and trust.
- Voter education and democracy education programmes should be developed and conducted year-round for the general public and for children and youth in schools.
- Draft and distribute regulations and instructions in a timely manner, and improve communication with polling staff to ensure uniform understanding and application, including improving the communication skills of staff to respond to public questions regarding the application of laws and the legal framework on political finance and corruption.



Dr George Klay Kieh Jr

Professor of Political Science, University of West Georgia, United States of America

A number of international measures at the global and regional levels on the eradication of political finance-related corruption are relevant to African and Asia. The United Nation's Commission for Human Rights General Comment Note of 1996 focuses on two questions: the need to limit expenditure and the need for a balance between

public and private funding of electoral campaigns. The UN has a Convention Against Corruption (UNCAC), which has a section that stresses the importance of transparency for candidates elected to office. The African Union (AU) also has a set of norms on the use of public funding and a Convention against Corruption.

The Liberia case

Liberia,¹⁹ a small country with a population of 4 million, a land area of about 43,000 square miles and a coastline of about 350 miles, is rich in natural resources such as iron ore, gold, diamonds and oil—but it is a poor country.

In order to understand the measures taken to deal with political finance-related corruption, and whether these measures are fair, it is also important to have an understanding of the Liberian state itself, and its regulatory environment.

Free slaves who left the United States in the 1820s returned to their homeland and formed today's modern Liberian state, with its 16 indigenous ethnic groups. Although Liberia was not formally colonized, it was an indirect colony of the United States. It was the USA that sent those freed slaves to Liberia as part of its attempt to face its racial problems. Liberia became a solution to the internal race problem. The free slaves were not interested in being re-assimilated into an African society on their return, but wanted to dominate. That mindset about domination is important, because a legacy of that has affected not just politics, but also political finance regulations and all parts of life. One of the tipping factors has been this tradition of domination.

In 1847, after the Liberian state became organized and gained independence, an apartheid-like governance phase lasted for about 100 years, with denial of citizenship to members and descendants of those 16 indigenous ethnic groups. Citizenship was restricted to the free slaves from the USA and their descendants and, within that limited context, there was multiparty democracy, but the multiparty democracy was in the context of Liberia.

Only in 1947 was citizenship granted to the indigenous Liberians, who constituted about 96 per cent of the population. This was only done, however, in the context of the changing nature of the governance system. Liberia was a one-party state from 1955 to 1980, after which a coup brought in a military regime from 1980 to 1986, which civilianized itself. In 1989 a civil war began that lasted for eight years. A transitional government in 1997, with Charles Ghankay Taylor²⁰ as president, led to a second war in 1999, but Taylor retained power and established an authoritarian system of government. However, the civil war of 1999 had led to a multiparty system, although the regulatory environment created political bias and exclusion, including in the field of political finance. The Liberian state has evolved from exclusion based on ancestral background to exclusion based on class status. A culture of impunity has become deeply ingrained, in which those who are politically powerful and economically prosperous are obviously not governed by the rule of law, but believe that they should rule over those who are politically not well connected and not economically well off. This evolution,

¹⁹ Dr George Klay Kieh Jr., originally from Liberia, and a presidential candidate in the 2005 elections, presented the case on the country. He has been part of the election cycle in the country, and experienced it directly first-hand. The political finance mechanisms rarely worked, and were ineffective too – with no questions asked or verification process in place, when financial reports were submitted. The paper is in two parts, with a focus on case study. The first part is thematic, and the second part focuses on mapping out the broad questions of measures at the national and global level corruption and stakeholders involvement.

²⁰ Charles Ghankay Taylor (born 27 January 1948, Liberia), a Liberian politician and guerrilla leader who served as Liberia's president from 1997, until he was forced into exile in 2003. He was widely held responsible for the country's devastating civil war during the 1990s, and for crimes committed during the civil war in neighboring Sierra Leone. Taylor was the son of a judge, a member of the elite in Liberia descended from the freed American slaves who colonized the region in the early 19th century.

and other developments in the Liberian state, have produced two dimensions in the system of governance: a political governance architecture based on a large measure of authoritarianism, and a social economic government system based on a class structure that privileges the upper class. These dimensions have implications not just for power relationships, but also for aspects of human development and the welfare of all in Liberia—a country that is quite wealthy in terms of natural resources but provides only extreme poverty for the majority of its citizens.

Three major mechanisms constitute the foundation of Liberia's regulatory regime for political finance: the Constitution of Liberia, 1986; the New Elections Law of Liberia;²¹ and the Campaign Finance Regulations for Political Parties and Candidates, 2011, which set the ceilings on the electoral expenditures of parties and candidates. The constitution itself, as the overarching framework, bans contributions from foreign sources, corporations, businesses and trade unions. It empowers the national legislature to hold discussions regarding the political contributions, both during and after the elections, although no limitation has yet been set. There are reporting requirements, and a political party is required to submit political reports once a year, while independent candidates are supposed to submit a financial report 30 days before the elections are held. When political parties are dissolved, they are required to submit a financial report. Presidential candidates receive USD 2 million, Vice Presidential candidates no more than USD 1 million, Senatorial candidates USD 600,000, House of Representative candidates USD 400,000, and any other elected offices in the country no more than USD 75,000, towards their electoral campaign. There is a ban on vote buying. The third regulation, extensively developed, is geared towards campaign finance regulations more than political finance regulation. It contains a ban on contributions from non-Liberians, and bans on contributions from corporations and trade unions, the use of state resources—both financial and in-kind—and anonymous donations. It has provisions on reporting requirements, post-election and pre-election, as well as public disclosure of their financial reports by political parties and independent candidates.

Political parties and independent candidates are required to identify their donors, even if the donation is minimal (USD 10). Political parties and independent candidates are required to report these in their financial report and include them on the list of donors, along with donors' addresses, occupation, employer, the kind of contribution and the amount. Auditing is discretionary but the Election Commission, which is responsible for managing the political finance regulatory regime, can conduct an audit, although this is rare. Various sanctions can be imposed on political parties and independent candidates, depending on the particular offence, such as fines, forfeitures, in cases where the candidate's political party won that particular election, the de-registration of a political party and the loss of political rights. Enforcement of the political finance regulatory regime basically rests with the Ministry of Justice working with the Election Commission. If the offences are of a criminal nature, the Commission presents the cases to the Ministry of Justice, which makes a determination on whether to proceed with a prosecution.

²¹ Approved 29 September 1986, amended on 29 January 2003 and on 23 December 2004.

International measures to address political finance

One major challenge is that the state has no control over financial or resource flows, so the government has no control over money that is leaving the country, or the money that comes into the country. So political parties and candidates can evade all the requirements simply by putting the money on a plane and leaving the country, or bringing the money from abroad in a suitcase. There are no enforcement mechanisms available to control the flow of money.

The Election Commission responsible for managing the regime has no control over financial flows, so the commission has no way to monitor cash flow. Nor can it address the gaps in the legal framework. In the Liberian case, the Commission has made no effort to try to address the gaps. It has no political will or commitment to enforce the totality of the political finance regime. The Commission's main interest is the integrity of the election. Political finance is a secondary matter, with the exception of the reporting requirements.

The major challenge is, of course, the lack of effective monitoring of campaign contribution expenditure, and that is both an absence of capacity and a lack of commitment to make an effort to check. There is no independent verification process for the financial reports that political parties submit before and after elections. Typically, the reports are just received and filed somewhere. The Commission may read them, but it does not make an effort to cross-check or validate the reports submitted, and the problem is made worse by the fact that the Commission itself has no expertise in political finance. The Liberian Election Commission has no staff specializing in political finance regulation, and the lack of mandatory auditing processes creates a problem, as it lacks verification also. The lack of political will is about arresting a broader trend for the illegal use of state resources for political purposes, which is fairly widespread, and the Commission has demonstrated neither the will nor the commitment to deal with the issue, including dealing with vote buying.

Corruption is a broad phenomenon entrenched in Liberia's political economy. It is the overarching factor that frames the regulatory environment, as the state is seen not as an avenue for providing services to citizens, but rather as a means for the people engaged in the process of accumulating wealth. The leadership has no interest in political finance regulation because it has to use illegal means to acquire and keep power. Because harnessing power means they will have control over economic resources, they have no interest in having a regulatory regime.

Political parties in Liberia are personality driven, and are established by personalities for electoral purposes, so between elections the parties do not really function. Given the personality-driven nature of the parties, once the elections are over, the party is no longer of interest and the party ceases to function.

There is abject mass poverty in Liberia, and the question of violations of political finance, or inducements for vote buying, does not just come from the politicians, but also comes from the voters themselves. They see it as a money-making opportunity in a maze of poverty, coupled with a lack of legitimacy. The voters are aware that the politicians will not make any difference in terms of service delivery when elected.

Conclusion

The effectiveness of measures to eradicate political finance corruption in Liberia is dependent on several major factors:

- The democratic reconstitution of the state: a deeper transformative process that seeks to, among other things, democratize the portrait of the state (nature, mission and character), restructure power relations within the government, and outside of the government at various levels and spheres, and democratize the political culture.
- The critical importance of visionary leadership, especially at the national level.
- The centrality of political will.
- The importance of commitment on the part of the government, citizens and the other stakeholders.
- The quality of the norms and the regulatory regimes for enforcing them.



Commissioner Daniel Zuchron

Chair, Badan Pengawas Pemilihan Umum (Bawaslu), Republic of Indonesia

Indonesia experienced very strong political turbulence in 1998, and the issues of politics and corruption have arisen since then, one of the demands being the eradication of corruption, collusion and nepotism. It is therefore not surprising that public and government institutions in Indonesia have become the target of moves to enhance transparency and accountability.

In 2001, the Indonesian Constitution was amended for the third time to include the principles of elections, which are direct, general or universal, free, secret or confidential, and fair and honest, with fair and honest as the latest additions. The reforms also brought forward important criteria for an election that is transparent and accountable. Among the new political laws package, there was a new law pertaining to the setting up of a Corruption Eradication Commission,²² and law on legislative elections, presidential elections, regional elections and legal parties, including new the political finance provisions that limit donations and the amount of donations, introduce reporting regulations, impose sanctions and discuss enforcement.

Experience from the 1999, 2004 and 2008 elections to reduce political corruption were merely experiments that left legal gaps to be addressed, such as the issues of money in politics, vote buying, the use of state facilities during campaigns, and using government programmes to promote the ruling party and incumbent candidates, the absence of

²² Law No.30/2002 on the Corruption Eradication Commission was passed in 2002, providing a legal basis for the establishment of the Komisi Pemberantasan Korupsi (KPK), the Indonesian Corruption Eradication Commission, which was formed after special consideration of the extraordinary nature of corruption in Indonesia, which had become systemic and widespread.

impartiality in policymaking, the mobilization of civil servants and non-compliance by political parties with reporting campaign finances. This lack of transparency in reporting of revenue and expenditure reflects on the capacity of a political party to demonstrate good administration and management capacities, and on its political intent. In order to fight the limitations on contributions, political parties and candidates manipulate their contributions, as a form of service and good. They are all well aware of the limitations of the law.

In the 2009 and 2014 elections some political parties were hit with sanctions and not allowed to participate in campaigns because they had not complied with the financial reporting obligations as the legal framework required.

For the legislative election in 2014, the state agency responsible for monitoring electoral processes, Bawaslu,²³ conducted supervision of social assistance plans in Indonesia in Bantuan Sosial (Bansos), where 10 ministers were standing as candidates. The political parties and candidates appeared to accept donations from prohibited or unclear sources, and a lot of donors hid their identities and their donations, which did not match their portfolio. There were also inconsistencies between the revenue and expenditure figures submitted in financial reports.

Bawaslu tries to encourage the addressing of political corruption as the main issue among its duties, and mainstreams political corruption work throughout all its activities and in every phase of the elections it monitors, thereby encouraging making political corruption the main issue in the supervision of elections. It has also initiated multi-bodied state collaboration, such as with the Corruption Eradication Commission and the Ministry of State Apparatus Empowerment and Bureaucratic Reform—a collective centre for law enforcement with the Prosecutor's Office and the police. Bawaslu also collaborates with the media and CSOs. With a movement of one million volunteers it produces and develops an Electoral Risk Index, and focuses on the electoral bureaucracy and money in politics in areas where elections are being held.

During the 2014 Legislative Elections, Bawaslu focused its attention on using the Index, and on the tensions in 77 electoral districts comprising at least 500 regencies or cities. In the upcoming 2015 Head of Region Elections in December, it has identified 308 regions/cities prone to problems related to money in politics. It has identified the biggest issue in the Indonesian political system as the neutrality of the bureaucracy and vote buying.

In order to improve the situation in future, campaigning will be a crucial instrument in elections in Indonesia. Therefore, campaign finance is a crucial instrument in candidate electability. Bawaslu is focusing on the improvement of campaign finance regulation alongside stricter sanctions. An alternative way to eliminate corruption in politics is to hold discussions on political party finance and have tighter mechanisms for political parties to improve transparency and accountability, along with equal treatment for political parties or candidates, including access to public television and campaign activities.

There is therefore a strong need for improvements in political and campaign finance

²³ For more details see the official Bawaslu website <<http://www.bawaslu.go.id>>

regulation alongside stricter sanctions. Other alternatives in the form of incentives to eliminate corruption in politics need to be discussed. In political party finance, this incentive is expected to be a trigger mechanism for political parties to improve transparency and accountability, such as equal treatment for political parties and candidates accorded access to public television in campaigns. So we are trying to encourage improvements in regulating campaign finance under the law or in the legislation, because there is momentum from 2013 when these laws were amended.

What should be done in the international context? There need to be improvements in the collaboration between institutions and the state to learn about best practice, regular stakeholders meetings to give the latest update in each country, a global standard concerning the principle of eradicating corruption in politics, and public involvement with respect to countries' identity and characteristics. Organizations like International IDEA and other international actors should continue their efforts not only to discuss how to reduce political corruption, but also to facilitate policy change and implementation.

Session discussions

Questions arise about the internal, UN and other international support that Tunisia is getting with its capacity building on domestic or country level political finance monitoring and corruption eradication. Will future elections be conducted with or without UN or other international agencies' assistance? Tunisian elections are the path-breakers for the entire Arab world. If they succeed, then there will be hope of success in other places too. With too many regulations, there are chances that many political parties' spending will go unreported, or even operate in an 'underground' manner? How is the country trying to balance regulation that is realistic? Can sanctions or penalties solve the challenges faced during elections or in election matters, such as in political finance regulation or in electoral disputes? Is there equal treatment under the law for all political parties, big or small?

On Liberia, where the speaker was a former aspirant for the presidency, how can the country be governed to secure equal participation and eradicate political corruption?

On Indonesia, what social assistance programmes were developed during the election? Was it within the annual budget programme? Was there a cut-off date? What budget for annual social programme assistance was accounted for in the fiscal budget?

Are there any constraints or restraints on women candidates raising campaign funds? Correspondingly, maybe political finance regulations differentially affect women vis-à-vis men? Should there be different treatment in terms of the political finance regulations for women candidates to address gender equality or gender equity?

The Indian Election Commission regulators face challenges when political parties organize public rallies. They claim to deploy 20 vehicles to transport people, but in reality there are 100. When questioned, the party claims to have deployed only 20 and shows the expenses. The rest claim to be volunteers coming to the rally. There are problems in discerning what is voluntary and what is actually party funded and to be accounted for.

Bawaslu is an independent body as an election commission, it is also an honorary council of the *Komisi Pemilihan Umum (KPU)*/the General Elections Commission of Indonesia, and the Dewan Kehormatan Penyelenggara Pemilu (DKPP)/the Election Organization Ethics Council. These three institutions were formed based on the provisions of the constitution, that make them national, permanent and independent, and these are therefore constitutional bodies. The ministries have regular programmes but in their own constituencies. When the candidates ran in the most recent elections, Bawaslu started asking for information and questions regarding government programmes and budgets, their implementation plans, and about the information provided by parties on their implementation, including asking the supervisors at the district level to pay attention to all government programmes being implemented in their areas. The candidates were alerted, and some reduced or stopped their activities.

Bawaslu's voluntary participatory programme comes from the premise that the more monitors there are, the fewer infractions there will be, So this is simply a campaign to generate the feel of mass monitoring at the grassroots level, and it is voluntary in nature as Bawaslu cannot sustain funding at that level. Hence the request for voluntary contributions.

There are difficulties in determining whether someone is independent. People might be paid to provide false information about other candidates. This is difficult to prove. However, Bawaslu also relies on Election Observers, and they are required to follow a code of conduct that ensures neutrality. Bawaslu cross-checks the information from volunteers and observers when preparing its final report.

In the case of Liberia, there is a need for long-term political activists to be recognized and stand for elections in the country. However, due to lack of funding, they cannot compete, and so those candidates who are much better funded do better than others, and win elections, making the rule of money in political life a reality. The voters are less interested in the agenda or political manifestos. Voters ask: 'what are we going to eat until all of these plans materialize?'; and other similar questions. In the Liberian experience, you can have a multiparty system even in an authoritarian system of governance, but with diverse backgrounds and multiparty systems the government makes it difficult for parties to function.

For Tunisia, the challenge is to find a balance between control and freedom, to let stakeholders freely give their views, build through transparency, encourage partnership and to be confident in the system. There are many projects in law that demand a political warranty to encourage all partners to discuss together what changes should be brought forward and how improvements can be made in the system. Sanctions are not the final solution, but they work as encouragement to regularize compliance. What are needed are proportionate sanctions, and the seriousness in which they apply to all candidates, not just some.

On women's equality, Tunisian law is concerned about equality between women and men but in reality there is no equality as women constitute just a quarter of the members of the assembly, and struggle to keep their positions. Indonesia does not have much affirmative action by parties to promote women or women candidates.

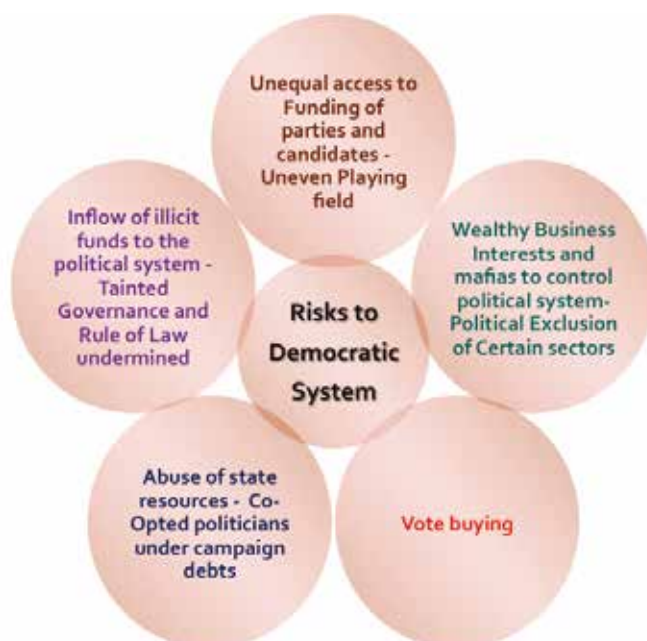
Case Study Presentation: Prasana Kumar Dash

Former Director-General (Political Expenditure), Election Commission of India, Republic of India

Abuse of Money in Politics and corruption tend to go hand in hand, whether it is in an established democracy or a fledgling democracy. We need to consider how money can influence politics. This influence can be classified into three categories:

1. Funds raised by candidates and parties: when examining the campaign funds of parties and candidates, there are instances where there is excess use of the candidate's personal funds. There are official small and medium-sized donors, big donors, party membership fees and public funding, and illegal sources of funding should not be overlooked.
2. Campaign Expenditure: it is also equally important to look at the illegal expenses that occur in the form of vote buying, bribing the media for positive news about the party or candidate and blocking the news of opponents, or even only publishing the news and campaign highlights of paying candidates, as well as bribery of election officials. There are constituent services and the voters' favours, and there are legal expenses such as brochures/posters, rallies, door-to-door campaigning, and television and radio advertisements.
3. Repayment after getting elected, when the elected leader or party doles out legal and illegal favours to those who have funded their campaign expense. Legal examples can include offering patronage or jobs, appointment to a government position or even projects in the home district that might benefit the person or a particular supporting community. Illegal examples are bribes, kickbacks, gifts and favours given to some people to the detriment of others.

Figure 16. Money power and risks to democratic system

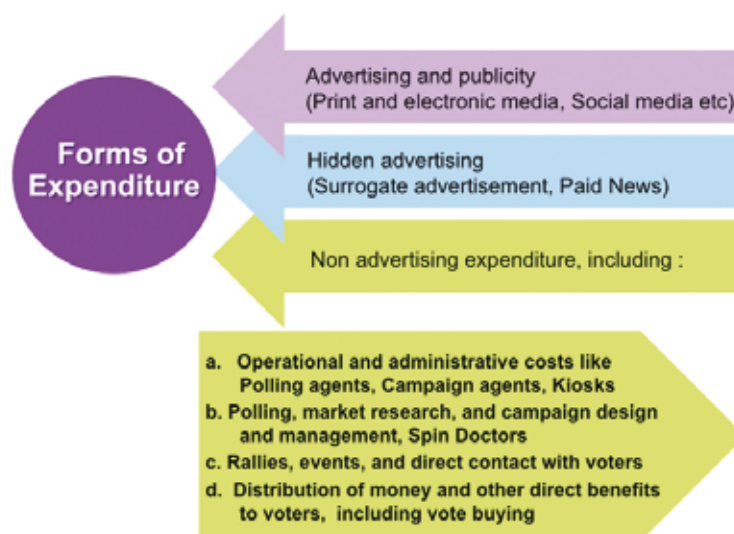


There are also risks to the democratic system, which result from the inflow of illicit funds into the political system, tainting governance and undermining the rule of law. Unequal access to funding for parties and candidates also creates an uneven playing field. The situation is challenging, as wealthy business interests and mafias control a lot of illegal funding and seek to influence the political system, and there is abuse of state resources by those corrupt politicians who are co-opted by the business sector and/or mafia groups and are then required to pay their campaign debts. This also leads to political exclusion of the weaker sections of society from being elected to the legislative bodies. This overall leads to the challenge of vote buying by candidates, either with voter consent or as a forced act. In order to attract people to vote for them, political parties indulge in a marketing blitz during election campaigns despite the limits that are set as a ceiling on political campaign spending. Political parties do not just cross it; these days they tend to jump over it.

The various forms of expenditures that now occur in the modern electoral system can be described broadly as:

- Advertising and publicity: high costs are now involved due to the excessive use of print and electronic media, social media, and so on, and these are repeated over the days and weeks of the campaign period.
- Hidden advertisements: paid news and surrogate advertisements by media groups that are paid for by the candidates and political parties to show them in a positive light to the voters.
- Other Expenditure: these costs are usually tied up with the ongoing operational and administrative costs of the campaign and elections: (a) campaign agents, public relations teams, market research, campaign design and management; (b) kiosks for the party and candidates in the constituency, as well as rallies, events and direct contact with voters; (c) printing and stationery, banners, hoardings, leaflets; (d) the distribution of money and other direct benefits to voters or constituents before voting; and (e) polling agents to monitor the voting booths.

Figure 17: Forms of expenditure in India



The control challenges in political finance are:

1. There is either an absence of legislation or ambiguous legislation, which is unable to address the ongoing challenges and excessive expenditure as loopholes are exploited.
2. There is a lack of political will to control the power of money, as most of the political parties are aware that they need money to run their own campaigns, and for political parties to be in power.
3. There is a lack of independent and impartial enforcement institutions, as most of the anti-corruption agencies have become political tools in the hands of ruling parties, which they use against the opposition in order to create problems for them and not allow them to come to power.
4. There is seemingly popular acceptance of vote buying among voters, as they demand more and more gifts and benefits just before elections, which the candidates are ready to provide, and exercise their vote in favour of those who have paid them well.
5. Corrupt practices in the media and paid news, which are becoming even more problematic as media groups now sell big packages to politicians to publish advertisements masquerading as news and are making big money during elections.
6. The delay by the judiciary in finalizing cases pending in the courts or penalizing defaulters allows errant politicians and political parties to get off scot free in disregarding the law. The lack of clarity in case law means that loopholes are being exploited by politicians to drag cases on for years without any result.

There are many challenges in India in controlling political finance and corruption. These can be broadly identified as:

- There is no law regulating political parties, especially their political finance and campaign expenditure.
- There is no ceiling on party campaign expenditure and no rule on disclosure of party expenditure during the election process.
- Anonymous donations are a major component of the funds received by political parties and there is no accountability for them.
- There is no particular law regulating the media and social media during elections and this is currently a huge grey area to monitor and control.
- We have cash economy in our country, and there are no laws on cash transactions, thus it is very difficult to track or monitor them.
- There is no legal provision for pre-candidature accounting of expenditure by candidates, which leaves a wide loophole as candidates spend huge amounts before elections which they do not need to disclose
- There is also a very low level of awareness among voters, and they generally accept bribes as something that politicians offer them in return for their vote.

However, the ECI is taking the necessary steps within its jurisdiction to adopt best practices:

- A 'Model Code of Conduct' has been developed by the ECI with the consensus of all parties and this has helped regulate a lot of activities despite the challenges.
- The ECI is limiting campaign days and imposing restrictions on the use of government facilities and policy announcements before the start of elections.
- The ECI has also put restrictions on the use of vehicles in rallies and enforced the rules regarding advertisements in public places.
- The ECI requires political parties to declare their proposed methods of raising resources for the freebies promised in their party manifestos, with a clear outline of the means and methods for raising resources to provide these proposed giveaways.
- Politicians are required to seek permission from the electoral authorities for the use of helicopters in election rallies, and its landing in a constituency requires a clear declaration of all the related expenses.
- Instant action is taken by the ECI against any violations of its instructions and this is made public. There have been instances where the ECI has received complaints via sms or pictures and the local team has immediately taken action, and then informed the public through the Internet, and notified the informant of the action taken against the violation.
- There is also Public Interest Litigation (PIL) filed in the apex court by CSOs, which obtain court orders against corrupt practices or illegal activities by political parties. These orders of the court are binding on all political parties.
- Under Public Interest Litigation and any subsequent court order related to it, the practice has started of disclosing election expenditure after the election in accounts provided by political parties to the ECI.
- As per court decisions, political parties and candidates require prior approval from the ECI of the content of electronic media campaigns during elections.
- As per court decisions, there is now regulation of exit polls during the election period as they can affect results in other places where elections are still to be conducted.
- The ECI monitors the movement of cash and liquor during the election campaign, as they can lead to vote buying.
- There is public awareness raising through mass media campaigns and education, with the involvement of CSOs and the media as partners in anti-bribery campaigns during elections.
- The ECI has asked candidates to open separate bank accounts and conduct all election campaign expenditure through that particular bank account.
- The ECI has asked political parties to publish annual accounts audited by certified auditors, which are submitted to the ECI.
- The ECI has put restrictions on party expenses being paid in cash. Candidates are also required to disclose three times during the election their election

expense accounts, including the sources of funds received, which are verified by independent ECI observers. These are made public during the election.

- The ECI takes up cases of candidates that incur expenditure in excess of the ceiling and issues notices for disqualification to such candidates and for incorrect disclosure of expenses.
- Central government deploys election observers from outside the state to inspect the election campaign and its expenses in order to remove any local bias in the checks.
- The ECI regularly monitors the paid news during election campaigns and issues notice to the candidates involved in illegal practices.
- The ECI sets up a complaints monitoring centre in each district during the election process, which receives complaints from the public and takes action promptly, which is recorded and made public.
- The ECI also provides facilities to the public to capture evidence by mobile phone of any violations of expenditure by candidates, such as vote buying, hate speech and use of paid for media, and upload this on to a database at the complaints monitoring centre. Thus there is total transparency in the actions taken by the ECI and political parties cannot claim bias when all the evidence is put in the public domain.
- Flying Squads are formed in each constituency, involving other law enforcement agencies, to take action on complaints, which is put into the public domain.
- Active media and CSO partners that have done good work on ethical voting campaigns are officially recognized and facilitated by the ECI during National Voters' Day for their contribution to increasing public awareness and taking action against corruption. Best practices are documented and circulated throughout the country.
- Before any instructions on any regulation of campaigns are finalized by the ECI, all the political parties are involved in a process of consultation to obtain consensus. Only then are instructions issued. This helps avoid any misunderstanding and the exploitation of the matter by any political party.

Figure 18. Political finance and control challenges



The best contribution by CSOs and the media in India is in taking up the accounts of candidates and parties after their disclosure to the ECI, when they conduct analyses of assets, liabilities, educational qualifications and criminal cases pending for candidates, and also highlight lapses in providing the correct information. They have also gone to apex court to demand contemporaneous disclosure of party accounts, and the names of donors by establishing links with clear evidence. Public awareness campaigns about vote buying were also conducted by CSOs in association with the ECI. Public interest litigation was filed in the courts to provide direction and/or take the necessary action to make political parties accountable under the Right to Information.

While it has been difficult to quantify the results of this monitoring by the ECI, the enforcement of rules and regulations has resulted in:

- Huge seizures of cash, liquor and gifts during elections.
- Electors are also returning gifts in some instances to the parties and candidates.
- Electors and the media have got together to lodge immediate complaints with complaint monitoring centres about vote buying by parties.
- The Institute of Chartered Accountants of India, which is a statutory body that regulates the accounts of corporations and individuals, was asked by the ECI to frame guidelines for auditing and accounting for political party expenses.
- The ECI has involved the Income Tax Department in examining the accounts of political parties and issuing notices for defaults.
- More than 2000 defaulting defeated candidates have been disqualified by the ECI so far for not filing the correct accounting details.
- Four winning candidates were issued disqualification notices by the ECI for not disclosing their election expenditure correctly to the ECI, and one winner was

disqualified. The decision of the ECI was upheld by the Supreme Court when challenged.

- Political parties that receive funds from prohibited sources have been exposed and the court has issued directions against them.
- Notices have been issued by the ECI against parties for not filing correct accounts, contribution reports or audit reports. These notices have been uploaded in the public domain.

Many of these developments would not have been possible if the ECI had not started to use ICT tools in its monitoring work. Some of the new tools were used to:

- i. Capture evidence of electoral malpractice online through mobile phones, and upload this on to social media;
- ii. Disclose all complaints against and all the accounts of parties and candidates on its website for public view;
- iii. Capture third-party donations and enforce public disclosure;
- iv. Ensure e-filing of accounts and donations by candidates and parties;
- v. Collect e-transaction details online from banks to cross-check funding against spending by candidates and parties;
- vi. Make political parties and governments disclose information and take the necessary action over violations.

There have also been recent developments regarding state funding of election campaigns, where a Law Commission Report has recommended certain changes: (a) more in-kind subsidies provided to parties; (b) state funding of media expenses and expenses on public rallies; (c) restrictions on anonymous and cash donations to political parties and electoral trusts; (d) penalties for a failure to disclose by parties and candidates; and (e) in cases where corporations wish to donate, they must seek permission from their annual general meeting.

It is therefore important to say in conclusion that transparency in political finance and campaign expenses is necessary. Legislation is required on various corrupt practices by political parties in order to end loopholes. There is a continuing need for awareness campaigns among voters on ethical voting practices, and for the ECI to strengthen its association with CSOs and media groups to increase public demand for electoral reform. As new means and methods of financial transactions come into operation, the ECI must keep pace with the changes and use technology to monitor, report on and expose the political finances of parties and candidates.

Session 6. Asia-Africa cross-cutting conclusions and recommendations

Sanjay Gathia, International Consultant, International IDEA

This chapter provides a brief summary of the common points emerging from all the speakers from the continents of Asia and Africa. It includes the overall situation regarding political-financial corruption and some common recommendations to be considered in 2016–2020 action planning and implementation.

Cross-cutting conclusions

Socio-cultural situation

The majority of Asian and African countries have large populations living in poverty, with little access to educational opportunities or even literacy programmes. This affects the power relationship that exists between them and the political and business elites. Due to their economic privileges and the availability of resources, many among the political and business elites form a provider relationship with their constituents, thereby reinforcing the patronage system with those who are economically disadvantaged. This consistently makes the relationship that of a giver (for those in political and business power) and a receiver or taker, due to socio-economic status. This alters the democratic value and notion of government for the people, by the people and with the people.

Furthermore, elections, which were once seen as a major social event, are now seen as a politically influenced act of giving, where gifts and incentives are used in social interactions that substitute for vote buying.

While measures are increasingly being applied to detect vote buying concealed by the use of social events, gift giving and incentives, it has become more difficult to identify or distinguish between social norms and vote buying. A voter might expect gifts and incentives as part of the electoral campaign promise, given that the majority of the economically challenged population considers gifts and incentives the norm and vote buying as simply an acceptable form expected by the voter as a political trade-off.

Such practices clash with people's desire for clean politics. Political finance regulation and legislation, its effectiveness and enforcement, and the role of these in promoting fair elections in Asia and Africa are all governed by socio-economic, political and cultural contexts that differ from one country to another. There is a need to account for variations between countries as well as a need to capture commonalities.

Many voters are aware that political parties indulge in direct and indirect vote buying practices. Many voters expect to be approached by political parties to vote for them

based on some form of remuneration or incentive given prior to the voting. However, many people—even though they accept this—are also voting according to their conscience, while others are persuaded by gifts and incentives. Parties and candidates are not voted for on the basis of party programmes that speak to voters' demands, needs and interests. Voters' behaviour towards gifts and incentives shows a disconnect between voting conduct, voters' interests and the demands of public policy. This also raises the larger questions of 'why'? Is it due to lack of voter awareness or information? Or is it due to ignorance of the long-term political consequences for democracy and people's participation?

Socio-political situations

While the political systems in Africa and Asia may have originally begun with genuine efforts to instil democratic roots, in the current context they have become corrupt and as a result, honest and genuine elements concerned with the public good have distanced themselves from politics and political processes. This disenchantment with politics among many honest potential politicians has been paralleled by public lack of interest in politics and elections. A big gap separates politicians from the public: but what is next? Will it be popular revolution as happened in Arab world or Burkina Faso? Or youth revolutions? The two continents of Africa and Asia no longer have clean politics and clean political party members.

Legal loopholes lead to instances of those with criminal records or ongoing court cases gaining recourse to politics until proved guilty in court. Politics therefore becomes a means of income generation, gaining clout, influencing policy or using public office for personal benefit. This sometimes marginalizes those who intend to go into politics to contribute to the greater good or strengthen and promote participatory democracy. Electoral laws in some countries allow a single person to create their own party, many unemployed people take advantage of such loopholes to obtain the public subsidy extended to political parties without accountability for spending, most of which is used for personal expenses.

Elections are widely understood to be the best 'money making business' as they are one of the least regulated and widely used methods of getting high returns on investment. Candidates devise sophisticated ways of evading electoral laws and rules regulating political finance. The evasion of political finance regulations by candidates takes different forms depending on the socio-economic, political and cultural context.

Many politicians and businesses form alliances to back each other up, some financing parties and expecting policy changes for a favourable investment climate, others forming their own political party. As a collective, there is a strong tendency to limit people's freedom to protest against injustice, commercial activities and/or stopping land disbursement to the corporate sector. This creates a huge gap between politicians and the general public, and in many instances this has resulted in people losing interest in politics and losing trust in political parties and elections as mechanisms that can change the conditions people are dissatisfied with.

Political parties talk of economic growth, development, employment and boosting income, but resist political reforms linked to transparency, accountability and participation within their own party.

While vote buying, gift giving and providing incentives, along with economic growth, have become an accepted norm there is also a strong desire among people to break the political nexus between corruption and political financing. These aspirations coexist with resistance to political change by political parties.

Geopolitical and business situation

The changing global economy means that investment is increasingly being attracted for employment creating opportunities to keep constituents happy. However, in many of the investments there are missing contours of accountability and transparency. When parties gain access to power, they are normally reluctant to change the lobbying limits on business donations. Business donations provide major sources of party finance and continue to be a lifeline for parties to remain afloat. Businesses continue to wield significant influence on politics and policy, which they utilize to promote and serve their interests.

Businesses are increasingly concerned only about their investments and look for political stability, irrespective of democratic set-up or the voice of the people. The need to align policy, law and civil control to protect corporate interests means that there is increasing direct or indirect influence being used by business to control the outcome of policy debates, and the implementation and execution of some policies. While Corporate Social Responsibility (CSR) is widely practiced and allows for contributions, the size of contributions even if given as a percentage of total profit to political parties can be very large, especially when corporate revenue is very large and creates opportunities for influence by businesses on political processes and their outcomes.

Many legal frameworks are either inadequate or out of date in defining political finance, its extent and the related factors influencing political finance and the resulting outcomes. These loopholes let corporate funding or private interests dictate policies, and contradict the democratic norm of 'government for the people, by the people, with the people', and their popular needs and demands.

Technology has helped change the world of finance and how financial transactions are carried out both off-line and online. Political finance and its monitoring require keeping pace with online transactions, such as the use of Bitcoins. Oversight authorities need to keep themselves updated on the changing financial world market and its operations and linkages with political financing, vote buying, party jumping, candidate buying, and so on, while strengthening their working ties with national and international financial institutions to monitor and track political financing.

Oversight agencies and resource challenges

The meeting highlighted the increasing resource constraints and challenges faced by oversight agencies, in particular as they relate to oversight and prosecutorial powers. Most agencies face challenges from special orders or notifications to curtail their investigations. This is due to the non-independent functioning of many oversight agencies. Many also lack strong prosecutorial powers to bring offenders to justice and to politically bar repeat offenders, who continue to operate with impunity. In addition, there is not enough manpower to cover most of the national districts or regions, while political parties and their supporters can move into far corners of districts and regions to

influence voters. Technically skilled people with a good background and understanding in commerce and finance, including the ongoing technical changes of e-commerce and e-payments, are absent from oversight agencies. Many of the agencies are working with laws, legal frameworks and mindsets that are unable to cope with the changes that have taken place in politics, finance and the commercial world. The legal framework is either outdated or lacks adequate coverage of the politico-finance links and networks. This provides a constant enforcement challenge for the agencies. Finally, there is the problem of budget allocations. Legal frameworks might be developed and strengthened, manpower deployed and technical skills developed but without long-term, adequate and sustainable budget allocations, action plans will fail, making strengthening the monitoring and prosecutorial aspects of oversight agencies useless or ineffective.

Cross-cutting recommendations

In-depth study and typology

The meeting highlighted the need for an in-depth understanding of the various links between political financing, corruption and corrupt practices. There is no one size fits all, and it should be expected that a region as diverse and vast as Asia or Africa will have numerous issues to be understood and documented. Cross-cutting links to political financing were identified in the areas of the extractive industries, the oil industry, land and contract farming, infrastructure development, shipping and fisheries, banking and investment, CSR, health care, education, and donor and development agencies.

It was agreed that an in-depth study, discussions and deliberations on these various themes should be led by International IDEA and stakeholders to assess the linkages, their extent and depth, and assess the influences (positive and/or negative), the nexus (national, intercontinental and internationally) and identify common patterns in each sector across the two continents.

These could be taken up further to deliberate on the gaps found in the links and influences not addressed by existing enforcement policies and agencies. Especially when in the majority of African and Asian countries, work is ongoing to deal with the finesses of political financing and put together the building blocks for democratic governance, such an initiative could provide a good basis for reference and cross-checking.

It was also proposed that a typology of countries vis-à-vis the state of democracy and the challenges of political finance should be developed for use by all stakeholders working to break the nexus between political finance and corruption, especially the oversight agencies, law enforcement agencies and EMBs.

Human resource development

The focus on human resource development could start with some of the most relevant training, which would help all stakeholders to understand the changes that have occurred and where the gaps are in existing human resources. National level customized workshops could be developed based on the specific needs of a country, and intercontinental workshops could be conducted on specific themes to facilitate experience sharing and strengthen responses. Some of the workshops recommended for existing institutions and bodies were:

- Training officials on tracking political finance and identifying violations
- Cross-institutional workshops and training on tracking political finance and judicial processes
- Learning on business practices, new money and electronic monetary movements for oversight bodies
- Sharing and learning from country experiences of practical implementation of systems and processes for political finance tracking and monitoring, and policy development and implementation
- Intercontinental workshops on experience sharing on tracking political finance: legal implementation and judicial processes

Political party management

Financial transactions of political parties and their representatives should be tracked both inside and outside the country, especially the asset changes mentioned in the declarations form signed before an election, and any time when politicians change party or indulge in party swapping but before and after the elections in particular.

It was strongly recommended that the focus should be on the misuse of existing gaps in political party law, which allow parties and individuals to exploit legal loopholes for their personal and political gain. It was also recommended that existing political party laws should be reviewed and reassessed to bring them up to date with the modern political changes that have taken place, and make them applicable to the pace of change in political and social landscapes at the national level. Some of the regulations to be reviewed and reassessed would be:

- New regulations on candidate (party and/or independent) registration, party functioning and dissolution.
- Constituency base, actual and active party supporter, and donations made.
- Campaign finance regulations, reporting requirements, pre- and post-election reporting.
- Regulating ghost parties and party jumping during the pre- and post-election period.

Addressing legal gaps in oversight and regulatory institutions/bodies

Many existing bodies face challenges due to existing constraints and gaps in the legal system. This requires attention to strengthen enforcement, which is a major problem even where rules and regulations exist. The capacity to act in real time, as in the case of India, would be an effective measure to prevent political finance corruption, if not stop it entirely.

Anonymity for whistle-blowers on political finance corruption should be used to instil confidence in the public to report violations and corruption. The financial reporting mechanisms should be made regular and transparent, to enable people to access them as and when they need to, and question political parties and their representatives about

political donations and spending.

Independence for oversight institutions should not just function on paper, but mean independence in terms of mandate, appointment of office holders, secure tenure free from political interference, and sufficient resources to carry out the monitoring and supervisory role. The courts should remove any political and legal hurdles, to enable work to be conducted unhindered, thereby protecting the independence and strong mandate of oversight institutions.

Now political parties and their representatives have swiftly adapted to the use of online and social media for resource mobilization, oversight and regulatory bodies too are required to understand the same tools and use new technology. Smart phones, the Internet and social media should be effectively utilized to engage members of the public and make them responsible stakeholders in doing their civic duty for clean elections.

Many of the oversight agencies have been working without coordination with other regulatory or law enforcement agencies. Points of entry and links to political finance regulation needs should be identified and assessed, resulting in good coordination between all enforcement agencies. This could also be regulated in a new legal framework to overcome existing gaps and challenges, and end old practices and redundant legal systems. The practitioners suggested a review and revision of the following:

- Existing powers and limitations on national and state bodies' monitoring, prosecutorial, judicial and investigative abilities, including cross-institutional coordination.
- Existing cross-institutional functions, authority and judicial action to be strengthened based on real-time action and the responses required to track, monitor and catch violations of political finance rules.
- Strengthened disclosure mechanisms for whistle-blowers' safety and security, ensuring that implementation of existing or new mechanisms is done on a timely and regular basis.
- Real-time monitoring of violations using ICT and public engagement to identify violators and encourage public monitoring of political finance, and create social awareness.
- Initiating and strengthening inter-agency cooperation on oversight and regulation with new rules and regulations to reduce response times during the 'hot pursuit' of those suspected of political finance violations and corruption.

Strengthening national and international measures

Money provided to individuals and political parties should be made accountable under all circumstances, especially when it is taxpayers' money. To find answers to questions such as: How to provide and regulate public funding? How can political parties / individuals that spend public funding be held accountable? What measures should be taken to reduce dependence on private sources and provide a level playing field for all parties, be they big, small or new?

Awareness should be raised among political parties and individuals about the various

standards that must be respected, especially on money in politics and its long-term impact on people's participation in democracy and democratic institutions.

Oversight agencies should work with international stakeholders to monitor money moved overseas without accountability, and how it is being spent.

Gaps should be identified not just in one law or legal framework, but in all existing laws, legal frameworks and institutions, so that each of them is simultaneously updated, has interconnectivity and provides supportive mechanisms for and to each other.

The various donations and contributions made to political parties and/or party representatives should be cross-checked for their source or origin, and whether they are being illegally or illicitly channelled to voters for vote buying by a third party, thereby undermining the democratic set-up and system.

Measures should include getting all relevant stakeholders on board with the transparent monitoring of public finance, thereby strengthening legal, political and social measures and developing public confidence in the measures being undertaken. These measures should lead to:

- Public funding and spending that is transparent and accountable.
- Respect for all international standards and measures imbued in the national frameworks.
- International measures and sanctions to stop illegal and illicit money being kept overseas.
- Identifying gaps in electoral codes, political party codes of conduct and public spending of campaign finance and its reporting.
- Voluntary and legal contributions: distinctions made on the source or origin of donations made to parties, party representatives or individuals.
- Engaging NGOs, civil society, the general public and relevant institutions in monitoring political finance and corruption challenges.

Annex 1. Evaluation and feedback

VENUE	EXCELLENT	GOOD	AVERAGE	BELOW AVERAGE	POOR	Not Filled	Total
Comfort	4	6				2	12
	33.33%	50.00%	0.00%	0.00%	0.00%	16.67%	
Facilities	3	5	4				12
	25.00%	41.67%	33.33%	0.00%	0.00%	0.00%	
Food and Beverage	6	5		1			12
	50.00%	41.67%	0.00%	8.33%	0.00%	0.00%	
Meeting Room	3	9					12
	25.00%	75.00%	0.00%	0.00%	0.00%	0.00%	

What did you find most useful?

Sharing of experiences was good and International IDEA did not forget the cultural aspect. While the problem is making democracy work, moving money from outside and flooding elections in nascent democracies impacts its growth and taking root. The variety and diversity of country experiences being presented and shared have added to the understanding of political situations in many of the countries in transition on both continents. They presented the diversity of issues and problems, some good regulations and best practices, solutions and new knowledge as well as more understanding.

The discussions on topics and participants from different sectors and their expertise added to the ongoing learning experience. The exchange of experiences from case studies, different socio-political/economies with many common challenges and issues to tackle in regard to overall electoral reform was useful. There were many ideas and practical tips to take home regarding how to improve political finance regulation. It was also useful to know the Mongolian, Indian and other country experiences, the practical rules and regulations being implemented. It was especially useful to discuss the political finance regulations from the countries that did and did not regulate it. The open discussion was very interesting as it allowed critical thoughts to be expressed and shared.

How could the dialogue from this workshop be taken forward?

Collecting good practices and make recommendations to improve the organization and regulation of financing politics in order to fight against corruption. In the future, more participants from emerging, new and unstable countries could be invited and engaged with. Political parties, civil societies EMBs, rights activist professionals, and some other people could use the dialogue.

There is a need for further study of the subject, particularly political corruption in different countries, its contexts; this research could be published either in the form of papers or books.

Training courses could be developed and delivered to specific targets; this could facilitate sharing knowledge and means with other stakeholders, including those from political parties who are keen to bring political finance regulations, transparency and accountability to the people.

More collaborations will be necessary, as there are also some very important points that have been raised in the meeting regarding political finance regulations and corruption, which could be taken forward by each country after assessing the real weak points of each country in regard to these points and trying to push the necessary action through legislation and new laws.

It was also recommended that International IDEA write/compile a report as a Policy Brief on Comparative Political Finance Regulation experience for distribution to all political parties' working groups on electoral reforms. Develop policy/action-based recommendations on improving existing election laws and election programmes for political parties. These recommendations could be a brief paper about the countries' experiences, the regulations and implementation. It could also be about the problems concerning political finance that still exist in other countries, the lessons learned from successful and failed attempts.

All dialogues could be shared with all the participants to make it into a cluster of reading, including those who do not currently implement rules and regulations on political financing. It would be beneficial to discuss the condition of corruption in their countries. The dialogue should be a work in progress and continuing awareness generation that will put pressure on EMBs to make new experiments.

The best practices discussed should be shared with EMBs, the media, and within the country with relevant stakeholders and CSOs. The presentations could be written and published as an anthology; also International IDEA could consider an online discussion forum on the topic for more interaction in the future.

Are there any other comments you may have about the workshop?

A good opportunity for sharing experiences and getting to know good practices; the time allocated for such meetings should be strengthened and even extended to four days. What next after the Bandung meeting? This looms as a question of the way forward.

It was suggested that with long flights and different time zones, participants should be given a day to overcome their jet lag and get some rest to make them more productive during the meeting.

The agenda was excellent, and wider discussions with increased stakeholders from various sectors in the future will make it even more useful.

Moderators should take note of participants who take a long time to comment and stop them when they are digressing from the assigned topic.

Talk about corruption and the political relationship with money should extend to talk about the marriage between money and politics and its effect on the economy of the state; also monitoring the money obtained by government employees, even if it is as a result of private transactions.

International IDEA could consider establishing a 'Community of African-Asian Practitioners on Political Finance Regulation', who would further develop and endorse the Bandung Principles/ Standards for Political Finance Regulation. Make this a model for African and Asian nations and institutes to adhere to. International IDEA could organize a follow-up event on the specific topics that emerged from this meeting.

Some of the participants' accents and spelling were confusing. A translator would be useful as it was hard for some to understand the speech and language of some speakers. Within the region, Australia as a developed nation should be invited to share its experience at similar events.

Annex 2. Meeting Agenda

Day 1	Tuesday, 20 October 2015
08.30–09.00	Registration
09.00–09.30	Opening Opening Remarks - Ambassador Esti Andayani, Director-General for Information and Public Diplomacy, Ministry of Foreign Affairs of the Republic of Indonesia Welcoming Remarks - Ms Leena Rikkilä Tamang, Regional Director for Asia and the Pacific, International IDEA
09.30–10.30	Session 1: Nexus between Political Finance and Corruption PRESENTATIONS <i>Three Speakers / 20 minutes each (Indonesia-KPU, Mongolia, Nigeria)</i> <i>Moderator: Mr Adhy Aman, Programme Officer, Asia and the Pacific, International IDEA</i> <i>Speaker 1: Mr Husni Kamil Manik, Chairman: General Election Commission (KPU)</i> <i>Speaker 2: Mr Tur-Od Lkhagvajav, Chairman of the Public Council, Independent Authority Against Corruption</i> <i>Speaker 3: Professor Adebayo Olorunimbe Olukoshi, Regional Director for Africa, International IDEA</i> <ol style="list-style-type: none"> 1. How has legal and illegal political-finance influenced peoples demand for transparency and accountability towards corruption from political parties and legal institutions? 2. At the national level how strong is the private sector / business elites / corporations in the political sphere, and undermining the political finance regulatory framework? Cite an example in 3-4 points 3. What are people's aspirations in seeing immediate and long-term public actions in breaking the nexus between political finance and corruption? 4. What do people desire to be addressed as priority (top 3 factors) in arresting the growth of political-finance and corruption?
10.30–11.00	Group Photo and Morning Break
11.00–12.00	Session 1: Nexus between Political Finance and Corruption DISCUSSION <i>Moderator: Mr Adhy Aman, Programme Officer, Asia and the Pacific, International IDEA</i>
12.00–13.00	Lunch Break

13.00– 14.30	<p>Session 2: Case studies from 4 (four) Asian and African countries on Regulatory enforcement challenges and Stakeholders Response</p> <p><i>PRESENTATIONS</i></p> <p><i>Four Speakers / 20 minutes each approx (South Africa, Ghana, Cambodia, Indonesia-ICW)</i></p> <p><i>Moderator: Ms Leena Rikkilä Tamang, Regional Director for Asia and the Pacific, International IDEA</i></p> <p><i>Speaker 1: Mr Alistair Craig Clark, Program Officer for Africa, International IDEA</i></p> <p><i>Speaker 2: Mr Alexander K. D. Frempong, Senior Lecturer Department of Political Science, University of Ghana</i></p> <p><i>Speaker 3: Mr Sotheara Yoeurng, Legal Officer, COMFREL</i></p> <p><i>Speaker 4: Mr Adnan, Coordinator: Indonesia Corruption Watch (ICW)</i></p> <ol style="list-style-type: none"> <i>1. Law has become second fiddle to political finance corruption. What corrupt practices have become prejudicially entrenched that existing legislation and new legislative development may be unable to address?</i> <i>2. In what manner has private sector lobbying impacted national regulatory enforcement rendering it ineffective?</i> <i>3. Why is political will missing at the national level, and political consensus not yet evolved on this issue? What should be the content of any new enforcement agency to developing and implementing operational policy and procedures to minimize political finance corruption? Why pressure from voters and constituencies to demand eradication of political finance corruption been not effective?</i> <i>4. What pragmatic actions can civil society groups, NGOs, media and academics take in order to counter the growing nexus of political finance and corruption? How can they collaborate with each other in developing a national response coalition? What collaboration can it seek from regulatory bodies?</i>
14.30– 15.00	Afternoon Break
15.00– 16.30	<p>Session 2: Case studies from 4 (four) Asian and African countries on Regulatory enforcement challenges and Stakeholders Response</p> <p><i>DISCUSSION</i></p> <p><i>Moderator: Ms Leena Rikkilä Tamang, Regional Director for Asia and the Pacific, International IDEA</i></p>
16.30– 18.00	Visit to Asia and Africa Conference Museum

Day 2	Wednesday, 21 October 2015
09.00– 10.00	<p>Session 3: Political Finance Regulation Enforcement and Developing Institutionalized Stakeholders Cooperation for response: experiences from Asia and Africa</p> <p><i>PRESENTATIONS</i></p> <p><i>Three speakers / 20 minutes each (Tunisia, Philippines, Nepal-CIIA)</i></p> <p><i>Moderator: Professor Adebayo Olorunimbe Olukoshi, Regional Director for Africa, International IDEA</i></p> <p><i>Speaker 1: Judge Fadbila Gargouri, President of the Chamber, Court of Accounts, Tunisia</i></p> <p><i>Speaker 2: Commissioner Luie Tito Ferrer Guia, Commission on Elections, the Philippines</i></p> <p><i>Speaker 3: Mr Ritesh Kumar Shakya, Under Secretary (Finance), Commission for the Investigation of Abuse of Authority (CIAA)</i></p> <ol style="list-style-type: none"> <i>How has existing political finance regulation and ongoing enforcement impacted transparency and accountability towards the electorate/voter, constitutional guarantees on the right to participate in public affairs, voting rights, and the right of equal access to public service?</i> <i>What are the enforcement challenges faced by oversight agencies, Election Commissions, Police and Judiciary? Where does the enforcement challenge fail?</i> <i>How can oversight agencies develop institutional stakeholder engagement to enforce compliance in partnership with CSOs, NGOs, INGOs, Media, and Independent Institutional agencies working on political finance corruption?</i> <i>What institutional development actions and measures should be undertaken towards effective and efficient enforcement of a politically neutral, legislatively independent, cross-agency action coordination and independent functioning of oversight agencies?</i> <i>What role can the public play in strengthening institutionalized stakeholders cooperation using mass media and digital media?</i>
10.00– 10.45	<p>Session 3: Political Finance Regulation Enforcement and Developing Institutionalized Stakeholders Cooperation for response</p> <p><i>DISCUSSION</i></p> <p><i>Moderator: Professor Adebayo Olorunimbe Olukoshi, Regional Director for Africa, International IDEA</i></p>
10.45– 11.00	Morning Break

11.00– 12.30	<p>Session 4: Case studies from 4 (four) Asian and African countries on Political Finance Monitoring, Disclosures, and Reporting</p> <p><i>PRESENTATIONS</i></p> <p><i>Four speakers / 20 minutes each (India, Nepal, Sudan, Egypt)</i></p> <p><i>Moderator: Mr Alistair Craig Clark, Program Officer for Africa, International IDEA</i></p> <p><i>Speaker 1: Mr Prasana K. Dash, Former Director-General (Political Expenditure), Election Commission of India</i></p> <p><i>Speaker 2: Mr Neel Kantha Uprety, Former Chief Election Commissioner of the Election Commission of Nepal</i></p> <p><i>Speaker 3: Mr Khalid Ali Elamin Ali, Associate Professor of Political Economy, University of Khartoum, Sudan</i></p> <p><i>Speaker 4: Dr Ghada Anis Ahmed Elbayaa, Lecturer at Institute of African Studies, Cairo University</i></p> <ol style="list-style-type: none"> 1. <i>Does the National Oversight Regulatory Body possess the required technical expertise in tracking political-finance violations? Are they structurally independent in functioning and in mind-set? Does the present enforcement policy set's out extensive criteria how the oversight body will handle instances of disclosures and non-compliance? What are the attributes that have facilitated in the successful implementation of political finance regulation?</i> 2. <i>Is there an open and transparent cooperation between the oversight body, political parties and independent candidates regarding their political finance disclosures, reporting and monitoring for compliance?</i> 3. <i>Is the regulatory body working in tandem with peoples/public's 'right to information'? What are the new reporting technologies such as online tools, real time update of donations on websites, and radical transparency applications being utilized by Oversight agencies to match the changing communication style and public reporting's? What information are the Oversight agency's required not-to-disclose as part of confidentiality and public trust building for reporting violations small or big?</i> 4. <i>How actively are citizens, CSOs, and NGOs taking interest in the political parties finances, expenditure, mandatory and voluntary public disclosures of the party's finances? What tools are they using to monitor? How are they able to crosscheck information for verification and authenticity?</i> 5. <i>How are Oversight agencies engaging CSOs, NGOs, and Independent Institutions as monitoring partners? Are there any collaborative efforts that have yielded results? If yes, what tools and methods were used, how was public disclosure handled, what impact was caused on the political party, what measures were taken by the party, how is the current monitoring being undertaken to ensure no repetition?</i> 6. <i>How can the official agency better work with CSOs, NGOs, and Media? How important is the role of CSOs, NGOs, and Media as instruments of accountability? How can they contribute towards creating incentives for accountability and compliance?</i>
12.30– 13.30	Lunch Break
13.30– 14.15	<p>Session 4: Case studies from 4 (four) Asian and African countries on Political Finance Monitoring, Disclosures, and Reporting</p> <p><i>DISCUSSIONS</i></p> <p><i>Moderator: Mr Alistair Craig Clark, Program Officer for Africa, International IDEA</i></p>
14.15– 15.00	Bus trip to cultural place
15.00– 18.00	Cultural program Saung Udjo
19.00– 21.00	Official Dinner hosted by the Ministry of Foreign Affairs of the Republic of Indonesia

Day 3	Thursday, 22 October 2015
09.00–09.15	Day 2 Recap and Day 3 Overview
09.15–10.30	<p>Session 5: National and International Measures for Eradicating Political Finance Corruption and Strengthening Stakeholders Involvement</p> <p><i>PRESENTATIONS</i></p> <p><i>Three speakers / 20 mins each (Liberia, Indonesia–Bawaslu, Tunisia)</i></p> <p><i>Moderator:</i> Ms Leena Rikkilä Tamang, Regional Director for Asia and the Pacific, International IDEA</p> <p><i>Speaker 1:</i> Dr George Klay Kieh, Professor of Political Science</p> <p><i>Speaker 2:</i> Mr Daniel Zuchron, Chairman: National Election Supervisory Commission (Bawaslu)</p> <p><i>Speaker 3:</i> Judge Fadhila Gargouri, President of the Chamber, Court of Accounts, Tunisia</p> <ol style="list-style-type: none"> 1. What measures were applied to eradicate influence and corruption in the sphere of political finance, and yielded results in the past? Why did they work? What has changed now that measures are not effective and efficient? 2. What public tools and methods may facilitate political reforms needed in order to safeguard democracy, create transparent, and accountable democratic framework? 3. How can cross-body and multi-body collaborations be best implemented between Election Commission, Political Finance Enforcement/Oversight Bodies, Agencies and Anti-Corruption Agencies, Public and Private Banks, CSOs, Media, and NGOs, to eradicate corruption in political financing and campaigning? 4. How can international community facilitate national public response to eradicate political finance corruption? How can the various stakeholders, i.e. CSOs, NGOs, and INGOs facilitate their efforts to assist national regulatory bodies in close coordination with IGOs, like International IDEA? 5. How can collaboration between African and Asian Citizens Associations, CSOs, NGOs, Election Commissions, Oversight Agencies, Judiciary, and Media groups be created as 'African-Asian Political Finance Regulation Standard' to cross-check political finance corruption? 6. What role can International IDEA play in strengthening such cross-regional collaboration? What should it foremost consider in developing the proposed cross-regional regulation standard? 7. What action plan can be adopted from 2016 to 2020 to create and strengthen such a standard?
10.30–11.00	Morning Break
11.00–12.00	<p>Session 5: National and International Measures for Eradicating Political Finance Corruption and Strengthening Stakeholders Involvement</p> <p><i>DISCUSSION</i></p> <p><i>Moderator:</i> Ms Leena Rikkilä Tamang, Regional Director for Asia and the Pacific, International IDEA</p>
12.00–13.30	Lunch Break

13.30– 14.10	<p>Session 5: Case studies from India on National and International Measures for Eradicating Political Finance Corruption and Strengthening Stakeholders Involvement</p> <p><i>PRESENTATIONS</i></p> <p><i>Moderator:</i> Ms Leena Rikkilä Tamang, Regional Director for Asia and the Pacific, International IDEA</p> <ol style="list-style-type: none"> <i>Speaker: Mr Prasana K. Dash, Former Director-General (Political Expenditure), Election Commission of India</i> <i>Speaker: Professor Adebayo Olorunimbe Olukoshi, Regional Director for Africa, International IDEA</i> <i>What would you propose to be re-adjusted in the Oversight body to accommodate election cycle approach for monitoring, regulating, and crosschecking political finance contributions and corruption? Will such an approach engaging all relevant stakeholders for reassess and reframe regulatory policy be useful? Is there any best practice that has worked in your country?</i> <i>Based on previous experiences of regulatory implementation failure, what measures would you recommend to be undertaken to complement and strengthen the Legislative body, legal framework, political will, public awareness and engagement, monitory independence, and human resources, to achieve the goal of eradicating corruption from political finance? Provide best examples and tools that have worked.</i> <i>Have there been any sanctions' against political parties or individual candidates exposed for political finance corruption? Were these measures effective in deterring political finance corruption carried out by the intended target?</i> <i>What new contributions and collaborations can public, civil society, and media groups provide to strengthen public monitoring, transparency, and accountability of political finance and its nexus with corruption? Can the growth of digital media contribute to monitoring of political finance by stakeholders?</i> <i>Given the changing national political finance contribution patterns. What new public awareness tools and measures should be developed using new technology? What measures can the electorate and constituencies actively undertaken on their part in playing a strong and dominant role in eradicating corruption in political finance?</i>
14.10– 14.30	Afternoon Break
14.30– 15.30	<p>Session 5: Case studies from India on National and International Measures for Eradicating Political Finance Corruption and Strengthening Stakeholders Involvement</p> <p><i>DISCUSSION</i></p> <p><i>Moderator:</i> Ms Leena Rikkilä Tamang, Regional Director for Asia and the Pacific, International IDEA</p>
15.30– 16.45	<p>Session 6: Recap and conclusions</p> <p><i>This session will look at a summary of the Meeting and draw up conclusions. Discussions may lead to a set of agreed recommendations for better political finance regulation and its enforcement in the context of corruption eradication.</i></p> <p><i>Moderator:</i> Mr Adhy Aman, Programme Officer, Asia and the Pacific, International IDEA</p> <p><i>Speaker:</i> Mr Sanjay Gathia, International Consultant, International IDEA</p>
16.45– 17.15	Evaluations and Closing

Annex 3. List of participants

KIND	COUNTRY	TITLE	NAME	POSITION
Academic	Liberia	Professor Dr	George Klay Kieh, Jr.	Professor of Political Science, University of West Georgia
Academic	Sudan	Associate Professor Dr	Khalid Ali El-amin Ali	Associate Professor of Political Economy, Development Studies and Research Institute, University of Khartoum, Sudan
IGO	Nigeria /IDEA	Professor Dr	Adebayo Olorunimbe Olukoshi	Regional Director for Africa, International IDEA
IGO	South Africa/ IDEA	Mr	Alistair Craig Clark	Programme Officer for Africa, International IDEA
IGO	Finland /IDEA	Mrs	Leena Rikkilä Tamang	Regional Director for Asia and the Pacific, International IDEA
IGO	Indonesia /IDEA	Mr	Adhy Aman	Senior Programme Officer for Asia and the Pacific, International IDEA
IGO	India/IDEA	Mr	Sanjay Gathia	International Consultant for Asia and the Pacific Programme, International IDEA
Law	Tunisia	Judge	Fadhila Gargouri	President of the Chamber, Court of Accounts
CSO	Egypt	Dr	Ghada Anis Ahmed Elbayaa	Lecturer at Institute of African Studies—Cairo University, Egypt Ph.D. on the Political Economy of Africa
CSO	Indonesia	Ms	Lia Wulandari	Senior Researcher, Association for Elections and Democracy (Perludem)
CSO	Indonesia	Ms	Debora Blandina	Researcher, Association for Elections and Democracy (Perludem)
CSO	Indonesia	Ms	Sely Martini	Staff, Indonesia Corruption Watch (ICW)
EMB	Indonesia	Commissioner	Husni Kamil Manik	Chairman Commissioner—General Election Commission (KPU)

EMB	Indonesia	Commissioner	Daniel Zuchron	Commissioner—State Election Supervisory Commission (Bawaslu)
CSO	Cambodia	Mr	Sotheara Yoeurng	Legal Officer, COMFREL
EMB	India	Mr	Prasana K. Dash	Former Director-General, Election Commission of India
CSO	Mongolia	Mr	Tur-Od Lkhagvajav	Chairman of the Public Council, Independent Authority Against Corruption
EMB	Nepal	Mr	Neel Kantha Uprety	Former Chief Election Commissioner of the Election Commission of Nepal
Law	Nepal	Mr	Ritesh Kumar Shakya	Under Secretary (Finance), Commission for the Investigation of Abuse of Authority (CIAA)
EMB	The Philippines	Commissioner	Luie Tito Ferrer Guia	Commissioner—Commission on Elections, Republic of the Philippines

About International IDEA

The International Institute for Democracy and Electoral Assistance (International IDEA) is an intergovernmental organization that supports sustainable democracy worldwide. International IDEA's mission is to support sustainable democratic change by providing comparative knowledge, assisting in democratic reform, and influencing policies and politics.

What does International IDEA do?

In the fields of elections, constitution-building, political parties, gender in democracy and women's political empowerment, democracy self-assessments, and democracy and development, we undertake our work in three activity areas:

1. providing comparative knowledge derived from practical experience on democracy building processes from diverse contexts around the world;
2. assisting political actors in reforming democratic institutions and processes, and engaging in political processes when invited to do so; and
3. influencing democracy building policies through the provision of our comparative knowledge resources and assistance to political actors.

Where does International IDEA work?

International IDEA works worldwide. Based in Stockholm, it has offices in Africa, the Asia-Pacific, and Latin America and the Caribbean. International IDEA is a Permanent Observer to the United Nations.

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About the Non-Aligned Movement Centre for South–South Technical Cooperation

The Non-Aligned Movement Centre for South–South Technical Cooperation

(NAM CSSTC) was established in 1995 during the XI NAM Summit in Cartagena, Colombia, at the initiative of the Governments of Indonesia and Brunei Darussalam. NAM CSSTC is intended to function as an effective means of pooling and enhancing the resources, expertise and experience of development schemes that have proven to be successful in generating community self-reliance, self-propelling development growth and partnership in development.

NAM CSSTC is as one of the vital and effective means for promoting and accelerating development in the developing countries. It is an integral part of the endeavours to strengthen South-South and Tripartite Cooperation as well as integral part of global endeavours to optimize international development cooperation.

NAM CSSTC programmes are intended to have both immediate and long-term impact to render the economies of developing countries more broad-based, efficient and resilient, enabling them to play a full part in globalization and strengthen cooperation among developing as well as developed countries.



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