Paying for Politics
Paying for Politics: Political funding in South Africa and the global South

edited by Anthony Butler
Contents

Preface

List of contributors

1. Introduction: Money and politics Anthony Butler

2. Party finance and single-party dominance in Mexico and beyond Ken Greene

3. Financing politics in Malaysia Terence Gomez

4. Predominance and private party funding in Botswana Kenneth Good

5. Party funding in the Russian Federation: a tool of bureaucratic control Yury Korgunyuk

6. The need for balance in party financing in Brazil Sylvia Krause
7. **Analysing party finance regimes: best practice for dominant multiparty systems in ‘new democracies’?**
   Karl-Rudolf Korte & Kristina Weissenbach

8. **Government buy the people? Democracy and the private funding of politics in South Africa**
   Steven Friedman

9. **Party financing in democratic South Africa: harbinger of doom?**
   Andile Sokomani

10. **Money politics in South Africa: from covert party funding to the problem of black economic empowerment**
    Sam Sole

11. **Financing the ANC: Chancellor House, Eskom and the dilemmas of party finance Reform**
    Zweli Jolobe

12. **Paying for our democracy**
    Raenette Taljaard

13. **Conclusion: The opportunity and danger of party finance reform in South Africa**
    Anthony Butler

14. Index
Preface
Contributors

Anthony Butler is Professor of Political Studies at the University of the Witwatersrand. He is the author of Contemporary South Africa, 2nd edition (Palgrave Macmillan, 2009), Cyril Ramaphosa (Jacana, 2007 and James Currey, 2008), Democracy and Apartheid (Macmillan, 1998) and Transformative Politics: The Future of Socialism in Western Europe (Macmillan, 1995). He has previously been Fellow of Emmanuel College, Cambridge, Director of the Politics and Administration programme at Birkbeck College, University of London, and Professor of Political Studies at the University of Cape Town. He writes a weekly column for Johannesburg’s Business Day newspaper.

Steven Friedman is Director of the Centre for the Study of Democracy at Rhodes University and the University of Johannesburg. He is the author of Building Tomorrow Today (Ravan, 1987), a study of the South African trade union movement and the implications of its growth for democracy, and the editor of The Long Journey (Ravan, 1993) and The Small Miracle (with Doreen Atkinson, Ravan, 1994), which presented the outcome of two research projects on the South African transition. He is currently studying the role of citizen action in strengthening and sustaining democracy, with a particular focus on the activism of people living with HIV and AIDS.

Kenneth Good has taught and carried out research in Botswana, Zambia and Zimbabwe. The focus of his work is on capitalist development and democratisation, along with resultant issues of poverty, inequalities and corruption. Recent books include The Liberal Model and Africa (Palgrave, 2002) and Diamonds, Dispossession and Democracy in Botswana (James Currey, 2008). He was Professor of Political Studies at the University of Botswana for 15 years until he was declared a Prohibited Immigrant in February 2005 and expelled on 31 May. His complaint against the Botswana government and its denial of due process was upheld by the African Commission on Human and Peoples’ Rights in June 2010.

Kenneth Greene is Associate Professor of Political Science at the University of Texas at Austin. He is author of Why Dominant Parties Lose: Mexico’s Democratization in Comparative Perspective (Cambridge University Press, 2007). This five-country study of dominant party systems won the 2008 Best Book Award from the Comparative Democratization Section of the American Political Science Association. His articles have appeared in the American Journal of Political Science, World Politics and Comparative Political Studies. His current research focuses on competitive authoritarian regimes, party systems in new democracies, and voting behaviour.
**Zwelethu Jolobe** is a Lecturer in the Department of Political Studies at the University of Cape Town. He is currently a doctoral candidate at the university and his dissertation is developing a theoretical framework on the sustainability of constitutional negotiation processes in internal conflicts. He has written extensively on contemporary South African political issues in policy journals and chapters in book publications.

**Yury Korgunyuk** is Head of the Political Science Department of INDEM Foundation, Moscow. He has a PhD in History and is a Doctor of Political Science. He is co-chairman of the Initiative Group within the Research Committee for the Study of Electoral and Party Systems of the Russian Association of Political Science. He is the author of The Rise of the Party System in the Contemporary Russia (INDEM and MGPU, 2007), The Contemporary Russian Multi-Party System (INDEM, 1999) and The Russian Multi-Party System: Its Rise, Functioning, and Development (INDEM, 1996, with S. Zaslavskii). He has previously been an editor-in-chief of Partinform bulletin, a weekly newsletter on Russian political parties.

**Karl-Rudolf Korte** is Professor of Political Science at the University of Duisburg-Essen (Germany), Dean of the Department of Social Sciences, and Director of the NRW School of Governance and of the Research Group on Governance. His main areas of research are the political system of Germany, government and governance, leadership studies, political communication, party system, electoral behaviour and political consulting. Among his most recent books are Deutschlandpolitik in Helmut Kohls Kanzlerschaft (DVA Verlag, 1998); Politik und Regieren in Deutschland (with Manuel Fröhlich, Schöningh UTB Verlag, 2009); Regieren in Nordrhein Westfalen (with Martin Florack and Timo Grunden, VS-Verlag für Sozialwissenschaften, 2006) and Wahlen in der Bundesrepublik Deutschland (Bundeszentrale für politische Bildung, 2010).
Silvana Krause is a Professor of Political Science at the Federal University of Goias, Brazil. She coordinated a research group on parties and electoral coalitions in the new Brazilian democracy in CNPq (National Research Council, Brazil). She has edited two books on party coalitions in Brazil, (with Rogério Schmitt) Political Parties and Electoral Coalitions (Konrad Adenauer Foundation and Ed UNESP, 2005) and (with Humberto Dantas Luis Felipe Miguel) Electoral Coalitions in the New Democracy in Brazil: Profile and Trends (Konrad Adenauer Foundation and Ed UNESP, 2010). She is the author of Migrants Day (Edunisc, 2005), which examines the political behaviour of German immigrants in Brazil. She has written several articles on elections and political parties in Brazil published in specialised journals.


Sam Sole has been a journalist since 1986. He has worked for the investigative magazine noseweek, served as political editor of the Sunday Tribune, and joined the Mail & Guardian as an investigative journalist in 2002. In 2003 he won the Vodacom Journalist of the Year award for first reporting the criminal investigation of then national Deputy President Jacob Zuma. Together with colleague Stefaans Brümmer, he has received numerous journalism awards, including one for their Oilgate exposés that traced the involvement of an ANC-linked company in diverting money from a state contract to the coffers of the ruling party.
Raenette Taljaard was the youngest women to be elected to the South African Parliament as an MP at the age of 25 in 1999. She served as an MP on the Portfolio Committees on Finance and Public Accounts during her six years in the National Assembly and as Shadow Minister of Finance from 2002 to 2004. Taljaard is currently an independent analyst and an Adjunct Senior Lecturer (Public Policy) in the Department of Political Studies at the University of Cape Town. She holds a BA (Law), Hons (Political Studies) cum laude, MA (Political Studies: International Relations) cum laude from the University of Johannesburg and an MSc (Public Administration and Public Policy) cum laude from the London School of Economics. She is a Young Global Leader of the WEF and serves on its Global Agenda Council (Africa). She is also a Yale World Fellow and a Stias Fellow (Stellenbosch University). She writes a monthly column for South Africa’s daily Times.

Kristina Weissenbach is Research Fellow and Lecturer at the Institute of Political Science and the NRW School of Governance in the University of Duisburg-Essen and a member of the Research Group on Governance. Her main areas of research are democracy and party assistance as well as the comparative study of political institutions within democratisation processes, with a particular emphasis on media, political parties, party systems and electoral systems and sub-Saharan Africa. Her recent publications include Konsolidierungsprojekt Südafrika: 15 Jahre Post-Apartheid (co-edited with Werner Distler, Nomos Verlag, 2010); ‘Wahlsysteme und Wahltypen: Wahlen als Qualitätskennzeichen einer Demokratie’ (with Karl-Rudolf Korte) in C. Derichs and T. Heberer (eds.), Wahlsysteme und Wahltypen (Wiesbaden, 2006); and ‘Political Party Assistance in Transition: The German “Stiftungen” in Sub-Saharan Africa’, Democratization (2010).
Money and power are intertwined in the political life of every country. The intersection between money and politics has been a site of contention and controversy in every democratic state.¹

Money is essential to the operation of any democracy. Candidates in presidential systems must communicate their message and values to a vast number of dispersed electors. In parliamentary democracies, robust political parties must be created and sustained for electors to make genuine choices.

Parties are complex organisations that need resources to maintain their permanent offices, deliberate with citizens, develop alternative policy programmes, and set out their values and objectives during electoral campaigns.

If money is essential, it is also dangerous. Parties with disproportionate access to resources can buy votes, monopolise air time during campaigns, and dispense jobs and patronage to supporters. Competitors who cannot raise equivalent funds risk losing the political race before it has even begun. Within parties, factions can build war chests to win internal elections and to dominate party candidate lists.

Even more troubling are the patterns of dependency, collusion and corruption that can emerge between those who donate money and those who spend it. Parties can raise some revenues from dues...
– although the international trend is towards declining membership numbers – and public financing is increasingly available in more wealthy states to fund campaign and other expenditures. Almost all democratic countries, rich and poor, have experienced a trend towards more generous public subsidies over the past half-century.²

Even in these countries, however, private donors play a major – and often dominant – role in party and campaign finance. Whether donors are individuals or private companies, there is a danger that they will use their money to influence candidates or party officials. In this way, special interests can receive favourable treatment from political leaders in government. Money given in return for implicit or stated favours not only has a corrupting effect on a political system, but it also undermines the trust and legitimacy upon which a flourishing democracy depends. The poor, who are unable to contribute to party coffers, are left to languish voiceless, in poverty, and increasingly enraged at their exclusion from the political equality that democracy has promised to them.

Party funding has for these reasons been controversial in developed and developing countries and in young as well as established democracies. Though the way in which money insinuates itself into politics has been extensively studied, improper influence is exercised mostly underground. The fungibility of money makes its passage through a political system hard to trace. Key actors in the drama of money-politics – party officials, candidates, private companies, and wealthy individuals – shun publicity, and most of what we know about their actions has been uncovered by investigative journalists. Party finance issues emerge periodically through scandals, and a complex mythology has emerged in many societies about hidden payments that are believed to lie behind almost every political action.³

The success of private companies is dependent upon appropriate public legal and regulatory regimes, government policy choices, licensing decisions, and access to government contracts. It is no surprise that businesspeople and other special interests want to shape party policy and to build relationships with political leaders. Formal
mechanisms for lobbying and influencing governments and parties are both proper and necessary in any flourishing and democratic society. Unfortunately, unequal access to financial and other resources leaves some special interests vastly more powerful than others.

Parties have historically been private associations that function in the public sphere. In established democracies there have been sustained efforts over the past six decades to apply tighter systems of public regulation to them, often accompanied by the introduction of increasingly generous public funding. As we shall see, however, state regulation and public funding can bring fresh pathologies and dangers of their own.

In countries that have recently escaped authoritarian rule, political finance can also influence the broader character of an emerging democracy. Financial weakness is not an absolute barrier to electoral success. The funding of parties and candidates is just one factor among many because politics is also shaped by the party system, the political culture, and access to less tangible public resources. However, private money can undermine new democracies because the formal rules of the political game have not yet been deeply entrenched.

The institutions through which corruption and improper influence can be countered are also weak in such transitional states. Democracy is often established by means of elite pacts between state bureaucrats, political families and the military; party funding is low down their list of priorities, and safeguards against abuse are rarely systematically incorporated during the drafting of foundational constitutions. There is an imperative to build party systems quickly, and the rush to secure funds can set a party system on a dangerous course. The role that money can play in shaping a party system is not yet fully understood. Some scholars, however, believe that resources, including financial resources, can help to entrench a dominant party system: a powerful party’s access to public and private funds can make it impossible for opposition parties to compete.

The importance of money in political life is recognised by political leaders everywhere. There have been an extraordinary variety of
interventions by states in the financing of politics. These measures have taken two broad forms: regulations and subsidies. Regulations include bans on vote buying, disclosure rules, caps on campaign expenditure, and contribution limits, among many others. Subsidies include public payments to parties or candidates, tax relief to donors, and subsidised access to resources such as state television and radio. Different countries have adopted various patterns of regulation and subsidy, and these distinct political finance regimes have brought varied and often unanticipated consequences.

Political finance regimes are ostensibly designed to increase transparency, reduce corruption, and build healthy parties. However, they can entrench undesirable as well as desirable patterns of politics, advantaging party bureaucracies over candidates and activists, creating state dependency and interference, sparking factionalism within parties, or entrenching ‘cartels’ of big and established parties. State funding and regulation, moreover, can serve as opportunities for states to penetrate parties and bring them under undemocratic control.

Political finance and party funding regimes

Despite the importance of the subject matter, the empirical study of party and campaign finance is relatively undeveloped. There has been little systematic empirical research on political finance, particularly in developing countries, and we still lack a basic academic consensus around definitions, classifications and typologies. In parliamentary systems, the focus of study has been on the funding of political parties. In presidential systems, most attention has understandably focused on campaign finance and on the relationships between donors and candidates. Many problems and pathologies are shared between systems because modern political parties engage in ‘permanent campaigning’ and political leaders play an important role even in parliamentary systems.

There are two basic categories of political funding: private and public. Within each category, scholars have variously distinguished legitimate or formal funds from informal, illegitimate or illegal ones;
covert funding from overt; and concentrated sources that create dependency from dispersed ones that build relations between society and party. Some researchers have focused on the quantity of expenditures and corresponding donations. Others have seen an alleged ‘arms race’ between political parties at campaign time as central to the phenomenon of money politics: the more money party leaders need to compete, the more willing they will be to compromise principles and legality to secure such funding. Scholars have also explored the character of resources, viewing the key reform challenges as arising not from too little or too much money but from the ‘wrong kind’ of money.9

Private donations from civil society to political parties are widely (but not universally) considered to have prima facie legitimacy, given the fundamental democratic right of individuals and companies to form and fund ‘private’ political associations and to express and promote political and policy preferences. Donations by party members, particularly small donations or party fees, are generally viewed as benign because they strengthen bonds between party and society. Donations can also legitimately buttress or advance ideological positions – such as limited state intervention in the economy or fiscal policy orthodoxy – and they can be used to defend particular rights, preferences or freedoms.

Business donations, of course, are likely to promote the values, sentiments and policy preferences of commercial society as a whole or of particular businesses or economic sectors. They can be partially counteracted by trade union or social movement funding for alternative parties or candidates. In the case of donations from foreign companies, a majority of countries have criminalised the acceptance of such donations even if they originate with apparently legitimate donors. Multinational corporations have been viewed as especially controversial funders in many post-colonial societies and also, for example, in the United States.

Donations made by wealthy individuals seeking public honours or positions have been one common source of controversy. Another has been company donors who seek privileged access to political leaders and officials. Most problematic of all has been companies’ covert pursuit of
direct business advantages: access to government contracts and licences, detailed manipulation of laws and regulations to a company’s advantage, or influence over the actions of regulators and tax authorities.

Party funding has been closely linked to corruption (broadly defined as the abuse of public office for private gain), including the acceptance of campaign contributions from organised criminal groups. One author’s breathless ‘sampling’ of campaign finance scandals from around the world includes the following tasty morsels: alleged kickbacks from companies doing business with government in Brazil; private contractors in Croatia paying political parties in order to secure outstanding payments from government departments; illegal political donations in Germany tied to waste management contracts; substantial monetary transfers from foreign companies to the Indian ruling party in exchange for arms sales; party donations to secure state contracts in Japan; payments in return for logging licences in Papua New Guinea; and donor generosity allegedly linked to proposed changes in anti-tobacco legislation in the United Kingdom.10

Countries such as Malaysia, Israel and South Africa have experienced further controversies around party-owned companies. Such companies allegedly use their relationships with political power brokers to secure commercial advantages and thus super-profits – some of which are then ploughed back into party coffers. Payments to parties have also been linked to the abuse of tender processes to generate returns that can then be funnelled into party war chests.

Other sources of contentious political funding include donations by foreign governments, political parties or international political foundations, particularly where these have originated in one-party or dominant party states – or where they are linked to reciprocal favours to the donor party or government. During democratic transitions, the need for donations from international agencies and political foundations has often been inescapable, and these have been grudgingly accepted as the ‘least bad’ donors available.

Formal public-sector funding of political parties has usually arisen as the result of attempts to minimise corruption and the abuse of private
donations. The state’s growing regulatory role, most notably in Western and now post-communist Eastern and Central Europe, has been the ‘stick’ used to regularise political finance. The ‘carrot’ has been the provision of public funds for electioneering and party administration. Formal public funding of parties can create problems of dependency and it can entrench the power of existing parties at the expense of emerging ones. It may also empower bureaucrats and parties’ headquarters at the expense of candidates and peripheral branches. The idea of providing ‘matching funds’ has grown in popularity in recent years because it obliges parties to retain relationships with private donors.\(^{11}\)

In some Western European countries, public funding has more or less totally replaced private donations. Both public funding and state regulation have been far less prevalent and extensive in anglophone countries and in the developing world. Poorer countries, particularly in Africa, have found it hard to fund their public financing aspirations.

In most cases, reformers have aimed to create ‘balanced’ party finance regimes that combine the regulation of private donations with an injection of regular public funds. As we shall see in our concluding chapter, there are no reliable templates or best practice guidelines available for reformers, and there are no simple legislative remedies for the funding-related ailments that afflict every political system. Simplistic international codes of conduct peddled by non-governmental organisations have almost always proved ineffectual or counterproductive.\(^{12}\)

In the middle-income developing countries explored in this volume, informal and often illegal public-sector funding of parties and candidates is at least as important as legislated public funding mechanisms. Informal funding mechanisms include the diversion of revenues from state-owned enterprises, the transfer of public funds to party-owned companies through tender rigging, patronage relationships through which party activists are given jobs or contracts, ‘pay to play’ conventions where only donors have access to government work, the abuse of state resources for election campaigning, and the gross manipulation of public funding regulations for partisan purposes.\(^{13}\)
Such pathologies occur in one or other configuration in every country under investigation in this collection.

Less obviously, the political development of young democracies is affected by the intrusion of money into the internal politics of political parties. In presidential systems, candidates’ fundraising efforts can have devastating repercussions for the coherent internal organisation of parties. In parliamentary systems, it is too often assumed that political finance is purely a matter of transfers of funds to bank accounts controlled by ‘the party’. Most parties have complex internal systems and money is held in a variety of sites. Political entrepreneurs claiming to represent or have influence in a party can build personal or factional war chests whose existence is unknown to party officials. Informal transfers from businesses and state-owned enterprises can fuel internal party divisions, fund vote buying in internal elections, and accelerate factionalism and the personalisation of party patronage systems. Once such patterns of politics become entrenched, it may become impossible for activists to rise within a party without a factional or personal war chest; and it may become impossible for such aspiring leaders to accumulate adequate resources to compete without resorting to illegality and corruption.

Lessons from the global South

It is widely accepted that party and campaign funding, and its regulation, can be important factors in the development of a political system. Party finance regimes influence the degree of autonomy political parties enjoy from the state and from powerful interests. Such regimes affect the level and character of corruption. They help determine how independent parties and candidates remain from donors. And they influence the degree of open political competition and equality of political opportunity that citizens enjoy. Equally importantly, party finance influences the internal organisation of parties, the character of their internal party democracy, their overall organisational structure, and the growth and character of internal factions. It is therefore a major factor – albeit one among many – that influences the overall political development of a democracy.
Despite the importance of money, the academic study of party funding regimes in new democracies is still in its infancy. A country like South Africa, contemplating a step into the dark towards a new regime of regulation and public funding, cannot draw upon any persuasive and well-grounded generalisations about available policy alternatives. This book cannot fill this gap: as we shall see, each country must deliberate carefully and inclusively in order to identify regulatory and legal changes appropriate to its own history and political context.

This volume’s more modest goal is to explore the experiences of selected middle-income developing countries and in this way to deepen our understanding of the challenges South African reformers face. The examination of carefully chosen cases can help political leaders in South Africa and elsewhere to move beyond the broad, and often misleading, generalisations offered by international good-governance organisations. Injunctions to increase transparency, regulate, and cap expenditure need to be considered in the light of each country’s particular historical and political context.

The book cannot offer a comprehensive survey of political funding in the South or even across the continent of Africa. Some analysts believe that South Africa’s post-apartheid history can be understood only in its continental and regional context. Party funding in southern Africa has typically moved through three phases, from dependency on foreign sources in the colonial era, to post-independence dependency of ruling parties on informal state funding, and finally to opposition fund-raising from civil society and international donors. Van Biezen and Kopecky speculate that ‘a particular type of party–state linkage may be prevalent in Africa … where the sizeable benefits that parties amass from the state are almost solely derived from patronage and clientelistic practices and corruption’. While such ideas have influenced this volume, they are not explicitly evaluated.

We also omit important Asian democracies, notably India, and the new Eastern and Central European democracies. However, the selected countries we do consider provide a remarkably rich source of ideas and lessons for those contemplating regulatory and funding reform in any
middle-income developing country.

The cases with which we begin this volume – Mexico, Botswana, Brazil, Russia and Malaysia – are middle-income developing countries with a gross domestic product (GDP) per capita of between US$9,567 (Brazil) and US$14,690 (Russian Federation). With the exception of Botswana, they have large populations. All of them experience high levels of economic and social inequality. Malaysia and Botswana share with South Africa a party system dominated by one party; Mexico experienced such a system across most of the 20th century.

In Chapter Two, Kenneth Greene explores political finance in Mexico and advances an important claim about the relation between party funding and ‘dominant party systems’ in which one party monopolises power over long periods of time. He traces the extraordinary history of Mexico’s Institutional Revolutionary Party (the PRI) and explains how it extracted financial and other resources from the state. Greene argues that the party’s resource advantage gave it an almost insurmountable advantage in election campaigns while opposition parties were pushed to the margins of politics. Greene’s insights into the role of state-owned enterprises and party-owned businesses in informally transferring resources to the ruling party will be familiar to observers of other dominant parties, including South Africa’s ANC. His analysis emphasises the wider significance of resources for the establishment of a flourishing multi-party system.

In Chapter Three, Terence Gomez explores another relationship between a dominant party – in this case the United Malays’ National Organization – and a political finance regime. Gomez offers a compelling account of the dangers posed to the Malaysian political system by unregulated and covert relationships between business and politics. He also explores two issues of particular importance to party finance reformers in South Africa: the malign role played by party-owned companies in party political competition; and the dwarfing of public ballots by money-fuelled intra-party elections, in which money-based factionalism and personalised patronage politics play an increasingly significant part.
Kenneth Good investigates political finance in Botswana’s dominant party system in Chapter Four. Botswana, like Russia and arguably South Africa, has a resource-based economy that influences the character of the political system. The ruling Botswana Democratic Party (BDP) benefits from substantial transfers of resources from the private resource groups that mine and market the country’s mineral wealth, in particular its diamonds. In such circumstances, the BDP has inevitably perpetuated an unregulated political finance regime and rejected demands for the introduction of public-sector party funding.

In Chapter Five, Yury Korgunyuk explores the operation of the political finance system of the Russian Federation, and explains the implications of recent changes in its regulatory regime. In post-communist East and Central Europe, the regulation of party finance by the state has been highly controversial – and with good reason. A history of coercive control by the state bureaucracy across the 20th century is still fresh in political activists’ minds. As Korgunyuk demonstrates through his close analysis of changing funding regimes in post-Soviet Russia, recent increased regulation has resulted in a decrease in democratic space. The deepening but selective regulation of political finance has increasingly subordinated opposition political parties to the state bureaucracy and stifled the party political competition that flourished in the 1990s.

Silvana Krause’s study of campaign finance in Brazil in Chapter Six offers an important reminder of the variety and changeability of party systems in the global South. Brazil’s presidential and federal system of government has undergone rapid and unforeseen changes across recent decades. The country has retained an open list electoral regime in which parties exercise little or no control over the candidates who campaign under their banners. Brazilian candidate finance is dominated by a small number of large companies funding party-independent candidates. This has led to a personalised politics in which private interests use financial muscle to influence public policy and public-sector procurement in their own interests.

In Chapter Seven, Kristina Weissenbach and Karl-Rudolf Korte
attempt the ambitious clarifying task of classifying political finance regimes and setting out the sources of finance potentially available to parties and candidates. These authors show how different types of funding regime and source can shape party systems, levels of corruption, political competition, and the parties’ internal organisational character. They also explore the vexed question of when and why successful parties change political funding regimes from which they have benefited.

Party finance reform in South Africa
This book is not simply an addition to the scholarly literature on political finance. It has also been prepared as a contribution to the national debate in South Africa about funding reform. The country’s political system is in questionable health. Participation by eligible electors in national and provincial elections has fallen significantly over the first decade and a half of democracy. There is widespread concern, not least within the African National Congress (ANC), about the role that money may be playing in the country’s political pathologies.

Political funding in South Africa still bears the imprint of the country’s late-apartheid history. In the 1980s, formal politics within the Republic was organised around racially defined electorates and representative institutions, notably a ‘tricameral parliament’ that contained white, Indian and coloured representatives. Africans’ legal political activity was confined to state-created Bantustans or ethnic homelands that were the product of the National Party’s ‘retribalisation’ and ‘separate development’ projects. This complex architecture disguised continued white control and an increasingly authoritarian, militarised and executive-dominated system of government.

Political parties within the Republic received some public funding but they were largely dependent on unregulated private corporate donations. Bantustan politics was funded by covert transfers from the state. The era was marked by episodic scandals involving kickbacks, the illegal diversion of funds, finance-linked corruption, and secretive foreign donations.\(^{17}\)

The ANC and the South African Communist Party (SACP) were
banned and their leadership was largely imprisoned or in international exile. The exile liberation movement was heavily dependent on donations from the Soviet Union and from Sweden until the late 1980s. Funds accumulated during the anti-apartheid struggle were quite widely dispersed among officials, activists and trade unionists and in offshore havens. The problem of party factions building ‘war chests’ that could be used to influence competition for political office had its origins in this period.

During the democratic transition in the early 1990s, as the Soviet bloc descended into disarray and donor generosity gradually ebbed, political parties and their leaders were cultivated by established big business. Representatives of the major resources groups active in intermediation between political parties also provided financial resources to negotiating parties and funded the living expenses of party leaders. This largely unregulated process was part of a wider accommodation between ANC and business interests that had begun in the mid-1980s. The ANC was also able to access resources from friendly political parties in countries such as Indonesia, Saudi Arabia, the UAE, Nigeria, Libya and Taiwan. This created a dependency that was to continue across the democratic era: one report claimed that ANC donors in the 2009 election campaign included the Indian National Congress, the Chinese Communist Party, and the ruling parties of Libya, Angola and Equatorial Guinea.

During South Africa’s transitional negotiations, the issue of political party funding was not entirely forgotten. Section 236 of the new constitution required national legislation ‘to provide for the funding of political parties participating in national and provincial legislatures on an equitable and proportional basis to enhance multi-party democracy’. Parliament gave effect to this obligation with the Public Funding of Represented Political Parties Act of 1997. This Act mandated the creation of a Represented Political Parties Fund to be managed by the Electoral Commission (popularly known as the Independent Electoral Commission, or IEC).

Parliament determines the overall level of funding, and the moneys
are allocated by the IEC to any party with representation in national or provincial legislatures, broadly in proportion to support at the previous election but with an ‘equitable share’ element to assist smaller parties.

A party can use its allocation ‘for any purposes compatible with its functioning as a political party in a modern democracy’ including shaping public opinion, political education, encouraging participation and ‘exercising an influence on political trends’. The funds disbursed through this mechanism remain modest, reaching R92.9m in the financial year 2009/10. This sum should be placed in the context of election expenses of perhaps R400 million (ANC) and R60 million (Democratic Alliance) in the 2009 elections. During that same election, free television advertising slots were made available on the public broadcaster for the first time – the only other formal support provided by the state to political parties during election campaigns.

Recent reform pressures

The large political parties have been unwilling to embrace any significant proposals for change since 1997. The private funding of political parties has remained entirely unregulated. Partly in response to a growing perception that this free-for-all threatened orderly democratic competition, the Institute for Democracy in South Africa (Idasa) decided in 2003 to use the Promotion of Access to Information Act (POATIA) to force political parties to disclose sources and amounts of donations they received.

Idasa’s legal case was built around constitutional rights to political equality, freedom of association and freedom of expression. The organisation claimed that private funding of parties may be necessary or desirable in South Africa, but that secret donations result in negative consequences: a ‘corrupting effect on government’ as a result of favours given or promised in return for funds; a ‘skewed’ national development path that entrenches poverty and inequality; and a legitimacy-eroding perception among citizens that donations shape public policy. Secrecy undermines accountability and representation, and ultimately democracy itself.
Idasa argued that disclosure should be combined with a regulatory system to ‘foster stronger representative government’, ensure ‘effective electoral competition’, promote participation, and ‘enhance transparency’. The Institute also floated limits on private contributions and controls on expenditure as potential complements to disclosure.

In April 2005 the Cape High Court found in a rigorous judgment that parties are private associations whose financial affairs are not subject to the disclosure provisions of POATIA. It declined to interfere in matters that it considered should properly be addressed by parliament through legislation. The litigation nevertheless aired one significant issue: specialist testimony to the court observed that donors can be vulnerable to ruling party intimidation or discrimination. The local scholar Ivor Sarakinsky later reflected that secret donations ‘create a space for minority parties to raise funds … where their donors have no reason to fear prejudice [or] revenge’. Moreover, countries without disclosure, such as Sweden, Finland and Switzerland, have experienced little corruption, whereas others where disclosure is mandatory, such as Japan, Israel and the US, have a ‘chequered governance history’.

Pressure for reform has nevertheless continued as a result of four factors. First, although party expenditure remains a matter for conjecture, it appears to be on an upward trajectory. The ANC spent an estimated R300 million on the 2004 elections, whereas in 2009 it spent R100 million on one advertising agency, Ogilvy Group SA, alone. Government spokesman Jessie Duarte claimed ANC was ‘not awash with money’, but major rallies were funded to the tune of millions of rands apiece. Deputy campaign manager Nomvula Mokonyane obscurely claimed that R200 million had been spent on its campaign, ‘excluding donations’. If ANC spending for election campaigns is already R400m or R500m, opposition parties will face growing pressure to increase their own expenditure or face effective marginalisation.

Second, controversy has continued over the international sources of party funds. The ANC’s widely reported dependence on donations from political parties in Libya, China, Angola and Equatorial Guinea
has raised questions about the likelihood of reciprocal favours granted through control of the South African state. Speculation about donations from newly active international companies, for example from China, has placed pressure on domestic companies to consider increasing their own contributions.

Third, covert funding has been linked to tender kickbacks and the buying of licences. Money-for-influence scandals have affected the ANC, the DA and the New National Party; the most spectacular involving mining magnate Brett Kebble’s attempts to buy his way out of business collapse.

In recent years, the ANC has developed legal but controversial fund-raising mechanisms at arm’s length from the party. The Network Lounge sells space (and in effect political access) at ANC conferences and events. The Progressive Business Forum sells access to ministers and officials who are ANC members. It facilitates ‘ongoing dialogue between the business community and the country’s policymakers’ and access to official trade delegations for those willing to pay subscriptions of up to R60,000. A June 2010 letter from an Eastern Cape ANC official demanded donations of R20,000 simply to attend an ‘information session’ with the fisheries minister at which advance notice would be given of fishing licence allocations. Party-owned or party-linked businesses such as Chancellor House have also been accused of exploiting party links to state power. Provincial fund-raising organisations, such as the Gauteng-based ‘Friends of the ANC’, have charged corporate donors as much as R20,000 per plate to attend gala dinners.

Fourth, the ANC leadership is concerned about the implications of money politics for the liberation movement’s own cohesion. For the first ten decades of democracy, its concerns centred on ‘careerism’ – the pursuit of party office as a route to personal gain. In recent years, however, money has been flowing back into internal party politics where it is used to buy offices and to finance inter-factional struggles. It is primarily for this reason that the ANC passed a resolution on party funding at its 2007 national conference at Polokwane:
The ANC should champion the introduction of a comprehensive system of public funding of representative political parties in the different spheres of government and civil society organisations, as part of strengthening the tenets of our new democracy. This should include putting in place an effective regulatory architecture for private funding of political parties and civil society groups to enhance accountability and transparency to the citizenry. The incoming NEC must urgently develop guidelines and policy on public and private funding, including how to regulate investment vehicles.

A recent National General Council discussion document went further to condemn the role played by funds covertly and sometimes illegally raised by internal lobby groups. The document claims that the ANC is undergoing ‘organizational decay’ as a result of five ‘critical underlying factors’, one of which is party finance. Allegations range from ‘the availability of seemingly vast resources to organize lobby group meetings, travel, [and] communications (starter-packs), to allegations of outright bribing and paying of individuals in regions and branches to vote for particular candidates, [and to] forward particular factional positions, and/or to disrupt meetings’. For these reasons, the document observes, ‘our approach towards party financing will have to be broader, so that it also deals with the “informal” party financing, which is so much more insidious and dangerous to internal democracy’.

The ANC appears to accept that there are no easy solutions to party funding challenges but there is evidently a determination to proceed to action nevertheless. The chapters in the second half of the book contribute towards the wider dialogue necessary for funding reforms to succeed.

In Chapter Eight, Steven Friedman sets out the key problem posed by the current lack of regulation and disclosure of private donations and the absence of expenditure limits. The power of money makes equal participation in politics impossible and serves only the interests of the rich. As the thirst for resources grows, money is fuelling conflicts and
increasing the stakes in internal contests for office and position. Foreign donors and party-linked companies meanwhile play a dangerous role in national political life.

Andile Sokomani explores the operation of the current public funding system in Chapter Nine and raises important issues about incumbency advantage, the power of foreign donors, and the growth of party-controlled businesses. He makes tentative proposals for institutional reforms.

In Chapter Ten, Zwelethu Jolobe focuses on the relationship between ruling parties and public enterprises and on the scandal surrounding the ANC business vehicle Chancellor House. Jolobe points to conflicts of interest that arise when parties engage in business and to the hazards that perceived party influence poses to a fragile democracy. He argues that Chancellor House is merely one of many investment entities controlled by competing factions within the ANC. The key lesson of this chapter is that reformers must address the implications of funding regimes for internal factionalism and for the organisational coherence of parties.

In Chapter Eleven, Sam Sole investigates the relations between black economic empowerment and party funding. Surveying a number of related scandals—including ‘Oilgate’, the ‘arms deal’, and the Cell C licence—Sole tells a compelling story of political leaders’ ‘addiction’ to money politics, and describes the emergence of a ‘sweet and natural cycle’ between political power and material accumulation.

Raenette Taljaard focuses in Chapter Twelve on the public funding of political parties. She explores in detail the potential benefits and costs of greater public funding as part of South Africa’s mixed party finance regime. She argues that expanding the reach of public funding may help counter corruption but that further measures are also needed to improve oversight of the uses to which public funds are put by political parties.

The concluding chapter explores the central challenges of political finance reform in South Africa today. It argues that reformers, whatever their political affiliation, need to recognise that ill-conceived regulatory and institutional change could do great damage to South Africa’s political
system. Only an inclusive and consensual approach to negotiated reform is likely to produce a benign and sustainable outcome.

Endnotes
2 59 per cent of countries had state subsidies by 2001. Ibid., 78.
5 Ibid., 3-4.
6 See the chapter by Greene in this volume.
10 Pinto-Duschinsky, ‘Financing Politics’, 73.
13 See Greene and Gomez in this volume for overviews and examples.
16 United Nations Development Programme 2010. Figures for the other countries are US$14,104 (Mexico), US$13,518 (Botswana), US$13,518 (Malaysia), US$9,757 (South Africa) and US$9,567 (Brazil). All figures are purchasing power parity adjusted.
17 Hennie van Vuuren, presentation to a KAS workshop on party funding, Johannesburg, 11 December 2009.
23 Idasa, *Regulation of Private Funding*, 3.
24 Ibid., 4.
29 *Independent on Saturday*, 18 April 2009.
30 *The Times*, 18 April 2009.
31 *Mail & Guardian*, 20 March 2009. According to the paper, previous donors included Indonesia, Saudi Arabia, UAE, Nigeria, Libya and Taiwan.
36 *The Times*, 18 April 2009.
Dominant parties are a special breed. Much of the world has been populated with fully competitive democracies where turnover occurs on a regular basis or with fully closed authoritarian regimes where autocratic tools ensure that turnover cannot occur. Yet, to date, there have been 17 dominant party systems where incumbents did not win by persistent outcome-changing electoral fraud nor did they ban opposition parties; nevertheless, they won continuous re-election and control over all branches of government for two to seven decades.

Dominant party systems are interesting to study for at least two reasons. First, they help shed light on the non-autocratic forces that inhibit party competition. As limiting cases, they can point analysts to the particular advantages that accrue to incumbent parties and allow them to remain in power or, alternatively, lead them to fail. Such findings also have relevance for systems that bestow a range of lesser incumbency advantages. Second, dominant party systems are interesting because although they are on the wane across Western Europe and Latin America, they appear to be on the rise in Asia and Africa. Long-time dominant party systems including Botswana and Senegal may soon be joined by incumbent parties in Namibia, Tanzania and South Africa which have now won several national electoral contests in a row and appear poised to surpass a threshold that would allow us to consider
them as stable systems oriented around the orbit of a single dominant party rather than transitional systems where an incumbent won a few national elections but fell short of achieving dominant party status.

In this chapter, I argue that dominant parties persist in power when they can access and use politicised public resources for partisan purposes. In such situations, the incumbent party is advantaged in all aspects of partisan competition, yielding little chance for challenger parties to win national elections, no matter what strategy they pursue. Knowing that the electoral marketplace is biased in favour of the incumbent, only programmatic radicals (relative to the status quo offered by the dominant party) are willing to join opposition parties. As a result, challengers present the public with unpopular policy positions that cement their fate as losers in national election contests.

As evidence of this resource theory of single-party dominance, I present a largely qualitative study of the durability and eventual loss of Mexico’s Institutional Revolutionary Party (PRI), which won control over the national government in regular elections from 1929 to 1997 when it lost its majority in the lower house of Congress to the National Action Party (PAN) and the Party of the Democratic Revolution (PRD). In 2000 Vicente Fox of the PAN won the presidency, putting a definitive end to the PRI’s 71-year run. As evidence that the argument travels beyond Mexico’s dominant-party authoritarian regime to dominant-party democratic regimes such as Botswana and South Africa, I also present a time-series cross-sectional analysis of the main argument for all dominant party democracies.

**Counting dominant parties**

Deciding what counts as a dominant party has proven elusive. Most existing literature either focuses on country case studies where single-party dominance is uncontroversial and thus omits a careful definition or provides a vague and tautological definition. For instance, Duverger states that ‘A dominant party is that which public opinion believes to be dominant’ and Sartori argues that a party ‘is dominant in that it is significantly stronger than the others’. We need rules to distinguish
dominant party systems both from those with more regular democratic turnover in government and from those where electoral dominance is epiphenomenal because fully closed authoritarian rule makes turnover through elections impossible.

I define dominant party systems as polities with meaningful elections in which one party maintains the ability to determine social choice through government policy for at least 20 consecutive years or four consecutive elections. This definition includes three elements. First, single-party dominance implies a power threshold. Rather than adopt a cut-off associated with a particular percentage of seats or votes that inevitably causes difficulties in classifying parliamentary and presidentialist systems, I argue that dominance means the ability to determine social choice through policy and legislation. In presidentialist systems, this means that the incumbent controls the executive, the absolute majority of legislative seats and, in federal systems, the majority of state houses. In parliamentary and mixed systems, it means holding the premiership and at least a plurality of legislative seats, and it must be impossible to form a government without the putative dominant party.

Second, single-party dominance implies a longevity threshold. I agree with Sartori that such a threshold should capture the notion of a dominant party system as a stable pattern of inter-party competition, but one not so restrictive as to make the category disappear. Existing thresholds range from two elections to ‘30 to 50 years’ and ‘permanent or semi-permanent governance’. A two-election threshold admits any number of countries where the incumbent benefited from transient luck or skill while the 50-year threshold rules out all cases except Mexico. The four-election or 20-year threshold that I employ produces a more intuitive set of cases than existing definitions. Increasing the threshold excludes Taiwan’s KMT, which clearly was an authoritarian dominant party. Decreasing it admits a large number of cases where it is difficult to argue convincingly that a stable pattern of inter-party competition obtained. For instance, incumbents in many African countries have won one or two consecutive elections, and while it
is tempting to refer to them as dominant, too little time has passed to
do so confidently. I refer to countries that have not yet reached the
longevity threshold as proto-dominant party systems.

Finally, to distinguish dominant party systems from cases where
single-party dominance through elections is epiphenomenal because
authoritarian controls make turnover impossible, I argue that electoral
competition must be meaningful. Meaningfulness entails three
procedural elements drawn, in part, from Przeworski and colleagues,\textsuperscript{11}
including (1) the chief executive and a legislature that cannot be
dismissed by the executive are chosen through regular popular
elections, (2) opposition forces are allowed to form independent parties
and compete in elections, and (3) the incumbent does not engage in
outcome-changing electoral fraud without which dominant party rule
would have ended.\textsuperscript{12} Fraud with certainty gives opposition forces little
reason to invest in parties while fraud on the margins that increases the
dominant party’s vote when it would have won anyway diminishes,
but does not doom, the meaningfulness of electoral competition.
Meaningful elections thus distinguish dominant party systems from
fully closed authoritarian regimes that do not hold elections, ban
opposition parties or routinely disregard election results.

Applying these definitional rules yields 17 dominant party systems
spread across the globe: three in Latin America and the Caribbean
(Mexico under the PRI, 1929–97; Bahamas under the PLP, 1967–92;
Trinidad and Tobago under the PNM, 1956–86); three in Western
Europe (Italy under the DC, 1946–92; Luxembourg under the PCS,
1980–; Sweden under the SAP, 1936–76); one in the Middle East
(Israel under Mapai/Labour Alignment, 1949–77); five in Asia and
South Asia (India under Congress, 1952–77; Japan under the LDP,
1955–93; Malaysia under UMNO/BN, 1974–; Singapore under the
PAP, 1981–; Taiwan under the KMT, 1987–2000); and five in Africa
(Botswana under the BDP, 1965–; The Gambia under the PPP, 1963–
94; Senegal under the PS, 1977–2000; South Africa under the NP,
1953–94 and under the ANC, 1994–). Coding South Africa under the
NP as a dominant party system will be controversial because aspects of
the regime were clearly fully authoritarian; however, one must still ask why the NP was dominant among whites with the franchise.

These cases clearly differ in fundamental ways. In addition to containing distinct national cultures and political histories, seven can be classified as dominant parties in authoritarian regimes whereas the other ten existed in democratic regimes. To be clear, my definitional rules exclude cases where autocrats banned opposition parties or won re-election through outcome-changing fraud which, if not exercised, would have ended single-party dominance. (I refer to these cases as fully closed authoritarian regimes.) Although the electoral authoritarian and democratic cases differ in important ways, I argue that their partisan dynamics share important similarities. Incumbent dominant parties in both regime types bias voters in their favour and raise the costs of participating in the opposition. A major difference concerns costs. In the democracies, opposition joiners paid asymmetric opportunity costs, whereas in authoritarian regimes they also suffered the pervasive threat of physical repression. While one might adopt a ‘thick’ definition of dominance that separates these systems strictly, I argue that we learn more by adopting a ‘thin’ definition and assessing the causal impact of regime characteristics on dominant party durability.¹³

Hyper-incumbency advantages and single-party dominance

Dominant parties win consistently because their advantages skew the partisan playing-field in their favour and make genuine elections substantially unfair. Asymmetries in party resources and the costs of participation ensure that only citizens who deeply oppose the status quo are willing to join opposition parties. Such candidates and activists form parties that are out of step with the preference of the average voter and therefore cannot win elections. This argument links macroeconomic conditions to challenger party failure and points to more subtle mechanisms of dominance than outright repression or consistent electoral fraud and implies that dominant parties virtually win elections before election day. How does this happen?
Asymmetric resources

Incumbency advantages in fully competitive democracies yield extra fundraising capacity\(^\text{14}\) and perquisites of office\(^\text{15}\) that are sufficient to create strikingly high rates of re-election. Resource advantages in dominant party systems are so much larger that they should be thought of as hyper-incumbency advantages. In addition, they are party-specific rather than individual-specific and thus benefit all members of the dominant party over all those in the opposition.

**Politicised public resources.** Incumbent dominant parties use their control over the government to generate resource advantages. They can approve targeted legislation to distribute resources to constituents and, while pork-barrel projects are a mainstay of advantage-seeking politicians in virtually every competitive democracy, divided government or limited tenure in office usually limits the impact of these distortions more than in dominant party systems.\(^\text{16}\)

Even more important is that unlike in fully competitive democracies, dominant parties have extensive access to four types of public resources that are typically considered to be illicit. First, they can divert funds from the budgets of state-owned enterprises (SOEs). These often massive companies typically operate in strategic industries such as energy, telecommunications, manufacturing and transportation. Their directors are usually high-level political appointees, their finances are generally hidden from public scrutiny, and they engage in multiple and difficult-to-track transfers with the federal government, which yields manifold opportunities for the incumbent to divert public funds for partisan use. In a few countries (Taiwan, Malaysia, Israel), dominant parties are also permitted to own businesses, and these ventures typically operate in sectors that are protected by the state.\(^\text{17}\) Second, money may also be funneled to party coffers directly from the public budget through secret line items controlled by the executive branch and hidden legislative allocations that only legislators from the dominant party can access. Third, public sector employment is in itself a tremendous source of patronage. Jobs numbering in the tens of thousands can be doled out to supporters and withheld from opponents. Finally, huge amounts of
non-fungible ‘administrative resources of the state’ are made available to the incumbent by public employees, including office supplies, phones, postage, cars and buses, that help inform, persuade and mobilise voters. These go far beyond the limited perquisites of office typical in competitive democracies and extend to the virtual transformation of public agencies into campaign headquarters.

In fully competitive party systems, the expectation of rotation in government reduces incumbents’ interest in systematically skewing competition significantly in their favour unless they can create cartel-like agreements with challengers. Dominant party systems clearly lack such rotation, and thus quasi-permanent resource asymmetries between insiders and outsiders may go unchecked. If the incumbent can access and use illicit public resources, then it has an almost bottomless war chest for party building and perennial campaigning while the opposition spends like a pauper.

Dominant parties can access public funds when the public bureaucracy is politically controlled. Following Shefter, I argue that where hiring, firing and career advancement are based on political connections rather than merit, bureaucrats are significantly less likely to act as gatekeepers and will more readily allow the incumbent to divert public resources for partisan political purposes. Dominant parties can use public funds for partisan advantage in situations where campaign finance laws do not exist or cannot be enforced because the electoral authority is controlled by the incumbent.

Private party financing. Even where the incumbent benefits from exclusive access to illicit public resources, private donors could fund challenger parties; however, they are likely to give strategically to generate personal benefits and avoid costs. Where rotation in power is expected, as in the United States, major donors often hedge their bets by contributing some amount to the party they like less. Even where a donor’s preferred party has virtually no chance of winning, he may indulge ideological conviction and contribute as long as costs are low. For instance, private donors helped launch third parties in the United States and Green parties in Western Europe. But in dominant party
systems, economic or physical retribution for funding a challenger is a real possibility. As a result, major donors would be foolish to support an opposition party to any significant extent, if at all.

Public party financing. Theoretically, public party financing schemes could help level the partisan playing-field; however, levelling reforms are tricky to design and unlikely to work in practice. Most public financing schemes dole out resources on the basis of the vote share obtained in the prior election. When such formulas are introduced in dominant party systems, they only reproduce dominance. Obviously, the incumbent party will not agree to more redistributive reforms and independent party finance oversight mechanisms unless it is already weakened owing to some exogenous force. Instead, most dominant party systems have a weak or non-existent set of campaign finance regulations. Typically, more than token public funds are not available and either there are no campaign finance reporting requirements or these requirements are weakly enforced. Moreover, in many instances, the body responsible for overseeing whatever few aspects of party financing may be available is run by appointees of the dominant party.

Asymmetric costs of participation

If challengers to dominant parties are outmatched in resources, they are also disadvantaged by asymmetric costs of participation in partisan politics. Running for office or working as an activist entails personal costs. In fully competitive democracies, these costs are typically limited to time and energy, and they are virtually equal across parties. In dominant party systems, costs are asymmetric and different in kind for members of the opposition. First, opposition personnel pay high opportunity costs since they usually forgo stipends and the material benefits associated with access to the incumbent’s old boys’ network. Second, in authoritarian dominant-party regimes, opposition personnel also suffer the threat of repression. Such regimes permit elections and are headed by civilians, but they have the capacity to deploy the military and law enforcement against regime outsiders. Such repression falls far short of the ‘ban on all pluralism’ in one-party regimes where the state
attempts to purge or purify the body politic. Rather, it is typically targeted, episodic, and used as a last resort when cooptation fails. This hierarchy of tactics is neatly summarised as ‘two carrots, then a stick’. The combination of asymmetric resources and costs of participation deeply affects the partisan playing-field and transmogrifies challenger parties into inefficient vote-getters. Resource poverty means that challengers to dominant parties have a lower chance of winning no matter what their strategies because they are outmatched in advertising, outstaffed in canvassing and outspent on patronage. Asymmetric chances of winning send all prospective politicians who want to win to the incumbent and encourage only very anti-status quo politicians to join the disadvantaged opposition. This pattern of recruitment is compounded by asymmetric costs of participation. As the costs of joining a challenger rise, opposition parties radicalise and shrink in size. Thus, both the low resources and high costs of becoming active in an opposition party make these parties into niche-oriented organisations that present the public with comparatively radical and thus unappealing platforms.

Elsewhere, I have shown that dominant parties’ hyper-incumbency advantages lead to the emergence of small, niche-oriented and ideologically charged opposition parties that refuse to coordinate to defeat the incumbent. Here, I limit my treatment to the more general argument that in Mexico the dominant party’s access to politicised public resources and the manipulation of party financing rules helped cement its long-term hyper-incumbency advantages. Although I have tested these predictions on broader sets of cases in previous work, Mexico provides a particularly interesting case study because it was the longest-lived dominant party system to date.

**Mexico: long-term dominance and its defeat**

Mexico’s Institutional Revolutionary Party (PRI) dominated electoral politics from 1929 to 1997 when it lost its majority in the lower house of Congress to the right-wing National Action Party (PAN) and the left-wing Party of the Democratic Revolution (PRD). The PRI then
lost the presidency to Vicente Fox of the PAN in 2000. The PRI’s long-
term dominance and its protracted decline can be seen in Figure 1.
What accounts for the PRI’s dominance over electoral politics for most
of the 20th century? What forces made it finally fail and instead give
way to a fully competitive democracy?

It is tempting to account for the PRI’s electoral victories with
persistent electoral fraud or consistent bone-crushing repression levelled
against opposition forces. The importance of fraud and repression
cannot be denied; their use diminished the likelihood of an opposition
victory and raised the costs of opposing the incumbent party through
the ballot box. Nevertheless, their importance can also be overstated.
First, under PRI dominance, elections were meaningful and opposition
forces were allowed to form parties and compete for elected posts.27
Second, despite coercion of opposition forces, not only was repression
targeted and episodic, but it also never raised the costs of challenging
the PRI high enough to diminish the desire of opposition forces to
form parties and compete in elections. Even during the 1970s when
the PRI hunted leftist guerrillas, left-wing parties chose to compete in elections. Finally, despite a strong sense that the PRI engaged in electoral fraud, there is insufficient evidence to conclude that it overturned opposition victories that would have ended dominant party rule, even in the contested 1988 election. Thus, although fraud and repression played important roles, by themselves they cannot account for the PRI’s long-term dominance.

The open electoral arena notwithstanding, the PRI’s main challengers were unable to turn it out of power for nearly seven decades. I argue that the PRI’s hyper-incumbency advantages were responsible for its long-time dominance and that it was only a reduction in access to politicised public resources that made equilibrium single-party dominance break down.

**Politicised public resources**

The PRI generated its advantages over opposition parties in large part by politicising public resources. The PRI funded what Cornelius and Craig called a ‘national patronage system’ by diverting money from the public budget and especially from the revenues of state-owned enterprises, by doling out jobs in the bureaucracy to loyal supporters and obliging them to contribute to the party with their wages and their labour, by generating kickbacks from government contracts, and by using government infrastructure and employees to mount massive campaigns in the media and in the streets and to transport voters to the polls on election day. In a 1994 speech, President Zedillo essentially admitted that the PRI had ‘appropriated the government’ for its political gain. In perhaps the clearest statement from a contrite public official, the indicted PRI president of the state of Nuevo León said that ‘The PRI received economic support from the state treasury throughout my presidency to support party operations, following an established procedure [that was] historical practice, rooted in the traditions of our country for many years’.

If a record of the illicit use of public resources for partisan purposes existed, we could measure its magnitude directly. Obviously, no such data
are available. In their absence, I argue that opportunities for generating patronage are regulated by the size of the public sector and the degree of political control over the bureaucracy. When the state is heavily involved in the economy, the incumbent simply has more resources and jobs at its disposal. Yet even when the state is large, a professional and non-partisan federal bureaucracy may act as a gatekeeper and constrain the dominant party’s ability to access public funds.\textsuperscript{31} By the same token, a public bureaucracy that is politically beholden to the dominant party is more likely to ignore or even aid the incumbent in plundering public resources for partisan advantage. My argument is not that all public sector resources become patronage for the dominant party, but that such resources rise and fall with the magnitude of the state’s control over the economy. I describe each condition in turn.

\textit{Accessing public resources: political control of the public bureaucracy}

Mexico’s public bureaucracy has always been politically controlled, and a professional civil service did not develop until 2001 after the PRI lost the presidency. During its entire period of electoral dominance, PRI governments controlled hiring, firing and advancement either directly through political appointments or indirectly through control of public sector unions. Cabinet members and general directors of public agencies were given complete control over the appointment of sub-secretaries, department heads and managers, collectively known as ‘workers of confidence’. These posts would be distributed to loyal members of one’s political support network called a \textit{camarilla} with the expectation that they support the political goals of the group’s leader.\textsuperscript{32} Moctezuma Barragán and Roemer refer to the civil service as a spoils system where ‘Posts inside the public administration have been the prizes and rewards (or punishments) for those who have shown “loyalty” to the boss or leader of his political group’.\textsuperscript{33} As late as 1997, Arrellano and Guerrero estimated that about 20,000 federal public employees were direct political appointments who could be hired and fired without reason.\textsuperscript{34} By that time of course, over 80 per cent of state-owned enterprises had been privatised and the federal public bureaucracy had been downsized.
dramatically, suggesting that the number of ‘workers of confidence’ was substantially higher in earlier years.

Where managing appointments directly was not practical, the PRI exercised control through the federal public employees’ union (FSTSE), which was integrated into the party’s labour sector (CTM). Since the 1963 Federal Public Servants Act, the FSTSE controlled hiring and firing of lower-level federal employees, and with the exception of a small number of employees in two of nine federal agencies, there was no tenure system.\textsuperscript{35}

The incumbent’s control over the federal bureaucracy was so important for its ability to generate and distribute patronage resources that no changes were made even when the Treasury pushed for reforms to reduce demands on the public budget following the economic crises of 1982 and 1994. Arrellano and Guerrero argue that ‘to generate a transparent, accountable, honest, and externally controlled public apparatus would jeopardize the political control that the dominant political group has enjoyed during past decades’.\textsuperscript{36}

As a result of this political control, public employees were less likely to act as gatekeepers of public goods. Since they did not enjoy legal protections and advancement was based on loyalty rather than merit, whistle-blowing was discouraged.\textsuperscript{37}

\textit{Generating partisan public resources: the size of the state}

Since the politicised bureaucracy would not block the PRI’s access to public funds, the availability of patronage goods rose and fell with the state’s control of the economy. To be clear, the argument is not that all public resources were used for partisan purposes but rather that the degree of the state’s control over the economy provides a useful tracer of the size of the pie from which the PRI took liberal slices. From the 1930s until the start of economic restructuring in 1984, Mexico’s political economy was based on a labour-intensive import-substitution industrialisation (ISI) model that created a large public sector and a massive federal bureaucracy. As shown in Figure 2, state-owned enterprises accounted for as much as 22.3 per cent of GDP and included
holdings in energy, transportation, mining and communications as well as extensive marketing and technical assistance boards in agriculture. During the 1980s, government holdings also included the country’s entire banking system. To administer these companies, the federal bureaucracy grew to about three million employees and accounted for nearly 10 per cent of the entire labour force. Including sub-national governments and decentralised agencies brings this number to almost five million employees and 16.5 per cent of the labour force.

The fiscal relationships between public companies, the government and the PRI’s campaigns were fluid. They involved huge and complicated transfers between agencies and a bewildering array of budget line items that permitted obfuscation and the creative sourcing of finances. With virtually no oversight by opposition forces, the media or international financial agencies, the government treated the public budget as the party’s piggy-bank and, as a result, ‘The official party enjoys almost unlimited access to government funds to finance its campaigns’. The

Source: Lustig, Mexico; Aspe, Economic Transformation; MacLeod, Downsizing the State.
PRI had armies of campaign workers, financed a dense infrastructure that reached down to the block level in major cities, occupied huge amounts of media time, and plastered its slogan on every imaginable surface until the national territory appeared thoroughly branded. Meanwhile, opposition parties operated on shoestring budgets, relied on volunteers and campaigned sporadically using face-to-face contacts and underground newspapers.

The reader will immediately notice the strong correlation between the PRI’s vote share depicted in Figure 1 and the size of the public economy in Figure 2. The PRI’s huge resource advantages generated from SOEs lasted for decades, but the economic crisis and subsequent restructuring ‘sharply reduced the resources that could be pumped through [the PRI’s] national patronage system’. Austerity and free-market economics wreaked havoc on the party’s access to patronage in three ways. First, the participation of state-owned enterprises in the economy diminished. Figure 2 shows that both the number and economic participation of SOEs varied over time but generally increased until the economic crisis and then reduced. The government held as many as 1,155 enterprises in 1982 with a majority share in 755. By 1990, only eight years after the debt crisis hit and six years after a major commitment to free-market development policies was made, the government held some interest in only 280 enterprises and a majority interest in 147. By 2000, the total had shrunk to 202. As a result, the percentage of GDP generated by public enterprises decreased from 22.3 in 1983 to just 5.5 in 2000. Equally telling is the changing balance between the public and private sectors. In 1984 state-owned firms accounted for 72 per cent of all revenue from Mexico’s 50 largest companies. In 1999 it had dropped to just 21 per cent. This dramatic decrease in public control over the economy meant that the PRI had access to fewer administrative resources from which it could generate patronage goods to buy voter support.

Second, economic restructuring meant slimming down the size of the federal public bureaucracy and especially employment in state-owned enterprises. The federal government employed over five million
people in the 1980s, shrinking to just over a million by 2000 and 2.6 per cent of the economically active population. As a result, about four million workers that would have been in government-controlled unions were instead less likely to contribute their time and money to the PRI. If federal employees were beholden to the incumbent, none were more so than workers in state-owned enterprises whose unions were major contributors to the party. But from 1980 to 2000, privatisation meant that the SOE workforce fell from 1.06 million at its height to just over 476,000 by 2000. This reduction far outpaced the cuts in national administration made by other Latin American countries during the same period. By 1999 Mexico’s SOE workforce was 79 per cent below its 1991 total. Venezuela ranked second in cuts, but its workforce dropped by only 28 per cent. At the same time, the number of SOE jobs in Brazil rose by 92 per cent, and even in Chile, often held out as a model of market reform, the workforce increased by 12 per cent. In Mexico, slimming the federal public bureaucracy reduced the number of jobs available for the PRI to distribute as patronage.

Finally, the move from the relatively closed ISI development model to a more open economy reduced the reach and organisational capacity of the PRI’s sectoral organisations (CTM, CNC and CNOP) that had previously distributed massive quantities of patronage to voters. Rising unemployment and crisis conditions pushed workers into the informal sector, and by the 1990s informal workers outnumbered formal ones. At the same time, formal sector jobs in services grew faster than manufacturing or agriculture. By 1991 they accounted for half of all employment, double what it had been a decade earlier, while other sectors remained about the same. Both informal sector and service sector workers are comparatively difficult to organise because they tend to be more geographically dispersed than workers in the formal sector and often have area-specific rather than collective interests. Finally, the government employees’ union (FSTSE) suffered dramatic losses. Since workers in newly created jobs were often not incorporated into formal sector unions associated with the PRI, they were also outside the party’s patronage network. Declining resources also contributed to splits in the
unions traditionally associated with the PRI. In the 1980s and 1990s, the CTM lost unions to alternative independent confederations such as the National Workers’ Union (UNT), which claimed as many members as the CTM by 1997.49

All three processes came to a head by the late 1980s. The resources that the incumbent used to run its national reward and punishment system were drying up. The federal bureaucracy was smaller and there were fewer state-owned enterprises whose budgets could be manipulated for partisan purposes. The PRI was running out of public money and the effects were palpable. The party’s sectors were sclerotic, unable to reach the increasingly large blocs of voters and even had difficulty maintaining monopoly control over their traditional constituencies. Local PRI organisations became anaemic and poorly staffed and had virtually no operating budget.50

**Failed reorganisation and private resources**

In response, President Salinas (1988–94) initiated a three-pronged strategy to finance the PRI’s campaigns and operations. To make up for the ‘estimated $1 billion in government funds that was wire transferred every year to the party’s headquarters’, 51 Salinas raised private capital from unimaginably wealthy entrepreneurs, many of whom had purchased public enterprises at cut-rate prices through the government’s privatisation programme.52 To reach the increasingly large constituents that were out of reach of the PRI’s traditional ancillary organisations, Salinas attempted to reorganise the party’s sectorally defined associations into geographically defined ones; however, entrenched local party strongmen resisted to the point of making the reorganisation fail.53 Finally, Salinas used temporary privatisation revenues to fund PRONASOL, a poverty-alleviation programme with substantial partisan bias.54 Although effective, the targeted use of poverty-alleviation programmes to sustain PRI electoral dominance was limited to the Salinas administration in part because they were funded through privatisation revenues that mostly dried up by the end of 1994.
By the 1994 elections, the PRI was in a state of disrepair. The bloated state sector that had supported it was increasingly in private hands; the leaner bureaucracy afforded fewer patronage appointments and only a trickling revenue stream for party coffers; and the once tendril-like reach of the party’s affiliated organisations was now shaky and arthritic. Even the stop-gap patronage from privatisation revenues had dissipated. By the mid-1990s, both urban and rural constituencies were defecting from the PRI in record numbers and, in the estimation of several analysts, the electorate became consequently dealigned.55 In its search for new revenues, the PRI increasingly consented to campaign finance reform, which included increased public funding. But public party finance meant more monitoring and oversight, and these requirements made it more difficult – although not impossible – to generate and spend illicit public funds for partisan benefit.

Manipulating the rules: party finance regulations and campaign spending

Beyond diverting public resources for partisan use, dominant parties such as the PRI can cement their privileges by creating favourable (or blocking unfavourable) party finance regulations. Since dominant parties do not fear reprisals when out of power, they will generally resist campaign finance regulations and will only endorse public funding and stricter oversight when their revenue stream is threatened. In this section, I show that the evolution of party finance regulations in Mexico followed the pattern of the PRI’s resource advantages sketched above: (1) the absence of regulations until the 1960s did nothing to restrain the PRI’s access to illicit public resources or help opposition parties, (2) a series of reforms from the late 1970s to the 1990s created public funding that was proportionate to vote shares and thus helped lock in the PRI’s advantages, and (3) a massive increase in public funding and more resources for the opposition only occurred after the PRI’s access to politicised public resources was threatened.

Before 1996, the partisan playing-field created by party finance regulations was anything but level. The PRI used its dominant position to lock in advantages either by omitting finance regulations or by
Table 1: Campaign finance regulations, Mexico, 1929–2000

<table>
<thead>
<tr>
<th>Period</th>
<th>Reporting required</th>
<th>Private financing cap</th>
<th>Government contributions prohibited</th>
<th>Public financing</th>
<th>Public funds distribution formula</th>
<th>Estimated PRI share of public funding*</th>
<th>Public funds for advertising</th>
</tr>
</thead>
<tbody>
<tr>
<td>1929–1976</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>---</td>
<td>---</td>
<td>None (~1972); 20 min. radio and TV per month (1973)</td>
</tr>
<tr>
<td>1977–1986</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Decided by incumbent</td>
<td>Unknown</td>
<td>‘Equitable free access’ as determined by the govt.</td>
</tr>
<tr>
<td>1987–1989</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>50% by vote share 50% by seat share</td>
<td>82.2% (1988)</td>
<td>15 min. radio and TV per month</td>
</tr>
<tr>
<td>1990–1992</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>90% by vote share 10% equally</td>
<td>55.3% (1991)</td>
<td>Proportional to vote share</td>
</tr>
<tr>
<td>1993–1995</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>90% by vote share 10% equally</td>
<td>65.3% (1994)</td>
<td>Proportional to vote share</td>
</tr>
<tr>
<td>1996–2000</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>70% by vote share 30% equally</td>
<td>65.2% (1997) 57.4% (2000)</td>
<td>70% by vote share 30% equally</td>
</tr>
</tbody>
</table>

* Author’s calculations using the electoral formula and PRI vote and seat shares. Note that financial records are not available before 1994, so the 1988 and 1991 estimates should be taken with caution.

Source: Data come from electoral formulas, various years, and from A. Schedler, *Electoral Authoritarianism: The Dynamics of Unfree Competition* (Boulder CO: Lynne Reinner, 2006).
designing them in its favour. Table 1 summarises the most important features of campaign finance laws from 1929 to 2000. Until 1962 there was no public campaign funding, no regulation of private donations, no reporting requirements, no oversight of party financing and, amazingly, no prohibition against government agencies contributing to political campaigns. Thus, in the 33 years following the initiation of single-party dominance, the PRI’s advantages were absolute. Beginning in 1963, parties were permitted tax exemptions on stamps and rent and for funds raised through raffles, carnivals and the sale of party newspapers; however, as one can readily imagine, these minor changes did virtually nothing to diminish the PRI’s massive resource advantages.

The 1977 reform was designed to encourage opposition forces to rededicate their efforts to partisan competition. As a result, it included language that seemed to support a level playing-field by stating that ‘In federal electoral processes, national political parties should have equitable access to the minimum needed to sustain activities directed at obtaining votes’. But ‘equitable’ and ‘minimum’ were not defined in the law, and it fell to the Secretary of the Interior – a presidential appointee and always a close ally – to decide the amount and distribution of public funds. It is likely that the opposition saw little benefit from the reform; however, because there were no reporting requirements, we cannot know. More importantly, there were still no limits on private or governmental financing.

By the late 1980s, opportunities for generating money from state-owned enterprises and the federal public bureaucracy had fallen substantially (see Figure 2). In order to wean itself from the diminishing flow of illicit public dollars, the PRI instituted a reform in 1987 that mandated increased public campaign funding. But the formula advantaged the incumbent. Half the funds were distributed on the basis of party vote share in the previous election and the other half was dispersed on the basis of the share of seats won in either the plurality district races or the multi-member districts. The Secretary of the Interior decided which method to use for the latter half. When this formula was employed in the 1988 elections, the PRI came away with
Figure 3: Television coverage by party, Mexico, 1988–2000

82.2 per cent of all public funding because it won 68.1 per cent of the votes and 96.3 per cent of the plurality seats in the previous election.\textsuperscript{57} Against this backdrop, the increase to 15 minutes of free radio and television time was insignificant and, as shown in Figure 3, the PRI came away with 86 per cent of all television coverage that year. In addition, there were still no reporting requirements and no limits on private or government contributions to campaigns.

The 1990 law that was in place for the 1991 midterm elections maintained all the PRI’s advantages from the previous code; however, it changed the distribution formula so that 90 per cent of public funds were doled out by previous vote share and 10 per cent were given equally to all registered parties. This yielded 53.3 per cent of public funds for the PRI, a minor concession since it would have taken 64.5 per cent under the prior formula.\textsuperscript{58} Free media time was now also proportional to the vote and, when combined with the opposition’s increase in resources, yielded 31 per cent of all media coverage for the PRI, compared to 22.4 per cent for the PAN and 13.8 per cent for the PRD.\textsuperscript{59} Yet again, the lack of reporting requirements or regulations for private or government financing of campaigns suggests that the PRI simply added the new public funds to its still comparatively large, albeit falling, advantages from other sources.

The 1993 law that was used for the 1994 presidential elections included the first restrictions on private and governmental financing as well as the first reporting requirements. Now cash and in-kind donations were prohibited from government agencies, mercantile businesses, foreign businesses or individuals, or from churches or sects with a religious character. By this time, of course, those contributions would have been worth less anyway because the state-owned enterprises

that had served as cash cows for the PRI’s campaigns accounted for just 9 per cent of GDP, down from 22.3 per cent a decade earlier. Private contributions from individuals were also limited to 1 per cent of total party financing and business contributions to 5 per cent (up to 10 per cent of donations could be anonymous). Parties were now also required to report their total income and expenditures but not specific information on how they spent their resources. As a result, we know that the PRI had 65.3 per cent of public financing but, more importantly, 72 per cent of total financing (see Figure 4). The PAN came away with 14 per cent of the total, and the PRD with just 3 per cent. In addition, the PRI also still occupied more media time at 33.4

per cent of the total compared to the PAN’s 21.9 per cent and the PRD’s 15.8 per cent. Clearly, party financing still favoured the PRI and put opposition parties at a severe disadvantage in the electoral competition game.

Although the PRI’s access to politicised public resources was severely diminished by 1994, it was not altogether gone. In 1996 the nonprofit Civic Alliance helped uncover the President’s use of an obscure element in the Constitution (Art. 74, 4, paragraph 3) to create a secret budget inside the line item ‘Branch 23’ which yielded an average of US$180.4 million per year from 1988 to 1994. It is not known for certain how the money was spent, although Cornelius states that it ‘was a major source of campaign financing for state-level PRI organizations’. Also, 60 per cent of the substantially larger budget of Branch 23 rewarded loyal bureaucrats with lavish bonuses. Thus, the secret budget was a standard part of the PRI’s patronage system. The PRI also continued to search for private funding and there is evidence that it accepted contributions far above the legal limit. In July 1993, one year before the presidential elections, the PRI accepted US$15.1 million in counter cheques from the Union Bank owner, Carlos Cabal Peniche. The contribution was essentially a kickback. A portion of Cabal Peniche’s huge fortune – a fortune that inexplicably went from almost nothing to an estimated US$1.1 billion in six years – was acquired through bad loans that were converted into public debt in the FOBAPROA banking scandal.

The 1996 reforms that were used in both the 1997 mid-term elections and the 2000 presidential elections made significant advances and consequentially levelled the playing-field. Now 70 per cent of public funds were distributed by vote share and 30 per cent was given equally among all registered parties. Public financing in 1997 was 12 times its 1994 nominal peso value or 4.4 times larger as a proportion of GDP, making Mexico’s elections among the most expensive per capita in the world. Private financing was severely limited to 0.05 per cent of each party’s total funding, a 120-fold reduction from the previous law. Perhaps most importantly, detailed reporting requirements were
now put in place and the Federal Elections Institute was endowed with investigative and sanctioning powers. As a result, even though the PRI retained 65.2 per cent of public funding in 1997, it accounted for a reported 44 per cent of total party financing. The PAN took 25 per cent and the PRD took 14 per cent. Media coverage was similar, with the PRI taking up 34 per cent of all air time and the challengers each taking 20 per cent. In reality, the PRI had a somewhat larger advantage because the President’s secret budget still contained an average of US$61 million per year from 1994 to 1997. Nevertheless, spending was much more equitable and, as a result, the opposition parties together improved their vote share enough to strip the PRI of its majority in Congress for the first time.

Finally, the 2000 elections used the same electoral code, and official records show that the PRI took 57.4 per cent of public funding but accounted for only 35 per cent of total campaign spending compared to the PAN’s 24 per cent and the PRD’s 19 per cent. In the media, all three parties had roughly the same amount of coverage, but the PRI fell below the PAN for the first time. In television airtime alone, the PAN took 29 per cent of the total, the PRI got just over 26 per cent and the PRD got 21 per cent.

Yet these numbers again fall short of a full representation of total spending. Where it could, the PRI continued to squeeze funds out of the now greatly diminished public sector. In 2002, it was revealed that the director of the state-run oil company PEMEX and his top aides transferred US$147.2 million through the Union of Mexican Petroleum Workers (STPRM) to the PRI’s presidential campaign. As Mexico’s largest state-owned enterprise, which contributed about one-third of all government revenues in the 1980s and 1990s, PEMEX was the crown jewel of what Denise Dresser called ‘the party’s piggy bank, its own personal checkbook’. When the details of the case were confirmed by the Attorney General, La Jornada newspaper editorialised that ‘for the first time there is precise documentation of an operation in which public funds were used to support the PRI. The practice was an open secret, everyone knew, but it could not be proven as long as the
PRI remained in power.65

What was new in 2000 is that the opposition also cheated. With the help of long-time business associates, Fox created a support organisation called Amigos de Fox to raise money and recruit campaign workers. In a post-electoral investigation conducted by the Federal Elections Institute (IFE), it was found that Amigos helped the Fox campaign spend more than the allowed limit and receive illegal funds from foreign donors. Although Amigos’ budget has never been revealed publicly, the electoral court (TEPJF) levied a fine of US$56.4 million against the PAN and its coalition ally, the Green Party (PVEM). If we take this as the actual amount of overspending – although it was probably more – then it represents about 40 per cent of what the PRI received through the PEMEX scandal. Yet despite these illicit sources of campaign funding, the overall distribution in 2000, as in 1997, was much more equitable than before.

In sum, during the 1990s the dramatic resource asymmetries that separated the incumbent and challengers were reduced by increases in public campaign financing, reporting requirements, spending limits, prohibitions against government contributions to parties and the regulation of private financing. By 1997 the playing-field was quite level and Mexico came as close as many established democracies to a fair or neutral market for votes where no party held an outright pre-electoral advantage. As a result, opposition parties had greater access to the voters.

Does the argument travel?

How generalisable are the findings about Mexico to the broader universe of dominant party systems? In other work, I show that the resources argument works quantitatively for all dominant-party authoritarian regimes and qualitatively for Malaysia and Taiwan. I have also shown that the argument works qualitatively for several dominant-party democratic regimes, including Italy, Japan and Botswana.66 Here, I show that the fundamental elements of the argument extend to all dominant-party democratic regimes.

I test my argument and alternative arguments cross-nationally with
a time-series cross-sectional (TSCS) dataset that includes the nine countries that qualify as dominant-party democratic regimes, using the definition developed above. These include Botswana, India, Israel, Italy, Japan, Luxembourg, South Africa (under the NP and the ANC), Sweden, and Trinidad and Tobago. There were not enough data on a tenth case, Bahamas, to include it in the analysis. This census of democratic dominant-party systems is the most appropriate dataset, since the task is to explain why dominant parties persist once they are established, not why they arise. A comparison between dominant and non-dominant party systems would not help answer this question.

Conceptually, the dependent variable is the dominant party’s power relative to losing control of the legislature. The most straightforward measure is thus the dominant party’s margin of victory over the first loser. An alternative analytic approach would test dominant party longevity with a duration model, but such a model would be less nuanced and less interesting than predicting variation in dominant party power across and within countries over time. In addition, since dominant parties lose power when they lose elections, modelling their margin of victory over time obviously contains information about their duration in power.

I measure the degree of state ownership of the economy with the ratings of Economic Freedom in the World (EFW) for government enterprises and investment. EFW uses a 10-point scale where 1 indicates the highest level of state ownership and 10 indicates the highest level of private ownership. Thus, EFW should decline with the dominant party’s winning margin. EFW data have been used in numerous publications in economics and political science. Unfortunately, alternative measures such as the percent of GDP generated by state-owned enterprises were not available for many of the countries in the dataset.

I also test the explanatory power of variables associated with alternative hypotheses from theories of party system competitiveness that should help account for the number of competitive parties and, by extension, the margin of victory for the dominant party. I test
retrospective economic voting theory with change in GDP per capita and inflation in the year preceding each election. As the economy deteriorates, voters should turn against the incumbent, causing a smaller margin of victory. I also include two other variables associated with political economy. To control for cross-national differences in the level of development, I include the log of GDP per capita. To test for the possible effects of economic openness on domestic party system competitiveness, I include trade as a percentage of GDP.

I examine the effect of institutional arrangements with mean district magnitude for lower-house elections. Changes in district magnitude might increase or decrease the dominant party’s margin of victory. Increases in district magnitude lower the threshold of representation and give more opposition parties the opportunity to enter competition; however, coordination problems may then reduce the largest opposition party’s vote share. Reductions in district magnitude may encourage opposition forces to coordinate their efforts around the largest challenger party; however, increasing the threshold of representation discourages new parties from forming. Thus, I remain agnostic about the effect of electoral institutions.

To examine the effects of social cleavages, I include a measure of ethno-linguistic fractionalisation (ELF). Although this cross-sectional measure does not permit a test of over-time variation, ELF changes so slowly that inclusion of inter-election changes would very likely not affect the results. Analysts have theorised and shown empirically that the number of social groups is positively associated with the number of effective parties. One might expect the resulting lack of coordination to increase the winner’s vote share; however, in dominant party systems, the largest ethnic group is typically associated with the incumbent, implying that higher ethno-linguistic fractionalisation should diminish the dominant party’s vote share.

Unlike in prior work on authoritarian dominant-party regimes, I exclude certain variables. When examining authoritarian dominant-party systems, I measured the degree of political control of the public bureaucracy to test the argument that access to politicised public
resources rises with the relative size of the public sector, conditional on the incumbent’s control over the public bureaucracy. In this test for democratic dominant-party systems, I do not interact measures of the size of the state with indicators of control over the bureaucracy, for two reasons. First, the legal distribution of pork to favoured constituencies can be a more powerful tool in democratic regimes than in authoritarian ones where there is little difference between pork and patronage in practice. Second, the available data on bureaucracies measure corruption, not politicisation. In democratic regimes, bureaucracies may not be corrupt but still highly politicised, as in Japan. I also exclude measures of civil liberties that I had previously used to tap the costs associated with joining an opposition party. In democratic dominant-party regimes, the costs do not include the risk of physical coercion and are instead limited to the opportunity costs of losing access to patronage. These costs are likely to rise and fall with the incumbent’s access to resources and are thus captured with the resource variables described above.

I model the dominant party’s winning margin over the first loser in three ways. I first use a random-effects model that combines variation across countries and within countries over time. Then I unpack the variation by isolating temporal change within countries, using a fixed-effects model, and cross-national variation, using a between-effects model. For reasons explained below, I first examine models that exclude South Africa under the ANC. The results in Table 2 show that EFW score is positive and statistically significant, indicating that an increase in public ownership is associated with an increase in the dominant party’s winning margin. A one-unit change in EFW is associated with a 3.35 per cent drop in the dominant party’s winning margin. Several countries experienced a three-point change in EFW during the period of single-party dominance, leading to the prediction that the incumbent should have lost more than 10 per cent of its margin of victory over the first loser. Considering that the average margin is 23 per cent, this drop is significant. Importantly, this effect obtains regardless of the electoral formula, overall economic wealth and performance, and
ethno-linguistic fragmentation.

Table 2: Regression models of dominant-party winning margin in dominant-party democratic regimes (without South Africa)

<table>
<thead>
<tr>
<th>Variable</th>
<th>Random-effects: variation across and within countries</th>
<th>Fixed-effects: temporal variation only</th>
<th>Between-effects: cross-national variation only</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Coef.</td>
<td>SE</td>
<td>Sig.</td>
</tr>
<tr>
<td>EFW score</td>
<td>3.35</td>
<td>1.66</td>
<td>*</td>
</tr>
<tr>
<td>GDP growth</td>
<td>0.97</td>
<td>0.45</td>
<td>*</td>
</tr>
<tr>
<td>Log MDMH</td>
<td>−2.89</td>
<td>2.48</td>
<td>*</td>
</tr>
<tr>
<td>Inflation CPI</td>
<td>−0.34</td>
<td>0.24</td>
<td></td>
</tr>
<tr>
<td>Log GDP/cap</td>
<td>−6.47</td>
<td>4.38</td>
<td>6.17</td>
</tr>
<tr>
<td>Trade</td>
<td>0.01</td>
<td>0.04</td>
<td></td>
</tr>
<tr>
<td>ELF 1961</td>
<td>−22.03</td>
<td>26.48</td>
<td></td>
</tr>
<tr>
<td>Constant</td>
<td>66.67</td>
<td>40.37</td>
<td>*</td>
</tr>
</tbody>
</table>

N (elections) = 65, N (countries) = 9.

** p<-.01, * p<.05, 1-tailed.

Note: EFW score is Economic Freedom in the World’s rating of the degree of public ownership of the economy, reversed so that 1=private and 10=public. GDP growth is measured in the year prior to each election. Log MDMH is the log of mean district magnitude for lower-house elections. Inflation CPI is inflation in the consumer price index as reported by the IMF in the year prior to each election. Trade is measured as a
per cent of GDP. ELF 1961 is ethno-linguistic fractionalisation in 1961 and is therefore not included in the fixed-effects model.

The only other variable to reach statistical significance is GDP growth, but its effect is small. For every 1 per cent of annual growth in the year before an election, dominant parties gain just 0.97 per cent over their most successful challenger. The average growth rate across all democratic dominant-party systems except South Africa was 3.93 per cent, leading to the prediction that, on average, incumbent parties gained just 3.8 per cent over their challengers owing to their management of the economy.

The results of the random-effects model without South Africa under the ANC are helpful evidence in favour of the resources theory of single-party dominance, but they cannot determine whether the effect of resources helps dominant parties across countries, within countries over time, or both. The fixed-effects model reports almost exactly the same results for the key variables as the random-effects model, indicating that the degree of public ownership drives the dominant party’s winning margin within countries over time. More precisely, as dominant parties privatised state-owned enterprises, they lose votes to the challenger parties. Finally, the between-effects model shows that public ownership does not account for cross-national variation. In other words, the particular level of public ownership across countries does not lead to a specific break-point for dominant parties even though privatisation over time within countries does lead to their decline.

Others models, not shown, indicate that when South Africa is included, the effect of public ownership largely disappears. The ANC’s winning margin since the 1994 elections has remained very high, even though it has progressively privatised its state-owned enterprises. In addition, although economic growth has been positive in the year preceding three of the four national elections since 1994, it has scarcely topped 1 per cent. Thus, the ANC continues to win a far higher share of the votes than the resources model would predict.

One possible reason concerns the distinction between relatively new and long-established dominant party systems. The definition I
employ argues that party systems do not reach dominant status until the incumbent party has surpassed the four-election or 20-year threshold. One reason for employing this threshold is the strong sense that the origins of dominant party systems are different from the forces that cause their persistence. In all cases, dominant parties have emerged following periods of severe national strife in which the dominant party comes to stand for national unity. Undoubtedly, such parties benefit from positive public opinion owing to symbolic affect. However, such affect cannot last indefinitely. Over time, citizens will come to evaluate the incumbent by what it delivers. At this point, dominant parties need resource advantages to win consistently against their challengers. There is no particular reason why this transition should occur for every case at the two-decade, four-election mark. Thus, in some cases, resource advantages will become crucial elements of the dominant party’s staying power early in its tenure and, in other cases, somewhat later. The specific dynamics in each case are best explored with in-depth analysis by country experts.

Conclusion: why dominant parties lose

The link between party finances and electoral performance is well known in fully competitive democracies where resources imbalances doom disadvantaged parties. The same relationship holds in dominant party systems where incumbents can use their control over the political economy to generate hyper-incumbency advantages. Such advantages could derive from several sources, including private donations and party-owned business, where these are permitted to operate. However, when the incumbent party exerts political control over the public bureaucracy, public resources represent an apple too juicy not to bite. In addition, a large state and a politically quiescent public bureaucracy give private capital substantial incentives to donate to the dominant party rather than its challengers. Such donations represent the cost of doing business in dominant party systems where access to contracts, tax breaks and legal protections may be politicised. Politicised public resources thus yield the steady stream of resources that dominant parties need to outspend
challengers at every turn, make the partisan playing-field unfair, and virtually win elections before election day without recourse to outcome-changing electoral fraud or bone-crushing repression.

Endnotes


5 Following Laver and Schofield, I define a party as necessary to form a government if no connected coalition can form a government that does not include it. See M. Laver and N. Schofield, *Multiparty Government* (Oxford: Oxford University Press, 1990).

6 Sartori, *Political Parties and Party Systems*, 44.


11 Przeworski, Alvarez, Cheibub and Limongi, *Democracy and Development*.


13 Sartori disagreed. He argued that in predominant (democratic dominant) party systems all parties have ‘equality of opportunities’ while in hegemonic (authoritarian dominant) party systems, ‘turnover is not envisaged’ due to fraud. See Sartori, *Political Parties and Party Systems*, 194. But he overstates fairness in democratic dominant party systems where resource asymmetries bias competition in the incumbent’s favour and overstates the effects
of fraud in authoritarian dominant party systems since (1) fraud is attempted only when pre-election mechanisms fail and elections are close, and (2) fraud affects actors’ calculations probabilistically since no one knows ex ante how well the incumbent’s machine will operate. See K. Greene, *Why Dominant Parties Lose: Mexico’s Democratization in Comparative Perspective* (New York: Cambridge University Press, 2007).


PARTY FINANCE AND SINGLE-PARTY DOMINANCE

33 E. Moctezuma Barragán and A. Roemer, A New Public Management in Mexico (Burlington VT: Ashgate, 2001), 122.
34 D. Arrellano and J. Guerrero, ‘Stalled Administrative Reform of the Mexican State’ in B. Schneider and B. Heredia (eds.), Reinventing Leviathan (Miami: North-South Center, 2000), fn 12.
35 Moctezuma Barragán and Roemer, A New Public Management in Mexico, 118, 127.
39 SOEs were formally incorporated into the federal budget in 1965. Before then, individual ministers, though they reported to the President, controlled SOE budgets. See M. Centeno, Democracy within Reason: Technocratic Revolution in Mexico (University Park PA: Pennsylvania State University Press, 1994) and D. MacLeod, Downsizing the State: Privatization and the Limits of Neoliberal Reform in Mexico (University Park PA: Pennsylvania State University Press, 2004).
41 Ibid., 61.
43 Data come from Lustig, Mexico; Aspe, Economic Transformation; MacLeod, Downsizing the State; and INEGI at <http://dgenesyp.inegi.gob.mx/cgi-win/bdieinsti.exe/NIVH100010001#ARBOL>.
44 MacLeod, Downsizing the State, 98.
45 Ibid.
48 See the World Bank’s World Development Indicators at <www.worldbank.org>.
49 Andrés Oppenheimer also argues that the move to a free market system meant that international financial institutions and independent research firms conducting economic analyses would want access to financial records, thus increasing pressure for public accounts to be square. This could have limited access to secret funds used for clientelism. Though plausible, I was unable to confirm this argument for Mexico through other sources; however, Geddes (1999: 139) makes a similar argument about personalist authoritarian regimes. See Oppenheimer’s comments at <http://www.pbs.org/wgbh/pages/frontline/shows/mexico/interviews/oppenheimer.html> and B. Geddes, ‘What Do We Know about
Democratization after Twenty Years?', *Annual Review of Political Science*, 2 (1999), 115-144.

50 Author interviews, 1999.


53 Author interviews, 1999.


56 Constitution of the United States of Mexico, Article 41, paragraph 5.

57 Author’s calculations based on the relevant electoral formula summarized in Table 1. Financial records are not available so this estimate should be taken with some caution.

58 Ibid.

59 Ibid.


63 Following the 1994 economic crisis, the banking sector collapsed. The banks were reprivatised in 1991–1992, but many became overextended due to mismanagement and bad loans made by private owners to their friends, family and business partners. By mid-1999, US$65 billion (13.5 per cent of GDP) had been transferred to the government bank insurance programme (FOBAPROA). Over the PRD’s objections, the PAN and PRI voted to transfer most of this debt to the public debt. For details, see T. Kessler, *Global Capital and National Politics: Reforming Mexico’s Financial System* (Westport CT: Praeger, 1999).

64 *Proceso* magazine, 2.17.2002.


67 Dominant party elections before 1961 were excluded due to insufficient data. Missing data on explanatory variables were imputed using Amelia II, creating five multiply imputed data sets. Scheve’s multiple imputation program was used to combine results. Available at
Data are in five-year intervals from 1970 to 2000. I estimated other election-year values on the line connecting the two most proximate measures. Since the series is slow moving, this method was preferable to using Amelia that would have treated observations as if they were missing at random. Data are available at <http://www.freeteworld.com>.


70 I use Penn World Tables 6.2 RGDPCH (real GDP per capita, Chain Index, 2000) calculated as GDPD = (RGDPCHt – RGDPCHt – 1)/RGDPCHt – 1 * 100 where t is the election year. See <http://pwt.econ.upenn.edu/php_site/pwt_index.php>.

71 Annual inflation data come from the World Bank’s World Development Indicators.


73 Institutional arguments do not hypothesise about deviations below an upper bound. Data come from the World Bank’s DPI. Whereas the DPI codes Botswana at 0.9 to take account of five appointed legislative seats, I code it at 1 since all seats are elected in single-member districts. Duverger, *Political Parties*; Cox, *Making Votes Count*.


78 Greene, ‘The Political Economy’.

Defining the problem

The financing of political parties in Malaysia is beset with a number of problems, including limited legislation and poor regulation, as well as the voluntary tradition of funding parties, without any need for public disclosure of the sources of this money. These problems have contributed to the growing monetisation of politics: private funds seep into the political arena in large amounts, creating an uneven playing-field during federal and state elections and undermining fair electoral competition. More pertinently, since there are inadequate disclosure requirements, serious allegations have emerged of the covert funding of politicians, from sources both local and foreign, and of their links with organised crime.

While the literature on the financing of politics pertains primarily to the sources of party funds and the way money is used during presidential or parliamentary election campaigns, in Malaysia two other fundamental issues require attention. First, Malaysia is one of very few countries in the world where parties own corporate enterprises, a trend referred to as ‘political business’.

These parties’ corporate assets include Malaysia’s leading newspaper, television and radio firms. The second matter is the way electoral campaigns are funded during party elections, particularly among those in the ruling coalition, the Barisan
Nasional (National Front). The amount of money distributed during party elections is reputedly far more than that spent during general elections. Acute factionalism in parties is not based on differing ideological or political viewpoints but on which party leaders have the greatest capacity to distribute funds to capture grassroots support. Money-based factionalism, a phenomenon popularly known as ‘money politics’, is threatening the existence of parties. As leaders of these parties control the executive arm of government, money politics gravely undermines their legitimacy to govern as well as their willingness to stem corruption.

During party elections, candidates are similarly reliant on money for their campaigns from a variety of sources. As a result, candidates with most access to business or public resources are likely to have an unfair advantage during party elections. This situation, where a few politicians have great access to a variety of funding sources, has contributed to the rise of personalised politics, characterised by the prominence of certain individuals within parties, and, in turn, to the politics of patronage, whereby funds are distributed to draw support to retain power or to ascend the political hierarchy.

This essay provides a historical account of the political landscape in Malaysia to obtain insights into the strengths and weaknesses of existing legislation and institutions that oversee the financing of politics. The appraisal will review the levels of transparency built into current legislation, the pattern of financing of parties and electoral campaigns, and the institutional capacity of the relevant regulatory bodies to ensure fairness and accountability during elections. It concludes with proposals for legislative and institutional reforms to help ensure that parties account for and disclose the sources of their funds.

Definitions

Political finance

Definitions of political finance tend to be limited primarily to the funding of parties and electoral campaigns. Yet a variety of factors inform the issue. Pinto-Duschinsky notes that in its most narrow

definition political financing is seen as ‘money for electioneering’, but adds that it includes fund-raising for party activities such as the costs of maintaining permanent offices, carrying out policy research, conducting polls and political education, mounting public campaigns about policies and mobilising voters during elections.\(^{5}\)

While parties normally raise funds through membership fees and donations, politics can be financed in a range of other ways, including ‘secret funds’, which involves money given to politicians by companies and foreign donors. Foreign funding raises the question of the appropriateness of the presence of ‘international money’ in domestic politics, a matter that has precipitated heated debate in a number of countries. In discussions about the financing of politics, the ‘personal wealth’ of individual politicians, normally financially well-endowed businessmen and royalty, also figures prominently.\(^{6}\) All these topics – slush funds, foreign donations and personal wealth – play a role in the politics of Malaysia.

The primary reason why an individual or firm would assist a party financially is to support a particular ideology or ideal. For example, private firms are known to be enthusiastic funders of parties that endorse neoliberal policies advocating limited state intervention in the economy. Other reasons are to obtain material benefits, such as contracts and licences, from the government or to secure access to government or obtain public honours.\(^{7}\) These reasons indicate cogently that the sources of party funds can determine or actively shape public policies and legislation as well as influence the distribution of government rents.\(^{8}\)

Of specific concern here is the contribution of the financing of politics to political corruption. It has been noted that narrow definitions of political corruption, such as ‘the use of public office for unauthorised private gain’, exclude many forms of political finance-related corruption.\(^{9}\) This is a crucial point. As Walecki observes, some acts seen as ‘illegal’ are not necessarily corrupt, for example foreign funding of parties, while corrupt acts such as campaign contributions from organised crime are not necessarily illegal.\(^{10}\) Allegations have emerged in Malaysia that politicians have obtained funds from abroad
and from organised crime, though they have been strongly denied.\textsuperscript{11} Political corruption of another kind common in Malaysia, linked to the financing of politics, is vote-buying. In this essay the definition of political financing will encompass all factors that inform electoral competition, within and outside parties.

\textit{Money politics and political business}

A longstanding and increasingly widespread problem in Malaysia is vote-buying during intra-party electoral contests, a practice that remains unregulated by external bodies and difficult to keep in check. Loose guidelines, inadequate legitimate funding and an absence of non-partisan oversight of internal party elections allow candidates to seek financial support from dubious sources, regardless of the repercussions. The consequences of irregularities during internal election campaigns include accusations of corruption and increasing public mistrust of the entire political process.\textsuperscript{12}

Money politics in Malaysia has numerous facets. It is normally understood to mean the practice of buying votes during party and general elections by disbursing current and future material benefits. This term refers as well to political patronage and abuse of power involving favouritism, nepotism and conflict of interest in the awarding of government concessions. It is also regularly used to refer to the phenomenon of ‘political business’,\textsuperscript{13} which includes the links between politics and business, specifically party ownership of firms, the direct and indirect control of companies by politicians and parties, and the direct and indirect interference of politicians in the corporate sector.

We can summarise the practice and outcomes of political business in Malaysia in the following way. Politicians in government use their power to distribute to party members or select business associates state-created rents in the form of licences, contracts, subsidies and privatised projects. Funds to acquire these rents are secured through favourable loans from banks owned or controlled by the state and well-connected businessmen. Distribution of such rents to party members, in turn, enables party leaders to secure or advance their positions in the party
and in government. Recipients of rents use corporate manoeuvres, such as shares-for-assets swaps, mergers and reverse takeovers, to capture control of publicly listed firms, usually characterised by concentration (large firm size) and conglomeration (multi-sectoral diversification). As share prices escalate, corporate equity is used as security to obtain further loans from banks to finance further acquisitions. These corporate strategies contribute appreciably to the increase in the stock exchange’s market capitalisation.

In Malaysia, these sophisticated but unproductive corporate manoeuvres, which contribute to the rise in market value of quoted equity, have led to the emergence of a well-connected nouveau riche. The rise of this group has resulted in a concentration of corporate wealth, while the outcome of selective distribution of government rents has been corruption, scandals and conflicts of interest. Firms controlled by well-connected businessmen have been involved in insider trading and manipulation of stock prices.¹⁴

The processes involving money politics and political business have led to the unchecked and unregulated deployment of money in the political process. Before identifying solutions to deal with the malaise as well as ensure fairness in the electoral process, we need first to review Malaysia’s political and electoral system.

The political system in Malaysia

Structure of government

Malaysia’s bicameral parliament consists of a Dewan Negara (Senate) comprising 70 senators and a Dewan Rakyat (House of Representatives) of 222 elected parliamentarians. Each state with Malaysia also has a unicameral State Legislative Assembly whose members are elected in a similar manner to parliamentarians.¹⁵ The government is formed by the coalition of parties whose individual members are able to command a majority in the Dewan Rakyat. The Cabinet, headed by the Prime Minister, consists only of members of both houses of the legislature and is collectively responsible to parliament.
<table>
<thead>
<tr>
<th><strong>Table 1: Responsibilities of EC and ROS</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Election Commission (EC)</strong></td>
</tr>
<tr>
<td><strong>Duties and responsibilities</strong></td>
</tr>
<tr>
<td>The EC is meant to ensure that conduct of elections is free and fair. It is responsible for:</td>
</tr>
<tr>
<td>(1) reviewing and delimiting parliamentary and state constituencies at regular intervals;</td>
</tr>
<tr>
<td>(2) carrying out the registration of electors and revising electoral rolls; and</td>
</tr>
<tr>
<td>(3) conducting parliamentary, state and by-elections.</td>
</tr>
<tr>
<td><strong>Electoral financing and disclosure</strong></td>
</tr>
<tr>
<td>Under the Election Offences Act, electoral expenditure is limited to RM200,000 for a parliamentary seat and RM100,000 for a State Assembly seat. This Act requires candidates to submit an account of their election expenses from nomination day to polling day. The candidate has 31 days after the announcement of an election in the Gazette to submit accounts, which must be made available for public inspection for a period of six months. The EC does not analyse the accounts of the candidates; interested persons have to evaluate these accounts themselves. The EC has no jurisdiction over pre- and post-election campaign financing and expenditure. It cannot interfere with or inspect the financing of parties. It has no authority to restrict election expenditure by parties. It has no authority to prosecute any person who violates election-related regulations. The police are responsible for acting on violation of election laws.</td>
</tr>
</tbody>
</table>
Jurisdiction

The EC’s jurisdiction covers only the period from nomination day to polling day. The EC’s jurisdiction in respect of electoral financing covers only the campaign period and pertains solely to the expenditure made by the candidate, not that of his/her party. The law is silent on the issue of limits on party expenditure.

The ROS has discretionary powers to accept or reject an application to form a party. It can request changes in the party’s structure and suggest changes to the proposed name and articles in the constitution, before its application for registration is approved. The ROS can de-register a party that does not operate in line with its provisions.

The ROS is responsible for inspecting the annual activities and operation of all registered societies.

The two major institutions responsible for monitoring elections and political parties are the Election Commission (EC) and the Registrar of Societies (ROS) respectively. Political parties are governed by the same regulations under the Societies Act that oversee all societies, including welfare and social bodies. The EC is responsible for conducting elections, keeping electoral rolls and reviewing the division of the country into parliamentary and state constituencies. By ensuring that all citizens can elect a representative freely, and that all those who desire to stand as candidates can present themselves to the voting public, the EC is meant to create a level playing-field.\(^ {16}\)

Table 1, which compares the features and responsibilities of the EC and ROS from the perspective of their jurisdictions, duties and responsibilities, suggests that both have little autonomous regulatory capacity. Since applications to form a party have to be approved by the ROS, a body under the ambit of the Ministry of Home Affairs, this provides the executive with the means to block or impede the formation of any organisation it considers undesirable. The Prime Minister, who is responsible for the appointment of the Minister of Home Affairs, traditionally tends to select a highly trusted political ally for this post.\(^ {17}\)

The EC is an impartial and independent body, under the direct control of the King.\(^ {18}\) To guarantee its autonomy from the executive, the Constitution provides safeguards to ensure that members of the EC cannot be removed from office, except under very specific conditions. The autonomy of the EC has, however, been diminished over time. In 1962 the Constitution was amended to limit the powers and independence of the EC. The EC’s power to redelineate constituency boundaries was reduced to merely making recommendations to parliament, which is now the final arbiter by means of a simple majority.\(^ {19}\) Under the amended Constitution, the Prime Minister can make revisions to the EC’s recommendations before submitting them to parliament for approval.\(^ {20}\) A further limitation on the independence of the EC concerns the appointment of its chairman. Although the King appoints the chairman of the EC after consultation with the
Conference of Rulers, the candidates for this post are nominated by the Prime Minister.\textsuperscript{21}

**The political parties**

*Ruling coalition: Barisan Nasional*

Since most parties are ethnically based, the formation of coalitions has helped to gather under one umbrella organisations that represent the interests of a cross-section of the population. The nucleus of the Barisan Nasional was an ad hoc coalition made in 1952 between the United Malays’ National Organization (UMNO)\textsuperscript{22} and the Malaysian Chinese Association (MCA)\textsuperscript{23} to contest municipal-level elections. In 1954 this coalition evolved into the Alliance, with the Malaysian Indian Congress (MIC)\textsuperscript{24} as its third member. The tripartite Alliance was extended into a larger coalition, the Barisan Nasional, in 1974.\textsuperscript{25} This coalition, which currently comprises 13 parties, and its predecessor, the Alliance, have consistently been in government since elections were first held in Malaysia in 1955.

Though the Barisan Nasional acts like a single party during elections, and though it is the governing coalition, it cannot be construed as an actively functioning consociational body. Given UMNO’s hegemonic position in the executive and since representation in the Cabinet is the sole prerogative of the Prime Minister, inter-party consultations are not held on an equal footing. The Supreme Council, the coalition’s governing body, comprising leaders of all component parties, meets infrequently, usually before a general election to decide on the distribution of seats. This Supreme Council is thus merely a formal body, although it is presented as the forum in which consociational-based consultations are held to maintain ethnic cooperation and harmony. The party political activities of the component parties are individually based and geared towards their particular target groups.

*Opposition coalition: Pakatan Rakyat*

On 1 April 2008 Parti Keadilan Rakyat (People’s Justice Party, or PKR), the Democratic Action Party (DAP) and Parti Islam SeMalaysia (Malaysian
Islamic Party, or PAS) forged a coalition, Pakatan Rakyat, or People’s Alliance, to enable these opposition parties to form the government in states where they collectively held a majority after the general election in March 2008. This was not the first time that these three parties had forged a coalition. They had formed the Barisan Alternatif, or Alternative Front, in 1999, the outcome of a social movement called the reformasi that had emerged in 1998. The DAP, however, quit the Barisan Alternatif two years later, owing to bitter disagreements with PAS over the latter’s stance on an Islamic state. There had long been serious ideological differences between the DAP and PAS.

The DAP, formed in 1966, is an offshoot of the People’s Action Party (PAP), which currently rules Singapore. Though seen as a Chinese party, the DAP has some notable non-Chinese in its top hierarchy. PAS, a breakaway UMNO faction, was formed in 1951 and originally led by left-leaning politicians. Its objective at the outset was to secure mass rural-based Malay support. In 1982, following a radical change of leadership, PAS began adopting a predominantly Islamic posture. PKR was formed in 2003 and was initially led by Wan Azizah Wan Ismail, wife of Anwar Ibrahim, who had been dismissed as Deputy Prime Minister in 1998. Anwar’s dismissal precipitated the reformasi. He is, at present, the de facto leader of PKR.

**Electoral financing**

Regulations regarding expenses during parliamentary and state elections are outlined in the Election Offences Act, which deals with types of permissible expenses and the total amount that can be spent. While the costs of running an election are borne by the government, individual candidates or parties are responsible for funding their own campaigns. No variation in expenses is permitted on the basis of the geographical size of an electoral district or other characteristics of the constituency (whether it is rural or urban, for instance).

Only expenditure incurred during the campaign period is subject to these financial ceilings. There is nothing to prevent a candidate from raising money or incurring considerable expenses in the run-up to
the election, prior to the campaign period. Despite the obligation to disclose how funds are spent during a campaign, allegations abound that the amounts of money employed far exceeds that permitted, owing to irregularities such as vote-buying. And, even though legislation outlaws bribery and coercion in the form of treats or threats, such practices are reportedly common during elections. While complaints of such irregularities can be made to the EC, most parties, particularly those in the opposition, tend to seek redress through the courts.

Compared to the opposition, the Barisan Nasional’s campaign machinery is efficiently and effectively run during elections, though this can be attributed to its relatively easier access to funds. Since public rallies are banned, door-to-door canvassing, which is labour-intensive, is the most common form of campaigning. Most Barisan Nasional campaign workers are remunerated, while the opposition relies heavily on unpaid, voluntary help. Since the number of campaign posters and vehicles is not limited by law, this tends to benefit parties with greater access to funds, invariably those in the ruling coalition. Although all candidates are required to submit to the EC the total amount of funds spent during an election campaign, they are not required to divulge the sources of their funding.

Money politics
The problem of money politics is most pervasive in UMNO during party elections. The party’s organisational structure is decentralised, consisting of the national headquarters, divisions and branches. Party leaders are selected at the general assembly, which meets annually, though its office-holders are elected every third year. Delegates to the annual conferences are chosen by the party’s divisions. The composition of the delegates has changed considerably over the past fifty years. Previously, about half the delegates were teachers and almost a quarter were from the civil service. At present, businesspeople constitute more than 30 per cent of the delegates.

The practice of buying support during party elections can be traced back to 1981, when Mahathir Mohamad, then newly appointed as
party president, announced that he would not name his deputy but would leave it to the delegates at the general assembly to decide. It was then unprecedented for an UMNO president not to name his deputy, and his announcement unleashed an epic contest between two prominent politicians, Musa Hitam and Tengku Razaleigh Hamzah, for the post. Musa won the battle, though Razaleigh returned to challenge Musa for the post in 1984. The contest was described as one of the ‘dirtiest to date’, involving the offer of free meals, death threats and massive vote-buying.36

In 1985 Mahathir spoke out strongly against the influence of money, citing as an example one aspiring politician who was willing to spend RM600,000 in his bid to become divisional chairman. Meanwhile, Musa expressed his fear that UMNO was becoming a ‘get-rich-quick club’.37 In 1986, when Musa unexpectedly resigned as Deputy Prime Minister, his reasons for doing so included the growing influence of ‘money brokers’ in UMNO.38

These criticisms by the UMNO leadership had little impact as the problem of money politics continued to escalate. A decade later, when the UMNO deputy presidency was contested in 1993 following Anwar Ibrahim’s decision to challenge the incumbent, allegations abounded that RM200–300 million had been spent by just one faction during a highly divisive campaign.39 One study described in greater detail this growing monetisation of UMNO: ‘While money had been used to buy support at the party’s assemblies, now it was also extensively used to buy support at the divisional level to ensure that candidates for the top two leadership positions received sufficient nominations to “reflect” their supposed popularity.’40 By 1995, one candidate had reportedly spent about RM6 million to secure the post of divisional chairman. Mahathir felt compelled to propose an amendment to UMNO’s constitution banning money politics, though this did little to check the problem. By 1996, the practice had become so divisive that during the run-up to the party elections, Mahathir banned campaigning for party posts.41

Other Barisan Nasional parties are similarly bedevilled by the problem of money politics, which has also contributed to serious
factionalism. The roots of this problem in UMNO, MCA and the MIC can be traced to the difficulties these parties face in securing funding for their activities. But the problem was exacerbated when these parties subsequently became involved in business.

Political business and party finances

Since political campaign costs have progressively soared, the traditional sources of party funding – membership dues and private donations – are no longer adequate to meet these expenses. Parties allege that large portions of their funds come from membership fees. Yet information on how Barisan Nasional and Pakatan Rakyat members secure funds is difficult to obtain. One persistent allegation against the PKR is that it is to the recipient of large sums of foreign money, suggesting that Malaysia’s economic interests would be deeply compromised if Pakatan Rakyat took control of the federal government. The opposition, on the other hand, has long criticised Barisan Nasional parties of abusing power to channel rents to businesses, which funnel funds back to them, a process that helps sustain their position in government. Inevitably, one of the most controversial aspects of political financing has been the ownership and control of businesses by parties.

1950–1970

In the post-colonial period, UMNO’s financial woes arose because its mainly rural peasant membership could not provide it with sufficient funds to participate effectively in electoral contests. UMNO was extremely dependent on cash-rich MCA, established by businesspeople, to fund its campaigns. The MCA needed UMNO to win seats as the Malays were heavily over-represented in the electorate. Even though the Malays then comprised only 49 per cent of the population, they constituted more than 80 per cent of the electorate. To consolidate its position, UMNO’s first business venture was its takeover in 1961 of the independent Malay newspaper, Utusan Melayu, which had till then been quite critical of the party’s policies. The MCA’s funds were obtained primarily from a million-ringgit
prize lottery initiated in 1949 for members. This enterprise, the first major business activity by a party, increased the MCA’s membership appreciably and provided it with access to a substantial cache of funds. When other parties complained that the lottery gave the MCA an unfair advantage during elections, the British colonial government put a stop to it in 1953. With the support of Chinese businesses, the MCA was kept flush with funds.

The MIC’s links with business commenced in 1955 when it established the National Land Finance Cooperative Society (NLFCS) to help provide plantation estate workers with access to property. The NLFCS was hugely instrumental in garnering for the MIC enormous support from plantation workers, the largest single community of Indians who, until the mid-1950s, had largely withheld their support for this party. Other MIC leaders went on to establish cooperatives.

1970–1990

By the late 1950s, UMNO had become increasingly concerned about its heavy financial dependence on the MCA. This led UMNO leaders to establish covert ‘special funds’ to which firms could make contributions on a regular basis. When the Alliance came close to losing power in the 1969 general election and when the MCA left the Alliance for a short period, UMNO realised its urgent need to be financially independent. The racial conflagration that followed this election led to the demise of the Alliance and the formation of the Barisan Nasional.

In 1972 UMNO acquired a controlling stake in the New Straits Times Press, which published the leading English newspaper, The New Straits Times, and a major Malay newspaper, Berita Harian. The New Straits Times Press was acquired following protests by UMNO members that it was controlled by foreign – British and Singaporean – interests. By the early 1970s, therefore, UMNO had secured control of Malaysia’s leading Malay and English newspapers. UMNO would subsequently form a cooperative, Koperasi Usaha Bersatu (KUB), which acquired an interest in a number of companies, emerging for instance as the franchise-holder of the fast-food outlet A&W.
Other Barisan Nasional parties also secured a controlling stake in major newspapers. The MCA’s holding company, Huaren Holdings, has a majority interest in Star Publications, which publishes The Star, at present Malaysia’s top-selling English tabloid. The MIC leaders are closely associated with the country’s major Tamil newspapers.

As the ethnic violence following the 1969 elections was attributed to Malay discontent over their lack of economic progress, the affirmative-action New Economic Policy (NEP) was introduced in 1970 to achieve national unity through poverty eradication, irrespective of race, and inter-ethnic economic parity through ‘restructuring’. This led to a proliferation of public enterprises, with enormous government funding, engaged in activities that spanned the entire range of the economy.

The growing involvement of the government in the economy encouraged non-Malay Barisan Nasional parties to venture into business, ostensibly to safeguard the economic interests of the communities they professed to represent. In 1968 the MCA launched the Koperatif Serbaguna Malaysia (KSM), which in 1975 helped found Multi-Purpose Holdings (MPHB), a highly diversified, publicly listed investment holding company. With huge financial backing from the Chinese community, and following a spate of acquisitions, MPHB would emerge by 1982 as the second largest shareholder of Malaysian corporate stock.50

The MIC pursued a similar strategy by launching in 1984 Maika Holdings, an unlisted investment holding public company, to pool the financial resources of Indians. Maika successfully drew more than RM100 million from the Indian community, but its forays into the corporate sector were cautious and it continues to function primarily as a holding company.51

In the early 1980s, privatisation began to gain ground as a means to raise revenue for the government, promote economic efficiency, reduce state interference in the economy, advance wider equity ownership, introduce competition and subject government-linked enterprises to market discipline.52 In Malaysia, the policy of privatisation was first mentioned in 1983, as part of a series of economic policies introduced
by Prime Minister Mahathir to help stimulate economic growth. By the 1980s, with much government patronage, specifically through the NEP and by way of privatisation, UMNO became the owner of some of Malaysia’s most important corporate stock.\(^53\) Such patronage contributed to the emergence of a new breed of well-connected Malay businessmen with extensive ownership in the corporate sector by the early 1990s. A major UMNO holding company, Hatibudi, acquired majority ownership of United Engineers (UEM), the firm that controversially obtained the privatised contract for the construction of the multimillion-ringgit North–South Highway project.

1990 onwards

The NEP was used to justify transferring privatised rents to well-connected Malays. Government leaders claimed, however, that since the private sector, and not public enterprises, had now become the main vehicle for economic development, political influence on the economy through public enterprises, especially by way of patronage, would be checked.\(^54\) One analyst noted that, given the country’s rather unique ‘political–bureaucratic–business complex’, privatisation in Malaysia was ‘unlikely to be more than a rearrangement of economic and political power’.\(^55\) Numerous studies have alluded to the extensive clientelistic ties that have evolved with privatisation, in the absence of an independent and accountable monitoring body to ensure proper implementation of the policy.\(^56\)

In 1998, during the party general assembly Mahathir unexpectedly released a list of privatised concessions obtained by UMNO members, in order to fend off allegations of nepotism and cronyism by what he thought was an opposing faction intent on removing him as Prime Minister. This list revealed the shocking scale and scope of the practice of political patronage.\(^57\) Some of these privatised rents had been injected into the stock exchange through reverse takeovers or newly listed firms via initial public offers (IPOs). Business mechanisms like these had allowed politicians access to large sums of money, which were subsequently injected into the political system.\(^58\)
This form of covert funding of parties by favoured businessmen has increasingly become an issue of particular concern. A political scandal, involving the construction of a massive free-trade zone, which erupted in 2009 and which involved Barisan Nasional component parties, drew attention to the covert channelling of funds by businessmen to politicians in government and the awarding of lucrative contracts as a quid pro quo. The allegations have, however, been denied by the people named in this incident, referred to as the Port Klang Free Trade Zone scandal.59

According to one report, the amount of money lost owing to a number of business scandals involving Barisan Nasional since the 1980s has been conservatively estimated at US$100 billion. This included government bailouts of businessmen nurtured by the state under the NEP and the re-nationalisation of privatised projects.60 Such incidents involving allegations of the existence of secret funds underlined the critical need for legislative review of the disclosure of funds by parties.

Financing opposition politics

Leaders of the DAP claim that funds for running the party and electoral campaigns are obtained primarily through ‘grassroots financing’ – membership fees and donations from private individuals. The DAP collects money through the internet and a variety of fund-raising activities, including public forums to discuss topical issues. Another source of funding for the DAP, also regarded as a form of grassroots financing is ‘assessments’ – members who have been elected to a State Assembly or to parliament are expected to contribute a portion of their allowance to the party.

A major source of funds for the DAP was revenue from its news organ, The Rocket, until the government restricted the sale of this paper to party members. As for the party’s involvement in business, DAP established a cooperative to supplement party funds. This cooperative failed to emerge as a business enterprise of any significance and appears to have been moribund since the late 1980s.

According to PAS, the primary source of the party’s funding is ‘grassroots financing’. Apart from donations, money is collected during
party *ceramah*, or public rallies. The volume of money collected at a *ceramah* is announced to the participants at the end of the event. A third major source of funds is income from the sale of the party organ, the *Harakah*. The revenue from the *Harakah* is reputedly huge as over 800,000 copies are sold each month. Apart from the *Harakah*, the party claims that it has no business venture, nor has it invested in any corporate enterprise.

A PKR official claims that membership subscriptions are grossly insufficient to fund the party’s activities as its annual fee is a mere RM2. The official adds that the inability of opposition parties to raise funds is hampered by the fear of potential donors that the Barisan Nasional might act against them for doing so.

**Factionalism, elections and money politics**

Parties in Malaysia employ a variety of measures to promote ethical conduct among members and to punish those who engage in unscrupulous behaviour or violate party laws. There is, however, consensus among politicians that codes of conduct are inadequate to check irregularities during party electoral campaigns. Party regulations, if any, remain largely ignored and ineffective without proper, preferably outside evaluation, monitoring and disciplinary processes.

Although all parties have an official internal disciplinary process, informal pressures and reprimands are used as disciplinary measures. These unclear or opaque disciplinary practices are at times applied inconsistently or on the basis of factional favouritism, and can therefore weaken respect for official laws and rules of the party, fostering a culture of impunity. For example, critics maintain that UMNO has not been able to weed out unethical practices during party elections because it has not instituted a mechanism effective enough to deal with errant members who abuse money to ascend the party hierarchy. All UMNO has in place at present is a code of ethics and a disciplinary committee to handle complaints about money politics, hardly tough deterrents. Moreover, the effectiveness, even impartiality, of the committee has been queried.
While UMNO leaders have publicly admitted that the party went into business to raise funds to achieve financial independence, there has been little or no public disclosure of fund transfers to the party by any of its corporate holdings. Moreover, it had become imperative for UMNO leaders to claim to have an impartial relationship with business, because by the mid-1980s the party had to deal with serious public criticisms that its corporate activities smacked of conflict of interest, patronage and corruption. Such criticisms, hurled initially at members of a kitchen cabinet created by Prime Minister Mahathir, would eventually come to be made by senior party leaders, contributing to serious factional disputes that culminated twice, in 1988 and 1998, in the emergence of new opposition parties led by UMNO stalwarts. For this reason, much of UMNO’s corporate assets are currently held in the name of its nominees, a point acknowledged by party leaders. It is probably through them that funds from the corporate sector are channelled to UMNO.

Table 2 indicates changing trends in the links between politics and business. What is of particular concern is that the number of firms associated with UMNO has grown substantially and politicians are increasingly involved in business. In the 1970s, when parties began acquiring firms, a small number of leaders had overwhelming influence over these enterprises. By the 1990s, a large number of politicians had come to own a slew of firms. And, while the professional managers of firms owned by UMNO had much autonomy from politicians in the 1970s, by the 1990s most politicians were involved in the management of the firms under their control. Importantly, too, while political parties used to have direct control over companies, the present form of ownership and control is becoming increasingly obscure.

These changing trends in the links between politics and business suggest two crucial things. Firstly, significant changes have occurred within political parties, necessitating a review of existing legislation. These changes are particularly noticeable in UMNO, specifically in the profile of its grassroots leaders. Businesspeople are gaining a huge stranglehold over party positions at the grassroots level, and they
constitute a large segment of the delegates at the general assembly. As for the MCA, while businesspeople are no longer dominant among the senior leadership, recent scandals have exposed the party’s continued ties with leading corporate figures. Secondly, given how much more complex and covert the links between politics and business have become, the ability of existing legislation to deal with improper financing of politics is now very much in question.

Political business has also given rise to serious factional disputes within parties, linked to political leaders with strong corporate ties. The MCA has been particularly susceptible to such disputes involving corporate figures and firms. In the 1970s, MCA president Lee San Choon, who was responsible for establishing the cooperative KSM and the investment holding firm MPHB, was involved in a factional dispute with prominent leaders who subsequently left the party only to emerge as stalwarts in another Barisan Nasional party, the Gerakan. In the mid-1980s, the MCA

| Table 2: Changing nature of companies linked to UMNO, 1970s and 1990s |
|---------------------------------|-----------------|
|                                | 1970s          | 1990s          |
| Number                         | Small          | Large          |
| Form of party control          | Direct         | Indirect       |
| Control by individual politicians | Insignificant | Significant   |
| Paid-up capital                | Relatively small | Extremely large |
| Equity ownership               | Significant    | Sufficient to maintain control |
| Interlocking stock ownership   | Significant    | Rather limited |
| Interlocking directorships     | Significant    | Rather limited |
| Managerial autonomy            | Extensive      | Largely majority-ownership control |
| Business specialisation        | Limited        | Significant    |
| Growth pattern                 | Conglomerate; depending on needs of the party | Increasingly horizontal among new rich; vertical and opportunistic among emerging capitalists |
| Inter-ethnic business ties     | Limited        | Increasing     |
| Persons in management          | Most non-politicians | Many politicians |

was deeply fractured in a factional dispute involving Tan Koon Swan and Neo Yee Pan. In this leadership crisis, allegations abounded of the extensive use of money to buy support, with one analyst describing Tan’s victory in this presidency battle as a ‘money-in-every-direction’ fight.67 Other serious allegations that emerged were that MCA leaders had abused their control over MPHB to raise funds. Tan would subsequently serve a jail sentence for corruption involving MPHB, and the MCA had to divest ownership of this now ailing conglomerate. The MCA’s KSM was one of many cooperatives involved in the deposit-taking cooperatives (DTC) scandal in the 1980s, which tarnished the image of politicians responsible for managing funds given to them in trust. Following the MPHB and DTC scandals, the MCA publicly announced that it would no longer pursue investments from the public for private investment. This has, however, not meant that individual MCA leaders have dissociated themselves from corporate leaders.

The MIC has similarly been embedded in a long-standing controversy over its investment holding company, Maika, its numerous cooperatives and the education institutions it controls directly and indirectly. The ties between MIC leaders and the party’s business and education institutions have also given rise to intense factional disputes and seriously undermined the party’s credibility.

**Legislative and institutional reforms**

This historical review of the monetisation of Malaysian politics indicates two major issues requiring attention: legislative and institutional reform. A new law, say a Political Parties Act, governing such organisations is necessary in view of the limitations of the current Societies Act. A suitable law would need to contain provisions for permissible limits on expenditure, the placement of a cap on donations from individuals, corporations and trade unions, disclosure of the sources of funds, including the need to regulate or ban foreign funding of domestic politics, and adequate access to media.68 Such a law should also aim to promote an environment which helps strengthen linkages between
parties and constituencies, and should not hinder parties emerging to represent different societal interests. The internal affairs of parties also need to be monitored, to reduce money politics, especially during internal elections. Lastly, oversight is required of party ownership of corporate enterprises, in particular media companies.

Public financing of parties and elections

Forms of public funding include money to parties, funding for candidates, tax incentives to individuals who donate to political organisations, and free or discounted use of the media. Where public financing of politics is permitted, the rules on funding parties and elections are generally based on the following principles: an equitable balance between public and private funding, fair criteria for the distribution of state aid to parties, strict rules on private donations, caps on party expenditure during election campaigns, transparent accounting and an independent audit authority and strict penalties against parties and candidates who violate the rules.69

Reforms involving political financing need to be divided into regulations and subventions. Most countries restrict the use of some sources of private donations, either by banning them or by setting contribution ceilings. A number of countries, including the US, Canada, UK, Germany, France, India and Japan, ban foreign contributions in whole or in part. In the UK foreign funding is banned, while in the US foreign residents, though not permanent residents, are not allowed to contribute financially to federal and state political contests.70

Banning special funds

The practice of holding secret or special funds appears widespread among leaders of Malaysian parties. This suggests that businesses, well aware of the personalised nature of politics, find it advantageous to channel funds to select politicians. The operation of secret funds should be made illegal under law in order to curb covert funding of politics.
Public disclosure

Effective public disclosure requires, first, that candidates and parties report in detail on income and expenditure; and second, that campaign and party funding reports are regularly available for public scrutiny. Public disclosure, founded on the principles of transparency and accountability, allows the public to vote in an informed manner and enables the media and civil society to ‘follow the money’, thereby keeping a check on politicians.71

Malaysian parties are required under the Societies Act to elect office-bearers, hold annual meetings and keep audited accounts. However, there are no requirements for parties to publicise their accounts and disclose the sources and amount of donations received before, during or after an election. Such information must be released publicly in a judicious manner and disclosure rules should specify time requirements. Public disclosure should occur before polling day as knowledge about financial backers may sway votes. During non-election periods, parties should be required to publish a list of donations in a regular manner, e.g. quarterly, though daily disclosure may be necessary during election periods.72

Contribution limits

Legal limits on the size of each donation are imperative, with one set of criteria for individuals and another for corporations. A list of who qualifies as donors should be clearly delineated in both cases. Private firms would, of course, be allowed to contribute more than individuals though, as the Malaysian case indicates, personal donations to politicians can be rather hefty.

In Malaysia donors, whether corporate or individual, are not required by law to publicly disclose the size of their donations. Moreover, financial patronage by firms is not divulged in company accounts or to their public shareholders, while a large number of government-linked companies (GLCs) reputedly channel financial resources to parties or politicians.73 Legal provisions are necessary to ban companies in which the government has a financial stake or over which it has administrative control, from funding parties or electoral candidates.
Expenditure limits

Expenditure limits can either restrict the total amount a party or candidate may spend or can put a cap on the sum that can be spent in specific ways and on particular activities. These limits may consist of an absolute sum per candidate or per party.\textsuperscript{74} Expenditure limits are reportedly more popular than contribution limits. In cases where this practice has been instituted, a cap is placed on either the gross amount of expenditure of each candidate or party or, alternatively, the candidate's or party's expenditure per voter.\textsuperscript{75} The law should require that all expenditure, even before the commencement of the campaign, is recorded, both by the individual and by his/her party. In Malaysia, any control on the expenditure of candidates without a check on spending by parties would render disclosure meaningless.

Internal party elections and money politics

Israel provides a crucial lesson in terms of legislation to curb monetisation of internal party elections. Israel's Parties Law puts a cap on expenditure for internal elections; these are adjusted yearly. The cost of internal elections is not fixed and the amount involved varies between parties. Parties commonly prefer to comply with legal demands, rather than pay heavy fines for violations.\textsuperscript{76}

Media access and political business

Critics contend that the conduct of electoral campaigns tends to heavily favour the Barisan Nasional, because of what has been termed the ‘3Ms’ – money, media and machinery.\textsuperscript{77} The 3Ms pertain to complaints about the ruling coalition’s excessive use of money, abuse of the media, and misuse of the government machinery during election campaigns.

In respect of the media, the government’s direct control over the electronic media – TV1, TV2 and the radio networks – has allegedly been abused by the Barisan Nasional to curb public dissent and cast the opposition in an unfavourable light. Barisan Nasional parties have direct and indirect control over the private media: television and radio networks and the major Malay, Chinese, Tamil and English newspapers.
A vast number of voters cite the mainstream media, which includes the free-to-air television networks, radio stations and major vernacular newspapers, as their primary source of information on politics. However, the ‘believability rating’ of the mainstream media among the electorate is reputedly relatively low. Most respondents of a poll in one study accorded fairly low credibility scores to media reports on political events or about politicians.

Promotional campaigns in the form of advertisements are not open to all parties. There is no law requiring the media to allow all parties access to their facilities; this undermines the ability of the opposition to publicise their views. One avenue to deal with the unequal access of parties to the press is to mandate all taxpayer-supported media to act impartially during elections and to give all competing organisations equal air time.

Legislative review of ownership of media by parties has to be approached with caution as it may fall foul of their constitutional right to own property. In Europe, while party-owned businesses are well regulated, it is uncommon to ban commercial enterprises because this violates constitutional provisions. In the Czech Republic, when parties were banned from owning firms or participating in commercial activities, including publishing a news organ, these legal provisions were set aside by the constitutional court. Parties in this country are allowed equity ownership of publishing enterprises as well as those involved in advertising.

In Taiwan, however, following much public pressure over a series of controversial scandals, the ruling party began divesting its corporate assets. Taiwan’s Political Party Law bans parties from operating or investing in a profit-making enterprise, while this legislation also regulates access of parties to the media.

A related problem in Malaysia is that party businesses have been transferred to private hands. This suggests little transparency in the ownership of corporations by parties. In the case of firms that are publicly listed, another set of issues arises, including accountability to minority shareholders for the way company funds are channelled to parties.
Parties in business: corporate accountability

Since party ownership of major enterprises has led to a series of scandals in Malaysia, legislative oversight is imperative to enforce ownership disclosure of corporate entities, in order to ensure public knowledge of funds channelled to politicians and parties from these sources. A transparent and accountable system of ownership and control of firms is crucial as major enterprises are now allegedly owned by proxies, making it difficult to track how politics influences the corporate sector and vice versa.

If parties are allowed to own businesses, such as publicly listed firms, cooperatives and investment holding companies, the Companies Act needs to monitor their corporate ventures better. In the UK, a firm can only donate to a party after its shareholders have voted on the matter. This authorisation is valid for four years, with a cap on the contribution the company can make. In Malaysia, an independent commission, reporting to parliament, would be essential to ensure compliance with this requirement by parties. Since the objective of legislation to monitor the financing of politics is to enhance transparency, all forms of indirect ownership and control of companies have to be banned.

As government-linked companies (GLCs) reputedly fund politicians, these firms require independent oversight. At the October 2009 UMNO general assembly, one delegate was quoted as stating: ‘Many GLCs are sending tithe money to the Prime Minister’s and Deputy Prime Minister’s constituencies and ignoring other areas that are poor and really need help.’ This further indicates a need to review the Companies Act and better employ civil groups, such as the Minority Shareholder Watchdog Group (MSWG), to monitor if the rights of small shareholders are adequately protected through full disclosure. In Japan, shareholders hold companies to account for their campaign contributions as well as other forms of political involvement, such as lobbying.

Institutional reforms

Legislative reforms would only prove effective if accompanied by institutional reforms. An assessment of the institutional framework in
place in Malaysia indicates that the EC and ROS are hindered from acting independently to ensure fair oversight of the running of parties and elections. Institutional reforms would, therefore, need to involve the devolution of power to agencies responsible for oversight of the running of parties and the conduct of parliamentary and state elections.

An institutional framework for ensuring free and fair elections can be non-partisan, as in the UK, which has an independent Electoral Commission, or bipartisan, involving members from both main parties, as in the US, or can be led by federal judges or an Attorney General independent of the executive, a method common in Latin America. In Asia, South Korea provides an interesting model with its agency, the National Election Commission (NEC), which is responsible for monitoring elections as well as political parties.

Reforms in Malaysia would necessitate provision for an institution that has the power to investigate and prosecute, since one serious flaw with the EC is that it has no authority to charge those who violate the law. This can only be done by the police force, which falls under the jurisdiction of the executive through the Home Affairs Minister. The new commission would need to ensure that certain rights are protected, including equality of opportunity and non-discriminatory treatment of parties; respect for national sovereignty; and the prohibition of bribery for electoral support. This institution should guarantee free and fair elections to as large extent as possible and provide citizens with access to information during campaigns by parties so that they can make informed decisions. It should also provide citizens and parties with legal recourse when any infringement of their rights occurs.

Conclusion

The way power is distributed within the state in Malaysia, with hegemony in the office of the executive, suggests the need for significant political reforms. This essay has presented the interconnections between politics and business that inform the financing of elections, both within parties and during general elections. It has untangled the myriad of more or less calculated and systematic processes that endeavour to
channel state rents to an elite in which political and economic power is concentrated. And yet the state is one fraught with contradictions, due primarily to serious factionalism within parties in the Barisan Nasional, arising out of a race among members for rents from the government. Meanwhile, the professed neutrality of key institutions such as the EC and ROS has been further undermined by executive interference in the appointment of its members.

This suggests that while legislation regulating the financing of parties and elections is one approach to curb money politics, significant change must emerge from within parties. The benefits of internal reform go beyond strengthening the party system and ensuring free and fair electoral competition. Studies show that as parties integrate democratic procedures into their selection processes, their candidates are of a higher calibre and the buying of party positions becomes more infrequent. And, if party leaders are determined by the entire membership through a transparent voting process, this hinders patronage and cronyism. A similar discussion is presently taking place within UMNO as it grapples with the problem of money politics.

Transparency is fundamental for the accountable use of money in politics and to promote informed voting, a process that would inevitably increase public trust in democracy and parties. To enhance transparency in the financing of elections as well as the activities of parties, this has to be built into new legislation. This is obviously imperative as party practices and conduct can influence the behaviour of a country’s leaders and legislators. An accountable and transparent system to manage party funding will help ensure that politicians act in the interest of the constituents and ideologies they profess to represent.

Endnotes

3 Hwang In-Won, Personalized Politics: The Malaysian State under Mahathir (Singapore: Institute of Southeast Asian Studies, 2003).
Paying for Politics

7 Pareto, cited in Walecki ‘Political Money and Corruption’.
8 Walecki, ‘Political Money and Corruption’.
9 Ibid.
10 Ibid.
16 Ibid.
17 The Prime Minister has concurrently served as Minister of Home Affairs on numerous occasions. The current Minister of Home Affairs is the cousin of the Prime Minister.
18 This Commission comprises a chairman and six members appointed by the King, after consultation at the Conference of Rulers constituting the rulers of the nine states of Perlis, Kedah, Perak, Selangor, Negeri Sembilan, Johor, Pahang, Terengganu and Kelantan and the governors of Malacca, Penang, Sabah and Sarawak.
19 Lim, ‘Making the System Work’.
20 Ibid.
21 Article 114 of the Constitution of Malaysia.
24 The MIC was set up in 1946. See S. Arasaratnam, *Indians in Malaysia and Singapore* (Kuala Lumpur: Oxford University Press, 1980).
See Table 1 for details on the maximum amount that can be spent in electoral contests for parliamentary and state seats.


See, for example, National Institute for Electoral Integrity <http://www.niei.org.my/?p=78> accessed on 19 January 2009.

Gomez, ‘Electoral Funding of General, State and Party Elections in Malaysia’.


Information obtained during meeting with parliamentarians on 27 October 2009.

An allegation of foreign funding of a prominent politician was made by a former Bank Negara (Central Bank) assistant governor, Abdul Murad Khalid, in a statutory declaration in 1999. He had alleged that PKR leader Anwar, while UMNO’s Deputy President, had obtained substantial foreign funding. This allegation was investigated by the relevant agency, which found no evidence to corroborate Abdul Murad’s claim. See The Star, 12 November 2009. Anwar would also sue a journalist from the UMNO-linked New Straits Times for claiming that he had obtained funds from abroad. The court found in favour of Anwar, awarding him damages for defamation. See The Star, 25 November 2009.


Heng, Chinese Politics in Malaysia.

Arasaratnam, Indians in Malaysia and Singapore.

Gomez, Political Business, 247-61.


Mauzy, Barisan Nasional; Mauzy, ‘Malaysia’.

Heng, Chinese Politics in Malaysia.

Gomez, Political Business, 259-79.


Gomez, Politics in Business; Gomez, Political Business.

Gomez and Jomo, Malaysia’s Political Economy.


For a list of the beneficiaries of these privatized contracts, see <http://www-cgi.cnn.com/ASIANOW/asiaweek/98/0703/nat_2_who.html> (*Asiaweek*, 3 July 1998).

See Figure 1. For a detailed account of this process of channelling privatized concessions to politicians who then injected them into companies on the stock exchange to raise funds, see Gomez, *Political Business in East Asia*.


Interview with PAS official on 27 October 2009.

Interview with PKR official on 19 November 2009.

See, for example, a critique of UMNO’s code of ethics in *New Straits Times*, 28 December 2008.


Gomez, *Political Business in East Asia*.


Ibid.

Ibid.

See *The Star*, 16 October 2009: ‘UMNO delegates hit out at GLCs’. This report quotes complaints by UMNO members that GLCs fund opposition parties.


79 Wang, ‘Media and Democracy in Malaysia’.
80 Van Biezen, ‘Political Parties as Public Utilities’.
82 See *The Star*, 16 October 2009; ‘UMNO delegates hit out at GLCs’.
86 Ibid.
In Botswana party activity takes place within tight and increasingly oppressive constraints. Elitism is historically structured as is its accompaniment, popular passivity. The Bechuanaland Protectorate was based on the willing collaboration between existing cattle and power-holding elites and their British colonial counterparts. At the start of the 1960s, as the winds of change swept though much of Africa, the problem for Britain in Bechuanaland was how to initiate decolonisation, when there were no serious demands for independence. In 1961, ‘it was by no means certain’ to sympathetic colonial officials that the country was even heading for self-government in the foreseeable future. Constitutional review was undertaken by the Resident Commissioner and a conference met in July 1963 with a draft put forward by the government. All participants agreed that what was termed ‘premature publicity’ should be avoided at all costs. The Assistant Attorney General prepared a ‘complete sketch of a constitution’ and this was unanimously accepted. The people entered the process belatedly and in a purely formalistic way. Voting took place in March 1965 among ‘an entirely apolitical electorate’. Only 58 per cent of those eligible participated in the pre-independence elections; nonetheless this subsequently became the highest turnout figure in Botswana’s electoral history.
A big gulf exists between rich elites and poor masses in this previously pastoral society and latterly an economy highly dependent upon corporate diamond production. Upon this undemocratic base, ruling party predominance and presidentialism have been erected. The lack of diversification constrains the size and strength of civil society, and offers scant resources to opposition parties. The ruling party, in strong contrast, has been well supported financially by the private sector and so has opposed public funding. Over ten regular elections, from 1965 to 2009, opposition parties have never come close to winning a majority in parliament, even when they obtained 48 per cent of the popular vote.

Historically, the strength and autonomy of the ruling elite stemmed in good part from the enduring linkages between traditional authority – chieftaincy – and its subjects, which the British protectorate had done nothing to erode, and which persists today. They enjoyed superiority over a non-engaged people, who were unsupported for three decades by an organised and coherent opposition. The ruling elite had time in the late 1960s and 1970s to establish their predominance, supported by the entrenched culture and the low level of capitalist development, which weakened working-class formation and potential class conflict. It was self-evident that their best interest would be served through the established system, with the pastoral economy about to be powerfully supplemented by corporate-based diamond wealth. Shortly before independence Seretse Khama was privately informed by Harry Oppenheimer of De Beers that kimberlite gems had been found at Orapa, and the expectations were great. Between 1965 and the early 1970s the elite constructed an interventionist state capable of facilitating development based on the intensification of commercial cattle production – wherein the ruling elite were direct beneficiaries – and capital-intensive, high-technology diamonds.

The strengths and weaknesses of party predominance

With its respect for authority and its long acceptance of the symbiosis between wealth and power – the keyword kgosi connotes both chief
and rich man – its elitist constitution and history of popular passivity, Botswana has provided a firm basis for ruling party predominance.

The Botswana Democratic Party (BDP), which was formed in 1962 with Seretse Khama as its president and Ketumile Masire as secretary-general, quickly gained and has consistently maintained its control over government. Even when the BDP’s popular vote fell to a low of 52 per cent in 2004, and the total opposition vote rose to a high of 48 per cent, it still obtained under the simple majority (first-past-the-post, or FPTP) electoral system 77 per cent of seats to the opposition’s 23 per cent, despite the difference of only 4 per cent of the vote between them. While the BDP’s vote was in decline after 1979, quickening through the popularly engaged period 1994–2004, its predominance in government was unaffected. The party’s success also overrode, and possibly benefited from, low voter turnout. The FPTP system provides no direct connection between the popular vote and parliamentary representation, and its operation tends to favour large parties, whether in Britain, Canada or elsewhere. In Botswana, too, FPTP ‘is weighted heavily in favour of the ruling party’.

But real predominance under democratic conditions, with open multi-party elections and some necessary degree of free association and expression, entails much more than numerical advantage. It involves the construction of a distinctive strategy or programme, which expresses ideas about the country’s political culture, and lays out the problems which the country faces and the steps that must be taken under the party’s guidance to meet its developmental goals. The strategy or model mobilises leading social forces behind the party, which serve as its socio-political foundations, much as the BDP quickly attracted cattlemen, traders and administrators, through whom the party reached out in turn to the wider, largely inactive electorate. An effective programme must also have meaning to people, to be attentive to their sentiments and responsive to their needs, if the citizenry are to go on voting for the same party over repeated open elections. This means in turn that the model must be adaptable to changing circumstances and thus significantly, under a democracy, open to criticism.
Japan under Liberal Democracy, Italy under Christian Democracy and Sweden under the Social Democrats (SDP) and the ‘Swedish model’, constitutes an exemplar. In 2006 the party had been in power for 65 years, chiefly because it offered voters a distinctive form of social democracy, premised on a welfare state, a dynamic export-orientated capitalism and consensual decision-making between workers, employers and the state. In a multi-party, proportional representation system, the SDP got 40 per cent of the vote in 2002, making them three times the size of their nearest competitor. Participation was high, with a turnout figure then of 79 per cent, and an average of some 87 per cent since 1945. The Moderate Party, their main challenger, had promised to slash income tax – a key element in the model – and got 15 per cent of the vote. Change was nonetheless possible. The Moderates moved towards the centre, and a new leader set out to show voters that ‘we like the Sweden we have’. They won a parliamentary majority in 2006 by one per cent of the vote, and their leader said that they had won power by changing.  

In Botswana the BDP’s predominance since the early 1990s, by contrast, is almost entirely numerical. But the ruling party had created a distinctive programme in the 1970s, which explained and justified its rule over two decades. Constructed by Khama and Masire, it promised socio-economic growth in one of the least developed countries, based on the guiding role of the BDP, in close collaboration with the bureaucracy, cattlemen and corporate mining, directed initially at the intensification of cattle production and then at the accumulation of diamond wealth. Returns in goods and services, profits and salaries, would go to those who made the biggest contribution to growth. While all Batswana would gain variously from advances in communications, education and health, tangible monetary rewards would go to the biggest stakeholders. The model celebrated its realism, responsibility and level-headedness. In its economic success and its stress upon regular, open elections and governance, it was distinctive in most of Africa. Observers in the North also celebrated the supposed Botswana
miracle, further engendering complacency among the BDP.\(^9\)

But between 1991 and 1994, a series of corruption scandals involving top party and government leaders, and key ministries and agencies, resulting directly from the high growth, brought the model tumbling down. Senior figures, including President Masire, were seen to have been exploiting the agencies for which they held responsibility, and their transgressions were detailed and publicised. People – students, trade unionists, school children – intervened in politics for the first time in protest against elite corruption and non-accountability. At the elections in October 1994, the Botswana National Front (BNF), the main opposition party, increased its share of the popular vote from 12 to 37 per cent, and its parliamentary representation from 3 to 13 seats, while the BDP’s support dropped by 11 per cent.\(^10\) The ruling party divided into warring factions over how to respond and retain power, and these divisions became ‘malignant’;\(^11\) they were in fact ‘unbridgeable’, and they ‘greatly weakened the party and its ability to govern effectively’.\(^12\)

From 1994 to 1999 a range of reforms were stitched together, of which the most portentous was automatic succession to the presidency. This ensured the elevation of Festus Mogae over his anti-reformist opponents in the party, but in empowering a president alone to choose his successor, it reinforced the domination of an unelected head of state over parliament, the BDP and the country at large. General Ian Khama – eldest son of Seretse and Kgosi Khama IV of the Bamangwato – became Vice-President and automatically President in 2008, growth slowed, and factionalism over power in the BDP escalated. Though the BDP’s developmental model has no longer meaning or relevance, neither Mogae nor Khama proposed meaningful new content. The General latterly declared that he stood for the ‘four Ds’ (of discipline, dignity, development and democracy), adding soon after a ‘fifth D’ of delivery, without expounding either on the content of these principles or on their programmatic interrelationships. A big reason for the vacuity and stasis is the intolerance of criticism in Botswana, ‘especially when the subject is the president or his deputy’.\(^13\)
An interrelated reason for the stasis is the popular quiescence, promoted actively by the ruling elite. When essential and belated reforms – lowering the voting age to 18, introducing absentee voting, limiting presidential tenure to two five-year terms – were put to a referendum in 1997, the government-controlled media and prominent anti-reformist ministers, distrustful of the youth, campaigned for a ‘no’ vote, and turnout was a derisory 16.7 per cent. By 1999, the opposition to elite corruption and non-accountability had been contained, and the turnout at elections that year was only some 41 per cent of those eligible. Interviewed soon after, President Mogae blithely informed the BBC: ‘We’re very proud of how dull our elections are. It proves our democracy is working.’ A highly elitist, non-participatory democracy, that is.

*Presidentialism*

The BDP has been in a close duopolistic relationship with the state since the formation of Botswana, a linkage threatened for a time in the wake of the corruption scandals of the 1990s when some significant party figures opposed the establishment of an effective anti-corruption agency. The duopoly greatly advantaged the BDP in electoral terms, but it began to operate differently as the party’s growth and governance model collapsed, and in the absence of an alternative developmental strategy the party’s reliance on state power increased. The interrelationship changed still further as the control and surveillance capacities of the state grew under General Khama, threatening the integrity and coherence of the party, as much else in civil society.

The President (and the Office of the President) is the locus of power in Botswana. He is constitutionally empowered to ‘decide alone’ and is not obliged to follow the advice of any other person or authority. He appoints almost everyone of any importance, including his successor. He is supported by both prerogative and immunity powers, and is effectively above the law, as Mogae demonstrated a number of times. He is at once head of state, head of the party and an active Commander-in-Chief of the Botswana Defence Force. All levers of state power are
to his hand. His relationship with parliament is highly inequitable. The elected chamber is dependent on the executive for its finances and the appointment of its presiding officers, and while the President can prorogue and dissolve the legislature, the latter has no powers of impeachment over him. He is additionally an *ex officio* MP with the right to both deliberate and vote in the National Assembly. Members of the executive — as ministers and assistant ministers — are often numerically larger than BDP backbenchers, and the President enjoys great powers of patronage through these and other appointments, for example those of nominated MPs and district councillors.

By virtue of all this, and because the government has been the driver of development in Botswana and the country’s largest employer, the influence of the state permeates the political economy: ‘The government controls about 80 per cent of the economy. Many businesses depend solely on the government for survival. All businesses … have to toe the line if they want to survive.’16

The powers of the President are strengthened and extended by a battery of coercive instruments and agencies. The Botswana Penal Code, the National Security Act of 1986, the Police Act of 1987, the Public Service Act of 1998, and the establishment of the Directorate of Intelligence and Security (DIS) in 2006–8 are directed in cumulative, overlapping ways against the free flow of information and opinion and towards secrecy and non-accountability. If the National Security Act typified the latent authoritarianism under Masire, the DIS expresses the overt autocracy of General Ian Khama. It was established in the words of the enabling Act to combat ‘any foreign influenced activity’ and ‘subversive activities from the country’s detractors’; its officers could use firearms when ‘necessary and reasonably justifiable’ and have wide powers of arrest and detention; it is generously funded; and its personnel are appointed on terms and conditions chosen by the President. At the top in the DIS is the director, Isaac Kgosi, close associate of Khama during his long years as BDF Commander when Kgosi rose to the head of Military Intelligence (MI), and senior personal secretary to the Vice President from 1998 to 2008.17
The role of the DIS gained public prominence when John Kalafatis was shot dead in a hail of bullets while sitting in a car in a shopping centre in Gaborone on the evening of 13 May 2009. It was quickly claimed in the independent press that the killing was an execution carried out by state agents, and a number of prominent people alleged that the shooting was the work of the DIS and MI. MI and DIS often worked together in planning and executing operations. Peter Magosi was head of MI, having been promoted from the deputy position under Kgosi when the latter left to set up and then direct DIS. Khama and Kgosi had drawn a lot of staff from MI, which formed the core of DIS.

On or near 19 June, Dick Bayford and Duma Boko, prominent attorneys acting for the Kalafatis family, made public a letter they had written to the President in which they named four soldiers who, allegedly, ‘brought about the death of John’. Their letter was published with the full names of the soldiers in the *Sunday Standard* on 21 June 2009. Nine days later, the Minister for Defence, Justice and Security, Brigadier Ramadeluka Seretse, stated in parliament that, despite the fact that some eight people had been recently killed by security agents, ‘I do not see the need to set up an independent inquiry [into the killings].’ Seretse is first cousin to Ian Khama.

Estimates by the Media Institute of Southern Africa (MISA) of the numbers of fatalities over the period of Khama’s presidency to November was ‘14 shootings and 9 confirmed killings including that of Kalafatis, allegedly by security agents, raising suspicion that this approach has been condoned or even sanctioned by the President’. The conclusion is inescapable since the BDF, DIS and MI are under the President’s direct command, and Brigadier Seretse and Isaac Kgosi are among his closest associates.

Within the last year, MISA concluded, ‘a cloud of fear has descended on civilian life in Botswana, impacting on freedom of expression and on other freedoms as well, such as freedom of movement … Freedom of expression is not a living right in this country. And the Constitutional provisions for it are to some intents and purposes, not respected by government.’ Much of this can be attributed to Ian Khama becoming President in 2008.
Electoral and funding inequalities

None of these developments constitutes a favourable environment for fair elections in Botswana. In a statement in late September 2009 the Director of Broadcasting Services, Mogomotsi Kaboeamodimo, declared that the state media take orders from President Khama and nobody else. The President, he said, enjoyed constitutional privilege to use the media whichever way he chose without being answerable to anyone. According to the executive secretary of the Botswana Council of Non-Government Organisations, people were no longer free to criticise government, even as participants in workshops and conferences. The MISA director, Thapelo Ndlovu, referred to many cases of trade unionists and some ruling party politicians whose cellphone conversations were being tapped, and trade union representatives agreed.  

Predominance and uninterrupted incumbency conferred many advantages on the BDP. One was the party’s claimed paid-up membership figures. These rose from 306,000 in 2004 to 471,000 in September 2009, representing then some three-quarters of the number of registered voters for the October elections (of whom, however, some 25 per cent failed to vote). For the BDP, these large numbers represented increased party finance. As the executive secretary, Comma Serema, noted: ‘We have made money from selling membership cards to our new members.’

When President Mogae increased his cabinet from 19 to 24 members (in the 57-seat house) in early 2007, other advantages accrued to the BDP. State resources and tax payments supported the large executive, contributing indirectly to the party’s finances. And with former senior bureaucrats then representing about 80 per cent of cabinet ministers, a near fusion of the BDP with the bureaucracy existed. State resources helped the BDP’s campaigning in other ways, as BDF helicopters contributed mobility and prestige to the so-called Star Rallies of Generals Khama and Vice-President General Mompati Merafhe around the country.

Advantageous funding came to the ruling party from two other main sources.
Senior, rich and ambitious members make large public donations to party finances. At a congress in July 2007, Festus Mogae and Ian Khama each pledged P30,000; Charles Tibone, a businessman and sometime minister, offered P60,000; Robert Masitara, businessman, philanthropist and politician, P100,000; and Satar Dada, car magnate and BDP treasurer, donated P500,000. The pledges preceded elections to the party’s central committee to which Masitara was duly elected. A handful of members had contributed a million pula to the party in a few minutes.\(^24\)

Much the largest source of funding comes from what were termed friends and business people. In April 1999 the party received a donation from a foreign source of P2.4 million, and Dada told *Mmegi* that the money would be used in the forthcoming election campaign, specifically to buy vehicles, one for each constituency, to be purchased from Dada’s Motor Centre. While the treasurer refused to disclose the source of the funding, it eventually emerged that it originated from De Beers. The BDP executive secretary, Botsalo Ntuane, affirmed that the party was ‘not telling anybody the source of its funding because there is no reason to do so’. In all, the BDP received some P3.3 million in donations from undisclosed sources during the first half of that election year. Dada referred to these benefactors as ‘friends and business communities’, and he personally assured them that their support would not be wasted.\(^25\)

Only in January 2010 was some clarity obtained on the nature, source and size of the funding directed to the BDP government over three decades. It was of two kinds: financial assistance offered to long-serving President Ketumile Masire by De Beers, and donations made by the corporation to the ruling party. Evidence is still incomplete, but what is known is credible and is corroborated by participants and insiders. De Beers provided assistance to Masire from soon after he entered office in 1980 until the transition to Festus Mogae and Ian Khama in 1998. Masire’s agricultural company, GM Five, was in difficulties before the 1984 general elections, and the corporation provided a rescue plan, apparently on the initiative of Louis Nchindo,
managing director of Debswana, the diamond company owned jointly by De Beers and the Botswana government. Managerial services and access to loan funds got GM Five out of the red. A year before the 1989 elections, Masire and his company were heavily indebted to both commercial and state-owned banks, and ‘another bail out plan [was negotiated] with De Beers’.26

A De Beers spokesperson, Chipo Morapedi, confirmed that ‘we were able to provide management assistance and a loan facility to [President Masire]’ in the 1980s. He further said that around 1998, De Beers was ‘again approached by [Nchindo] to grant financial assistance [to Masire] shortly after his retirement’. The chief executive officer of De Beers Botswana, Sheila Khama, agreed that they had been ‘pleased to have been able to assist’ Masire in his ‘time of need’, and she offered the additional revelation that ‘we have made donations to the BDP over the years and most recently in the late 1990s’.27 This donation just before the critical 1999 elections was a matter of public knowledge, thanks to a whistleblower, and involved the transfer of $500,000 (the P2.4 million) from Switzerland to the BDP; only four people in government were privy to this assistance.28

De Beers also influenced the transition from Masire to Mogae and Ian Khama. The 1994 elections had seen the BNF make big gains in the midst of popular disgust at the revelations of elite corruption.29 Masire remained heavily indebted and reluctant to step down – his tenure was then unlimited – and face his creditors. De Beers, by far the biggest corporate player in the country, was reportedly ‘worried that the opposition [might] win in the 1999 elections’, and they saw Masire’s worsening finances as potentially explosive.30 A short- and a long-term solution were therefore offered by De Beers. The BDP, assisted by De Beers and its partner Anglo American, would engage a consultant to assess the party’s prospects, and the secretive Schlemmer Report duly recommended that new leadership was essential. It took further time before Masire yielded and for the transition to be effected by way of automatic succession to Mogae and Khama.31 In the short term, De Beers also acted to ensure an adequate retirement package for Masire;
some P4 million was supposedly transferred from a De Beers company in Panama to GM Five.\textsuperscript{32} In a statement in late January 2010, Masire admitted that he had welcomed Nchindo’s initial offer to provide a manager and loan programme for his company, but he claimed that this was a private business arrangement and never a secret.\textsuperscript{33}

Advantageous funding has continued to be directed towards the BDP. In February 2009 it was revealed that the BDP had acquired 57 new vehicles for the coming elections, all with public address systems. The cost and source of the gift were again undisclosed, and the handling of the acquisition was done as before through Satar Dada. Only the BDP fielded a full slate of 57 candidates, against the BNF’s 48 and the Botswana Congress Party’s (BCP’s) 42 (plus another four for its alliance partner). The BDP gains from the absence of public funding for parties in a double sense: private funding considerably advantages only the ruling party, while the lack of state support weakens the opposition.

The BCP is the best-organised opposition party, but it is largely reliant on internal financial sources. In existence for little more than a decade, its district councillors each contributed P300 and its then sole MP P600 monthly to the party. In addition, some members made voluntary monthly contributions of P100. For the BCP the election contest was extremely inequitable. According to the secretary-general, Taolo Lucas: ‘While the BDP campaign was massively resourced, we had to make do with very limited resources eked out from our members’ individual sacrifices and contributions.’\textsuperscript{34}

What was new about financing in the 2009 elections was the large and public contribution, P2 million, made by Kgalagadi Breweries to all parties that had participated in the previous election, distributed on the basis of each party’s share of the popular vote in 2004. The company was pleased to contribute to ‘the furtherance of multi-party democracy in Botswana’, and it left the parties free to choose how they utilised the funds. The BDP would receive P1 million; the BNF P500,000; and the BCP P400,000.\textsuperscript{35}

The other major reform approved in 1997 was the establishment for the first time of an Independent Electoral Commission (IEC). But the
independence of the IEC is incomplete. It is, like parliament, located within the Office of the President and it is to the President that it reports. The President characteristically appoints the Secretary, the chief executive of the IEC. The staff who actually supervise elections are appointed by the government, with the Permanent Secretary to the President (PSP) determining such secondments and exercising control over the Commission’s purse-strings; supervision of the poll can thus be in the hands of untrained, inexperienced and poorly motivated supervisors, as arguably was the case in 2009. Votes are counted at designated centres, not at the polling station where results might also be displayed. Nor does the IEC control the whole electoral process: it determines neither the date of elections nor the cut-off dates for voter registration, and the delimitation of constituencies is out of its hands.

As the practice of the BDP with regard to private donor funding has indicated, the IEC exercises no control over party funding. It supposedly limits a parliamentary candidate’s expenses to P50,000 but is lax in its enforcement.

The African Union’s observer mission in 2009 recommended that equitable media coverage should be accorded to all political parties in Botswana, particularly during the electioneering period. Like the opposition parties, the mission favoured state funding for parties to strengthen democratisation, ‘based on fair and equitable formula’. The Botswana government resolutely opposes such reforms. President Mogae was reported as saying in 2007 that he opposed party funding ‘because the taxpayer’s funds must be committed to national development and not to the sustenance of political formations whose objectives tend to be questionable’. No change in the electoral system was envisaged either: ‘the current first past the post system has served the country well and continues to deliver stable governments,’ he said. Proposals for the direct popular election of the President were also dismissed as ill advised and fundamentally flawed.

State power, General Khama and the end of predominance

The BDP government entered the 2009 election with President Khama
himself unelected) as their designated Chief Campaigner. He aimed at winning not less than 70 per cent of the popular vote, a level of support not seen since the 1970s, and 18 per cent above what the party achieved in 2004. True to form, Khama placed himself at the centre of everything, moving door-to-door in Gaborone and criss-crossing the country by air and road. He stressed fireside talks, or ‘bonfire democracy’, where physical closeness to the Chief was emphasised.39 ‘Critical issues’, such as extra-judicial killings, by then totalling 14, presidential immunity and the future of the BDP ‘were conveniently left out of public debates’.40 Facing a weakened opposition (represented by a leaderless BNF), the Chief Campaigner actually increased the BDP’s vote to only 53.7 per cent, just 1.7 per cent more than 2004, gaining one seat more in parliament. Turnout of eligible voters was some 50 per cent.41 The BNF’s support slumped by 4 per cent, but the BCP’s rose by almost 6 per cent. Khama had utilised his personal powers yet failed to gain a sweeping victory.

But a divided BDP had probably lost even more. President Khama, one observer half-jokingly suggested, should now dissolve the BDP.42 He no longer needed it to govern, and nobody could challenge, at least not in the short term, his constitutionally endowed autocratic powers. Khama’s autocracy and his fixation on discipline had overridden any democratic predominance, and it stood open to public gaze, as MISA and others noted. With criticism taboo and surveillance omnipresent, the predominance of Khama’s BDP was the negation of the Swedish model. It tended to follow that the BDP could no longer rely on assured priority access to private corporate funding. De Beers’ unusual outspokenness on the money they had given both to President Masire and to the BDP in the past suggested that they might be reluctant to offer further support in future. Opposition forces were reorganising and gaining strength and determination. Though elite corruption had been undermining the BDP since the early 1990s, it was the extent and flagrancy of Khama’s autocracy that put paid to the BDP’s predominance.43
Endnotes

2 Ibid., 129-136.
3 Ibid., 182.
8 Good, *Diamonds, Dispossession and Democracy*, 46-47.
9 Ibid., 48-50.
12 Masire, *Very Brave or Very Foolish*, 135 and ix.
18 At the end of May, Sidney Pilane, former Legal Advisor to President Mogae, had demanded that Khama establish a swift, independent and credible investigation into the killings of the past year and ensure that they ceased. *Sunday Standard Online*, 31.5.2009.
20 The author’s expulsion from Botswana on 31 May 2005 was done on the basis that the President’s powers under the Immigration Act to declare a resident alien a prohibited immigrant overrode his constitutional right to free speech, despite the fact that at initial hearings Justice Marumo recognised that his individual rights had apparently been denied, and Justice Sapire observed that the President could not act under the powers of the Immigration Act to violate principles enshrined in the constitution. In the recent case of Motswaledi, the secretary-general of the BDP elected in July 2009, the courts similarly ruled in October that the President had the power to unilaterally expel him from the party, and that democratic aspirations supposedly inherent in the constitution were irrelevant.
24 Michael Dingake, Mmegi Online, 24.7.2007.
28 Satar Dada, party treasurer and car magnate; Ponatshego Kedikilwe, party chairman; Daniel Kwelagobe, secretary-general; and President Mogae.
31 Magang, The Magic of Perseverance.
33 Like the two De Beers representatives, he too conceded that the arrangement was ethically flawed, and he denied that De Beers had bought him out of the presidency because the supposed transaction occurred after he left office. ‘I was not Bought by De Beers: Masire’, Mmegi Online, 27.1.2010. He said nothing about De Beers giving assistance to himself and the BDP in 1985–89/99.
37 Mmegi Online, 20.10.2009.
38 Mmegi Online, 2.4.2007.
41 Assuming an eligible voting population of 1.1 million, as mid-point between the IEC’s estimate of one million and the AU Observer Mission’s 1.2 million. Note that 25 per cent of registered voters failed to vote, while many others never registered in the first place.
43 For the split in the BDP and subsequent formation of the Botswana Movement for Democracy see Good, ‘Autocracy, Insecurity and Pre-Modernity in Botswana’, Commonwealth and Comparative Politics, 48, 3 (July 2010).
FIVE:
Party funding in the Russian Federation: a tool of bureaucratic control

Yury Korgunyuk

Party funding in contemporary Russia offers a good example of how rational legislation can be the tool not of democracy but of the bureaucracy.¹ When, in the 1990s, Russia had no political party legislation, there was a democracy (even if not a perfect one) in the country. When such legislation was enacted in the 2000s, democracy disappeared almost entirely. The more developed the legislation has become, the less democracy has remained.

Legislation pertaining to political parties in contemporary Russia, including party funding legislation, is an instrument of control—not of society over the authorities but rather of the bureaucracy over society. In this essay, I describe how the development of party funding legislation has made the partisan playing-field less level and has subordinated democracy to the state.

The essay consists of three parts. In the first part, I explore the formation of the Russian party system. In the second, I investigate the formation and development of party funding legislation in Russia. In the third, I detail party funding practices in contemporary Russia.
Formation of the contemporary Russian political and party systems

The first non-Communist political parties appeared in the Soviet Union in 1990. Their formation was closely linked to the decline and destruction of the single-party regime and was preceded by a three-year period of informal social movements and the appearance of intra-party factions in the Communist Party of the Soviet Union (CPSU): Democratic, Marxist and Bolshevist ones among them. Very few informal groups took part in the election to the Congress of People’s Deputies of the USSR in 1989, the first free and competitive election in Russia after 70 years of Communist rule, and few candidates supported by these groups obtained seats. The first opposition parliamentary faction – the Interregional Deputy Group (IDG) – consisted not only of informal candidates (academician Andrei Sakharov, for example) but also of many who came from the CPSU establishment (Boris Yeltsin among them). The IDG did not constitute a strong opposition to the CPSU-controlled parliamentarian majority, but it laid the foundation for the whole democratic movement in contemporary Russia.

By the time of the election to the Congress of People’s Deputies of the Russian Soviet Federative Socialist Republic (RSFSR) in 1990, the democratic opposition had ripened enough to form electoral coalitions. The bloc Democratic Russia won approximately a third of parliamentary seats. Although 917 deputies of the RSFSR Congress (of 1050) were CPSU members, only 355 of them joined the parliamentary faction Communists of Russia. The balance of power between these two coalitions was more or less even, with a slight dominance of the Democrats. As a result, Boris Yeltsin was elected as Russian Congress chairman, and the Declaration of State Sovereignty of the RSFSR was adopted. In fact, the struggle between the Democrats and Communists in the Russian parliament reflected the competition between the governments of Russia and of the Soviet Union (in fact, the CPSU). When the Communists chose more sophisticated tactics and acted in the shadow of their allies, the situation in the Russian parliament would
come to a deadlock. While they pressed on with offensive tactics, they strengthened the Democrats’ position. The last such attempt led to a collapse of the CPSU in August 1991 and the subsequent breakdown of the Soviet Union.

After Russia had become an independent state, the main struggle took place between the Congress of People’s Deputies of the Russian Federation and Boris Yeltsin, who had been elected to the presidency in June 1991. The parties played only a secondary role in this story. Though the Democrats supported the President and his reformist line, their influence decreased consequently. Their opponents – the Communists and Nationalists – formed the Russian Unity bloc within parliament and the Front of National Salvation without. The war between the president and the Congress of Deputies resulted in a victory for Yeltsin, who dissolved the old parliament and called election to a new one – a Federal Assembly of two chambers, the State Duma (the lower) and the Federation Council (the upper).

Together with the 12 December 1993 election, a referendum was held on the new Constitution, according to which the President became the head of the state, was granted the right to dissolve the State Duma, and was empowered to dismiss the government without giving reasons. For its part, parliament lost any possibility of control over the operational activities of the executive branch.  

In the 1st Duma (1994–5) the liberal reformist segment – Choice of Russia, Yabloko (Apple) and the Liberal Democratic Union of 12 December – accounted for not more than a third of the seats, while the anti-reformist sector – including the Communist Party of the Russian Federation (CPRF), the Agrarian Party of Russia (APR) and the Liberal Democratic Party of Russia (LDPR) – held about 40 per cent of the seats. The remaining seats were controlled by the centrists. Although a preponderance of the anti-reformists was visible at the beginning of the 1st Duma, the presidential administration and the government later adapted themselves to the new situation and learned to manipulate the deputies, and even to influence the composition of parliament by creating new groups in it.
There were 43 parties, associations and electoral blocs that participated in the election to the 2nd Duma (1995). While the Communists and their allies dominated in this Duma, the CPRF leader Gennadii Ziuganov lost to the incumbent Boris Yeltsin in the second round of the 1996 presidential election. As the result, a compromise was brokered between the President and the Duma: parliament confirmed Victor Chernomyrdin as prime minister in August 1996, and the government, for its part, made regular concessions to the left opposition during consideration of the budgets.

The compromise was broken after the financial crisis of August 1998, when the Duma reached an accord with the President on the appointment of Yevgenii Primakov to the post of prime minister. For the first time in Russian history, a government was formed that relied on the parliamentary majority. The Primakov Cabinet accomplished the liberal-market reforms started in 1992 by adopting a deficit-free budget, the first in post-Soviet history. But this government survived only until May 1999, when the State Duma attempted to impeach President Yeltsin, and he dismissed Primakov in turn.

There were 26 participants in the election to the 3rd Duma (1999). Though the Communists won the majority of votes by party list (more than 24 per cent), the main battle was waged between two parties of the bureaucracy – Fatherland–All Russia (a coalition of regional governors) and Unity (a bloc created by the presidential administration). This was the critical point in the political history of post-Soviet Russia because preconditions were laid for the formation of a pro-government parliamentary majority. However, this possibility was realised only two years later, with Vladimir Putin’s ascent to power in 2000 giving a boost to this process. In 2001, under his administration's supervision, four parliamentary factions and groups – Unity, Fatherland–All Russia, People’s Deputy, and Regions of Russia – formed the Coordination Council of Centrist Forces, which controlled over half of the seats. Their left-wing opponents – the Communist Party and the Agrarian Industry Group – controlled approximately a quarter of the seats, and the liberals from the Union of Right Forces and Yabloko slightly more.

109
than a tenth. The formation of the pro-government parliamentary majority was accompanied by merging of Fatherland–All Russia and Unity into United Russia party. In the 2003 election, this party obtained an absolute majority in the State Duma (more than 300 seats) after many independent deputies joined the ‘government party’. The other three (of 22) participants who overcame the 5-percent threshold were the CPRF, the LDPR and Rodina (Motherland) – People’s Patriotic Union bloc. The liberals – Union of Right Forces and Yabloko – were not elected to the 4th Duma at all.

In the 2007 election, which used a party list system only, four participants out of eleven overcame the 7 per cent threshold. United Russia won 64 per cent of votes and 315 seats. The other parties that formed parliamentary factions were the CPRF, the LDPR and Just Russia (created in 2006 by merging the Motherland party, the Russian Party of Pensioners and the Russian Party of Life).

The Russian party system, in its eventual form, may be described as a quasi-dominant system because the party that has a parliamentary majority is not the ruling party but just a theatre set for the bureaucracy that stays behind it. It may be said, in this regard, that United Russia’s dominance on the partisan playing-field is solely an epiphenomenon of bureaucratic dominance. United Russia is not an independent political actor but a tool in the hands of high officials of the executive branch (the President and his administration, federal government, regional governors) for the control of legislatures and the political process in general.

The formation of this system was accompanied by a concentration of power in the hands of the President, a decrease in political competition and an expansion of state control to all fields of public life. The main tool that ensured electoral victories for the authorities was so called ‘administrative resources’: the utilisation of all the advantages of government office, including control over federal TV channels, restriction of opponents’ campaigning, and elimination of undesirable opponents from the party playing-field. Party funding legislation has been one of the tools that permitted the bureaucracy to limit the prospects of the opposition and to submit it to state control.
Party funding legislation in contemporary Russia: origins and development

After 1990, the activities of political parties in the Soviet Union and Russia were regulated by the USSR law on non-governmental associations (NGOs). Political parties were allowed to raise funds from entrance and membership fees, voluntary donations, sports events, business and publishing activities, and other sources not prohibited by law, but were not permitted to receive financial assistance from foreign states, organisations and citizens. They were obliged to publish their budgets annually. Although in the meantime the Soviet Union broke up and the Russian Federation became an independent state, this law remained in force until 1995 when the Duma adopted a new law on NGOs. Any NGO, civil movement, foundation, non-governmental institution or ‘public activities body’ could take part in elections if its by-laws contained provisions to do so. This was the reason why so many participants – 43 in all – ran in the 1995 election. The 1995 law did not significantly change the sources of permissible NGO funding but added income from lotteries, civil transactions, and external economic activities. NGOs were granted the right to set up business enterprises but were allowed to spend the earnings solely on their statutory goals.

The financial activities of NGOs during electoral campaigns were regulated by electoral legislation. Regulations promulgated in October 1993 permitted parties to set up electoral funds consisting of money allocated by electoral commissions, parties’ own funds and voluntary donations of physical and legal persons. Donations from foreign states, organisations and citizens, Russian legal persons with foreign involvement, and international organisations and associations were banned. Gelman argues that the initiators of this law, ‘a relatively narrow circle of free-market liberal-oriented politicians and lawyers led by Dr Victor Sheinis’, were motivated ‘by both their ideological preferences and their office-seeking interests … The ideological preferences were based on anti-state attitudes, on the one hand, and on an overestimation of the virtues of entrepreneurship and private property, on the other. Their doctrines were based on the idea of a...
minimal state, and the reformers rejected the idea of increasing the level of public financing for election campaigns and public financing of political parties in general.’ Gelman wrote that Sheinis had told him in an interview in 1994: ‘It is not quite so bad that some rich people buy votes and come to power. It is the state-owned redistribution that does the most harm to Russian democracy.’

One way or another, such an approach to election and party funding dominated Russian legislation throughout the 1990s. In 1994, a law on basic guarantees of electoral rights was passed, which authorised parties as well as independent candidates to set up electoral funds and finance their campaigns solely from them. The funds could be created by using the party’s own money (if it was not of foreign origin), voluntary donations of physical and legal persons, and money allocated by electoral commissions. Those not authorised to contribute to electoral funds included foreign states, legal persons and citizens; Russian legal persons with foreign participation if it exceeded 30 per cent of capital stock; international organisations; and state and municipal institutions. In addition, the law provided each candidate and electoral association with free air-time on state and municipal TV and radio, and with free space in mass media with state and municipal participation.

In 1998, the Russian parliament amended the law on NGOs and elections. A provision was introduced that only political NGOs could take part in elections. All parties and civil movements had to amend their by-laws and re-register them with the Ministry of Justice. Only 141 NGOs made it through this procedure, and, as a consequence, only 26 participants took part in the parliamentary election of 1999. After the passage of the Federal Law on Political Parties in 2001, only political parties could participate in elections at federal and regional level. Other NGOs could take part only as members of electoral blocs set up by parties, but in 2005 electoral blocs were banned.

In the 2001 law, provision was made for state funding of parties. Such funding would be provided to all political parties that received more than 3 per cent of votes at the elections by party lists, had not less than 12 deputies elected by single-mandate districts, or whose
presidential candidate nominated by the party received not less than 3 per cent of votes. Each of these parties would receive 5 per cent of the minimum monthly wage for every vote cast. This amount was increased tenfold in 2005, and fourfold again in 2009.

The law imposed the same limitations on donations as existed earlier on electoral funds: no money was permitted from foreign states, organisations and citizens, international organisations, legal persons with foreign, state and municipal participation, and so on. A cap was also put on the total amount that could be donated by both physical and legal persons.

The law also restricted parties’ business activities to information services, advertising, and publishing for the purposes of propaganda and campaigning; the production and sale of souvenirs with party logos; and the sale and lease of party property. In addition, the law obliged parties to submit consolidated financial statements to the Ministry of Justice and its regional branches (since 2005, to the Central Electoral Commission and regional electoral commissions) with an indication of sources and amounts received as well as the parties’ expenses and property.

The aim of the law appeared to be to limit the number of parties and to place them under the control of the state or, more accurately, the bureaucracy. This aim was realised: only 44 parties managed to register in accordance with the law before the 2003 election, and there were 23 participants in this election. The number of registered political parties shrank to 15 in 2007 (11 took part in the parliamentary election) and to 7 at the beginning of 2009. Parties that had hostile relations with the authorities were not able to register.

In addition, the Kremlin changed the legal context of the elections so that the state bureaucracy could more easily adjust the partisan playing-field and limit the opposition’s freedom of manoeuvre. In 2004, after a terrorist attack in Beslan, elections of regional governors were repealed and all deputies of the State Duma came to be elected only by party lists. Electoral blocs were banned. In 2006, the ‘against all’ line was deleted from the ballot, and deputies were forbidden to cross
over from one parliamentary faction to another. Deputies also lost the right to be elected on other parties’ lists. In the same year, parliament prohibited the financing of political parties by NGOs which received more than 30 per cent of their funds from legal persons with state, municipal or foreign participation.

The practices of party funding in post-Soviet Russia

As is often the case, party funding practices in post-Soviet Russia have not adhered to the legislative framework. The greatest divergence occurred in the 1990s. Although laws on NGOs obliged parties to make public their financial statements annually, this author could find no record of such disclosures until 2003 and it seems very likely that the parties did not publish them at all. All we can know about party funding in the 1990s is what the parties saw fit to reveal. But as a rule, parties abstained from speaking about their finances. For this reason, information must be gleaned mostly from the financial reports of the Central Election Commission (CEC). In 1993, 6 participants (out of 13), including all main anti-reformist parties (the Liberal Democratic Party, the Communist Party and the Agrarian Party), received money only from the CEC. On the other hand, the reformist parties and blocs (especially the pro-governmental Choice of Russia bloc and the Party of Russian Unity and Accord) received much larger amounts from sponsors.

Although the CEC revealed that some parties and blocs had violated the law by receiving donations from legal persons with foreign participation, the governing regulations on election of deputies did not prescribe sanctions and it is unknown if the culprits ever gave this money back. The major form of transgression involved financing activities from sources other than electoral funds. Some researchers noted that the financial reporting of the largest electoral associations and blocs in the 1990s was a sham because the bulk of expenditures were paid in ‘black cash’. Gelman wrote even about ‘the iceberg of Russian political finance’.

This is not to say that the CEC did not try to oppose these malpractices. On its own initiative it introduced new norms to electoral
legalization and these efforts were fruitful to some extent. Financial reporting on the 1995 election showed that the funds distributed by the CEC had ceased to be the main source of funding for all participants that won more than 2 per cent of votes (the only exception being the orthodox Communists, who had relied solely on state money). Own funds became the main source of financing for the CPRF (66 per cent), liberal reformists (more than 50 per cent for Yabloko and 84 per cent for the Democratic Choice of Russia–United Democrats bloc), and moderate nationalists from the Congress of Russian Communities (77 per cent). Donations from legal persons played the same role for the governmental Our Home Is Russia bloc (62.5 per cent), the Agrarian Party (75 per cent) and the Liberal Democratic Party (more than 50 per cent). Donations from physical persons were of importance only for the Communist Party (15 per cent) and the LDPR (9 per cent). But a significant number of the 1995 election participants used mainly state money: 7 (out of 43) spent only state funds and 12 took from other sources less than they received from the state.

The Our Home Is Russia bloc and the LDPR boasted the largest electoral funds – 13 and 11 billion roubles, respectively. The Communist Party, which got twice as many votes as these two, spent a tenth as much money.

In the 1999 election, the main source of financing for participants was donations from legal persons. Own funds was the second largest source (Bloc of Zhirinovskii, Fatherland–All Russia, and the Union of Right Forces) and donations from physical persons the third largest (the CPRF and Unity). All parties and blocs that overcame the 5 per cent threshold (Yabloko, the CPRF, Unity, Bloc of Zhirinovskii, Fatherland–All Russia, and the Union of Right Forces) spent approximately equal amounts: about 40 million roubles (US$1.5 million). Though the CEC did not uncover sources of finance apart from electoral funds, this does not mean that such financing had not taken place at all. Rather it suggests that the CEC chose to ignore it, perhaps because the governmental Unity bloc and the governors’ Fatherland–All Russia bloc were among the main perpetrators.
Since 2002, the financial statements of political parties have begun to be published by registration bodies and we now have an idea of what amounts of money parties receive every year officially. Let us now examine the various kinds of party funding.

Entrance and member fees

The by-laws of almost all political parties and movements in post-Soviet Russia have treated entrance and member fees as an important source of financing. But even orthodox Communists from the Russian Communist Workers’ Party have recognised that fees cover just a small share of a party’s expenditures. The situation has been much harder for the liberal parties. The executive committee of the Union of Right Forces, the party that relied mainly on support of big business, admitted that it collected member fees not to spend them (‘It’s clear that all money will be given back to the party’s regional branches’) but because the payment itself gave the rank-and-file a real sense that they were party members.

No wonder that members’ fees have provided a small share of funding for all parties, the only exception being the CPRF and the Russian Communist Workers’ Party–Russian Party of Communists. As for the liberal (Yabloko and Union of Right Forces) and government parties (United Russia), members and entrance fees are a very insignificant part of their funding.

Receipts from CPRF member fees have grown in absolute terms. This is the result of long and hard work. Until 2000, the Communist Party hadn’t suffered from a shortage of money because of its strong position in the 2nd Duma (1996–9). But the lobbying capacity of the CPRF radically decreased after the formation of the pro-governmental majority in the lower house. In order to increase the amount of fees collected, the praesidium of the CPRF central committee in February 2005 obliged every Communist elected to a legislature at any level (federal, regional or municipal) to allot not less than 10 per cent of his or her salary to the party fund. This measure helped the CPRF to swell party coffers substantially. But the CPRF remained an exception
among parties, confirming that it was the only real mass party in Russia.

**Donations**

In Russia it is very difficult to distinguish between private and corporate donations to party funds. The problem is that institutional donations to parties are almost entirely absent in Russia. Trade unions and other non-business corporate associations are very weak and spend money only to maintain themselves. As for private business, as Pshizova has observed, Russian businessmen are not a consolidated pressure group but rather prefer to work with and as individuals: ‘The mutual concern of business and politicians takes the form of individual, separate and, surely, unofficial sponsorship of crony candidates by various businessmen and companies, as well as self-financing of personal electoral ambitions by businessmen.’

Because of this, it is very difficult to identify what kind of donation, private or corporate, takes place in each specific case. Russian legislation implies just two kinds of donations, from physical persons and legal persons. There is no doubt that donations from physical persons are private. But whether donations from legal persons are corporate ones remains a big question. Perhaps we can speak about corporate donations only in certain cases. For example, in 2001–3 big business sponsored the Union of Right Forces as the party most sympathetic to its interests. In this case, the monies were channelled to the Fund for Support of the Democratic Unity, the Fund for Support of Democratic Initiatives, the Fund for Support of Promotion of Reforms and others. Then again, in 2007 the Russian Trade Union of Railroad Locomotive Crews donated 5 million roubles (US$200,000) to the CPRF, and the trade union association SOCPROF contributed 2 million roubles (US$80,000) more. We can consider such donations corporate ones, but they are a rare exception in the practices of Russian party funding. Donations from legal persons are in most cases of a private, and not of a corporate, nature. As a rule, individual persons who act on the principle *Do ut des* (‘I give so that you give back’) are behind such donations. Another peculiar feature of Russian party funding is that donations by legal persons outweigh donations from physical ones.
The prevalence of donations from legal persons over those of physical persons is common for all parties including the CPRF, which received more money from private persons only in 2005, and the same amount in 2004. On the whole, CPRF was the only party for which the donations of physical persons played a part comparable with those of legal persons. Having lost its leading position in the State Duma and, consequently, most of big business sponsors, the Communist Party was compelled from 2003 to appeal to ordinary people for financial support. Later, these appeals became regular. In October 2005 the number of contributors reached 14,000.\textsuperscript{34}

When analysing the data on donations by legal persons, we find the main problem is that most of them are really anonymous because they come from foundations (including party support foundations) and other NGOs. This route was preferred by United Russia, Just Russia, Yabloko and the Union of Right Forces. In such cases, it is impossible to identify the real source. Another way for a sponsor to conceal his identity is to send money from the account of an unknown business entity. The CPRF and the LDPR used this way of disguising their funders.

Some conclusions are nevertheless clear. In 1993, the largest banks and financial groups supported liberal reformists – Choice of Russia, Yabloko, and the Party of Russian Unity and Accord. In 1995 the big banks, and exporting companies with close ties with the government such as Gazprom, supported the Our Home Is Russia bloc. According to the ex-head of the presidential administration, Sergey Filatov, 50 banks were asked to donate US$2 million each to Our Home Is Russia.\textsuperscript{35} The Communist Party received donations from directors of the defense-industrial complex and other state-owned enterprises as well as from some banks (Prodovol\’stvennyi Bank, Mos Business Bank,\textsuperscript{36} and Tver Universal Bank).\textsuperscript{37} Agricultural enterprises sponsored the Agrarian Party, small and middle businesses financed Yabloko, and building companies (the most criminalised sector in those years) preferred the LDPR.\textsuperscript{38}

In 1999 the largest oil-and-gas corporations (Lukoil, Gazprom, Yukos, Transneft, Sibneft, Tatneft) sponsored governmental, governors’ and liberal parties and blocs: Unity, Fatherland–All Russia, Yabloko
and the Union of Right Forces. Some of these corporations (Yukos,
Lukoil) supported several parties simultaneously. Others divided their
favours between the Kremlin–supported Unity (Transneft, Sibneft) and
governor-oriented Fatherland–All Russia (Lukoil, Gazprom, Tatneft). 39

After Putin became President, most of the oil-and-gas corporations
came to support United Russia (formed from a merger between Unity
and Our Home Is Russia). Only Yukos continued to sponsor opposition
parties, both liberal (Yabloko, the Union of Right Forces) and anti-
reformist (the CPRF). 40 But the business rule ‘Don’t put all your eggs
in one basket’ ceased to work after the start of the Yukos court case, 41
and now all big business representatives in the State Duma are under
control of United Russia. 42

Nevertheless, the Kremlin allows big business to delegate its
representatives to other parties’ lists and, consequently, to sponsor these
parties. For example, in 2003 and 2007, businessmen from RUSAL
aluminium company, Alfa Bank, Lukoil company and Metalloinvest
group entered the Duma with the help of the LDPR, The RAO UES
electric company probably had the support of the Union of Right
Forces, 43 while Just Russia received donations from Lukoil and Severstal
iron and steel company. 44 But this sponsorship is of very limited scope
and may come to an end as soon as the Kremlin orders it.

**Business activities**

Income from business activities forms a very insignificant part of party
funding. The exception is the Communist Party, which in this way
edearned 29 million roubles in 2008 (11 per cent of all funding). Most
probably, this was income from the sale of party property. 45 It seems
unlikely that such amounts could be obtained from usual party business
activities such as the sale of T-shirts, scarves, neckties, baseball caps and
badges with party logos. A party official admitted that such business
never yielded any serious profit for the party. 46

But, along with legal business activities, parties also engaged in illegal
ones. When the proportional representation system was introduced,
parties discovered the opportunity to sell positions on the party lists
and to lobby for business interests in parliament. It is well known that the LDPR lobbied on behalf of the owners of the crashed financial pyramids GMM and MMM, while the Choice of Russia faction, the Liberal Democratic Union of 12 December group and the LDPR represented the interests of banks in the 1st Duma when laws on banks and banking activities were under consideration.47

The nomination of businessmen to the best positions on party lists or their election to party governing bodies provides an explanation for their ubiquity in contemporary Russian politics. There were 68 businessmen, or 15 per cent of all deputies, in the 1st Duma, 23 of them belonging to the LDPR faction.48 (In comparison, there were only 10 businessmen in the Choice of Russia faction, the largest in the 1st Duma.)49 According to a former vice–chairman, the LDPR had before the 1995 election evolved into a ‘party of sponsors’ because only those who could financially support it were included into the party list.50 Sponsors constituted half of the LDPR faction in the 2nd Duma (1996–9). Some of them were big businessmen,51 while others represented organised criminal groups. According to informed sources, positions at the top of the LDPR party lists cost from US$1 to 1.5 million.52

The liberal parties also cooperated with businessmen on a large scale. For example, Democratic Choice of Russia (DCR), which emerged out of the Choice of Russia bloc in 1994, appointed the head of the National Credit Bank, Oleg Boiko, as chairman of its executive committee. But when the DCR went into opposition after the war in Chechnya had begun, Boiko left his party office and sponsored the governmental Our Home Is Russia bloc with US$2.5 million in the 1995 election.53 Yabloko movement appointed the president of the financial group RICOR, Evgenii Sobaki,n as the head of its campaign staff in 1995,54 and included Mikhail Yuriev, president of industry group Interprom, in its party list.

Though the governmental Our Home Is Russia had 10 businessmen in its parliamentary caucus in the 2nd Duma, it was more a party of bureaucrats than of capitalists.55 At the same time, the CPRF, which ran 10 ‘red directors’ (directors of state enterprises who advocated a return to
planned economics) on its party list in 1993, became the ‘most business party’ in the 2nd Duma. Some 28 managers of both ‘old’ (Soviet) and ‘new’ (free-market) style became deputies on the CPRF list, and there were not only ‘red directors’ among them, but also quite successful businessmen – Rosbusinessbank board chairman Vladimir Semago, for example. Businessmen Communists constituted more than a third of the 57 businessmen elected to the 2nd Duma by party lists.

According to my own calculation, in the 3rd Duma (2000–3) there were 9 businessmen in the governors’ Fatherland–All Russia faction (out of 46 deputies), 15 in the government Unity faction (out of 83), 8 in the LDPR (out of 16), and 13 in the Union of Right Forces (out of 32). The CPRF faction (of 88 deputies) had only 4 businessmen but it had delegated 7 businessmen from its party list to the Agrarian Industry deputy group.

In the 4th Duma (2004–7), United Russia had the greatest number of businessmen in its ranks, but they were not a significant source of income for the faction. The Kremlin wanted to control the parliamentary majority, and from this point of view the businessmen were ordinary deputies – just like all the others. They could not lobby for their interests without the permission of the presidential administration and they had to submit to party discipline. The exchange between businessmen and the Kremlin was not one in which the former gave money and the party lobbied for their interests; instead the businessmen carried out orders from above and in return got the chance to forge relationships with officials in the executive branch.

Selling of positions in party lists nevertheless remained an important source of financing for other factions. In the 4th Duma, I found 5 businessmen in the CPRF faction (of 47 deputies), 10 in the LDPR (of 36), and 4 in Motherland–People’s Patriotic Union faction (of 29 elected by party list). The figures for the 5th Duma factions were as follows: 7 deputies in the CPRF (out of 57), 11 in Just Russia (out of 38), and 26 in the LDPR (out of 40). Some of these businessmen have close relations with parties. Appointing businessmen as heads of regional branches can be considered a way to sustain a party. But
most businessmen interact with parties on an occasional basis, on the principle of ‘money for office’. Alexei Bagariakov from Altai Krai is an interesting example in this respect. He took part in the 2003 election on the Union of Right Forces list: it seemed natural for a businessman to be supported by a right liberal party. But in 2007 he was elected to the Duma by the list of the CPRF, a party at the extreme opposite of the ideological spectrum. The most striking example of the principle ‘money for office’ is presented by the LDPR. More than half of its seats are occupied by businessmen who are outsiders to the party.58

It should be noted that businessmen not only provide formal donations to party funds but pay more. For example, the LDPR leader Vladimir Zhirinovskii announced in September 2007 that the former party vice-chairman Aleksei Mitrofanov, who had left LDPR for Just Russia the day before, owed the party €2 million. As proof, he displayed a receipt signed by Mitrofanov in 2003 in which the latter had pledged to sponsor the party to the same amount.59 It may be guessed that businessmen less close to Zhirinovskii paid at least the same amount. Without a doubt, a party’s dependence on the support of individual businessmen is very uncertain in today’s Russia. The Kremlin can at any time order businessmen to stop their sponsorship; thereafter the recipient party will come to an end very quickly.

State funding
Formally, state funding of parties was introduced by the law on political parties in 2001 and took effect in 2004. Actually state funding had taken place since 1993 when the Central Election Commission allotted 100 million roubles (about US$80,000) to each election participant. This was raised to 115 million roubles in 1995, and 220 million in 1999.

What is more, some state funding has been offered in indirect form since 1995. The electoral legislation provided each candidate and electoral association or bloc with free air-time on the state and municipal TV and radio, free space in state and municipal newspapers, and free transport for candidates (on a limited scale). Some kinds of expenditures were also tax-exempt.60 Financing of free air-time appeared to be a
significant expense item and an amendment was adopted before the 1999 election that electoral associations and blocs which had received less than 2 per cent of votes should reimburse the state and municipal mass media. As the result, 22 parties and blocs owed about 600 million roubles to the mass media after the 1999 election, several times more than their expenditure on the campaigns.

In 1990s, a draft law that provided for state funding of parties was prepared in the 1st Duma but ultimately was rejected. When the presidential administration proposed to adopt such a law in 2000, all factions and deputy groups advocated state funding, the only exception being the Union of Right Forces, which did not suffer from any shortage of money because of strong support from big business. The law was finally adopted, and political parties have received money since 2004 in proportion to the number of votes cast for their lists.

State funding formed a very small share of party financing at the beginning. The marginal Party of Social Justice, which got more than 3 per cent of votes in the 2003 election in coalition with the Russian Party of Pensioners, was an exception. The larger the party, the smaller the share that state funding formed in its financing. But since 2006, after an amendment was adopted that increased the amount for each vote ten times, the situation has changed. The proportion of state funding increased to a third of all funds for the Union of Right Forces, Yabloko and the CPRF, and to a fourth for the Agrarian Party and the LDPR. United Russia, which got a lion’s share of the state funding, depended on it least of all. State funding became a more important income item in all parliamentary parties’ budgets in 2008: 41 per cent for the CPRF, 26 per cent for the LDPR, and 23.5 per cent for United Russia, while Just Russia received much less money from the state budget because its candidate had not participated in the 2008 presidential election. We have no figures for state funding in 2009 but, in view of the fourfold increase per vote, one may suppose that the proportion it occupies in all parties’ budgets will increase too. So, if the purpose of the party reform was to make the opposition dependent on state financial support, it may be said that the plan has been effective.
Conclusion

Thus, as we can see, the post-Soviet Russian state succeeded in bringing ‘law and order’ to parties’ financial affairs. Major changes have taken place, from an initial situation in which there was no documentation of parties’ real incomes and expenditures to one in which detailed financial statements describing who had donated money and how it was spent were made. But this does not amount to oversight by society of political parties. Instead, it is oversight by the bureaucracy of the opposition, with the latter living under a Damocles’ sword. Worse still, the law is applied selectively, to cover only the opposition but not the authorities themselves, so that they can violate it at their pleasure.

To take one example, in 2005 Rodina (Motherland) party and the Russian Party of Pensioners were eliminated from almost all regional elections on the slightest of pretexts, including discrepancies in their candidates’ income declarations. But when Rodina filed a court suit for deregistration of United Russia on the grounds that it had exceeded the electoral fund, the suit was just ignored.66 We can see that the Russian authorities prefer to act according to two maxims: ‘All animals are equal, but some animals are more equal than others’ and ‘Everything for friends, the Law for enemies’.

As the result, if in the 1990s Russia had no party funding regulation but had more political competition, now it has adequate regulation but almost no competition. Such a situation became possible because of the weakness of political parties and of civil society as a whole. With the exception of the Communists, the parties have no close ties with the electorate, as evidenced by the small share of member fees and ordinary citizens’ donations in parties’ budgets. The opposition parties depend strongly on big business donations and on selling positions in party lists to wealthy individuals. This income item is especially dubious because of its illegal nature and because positions are sometimes sold to outright criminals (as in the case of the LDPR).

After the bureaucracy had established its control over business, party funding also fell under ‘bureaucratic oversight’. No wonder that the regulation of party funding became a tool used by the bureaucracy
to limit the opposition and to reign supreme on the partisan playing-field. Parties depend on business support and business depends on the bureaucracy; as a result, the parties depend on the bureaucracy.

Nevertheless, the situation can be considered from an optimistic point of view. The bureaucracy has taught the opposition to observe the law and to keep up outward appearances. In the 1990s, the LDPR could take the liberty of including people with criminal reputations in party lists. Today there are only respectable businessmen in its parliamentary caucus. If all parties paid expenses in cash in the 1990s, today they try to document all their expenditures.

Now it is the turn of the opposition – and society as a whole – to make the authorities comply with the law. It can only be hoped that party funding regulation will eventually evolve from a tool of bureaucratic control of the partisan playing-field into a tool of democratic oversight of the bureaucracy.

Endnotes
1 The term ‘bureaucracy’ in today’s Russian politics and political science implies high officials of the executive branch, which is considered the only real power in the country.
4 The Law of the USSR on Non-Governmental Associations, 09.10.1990 <http://www.consultant.ru/online/base/?req=doc;base=LAW;n=1883>.
5 The Federal Law on Non-Governmental Associations, 19.05.1995.
6 Rossiiskaia gazeta, 8.10.1993.
10 The list of the all-Russian political associations registered by Ministry of Justice until 1.01.1999 in PartArchive Database <http://www.indem.ru/pa98>.


When using term 'the Kremlin', Russian political scientists and journalists mean the President and his administration.


Gelman, ‘The Iceberg of Russian Political Finance’.


‘KPRF blagodarit za narodnuu pomoshch’ (CPRF Thanks for the People’s Help), Sovetskaia Rossia, 20.10.2005.


In 1993 and 1995 a director of Mosbusinessbank, V. Semago, balloted to the Duma by party lists of CPRF (N. Kisovskaia, Predprinimateli i osnovnyie politicheskie partii Rossii, 99). In May 1995, a grassroots organisation of CPRF was formed in the Novosibirsk branch of Mosbusinessbank with a top-manager at the head (A. Zudin, Rossyia: biznes i politika (strategii vzaimodeistviya biznesa i gosudarstva) (Russia: Business and Politics: Strategies of Interaction between the Business and the State), Mirovaia ekonomika i mezhdunarodnyie otноsheniya, 4 (1996), 23).

37 In 1993 and 1995 a director of Mosbusinessbank, V. Semago, balloted to the Duma by party lists of CPRF (N. Kisovskaia, Predprinimateli i osnovnyie politicheskie partii Rossii, 99).

38 V. Lepekhin, ‘Grouppi interesov kak osnovnoi sub’ekt sovremennoi rossiiskoi politicheskoi sistemi’ (Groups of Interests as the Main Actor in Today’s Russian Political System), Formirovanyie partiino-politicheski sitemi Rossi (Formation of the party and political system of Russia) (Moscow: Carnegie Moscow Center, 1998), 105.


41 Ibid., 71.

42 S. Peregudov, Gosudarstveni korporativizm: novyi etap v otnosheniya biznesa i vlasti (State Corporatism: A New Stage in Relations between Business and Authorities), APN <http://www.apn-nn.ru/diskurs_s/81.html>.


47 Lapina, Biznes i politika, 52.


49 Kisovskaia, ‘Predprinimateli i osnovnyie politicheskie partii’, 96.

50 Izvestia, 15.05.1996 and 17.05.1996.

51 Kisovskaia, ‘Predprinimateli i osnovnyie politicheskie partii’, 96.

52 Ibid., 96.

53 Ibid., 93.

54 Ibid., 89.


56 Ibid.

57 Lapina, Biznes i politika, 132.
In view of this, some years ago I called the LDPR ‘a semi-commercial enterprise which provides well-to-do persons with deputy seats on a remuneration basis’. The lawyers of the LDPR demanded from me a retraction. In return I proposed: ‘Okay, let me write that your party is a charitable organization which provides well-to-do persons with deputy seats for free.’ There was no reply. Yu. Korgunyuk, ‘Partbilet v buduscheie’ (A Party Ticket to a Future), Nezavisimaia gazeta, 16.09.2008 <http://www.ng.ru/ng_politics/2008-09-16/15_partbilet.html>.


Finansovoie Obespechenie Federal’nykh Izbiratel’nykh Kampanii, 366.

Gelman, ‘The Iceberg of Russian Political Finance’, 186.


The need for balance in party financing in Brazil

Silvana Krause*

When talking about political party financing, we must bear in mind that there are two modalities: one which deals specifically with electoral campaigns and another which establishes how parties can raise funds for their more routine operations. In Brazil, the regulation of political parties is relatively recent and still quite unstable for two main reasons: constant changes of political regime which have altered norms, and the limited importance of political parties in the Brazilian political tradition.

The new democracy: fragile electorate and costly campaigns

Brazil’s ‘third wave’ democracy after 1985 presents a paradoxical profile. First of all, there has been an enormous advance in electoral participation rights. The percentage of the country’s population with the right to vote had been significantly growing since 1946, in spite of the fact that the democratic regime of 1945–64 did not allow the illiterate to vote. The military regime (1964–85) maintained this rule. But the country saw meaningful growth of its electorate during the dictatorship, especially

* I thank my student and assistant, Josimar Gonçalves da Silva, for his dedication to the collection and processing of data from the Superior Electoral Court. The discussions with Deputy Eliseu Lemos Padilha and fellow former Deputy Vilmar Rocha were essential to decipher the complex world of party financing in Brazil. Jardel Vieira’s help with access to data in the Supreme Electoral Tribunal and Janine Vasconcellos Ambrose’s help with the data of the Senate were also critical.
after the 1970s, as a result of improving literacy rates. The proportion of the population with voting rights grew from 31 per cent in 1970 to 56 per cent in 1989. By 2006 it had reached 68 per cent.

An assessment of the system and norms of party financing must consider not only the general framework for the operation of government and electoral and party systems, but also the societal environment in which they operate. The rules of a political financing system, considered efficient and efficacious in one country, may generate undesired effects when adopted in another socio-economic context. There is not one only good or bad prescription; what works in one situation may not do so in another.

The democratic regime’s Constitution, which came into force in 1988, provided voting rights to the illiterate and reduced the age limit for voters to 16. This brought new challenges to parties, which now faced many new ‘clients’ with basic needs and expectations to be fulfilled. The inclusion of the illiterate represented an addition of 18 per cent to the Brazilian electorate in the first direct election for President in 1989. In the last national and regional elections of 2006, approximately 48 per cent of the electorate had not completed secondary school.

It is not only the educational profile that must be considered in order to understand how the Brazilian political system works. The general profile of an electorate with scarce social-economic resources also affects electoral party dynamics. According to the Human Development Report of 2009, in spite of last year’s advances, Brazil ranks 75th in the Human Development Index among 182 countries, behind Argentina, Uruguay, Cuba, Mexico, Costa Rica, Venezuela and Panama. Nevertheless, the society’s most notable characteristic is social inequality, which remains one of the highest in the world. According to the Human Development Report of 2009, Brazil’s Gini is 55.8 and the country lags behind Bolivia, Honduras, Botswana, South Africa, Comoros, Angola and Haiti.

If we observe the country’s social disparity in terms of campaign costs, the data are even more worrisome. They demonstrate the inability
of the Brazilian political system to support electoral competition that can guarantee the basic principle of equality in a democratic regime.

Brazil has unusually expensive electoral campaigns. According to David Samuels, such costs are comparable to presidential campaigns in the US. The high cost of campaigns in a country with enormous social inequalities affects the character of elections. Poor voters take advantage of the election moment: a recent report by the NGO Transparência Brasil states that more than 8.3 million electors were tempted to sell their vote in the last national elections.

Why are electoral campaigns so costly in Brazil? Several factors contribute to this, among them the electoral system, the high cost of TV programming, opinion polls and electoral marketing, and parties’ own weaknesses. Firstly, the Brazilian electoral system of open lists for the legislative branch focuses electoral campaigns on the candidate. The candidate, in turn, has a great deal of autonomy and tries to develop his strategy individually since he also competes against his party colleagues. The contest is thus fierce, and politicians need to find their own financial resources regardless of their parties. With a closed list, this situation could be ameliorated since candidates would depend more on party organisation in order to be elected. Secondly, campaigns focused on a politician’s personal profile require expensive television programming with high production values. TV space is offered freely by law, but the costs for the programme’s quality depend on the candidate’s and the party’s financial resources. In a country with huge geographic distances, TV is essential for politicians to communicate with their electorate. Another important factor contributing to the rising cost of campaigns is the fees of consultants and marketing experts. Finally, the existing anti-party culture in the country means that electoral success depends on personal relations and the ability to generate personal electoral support.

Costly campaigns limit political competition and restrict access to politics. Moreover, the difference in financial resources among candidates is very large. If we look at the funding of candidates for the presidency in 2002 and 2006, a few candidates received most of the money. In 2002, the two main competing parties, PT and PSDB,
received 77.6 per cent of total income reported by all candidates. This amount increased in 2006,\textsuperscript{11} when the two parties secured 98.6 per cent. This happens not only in presidential campaigns, but also in elections to other political posts in Brazil.

The influence of business groups in the presidential campaigns can be seen in the differences in the candidates’ revenue sources. In 2002 the two major parties, PT and PSDB, received 77 per cent of all donations made by companies. In the 2006 presidential campaign, this concentration increased. The two parties alone received 98.4 per cent of all donations from companies. The candidates’ dependence on private resources is striking. In 2002, 98.9 per cent of the total presidential campaign budget of PT came from private companies and in 2006 it was 95.2 per cent.

Things were not different for PSDB. In 2002, 98.4 per cent of its presidential campaign funding came from companies and 96.6 per cent in 2006.

What is striking is not only the concentration of funds on a few candidates, and the insignificance of donations from individuals in the two campaigns, but the profile of the donations. There are a few companies that donate a lot. In 2002 and 2006 the companies that donated more than R$100,000 accounted for 78.8 per cent and 69.4 per cent (respectively) of total funds raised from juridical persons in the presidential election. On average, between 20 and 100 companies are the major financers.

**The fragmented multi-party system**

As a rule, political party systems are classified in two ways. The first deals with the number and size of parties active in the political system. The second, highlighted by Sartori, explores the behavioural profiles of parties and the relationships between competing parties in the political system. Sartori\textsuperscript{12} famously defines party systems based on the principle of majority as dominant when a single party has a parliamentary majority for a long period (four legislatures), as bipartisan when two parties compete to achieve a majority and alternate in government, and
as multiparty. The last-mentioned differ according to whether there is a balance of forces: multi-party systems may come with or without a dominant party. Sartori\textsuperscript{13} also explores the degree of fragmentation of a party system. A multi-party system, in which no party has the majority and five existing parties have representation, is classified as a moderately fragmented multi-party system. In the case of a larger number of relevant parties, Sartori refers to a highly fragmented multi-party system.

Brazil saw an explosion of active parties after the first years of democratic rule. This feature has not changed significantly during the development of the new democracy. There has been a stabilisation, but not a decrease, in the number of competing parties in the political game. One might have expected the disappearance of some party organisations and the consolidation of a number of smaller parties with the development of democratic rule. However, despite significant economic changes in the 1990s, the privatisation of state enterprises and the stabilisation of inflation, the party situation has remained virtually unchanged.

Two more aspects of the party system are noteworthy. The first is the difficulty Brazilian voters encounter when trying to decipher the vast universe of party acronyms during elections. Many parties have changed their names several times, while others have merged, adopted new logos or have been created afresh. A large proportion of Brazilian voters base their votes on candidates’ perceived personal characteristics. The second aspect of this universe of acronyms is the major difficulty it presents for the regulating institution, Electoral Justice, in managing the large number of active parties efficiently.

It is not only the large number of parties competing for election that is a noteworthy feature of the Brazilian party system, but also the significant space they gain in the arena of political representation and the weight they have in the decision-making process. According to this criterion, Brazil has a highly fragmented multi-party system in which several parties have a significant stake in the political and institutional arena.\textsuperscript{14}
As for the dimension of the party system that deals with behaviour profiling and the relationship between competing parties, the large number of parties does not reflect polarised ideological disputes based on a centrifugal logic. Neither is it possible to state that the diversity of parties represents the country’s regional differences or its ethnic groups and minorities. Many of these party organisations express personal projects and reflect disputes within the political elite. Parties are fragile institutions in terms of organisation and are hostages to the electoral strength of leaderships, which have predominantly direct and personal bonds with voters, as well as with campaign financers, as we will see later.

**Fragile parties**

Brazil has a tradition of weak parties that are not well rooted in society and a history that includes no fewer than seven different party systems. Political scientists assert that constant state intervention in political parties, interference in their development and changes in parties’ operating rules have all destabilised them and affected their rooting in social groups. Associated with constant state intervention, a political culture has developed based on informal and personal networks. Political relations pervade political parties and personal characteristics of political leaders are fundamental. These are the ‘real institutions’ that define the dynamics of the system and the Brazilian political process. Personalism is undoubtedly a basic engine of political mobilisation and the parties have become hostages to their leaders.

The instability of parties, their short life span and their dependency on leaders are important challenges for the new democracy. To understand the logic and dynamic of political financing of the system, it is important to consider two basic rules that govern the lives of parties active in the political landscape. The first is based on the principle of the new Constitution of 1988, which defines parties as institutions with broad organisational autonomy and freedom (Article 17). The Constitution also promised great facilities for parties to be created, merged, incorporated or extinguished. The major concern of the framers of the new Constitution was to guarantee freedom and an autonomous inner life
to parties without state interference, allowing their full development. In
terms of this constitutional principle, Brazilian parties acquired complete
autonomy to define their internal structure, organisation and operating
rules. This principle, a basic premise of any democratic regime, brought
broad freedom to consolidate certain standards of conduct in the life of
parties and political leaders.

Brazilian voters cast their votes on the basis of candidates, not party
preference. This is possible in the Brazilian electoral system, which allows
the voter to decide on only one candidate and does not require him
to vote for a party. In proportional elections for the legislative branch,
about 95 per cent of Brazilian voters choose a candidate and not a party
acronym. Moreover, the open list also gives freedom to voters to vote
within one election, for various posts in the executive and legislative
branches, for candidates who belong to different parties. The result
is that electoral success does not depend much on the organisational
and mobilising capacity of the party. This problem is deepened by the
competition between candidates on the open list for election to the
legislative branch. Within the same party, candidates compete to win the
party’s electorate. What guarantees electoral success is the vote gained by
each individual candidate and not the party. This often causes conflict
between members campaigning under the same acronym.

For the financing of election campaigns, this aspect is fundamental.
Candidates need to seek funds for their own campaigns through their
electoral committees, which manage the funds for the candidate and
not the party. The relationship between candidate and sponsor or donor
remains unclear. The agreement between the donor and the candidate
is usually not approved by the party. It is not in the interest of the party
to confront its candidates nor to establish clear internal rules of control,
and forms of distribution, of financial resources for campaigns, because
parties want candidates to secure a good number of votes.

Though there have been some initiatives introduced to strengthen
parties against the influence of particular leaders, they have invariably
not been implemented. A project of the political reform committee of
the Chamber of Deputies in 2003 envisaged a closed list for proportional
elections with the object of strengthening party organisation in the face of individualised electoral campaigns. The intention behind the closed list was to force leaders to lead a more party-integrated political life.

The difficulty parties face is deepened by the second fundamental rule that governs political parties in the new Brazilian democracy. The Law on Political Parties (no. 9096), introduced in 1995, followed the Constitution by giving ample freedom to parties to settle their internal rules of conduct and discipline their political leaders but it also strengthened the independence of politicians’ careers. The law left it up to the parties to establish spending limits for their candidates’ campaigns and gave them the right to define the contribution limits of their supporters, but by leaving the relationship between candidate and donor a private matter between them it removed financial power from the party’s control. Furthermore, the competition between candidates within a single party has also placed politicians in the hands of private donors. The situation is even more serious when we consider that the Law on Political Parties does not explicitly establish whether politicians owe their seats to their party or to the people who elected them. If a politician changes party, he loses his function in the legislative house but maintains his seat.

The phenomenon of party change and party infidelity is well known in the new Brazilian democracy, and the politician who changes his parties does not usually lose anything. This is because he knows his voters voted for him and not for the party and that the donations he received for his campaigns were directed to him and not to the party that elected him. In response to the situation, the Superior Electoral Court and the Supreme Federal Court determined in 2007 that politicians’ mandates belonged to the party. However, despite this measure, there is a huge, endless struggle in this matter and, in fact, a few Congressmen lost their mandates. Politicians who changed parties after this decision used the defence that the party had changed its principles and programmes or that their voters supported the politicians and not the parties.
Coalitional presidentialism

In a presidential system of government, the reality of fragmented parties has a great impact on the government and on the way it governs. The President of the country needs to seek support in parliament since his party alone does not have a majority. In a country the size of Brazil, the President needs support as well in the different states. The federal system is characterised by wide provincial autonomy, and the provincial governors are fundamental to the political support of the President.

To define the functioning of the country’s presidential system, the term ‘coalitional presidentialism’ has been used. For the executive branch to have support in the Brazilian legislative branch, in a fragmented multi-party system coexisting with robust federalism, an extra dynamic is required for the formation of partisan majorities. To create a coalition government the executive must combine party elements as well as federal ones. The executive uses various tools for securing majorities in Congress. Besides a series of constitutional prerogatives that add an active and reactive power to the legislative process, other important resources include the distribution of ministries among parties, influence over budget resources, appointments to important public offices, and clientelism.

There are also informal resources which, when they have come to light, have created enormous scandals, as in 2005 when the party of President Lula was indicted for making monthly payments to Congressmen in order to secure their votes in Congress. This money was derived from funds, not declared in the 2002 election campaign of the President’s party and its allies in government, that came from major governments companies, private firms and financial institutions. The episode led to problems for the party. Its treasurer was forced, initially, to leave his post and, later, the party. Important political leaders gave up their seats and political advisers of the party were arrested. The scandal demonstrated the difficulty of controlling political financing in the country, especially that arising out of undeclared donations.
Party financing in the new democracy

Political party financing depends on three sources: private contributions (from party’s activists, politicians and sympathisers); donations from private companies; state funding. All of them are allowed in the Brazilian system. The new Constitution forbids parties to receive foreign resources, makes accountability to the Electoral Court compulsory, establishes a Party Fund, and guarantees the right of free access to radio and TV. Parties are considered legal institutions with statutes registered in the Superior Electoral Court.

Party fund

The Law on Political Parties of 1995, which regulates political funding, reformed the existing Party Fund by establishing new criteria for allocations from the national budget, as well as from the distribution of party resources.

Money for the Party Fund comes from four sources: fines and penalties based on the Electoral Code of 1950; financial resources earmarked by law; donation from natural and legal persons; and transfers from the federal budget. Access to the Party Fund is of great significance because it diversifies financing sources and offers a more balanced opportunity to private company funders. Although parties have extensive freedom to manage these resources, they are required to allocate 20 per cent of the total amount received from the Fund to their party foundations, investing it in political research and education. Money from the Party Fund is transferred by the Electoral Court directly to the party’s national board of directors. This encourages the concentration of power within the organisation because the party decides how to distribute resources. In a country as large as Brazil, this is of fundamental importance because parties’ boards of directors become dependent on the national leaders at the centre of the party’s power.

There has been great debate in the Brazilian political class about the distribution criteria of those resources, and they have changed over time. Before the Law of Political Parties of 1995, the Party Fund distributed 20 per cent of resources to all parties, regardless of their electoral...
strength, and the rest according to parliamentary representation in the Chamber of Deputies.\textsuperscript{19} Gradual changes in the criteria have ensured that parties with larger representation are now advantaged. The 1995 law stipulated that, at the end of the adaptation phase, there would be a distribution of only 1 per cent of the fund total to all parties and the rest would be divided among parties that complied with the law of minimum representation requirements: 5 per cent of valid votes in at least a third of the states and 2 per cent in the other states.\textsuperscript{20}

\textit{Legislation and regulation of private financing}

The country’s first direct presidential election in 1989 was a bitter experience that led to the impeachment of the President in 1992. The central problem was corruption related to illegal contributions and influence-peddling by donors. As a reaction to this, a temporary law (Act no. 8713 of 1993) was passed to regulate the 1994 election. It explicitly laid down how the parties should manage their finances during campaigns and how they could use resources from private companies, donations from natural persons and the Party Fund. Thus, juristic persons were allowed to finance campaigns and parties, but within established limits. The law was lax, however, about forms of private financing. It established that 10 per cent of a natural person’s annual gross revenue and 2 per cent of that of a juristic person could be donated.

There were two main problems. The first was that the law dealt in percentages and not in values. Profitable business groups and natural persons donated generously and were rewarded with great influence over the electoral process. The second was that Brazilian culture is creative: the fact that each natural or juristic person can make only a limited contribution does not prevent economic groups from registering multiple juristic persons. Natural persons can similarly use the names of relatives and friends to finance political campaigns. Moreover, there are no campaign expenditure limits. This allows each candidate to spend limitlessly as long as the origin of the funds is declared.

The subsequent Law on Political Parties of 1995 continued to allow donations by private companies and retained the prohibition on
donations by trade unions, foreign institutions and the government. In 1997, with the 1998 election looming, a permanent law was enacted (Act no. 9504 of 1997) which consolidated the role of the Electoral Justice in monitoring parties’ expenditures and provided it with powers to take appropriate remedial action. This law, besides prohibiting donations already stipulated in the Constitution, clearly prohibited parties and candidates from receiving money from public service contractors or non-governmental organisations that receive public funds. The purpose was to prevent undue influence by companies that have a close relationship with the machinery of the state and the government.

Act no. 9840, initiated with one million signatures and passed in 1999, defined more clearly the concept of ‘vote-buying’. It determined that an electoral crime was committed when a donation, offer, promise or delivery of goods to the voter (such as basic food, money, tickets or appliances) or personal advantage of any kind was offered in return for a vote. The penalties go beyond fines: a candidate’s registration can be cancelled or an election annulled. The importance of this law can be seen in the fact that some 980 politicians have lost their seats since they were indicted for electoral corruption.\textsuperscript{21}

The struggle for greater transparency, especially concerning economic influence in the political process, is reflected in disputes between the political class and the Brazilian judiciary. This has resulted in legal uncertainty and the phenomenon of ‘politics legalisation’. One example is the control of so-called hidden donations in political campaigns. Given the creativity of the Brazilian political class, candidates can receive direct funding for their electoral committees and also receive donation from the finance committees of electoral parties. There is a grey area because one does not know the sources of donations that the candidate has received from the party’s finance committee. There is no requirement that the finance committee declare that the funds donated to the party come from a particular company or person. This enables economic groups to untie their donations from specific candidates, and to keep the direct link between donor and candidate hidden.
Most disturbingly, this form of donation not only hides information, but is also a way to hide prohibited donations from organisations that provide public services. This mechanism is used especially in proportional elections. Because a candidate is not allowed to receive funds from a company that provides public services in the city or region where he is running for office, the company might make a donation to the party’s finance committee, which does not appear to link the candidate with the company rendering services.

At the end of 2009, Congress passed a law to regulate the 2010 election. The law made some modifications to campaign financing of candidates and parties, allowing donations by credit card and the Internet. However, it kept the standards already established in the Constitution, the Law on Political Parties of 1995 and Electoral Law of 1997. The problem of hidden donations was not addressed. In response the Superior Electoral Court resolved in March 2010 that a party’s finance committee identify the source of money donated. At present, the web page of the Superior Electoral Court shows the source of parties’ funds annually. Nevertheless, the web page is not easily accessed or understood by the common citizen. Furthermore, parties need account for election campaign finance only 30 days after an election. As a result, the voter who is interested in knowing the identity of his candidate’s campaign donors does not have a complete view of the process.

*The financial strength of the major parties*

This part of the chapter analyses the major parties’ sources of funding. The data have been collected from the annual accounts forwarded by parties to the Superior Electoral Court. In a fragmented multi-party system, the financial strength of parties is quite varied. Figure 1 sums up all the financial resources of the top 10 parties analysed in three different years and indicates that not much changes from year to year. President Lula’s party emerges with the greatest fund-raising ability. If we take the four largest parties (PMDB, PT, PSDB and DEM), they accounted for no less than 75.7 per cent of total funding in 2006, 63.9 per cent in 2007 and 83.4 per cent in 2008.
The President’s party, PT, attracted most of the donations from private companies. In 2006, 2007 and 2008, the PT received (respectively) 59.8 per cent, 74.6 per cent and 38.6 per cent of the total amount of donations that companies gave to parties. The two main opposition parties, on the other hand, received much less. In the three years studied, PSDB received (respectively) 19.3 per cent, 25.4 per cent and 22.3 per cent whereas DEM received only 12.2 per cent, 0 per cent and 8 per cent.

If we consider the funds donated by individuals, we can see that party activists and supporters are not consistent with their contributions. The parties have weak links with citizens. The amount donated by individuals to parties is considerably lower when compared to donations made by companies. Even with the PT, a party with a strong tradition of activism and participation by its members, its main source of funds did not come from individuals. PSDB, an opposition party, received 36.7 of donations from private individuals, whereas PT received 34.6 per cent.
In 2007 it was the PSB who received the most from individuals: 74.3 per cent of the total amount of donations by physical persons. In 2008 the PSDB once again obtained 64.4 per cent of individual donations made to Brazilian parties. This suggests that the interests of private groups are close to the interests of the President’s party; it also suggests that the other parties do not attract private organisations.

Regarding the distribution of resources from the Party Fund, there are no surprises, since the parties with the greatest political and electoral support are the ones that receive the greatest slice of this funding, with PT receiving 17–20 per cent and other parties receiving in the range of 12–16 per cent.

We will now survey the funding sources of major parties according to their ideological positions. When we analyse the funding sources of the main right-wing parties, the first thing that draws our attention is the importance of the Party Fund and the insignificance of contributions and donations from individuals. Not only do the data show that the Party Fund is the major donor, but the difference is significant when compared with other forms of revenue. There is a great dependence by these parties on public funds to finance their daily activities. The role of party activists and sympathisers in enabling these parties to carry out their political activities is insignificant.

The other noteworthy aspect is the importance of donations from juridical persons to most parties. In election years (such as 2006 and 2008), juridical persons provide great support, especially for the largest right-wing party, the DEM, one of the main opposition parties to Lula’s government. It is very suggestive that this party, in the year of the municipal elections of 2008, saw a growth in investment by private organisations, surpassing the amount offered by the Party Fund. The presence of such investments in a municipal election year indicates the impact of business on local power struggles. It is also interesting to note that in 2007, the year in which there was no election, there was a total lack of interest by private organisations in contributing financially to parties. All parties in 2007 reported that they received no donations of this kind.
The two centre parties show a pattern similar to right-wing ones: the Party Fund is almost without exception the largest source of revenue. The importance of the Party Fund is also significant when compared to other types of resources received. PSDB, the largest opposition party, showed a steep increase in donations from businesses in the year of the municipal elections of 2008. This indicates the interest shown by some private organisations in supporting the party in a year of local power struggles and the demonstration of their support for an opposition party. But the interest from private organisations was also significant for PMDB in the 2008 municipal elections. The party is the largest Brazilian one and its political support is crucial for the government of President Lula.

The lack of interest by private groups in financing parties in non-electoral years is also observed in the centre parties. PMDB, in 2007, did not receive donations from companies and PSDB showed a very significant decrease in donations that year.

The information for 2006 was not available on the TSE web page. The data were kindly supplied by the institution.

The profile of funding leftist parties raises two interesting issues. The first is the similarity with other parties in respect of the high dependence on the Party Fund and the small contributions and donations from individuals. These data suggest the fragile relationship that even leftist parties have with society. Traditional mass parties with activists and supporters taking part in party life and contributing to its financial life are not to be found in Brazil.

President Lula’s party, PT, is a curious phenomenon. Especially in election years (2006 and 2008), there was an increase of financing from businesses, exceeding the revenue from the Party Fund. Everything points to the fact that when a party is in government, the potential for fund-raising from private groups increases. The PT is the only party that also receives contributions from representatives in executive positions (mayors and governors), as well as from parliamentarians (Deputies and Senators). The donations made by heads of the executive branch were considered donations from individuals. PT also receives significant contributions from affiliates.
The information for 2006 was not available on the web site of TSE. The data were kindly supplied by the institution.

Overall, our analysis highlights the importance of the Party Fund for the operation of political parties and their detachment from society and its citizens. This fact does not depend on the parties’ ideological colours since weak participation of citizens, sympathisers and activists in the financial life is common to all parties analysed. The aloofness of citizens makes room for the power of business groups to grow in importance for the parties’ financial life. The economic power of private groups increases in election years, especially in the President’s party and the two main opposition parties (DEM and PSDB).

**The debate**

Some important questions are still to be answered. Who are the donors behind parties and campaigns? Why is business influence so concentrated among a small number of firms? The NGO Transparência Brasil reports that only 19,000 firms were donors in the last national...
elections in 2006. Observing the profile of companies financing presidential elections, we found that three sectors dominate campaign financing: civil construction (contractors), heavy industry (steel and petrochemicals), and the financial sector. Funder profiles differ according to the type of elections. There is heavier donation from the financial sector during presidential elections, presumably because of anxiety around macroeconomic issues. Contractors contribute the most to state governors’ and representatives’ campaigns, probably in an effort to influence the construction of bridges, roads, schools and hospitals. Though donations by state enterprises and public concession companies are prohibited, the participation of bodies contracting public services and works is not forbidden.

It might be expected that the regulation of private funding would solve the transparency problem in party and campaign accounting. However, the ‘caixa dois’ issue (undeclared contributions) re-entered political debate in 2005 as a result of the corruption scandal already mentioned involving monthly payments to representatives to ensure
the passage of legislation (the ‘mensalão’ affair). ‘Undeclared funds’ may originate in tax evasion, illegal activities and organised crime.

A bill introduced to address these problems by exclusive public funding for parties was voted down in the Chamber of Deputies in 2007. Such funding might arguably ensure a more egalitarian political arena and reduce the influence of highly concentrated economic power. A closed list system with exclusive public funding would also reduce the costs of campaigns and strengthen parties. With public funding, public opinion would be more suspicious of sophisticated, expensive campaigns since it would be harder to demonstrate that its funding sources were legal. Additionally, the fact that only parties receive resources and not individual candidates would make politicians worry about their party organisation and not only their personal careers: both parties and candidates would be more interested in the party’s election results. Moreover, the control exercised by Electoral Justice would be greatly facilitated as it would not have to examine the accounts of thousands of candidates but only those of a much smaller number of parties.

Despite such seductive arguments, there is another perspective. Exclusive public funding would encourage already-established groups, freezing power and strengthening the government. It would accommodate the political class and strengthen the party bureaucracies, concentrating power organisations and discouraging the emergence of new party leaders. Exclusive public funding, moreover, would not guarantee a solution for the ‘caixa dois’. Private funding is arguably an important element in maintaining parties’ fragile ties with society and deepening political pluralism.

The alternatives

There are several proposals that seek to alter the concentration of economic power in Brazilian politics but without the illusion of magic solutions, to create greater balance and ensure greater respect for the principles of plurality and equality. One possible measure, widely supported by experts, would be to limit donations by establishing maximum permissible values. Such a measure would prevent large
economic groups from contributing more and so coming to exert a dominating influence. A further measure would be to set firm limits on campaign expenditure. Donations by companies that render services or works to government could also be prohibited. Election campaigns could be made less expensive by reducing the duration of campaigns and scaling back on the current 45 days of electoral TV programmes broadcast daily in the run-up to elections.

The closed list is often disparaged for strengthening party oligarchies, hindering the emergence of new leaders and inhibiting internal competition, but it could have positive effects in Brazil. The closed list would facilitate the control exerted by Electoral Justice as a large number of candidates would no longer require individual oversight. It could also provide an incentive for political careers to be built within the party, strengthen institutional links between donors and their preferred candidates, and reduce the ‘personalisation’ of contributions. This would diminish the dangerous dependency that many candidates currently have on their donors.

The reliance of parties and candidates on funds from private organisations could be addressed through tax incentives. Natural persons could receive rebates on income tax, encouraging more citizens to contribute to parties and candidates, and diversifying sources and recipients of resources. Tax incentive could also assist the diversification of business donors by encouraging new companies to participate in parties’ financial lives.

Resources from the Party Fund remain fundamental for financing parties. The main problem is that parties manage these funds with too much autonomy and allow party leaderships to control these resources. This situation could be rectified by standardising the criteria for the use of public funds and requiring diversification of fund distribution.

One final possibility would be to cut the direct relationship between donors and candidates by forcing parties to distribute received donations evenly and proportionately between their candidates. Such a measure does not depend on the adoption of a closed list, which remains unlikely in Brazil in the near future. This would hinder so-
called occult donations from parties’ finance committees to candidates. It would also sever funders’ direct control over candidates.

Parties would be under less pressure from their donors and the endless financial disputes that candidates endure within parties would be very much reduced.

Endnotes

8 Lula’s marketing consultant received 25 million reals in 2002.
9 The open list system is used in Brazil for proportional elections (municipal and state legislative branches, and the Chamber of Deputies).
Total value: R$87,624,337.80. The Party of the Workers’ Cause (PCO) did not receive any kind of donation for the campaign. For calculations referring to the Workers’ Party (PT), financial resources coming from the coalition for the election of the President of the Republic (PMN and PCB) were added. As for the PSP’s candidate, Ciro Gomes, funding from the PTB, which belonged to the party coalition, was added. PT = R$39,573,798.84; PSDB = R$28,489,261.80; PPS = R$16,338,133.89; PSB = R$3,279,577.00; PSTU = R$36,566,30; PCO = R$18,000.00.
Total Value: R$182,904,496.53. The Party of the Workers’ Cause (PCO) had received a grant of legal origin of R$11,000.00 in the election, but the registration application of the then candidate, Rui Costa Pimenta, was rejected by the Superior Electoral Court, suspending the participation of the candidate in the election. For the year 2006 donations from national committees of candidates for the Presidency of PSDB, PSL and PT were also calculated: PT = R$98,524,265.49; PDSB = R$ 81,719,913.67; PDT = R$ 1,716,154.28; PSL = R$289,032.36; PSOL = R$371,663.16; PSDC = R$272,467.57; PCO = R$11,000.00; PRP = R$0.00.
13 Ibid., 127.

D. Fleischer, ‘Political Reform in Brazil: A Never Ending Story’, Paper delivered at the International Colloquium on the Brazilian State: Paths and Prospects of Dirigisme and Liberalisation (Bildner Center for Western Hemispheric Affairs, The Graduate Center, Cuny, November 2009).


Federal deputies, senators, state deputies, aldermen, governors and mayors.

This was so for three decades.

Brazil has a federal system of 27 states.


This was so for three decades.


Total value of donations from private companies to parties per year:

- 2006 = R$70,560,983.10
- 2007 = R$11,653,901.00
- 2008 = R$155,840,819.96

<http://www.tse.gov.br/partidos/prestacaocontas>. Total value of donations from individuals to parties per year:

- 2006 = R$2,723,570.37
- 2007 = R$91,262.75
- 2008 = R$3,489,360.44

As for the rendering of accounts to the TSE, contributions are those from affiliates and donations from individuals’ non-affiliates (supporters). In this essay, we consider these funds pertaining to natural persons.

Political parties and party finance

In the transitional process of ‘new democracies’, political parties are ascribed essential consolidating functions. As of today, most of these ‘new democracies’ have developed a multi-party system and have, at least, witnessed their second democratic elections since their initial founding ones. Especially in countries on the African continent, these ‘second elections’ are regarded as a crucial marker in the democratic consolidation process, yet they have often reinforced the tendency towards multi-party systems with a single dominant ruling-party structure (as in South Africa) which leaves little political capacity for the smaller opposition parties.

The parties in opposition have repeatedly complained of poor financial health, underprivileged access to public resources, and limited access to private and international party funding. In comparison to the ruling parties, oppositional parties find themselves exposed to a highly unequal competitive environment when facing forthcoming elections. Even though most young democracies have established laws regulating party finance – in some cases it is constitutionally secured,
in other countries it is provided by simple acts of parliament – they are still deficient in effective legislation for the transparency of party finance and the use of private (local and foreign) party funding.

Empirical research in the field of political finance is, however, still limited. That applies to party funding in general and to public party funding in particular. What Max Weber highlighted in the 1920s still holds true: party funding is one of the least transparent areas of party activity despite being one of the most significant. Especially in young democracies and countries in transition, significant aspects of political finance are concealed and can hardly be considered ‘transparent’, and thus cannot be easily explored.

The first serious scientific studies dealing with political finance and party funding appeared in the 1920s and have since generated extensive further research. Yet only recently have questions been raised about how party finance regulation develops across different political lines and systems and how causes can be identified for differences between the regulatory approaches of states.

In comparative political science, studies of party finance are still rare. Even though several country-specific case studies have been presented, relevant empirical data are scarce, especially data regarding young democracies. Differences in party finance regimes remain largely uncharted, and theoretical approaches to a standardised classification of such regimes do not exist.

Focusing on these shortfalls, this essay has four central goals. First, it seeks to provide a classification of the object of analysis within democratic theory, viz. party finance regimes. Second, it offers an overview of the existing types of party finance regulations and the central sources for party finance, differentiating in this task between various forms of funding (e.g. public finance, private funding, indirect forms of support, and illegitimate funding), which commonly appear in most political systems in hybrid forms.

This chapter suggests that the party finance regime of a country – as the independent variable of analysis – influences (a) the autonomy of a political party, its relative independence from private donors and
the degree of corruption within it; (b) political equality and political competition in the party system; and finally (c) the organisational structure of the party and internal–party democracy. Generally, however, the influence of the party finance regime on the institutionalisation of parties and on the party system should not be overvalued – the regime of party finance still has to be regarded as only one of many variables affecting the political development of young democracies.  

Thirdly, this essay explores which forms of party finance regimes are most common within ‘new democracies’ with a dominant multi-party system. Finally, it considers what prerequisites are needed to initiate political reform in such a system to bring about a common public party-finance regime as well as guidelines for the disclosure of party funds.

Case studies from the African continent are taken into account in this analysis, providing points of practical reference for the theoretical sections of this essay. Various theoretical influences inform the analysis and are of particular relevance to our essay. These approaches are derived from rational-choice theory and historical or normative institutionalist accounts. This analysis will form the basis for the second part of the essay, where we shift perspective and examine public party-funding regimes as a dependent variable of analysis. Here we focus on the decision-making process of reform that would secure a public party-funding regime. We seek to provide answers to the following questions: Under what circumstances do political parties agree to change the party funding regime? Which combination of criteria within a dominant multi-party system leads to the acceptance of reform aimed at a transparent public party-funding regime? In these ways, we seek to lay out a theoretical foundation for the country-specific analysis of this volume as well as for further comparative research.

Public funding of political parties and democratic theory

All questions about public party-funding regimes are essentially questions about distinguishing between the private and the public sphere. In fact this is one of the central distinctions in political theory. The dichotomy between ‘public’ and ‘private’ in political philosophy
can be traced back as far as the writings of Aristotle. Aristotle divides his philosophic thought into two major dimensions: ‘ethics’ and ‘politics’. He defines ethics as something that ‘concerns moral principles’ while politics constitutes something that ‘is related to society’. In other words, ethics means, in simple terms, the moral behavior of an individual; politics on the other hand defines the integration of any individual in the polity. Notwithstanding this definition, Aristotle does not conceptualise ‘ethics’ and ‘politics’ as separate. In fact he insists there is a close relationship between the two. This understanding is still evident in contemporary political thought: the ‘public’ is regarded as a constitutive attribute of the term ‘politics’.

In pluralist and democratic party systems that are based on free and fair party competition, political parties are separated from the private sphere, usually by constitutional law. Yet they play an important role in the legitimisation of a political system and thereby provide important functions for the common weal too. The status of parties as ‘public’ organisations is thus undisputed from the perspective of democracy theory. Nevertheless, the public funding of political parties by government has – on the contrary – been a heavily disputed issue for decades. And, indeed, the development of public-based funding regimes has proven to be a lengthy process, even within established democracies. Today, one can observe a global trend in the establishment of public funding regimes.

A Freedom House analysis of 2002 concludes that in 84 out of a total 143 countries (59 percent), which have been classified as ‘free’ or ‘partly free’, political parties are receiving public financial support. Due to party financial support through government, parties in some western European democracies are no longer reliant on private funding or party membership contributions (e.g. France or Sweden). In other countries, such as Germany, a balanced system of party finance combines governmental support, membership contributions and private funding.
Table 1: Prevalence of public disclosure laws

<table>
<thead>
<tr>
<th>Region</th>
<th>Number of countries surveyed (N=118)</th>
<th>Percent of countries requiring public disclosure reports</th>
</tr>
</thead>
<tbody>
<tr>
<td>Africa</td>
<td>27</td>
<td>44%</td>
</tr>
<tr>
<td>Asia</td>
<td>15</td>
<td>67%</td>
</tr>
<tr>
<td><strong>Europe</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Western</td>
<td>17</td>
<td>82%</td>
</tr>
<tr>
<td>Eastern</td>
<td>18</td>
<td>89%</td>
</tr>
<tr>
<td>Pacific / Oceania</td>
<td>9</td>
<td>44%</td>
</tr>
<tr>
<td><strong>The Americas</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>US / Canada</td>
<td>2</td>
<td>100%</td>
</tr>
<tr>
<td>Caribbean</td>
<td>11</td>
<td>27%</td>
</tr>
<tr>
<td>Central</td>
<td>7</td>
<td>29%</td>
</tr>
<tr>
<td>South</td>
<td>12</td>
<td>58%</td>
</tr>
</tbody>
</table>


Note: ‘The 118 nations were included on the basis of availability of data on their disclosure laws. The 118 countries are primarily electoral democracies (84%). 81% of the 121 countries categorized as electoral democracies by Freedom House in 2003 are included in the survey. Of the countries not included in the survey due to lack of data available, 19% (n=14) are Not Free, and 56% (n=40) are Partially Free – all countries in which political finance disclosures would not be expected to be among the most critical political issues. The electoral democracies not included in the survey are primarily small or newly established nations’ (USAID). For a listing of the countries see Appendix A in USAID/Office of Democracy and Governance, Bureau for Democracy, Conflict, and Humanitarian Assistance (ed.), *Money in Politics Handbook: A guide to increasing transparency in emerging democracies*, Doc. PN-ACR-223 (Washington: USAID, 2003).

Especially in Western democracies a system of public funding of parties has been established alongside increasingly restrictive transparency regulations. For this reason, Scarrow defines governmental or public party finance as a ‘carrot, which goes along with less welcome transparency requirements’. However, the experience of public funding in combination with increased financial transparency differs significantly in young democracies and transitional states: USAID.
records that only 27 per cent of the states investigated in the Caribbean (11 states in total), 29 per cent of central American states (7), 44 per cent of African states (27) as well as 44 per cent of states in the Pacific/Oceania region (9) have a legal body which requires the parties to publish disclosure reports (see Table 1).

**Party finance regimes**

A political (or party) finance system is ‘a set of rules that deals with the indispensable flow of money into the political system and from it’. It provides the framework within which parties and candidates can legally act to obtain money for their activities and spend it, and within which citizens and organisations – private and public – fund those activities’.¹⁹

Essentially two major forms of party finance can be identified: public funding and private funding. A further distinction is common in political finance research: ‘party finance’ is a term usually applied to parliamentary systems, where political parties are the most powerful actors, while ‘campaign finance’ is more frequently used in presidential systems, where parties operate in the background and the political focus is instead shifted onto the individual candidates. Both political systems have adopted a hybrid system of private and public funding. The main sources of party finance can be placed in three different categories:²⁰

- **Public funding.** The funding may be allocated on an annual basis or election campaign-related only. The method of allocation to parties may be based on the level of voter support (and may include an additional threshold of voter support in order to qualify) or on the number of elected seats (which may also include a threshold). Indirect forms of support might include free public media access, use of public buildings for political meetings, free security for party leadership and political rallies, subsidised or free postal rates, tax subsidies.

- **Private funding.** Political parties may be subject to rules on disclosure as well as campaign spending limits.

- **Illegitimate funding.**
Table 2: Sources of party finance

<table>
<thead>
<tr>
<th></th>
<th>Private funding</th>
<th>Public funding</th>
<th>Illegitimate funding</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Private funding</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Party membership dues</td>
<td>Party donations</td>
<td>Party investments</td>
<td>State subsidies</td>
</tr>
<tr>
<td>Affiliations fees; special contributions; ‘party taxes’ on elected officials</td>
<td>Individual contributions</td>
<td>Institutional contributions</td>
<td>Direct</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Affiliations fees; special contributions; ‘party taxes’ on elected officials</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Authors’ compilation according to Casas-Zamora, *Paying for Democracy*, 18.

Note: ‘Macing’ is the practice of assessing public servants for political contributions in favour of incumbents’. ‘Toll-gating’ is the system that extracts financial contribution to incumbent parties from the holders of government licenses and concessions’. ‘Kickbacks’ are commission payments made to incumbents in return for government contracts’ (Casas-Zamora, *Paying for Democracy*, 55).
These three funding categories are regulated quite differently, depending on the established form of party finance regime. Basically there are three major mechanisms for regulation:\textsuperscript{21}

\begin{itemize}
  \item Regulation of the source of income of candidates and parties;
  \item Regulation of political expenditure;
  \item Regulation of financial transparency for the activities of candidates and parties.
\end{itemize}

**Regulation of income of candidates and parties**

As for the regulation of monetary flows, both ‘negative, restrictive’ regulatory instruments can be identified and more ‘positive, promoting’ mechanisms. The range of funding possibilities is wide, ranging from the ‘legal, transparent’ (e.g. party affiliation fees) to the ‘illegal, corrupt’ (e.g. ‘kickbacks’, ‘toll-gating’ or ‘macing’). Casas-Zamora\textsuperscript{22} has pointed out in his comparative analysis of 44 democracies (which included both ‘old’ and ‘young’ democracies) that the control of private funding and the establishment of funding caps have hitherto been the most common instruments of regulation. However, the precise characteristics of the instruments applied and the degree of implementation can vary significantly across different countries. Casas-Zamora\textquotesingle s study highlights the widespread perception that foreign donations in particular are illegitimate – they are legally prohibited in more than 20 of the 44 observed states. Most of these laws have been passed after corruption scandals such as the Watergate affair in the US.

**Regulation of political expenditure**

The allocation of funds to a party or candidate is usually regulated by general spending caps or by purpose-related expenditure ceilings (on campaign expenditure, for example). Whereas general spending caps are rare in today\textquotesingle s democratic systems, western European countries have adopted systems with purpose-built expenditure ceilings. Ceilings for party campaigning are often set at a low level and, in return, parties are assured the right to advertise in public media and broadcasting services. Such measures reduce financial pressure on the parties, which
in turn creates more equal campaign conditions. However, the western European model would be difficult to transfer to the ‘young democracies’, as these countries usually possess neither public media structures nor strongly developed structures of party democracy.

**Regulation of financial transparency**

The third type of regulation comprises instruments that oblige parties and candidates to disclose the sources and assignment of their funds. This regulatory instrument is applied in different party finance regimes in various ways. It can embrace disclosure of income and expenditure, annual reporting or publication at campaign or election time, or the creation of various types of (public) regulatory or controlling authority.

As Casas-Zamora observes, ‘Transparency rules are meant to shed light on the sources of support of parties and candidates as well as on the latter’s compliance with political finance legislation. While unveiling such information may have an intrinsic value for democracy, transparency rules also have a decisive instrumental relevance for the success of particular political finance reforms, such as contribution and expenditure limits. In many ways, the efficacy of the latter is entirely contingent on the presence of a solid system of political finance disclosure.’

Advocates of the transparency regulation approach adopt a normative perspective on the public and the electorate. They claim that a certain amount of (public) control over and information about internal-party processes and decisions, as well as information about private (local and foreign) contributors to parties, is essential. Critics of this approach claim that contributors’ right to privacy is put at jeopardy by transparency regulations. Whereas most Western democracies have put in place a variety of instruments for transparency regulation, young democracies with an authoritarian past, still aware of the dangers of old surveillance state structures, take a critical position towards such regulation. On the one hand, they frequently refuse to introduce transparency regulation (which is regarded from the perspective of democracy theory as a democracy-promoting measure). On the other hand, such regulation is hindered by the absence of independent public bodies and the limited
capacity of government to impose public sanctions if the parties do not comply with existing laws.

As we demonstrate in the following comparison of the party finance systems of Western and new democracies, a multitude of different party finance regimes can be created by different approaches to party funding.

**Public funding of parties in Western democracies**

Since the 1950s, western European democracies have found that public subsidies to parties can counteract political corruption that arises with party fund-raising and the dependence on private sponsorship or membership fees.\(^{26}\) Even younger European democracies such as Spain or Portugal introduced direct state funding at the very beginning of their transition processes.\(^{27}\)

Besides these forms of direct public funding, several Continental European states have introduced mechanisms of indirect support, such as tax exemptions or relief for MPs, incentives for private donors, tax deductions for donations to parties, free use of office space in parliamentary buildings and free advertising during election campaigns.

The United States exemplifies a break from this norm in comparison to the other ‘well-established democracies’. Nassmacher\(^{28}\) categorises party finance regimes in well-established Western democracies according to four major options for regulation: an autonomy option (Sweden), a transparency option (Germany), an advocate for the public interest option (US) and a diversified regulation (Canada).\(^{30}\) For obvious reasons, these four options cannot be transferred directly to the young democracies, nor can they be regarded as cut-out models for reform in those countries. Despite the complexity of factors that need to be considered, the quest for good practice to guide young democracies with dominant party systems can be advanced by an appraisal of Western party regimes.

The autonomy option (Sweden) ‘treats parties as voluntary associations entitled to the unregulated privacy of their internal organization and financial transaction … The Swedish debate on the funding of political competition has been terminated three times by a decision to abstain
from statutory regulation and to respect the internal autonomy of political parties as private, voluntary associations of civil society.

The transparency option (Germany) ‘emphasizes the right of the people to know, as well as their ability and determination to judge, all aspects of party behaviour, including fund-raising and spending, when casting a vote. The major issue of party and campaign funding under this option is the quest for transparency achieved by rules enshrined in national legislation.’

The advocacy option (United States) does not treat the transparency of financial operations as sufficient. ‘As voters will rarely care for details of party funding, the anticipated sensitivity of parties, leading to sound fiscal behaviour, will be limited. Public policy must create a public agency which is expected to monitor and check the flow of political funds on behalf of the general public. Whereas the transparency option assigns wide margins of decisions to individual voters, such a public agency will need a set of reliable yardsticks. Statutory rules of conduct, bans, limits and controls have to be legislated for and implemented.’

The diversified regulation option (Canada) ‘takes account of the different, interrelated issues which need to be tackled by a carefully designed policy mix of benign neglect, precise regulation, public incentives and occasional sanctions. Learning from experience with the three options presented above, this approach tends to be more comprehensive in scope and more modest in expectation.’

Experience from Western Europe shows that the party finance regimes of a country can indeed affect various dimensions of political party development and can even have an influence on the institutionalisation of a party system. Private party funding might support the grassroots alignment of a party, given the importance of membership fees. Yet on the other hand it also imperils parties’ independence from private funding (local and foreign funding alike) in the long run. By contrast, public funding, in combination with financial transparency, supports the independence of a party from private donations, advances internal party democracy, and diminishes corruption. Political equality and political competition in the party
system are underpinned by this particular type of party finance regime.

Even though young democracies can build on the experience of well-established party finance regimes, the reform of existing regulations is strongly influenced by various external variables: institutional veto-players and interest groups, the consensus between parties, the goals of political parties (vote-seeking vs party competition), the public interest in curbing corruption and public debate about it as well as the request for reform of public party funding brought forward by the media.\(^{36}\)

In the following section, we illustrate current developments in the party finance regimes of young democracies and highlight the prerequisites for possible reform.\(^{37}\)

**Party finance regimes in ‘new democracies’**

In contrast to Western democracies, young democracies usually lack public party finance structures. In Eastern Europe, a negative perception of public funding prevails, partly due to a history of authoritarian regimes and omnipresent ruling parties.\(^{38}\) By contrast, South America shows a tendency towards public funding controls because of various scandals in the past related to private party funding.\(^{39}\) African states are in comparison lightly regulated. Indeed, the African continent exhibits forms of non-transparent party-finance regimes and high levels of corruption.\(^{40}\) Southall and Wood\(^{41}\) describe three main phases in the development of party finance in southern Africa:

First, during the early post-war nationalist period, mass-based political parties were funded by party memberships and external agencies or governments interested in influencing the outcome of decolonization. Second, following independence, the effective merging of ruling party and state structures enabled parties to use state resources. Third, during the multiparty democratic transition phase, ruling parties continued to rely on state resources while opposition movements and parties drew on grassroots financing, local NGO support and international donors.\(^{42}\)
Some form of public funding often does formally exist, but, as is the case in South Africa, this funding is not sufficient to cover campaign expenses.\textsuperscript{43} Private funding (both local and foreign) remains the central source of party finance in South Africa. Indeed, no legal framework regulating the flow, assignment and disclosure of private donations exists. Across Africa this story is repeated. ‘Fewer than one in five African states has comprehensive laws to govern the raising funds and audited accounts … exist only in a tiny minority of African states.’\textsuperscript{44} This severe lack of regulation is a major disadvantage for oppositional parties, which have repeatedly criticised the inequality in access to party funding. This disadvantage seems to be particularly severe for smaller parties in multi-party systems with a single dominant ruling party. It is the smaller oppositional parties that would benefit most from the introduction of transparency regulation and caps on donations.

One can identify all forms of funding sources (see Table 2) in the dominant multi-party systems in Africa. Income from party membership fees, private donations by party officials and minor donations by party members and supporters, and financial contributions by MPs can all be regarded as legitimate. However, donations by domestic interest groups and lobbyists have to be regarded critically, and the current funding methods of the international ‘donor community’ appear highly dubious when considered from a pluralist, liberal-democratic standpoint.\textsuperscript{45} In young African democracies (such as Kenya or South Africa) one can observe quite plainly what has been called ‘party funding tourism’.\textsuperscript{46} Prior to the ‘critical elections’ in Kenya’s transitional process in 1992, the Democratic Party (DP) was sponsored by domestic Kikuyu entrepreneurs, and the ‘Forum for the Restoration of Democracy – Asili’ (Ford-Asili) ‘reportedly included the chairman of British American Tobacco (BAT) Kenya, who had close ties to the Kenyatta family’.\textsuperscript{47} Meanwhile, Ford-Kenya raised 80 per cent of its central fund … from ‘a few large donations from anonymous well-wishers’.\textsuperscript{48} Foreign donations play a controversial role in transitions from authoritarian to democratic systems. During the transitional process, parties in ‘new democracies’ must invest considerable amounts of
money. At this early stage of the transition to democracy, external financial support can prove conducive to democratic consolidation.

The African National Congress (ANC), as is widely known, survived its epic struggle against the apartheid regime in South Africa largely through the financial and other support it received from organisations and governments around the world. In 1994, fighting its first election, the ANC would not have been short of money, and most of it would have come from abroad. Three years into its rule, according to *Africa Confidential*, it had to retrench 163 out of the 560 staff it employed, put its headquarters up for sale and sell vehicles to staff. There are unconfirmed reports that former president Nelson Mandela capitalized on his reputation and stature to raise huge donations from leaders of foreign countries for the ANC’s 1999 election campaign. One survey of South Africa indicated that in 1999 parties expected between 50 and 80 per cent of their campaign funds to come from business and foreign donors.49

Long-term dependency on external sponsors can have negative effects, undermining party autonomy, hampering institutionalisation within society, and impeding consolidation functions.50 The influence of entrepreneurs, large multinational corporations and foreign governments must be viewed critically. ‘Kickbacks’, ‘state subventions’ and companies’ ‘returns on business investments’ are common (and corrupt) sources of income for political parties in Africa. Other corrupt forms of party finance include the abuse of public resources, whereby dominant ruling parties seek to strengthen their own competitive position against the smaller oppositional parties. Staying with the Kenyan example: In the 1992 elections in Kenya, the former President and leader of the dominant KANU party, Daniel arap Moi, not only used enormous public financial resources for his own campaign – not to mention the fact that none of the oppositional parties had access to public financial support – but also invested KES 2 billion of his private
fortune as a contribution towards the campaign. This cannot be classed as equal opportunity.

But even today – when most ‘new democracies’ in Africa have held several elections – the opposition parties in dominant multi-party systems still complain about the unequal allocation of public subsidies, unequal access to private and public domestic and foreign funding, and the lack or complete absence of a regulatory framework for transparency and disclosure.

Private domestic and foreign donations are largely unregulated and there are very few laws regulating election campaign spending. The obvious danger in this situation is that political parties expose themselves to influence-peddling. But aside from the potential to corruption, kickbacks and the type of scandals associated with money for favours, the issue of party funding also influences the overall development of the character of the party system.51

In South Africa, there is a severe lack of control of – and information about – the public as well as private funding of political parties and it is possible to ‘buy’ political influence through secret donations.52 The connection between donors and political parties is often not visible, and party funding can become a back door through which internal party democracy is seriously undermined.

This brings us back to the decisive practical question: How can reform of the party finance regime and the introduction of strict transparency regulations be made acceptable to the dominant parties which profit most from the status quo?53

**Moving towards public party funding and transparency**

In young democracies, dominant parties are beneficiaries of the status quo. They have little incentive to introduce a funding regime that fosters transparency, party competition, better institutionalisation of political parties and a strong opposition.54 As Bryan and Baer observe:
Political financing and corruption may represent a greater problem in Africa than in any other region of the world. With multiparty systems less than a decade old, and with governments facing ever-increasing challenges across the continent, African political systems remain fragile. Political corruption further undermines these weak systems, erodes the confidence of citizens, and threatens political stability in many countries. Developing solutions requires an understanding of how money corrupts politics, which differs from country to country. Party finance in Africa is impacted by a number of political and social factors, including the post-colonial political history of most African countries; the cultural practices of patronage and gift giving in many countries; political constituencies based on tribal, ethnic and regional interest, rather than on ideology; and weak organisations.

Bearing this in mind, there is little prospect of transferring ‘best practice’ approaches from Western party-finance regimes to the African continent. However, these prototypes can stimulate reflection, illustrate possibilities and offer ideas about possible regulatory instruments.

When it comes to the actual decision to reform the party finance regime, and introduce a strict regulatory framework, five dimensions seem to be significant: institutional veto-players and interest groups; consensus between parties; aims of political parties (vote-seeking vs party competition); public interest in curbing corruption and public debate; and promotion of reform of public party funding through the media.

For institutionalist scholars, the number and the positioning of institutional veto-players and additional interest groups are crucial. Such players assume the role of agenda-setters and thereby influence the political decision-making process. The success of reform depends on the political system and the political culture of any given country, e.g. how is political power divided and linked in the state? What is the status of the constitutional court? Casas-Zamora notes:
Factors such as regime type, electoral system, unitary versus federal structures, fragmentation of the party system, strength of party identities, range and depth of government intervention, and judicial prerogatives, to name but a few, mould the incentives and financial needs of political actors, the obstacles to monitoring the flow of political money, and, ultimately, the effects of any PFS [party finance systems]. Thus, the parties’ economic requirements and the political finance reform issues that will arise in a parliamentary system are naturally different from those in a presidential regime. While the strengthening of parties is as systemic need of the highest order in the former, in fixed-term presidential systems the permanent organization of parties is far less crucial; much more are the incentives for the parties’ electoral orientation.  

While the institutional framework is one important factor, the consensus of the parties is even more decisive for a fundamental reform of a party funding regime. Especially in multi-party systems, a basic orientation towards consensus by the dominant ruling party is an essential prerequisite for reform. A clear focus on policy within parties is also crucial. If parties place less attention on vote-seeking, and more on goals such as cooperative competition, strengthening their own party apparatus and realising their political programmes, they are more likely to enter on reform towards a public party finance regime and transparency regulation becomes more likely. Hence the strategic goal-setting of the dominant party is more significant in ‘new democracies’ than in ‘established democracies’.

Public discussion, public interest in fighting corruption and the willingness to introduce regulations to secure transparency are also of importance in the decision-making process. These factors can help make the dominant party receptive to the need for public funding, especially if the media join the call.
Conclusion

In multi-party systems with a dominant ruling party, one will more likely achieve a pro-reform consensus across party lines about setting in place a regulated public funding regime for parties, in combination with strict regulations such as disclosure of income and expenditure and donation caps on domestic and foreign contributions, if there are strong ‘agenda-setters’ among the political parties and if parties strive for consensus on the need for reform. Finally, reform is fostered by intense public debate about corruption in politics, in which public funding is presented as an effective instrument to curb corrupt political practices.

In comparative political science and especially in party institutionalisation research, studies of party finance are still rare. In future studies of the institutionalisation of political parties and the role of opposition parties within dominant multi-party systems (especially in ‘new democracies’) we would urge that scholars include the party finance regime of a country as an independent variable of analysis. Even if the party finance regime is only one of many variables, it has a decisive effect on dimensions of party institutionalisation. Political competition and equality in the party system are also affected by the type of funding regime.

Endnotes


2 Cf. interviews by Kristina Weissenbach with representatives of the oppositional parties in Kenya und South Africa.


7 The term ‘party finance regime’ is used in reference to Kaiser’s term ‘institutional regimes’ and encompasses all regulation of party finance. ‘The term ‘regime’ has to be distinguished from the term ‘system’: A political system includes multiple institutional regimes, which affect various policy areas without being arranged in any hierarchical order’ (Kaiser, 92; translated by authors).


11 Ibid.


15 Ibid., 17 and 118.


21 Casas-Zamora, *Paying for Democracy*, 17

22 Ibid., 17f.

23 Ibid., 20ff.

24 Ibid., 23.
Paying for Politics

28 Ibid., 9ff.
29 Casa-Zamora, Paying for Politics, offers a well-differentiated typology of ten political/party finance systems, based on a distinction of various instruments for regulation of financial party income and expenditure.
32 Ibid., 11.
33 Ibid., 12.
34 Ibid., 12.
36 Koß, Staatliche Parteienfinanzierung.
37 Henceforth party finance regimes will be analysed as a dependent variable.
43 P. Smith, 2008, personal communication.
45 Dahl, Polyarchie: Participation and Opposition.
46 Weissenbach, ‘Konsolidierung ohne Wettbewerb?’.
48 Ibid., 23.
49 Ibid., 24.
50 Weissenbach, ‘Political Party Assistance in Transition’.

170
ANALYSING PARTY FINANCE REGIMES

52 Calland and February, Democracy and Political Party Funding.
53 The party finance regime as such will therefore be treated as the dependent variable in the last section of our essay.
54 Weissenbach, ‘Konsolidierung ohne Wettbewerb?’.
56 Koß, Staatliche Parteienfinanzierung and Delhees et al., Wohlfahrtsstaatliche Reformkommunikation.
57 Casas-Zamora, Paying for Democracy, 54.
58 Koß, Staatliche Parteienfinanzierung.
59 Ibid.
60 Ibid.

171
Democracy cannot deepen and broaden unless democracies effectively regulate the use of money to influence decisions. While this is true in any democratic system, it is particularly pressing in the South African context, where the relationship between money and politics threatens to impede prospects of a vigorous democracy.

The assertion that the funding of political activity in general and parties in particular can threaten democracy has been made repeatedly in the literature, so much so that it may seem self-evident. It is not. On the normative level, a libertarian view of democracy would hold that individuals and corporations have a right to spend their money in any way they choose and that any infringement of that right, in the form of regulations controlling political donations, is a restriction on liberty. And, while this is not the mainstream view among students of politics, it is very often influential when democracies tackle this issue in concrete ways. Clear topical evidence of this is found in the recent US Supreme Court ruling which strikes down significant limits on party funding on the ground that they infringe the liberty of funders. And, while this view is hotly contested in the US as well as Western Europe, Germany, to name but one example, does not place limits on
the amount of money that may be donated, although it does regulate funding in other ways.³

This means that the claim made here, that democracy is threatened if the impact of money on politics is not regulated, is not self-evident and needs justification. The approach adopted in this essay⁴ stresses the notion of democracy as a system of popular sovereignty based on the normative principle that each adult member of a political community has an equal claim to an equal share in political decisions. While this ideal state has never been attained by any democracy and never will be, it provides the normative grounding for an assessment of democracy’s health, depth and breadth. If concentrations of private or public power allow some to enjoy a far greater influence over decisions than others (by virtue of that power rather than the ability to persuade or to attract public support), democracy is threatened. The reality that some have large amounts of money which can be used to influence political decision-makers regardless of the opinions of the majority of citizens is, therefore, a danger to democracy: ‘the aggressive search for funds may induce politicians to listen more to those who contribute to party coffers than to those who vote for them’⁵. If we see the principle of an equal share in decisions as the defining characteristic of democracy, then any claimed liberty, such as that to fund political parties, must be restricted if it can be shown to inhibit the free exercise of popular sovereignty, of every citizen’s right in principle to an equal say.

That it does this in practice is illustrated by reference again to the US, whose institutional design is in some ways a model of popular sovereignty. Party candidates are chosen directly by voters in primary elections; many of the posts that, in other societies, are allocated by processes in which citizens cannot participate, are open to public election (district attorneys and judges are examples; the US is reportedly one of only three countries where judges are subject to some form of election, and in the other two the practice is far more limited);⁶ key public functions such as education are often subject to control by elected councils. Citizens dissatisfied with an elected government’s failure to adopt their policy proposals can force it to comply by drafting
ballot initiatives for consideration by the relevant electorate. And elected officials can be recalled by popular ballot before their terms have ended. In sum, more positions and decisions are open to direct decision by citizens than in most other democracies.

Actual popular sovereignty in the US is, however, probably more limited than in many other democracies. Only 51 per cent of the adult population voted in the election of 2000, lower than the percentage of adults voting in other Northern democracies and lower also than many democracies in the South. Survey data show that little over a third of North Americans believe that their government reflects the will of the people. Despite formal democratic rights for all, racial minorities, the young, the less educated and less wealthy do not enjoy the same rights to decide as the mainstream and so citizenship rights are, in practice, unevenly distributed. The key reason is that some have routine access to political decision-makers which enables them to influence not only the decisions themselves but the rules that determine how they are made. In the US, this is more acute than in most other democracies because restrictions on the use of money to influence political outcomes have been ineffective. Concentrations of wealth are used to influence politics in a variety of ways, among them the guaranteed, routinised access to political representatives enjoyed by those who fund the campaigns of elected office-holders. Power wielded by the action of small groups with large resources, in routine engagement with government, far outweighs that of the rest of society: ‘in the world of actual politics people confront one another in massively unequal power contexts – in the United States most obviously owing to the role of money in politics’. But the problem is not unique to the US, even if it is most evident there.

This brief reference to international trends serves as a pointer to the issues at stake in South Africa. There are currently no restrictions on the funding of parties or political campaigns and no requirements for disclosure, despite campaigns for this by non-governmental organisations. An obvious conclusion is that, the longer this persists, the more likely it is that the democratic content of the political process will be eroded
by the impact of donors on politicians and political parties. But, to a considerable degree, the problem is not hypothetical; it is already with us: the issue is not whether money will influence the political process in the future, but the degree to which it does so now. One of the many legacies of the society’s past is a toxic set of circumstances that makes the need to effectively regulate the relationship between money and politics, and party funding in particular, an urgent priority.

An accident waiting to happen: money and politics in South Africa

If we are to understand the problem, we need to look back briefly to the country’s democratic transition during the late 1980s and early 1990s. At that time a nervous and uncertain business leadership was trying to forge a relationship with the African National Congress (ANC) and other resistance movements that were moving from exile and underground into the mainstream and almost certainly into government. Business leaders did not leave the task of engaging the leaders of these movements to the government; they initiated the first public engagement between mainstream white figures and the ANC. The severe racial wealth disparities which apartheid reinforced ensured that the rising political class they sought to engage consisted almost entirely of people who were returning from exile or emerging from underground in the segregated townships with none of the resources required for the lifestyle expected of persons of prominence in the affluent white world which apartheid had created. The line between showing goodwill and buying future favours became exceedingly thin as the engagement prompted a particular relationship between the wealthy and the impecunious future holders of government office. Many politicians were assisted to integrate into their new circumstances by the provision of accommodation, personal vehicles, and money to send children to the schools from which apartheid had barred them. At the same time, business realised the need to make some gesture towards deracialising the economy and so the hunt began for black managers and board members. Since the only potentially qualified black people
whom they knew were the political activists with whom they engaged, it was perhaps inevitable that they would turn to them with offers of jobs or directorships. And so occupying political posts became a conduit to personal resources.

A further factor was the situation of the ANC itself. While it was almost certainly heading into government, it was not a rich party – it had subsisted in exile and underground on donations from a variety of sources ranging from the former Soviet Union to Scandinavian donors. But it did not command the resources required by a party soon to fight a general election as the front-runner. A mass membership provided no prospect of financial relief; the impoverishment of most ANC members meant that a membership fee of only R12 a year was charged, ensuring that resources would be required from elsewhere if the ANC was to function as an effective party. (In 1994 the ANC would, like other major parties, receive public funding to fight its election campaign, but this was not available at the beginning of the period and was in any event only a small portion of its expenditure.) Securing foreign and, where possible, local donations became a priority.

Since 1994, these patterns have played a key role in shaping the relationship between government and politics. Governing-party politicians have not monopolised relations with private wealth that may promote priorities not chosen by the electorate. But, the more the ANC strengthened its hold on national and provincial government, the more it became the party which people with wealth and a desire to exert influence wished to befriend. The background discussed here created a pattern in which wealthy private individuals seeking a relationship with political office-holders quickly came to see dispensing assets to political actors as the route to influence. Perhaps the most notorious was the late Brett Kebble, a businessman whose murder was followed by a series of revelations about allegedly corrupt business dealings – and a R3.5m donation to the ANC, as well as a business relationship with the ANC Youth League’s investment vehicle. It can be safely assumed that this is no isolated incident and that those who want positions in government to open access to private wealth will not want for suitors.
These patterns also impact on politics within the ANC in several ways. Firstly, private money is allegedly used to pay politicians to promote the interests of wealthy individuals within the organisation – while the recipients use these resources to build patronage networks of their own. Secondly, private wealth is used to influence contests within the ANC, prompting Jacob Zuma to ask: ‘When money changes hands in the battle for personal power and aggrandizement, where is the movement that is built around membership that joins without motives of material advantage and personal gain?’ And thirdly, the expectation that political office can bring private gain heightens the stakes of internal contests for position, resulting in an ANC attempt to find new rules to manage internal contest.

The continued search for party funding has also become a significant feature of post-apartheid governance. It has allegedly influenced foreign policy decisions; a prime example was the government’s refusal in 2009 to grant a visa to the Dalai Lama, allegedly an attempt to maintain ANC funding from the People’s Republic of China. The ANC has also established an investment arm, Chancellor House, which creates a constant danger of conflicts of interest as it seeks to engage in business dealings to secure the organisation’s financial base. Again, it is important to stress that, where opposition parties have controlled sub-national governments, allegations that party funds were augmented by donors seeking personal gain have also been made.

The ANC is, as implied earlier, not the only party obsessed with funding – all parties share the view that funding is a key to effectiveness. Some smaller opposition parties who compete for the ANC constituency, such as the Africanist or Black Consciousness parties, argue at times that they cannot compete with it because they do not command its resources. But the link between electoral success and resources is not as clear-cut as this argument would have us believe. While parties with money can do a great deal more than those without, in other democracies well-resourced parties and candidates do lose to less endowed rivals and, in South Africa, the same may have happened on occasions. An analysis of public funding for parties in the 1999
general election reveals that the New National Party (NNP), because its predecessor performed far better than other opposition parties in 1994, received over R10m, double the amount for the Inkatha Freedom Party (IFP) and more than five times the R1.7m available to the Democratic Party (DP). 25 But the DP won 9.5 per cent of the vote, the IFP 8.5 per cent and the NNP only 6.9 per cent. While it remains possible that the two parties which beat the NNP received far more private funding than it did, the lack of correlation between public funding and electoral performance invites us at least to consider the possibility that money may be at most a necessary condition for waging electoral contest and that parties’ preoccupation with funding may be exaggerated. This observation has no impact on actual political behaviour: as long as parties believe that money brings success, the problem of how they receive their funds will matter. And to say that money does not matter as much as parties think does not mean that it does not matter at all. It does, and so party funding will remain a core issue in any democracy.

Nevertheless, it remains important to challenge the notion that the role of money in democracy is important only because the parties that have more money can send their messages to voters better. This may disguise more insidious uses of party funding – the way in which, in South Africa, better-resourced parties can use money literally to buy votes by, for example, handing out goods to voters in return for support. During the 2009 election, election monitors found evidence that food parcels were being distributed to poor voters in a clear attempt to influence their vote.26 While this may be a crude example, there are many other ways in which party funds can be used as sources of patronage for parties. Clearly, then, the use to which party funds are put requires scrutiny, which may not occur if we restrict ourselves to simplistic notions of the relationship between funding and electoral competition.

Implications for democracy – and regulation

While some of the implications may seem obvious, it is important to analyse these trends to build a case for regulation.
It can be safely assumed that private individuals or entities other than the electorate (such as foreign donors to political parties) are able to influence the political process by dispensing resources to parties and politicians. This clearly subverts democracy since it means that decisions are taken not in response to the will of the electorate but to the wishes of the wealthy. An interesting variant of this familiar phenomenon is one perhaps more peculiarly South African: purported policy disputes may disguise battles for resources by interests who do not reveal themselves. A concrete example is the Communist Party’s claim that a call for the nationalisation of the mines by the president of the ANC Youth League, Julius Malema, is in reality an attempt to benefit private business interests by securing a ‘capitalist friendly bail-out’ which will rescue indebted black economic empowerment business people.27 Citizens clearly cannot participate effectively in policy debate unless they have adequate information about the issues at stake: this is clearly not possible where policy proposals are undeclared attempts to advance particular private interests.

Similarly, it seems equally plausible that, given the potential link between political position and personal wealth created by the patterns already discussed, political contests which appear to be battles between competing ideological and policy positions are partly or wholly battles for posts and resources. Contests presented to the voting public as battles between the ‘left’ and ‘right’ may be, if only in part, battles between rival groups seeking to gain the positions that will open the door to private resources. It can be safely assumed in these cases that the interests of voters will not be served regardless of which group wins and that the winners will be more concerned to cement relations with private providers than with listening to and acting upon the expressed will of a majority of voters. And it hardly needs an elaborate theoretical exercise to establish the point that the use of funds to buy votes is an egregious violation of the notion of popular sovereignty.

Within the governing party, the effect could well be to ensure a continuing battle for position which is likely to relegate the preferences of party activists and voters to at most a marginal concern, making
the exercise of popular sovereignty impossible, regardless of how many outlets party members and voters may have to express themselves. It might also deepen a crisis in the ANC prompted by the reality that the organisation has moved, since the end of 2007 when Zuma defeated Thabo Mbeki for its presidency, from a movement in which competition for posts was discouraged to one in which it is rampant. While vigorous political competition is likely to strengthen political parties, just as it strengthens societies, this only holds true if there is consensus on the rules of contest and if the winners and losers are willing to continue to coexist. This is clearly not the case within the ANC at the time of writing: the intensity of the contest and the ‘zero-sum’ approach that many of the contestants adopt are clearly fuelled by a dynamic in which the dispute is often about access to private resources rather than the opportunity to serve the movement or the electorate. In some circumstances, this could produce greater popular sovereignty—for example, by prompting fissures which might produce new political parties competing for the ANC vote, forcing the competitors to respond to citizen preferences. But this is hardly guaranteed. The crisis could just as well ensure a lengthy battle for posts between rival groups while the electorate’s concerns are ignored.

In sum, the influence of private money on political parties and on politicians in South Africa weakens democracy and threatens to erode it severely if the trends discussed here harden and a politics centred around competition for access to private resources becomes dominant. The unregulated funding of political parties and politicians therefore requires regulation if the peril to democracy is to be averted.

It could be argued that the patterns described here do not require explicit regulation because, despite the absence of legislation explicitly regulating party funding, the practices are illegal and that the problem lies with inadequate enforcement, not a paucity of regulation. Bribery and corruption are offences, it is argued, and anyone found to give or receive money in exchange for special favours can be prosecuted. There are two objections to the argument.

One is that the legal definitions of bribery and corruption do not
cover patterns that may subvert democracy but do not fall within the legal definition. If, for argument's sake, government decision-makers did decide not to admit the Dalai Lama because they did not want to alienate the Chinese government lest it cease funding the ruling party, this is not bribery within the meaning of the law. What breaks the law and what erodes democracy are not the same and, if the society wishes to preserve democracy, it cannot rely on existing law to do that.

The other objection is that, where individuals or companies use funding to gain influence, cases in which money is given on the explicit understanding that a particular favour will be done for the donor are the exception rather than the rule. Far more common is the pattern in which funding buys the donor access, which in turn secures influence. The opportunity to interact regularly with political office-holders, which donors are likely to enjoy, can ensure influence where no explicit quid pro quo is ever offered or accepted. The donor becomes someone whose views are regularly heard by political office-holders: this may exert an influence which subverts public sovereignty without the faintest whiff of illegality. There may even be cases in which the donor does not need to express a preference. Political decision-makers will embark on or avoid courses of action not because the funder asked them to but because they assume that these will please the donor and thus ensure continued funding. The way in which public sovereignty is subverted by unregulated funding of parties – and politicians – is far too subtle to be proscribed by ordinary legislation outlawing corruption and bribery. Only reforms explicitly designed to prevent the erosion of popular sovereignty that party funding threatens can begin to defuse the threat which democracy faces.

Towards more effective regulation: three proposals

The analysis presented here suggests that regulation of party funding – and of the relationship between money and politics more generally – is crucial to prospects for a more effective democracy. Regulation is no panacea. The evidence presented here suggests that the problem is deep-rooted and that regulation may be at best the start of a battle against
Paying for Politics

the use of money to subvert popular sovereignty. But a start is essential and, even if regulation has only a limited effect, it can begin to constrain options for those who would subvert citizens’ right to choose. Three proposals seem appropriate to begin to address the problems raised here.

The first part is perhaps the most obvious and that for which, as noted above, NGOs have campaigned: disclosure. It is hard to imagine any progress as long as there is no requirement that parties disclose their funding and its sources. Though disclosure is a common form of regulation, its degree is open to debate. To name but one example, in Germany donations below a certain level do not need to be disclosed. The rationale is presumably that the administrative burden of reporting very small donations is great and that there is no need to report them. Given the urgency of the problem, however, placing a slightly more onerous administrative burden on parties seems a small price to pay for ensuring that the society knows precisely where parties get their money. So one immediate remedy is legislation insisting that parties disclose fully where they get their funds. It should be within the capacity of parties to disclose all funding, and they should be forced to do so. If they are not, it is inevitable that the will of the funder will continue to trump that of the people.

Second, the principle of popular sovereignty requires us to ensure as far as is practicable that concentrations of wealth are not used to give some an unfair advantage over others in public deliberation. On the other hand, it is surely impermissible to ban private donations to parties entirely because this would deprive people of a form of political expression, their right to offer resources to the party of their choice. The answer lies in allowing donations but in drastically capping what any donor – individual or corporate – can give. Haggling over the amount is inevitable, but it would need to be set low if its purpose is not to be defeated: to start the conversation, an admittedly arbitrary cap of R2500 is suggested. The key issue here is not the figure but making the ceiling as low as possible. It is worth noting that the effect of this measure would be to democratise party funding by ensuring that fundraising capacity would depend far more on the number of people parties
can persuade to support them than on the amount they can persuade a small group of wealthy funders to give. This is a key requirement of any attempt to align party funding rules with the principle of popular sovereignty and is also key to the third and final proposal.

This third suggestion deals with the question of public funding for parties. Some form of support for party funds from the public purse is found in a variety of countries. Aid donors also sometimes make funds available to parties in Southern democracies and a few South African businesses choose to support parties as a corporate social investment initiative, giving the money not to one party but to a range in order to support democratic politics. The rationale is appropriate, given the normative position argued here: the less parties have to rely on private funds to operate, the more likely it is that they will be able to compete for voter support on equal terms. Public funding is thus entirely consistent with the principle of popular sovereignty because it makes it more likely that the full range of voices will be heard. A key initial issue, though, is whether aid donors and businesses who engage in transparent multi-party funding should be covered by the cap on donations, which would make the aid programme pointless. This problem might best be solved by establishing, through legislation, a publicly administered fund for the promotion of party activity to which donors, whether local companies or international donor agencies, would be invited to contribute. The funds could be disbursed by an agreed formula and could be administered by an oversight committee on which donors would be adequately represented. But what formula ought to be applied?

By far the most popular method, in South Africa as elsewhere, is to distribute the funds in proportion to a party’s most recent performance at the polls. This created difficulties during the 2009 election campaign because one of the competitors, the Congress of the People (COPE), had not ever contested an election though it also appeared to enjoy significant voter support – it polled over 7 per cent. Business donors in particular wrestled with the intractable problem of how to avoid disadvantaging COPE while at the same time preserving a funding
formula that was defensible. No satisfactory solution was found because none was possible – the reigning funding formula simply could not deal with the emergence of a significant new party with no electoral record. This is not the only objection to the funding formula. Another obvious one is that it cannot deal with shifts in public sentiment: it is trite to point out that parties can lose or gain a great deal of support between elections, and the funding may be hopelessly misaligned with actual support. There is also a danger that the formula might ensure an ever more unfair electoral contest, as previous successes give parties a head start over opponents, which allows them to notch up even bigger future successes. And, since the governing party is by definition always the largest recipient, this formula can come to be seen as a hidden subsidy to the ruling party. This was certainly the view in the mid-1990s of Tanzanian opposition parties, which berated European donors for establishing a democracy support fund which, using the electoral performance formula, donated large sums to the ruling party and only small amounts to the opposition. Clearly, a formula which relies on a criterion other than previous electoral performance is needed.

An answer would be the matching funds principle: for every R1 a party raises from the citizenry, public funding contributes R1. The same formula could obviously be used to distribute funds raised by the special donor fund mentioned above. This proposal would democratise party funding only if the cap on donations was low because the object is to reward parties not for past glories but for the degree to which they can persuade citizens to support them financially in the present. If the cap is maintained at a low enough level, the number of donors rather than the size of donation would determine the degree of public and donor funding: popular support would be the criterion, not connections to the wealthy. This proposal is clearly consistent with the notion of popular sovereignty because it seeks to make public funding reliant on a more reliable measure of current support than previous electoral performance. Forcing parties to persuade large numbers of citizens to support them tangibly seems a fair way of ensuring that those who have more support get more resources. There is one possible
variant of this system, which is to invite taxpayers to specify on their tax form which party should receive their contribution to party funding. This is even more democratic in principle but would be fraught with difficulty in practice: citizens should be able to support parties without revealing their preferences on official forms. And, since most South Africans pay indirect rather than income taxes, most do not fill out tax forms and would be unable to convey their preferences in this way. Though matching funds may be a blunter weapon than this proposal, they are more appropriate in South African conditions.

The approach proposed here does leave an important potential loophole: the possibility that parties could circumvent regulation by using civil society organisations, which would not be affected by regulation and which might receive as much money as they could raise, to perform some of their tasks. It could therefore be argued that controls on civil society funding should accompany these measures. In response, it must be stressed that the costs to democracy of seeking to regulate civil society funding or activities in an indiscriminate way would far outweigh any benefits. Given this, the appropriate approach is to avoid any regulation of civil society funding and activities unless and until specific abuses occur and then to seek to address those behaviours only. If, for example, parties were to use ‘front’ civil society organisations to campaign for them, the problem might best be addressed by making specific changes to the electoral rules rather than by introducing general controls on civil society. Initially, then, democracy would be best served by avoiding any regulation of civil society organisations; if regulation is needed later, it should be very specifically targeted at identified abuses.

These three proposals are made to encourage debate. They are not meant to be definitive, and other people will offer important refinements or, indeed, better ideas. But the need for a discussion of reform is palpable. South African democracy will survive in at best a highly attenuated form unless regulation ensures that, as much as is practicable, party funding is an expression of public support, not wealth’s power. The urgency of effective regulation makes a vigorous debate on its most appropriate form a necessity.
Endnotes


5. Tshitereke, Securing Democracy, 4.


12. This argument is drawn from my contribution to the Helen Suzman Foundation, Paying the Piper: Regulating Party Funding in South African Politics, Quarterly Roundtable Series Eleventh Issue, April 2009, 22ff.


16. See, for example, J. Yeld, ‘Nats Hit by New Funding Scandal’, Cape Argus, 21 February 2003.


Government buy the people?


28 Potgieter-Gqubule, ‘Through the Eye of the Needle’.


31 These arguments were made at a conference on multi-party democracy held in Dar-es-Salaam in 1995 in which the author participated.
The relation between money and politics is a topical issue. That money is indispensable to politics is widely recognised, but the real fascination seems to lie in the perverse incentives it tends to generate. These relate to the use of political donations to gain unfair access to policy-makers and to unduly influence public policy. This murky side of money in politics appears to thrive in contexts where the regulation of political contributions is either non-existent or weak. South Africa exemplifies one such context, and this chapter considers some developments that lend credence to this thesis. Though in-kind favours may nearly be as useful as monetary aid in seeking access and influence, the discussion is biased towards money. Monetary contributions are more likely to be reported and are easier to quantify. The same, unfortunately, cannot be said about in-kind political contributions.

**Party financing context**

As an expression of the nation’s commitment to furthering multi-party democracy, South Africa’s Constitution stipulates that ‘national legislation must provide for the funding of political parties participating in the national and provincial legislatures on an equitable and proportional basis’. Accordingly, the Public Funding of Represented
Political Parties Act 103 of 1997 was passed to codify this constitutional provision. Under its aegis a fund has been established for political parties participating in national and provincial legislatures. (Not surprisingly, emerging political parties not yet represented in the legislatures take exception to the fund’s exclusionary conditionality, which effectively favours already well-established political parties.) The administration and management of the fund are the responsibility of the Independent Electoral Commission (IEC), which consists of five members, one of whom is a judge, appointed by the President for a term of seven years. Contrarians, and opposition political parties in particular, do not think that the IEC fully satisfies the conditions of independence defined as ‘insulation from control by the government or any external body, and guaranteed access to adequate resources to carry out its mandate’. The appointment of IEC commissioners, for instance, is deemed unfair and inequitable, as the process does not involve all political parties, and consequently, the argument goes, commissioners have tended to be drawn almost exclusively from the ruling party. This does indeed warrant serious consideration. Apart from these concerns, the IEC appears to handle its statutory responsibility of managing and administering the fund reasonably well. Political parties are expected to submit audited financial reports to the IEC for all approved expenditure relating to the fund. The Act is also clear on the purposes for which the fund may or may not be used. In this sense the public funding of political parties in South Africa is fairly well regulated and amenable to public scrutiny.

The allocation of public funds takes place in the context of a proportional representation electoral system, based on party lists. Thus the bigger a party’s presence in the National Assembly and in provincial legislatures, the greater its share of public funding. Opposition parties criticise this allocation formula for effectively entrenching the dominance of the ruling party. Since 1994 the ANC has held the majority of seats in both the National Assembly and all provincial legislatures except for KwaZulu-Natal and Western Cape. The lion’s share of public funding has therefore gone to the ANC. This in part contributes to sustaining
South Africa as a dominant party state. Whether this is desirable from the point of view of democratic consolidation is highly debatable. On the one hand, it is difficult to be certain that an ethnically divided society such as South Africa would have remained stable without a dominant party. At the same time, the long-term dangers for democracy of political authoritarianism and crony capitalism that dominant party states are prone to can hardly be overlooked.

With the end of white minority rule in 1994, a new, competitive political space opened up in South Africa. But media-driven politics has escalated the costs of political competition to such an extent that the space has become primarily a platform for soliciting private campaign contributions rather than a means of enhancing the quality of representing the citizenry. In an era when election outcomes tend to be determined less by the size of a party’s support base than the war chest at its disposal, public funding remains woefully inadequate, despite the provisions of the 1997 Act, which does not, as it should, relieve parties from the incessant pressure to raise funds. For instance, public funding cannot be used for ‘supplementing the salaries of party representatives, starting a business or acquiring immovable property for the party’. A 2006 proposal to expand the National Treasury’s ‘annual financial allocations to political parties by about a third’ seems to have been stillborn. All this has contributed to encouraging reliance on private sources of funding including foreign governments, businesses and, most recently, party-owned business interests. In the run-up to the 1999 elections, represented political parties had access to a total of R53 million in public funding and yet they reportedly spent between R300 million and R500 million. To contest the 2009 elections, political parties reportedly spent more than R500 million, though only R80 million in public funding was provided.

On the one hand, the reliance on private funding sources has somewhat balanced the flaw in the public funding system by contributing to the emergence of previously unrepresented political parties as significant players in the electoral landscape. The United Democratic Movement (UDM) in 1999, the Independent Democrats...
(ID) in 2004, and the Congress of the People (COPE) in 2009 are the most notable examples. On the other hand, reliance on private financing sets a limit to public funding as ‘an option for combating the abuse of state resources and the illegal funding that fuels corruption in politics’. Of deep concern is the fact that private contributions are currently not subject to any regulation in South Africa. As we shall see, unregulated political financing can spawn a host of undesirable consequences, in particular the danger of corruption, which is often difficult, if not impossible, to prove.

‘The reason for punishing corruption in the private sector is that it subverts the principle of lawful competition and free enterprise because the corruptor may be offering the bribe to obtain preferment over some competitor whose product or services is actually better than the offeror, but who cannot or will not resort to bribery. And in the public sector it is punished because society has an interest in the transparency and integrity of public administration.’

In South Africa the risk of corruption in party financing tends to relate largely, but not exclusively, to the ruling ANC. This suggests that incumbency may render ruling parties more vulnerable to the undue influence of money in politics, for to ‘maximise access, money must be directed toward the strongest candidates – the incumbents’. Former President Thabo Mbeki expressed this dynamic as follows:

To be a ruling party means that we have access to state resources. It means that those who want to do business with the state have to interact with those who control state power, the members of our movement who serve in government. It means that those of us who serve in the organs of the state have the possibility to dispense patronage … All this makes … financial support for the ANC an investment for some of those who want to generate profits for themselves by doing business with government.'
Though access and undue influence are by no means equivalent, the former is a precondition for the latter. If this is correct, then we may need to rethink the idea that ruling parties are ‘better able to resist the intrusion of money into politics’ because they lack the ‘financial demands created by fierce electoral competition’.14

The Sol Kerzner saga
In its first two years in office the ANC was rocked by allegations that in 1994 it had accepted a secret R500,000 campaign donation from hotel and casino magnate Sol Kerzner, who was at the time facing bribery charges. The charges related to a R.2 million sweetener Kerzner allegedly paid to George Matanzima, brother of the president of the Transkei homeland, in return for gambling rights on the Transkei Wild Coast. Nelson Mandela, then President of South Africa and ANC president, confessed to receiving the donation.15 This did not spare the whistleblower, Bantu Holomisa, then a cabinet minister, from expulsion from the ANC. The prioritisation of Holomisa’s dismissal over the investigation of possible party financing corruption was at odds with the ANC’s professed values of democratic tolerance.

The arms deal
Shady party financing was central to what some commentators have termed the worst crisis ever in South Africa’s young democracy – the corruption that came to taint the acquisition of weapons, worth billions of rand, for the country’s defence force. The Strategic Defence Procurement programme, as it was formally known, involved tenders for the supply of naval corvettes, jet fighters and submarines. Allegations of corruption during the process of bidding for contracts were first made publicly by Patricia de Lille, then a Pan Africanist Congress (PAC) MP, on the basis of reports forwarded to De Lille by concerned ANC MPs. Of particular interest is the controversy around the corvette programme, which culminated in the conviction of the businessman and self-proclaimed financial adviser to then Deputy President Jacob Zuma, Schabir Shaik.
Though Shaik’s conviction did not relate to his political contributions to the ANC, the fraud charges he faced stemmed directly from his writing these contributions off as development expenses. It is thus worth reflecting on the relationship between his group of companies and the ANC. In the course of his trial, Shaik revealed his scheme to obtain shareholding for the ANC in a number of key business structures. He admitted to setting up one of his companies, Floryn Investments, for the sole purpose of donating money to the ANC. To disguise this fact he apparently ensured that the donations were not reflected in the company’s books. A forensic auditor found it most probable that money was paid to the ANC without its being reflected in the company’s books. The donations totalled roughly R1 million between 1998 and 1999 – ‘the very same time during which the selection process in the Arms Deal was under way’. Shaik’s more venal agenda was the ‘longer term vision of cultivating and maintaining the good will of a patron [Jacob Zuma] whose political stature promised to be a source of protection and promotion for Shaik’s contemplated business enterprises’.

According to the charge sheet drawn up by the Scorpions, the now defunct elite crime-fighting unit, Floryn Investments held a 10 per cent stake in a South African holding company (Nkobi Holdings) of which Shaik was a director. Floryn Investment was ostensibly owned by Shaik, who held the shares as nominee or cedent for the ANC, making the ANC a 10 per cent shareholder in Nkobi Holdings, though the ANC leadership denied any knowledge of this link. Through Thomson-CSF (in which it had a 25 per cent shareholding) and black empowerment partner African Defence Systems (ADS), Nkobi was part of a joint venture with the German consortium that was selected as the preferred supplier for the corvette slice of the deal, worth R1.3 billion. Though the ANC may have benefited financially from the state contract through Floryn and Nkobi, no charges were ever instituted against the party.

Sources close to the party lend credence to the allegation that the ANC may have received donations not only from the French but
also from British and German firms involved in arms contracts. In a troubled account of his leading the parliamentary Standing Committee on Public Accounts investigation into the arms deal, which also saw his dismissal from the party, former ANC MP Andrew Feinstein recalls:

[A] senior member of the ANC’s NEC invited me to his house one Sunday. Sitting outside in the sunshine, he explained to me that I was never going to ‘win this thing’. ‘Why not?’ I demanded. ‘Because we received money from some of the winning companies. How do you think we funded the 1999 election?’ I didn’t know what to say. I tried to think of a reason why this comrade might want to mislead me, but couldn’t.20

Shaik’s role in securing shareholding for the ANC in key business structures goes as far back as the 1980s when he assisted Umkhonto weSizwe, the ANC’s military wing, and its Intelligence Unit by ‘facilitating the supply of funds from abroad, arranging front companies for their operations and providing other logistical services’.21 This was to evolve into a fully fledged covert apparatus that landed the ANC shares and lucrative contracts in strategic sectors across the South African economy. The ANC Fundraising Trust, registered in 2000, was one of the earliest manifestations of the party’s share acquisition drive. About a year after Shaik’s sentencing the Mail & Guardian’s investigative journalists uncovered yet another manifestation of this party-funding scheme in the form of a covert ANC investment behemoth, Chancellor House, which had ‘quietly accumulated “empowerment” stakes in minerals, energy, engineering, logistics and information technology’.22 Chancellor House operated similarly to Floryn Investments, by entering into ‘contracts with joint venture partners to tender for state contracts that were almost invariably to be awarded by ANC members in the state’.23 In this way the ANC was able to provide state business to its own company, and in a relatively short period of time turned itself from a virtually bankrupt and heavily indebted organisation to one of the richest political parties in Africa, with assets exceeding R1 billion.24
Prior to this, during its dry cash spell, the ANC even controversially hired out its Cabinet ministers as guest speakers and masters of ceremony for private business functions in bid to swell party coffers. This morphed into a contentious funding scheme, known as the Progressive Business Forum, where more than two thousand members of the public, primarily from the private sector, paid up to R6000 in membership fees to the forum in exchange for ‘face time’ with Cabinet ministers and senior government officials. Big corporations were reportedly charged between R12,500 and R60,000. The scheme essentially promised members privileged access to knowledge and information about forthcoming government decisions. Once again, this effectively amounted to providing access to government officials on the basis of wealth rather than citizenship. Such access might secure the donor ‘the given private return on an investment of a contribution’, obtain for the donor the symbolic benefit of being consulted on important policy developments, or simply afford an opportunity to lobby politicians on a given issue.

While not transgressing existing laws, this was clearly inconsistent with the principle of democratic equality.

The ANC and Malaysian political contributions
If true, Shaik’s claim that the party-funding scheme envisaged through Floryn Investment was intended to mirror the Malaysian model, where such schemes were reportedly successful, raises another question around the nature of the relationship between the ANC and its Malaysian counterpart, the ruling UMNO. Indeed political considerations, as opposed to conventional economic and risk-based considerations, appear to explain the surge in Malaysian investment and business interests in post-apartheid South Africa. These most likely derive from ‘Malaysia’s history of support for the anti-apartheid struggle, and more especially a strong perception by party political and business elites in both countries that they share a common challenge of economically empowering their historically disadvantaged majority populations’. Though these considerations could be entirely benign, it is curious...
that Malaysia’s largest investment was almost wholly concentrated on Telkom and Engen Oil, at a time when it was struggling with competitive pressures on its own domestic telecommunication industry and facing dwindling domestic oil reserves.\textsuperscript{30} It is also significant that these investment deals occurred when ‘the Malaysian state and state-linked corporate sector became major funders of the ANC election campaign, injecting some R6 million into the ANC’s election coffers just before the [1994] elections’\textsuperscript{31} According to Shaik, he and ANC treasurer-general Thomas Nkobi, after whom the Nkobi group of companies was named, travelled to Malaysia to thank the government for its contributions to the ANC.\textsuperscript{32}

The ANC’s enthusiastic adoption of the Malaysian model – party shareholding in key structures and the movement of elites between the party, government and the corporate world – has spawned massive conflicts of interest across the party, government and business. Though the government subsequently announced it would not follow the Malaysian model, and in particular Shaiks’s plan of setting up empowerment companies with the ANC as a major shareholder, this seems to have been aimed at damage control as opposed to a fundamental rejection of the idea. It may also have arisen out of ‘resentment at the fact that Shaik was seen as holding himself out as acting on behalf of the ANC in his Malaysian contacts without authority, or with authority but keeping the rewards for those services to himself at a time when the ANC was facing a debt of R40 million to its bankers’.\textsuperscript{33} In the broader scheme of things, the relations between Shaik, the ANC and associated parties provide a fascinating insight into the consequences of unregulated party funding.

**ANC and the People’s Republic of China**

There have been some confounding foreign policy decisions by the ANC as a result of political donations from foreign governments or ruling parties. In the run-up to the 2009 national elections, the ANC is rumoured to have received financial support for its campaign from China’s ruling Communist Party. Whether it is appropriate to accept
donations from foreign governments with mixed human rights records in the first place warrants a separate debate of its own. The ANC’s subsequent refusal to grant the Dalai Lama a visa to enter South Africa, on the bizarre pretext that his visit would overshadow preparations for the 2010 football World Cup, creates the impression that it became captive to China’s foreign policy directives. In this case one is looking at two forms of potential ‘irregularity’: a legal contribution from a disreputable source and the acceptance of money in exchange for a favour.

*Oilgate*

While the country was still reeling from the arms deal shenanigans, another major party funding saga surfaced. In 2005 the *Mail & Guardian* revealed that ahead of the 2004 elections, millions of rands of public money found their way into ANC coffers in dubious circumstances. The modus operandi followed the same pattern seen in the Shaik débâcle. According to the *M&G*, R11 million was channelled from the state oil company, PetroSA, to the ruling party via Imvume, a BEE company alleged to be an ANC front. Imvume’s had sought to raise large sums of money for the ANC by tapping into ‘lucrative oil allocations from Saddam Hussein’s regime under the United Nations’ Oil for Food programme’, at a time when the ANC was in dire financial straits, with a bank overdraft reportedly running at more than R100 million. Phumzile Mlambo-Ngcuka, then Minister of the Department of Minerals and Energy, was said to have exerted improper influence on PetroSA to make the advance to Imvume. Though Lawrence Mushwana, the Public Protector and a fellow ANC comrade, found that the allegations against her were unsubstantiated and without merit, not much public credibility was given to his finding. Though Imvume admitted to making the payments in support for the party, ANC lawyers insisted that it was a private affair:

We wish to note that following the recent decision of the Cape high court in the Idasa matter, our clients are not obliged to discuss donations received by it from any person. Even if it were
so, our clients would have no obligation and would not always have the ability or means to verify the identity of the sources of all donations made to it. We record, however, that our clients deny any insinuation that they acted in any corrupt, illegal or improper manner.  

Contrast this with the later statement of the ANC treasurer-general, Mendi Msimang: ‘Indeed we [the ANC] did receive a donation of R11-million in the normal course of our fundraising and, when it appeared there was a dispute around it, we immediately returned the entire donation to the donor in two installments.’ Such action, if it indeed took place, suggests that there are reasonable grounds to believe the transaction was improper. Unfortunately, the Public Protector would not investigate the transaction, ‘claiming this fell outside his jurisdiction because the company and the party were private entities and the money, once in Imvume’s hands, could not be described as belonging to the public’.  

The susceptibility of incumbent political parties to party financing corruption is not confined to national government level. Contrary to what the analysis may have suggested so far, the ANC is not the only party vulnerable to the corrupting tendencies of secret donations. Ruling parties at provincial and local government level also tend to be highly vulnerable, though the scale of the corruption tends to be relatively milder when seen against developments at national level. Party financing improprieties have tainted the IFP, the now defunct NNP and the DA, while they were dominant parties in KwaZulu-Natal and Western Cape provincial and local governments respectively.  

Individuals on the wrong side of the law have also been known to exploit the gap in South Africa’s party financing laws by using it to create pseudo-philanthropic reputations, buy influence and secure protection from law enforcement agencies. The late Brett Kebble in particular appeared to excel in this craft. Among other things Kebble sought to wield political influence through a broad, carefully chosen list of political heavyweights, the majority of whom were ANC
members. Included in Kebble’s payroll was the former chief of South Africa’s national police, Jackie Selebi, who has been sentenced to 15 years imprisonment for corruption. Popo Molefe, a former Premier in the North West province and now chairperson of the Chancellor House Trust, was also reported to have received a R600,000 ‘loan’ from Kebble’s company Tuscan Moods 1224. ANC MP Andrew Mlangeni disclosed the receipt of a multimillion-rand mansion and a luxury Mercedes from Kebble. It appears that a large part of Kebble’s largesse, about R25 million, was channelled to the ANC and its various structures. In 2004 some R4 million appears to have been used to finance the ANC Youth League’s national conference.

Unfortunately, these party financing scandals have not met with any explicit regulatory response in South Africa, as they have done in many other countries, despite the ANC’s 2007 resolution to develop guidelines and policy on public and private funding of political parties or the 2008 resolution of the Multi-Party Forum, a coalition of opposition parties, to bring ‘proper enabling legislation for the regulation of party funding before Parliament for enactment’. As a signatory to the 2003 African Union’s Convention on Preventing and Combating Corruption, South Africa is obliged to adopt legislative and other measures to proscribe the use of illegally and corruptly acquired political contributions, as well as incorporate the principle of transparency in party financing.

A private member’s bill which the DA submitted in 2002 calling for caps on private political contributions is still gathering dust. Even civil society campaigns on party funding regulations have not been exceptionally fruitful. In 2005, for instance, a High Court judge dismissed an application by the Institute for Democracy in South Africa (Idasa) to compel South Africa’s major political parties to reveal their major private funders. Key to Idasa’s argument for disclosure was the contention that the corrupting tendencies of undisclosed funding inhibited the voter’s constitutional right to free political choice:

The one time citizens experience true equality is when they cast their vote at the ballot box. Where there is no control over the
private funding given to political parties a situation of unfairness and distortion of electoral competition may arise, ultimately undermining the equal value of each person’s vote. When wealth is allowed to buy influence and access by unregulated secret donations the effect on political rights and participatory democracy could lead to the average citizen’s voice being eclipsed by the undue influence wield[ed] by wealthy donors.\textsuperscript{44}

All these efforts mark an acute recognition of the dangers that unregulated party financing poses to the integrity of the political system. Though Idasa’s application was rejected on the ground that access to records of private funders was not needed for exercising and protecting the right free political choice, the court also held that the judgment did not mean ‘that political parties should not, as a matter of principle, be compelled to disclose details of private donations made to their coffers’. The desirability of a private funding regulatory intervention was thus not in dispute. Since then a few large corporations have come out voluntarily, mainly during election time, to disclose the amounts of their political contributions. Through its voluntary Social Responsibility Index (SRI), the Johannesburg Stock Exchange has also championed the culture of openness and transparency in party funding.

That the awareness of the importance of regulating private political financing has not yet translated into specific legislation is perhaps more symptomatic of the complex nature of the problem than a weak commitment to public accountability. It is, for instance, arguable that a democracy should uphold the ‘fundamental right of individuals to make private donations to political causes including parties without limit and free of any requirement of public disclosure’.\textsuperscript{45} Donors, in other words, should be entitled to privacy. There is also the well-founded fear that donations to opposition parties would diminish, if not dry up completely, if they were to be disclosed. Corporate donors in particular are duly wary of potential exclusion from ANC-controlled state contracts if it were known that they were aggressively funding the opposition. As an emerging democracy South Africa may
also not have accumulated enough relevant experience of its own to use as a reference when designing regulations for political finance. Looking for outside guidance or advice is of limited utility because the experience of even the longest-lived democracies cannot be assumed to offer a ready template for regulating political financing. And lastly, the magnitude of the country’s problems relating to unemployment, job creation, crime and poverty tends to dwarf the significance and urgency of party financing regulation.

Nevertheless, unregulated political financing, in so far as it buys access and exerts undue influence on the behaviour of politicians and voters, remains one of the major threats to South Africa’s fledgling democracy, and is likely to remain so unless addressed comprehensively. While regulatory laws can easily be circumvented to suit vested interests, as international experience shows, having no such laws compounds the problem. Corrupt transactions become difficult to expose, and those responsible are likely to escape sanction, as there is no legal ground for doing so.46

Public funding: opportunities and limits

The current public funding model, introduced in 1997, marks a radical shift from the rules governing the 1994 elections, according to which all registered political parties were eligible for funding as long as they could ‘present at least 10 000 signatures from five of the nine provinces or register at least 2% support in an independent poll’.47 In this way new parties, provided they met these requirements, could afford the costs associated with running for an election, including a R500 registration fee, R150,000 for contesting National Assembly elections, and R30,000 for the provincial legislatures.48 It is instructive to note that 19 political parties were able to participate in the 1994 elections while only 16 registered for the 1999 polls. The different funding modalities characterising these elections may account for this discrepancy. But the relation between public funding, participation in elections and representation in the National Assembly is not straightforward. Out of the 19 parties that contested the 1994 polls with public funding,
only 7 managed to gain representation in the National Assembly. In 1999 this increased to 13 out of 16. Though lack of public funding for unrepresented political parties may have meant that fewer parties participated in the 1999 elections, it does not seem to have had any positive influence on the relation between electoral participation and gaining representation in parliament. This once again highlights the significance of private party financing sources over public funding.

What is striking about the public funding model is that it consists of contributions and donations from any number of sources, whether within or outside the country, and yet it is remarkably untainted by concerns of corruption, patronage and undue influence. If this is correct, then it suggests that the funding of political parties from foreign sources may not in itself be problematic. It would seem therefore that there are at least two essential ingredients that South African policymakers need to consider when deciding on a regulatory option for the private funding of political parties.

The first is that the practice of allowing private donations to be deposited directly into party coffers should be eliminated. Rather, they should be channelled to a central fund from which they can be disbursed to eligible parties according to an objective and fair formula based on political consensus. A balance must of course be found between this practice and donors’ right to contribute directly to the parties of their choice. All the same, placing political contributions in a central fund should not be a problem if donors are genuinely interested in contributing to building multi-party democracy, as opposed to buying access to decision-makers. The question of eligibility may need careful consideration to avoid the unfair exclusion of new political parties from the electoral process. The second essential ingredient is the management and administration of the fund by an institution such as the IEC, with all the attendant accountability requirements currently observed in the regulation of public funding.
Conclusion
The funding of political parties in South Africa is a thorny issue. While it is widely acknowledged that money is pivotal to the functioning of political parties and multi-party democratic politics, its corrupting effect, when left unregulated, is cause for concern. Though South Africa’s public funding regime enables more political parties to participate in elections, it does not appear to be succeeding in fostering multi-party democracy or in combating the abuse of state resources and the illegal funding that fuels corruption in politics. In general, funding appears to be a significant determinant of whether a political party is able to participate in elections. However, participation in elections may be a prerequisite for but provides no guarantee of obtaining representation in the national and provincial legislatures. New political parties have entered the electoral landscape and emerged as forces to be reckoned with, without the benefit of public funding. Yet others have failed to win any seats in the legislatures despite receiving public funding to participate in an election. There is thus no necessary relationship between state funding, participation in elections and obtaining a seat in government.

What is not in dispute is that private sources of funding are far more significant to party competitiveness than state funding. That these private sources are not subject to any regulation places political parties, especially those in power, at the risk of being beholden to their donors. This dynamic is evident in a litany of examples that have already been mentioned. With relevant modifications, a funding arrangement similar to the IEC’s public funding model ought to be considered in any attempt to address the vexing question of regulating private funding of political parties in South Africa.
Endnotes

4 Cape Times, 13.11.2008.
5 Ibid.
18 Sunday Tribune, 27.08.2003.
19 Ibid.
22 Robinson and Brümmer, ‘Democracy Incorporated’, 17
24 Ibid.
26 Sunday Times, 18.02.2007.
Party financing in democratic South Africa

29 Ibid, 2435.
30 Ibid. 2436.
31 Ibid.
34 L. Mushwana, Report on an Investigation into an Allegation of Misappropriation of Funds by the Petroleum Oil and Gas Corporation of South Africa, trading as PetroSA, and matters allegedly related thereto (Office of the Public Protector, Pretoria:2005).
35 Mail & Guardian, 3.05.2005.
37 Ibid.
38 Mail & Guardian, 24.01.2008.
39 Ibid., 16.11.2007
42 Mail & Guardian, 28.05.2006.
45 P. J. Burnell and A. Ware (eds.), Funding Democratization (Transaction Publishers, New Jersey, 2007), 18.
50 Ibid.

205
TEN:

Money politics in South Africa: from covert party funding to the problem of Black Economic Empowerment 4657

Sam Sole

In April 2010 Jabulani Sikhakhane, an eminently sensible commentator for Business Day, set out a rather astonishing proposition. In his column he wrote that South Africans should not be dismayed at the prospect of the ruling African National Congress (ANC) making up to a billion rands in profit from a contract to build a new coal-fired power station for the state-owned electricity utility, Eskom. The profit would flow from a 25 per cent shareholding in Hitachi Power Africa, which won the tender to supply the boiler sets for two new Eskom stations. The share is held by a company called Chancellor House, which the party has reluctantly acknowledged is an ANC investment vehicle.

Critics have labelled the very notion of the ANC profiting from doing business with the state which its government leads as ‘corruption on a grand scale’, to quote Helen Zille, leader of the opposition Democratic Alliance. Zille has argued that the potential benefit to the ruling party is so large that it is a threat to democracy, because of the scale of funds flowing to the ANC. Hitachi has said the profit to Chancellor House will be modest – in the region of R50m.

Sikhakhane is sympathetic to Zille’s concerns, yet he labels the Chancellor House deal as a ‘lesser evil’ than the status quo, in which,
as he puts it, ‘the ANC gets the lion’s share of the funding because it, through the deployment of cadres in senior government positions, controls access to government contracts’. He concludes: ‘Chancellor House was meant to cut the ANC loose from the suckers who have attached themselves onto the ruling party. In time, Chancellor House would have made the ANC self-sufficient, or at the very least reduced its dependence on the leeches that cling so hard to the ruling party.’

But, alas, this is like arguing that a drunk would behave himself if only he owned a brewery – perhaps testimony to the helpless desperation with which many regard the ANC’s addiction to easy money. And it’s perhaps as an addiction that we should analyse South Africa’s descent into money politics – and why it has gone far beyond the need for an election funding fix every five years and instead become an infection throughout the body politic.

For a start we should remember that for most of its history – during the years of the struggle – the ANC relied on donations (in cash and kind) to fund its operations, without too many questions being asked about how the money was spent. These donations came mainly from states and from church and anti-apartheid organisations. And it is worth recalling, too, that individuals (like Jacob Zuma) spent the better part of their lives in a situation where someone else took responsibility for providing the physical necessities: travel, accommodation, food, spending money.

After its unbanning in 1990, when the ANC became a government-in-waiting and then a government, it turned first of all to these same sources of funding, but found the nature of the relationship had changed. Now there was a much more demanding environment of ideological, diplomatic, political and economic quid pro quo. Thus, to take one example, the R50m–R70m that the ANC received from the Saudis ahead of the 1994 elections seems to have been predicated on a set of mutual commitments that saw the new ANC government shift oil purchases from Iran to the Saudis and saw President Mandela and his chief of staff involve themselves in a major diplomatic initiative around Libya and the Lockerbie plane bombing – partly at the behest of the Saudis and partly
because of Libya’s previous support for the ANC.\(^5\)

In turn there was an expectation that the Saudis would purchase some R5 billion worth of G5 and G6 artillery systems from the state-owned armaments manufacturer, Denel, in what would have been South Africa’s biggest-ever defence export deal. So attractive was this transaction that the Denel board of directors was persuaded to pay out almost R100 million in ‘advance commission’ to the Swiss bank account of the Saudi agents who acted as intermediaries, in the hope that this would clinch the deal.\(^6\) This irregular payment triggered a probe by the South African Auditor General and later by the Investigating Directorate of Serious Economic Offences, the forerunner of the Scorpions. In their request for judicial assistance directed to the Swiss authorities, investigators said they had testimony alleging that part of the commission – little more than a bribe – had been intended to flow back to decision-makers in South Africa, including the ANC, minister of defence Joe Modise and some members of the Denel board.\(^7\) Inexplicably, the case was never pursued, despite the Swiss authorities agreeing to seize and convey to South Africa the relevant Swiss banking records.

The Denel case had another important sequel, which showed clearly how the ANC’s centralised, dirigiste instincts clashed with and undermined the liberal constitutional framework that was the product of the historic 1990 compromise. The party’s deeply held view was that it should be free to use the levers of state to pursue strategic objectives in its own and the national interest, which were in any case regarded as almost identical. Against this there was erected a formal but not very secure new framework of constitutional checks and balances that sought to disperse state power, limit executive discretion and establish independent authorities to act as watchdogs and arbiters.

A major test emerged with the decision to call for tenders to set up a third cellular telephone operator, in competition with the highly successful duopoly of MTN and Vodacom. The process lay in the hands of the SA Telecommunications Regulatory Authority (Satra), an independent, constitutionally protected regulator chaired at that time by Nape Maepa. Maepa was a senior engineer who had already made
a comfortable life for himself by a successful corporate career in exile in the United States. He was technically competent and experienced and took his legal independence seriously. This made him an obstacle to an emerging practice whereby formal decision-making processes were subject to informal management – in a word, manipulation – by state and party.\(^8\)

As far as can be established – many of the facts remain hidden behind a veil of corporate and state secrecy – the informal position was that the government believed that if the Cell C consortium, backed by the company Saudi Oger, won the bid, it would finally clinch the long-delayed Saudi decision to buy guns from Denel. Maepa was not, however, prepared to have the selection process stage-managed in any way – and indications were that, in a straight contest, Cell C might well lose. The result was the worst possible outcome. Maepa was removed on spurious grounds; Satra proceeded to award Cell C the licence in a process that showed every likelihood of being successfully challenged in court (Cell C was eventually forced to reach an expensive settlement with a losing bidder); and, in the end, the Saudis did not purchase the guns.

Instead of seeing this outcome as a lesson in how independent institutions could save a dominant party from making poor strategic choices, the ANC’s response was to intensify and entrench a formal policy position that the party should achieve hegemonic control of all the main strategic institutions – and at every level, from the civil service, to state-owned entities, right down to local government level. This was to be achieved by a process of cadre deployment, whereby party members were placed in strategic positions in which they (unlike Maepa) could be relied on to take the ‘patriotic’ view.\(^9\)

The ‘deployment’ of ANC cadres to a bureaucracy that observed as part of its culture an unwritten mandate to ‘bend the rules’ for the party where necessary is part of what allowed the poison of money politics to spread so quickly and so far. The formal legal framework made it difficult for the ANC to be seen to be openly issuing such directives. So if the local branch chairman told the local municipal manager that the tender had to go a certain way and that such instructions came
from above, who was to gainsay it? But that is only part of the story. More important was another element of the unwritten understanding that was handed down from the party leadership, most notably Thabo Mbeki. This issue is further examined below. Perhaps the most damaging manifestation of this kind of strategic-level ‘grand corruption’ which Sikhakhane views as the lesser of two evils was of course South Africa’s multibillion-rand Strategic Defence Procurement programme.

The project was undone by its own hubris. According to this inflated view, the arms deal would meet South Africa’s need to re-equip its ageing navy and airforce fleets; would cement strategic trading partnerships; would create significant local industrial development by means of counter-trade obligations; and would provide covert party funding behind the cloak of secrecy associated with defence purchases. So the necessary meetings in smoke-filled rooms were held to sort out the necessary mutual understandings – some clearly so obscure that a number of those involved, including former President Thabo Mbeki, can no longer recall them taking place.10

Once again the state had to face a formal architecture of independent decision-making – much of it staffed by unsympathetic apartheid-era technocrats – which had to be sidestepped to realise the desired outcome. In almost every case this was achieved by the manipulation of offset offerings, which the politically reliable Trade and Industry Department rubber-stamped, no matter how bloated and improbable.

Of course, strategically placed individuals took advantage of this humbug – and the formalised dishonesty it implied – to negotiate themselves lucrative side-deals that probably far exceeded the sums that actually flowed into party coffers. And the need to maintain the overall façade – in the face of the inevitable leaks and scandal – meant disciplining or discrediting independent players or institutions that were not prepared to toe the party line. Parliamentary oversight was curtailed. Party discipline was applied to rein in the Standing Committee on Public Accounts, which had been asking too many difficult questions. Pressure was also brought to bear on the Auditor General and a report on irregularities within the procurement process was watered down
to appease the government. The criminal investigation of corruption allegations linked to the deal – conducted by the new FBI-style Scorpions unit – was encouraged to proceed only in directions inimical to Mbeki’s political enemies, like Jacob Zuma. Thus began a process of factionalisation and politicisation of state security structures that would ultimately see the destruction of the Scorpions when Mbeki fell from power.

Following the débâcle of the arms deal, the ANC attempted to deal with the obvious pitfalls of getting more-or-less corrupt slices of state deals through ‘donations’ and ‘commissions’, by setting up its own covert business entities. It is not known how many of these vehicles existed on a small scale, but one official of the ANC treasury department became known as ‘Mr 10%’ because of his frequent presence as a company director or shareholder, apparently as a nominee for party interests.

The Mail & Guardian exposed two attempts to do this on an ambitious scale, firstly through Imvume, the company involved in the Oilgate scandal, and secondly through Chancellor House. In 2005 the M&G revealed how R11 million of public money was diverted to ANC coffers ahead of the 2004 elections, at a time when the party was struggling to pay the salaries of its own officials. South Africa’s state oil company, PetroSA, advanced R15 million to Imvume Management, a company which investigations showed had very close ties to the ANC. The money was supposedly meant to be used to pay for oil condensate that Imvume had a contract to supply to the PetroSA production plant at Mossel Bay. Instead, Imvume transferred the R11 million to the ANC as a ‘donation’.

This left Imvume with inadequate resources to pay for the condensate, prompting PetroSA to release another R15 million directly to Gencore, the Swiss-based supplier – a double payment that has never been fully repaid. Although no clear evidence emerged that PetroSA was aware of the real destination of the funds, the question of who knew what when was never clarified by the desultory investigation carried out by the Public Protector, one of the constitutional safeguards emasculated by the ANC’s cadre deployment policy.
The M&G won a court challenge to review and set aside the Public Protector’s flawed report, with the judge ordering him to carry out a proper investigation of Oilgate, but the Protector is still appealing against that decision. Further investigation by the M&G revealed that Imvume, with the written blessing of the ANC secretary-general, had embarked on an ambitious project, together with Saddam Hussein’s Baath party. The company also appeared to have direct support from the Department of Mineral and Energy Affairs. The plan was to use oil lifting rights granted by the Iraqi oil ministry in terms of the United Nations oil-for-food programme to raise funds for the ANC. The scheme was stymied by the invasion of Iraq, which also exposed some of the Iraqis’ documents setting out their relationship with Imvume.

Imvume was set up in early 2001, with an opaque shareholding of three trusts. But it was largely a one-man-band in the person of Sandi Majali. Its relationship with the ANC appears to have been built around Majali’s personal position of trust with Mbeki, with ANC treasurer-general Mendi Msimang, and especially with then secretary-general Kgalema Motlanthe.

Chancellor House Holdings (CHH), registered in 2003, appears to have been an attempt to establish a more structured vehicle for party funding. Its shareholder, the Chancellor House Trust, had as trustees the senior ANC figure Popo Molefe (a former provincial premier) and Salukazi Dakile-Hlongwane, chief executive of Nozala Investments, a leading black economic empowerment (BEE) company. The founding directors of CHH included ANC veteran Henry Makgothi; Sivi Gounden, former director-general in the Department of Public Enterprises; and Irene Charnley, director of cellular telephony giant MTN. The managing director was Mamatho Netsianda, former deputy secretary of defence, who had served in the ANC London office under Msimang in the late 1980s. The board was chaired by Professor Taole Mokoena, who was reported to have been close to the late Manto Tshabalala-Msimang, wife of the then treasurer-general. Since Mbeki’s fall from power, three new directors more sympathetic to the Zuma administration have been appointed.
According to the detailed investigation published in 2006 by M&G journalists Stefaans Brümmer and Vicky Robinson, Mendi Msimang approached the Department of Minerals and Energy (DME) as early as 2002, seeking opportunities for Chancellor House, and by 2004 the company ‘kept trying to get deals [from the DME]. It said the money was for the ANC.’\(^{15}\)

Since 2003 the group has accumulated ‘empowerment’ stakes in minerals, energy, engineering, logistics and information technology. It is not surprising that Chancellor House focused strongly on the minerals and energy sector. It was one of the first sectors where the government laid down formal legal requirements for companies to reach black empowerment targets, stipulating that a significant percentage of ownership and control had to be transferred to black or ‘historically disadvantaged’ South Africans. The mining sector was heavily regulated and the government, through the DME, could impose direct empowerment conditions on the granting of mining licences and the acquisition or retention of mineral rights.

Brümmer and Robinson’s case study showed how a consortium led by Chancellor and backed by controversial Russian oligarch Viktor Vekselberg was awarded strategic mineral rights in an extraordinary dance of DME officials, Russian diplomats, politically well-connected businessmen and the ANC’s Motlanthe and Msimang. As an added complication, the latter two appeared to be backing different business factions. The case study revealed that the DME had, at the very least, bent its own rules in making the award.\(^{16}\)

But it was the Chancellor House investment in another entity that really brought to the fore the role of the party as both referee – through its cadres deployed in government and state-owned enterprises – and player, when companies in which it had an interest bid for public-sector contracts. In 2005 Chancellor House took a 25 per cent stake in a new company, Hitachi Power Africa, formed to bid for the Eskom programme to build new power stations to meet the country’s growing energy demands. HPA was a subsidiary of the Japanese multinational. In 2007 Eskom awarded Hitachi a R38.5 billion tender to supply boiler
sets for two power stations, Medupi and Kusile. In February 2008, the *M&G* revealed that the Eskom chairman, former ANC Cabinet minister Valli Moosa, had presided over the board meetings that confirmed the contracts, while also serving on the ANC’s fundraising committee.¹⁷

A subsequent investigation by the Public Protector confirmed that Moosa had been aware of the ANC interest through Chancellor House and should have acknowledged the conflict of interest. But the ANC’s beneficial interest in Eskom’s programme only emerged as a major public issue in 2010 when it became clear Eskom would require massive tariff hikes in order to fund its capital projects. The ANC’s conflict of interest – it formally opposed the tariff hikes but stood to benefit from them through Chancellor House – became a matter of national debate.

Zwelinzima Vavi, general secretary of the trade union federation Cosatu, the ANC’s leftist ally, expressed rhetorical disbelief that the ANC had put itself in such a position. He noted: ‘The problem with this is that the ANC will not be able to ward off genuine concerns that it might have decided to accept the extraordinarily high tariffs imposed on the poor and industry because it stands to benefit. If it is true that the ANC company has invested in Eskom, then God help us all.’¹⁸

But the political complexities thrown up by party business interests were highlighted by the response of ANC secretary-general Gwede Mantashe, who is also the chairman of the South Africa Communist Party and a close ally of Vavi against the nationalist-populist wing of the ANC. At an ANC–Cosatu bilateral meeting Mantashe launched a blistering counter-attack, accusing Cosatu of taking part in a ‘malicious debate’ and adopting ‘a populist stance’. In a paper presented at a bilateral meeting with Cosatu he defended the income stream provided by the Eskom deal. ‘The veiled suggestion that companies with investments in the ANC or alliance partners must not bid for such work suggests that conservative companies should monopolise these opportunities,’ Mantashe said. ‘This flies in the face of the 1995 resolution of the NEC of the ANC that the democratic movement should invest in the various sectors of the economy to sustain themselves in the face of the
donor funding that was fast drying up,’ argued Mantashe, pointing out that union investment companies faced many of the same potential conflicts and calling for a proper debate on the sustainable public funding of political parties.\(^\text{19}\)

Mantashe’s latter comment is somewhat disingenuous, given that the ANC has resisted repeated calls, since about 1997, for legislation to regulate party funding. But beneath the internal tactical manoeuvring that may also inform Mantashe’s defence of Chancellor House lies the same ethical quandary expressed by Sikhakhane: the view that the Chancellor House model represents the lesser of two evils. This is because, in theory, it centralises and institutionalises the grubby exchange of the political allocation of rents in return for party funding – in other words, the way in which politicians get money from business in return for using political influence to allocate business opportunities. Like Sikhakhane, Mantashe apparently believes that it would be better for the party to monopolise this power, as opposed to the free-for-all that currently exists.

There are two problems with this view. One is that the genie is already out of the bottle in the sense that the idea of political power and material accumulation as a sweet and natural cycle has been propagated throughout our political system. The second problem is the implicit view that this understanding of the relation between power and accumulation is an aberration. It is easy to pick a few quotes to illustrate this anecdotally: then Cabinet minister Phumzile Mlambo-Ngcuka’s statement to a gathering of black businessmen that they should not be ashamed of wanting to be ‘filthy rich’, or former ANC’s spokesman Smuts Ngonyama’s crass retort to questions about his empowerment stake in Telkom that he ‘didn’t struggle to be poor’. But it’s harder to show just how pervasive is the unwritten ideology of ‘it’s our turn to eat’, to borrow the classic Kenyan expression of elite parasitism.

To cite one statistic: in 2009 a special Auditor General’s report revealed that more than 2000 government officials were doing business directly with the government and had directly or indirectly benefited from government tenders worth more than R600 million. Both Cosatu
and the ANC are aware of the scale and depth of the problem. In an August 2009 article in the journal *ANC Today*, Mantashe wrote: ‘The biggest threat to our movement is the intersection between the business interests and holding of public office. It is frightening to observe the speed with which the election to a position is seen to be the creation of an opportunity for wealth accumulation.’ But when Cosatu began to press for ‘lifestyle audits’ for ministers and senior officials and to demand that those in government not merely declare but divest themselves of their business interests, the ANC put on the brakes.

At the same bilateral the ANC accused Cosatu of trying to create the impression that the ANC was inherently corrupt and anti-worker: ‘Our observation is that sometimes the federation joins the chorus of accusing individual comrades of corruption too easily without even taking the trouble of validating the accusations … This is understandable when the opposition does it, but is incomprehensible when an ally advocates it.’ The message is clear: loyalty comes before probity. Pissing inside the tent will be regarded as disloyal, no matter how justified.

Indeed, Mantashe’s prescription for dealing with the problem of corruption is to reach for the same quasi-authoritarian instruments that Mbeki tried, and failed, to impose.

In an address to a municipal workers’ congress in November 2009, Mantashe argued that greater party discipline was the key to dealing with these corrupt tendencies. ‘When our structures are operational at all levels we can enforce organisational discipline with ease. We can ensure that the principle of democratic centralism can be enforced,’ he argued. ‘This takes me to the question of deployment of cadres to run the state bureaucracy, in the main, even though the principles apply to all deployment. The media and the opposition parties are trying hard to make us feel guilty about the deployment policy. There is nothing wrong with deployment as a policy. What is wrong is the abuse of that policy wherein it is used to offer jobs to pals. Deployment of cadres must be linked to a serious cadre development programme.’

Clearly the ANC will not confront the possibility that cadre deployment *per se* leads to abuse through the inbuilt conflicts of interest
it creates. That wilful blindness also characterises the failure of most of the ANC–Cosatu–SACP Alliance to confront the consequences of what is termed ‘the 1996 class project’. This term represents a ‘left’ critique of the Mbeki presidency which emerged rather late in Mbeki’s time at the helm of the party – around 2006 – when the damage had been long done. The 1996 class project was so called because this was the year in which Mbeki presided over the shift from the broad redistributive goals of the Reconstruction and Development Programme (RDP) to the neo-liberal macroeconomic disciplines of the Growth Employment and Redistribution strategy (Gear).

But Gear was merely a marker. Even some on the left now concede the necessity at the time of macroeconomic stabilisation, which was the central impact of the programme. However, the 1996 project represented much more. It was an effort to fundamentally reshape the character of the ANC by establishing the black middle classes and nascent black capital as the centre of gravity for the party, rather than the working-class hegemony favoured by Cosatu and the SACP. Of course, this project was never openly articulated by Mbeki. The closest he got perhaps was in an address to the Black Management Forum late in 1999, when he told the audience, ‘As part of the aim to eradicate racism in our country we must strive to create and strengthen a black capitalist class.’ He went on to equate any failure of BEE with a failure of the ANC to achieve its historic mission to eradicate racism.22

Sometimes, in more charitable moments, I imagine that Mbeki knew the character of his exile party too well – recognised that in some ways it was little more than a collection of competing warlords, jockeying for control over the fruits of liberation – and that he calculated that the only escape was through the rapid creation of a black middle class, no matter how many eggs were broken in making this quick and dirty omelette.

But I suspect this was a much more Faustian pact. Mbeki’s initiation of his own programme, Gear, as a substitute for the RDP coincided with his battle to succeed Nelson Mandela as ANC president. The aspirant black elite were his natural class allies, and the racial-populist nature of
the ‘transformation’ programme he held out to them fitted well with his own racial super-sensitivities. So broad redistribution – through the tax system and the proper funding, staffing and functioning of core departments of state (in education, health and local government) – took a back seat to BEE and cadre deployment.

What Mbeki assessed correctly – and his critics have still failed to understand – was what a powerfully seductive mix this was. BEE offered virtually instant gratification to the newly empowered political elite at every level: the promise of millions (at one end of the scale) or a house and a flashy car (at the other end) within months, rather than the years or decades of effort demanded by broader programmes of national reconstruction. For those on the outside of this narrow redistribution, BEE offered at least a clear aspirational goal and a chance, even vicariously, to upset the order of racial privileges of the past, with all their accumulated and attendant resentments.

Thus, while the Zuma administration, after a year in office, is still struggling to articulate a coherent economic programme consistent with development goals, state departments like Communications know what they are about. Never mind that embedded cadre and party interests have stultified the deregulation and development of the telecommunications industry. Never mind that the country’s mining industry – subject to some of the earliest and most demanding of the BEE rules – is, at best, treading water. Despite these realities, the Department of Communications has a clear priority: legislate some of the BEE codes because companies in the telecommunications industry have been too slow to meet voluntary transformation targets.

BEE offers a simple and coherent ideological message with which the liberation movement’s left wing has not even begun to compete: it’s our turn. It is BEE that has provided both a vehicle and a respectable justification for the injection of money deep into our politics. Until the Alliance recognises and confronts that reality – confronts its own addiction to short-term gratification – the prospects for a cure will remain remote.
Endnotes
2 The Times, 4.04.2010.
6 Mail & Guardian, 15.05.2005
7 Ibid.
8 Sunday Independent, 8.07.2000.
11 Business Day, 22.05.2003.
12 Mail & Guardian, 3.05.2005.
13 Mail & Guardian, 5.08.2005.
15 Mail & Guardian, 10.11.2006.
17 Mail & Guardian, 8.02.2008.
18 Daily Maverick, 5.03.2010.
20 ANC Today, 29.08.2009
ELEVEN:
Financing the ANC: Chancellor House, Eskom and the dilemmas of party finance and reform

Zwelethu Jolobe

On 8 April 2010 the World Bank approved a US$3.75 billion loan to help South Africa achieve a reliable source of electricity supply. The loan, the World Bank’s largest lending engagement with South Africa since the end of apartheid, was provided to South Africa’s state-owned power utility, Eskom, and was brought about by the circumstances surrounding South Africa’s energy crisis of 2007–8, and the global financial crisis that exposed South Africa’s vulnerability to an energy shock and accompanying severe economic consequences. Named the Eskom Investment Support Project (the Eskom Project), the World Bank loan will co-finance the completion of the 4800MW Medupi coal-fired power station (US$3.05 billion), the piloting for a utility-scale 100MW wind-power project in Sere and a 100MW concentrated solar-power project with storage in Upington (US$260 million), and low-energy efficient components, including a railway to transport coal with fewer greenhouse gas emissions.¹

According to Ruth Kagia, the World Bank country director for South Africa, the Eskom project offers the World Bank an opportunity to ‘strengthen its partnership with the government of South Africa’. This, according to Vijay Iyer, the World Bank energy sector manager...
for Africa, is the ‘biggest grid-connected renewable energy venture in any developing country’.

The project received strong political support from South Africa. President Jacob Zuma, in a motivating letter to Robert Zoellick, the World Bank president, described South Africa’s energy sector, and Eskom’s role in it, as of ‘strategic national importance’ urging Zoellick ‘to do all [he could] to expedite support to … Eskom’.

The Eskom project, however, did not receive strong support from all sectors of the South African polity. While the representatives of the governments of the US, the UK and the Netherlands on the World Bank board abstained from voting in favour, citing concerns around the country’s lack of progress on developing renewable alternatives, the most significant reservation came from the ranks of political opposition in South Africa, and in particular, the official opposition. The leader of the official opposition, Western Cape provincial premier Helen Zille, went to the extent of lobbying the governments of the US and UK not to support Eskom’s request for a World Bank loan. The rationale for the opposition was that the Eskom project would ‘enrich the [governing] ANC by a clear profit of an estimated R1 billion without any tax’. This, according to Zille, is the ‘result of a corrupt deal in terms of which the ANC in the state [through Eskom] has given a contract corruptly to the ANC in business, to Chancellor House, to enrich the ANC as a political party’. This, the Democratic Alliance further argued, ‘is a massive conflict of interest’ as a result of which the ruling political party would make a clear profit of R1 billion through a commercial transaction with a public enterprise.

Given the high-level involvement and extent of political support for the Eskom project, Zille’s allegations are very serious. In particular, they point to one of the major problems, but also necessities, facing advanced and emerging democracies – the financing of political life, the relationship between ruling parties and public enterprises, and the opportunities this all creates for political corruption. What is ‘political finance’ and ‘political corruption’? How is it both a necessity and problem in the politics of democracy? What significance, if any, does it have for the Eskom project, particularly with regard to the
ANC investment arm Chancellor House? This essay will deal with the politics of party finance with respect to the role of Chancellor House in the ANC in particular, and with respect to debates on the need for its regulation in general.

**Party finance defined**

All political parties face common problems of how to find sufficient financial resources to fund their general activities. Competition between political parties and the pressures of maintaining governing political parties in power drive up the costs of political campaigning and intensify the search for additional and new income streams. In this environment, money is the key variable; ‘money buys the access, favours, skills, goods and services that are essential to effective party activity.’ Money is instrumental, and its importance, Alexander writes, ‘lies in the ways it is used by people to try gain influence, to convert into other resources, or to use in combination with other resources to achieve political power’. Money is thus a ‘transferable and convertible resource which helps mobilise support for, and secures influence with, political parties’. Political finance thus generally refers to money that is used for electioneering, the costs of maintaining party offices and employing permanent staff, carrying out policy research, and engaging in political education, voter registration and other regular functions of political parties. Beyond campaigns and parties, money is also spent on other direct political purposes such as political foundations, political lobbying, media-related work, and litigation in politically relevant cases. Therefore, the numerous channels through which money is poured into politics can lead to serious problems of definition, which consequently makes political finance a difficult matter for regulation and control.

Beyme identifies three main forms of party finance: intra–party finance, external finance and public finance. Intra–party sources of finance refer to membership fees which finance political party activities. Other sources of internal finance include income from investments, additional contributions from members and supporters through party
rallies, and the sale of party newspapers and publications. However, when political parties develop trading and investment arms, which inescapably bring them into direct contact with the commercial and private sector, lines between internal and external sources of finance may blur. This is further complicated when governing parties (especially dominant parties) establish commercial enterprises that engage in business transactions with the government sector, eventuating in conflicts of interest and political corruption.

External sources of funding refer to money received from private organisations and individuals. Usually, this takes the form of financial support given by organised constituencies within parties, such as money given by trade unions to progressive social democratic or labour parties. External funding can also be derived from the close relations that develop between ruling political parties and large corporate enterprises. This particular source of funding tends to attract the most adverse comment as it raises questions of who is beholden to whom and for what, and the extent to which parties are accountable to voters and their core constituencies. Thus the motives of private contributors to political parties are often called into question, with suspicions particularly aroused when there are attempts to conceal or disguise donations. As Williams puts it, ‘what the Americans call influence peddling, what the French call pantouflage and what ordinary citizens everywhere call corruption tends to undermine public trust in parties and encourages cynicism about politicians, their motives and their loyalties’.

Public funding is presented as a way of freeing political parties from the obligations created by their dependence on income from business groups. The risk, however, is that parties may simply exchange one form of dependency from another – ‘as parties and their office-holders become more dependent on the state, they are less beholden to their voters, supporters and members, and this may erode ties of loyalty and weaken accountability’. Public funding can thus serve to simply strengthen the orientation of parties towards the state and, at the same time, contribute to their shifting away from society at large.

In addition to reinforcing the linkages between parties and the state, public funding
may also serve to encourage a particular conception of democracy and political parties, by which parties are ‘increasingly seen as an essential public good for democracy and less exclusively as the private voluntary associations which are the instruments of civil society’.

**Party finance, political corruption and conflict of interest**

From Beyme’s categorisation, it is thus possible to see where the opportunities and incentives for political corruption arise. While corruption is a contested concept, most approaches to the subject rest on the distinction between a formal obligation to pursue the public good and conduct which is construed as private and which serves to undermine the public good. Significantly, it focuses attention on the extent to which parties are seen as public rather than private organisations, giving the term both a legal dimension and a matter of popular and media perception. The emphasis is on political corruption, as opposed to corruption generally, and attention is devoted to the public sphere in which political actors operate, i.e. the ‘interface between the public and private spheres – such as when politicians or functionaries use their privileged access to [state] resources (in whatever form) illegitimately to benefit themselves, [political parties] or others’. Boundaries are therefore very important: political corruption does not include those activities which take place wholly outside the public sphere, such as private sector business or financial corruption.

Alatas has developed a broad-ranging typology of political corruption on the basis of a minimalist definition: ‘corruption is the abuse of trust in the interest of private gain.’ He identifies five forms or types of corruption: defensive, investive, nepotistic, autogenic and supportive. In so doing, he draws distinctions between high and low level (i.e. grand versus petty), local and national, personal and institutional (i.e. personal enrichment and political party), and traditional and modern forms of corruption (i.e. nepotism and patronage versus money laundering and creative accounting).

Political corruption essentially involves a conflict between the personal interests of a decision-maker in the private and public
 sector and those of the entity that he or she serves. This ‘conflict of interests’ involves a clash between the public duties of a decision-maker concerned and his/her personal interests, and occurs when the public office-holder ‘puts his/her personal or financial interests ahead of the public interest’. In the simplest terms, ‘the official reaps a monetary or other reward from a decision made in his or her public capacity’. That these interests may at times not result in the public official improperly executing his/her public duties is inconsequential – even the appearance of impropriety undermines the public’s faith in the political process as fair and erodes public confidence in a free society and democratic government. Conflicts of interest thus create the perception that public officials do not make decisions in the public interest, and that the financial pressures associated with the politics of political parties are more important in deciding positions on issues of public policy than the achievement of the common good. These issues – party political finance, and the conditions and opportunities it creates for political corruption and conflicts of interests, real or perceived – are at the heart of the Eskom project, especially with regard to the involvement of Chancellor House Holdings, the investment arm of the ANC, in particular, and the conduct of business between the ANC and the government in general.

The ANC Inc.: Chancellor House and Eskom

The ANC launched its first investment arm in 1992. As part of the transition to democracy, and in preparation for registering and functioning as a political party, the ANC set up the Batho Batho Trust with Nelson Mandela, Walter Sisulu and Tokyo Sexwale as trustees. The trust established Thebe Investments. Thebe took over the ANC’s financially troubled Movement Marketing Enterprises, which then had the franchise to sell Nelson Mandela T-shirts and other ANC memorabilia, and soon became the ANC’s investment arm. Thebe acquired Dakawa Properties, which owned 51 Plein Street, where the ANC headquarters of Luthuli House is located, and Oriole Travel, then the ANC in-house travel agent. Over time Thebe acquired significant
shareholding in the private health, financial and insurance sectors. However, the relationship between the Batho Batho Trust/Thebe and the ANC gradually became distant – in the late 1990s, Batho Batho significantly diluted its stake in Thebe. In 2006 Batho Batho rejected the suggestion of Mendi Msimang, ANC treasurer-general, that the proceeds of its sales be used to pay off ANC debts of around R100 million, and insisted rather that ‘the ANC’s request for funding would be adjudicated like that of any other applicant’. Set up by the ANC, in the interests of the ANC, Batho Batho no longer answered its master’s call.

It is in this context of party financial insecurity that the emergence of Chancellor House Holdings should be understood. Chancellor House Holdings was formed in March 2003 through the initiative of Mendi Msimang, a very close confidant and associate of Thabo Mbeki, who was instrumental in its conceptualisation. In his treasurer-general’s report to the ANC’s Polokwane Conference, Msimang pointed out that Chancellor House was set up to make the ANC self-sufficient at a time when the ANC was going through a turbulent financial period ‘and needed an investment mechanism to ensure funding on a sustainable basis’. In his report to the ANC’s National Financial Committee, Msimang said that Chancellor House ‘had given the ANC a sound portfolio of investments’ and that ‘a deficit of R76 million had been transformed into a surplus of R67 million at the end of 2007’. As it turns out, Chancellor House Holdings is a true success story and has enabled the ANC to achieve a sound financial position. The Chancellor House investment portfolio is reported to have a market value in excess of R1.75 billion, making the ANC one of the wealthiest political parties in the world. Funds from Chancellor House cover the monthly expenses and salaries of officials and other related costs. Unlike other BEE ventures linked to senior ANC members, Chancellor House is not a personal enrichment exercise but rather a commercial enterprise explicitly set up to fund the ANC as a political party.

Chancellor House has focused strongly on the minerals and energy sector in which the 2004 Mineral and Petroleum Resources
Development Act and its associated empowerment charter created lucrative BEE opportunities. The Chancellor House Trust is the sole shareholder of Chancellor House Holdings, whose subsidiaries include Chancellor House Mineral Resources Investments, Chancellor House Energy Resources and Chancellor House Marine Investments. The Chancellor House Trust deed specifies no beneficiaries, but the trustees are Popo Molefe, CEO of Lereko Investments and chairperson of the Chancellor House Trust, and Salukazi Dakile-Hlongwane, an executive director of Nozala Investments. Molefe also serves as the chairperson of the state-owned Petroleum Oil and Gas Corporation of South Africa (PetroSA), and the Armaments Corporation of South Africa (Armscor). The chairperson of Chancellor House Holdings is Professor Taole Mokoena, a distinguished surgeon and Pretoria-based medical academic, and the managing director is Mamatho Netsianda, the former deputy defence secretary. Ultimately, Mendi Msimang is the boss of Chancellor House, and through him the Mbeki faction in the ANC is in firm control over its vast financial resources.

Chancellor House’s major investments are thus in energy, mining, engineering, IT and logistics. Its biggest mining investments are in the strategic manganese reserves in the Kalahari through United Manganese Kalahari (UMK), a joint venture between Chancellor House, Pitsa Ya Setshaba Holdings and Renova Manganese Investments (RMI), a Bahamas-registered subsidiary of the Renova Group controlled by Russian oligarch Viktor Vekselberg. UMK was awarded ‘new order’ prospecting rights by the Department of Minerals and Energy (DME) to eight farm portions in the Kuruman district of the Kalahari, totalling some 15,200 hectares. RMI controlled 49 per cent of UMK, with Chancellor House and Pitsa both controlling 51 per cent. UMK was funded by Renova to the amount of US$20 million, ‘effectively gifting nearly half this sum to Chancellor and Pitsa as RMI partners’. However, with the Kalahari being home to 80 per cent of the world’s known commercially exploitable manganese resources, and South Africa accounting for just under a fifth of world production, the UMK project itself could reach a value well in excess of R1 billion.
The granting of prospecting rights to UMK has aroused suspicion, especially in view of the complaints of two other ANC-related BEE companies, Kalahari Resources and Dirleton Minerals and Energy, who lost out on the deal. These suspicions were increased by investigative journalist reports on shareholder composition revealing the close proximity of Kalahari Resources to Kgalema Motlanthe and of Dirleton to Zwelakhe Sisulu. They were further clouded by reports that Motlanthe is alleged to have presided over a meeting aiming to influence Renova to include Kalahari but not Chancellor House in the UMK consortium. Given that Mbeki’s faction has controlled Chancellor House, Motlanthe’s lobbying against its inclusion in the deal indicates that the ANC’s multiple investment arms, controlled by competing factions, have become weapons in intra-party factional wars. This view is strengthened by the political fall-out from the Eskom project.

Chancellor House’s recent and most controversial investments are in the energy sector. Chancellor House is a 25 per cent shareholder in Hitachi Power Africa, the local subsidiary of Babcock-Hitachi Europe. Hitachi Power Africa ‘was formed in 2005 in response to Eskom’s programme to install new generation capacity’ which was heavily reliant on the construction of coal-fired power stations. Controversy arose out of Hitachi’s interest in the Eskom project. In March 2006 Eskom had invited tenders for a project under a new electricity plan that involved a contract to construct the Medupi coal-fired power station near Lephalale in Limpopo. Tenders for the boiler works were received from Alstom S&E and Steinmüller Africa in consortium (the Alstom Steinmüller Consortium) and from Hitachi Power Africa and Hitachi Power Europe in consortium (the Hitachi Consortium). In terms of the evaluations, the Alstom Steinmüller Consortium’s tenders ranked first overall. In August 2007 Eskom accepted the Alstom Steinmüller Consortium tender but subject to certain conditions, i.e. technical and commercial issues that had a bearing on the scope of the works and would have had an impact on the price that was tendered. These conditions became a thorny issue between Eskom and the consortium, to the extent that the consortium rejected Eskom’s
proposed mechanisms to deal with the outstanding issues. As the matter could not be resolved, Eskom decided to approach the other tenderer, the Hitachi Consortium, which subsequently resubmitted its tender ‘to a comparative evaluation against that of the Alstom Steinmüller Consortium’ and emerged as the preferred tender. After approval by Eskom’s board of directors, the contract was concluded at the end of October 2007.

The procurement process was reviewed by Deloitte & Touche. Inquiries were made to identify any conflict of interests of board members that had tendered for the Medupi boiler contract. These inquiries ‘consisted only of public record corporate entity searches relating to South African registered entities’ Deloitte identified the involvement of a ‘political entity’ and stated: ‘In the course of the assignment, we learnt that Chancellor House, a company allegedly owned by the African National Congress (ANC), is a shareholder in Hitachi Power Africa.’ Deloitte stressed that it could not make a call on whether or not this had had a bearing on the tender process: ‘Although it may be inferred that the ruling party may be both player and referee in such a situation, no information was brought to our attention that any political influence was exerted in relation to the Project Alpha (the Medupi) tender process.’

Further, as far as the procurement process prior to the decision of the board is concerned, Deloitte ‘did not identify any material irregularities or deviation from the applicable policies or legislation’. The significance that this procurement process and resultant contract have for the issue of political party finance, and its opportunities for political corruption and conflict of interest, turns on the involvement of Eskom’s then chairperson of the board, Valli Moosa. Moosa is the chairperson of Lereko Investments, whose CEO, Molefe, is chairperson of the Chancellor House Trust. Significantly, Moosa is not only a senior member of the ANC through his membership of its National Executive Committee (NEC), and chairperson of one of its strategic sub-committees (Committee on Realignment of Opposition Forces), but is also a key member of the party’s National Finance Committee.
According to the ANC’s constitution, the committee has to report at least twice a year on the finances and budget of the ANC.

Moosa’s chairmanship of the Eskom board, and subsequent involvement in the awarding of the Medupi boiler contract to the Hitachi Consortium (Chancellor House Holdings has a 25 per cent stake in Hitachi Power Africa), were the subject of an investigation by the Public Protector. The Public Protector’s investigation found that there was a conflict between Moosa’s personal interests in the ANC and his duty towards Eskom. The Public Protector’s report stated: ‘There can be no doubt that Mr Moosa, as a member of the NEC and its Finance Committee, owed a duty to the ANC to act in its best financial interests. Likewise, as the Chairperson of the Eskom Board of Directors it was expected of him to act in the best financial interests of Eskom. These two interests were therefore in direct conflict at the time when the awarding of the contract to the Hitachi Consortium was considered by the Board.’

The concept of conflict of interest, however, covers all types of interests that could affect or be perceived to affect the objectivity of a decision maker. Personal interests are ‘defined separately as potential, direct or indirect interests in any entity in any capacity and include political interests’. Therefore, membership of the governing institution (NEC) of a political organisation (ANC) is a personal interest. This raises a deeper question on the role of the ANC. The Public Protector, however, had a limited brief: the Public Protector Act does not afford him the powers to investigate the conduct, affairs and relationship of private entities, and political parties, like businesses, are private institutions. This is an unfortunate circumstance as the conflict of interest, and potential for political corruption, arose from the personal (party political interest) of Moosa. Consequently, the issue of whether political parties should be allowed to be involved in business dealings with public entities is a matter for parliament to consider and for legislation to resolve and regulate. Chancellor House’s role and Moosa’s involvement in the Eskom project form an instance of political corruption. It involved the use of privileged access to Eskom through
the chairmanship of the board (of a party member of the National Finance Committee) to directly benefit the ANC.

The dust had yet to settle on the issue of Chancellor House’s stake in Hitachi, when the political stormclouds gathered. In early April 2010, in response to the controversy, ANC treasurer-general Mathews Phosa told the Sunday Times that he had advised Chancellor House to exit from Hitachi and that Chancellor had agreed to do so within six weeks: ‘[the ANC] took a decision to disinvest. Initially, there were different views, but we now have agreed to disinvest, and Chancellor House has accepted that. But as a shareholder, we can only give advice to Chancellor House.’

Phosa further admitted that Chancellor’s investment was a conflict of interest and didn’t mince his words about what it implied: ‘We’re definitely not interested in getting involved in shady deals and taking advantage of the taxpayer to raise money. We want to set a proper example and be accountable.’ Phosa was further quoted in Engineering News as saying that Molefe, chairman of the Chancellor House Trust, had been briefed about the planned sale of shares in Hitachi and that there was consensus around the issue. In order to withdraw from Hitachi, Chancellor would have to offer its 25 per cent shareholding in Hitachi Power Africa back to Hitachi.

Phosa, however, spoke too soon; all the other relevant parties contradicted him. First, Robin Duff, chief financial officer of Hitachi Power Africa, said it had not been approached by Chancellor House, and he knew nothing about the repurchasing of the shares. Second, Professor Mokoena, chairman of Chancellor, and Hermanus Loots, a non-executive board member, confirmed that there were no plans to sell the shares, stressing that they could not even foresee an urgent board meeting on the issue. Mokoena further emphasised that Chancellor was an independent company and ‘nobody tells the directors what to do’. Third, Molefe shrugged off suggestions from Phosa that he was supposed to lead the disinvestment process, saying that he was not authorised to speak for the ANC or the company. Molefe also stressed that Phosa did not have the authority to speak for Chancellor House or the trust and that he should stick to ‘building [ANC] branches’.

231
Fourth, Gwede Mantashe, secretary-general of the ANC, contradicted Phosa, saying that ‘such a decision cannot be taken at Luthuli House as the Chancellor House board of directors operated independently of the ANC’. 48

But Phosa was adamant that Molefe agreed to pull out: ‘He [Molefe] said to me: “Six weeks is reasonable.” I’m just telling you this because there is a lot of nonsense in the air. I said: “Popo, you accept six weeks is reasonable?” He said, “Yes.”’ 49

Phosa also did not mince his words on those who sought to protect Chancellor House: ‘I’m saying to you that Popo is being less than frank. He knows what we discussed. He went to AMB Capital to work out the options. If what is reported is true [Molefe’s denial of any agreement to pull out], then he is lying. Full stop.’ 50 Molefe replied by simply stating that he couldn’t care less what Phosa said or thought, and that he was at liberty to ‘say whatever he wants to say to the press’. 51

Thus, days after Phosa promised the ANC would sell its stake in Hitachi Power Africa, it became clear that not only was the party leadership divided on the issue but Phosa, the only figure publicly opposed to continuing Chancellor’s stake in Hitachi, was isolated. Phosa’s attack on Chancellor, however, was not new. In the immediate aftermath of his election as ANC treasurer-general after the 2007 Polokwane Conference, he vowed to clean up corruption and party funding and said that he would open an investigation into Chancellor House.

What is clear from the political dynamics around Chancellor House’s involvement in the Eskom project and United Manganese Kalahari is that neither Phosa nor his predecessor had oversight of private funding of the ANC. Msimang had control over financial resources channelled from Chancellor but not from other sources. The decentralised private funding regime of the ANC has created conditions in which competing factions have built up competing funding vehicles for the ANC in an attempt to gain control over the organisation, and then over the state. This has led to the gradual erosion of the authority of the office of the treasurer-general, threatening the independence of the party and the integrity of its procedures, and the emergence of a political culture in
which power and authority are vested within the faction that amasses and controls the most financial resources.

In this context, Chancellor House has emerged as the ‘goose that lays the golden egg’; a commercial enterprise that effectively controls the ANC. Not only does Chancellor pay out the monthly salaries of ANC officials, it also paid off the ANC’s most controversial debts. According to Msimang’s report to the National Finance Committee, the money made by Chancellor House enabled the party to repay R11 million as a result of the fall-out from the Oilgate scandal. Chancellor thus represents the continued dominance of the Mbeki faction, and the hostility towards its transactions with the government should be understood within that context. Mantashe’s defence of Chancellor seems more an attempt to mediate between the competing interests of the relevant factions.

The need for private party finance reform

The Chancellor House issue raises general questions about the need for legislation to regulate the conduct of business between government entities and the investment arms of political parties, especially ruling dominant parties. The premise of the arguments for such legislative regulation is that this could serve as a legitimate means for curtailing illicit practices and behaviour around the political dynamics of party finance. Putting parties under intense public scrutiny relates to the desire to restrict or control the influence of private money and to limits its distortion of the democratic political process. The concern here is to prevent a situation where ‘certain private interests, rather than general public interests, would come to guide the conduct of parties and elected officials’. Thus, since public funding would relieve parties from having to satisfy their financial supporters, or subvert the rules in their search for new income streams, it would diminish political corruption. The introduction of public legislation on party financing would give the state ‘a larger degree of control over the role of money in politics and a greater opportunity to legitimately exercise some degree of supervision over party financial activity, which should
theory] further reduce the potentially excessive influence of private contributors at the expense of the public interest. This can be seen from the recent interest of national and international governmental institutions and non-governmental organisations in regulating the funding of political parties and illicit practices of party finance. Internationally, these include bodies such as the European Parliament (which investigated the funding of political parties in European Union members states), the Council of Europe, the International Institute for Democracy and Electoral Assistance (IDEA) (which has published a handbook on party and campaign finance), and Transparency International (which focuses on party finance and corruption). In South Africa, the bodies have included the Institute for a Democratic South Africa (Idasa) and the Institute for Security Studies (ISS), which have argued for the disclosure of all substantial private donations that political parties receive.

What emerges from the recommendations and guidelines of these organisations is a strong plea for the state to guarantee the accountability of parties and the transparency of party financing through legislation and public control. At the centre of this is the issue of whether, or to what extent, political parties are seen as public rather than private organisations. After all, parties occupy a paradoxical position; they are bodies that perform a public function (developing policy for government, selecting and presenting candidates for election, as well as providing the personnel for both government and opposition) but are regulated by private law to the extent that the 'legal base on which they operate is simply the law of contract developed from the rules and practices of the party in question'. Political parties are thus voluntary associations and as such do not necessarily have a legal personality, even though in some circumstances it is possible for them to be sued or prosecuted in their own name. This legal status (or lack of it) often obscures the reality that even though they are private bodies, they perform public functions.

The proponents of reforms have not, however, considered the full implications of their arguments. While the introduction of legislation
may give the state a larger degree of control and supervision over the role of money in politics, it may in turn discourage parties from looking for additional sources of income and consequently remove a key incentive to establish a more structured relationship with civil society. This may drive parties towards a dependence on public funds and, especially in dominant party systems, could facilitate the access to, and thereby encourage, the unauthorised use of state resources. Consequently, the strong dependence on public finance in dominant party systems strengthen the pervasive patterns of patronage and corruption, and may serve to entrench parties within the state. Significantly, regulation runs the risk of contradicting and progressively undermining the organisational autonomy of parties and their status as private and voluntary associations, ‘turning parties into a unique type of public utility’. Consequently, the more the activities of parties are regulated by public law, ‘the more this will lead to their being defined as public service agencies’; this could weaken their internal hierarchical order and undermine the capacity of political parties for institutional integration.

**Concluding remarks**

The Chancellor House case study and the South African party political finance regime in general thus pose a serious dilemma. It is clear that some regulation of the conduct of business between the government and political parties is necessary, especially with regard to governing parties. However, such regulation should be mindful of the private nature of political parties as voluntary associations, which are created and regulated by their own constitutions and not by legislation. Further, the fact that the actions of political parties attract widespread public interest ‘does not make its functions “public” in the legal sense.’

A possible way out of this dilemma would be to give special recognition for political parties in national legislation. Germany’s Federal Constitution may provide a way out. Article 21 of the Basic Law states: ‘The political parties participate in the forming of the political will of the people. They may be freely established.’ Their internal organization
shall conform to democratic principles. *They shall publicly account for the sources of their funds and for their assets.*" While acknowledging the voluntary nature of political parties, this does provide a framework for the regulation of their finances. This in turn provides a foundation for the establishment of internal party reforms to conform to the legislative framework. Centralising party finance in accordance with a national legislative framework may hinder individual elected representatives and party functionaries from engaging in illicit activities. It may also remove the headaches of treasurers-general competing with wealthier internal factions who threaten to hold the parties in question to ransom. There are, however, no easy and simple answers. As Nassmacher declares: ‘Rule-making covering the role of money in politics needs to be a multifaceted search for the optimum, not the transfer of a perfect set of rules already applied elsewhere.’

**Endnotes**

2. Ibid.
4. Helen Zille, Transcript of interview with Alec Hogg, Moneyweb, 1 April 2010.
9. Ibid.
12. Ibid.
20. Ibid.
Financing the ANC

24 Cited in ‘After the Politics, the Money’, Africa Confidential, 49, 13 (20 June 2008).
25 Ibid.
26 Ibid.
27 Ibid.
29 Ibid.
31 Ibid.
32 Robinson and Brümmer, ‘SA Democracy Incorporated’, 27.
33 Ibid.
34 Ibid., 25.
35 Ibid., 19.
36 The details in this section are paraphrased and quoted exclusively from Public Protector, Report on an Investigation into an Allegation of Improper Conducted by the Former Chairperson of the Board of Directors of Eskom Holdings Limited, Mr V Moosa, Relating to the Awarding of a Contract, Report No. 30 of 2008/9 (Public Protector Report).
37 Ibid., 17.
38 Ibid., 18.
39 Ibid., 19 emphasis added.
40 Ibid.
41 Ibid., 50.
42 Conflicts of interests may thus arise even where the conflict did not have an actual impact on the decision-maker’s objectivity, but could only have been perceived as having such an effect.
43 Public Protector Report, 51.
45 Ibid.
46 Quoted in ibid.
50 Ibid.
51 Ibid.
52 Cited in ‘After the Politics, the Money’.
54 Ibid.
55 Ibid., 703.

237
56 Affidavit of Keith Ewing in the High Court of South Africa (Cape of Good Hope Provincial Division) signed and submitted 19 November 2003.
57 Ibid.
59 Ibid.
60 Ibid.
62 Judge Benjamin Griesel, Judgment delivered in the High Court of South Africa (Cape of Good Hope Provincial Division), Case no. 9828/03, 20 April 2005, 17.
TWELVE
Paying for our democracy
Raenette Taljaard

This essay argues in favour of a more substantive system of public funding of political parties in South Africa and explores measures that can be taken to improve oversight and accountability of existing streams of public funding. After introducing some definitions of party financing and probing some costs and benefits of public funding of parties, it examines existing practices in South Africa and draws on comparative debates and practices in other countries before setting out some policy proposals for consideration and debate to strengthen the country’s system of public party funding. It argues that, even if new controls are introduced on private funders, expanding the reach of public funding will remain an important counter to the potentially corrupting influence of private donations.

According to the International Foundation for Electoral Systems,\(^1\) the World Value Survey (WVS) has clearly demonstrated that people do not trust political parties. The WVS asked people in 54 countries if they have confidence in political parties (2004–7) and 73 per cent of respondents answered ‘not very much’ or ‘not at all’. The real and perceived lack of transparency surrounding questions of party funding is a clear contributory factor to these abysmally low levels of confidence in public institutions.
Despite the appeal of the UN Convention on Corruption to all countries to ‘enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties’, more than half of the member countries for which information is available do not have formal disclosure requirements for the income and expenditure of political parties while the number of countries lacking effective oversight mechanisms is even higher.

These challenges are no different in South Africa, where consecutive editions of the *Afrobarometer* point to declining levels of trust in public institutions and public office-bearers – trends that various party funding scandals have simply exacerbated. As South Africa reflects on the successful conclusion of its fourth democratic elections in 2009, questions of ethics and corruption loom large, alongside myriad public policy challenges that range from poverty alleviation to service delivery and healthcare reforms. These questions have often taken the predictable form of party funding scandals in various forms on all sides of the political spectrum. Whilst such questions may well herald our coming of age or ‘maturing’ as a democracy – given the persistent whiff of party funding scandals that beset many more established democracies – it is all the more problematic in the South African context, given the stark legacies of apartheid that we still need to confront. It is also far more damaging in a dominant party democracy where the prospect of loss of office is for the present unlikely.

South Africa has seen many recent funding scandals: the arms deal, the Iraq oilgate scramble for party resources, the Skotaville Press incident, the South African Oil Company scandal in 2003, the Harksen drama, and the Chancellor House ‘investment vehicle’ scandal. These glaring incidents of party funding scandal have served to make a strong and powerful case for the regulation of party funding. In an apparent concession to these pressures for reform, the ruling ANC adopted a clear resolution at its Polokwane Conference calling for specific steps to be taken with respect to party funding reform:
The ANC should champion the introduction of a comprehensive system of public funding of representative political parties in the different spheres of government and civil society organisations, as part of strengthening the tenets of our new democracy. This should include putting in place an effective regulatory architecture for private funding of political parties and civil society groups to enhance accountability and transparency to the citizenry. The incoming NEC must urgently develop guidelines and policy on public and private funding, including how to regulate investment vehicles.

However, it is clearly not only the key question of regulating private sources of funding that will have to be addressed. As we seek to minimise the influence of these sources of funding, the financial needs of political parties will not diminish and natural pressures will grow to increase or reform the existing system of public funding. The phrasing of the ANC’s Polokwane resolution on funding appears to allude to the need for balance, and subsequent statements by the party’s treasurer-general and spokesperson in response to controversies over its investment arm Chancellor House in early 2010 reinforced the point that any movement seeking private funding regulation will have to be accompanied by an open discussion on public funding of political parties.

It is therefore important to gain a better understanding of the current global discourse on public funding and on ways of developing a creative yet ethically robust mix of properly regulated private and sound, fair and reliable public sources of financing for the activities of political parties both during and in-between elections. The need to find such a balance is all the more important given that direct lobbying of MPs has not as yet taken off to the extent that it has in countries such as the United States and United Kingdom. Many policy decisions in South Africa’s dominant party democracy are taken in the executive with Parliament not playing such a significant role. This is set to change as Parliament acquires new powers and the scope for direct lobbying of the legislature on budgetary matters in particular grows.
Thus far, the bulk of political parties’ fund-raising activities have been limited to electioneering and election campaigns while some donors have funded cycles between elections and party organisation expenses and costs. These fund-raising activities have often been restricted to more senior party leaders who raise the bulk of large private donations and, in the case of the ruling party, to senior party members who often have direct access to key policy decisions. However, with the advent of new parliamentary powers over the budget in accordance with the Money Bills Procedure and Related Matters Amendment Act 9 of 2009, key policy decisions will become ever-closer to MPs and the scope for direct lobbying and other social ills of ‘vote-buying or -bartering’ and ‘pork-barrelling’ will increase. It is therefore essential that we begin to engage in debates on the correct balance to be struck between public and private sources of party financing.

Even in societies where private funding is the dominant source of party funds, such as the UK, extensive policy debates have been held on the balance that should be struck between public and private sources. These debates also arose, but rapidly subsided, in the US when Barack Obama became the first presidential candidate to decline public funding in order not to be restricted with specific donations limits. Efforts in the US to secure greater control and transparency received a severe setback in 2010 with the Supreme Court’s 5-4 decision in *Citizens United v Federal Election Commission*, largely opening the floodgates for corporate funding of independent political broadcasts. In the UK, however, the public funding question is an area of reform which has recently been put back on the agenda by the post-electoral coalition agreement between the Conservatives and Liberal-Democrats, which explicitly addressed questions of electoral system and funding reforms. It is therefore important to discuss not only the dimension of regulating private funding in South Africa but of public funding as well.

**Political financing and public funding**

Defining political finance is a complex activity. As Pinto-Duschinsky points out, political finance takes many forms. Whilst the narrowest
definition is money for electioneering, it is clear that it also refers to the costs of party organisation and not only to electioneering costs. These costs include the ‘costs of maintaining permanent offices, carrying out policy research, and engaging in political education, voter registration, and the other regular functions of parties’. As Pinto-Duschinsky\(^5\) notes, there are also the costs of political ‘foundations’; lobbying; expenses associated with newspapers and media created and paid to promote a party line; and litigations costs for politically relevant cases. Not only is it difficult to comprehensively define political finance but it is equally difficult to design control measures as a practical matter.

Political parties can typically rely on funding from contributions of members and other individuals or organisations which broadly share their political ideas or hope to benefit from their activities. However, many political parties in established and newly democratic countries face the dilemma that the costs of running a political organisation and of electioneering continue to escalate whereas memberships and concomitant contributions often decline. This opens up space for sizeable donations by private funders who may seek undue influence.

Public funding for political parties and candidates can have both direct forms (monetary transfers to parties or candidates) and indirect forms (broadcast time on state media, use of the mail service or supplies or preferential tax exempt status). According to comparative data from the ACE Electoral Knowledge Network, out of a sample of 180 nations 25 per cent provide no direct or indirect public funding whereas 58 per cent of countries provide direct public funding and 60 per cent indirect public funding. Some countries provide both forms and most countries have electoral bodies that exercise oversight of the spending of funds. Funding rules and criteria also vary, with some systems providing equal funding for all parties whilst others adopt proportionality rules as the guiding criterion of public funding.\(^6\)

According to research by the ACE Electoral Knowledge Network,\(^7\) there are three main criteria that can guide the allocation of public funds to political parties: equality, proportionality and need.
Allocations based on equality can be of the following types:

- An equal amount is given to all parties or candidates that contest an election;
- An equal amount is given to all political parties that received a certain number of seats or mandates in the previous election;
- An equal amount is given to all political parties and candidates represented in the national legislature;
- An equal amount is given to all parties and candidates that received a certain number of votes in the previous election.

These allocations based on equality clearly widen or narrow the pool of recipients depending on the specific application of the allocation principle in question.

Allocations based on proportionality can be of the following types:

- Funds are given in proportion to the number of candidates put forward;
- Funds are given in proportion to the ‘representivity’ of the candidate list put forward;
- Funds are given in proportion to funds raised (matching grants);
- Funds are given in proportion to seats or mandates held;
- Funds are given in proportion to votes received;
- Funds are given in proportion to party membership or other signs of support.

These allocations based on proportionality clearly are more or less conducive to replicating incumbency and more or less disadvantageous to newcomers or new entrants to the party political arena, depending on the allocation principle in question.

Allocations based on political parties with special needs are often aimed at levelling the playing-field and can therefore be of the following types:

- Funds given to new political parties (special grants);
- Funds given to small political parties (specially set aside);
- Funds given to minority parties or candidates (incentivising parties or party lists to field national minority candidates in return for special funds or certain exemptions from other criteria, e.g. electoral threshold guidelines).
These allocations are clearly aimed at ensuring newcomers can enter the party arena or encouraging parties that add to the common good to remain in the political arena or encouraging under-represented groups to enter and remain in the political arena.

There are therefore a myriad of criteria that can guide the direct allocation of public funding of political parties.

The ACE Electoral Knowledge Network\(^8\) points out that, while indirect public funding may be less controversial than direct public funding, it may have less impact even though it may at times involves large amounts of money. These indirect funding mechanisms can take many forms including the following:

- Media access (specifically, advertising slots in publicly owned media);
- Interest-free loans for paying registration fees or mounting basic election campaigns;
- Free or subsidised office space for political party headquarters or local branches;
- Free or subsidised public transportation for candidates, key party activists or, in some cases, even supporters going to political rallies;
- Use of government buildings such as schools, administrative buildings and sports arenas for meetings and rallies;
- Special taxation status for political parties (e.g. VAT exemptions for receipts and expenditures or full exemptions);
- Tax-free donations to political parties;
- Free or subsidised postage for disseminating informational material to voters or for any purpose;
- Free or subsidised telephone lines and telephone calls.

At present South Africa’s public funding system makes use of both direct and indirect sources of public funding at present and uses proportionality allocation criteria as well as elements of equality. The IEC plays a strong oversight role in respect of public funds while parliament considers the annual reports that issue from the Represented Political Parties Fund.
Goals, benefits and costs of public funding

What are the goals of adopting a public funding system or expanding its scope? What are the possible benefits and costs? As Ohman\(^9\) points out, the goals or potential benefits of public funding systems can be listed as follows:

- To increase the capacity of political parties and candidates to reach the electorate and thereby allow voters to make more informed choices (short-term);
- To level the playing-field between political parties and candidates with different level of resources (in elections);
- To increase institutionalisation of political parties (longer-term);
- To reduce political corruption (mainly the dependence of politicians on influential donors);
- To reduce the role of money in politics (whether corrupt or otherwise);
- To use public funding to influence the behaviour of political parties (regarding financial transparency, gender equality, minorities, etc.).

The investment of public funding through the Represented Political Parties Fund has arguably brought some of these benefits in South Africa, such as offering more informed choices to the electorate and increasing the institutionalisation of political parties, though the role it has played in levelling the playing-field or reducing either political corruption or the role of money in politics is debatable. Nevertheless, we need to consider how we can unlock further potential benefits by debating the criteria or mix of criteria we use to allocate public funds.

Indeed, the Ohman\(^{10}\) study specifically cites South Africa’s existing allocation criteria as a factor that contributes to the incumbency of the ruling party: ‘it is doubtful if the public funding provided serves to increase political pluralism given that the governing ANC receives nearly two-thirds of the distributed public funds.’\(^{11}\) This does not mean that the debate on public funding must simply be dismissed as a pointless exercise. Any debate that could persuade all political parties in South Africa to accept curbs on their private sources of funding will inevitably imply a broader funding discussion.
As Ohman\textsuperscript{12} points out, there are several potential problems with public funding. These include:

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

Any sound discussion on expanding the sources of public finance as part of an overall review of the system of political finance will have to carefully weigh these very real potential problems and in particular consider ways to ensure that new entrants are not frozen out of the system. Ohman\textsuperscript{13} makes an interesting observation about the criteria South Africa adopted for allocating public funding for the campaign preceding the 1994 poll: ‘South Africa also used an unusual model for determining eligibility regarding the pre-election public funding made available in 1994 (the first post-Apartheid elections), namely that the party needed to show it had gained at least 2\% support in a “credible” opinion poll, or collected a certain number of supporting signatures.’

In order to accommodate newcomers and avert the type of public funding drama that accompanied the founding of the Congress of the People (COPE) prior to the 2009 poll, some specific allocation criteria for new political parties should be adopted. The fact that COPE was unable to unlock any funding before the election because of the proportionality criteria that currently apply was certainly a shortcoming in the existing system.

Among the other issues in the debate on expanding public funding in South Africa are resource scarcity amidst competing policy priorities and the possible unpopularity of funding in the eyes of voters. However, it seems clear that the level of public disillusionment with the influence-peddlers who donate vast amounts of private money to influence policy unduly and gain access to government resources would far outweigh any reluctance people may have to pay for democracy.
The debate will also have to consider the link that appears to exist between electoral systems and party funding. It has been pointed out that parties operating in proportional representation electoral systems are far more likely to have some form of public funding regime in place than others. According to Pinto-Duschinsky,14 ‘countries that belong to the Commonwealth – the club of former British territories – are characterized by having less public funding and less regulation of political financing. They are also more likely to use majoritarian electoral systems, while public funding is strongly associated with proportional electoral systems.’15 It stands to reason that the mix achieved between public and private funding has a strong correlation with the type of electoral system prevailing. Any proposal for a future funding system for South Africa must be responsive to changes that may occur in the country’s electoral system. In this regard, interesting policy examples may be drawn from the UK, where both the electoral system and the party funding system are currently being reviewed. A recent study16 of party funding practices in 22 countries conducted as part of the African Political Party Finance Initiative (APPFI) recommended that funding reform should be tied to specific reforms of the party system: ‘Legitimate sources of political party finance must be made available to parties, particularly in developing countries where financial resources are limited. Various models of public funding exist around the world that can be adapted; however, the implementation of these systems should be tied to, or made conditional upon, reform of political party systems.’17

The expansion of public funding is arguably the most important trend in contemporary political finance.18 Whilst public funding appears set to grow, it is important that public funding should only partly cover party expenses, as political parties cannot be allowed to become public agencies but must remain private organisations. As an IDEA study emphasised, subsidies in kind or indirect sources of public funding are preferable to cash transfers (direct sources of public funding) and matching funds are more appropriate than flat grants.19
Existing public funding practice in South Africa

- In order to understand South Africa’s current public funding practice, it is instructive to look back at the debates when the current system was adopted in 1997 under the Public Funding of Represented Political Parties Act. As was mentioned earlier, the run-up to the 1994 elections saw criteria ranging from opinion-poll measured strength to signatures being used as a guideline for deciding which political parties would receive public funds and which would not. After the 1994 elections a new system had to be established. The 1996 Constitution itself mandated that a public funding system be created: ‘To enhance multiparty democracy, national legislation must provide for the funding of political parties participating in national and provincial legislations on an equitable and proportional basis.’

A reform process need not upset the constitutional injunction so long as it continues to balance the two imperatives of equity and proportionality. The Constitution specifies that allocation criteria must embrace both equity and proportionality – in that order. This dual imperative led to considerable debate prior to the country’s second democratic elections in 1999. On 25 August 1998 the Minister of Constitutional Development, Valli Moosa, expressed his discomfort at having to develop policy that would balance these two imperatives when he appeared before the Joint Subcommittee of the Joint Rules Committee on Public Funding of Represented Political Parties. In a subsequent meeting of the Joint Rules Committee, parties had to debate their proposed suggestions for allocations. These fell into four brackets: those supporting a 50/50 split (50 per cent equity and 50 per cent proportionality – PAC, ACDP); those supporting a 10/90 split (the ANC); those supporting a 25/75 split (the DA); and those wanting a 30/70 split (IFP). When the matter was put to a vote before the committee, the 10/90 split was adopted with the opposition of the PAC, ACDP and DP being noted.

- As Bryan and Baer point out, only political parties represented in the National Assembly and provincial legislatures qualify for public funding. The budget is split: 90 per cent of funds are distributed in...
proportion to each party’s share of seats in the National Assembly and the remaining 10 per cent is shared equally among the nine provinces and divided amongst the parties in each provincial legislature. It should already be clear that the key areas of debate in any future reform of public funding will target the proportionality and equity balance as well as the complete disqualification of any new political party entrants that seek seats in elected office for the first time.

- Bryan and Baer note that the South African system precludes parties from using public funds for election campaigns: ‘Parties are prohibited from using public funds for electoral campaigns: 21 days prior to an election, they are required to close their books and return any unspent funds to the IEC.’

- In addition, the Act prohibits the use of state funds for any business ventures or the purchase of property or supplementing party wage bills. Parties are required to have specific accounting officers and in cases of non-compliance the IEC has the prerogative to withhold tranches of subsequent funds until the breach has been rectified. Further public funds are allocated to represented political parties from the parliamentary budget in the form of specific constituency allowances.

- In addition to the national legislation, at least two provinces in South Africa – Gauteng and KwaZulu-Natal – have adopted specific provincial public funding statutes. These are the Gauteng Political Party Fund Act 3 of 2007 and the KwaZulu-Natal Funding of Represented Political Parties Fund Act 7 of 2008.

- As Bryan and Baer note, many of the party members interviewed in the country sample wanted to see reform of the public funding formula and an increased public allocation to relieve the heavy reliance on donors for funds: ‘Others raised concerns about the allocation of public funds, recommending different percentages for the equitable and proportional shares – the most common proposal was that the fund be divided equally between proportionally and equitably distributed funds. Some proposals also argued for an increase in the amount of the allocation to help relieve political parties of the need to rely on private donations.’
Any reform will therefore open debates on at least three fronts of the existing public funding system: (1) the allocation criteria and the budget split; (2) the steps that need to be taken to ensure eligibility criteria do not entirely preclude new entrants; and (3) review of the principle that parties may not use public funds for election campaigns and various other purposes. But the debate will also open up discussion about the accountability mechanisms that exist for public funding and the need for improvement.

In order to understand how South Africa currently spends public funds, it is instructive to consult some of the reports of the Represented Political Parties Fund. According to the 2008/9 annual report, the Fund made available R88,335,570, of which R79,502,013 (90 per cent) was proportionally allocated and R8,833,557 (10 per cent) was equitably allocated provincially. The four largest recipients of total distributed funds were the ANC (R61,113,511.31); the DA (R10,538,737.00); the IFP (R5,403,084.20) and the ACDP (R2,177,425.12). Whilst the larger political parties that received the bulk of funding have fully accounted for their funds, it is the smaller parties, and often the parties that appeared to have benefited from the old system of floor-crossing, that had difficulty discharging their accountability obligations with respect to these public funds. As the notes to the annual financial statements (year ending 31 March 2009) point out, four smaller political parties failed to submit the audited financial statements as prescribed by section 9(3) of the Act – APC, NA, PAC and UIF. Six political parties (Azapo, FD, IF, MF, Nadeco and UDM) failed to submit audit reports and audited financial statements for the year ending 31 March 2009 within the statutory deadline. The financial statements of Azapo and Nadeco failed to comply with the disclosure requirements in section 6(3) of the Act; Nadeco rectified the situation and Azapo remained in default. Five political parties (ACDP, AFD, FD, Nadeco and UDM) failed to return unspent funds as required by the Act. Whilst the latest annual report of the IEC on the Fund, which covers the 2009 election period, was not available at the time of writing, it seems clear that these trends of compliance by larger parties and non-compliance by smaller
parties will again be replicated.

What all the reports highlight is that the oversight structure in South Africa, the IEC, has done a commendable job in ensuring accountability for public funds with the exception of some smaller fly-by-night political parties that were the creatures largely of South Africa’s sordid floor-crossing period. However, improvements can be made in the way in which these reports appear before parliamentary committees and the way in which taxpayers are informed of how these public funds are used during elections. For example, voters did not necessarily know which parties complied with financial accountability prescripts – a situation that will have to improve drastically if the case is to be made for the need for further public funding. Any expansion of public funding will have to tighten existing and create new forms of public accountability if the overall credibility of the system is to be strengthened.

Other areas where specific accountability mechanisms would need to be improved considerably relate to the constituency allowance allocations that MPs receive from the parliamentary budget and the specific percentages that political parties deduct from the salaries of their public representatives at all levels of government in order to defray party organisation expenses. These are two considerable streams of public funding for which the accountability mechanisms leave a lot to be desired. It may even be a sound proposal for the office of the Auditor-General to conduct special audits of constituency allowances.

Whilst this essay argues for an expansion of public funding in South Africa, it does not undervalue the critical importance of proper regulatory mechanisms for the vast sums of existing private funding. It simply seeks to underscore the point that political parties will concede nothing with respect to private funding or even contemplate donations limits or disclosures if they do not have the compensatory prospect of increased access to public funds – even if this access comes with specific spending ceilings. Indeed, as Fakir has pointed out,25 it will take an investigation of both public and private funding to really gauge how we pay for our democracy and what its intrinsic worth is.
There is important and crucial work being done in this area [of private funding] by Idasa and the Institute for Security Studies, but this matter of public funding – the other side of the coin – is equally crucial. My point is that I do not think they are as separate as we may think they are. In thinking about this question, the potential inequalities that might arise, I think we need to critically evaluate the strengths and weaknesses of both the public as well as private funding of political parties in tandem or contemporaneously. In evaluating the strengths, weaknesses and opportunities that each provide for resourcing parties to play an effective role, we might be asking serious questions about the quality of our democracy and of the democratic enterprise of subjecting competing political and ideological interests to public debate for public arbitration, and finally public choice – essentially what democracy is about.

Any comprehensive debate will have to confront not only the difficult and complex questions of crafting an appropriate regulatory regime for private funding that would cap donations and mandate public disclosure in accordance with the UN Convention Against Corruption but also the allied question of creating a more robust system of public funding that could assist overall reforms by supplementing funds and imposing specific spending limits on political parties.

Such an approach also emerged as part of recent debates in the UK about party system and party finance reforms. During the course of 2007 Sir Hayden Phillips was appointed to chair the Prime Minister’s review of party-funding reforms. The review recommended an interlinked system of reforms that would require specific caps on party donations, expand public funding of political parties, and set specific spending limits on parties. The report was at pains to point out that such reforms would have to proceed as an interlinked package and that none of the proposals ought to be adopted in isolation of the others. Sir Hayden subsequently chaired a series of inter-party talks in this regard which unfortunately collapsed late in 2007. In essence, the
public funding component proposed two new schemes: one designed to encourage parties to engage the active participation of the electorate based on a form of matched funding; and a scheme based on public support, pence-per-vote, designed to help provide for financial stability following the introduction of a cap on donations – only those parties subjecting themselves to the cap would be eligible for the new public funding schemes.\(^{28}\)

Despite this collapse, debates on party system reform and party funding reforms are certainly on the agenda of the new coalition government in the UK. While all party finance systems have to be home-grown, there can be little doubt that these reforms will be of interest to South African policy-makers as we debate the reform and reconfiguration of our own system of party finance.

The new UK government’s coalition agreement specifically provided as follows: ‘We will also pursue a detailed agreement on limiting donations and reforming party funding in order to remove big money from party politics.’\(^{29}\) This was followed by a slew of public hearings on 8 July 2010 before the Committee on Standards in Public Life. As Sir Hayden Phillips remarked during the course of these hearings, state funding of political parties is very much the future despite the current difficulties of selling such an argument in the context of budget cuts and fiscal austerity drives.\(^{30}\)

While debates about competing needs for resources and matters of austerity will certainly feature prominently as well in South African debates on expanding public funding of political parties, parties will resist private funding limitations and disclosure in the absence of compensatory measures from the public purse.

There is one element of the UK debate that may be of particular interest to South Africa even though Sir Hayden Phillips recommended that it be abolished in his 2007 report: the instrument of the Policy Development Grant scheme, which is administered by the Electoral Commission. Given the paucity of public policy debates within South Africa’s political parties, it may be a worthy innovation to introduce such a grant in our system. In accordance with the Political Parties,
Elections and Referendums Act of 2000, up to £2m is made available each year, distributed between the parties in accordance with a formula laid down in legislation to assist in developing policies for inclusion in manifestos for elections.\textsuperscript{31}

**Conclusion: a possible policy reform agenda**

South Africa has reached an ethical crossroad in respect of the funding of political parties and political finance in its broadest sense. We can no longer ignore the evidence of mounting party funding scandals and the controversial existence of party investment vehicles that directly benefit from public policy decisions to the detriment of the public.

It seems clear that significant civil society and grassroots pressure (particularly within the party itself) will have to be brought to bear to ensure that the ruling ANC adheres to its Polokwane resolution on party funding and ensures a robust policy discussion and reform process in respect of party finance. It is also clear from growing global evidence that pressures for reform will continue to grow as we ask ourselves how we should best pay for our democracies and the options and choices of parties that they offer.

While an increase in public funding of political parties will always be difficult to sell to an ever-sceptical (if not hostile) public in the context of fiscal squeezes and cutbacks in public funds, the alternative in South Africa of allowing public policy decisions to be fundamentally warped by fund-raising and special-interest politicking and access-seeking would be far, far worse. It would be preferable to cut some unnecessary government largesse and redirect these funds to funding our democracy than to perpetuate a system that makes our political parties ever more reliant on private funders.

South Africa needs a mixed system of party financing which caps donations or limits spending and makes disclosure mandatory. It also needs a strengthened system of allocating public funds that seeks a more careful balance between equality and proportionality in accordance with the Constitution. As part of such a system we should even consider making donations to political parties tax-deductible and
channelling such funds into a separate and ring-fenced component of the Represented Political Parties Fund for distribution on a fair and equitable basis.

The challenge to design a proper system for South Africa cannot be avoided. While we have made great strides in crafting the current public funding system, whatever its imperfections, we have not shown any mettle in regulating private funding at all. We owe it to our democracy to ensure a proper reform process that seeks the correct mix within a mixed system of public and private contributions. In addition, we need to strengthen the necessary oversight mechanisms (the IEC, parliament, the Auditor-General, party accounting officers and their accountability criteria) to ensure that the South African public remains properly informed of who pays for what in our democracy.

Some of the key policy issues to emerge from an earlier Konrad-Adenauer-Stiftung study of the SADC region remain crucial to any contemporary debate about the reform of party financing in South Africa. These are:

- A cap or limit should be established on the amount of funding parties can get from private donors;
- There is a need for determining a threshold on party expenditures for campaigning;
- A situation whereby political parties become too dependent on public financing as a result of secure amounts needs to be guarded against as this would undermine the desired intimacy between political parties and their supporters;
- There should be fair and equal access to state-owned media by contending parties other than the ruling party;
- Clear regulatory mechanisms must be put in place to ensure accountability and transparency with regard to private donations to political parties.\(^{32}\)

The time has come for us to ask what we are willing to pay for our democracy and to act accordingly.
Endnotes

3 ANC, 52nd Conference Resolutions, Resolution 63, Funding <http://www.anc.org.za>.
5 Ibid., 70.
10 Ibid., 75.
11 Ibid., 75.
12 Ibid., 74.
13 Ibid., 63.
14 M. Pinto-Duschinsky, ‘Financing Politics’, 75.
15 Ibid.
17 Ibid., 5.
22 Bryan and Baer, Money in Politics, 122.
23 Ibid.
24 Ibid., 124.


Conclusion: The opportunity and challenge of party finance reform in South Africa

The relations between politics and money pose complex challenges to democratic societies around the world. In the past decade alone, political finance reforms have been introduced in countries as diverse as Canada, Colombia, Costa Rica, France, Germany, Guatemala, Japan, Mexico, Panama, the United Kingdom and the United States.¹

Politics is expensive because democratic parties need to organise and educate citizens, formulate public policy, and campaign energetically for office. But a political finance free-for-all can lead to disaster. Unregulated funding has repeatedly been implicated in political corruption because money can be exchanged for policy influence, licences or government contracts. The rich can buy access to ministers and officials and deny the poor any say in government decisions. Where parties have asymmetrical access to private and public resources, dominant parties can ultimately secure an unhealthy stranglehold over electoral politics. A cycle in which power leads to money, and money leads back to power, can transform once-democratic parties into battlegrounds in which factions and political entrepreneurs fight over access to resources.
In South Africa, there is growing pressure for reform from within the African National Congress (ANC). The ruling party resolved at its last national conference in December 2007 to ‘champion the introduction of a comprehensive system of public funding [that] should include … an effective regulatory architecture for private funding of political parties and civil society groups’. Controversy over the movement’s Chancellor House investment vehicle has fuelled demands for change. A recent ANC discussion document widened the debate when it noted that ‘informal’ funding mechanisms – ‘monies raised by candidates and lobby groups, with no accountability and disclosure about the sources (and legality) of such resources, nor how those monies are being used’ – must be part of this reform process, because informal finance is ‘insidious and dangerous to internal democracy’.

Opposition parties, for their part, are equally concerned about the emergence of ‘money politics’ in the ANC. They have, in addition, become preoccupied with the implications of the ANC’s access to resources for its dominance of the political system. Other important stakeholders, including trade unions and some business organisations, have interests and concerns of their own and have also pushed tentatively for a new party funding debate.

Erstwhile reformers approach funding reform from different directions. There are no simple legislative or regulatory templates available to guide their deliberations. Party funding is at the heart of politics, and so it is interconnected with the policy process, media freedom, corruption, the party system, internal party democracy – and more or less everything else. Each country requires a funding regime that will respect its own specific historical and political context. The best chance of successfully formulating such a regime is through a process of negotiation between political parties and civil society stakeholders. Such a deliberative process should certainly be informed by the experiences of other countries, particularly the middle-income countries and new democracies considered in this book. In the end, however, a sustainable funding regime can only come about through a reasonably honest dialogue about the dangers, as well as the opportunities, that reform presents.
Reform options

There are four broad areas of reform available for consideration by policy-makers: the control of private donations; the regulation of public funding; expenditure limits; and the transparency of the funding system. The participants in a reform process will need to consider all four aspects together, as interrelated parts of a sustainable and balanced overall system of regulation. Reformers will need to bear in mind one general lesson of reform processes elsewhere: political funders and parties have proven adept at sidestepping new rules, leaving most countries with ‘too much law and too little enforcement’. Unless reformers create simple rules that can easily be enforced, the regulatory process will fail, unintended consequences will be unleashed, and further regulation and legislation – often of an undesirably intrusive character – will ensue.

The regulation of private funding

A variety of approaches can be taken to limit influence-buying by wealthy individual or corporate donors, and to control the allegedly pernicious influence of private donations on political life. Certain kinds of donor can be banned: foreigners, trade unions, state-owned enterprises, party-related or -owned businesses, beneficiaries of government contracts, or recipients of state licences. Donations from individuals or companies can be capped or overall contribution limits can be applied. Gifts can be channelled to particular purposes such as political education, research, polling or party building. Sanctions against offenders can include compensation payments to other parties, the withholding of public funds, fines or prison terms.

These policy options are deceptively straightforward. In reality, rules on private donations are hard to implement and tend to produce a plethora of negative unintended consequences. International experience suggests that donations can easily be hidden or disguised. Parties or candidates can fail to disclose payments. They can produce inaccurate accounts, identify loopholes or use financial instruments that regulators and auditors cannot understand. They can disguise donations
as loans, hide them in commercial transactions, package them to fall under thresholds, create opaque legal trusts or divert funds to political foundations or other party-aligned institutions. Money intended for specific benign purposes can be diverted into campaign funding. We look below at the mostly intractable disclosure and transparency problems with which these failures are connected.

Controls on private donations tend for these reasons to result in four kinds of pathologies. First, when parties become financially stressed, they lose their capacities to organise, to campaign and to think. Money is diverted secretly to candidates, resulting in ‘personalism’ and instability within party structures. Funds are more generally diverted through hidden channels and party bosses lose track of them. Sophisticated companies grow in power because of their greater capacity to disguise and distribute transfers widely.

Second, there is a nationality trap. If foreign donations are not banned, domestic companies are at a commercial disadvantage in lobbying government. If they are banned, however, foreign-funded democratisation and developmental initiatives are likely to be affected. Malign foreign businesses can use offshore transfers to parties or their leaders as indirect donations.

Third, bans and caps on party donations usually result in the diversion of funds to non-governmental organisations, political foundations, or party-aligned or -owned news media. This encourages spillover legislation as governments move to clamp down on donations to these institutions too. This can create a serious threat to basic democratic freedoms — it is important to observe that the ANC’s Polokwane resolution on party funding already refers to controls on the funding of ‘civil society groups’.

As we have seen, public bodies regulate the funding and functioning of all voluntary associations in Malaysia and Russia, and they are in turn controlled by ruling-party political appointees or Kremlin apparatchiks.

Fourth, when unrealistic laws are drafted and flouted, the danger of selective enforcement arises. Experience around the world shows that such selectivity ‘may be used as a stick to discredit and imprison political opponents’.
The ‘money politics’ syndromes explored in much of this book are mostly informal, and often illegal, phenomena. Questionable fund-raising already takes place through ANC initiatives such as the Progressive Business Forum and the Network Lounge, mechanisms for milking private businesses and parastatals in exchange for access and ruling party credibility. These are legal but potentially dangerous ways of exploiting the ruling party’s control of the state. Any suggestion of ruling-party involvement – or factional intervention – in state decisions over the allocation of licences or the awarding of government contracts is equally pernicious.

The internal party elections that are the focus of so much of today’s money-fuelled manipulation lie beyond the reach of conventional donor caps. The consequence of thoughtless legislation can be to drive relationships between donors and recipients underground where the consequences of exchanges of money for power are likely to be still more malignant.

None of this means that controls on private funding should be avoided. However, the mechanisms that are chosen should be ones that enjoy the widest possible legitimacy, within parties and among donors, so as to increase the likelihood of compliance and reduce the dangers of spillover legislation in future. One possibility would be to place caps and disclosure requirements on direct donations. Another potentially complementary idea would be to create a central fund, perhaps enhanced in size by means of tax incentives to donors, whose contents would be allocated according to equitable and clear criteria agreed by all political parties. Complementary action within parties will be required to inhibit the manipulation of internal elections.

The provision and regulation of public funding
Public political funding has been an increasingly widespread response internationally to the challenges of private funding – although least so in anglophone African countries. Public funding at first sight offers an attractive solution to the problems of private donation. State funds limit parties’ immediate reliance on benefactors, so arguably reducing
corruption and increasing transparency. Fair funding formulas can enhance political equality by ameliorating the dominance of the rich. And the sustainability and institutionalisation of parties can be enhanced by directing public money to the more benign organisational and policy functions of parties.12

There is a remarkable diversity of mechanisms in use internationally, but formal state funding most often takes the form of direct grants to parties. Eligibility criteria usually reward parties for previous electoral successes and often include thresholds to discourage very small parties. ‘Matching funds’ requirements can be used to encourage parties’ continued pursuit of private donations from activists, ordinary citizens and other allegedly benign kinds of private donor. Overall funding volumes are usually determined by legislatures. These vary enormously from about US$16.50 per voter in Austria to around two US cents per elector in Guatemala.13 The calculation of subsidies and their allocation can be performed by a ‘non-political’ organ such as a judicial or electoral commission. It is essential that the process is widely understood to be fair.14

South Africa’s Public Funding of Represented Political Parties Act was passed in 1997 to strengthen multi-party democracy and promote fair competition between political parties. The country has a Represented Political Parties Fund whose overall available resources are determined by parliament. The Fund is managed by the Independent Electoral Commission (IEC), which allocates money to national or provincial parties primarily on the basis of support at the previous election – but with an ‘equitable share’ to assist smaller parties. A party can use its allocation for purposes ‘compatible with its functioning as a political party in a modern democracy’: changing public opinion, political education, encouraging participation and influencing ‘political trends’.15 The funds disbursed were less than R93 million in the financial year 2009/10. A strong case can be made for increasing the size and scope of public funding of political parties and for improving the mechanisms of oversight of this funding.16

Less controversial indirect public subsidies can include free public
Conclusion

broadcasting and advertising, free printing, franking privileges, the use of public buildings for campaign organisation, and tax exemptions for donations. New grants could be directed equitably at political foundations, newspapers, research institutes or party development organisations and political schools. Such subventions can arguably increase political equality and enhance open campaigning while minimising the need for corresponding private fund-raising.

There are four broad criticisms of an expanded role for public funding, mostly directed at direct rather than indirect subsidies. First, critics complain that state transfers do not replace undesirable private money – they simply add to it. Empirical evidence about the effects of public funding is scarce and inconclusive: the pernicious influence of private donors may have been reduced in Western Europe, but this has probably not been the case elsewhere.17

Second, the importance of ordinary party members tends to decline because the party no longer needs their money. Incentives to recruit young members are reduced and the fund-raising efforts that once linked parties to ordinary citizens fade away. The power of activists can be curbed by the transfer of resource control to party bureaucrats who develop an ‘addiction’ to public funds.18 Who exactly receives the donations, as Casas-Zamora observes, can be crucial.19 If central offices are the recipients, this will profoundly strengthen party bureaucrats at the expense of sub-national or regional activists. It may also strengthen the hand of incumbent factions – those who happen to control a party’s key offices and list processes – at the expense of those who are at present marginalised.20 This promises to reduce factional contestation within parties but at the cost of freezing existing patterns of power. Such a scenario may well make more public funding an attractive option for the current leaders of South Africa’s big parties.

Third, while public funding increases political equality by partly linking funds to votes, it can discriminate against small and breakaway parties, create a barrier to new entrants, and so effectively ‘freeze’ today’s party system. Where public funding is deliberately structured to make it rapidly available to new parties, it can actually encourage breakaway
parties to form. As Pinto Duschinsky observes, ‘the promise of public funding can be used to divide opposition parties’.  

Fourth, there is a darker side to public funding. It can create an unhealthy dependency on the state, separate party leaders from civil society, and ultimately threaten the legitimacy of parties – and so the prospects of sustained multi-party democracy. The idea of competitive multi-party democracy, we should remember, possesses little intrinsic moral appeal. Parties are private associations that express particular values and pursue specific interests. The battle of private interests for control of the public realm is an inescapably ugly spectacle that is justified largely by the benign outcomes in which it often results. In South Africa, popular support for competitive multi-party politics remains at best lukewarm.

A different conception of political democracy, in which all members of a society have an opportunity to speak on matters of concern to them, may have greater intuitive attractiveness for many South Africans. In such a society, the national leadership evaluates the interests and values of the people and attempts to build a consensus that reflects and reaffirms an underlying societal unity. Such a democracy, ‘Mandela’s democracy’ in Andrew Nash’s phrase, ‘differs from bourgeois democracy in ways which may be considered as advances on it: it sustains a way of life in which all are concretely involved in deciding the direction of society [and] it brings all issues concerning society within the sphere of public discussion’. Moreover, its leadership and governance are not ‘distorted and alienated by the creation of a professional layer of politicians’.

The partisan pursuit of narrow interests at the expense of communal cohesion and a wider purported ‘public good’ has also been regarded as divisive across most of the political history of the West. ‘Cabals’, ‘factions’, ‘cliques’ and ‘sects’ have been castigated as injurious to the unity of the state, and as threats to the ‘one perfect body’ to which a Christian society should aspire. Only with the emergence of contract theories of the state in the late 17th century did the idea of irreducible and conflicting interests, bound by an overarching contract
with one another, begin to gain any imaginative hold. This hold may be weakening.

Even in contemporary Western Europe, where the idea of multi-party democracy is most imaginatively entrenched, the character of parties as private bodies is not fixed. Parties used to be organisations rooted in society, albeit ones that occasionally took occupation of state offices. Today they are becoming detached from society: identification with parties is weakening, membership is falling, voters are becoming ‘dealigned’, and traditional cleavages – whether religious, linguistic, regional or class – are fading. Mass parties that once distributed state resources to their members long ago became elite parties that paid campaign costs by ‘selling’ policy influence to business. Now, as public funding has grown, they have often become ‘cartel parties’ that work together to pursue the state resources to which they have progressively become addicted.

Parties are mutable entities and their relationships with the state can change in ways that may undermine democracy. State resources have usually been intended to free parties from the tyranny of private donors. Instead they have left many parties bound to their states, regulated in the conduct of their internal affairs, and overseen in their administrative processes. Public funding, ‘transparency’ and state regulation have gone hand in hand in the progressive ‘incorporation’ of political parties ‘into the public domain’. Such changes may be acceptable where state officials apply public authority in a non-partisan manner. In many new democracies, as Burnell has observed, public funding has been ‘a Trojan horse for state intervention and control’.

A reform process for public funding must also address itself to the crucial role played by the informal, and often illegal, use of public resources, primarily by ruling political parties. The informal subsidies discussed in this volume include the diversion of revenues from state-owned enterprises; the transfer of public funds to party-owned companies through tender rigging; jobs or contracts for party activists; ‘pay to play’ conventions whereby only donors have access to government work; the abuse of state resources for election campaigning;
and the gross manipulation of public funding regulations for partisan purposes.

Ruling parties such as the ANC have little seeming incentive to engage in the reform of practices from which they so handsomely benefit. Moreover, most of these practices are already illegal or lie on the margins of illegality, suggesting that non-compliance will not be eradicated simply by changing the law. Nevertheless, party leaders of all stripes are aware, at least abstractly, of the dangers of further conflating state and party. The abuse of public resources, moreover, is increasingly implicated in intra-party factional conflicts at all levels of the ANC. The incentives for the liberation movement to regulate the abuse of public resources for partisan purposes are therefore growing. In one of its recent discussion documents, the ANC explored how to prevent the diversion of public resources to party leaders and proposed new ‘rules on lobbying’ that would make promising ‘incentives’ or ‘raising and using funds and other resources to campaign for election into ANC structures’ a disciplinary offence for party members. A satisfactory party funding regime agreement would presumably have to include a shared commitment to internal self-regulation by all of the political parties.

Regulating expenditure

Spending controls have been another popular antidote to purportedly spiralling campaign costs in democratic politics systems. Such regulation is designed to curtail the ‘arms race’ that allegedly drives parties into the hands of private donors. Three approaches are most popular. The first, overall caps or ceilings on spending by parties, has an exceptionally poor record. General ceilings tend to be ignored or applied selectively by regulators. Although expenditure caps almost always fail in their goals, moreover, they increase state intrusion into the internal affairs of political parties. The second approach, capping campaign or candidate expenditures, is designed to ring-fence ‘benign’ aspects of party expenditure, such as organisation building, policy deliberation, political schools and branch development. Such selective capping has had some
success in countries with high administrative capacity, but it requires intrusive monitoring and cannot prevent the secret diversion of funds into campaigning.

The third and most promising approach is to control particular and exceptional campaign costs, the key instance being political advertising. Some Western European states have successfully banned private advertising and replaced it with free or subsidised access to a public broadcaster. Such a proposal requires a functional national broadcaster, although it might also be possible, if administratively complex, to oblige private media to carry advertising on an equitable basis. One caution is that state involvement in the regulation of political parties’ expenditure could quickly spill over into the regulation of the activities of other civil society organisations. In South Africa it is sometimes claimed by members of the ruling party that voluntary associations – particularly non-governmental campaign organisations – are proxies for opposition parties or foreign agitators.

Transparency and disclosure

The effectiveness of contribution and expenditure controls depends in large part on the effectiveness of disclosure systems. Where rigorous limits on expenditure have been imposed, or classes of donations have been prohibited, parties’ audited financial reports will be the key source of data upon which regulators must depend. Enthusiasts for ‘transparency’ further believe that it is a fundamental tenet of democracy that parties or candidates should disclose fully how much money they have received and from whom. Only in this way can the actions of government be interrogated by citizens in the light of the financial inducements that political parties have received.

Those who believe parties are voluntary associations with a right to privacy sometimes counter that disclosure should be qualified. It is conceivable that donations might be declared while the identities of donors are concealed, that thresholds might be set below which disclosure is unnecessary, or that gifts would be declared only in confidence to an electoral or other public authority.
This matter is not as straightforward as it sometimes seems. South African debate has been influenced by a single non-governmental organisation, Idasa, which has made disclosure of donations and donors by political parties the centre-piece of its campaign for party funding regulation.\textsuperscript{31} Given the power of the ANC within the state, however, openly declared donations – other than to the ruling party – might be imprudent for private business donors or individuals. The chief executive of the big business lobby group Business Leadership South Africa, for example, has observed that corporate donors already consider funding opposition political parties to be a risky matter,\textsuperscript{32} and disclosure might end the practice. Well-meaning campaigners may feel that private donors should be made to feel uncomfortable. However, as Sarakinsky has observed, the protection of such donors’ identities may be necessary to ensure the survival of opposition politics.\textsuperscript{33}

Such concerns are not unique to this country. In Eastern and Central Europe, where authoritarian rule is both a recent memory and a continuing threat, the same fears persist about the prospect of government harassment or worse if donations to opposition political parties are made public.\textsuperscript{34} There is a case for reflection on fresh ideas, for example on ‘creative measures that reveal information about party finances without publicizing the identities of donors’.\textsuperscript{35}

Disclosure requirements are also complicated by the exceptionally poor compliance history that has been experienced across the globe. Party financial statements – whether or not they have been ‘externally audited’ – are typically breathtaking works of fiction. Almost everywhere a ‘chasm’ divides the letter of the law from the reality.\textsuperscript{36} Disclosure requirements that threaten negative consequences to donors and recipients encourage evasive behaviour and diversion. Cash contributions in brown envelopes or black rubbish bags; the use of intermediaries; gifts packaged as loans; and the proliferation of sometimes fictional juristic and natural persons all donating simultaneously: there appear to be no limits to the human imagination when it comes to concealing the identities of party donors.

Worst of all, interest groups, NGOs, political foundations, partisan
newspapers, churches and other civil society organisations – entities that are not covered by initial party funding legislation – can be used by donors as conduits to, or proxies for, the parties they wish to empower. Such behaviour encourages governments to extend the sphere of regulation so that an ever wider range of organisations and associations is brought under the ambit of regulatory agencies. In practice, the limited capability of states in the South to regulate financial transactions uniformly and equitably then results in the selective and politicised application of the law.

Towards reform

Political finance regimes cannot be made perfect. Although the search for a magic wand is futile, there are basic guidelines for a successful party funding dialogue. First, new laws must be clear and suited to the implementation capabilities that a country possesses. Laws that cannot be enforced fairly and effectively by the country’s current state or electoral bureaucracies are worse than useless. They will generate unintended consequences and a clamour for further ill-conceived regulation, and they can create an environment for selective enforcement.

Second, reformers need to explore informal monetary flows and not merely formal political funding practices. Interest groups that buy influence may well be further empowered, not hampered, by laws that arbitrarily ban lobbying and political donations by private citizens and companies. New regulations should not needlessly drive funders underground and further deepen the opacity that surrounds money politics. Instead, new rules should be designed to force those who already operate in this murky underworld to migrate towards the light of day. Third, internal party contests require as much of reformers’ attention as elections for public office – but reform initiatives must take account of the private and associational character of parties. In dominant party systems like South Africa there is an urgent need to curb the monetisation of internal elections that determine who wields state power. Ideally all parties should be involved, and new guidelines should be enforced by parties themselves. This would avoid further
empowering state organs to monitor the internal affairs of civil society associations.

Fourth, the state cannot be considered a neutral arbiter in party funding conflicts. Factions within governing parties, especially electorally dominant parties, penetrate and control public institutions for their own purposes. Mechanisms must be found to ensure that regulation is rule-bound and non-discretionary so that it lies as far as possible beyond the reach of partisan and factional politicisation.

Fifth, a wide range of individuals and organisations should be brought together to deliberate upon proposed party finance reforms. There should be space in such deliberations for international experts, democracy foundations and the national representatives of political parties. However, a realistic reform programme will only emerge if the contributions of government officials, investigative journalists, civil society organisations, political activists and donors are also heard.

The power to initiate change inevitably lies with the ruling party. Some ANC leaders will be tempted to push though quick-fix reforms that advantage the movement’s currently ascendant factions, and allow the party temporarily to disable opposition and civil society donors. Money is never still, however, and it is not merely eating away at the foundations of South Africa’s democracy. It is also devouring the heart of the liberation movement itself.

Endnotes

3 News 24, ‘ANC wants party funding ‘debate’”, 5 March 2010.
6 Casas-Zamora, Political Finance, 7-8.
8 ANC, ‘Resolutions’, paragraph 63.
9 Kurgunyuk and Gomez in this volume.
10 Pinto-Duschinsky, *Political Financing*, 17.
11 See Taljaard, Sokomani and Friedman in this volume.
13 Ibid., 16.
16 See Taljaard in this volume.
18 Ibid., 11; see also Krause and Jolobe in this volume.
20 Ibid., 17-20.
29 See in particular the chapters by Greene and Gomez.
31 Idasa, *Regulation of Private Funding to Political Parties* (Cape Town: Political Information and Monitoring Service, 2003).
32 *Business Day*, 16 April 2009.
35 Sarakinsky, ‘Political party finance’, 126.