



2 Political finance

Corruption in political finance takes many forms, from the use of donations for personal enrichment to the abuse of state resources. Marcin Walecki's essay examines corruption in political finance and the way it degrades the political process. It also evaluates the regulations that govern political finance around the globe.

Two contributions explore how corruption in the financing of politics can lead to differential access to the political system: Judith February and Hennie van Vuuren consider attempts to level the political playing field in South Africa and Michael Johnston looks at soft money reform in the United States. The World Economic Forum presents data on the extent of political corruption around the world.

Transparency International provides a table evaluating the year's legislative changes in political party governance, funding and disclosure. Illustrating the breadth of new legislation in South America, Bruno Wilhelm Speck contributes an overview of political finance regulation in the region. Finally, Musikari Kombo, a member of the Global Organization of Parliamentarians against Corruption, or GOPAC, shares his perspective as a politician engaged in the fight against corruption in Kenya.

Political money and corruption

*Marcin Walecki*¹

Money matters for democracy because much of democratic political activity simply could not occur without it. The misuse of money in politics, particularly when it reflects corrupt practices, creates major problems for democracies – not least because it threatens democratic principles of equal justice and fair representation. The public interprets irregularities in party and campaign finance in a broader context, leading to distrust of the political institutions and processes.

Political finance is influenced by – and influences – relations between parties, politicians, party members and the electorate. Problems of political finance lie at the heart of a public debate on political corruption. Political finance and corruption are separate notions, but when their valences overlap, the zone of political corruption emerges.

Just what constitutes corruption in political finance is often unclear. In general, corrupt political finance involves the improper or unlawful conduct of financial operations (often by a candidate or a party) for the profit of an individual candidate, political party or interest group. Table 2.1 provides a typology of corrupt forms of political finance.



Table 2.1: Major types of political finance-related corruption²

Type	Actor group vulnerable to corruption	Description
Illegal expenditure including vote buying	Voters and election officials	A political party or candidate may directly or indirectly bribe voters and election officials. They may alternatively offer the electorate different kinds of incentives (gifts, food, alcohol or even short-term employment). Besides elections, in some parliaments there is an unofficial market for votes – parliamentarians or councillors might be paid for votes or for joining different caucuses.
Funding from infamous sources	Candidates and political parties	A political party or candidate may accept money from organised crime (such as drug traffickers), terrorist groups or foreign governments. These groups might even form their own political parties.
Selling appointments, honours or access to information	Public servants and candidates	Contributors may gain rewards in the form of job selections, appointments (ambassadorial, ministerial or judicial), decorations or titles of nobility. Money may also be used to buy a seat in parliament or a candidacy.
Abuse of state resources	Public sector	Certain state resources, such as money and infrastructure, that are available to office holders may be extensively used for electioneering. In addition, the political party or candidate may capture state resources through the unauthorised channelling of public funding into companies, organisations or individuals.
Personal enrichment	Candidates and politicians	Candidates may be required to contribute significant amounts to a party's election fund and also to pay for their individual campaign. Politics then becomes a rich man's game and elected representatives accumulate necessary funds to pay for the next elections by taking a percentage on secret commissions and accepting bribes.
Demanding contributions from public servants	Public servants and public sector	A political party or candidate in need of money may impose excises upon office holders, both public and elected. In some regimes a political party may also force public servants to become party members and then extort kickbacks from their salaries for some party expenditures.
Activities disobeying political finance regulations	Political parties	A political party or candidate may accept donations from prohibited sources or spend more than the legal ceiling permits. Violations of disclosure requirements, such as inaccurate accounting or reporting, or lack of transparent funding, are often the cause of political scandals.
Political contributions for favours, contracts or policy change	Private sector	One of the motives for political contributions to a political party or candidate is the possibility of payoffs in the shape of licences and government contracts. Donations may also be given for a governmental policy change or legislation favourable to a specific interest group.
Forcing private sector to pay 'protection money'	Private sector	Extortion, for instance using tax and customs inspections to force entrepreneurs to hand over part of their profits to a political party.
Limiting access to funding for opposition parties	Opposition parties and candidates	Authoritarian regimes with a patrimonial economic system and political repression may seriously constrain financial resources available to opposition parties.



Narrow definitions of political corruption, such as ‘the use of public office for unauthorised private gain’, do not include many forms of finance-related political corruption. For example, a senior position in a political party does not in most countries constitute a ‘public office’ holder. Extra-party actors must also be included in any discussion of corrupt political finance since they may participate in political competition in order to shape public policy agendas, to influence legislation or to sway electoral debates and outcomes.

Moreover, the unfair advantage enjoyed by some parties or candidates in elective democracies is not only a matter of corruption, since it may result from the unequal distribution of wealth across the population. A system that prohibits corrupt practices in the funding of parties and election campaigns does not necessarily promote political equality (see Box 2.1, ‘The challenge of achieving political equality in South Africa’, below).

Box 2.1: The challenge of achieving political equality in South Africa

At its heart, the regulation of party funding is a question of political equality. Perhaps the single moment when all citizens experience equality is when they cast their vote at the ballot box. A hard-won right in South Africa, this simple democratic act has immense value to many and is a tangible manifestation of democracy to most. But lack of control over the private funding of political parties may allow the wealthy to ‘buy’ influence and access through secret donations, drowning out the citizen’s voice and undermining the equal value of each person’s vote. Unregulated private money in politics raises the real prospect that the wealthy will have undue influence on the government’s direction or policy options.

Corrupt payments to political parties to secure a private benefit are found the world over, but they take on glaring dimensions in democracies plagued by huge income disparities, such as the United States, Brazil or South Africa. Racial disparities still exist in South Africa, but analysts are beginning to re-conceptualise what is meant by ‘the two South African nations’. The one can be characterised as an increasingly multiracial class, comprising one-third of the population, which owns almost all the property and is socio-economically dominant, while the ‘other two-thirds’ is drawn from a class that often lives a hand-to-mouth existence despite being a clear majority of the electorate. Despite the government’s many efforts to promote development, South Africa represents a microcosm of globalisation dilemmas – including the challenge of ensuring political equality in a society with deep socio-economic fault lines.

After nearly 10 years of democracy, the secrecy surrounding the private funding of political parties has not been pierced because there remains a glaring lacuna in South African law. There *is* no law regulating private funding to political parties. The private funding of political parties remains one of the last ‘legitimate’ avenues by which the private sector, foreign governments or even criminals can exert indirect influence on public officials.

The Public Funding of Represented Parties Act provides for a certain amount of public money to fund political parties’ activities ‘equitably’ and ‘proportionately’. But in the country’s second democratic election in 1999 parties spent 300–500 million rand (US \$40–67 million) on the campaign, of which just 54 million rand (US \$7 million) stemmed from the public purse.



The funding that fills the gap is raised by private means and is clearly not sourced proportionally between the majority of the electorate – which remains impoverished – and large corporations, foreign governments and wealthy private donors. Indeed, since the political transformation of South Africa in 1994, income inequalities have become further entrenched. The richest 20 per cent of South Africans receive 66.5 per cent of all income, while the poorest 20 per cent receive just 2 per cent.¹

South Africa's parliament was recently provided with an opportune moment to reduce the resulting political inequality: in 2002 the government submitted in parliament an otherwise innovative piece of legislation, the Prevention of Corruption Bill (see the South Africa country report, Chapter 8, page 258). However, the bill has so far failed to include provisions on political party financing, and it remains to be seen whether lawmakers will now grasp the nettle and address the omission.

Using what legislation is available – the Promotion of Access to Information Act (PAIA) of 2000 – the Institute for Democracy in South Africa (Idasa) has requested all political parties represented in the National Assembly to provide information on the identities of all private donors since 1994; the amount of the donations; and the date on which they were given. What happens next will depend on the parties' responses. The case is important not only for the use of PAIA but because it may give the high court (and ultimately the constitutional court) an opportunity to pronounce on whether political parties are public or private bodies. If it decides they are public bodies, a way to regulate private funding may be opened. The timing of the court's decision is crucial since 2004 is an election year.

The challenge is before the legislators and politicians. What is required now is the political will to achieve the equality of all voters in South Africa's democracy.

*Judith February (Idasa) and
Hennie van Vuuren (Institute for Security Studies, South Africa)*

Note

1. Income inequality in South Africa is the eighth highest out of the 125 countries assessed by the UNDP, *Human Development Report 2003* (New York: Oxford University Press, 2003).

Nor is corrupt political financing limited to illegal political finance. Illegal political finance involves the contribution, or use, of money that contravenes existing laws. It is often assumed that a political act is corrupt when it violates the legal standards of behaviour, but the definition is simultaneously too narrow and too broad in scope: some illegal acts are not necessarily corrupt (the foreign funding of democratic opposition, such as the Polish Solidarity Trade Union in the 1980s) and some corrupt acts are not necessarily illegal (campaign contributions from organised crime).

Indeed, the range of definitions of illegal political funding depends on country-specific regulations, while 'irregular' political finance emerges in the gap that exists between a country's legal provisions and the reality of its practices. The irregular or informal political finance system refers to legal contributions from disreputable sources, or the acceptance of money in exchange for favours.

Private gain as political gain

Political finance scandals might initially consist of criminal behaviour by politicians, or they may be more overtly concerned with corruption in political finance. A definitional problem arises from the fact that money obtained corruptly by politicians for private use may in fact be used to fund their campaigns, in which case it is an example of corruption in political finance. Such was the case in France when 37 defendants were accused in 2003 of accepting nearly €400 million (US \$457 million) from the former state oil group Elf Aquitaine for personal enrichment and political kickbacks during the late 1980s and early 1990s. The company's senior executives subsequently admitted that the money was routinely used to finance French political parties and presidential candidates.³

Research from post-communist countries has highlighted the private character of political corruption. In Poland and Ukraine, out of a 5 per cent kickback, about 0.5 per cent goes to party coffers and 4.5 per cent ends up in private accounts.⁴ The latter might still be channelled back into political activities, however, bolstering the account holders' political, rather than material, position.

The fragmented and non-institutionalised party system in Central and Eastern Europe encourages big business to form client circles, establish political parties, set up parliamentary factions or become media owners. In Ukraine, for example, informal political actors – financial-industrial groups and oligarchs – have dominated the political spectrum by forming business-oriented parties. Not only have these parties had a clear majority in parliament in recent years, but they also control most of the national media.⁵ Politics in countries like Ukraine is a combination of business projects run by oligarchs enjoying political immunity, and individuals who use public office to gain personal wealth. There is, therefore, no clear boundary between individual criminality and the systemic corruption of political finance.

New democracies, new problems

The most advanced 'consolidated democracies' and 'consolidated autocracies' have low levels of illegal private political finance.⁶ In consolidated democracies, progress in liberalising the economy, strengthening bureaucratic accountability and promoting transparency thwarts corruption in political finance. Consolidated autocracies are often based on strong presidential or one-party systems, with economic power derived from political patronage.

In consolidated autocracies, major economic interests are closely linked to the president and his inner circle; as a result, there is little interest in supporting opposition political parties, which are often weak. The concentration of economic resources in the executive branch and the lack of foreign investment restricts the resources available to opposition parties and gradually wipes them out, since they cannot rely financially on their members or other interest groups. At the same time the vast public resources available to office holders are used to sustain the authoritarian regime.

Especially in new democracies the role of large donors, both business and individual, raises concerns about the operation of representative government. In one survey of the



transition countries of Central and Eastern Europe, the World Bank identified ‘illegal political finance’ as one of six dimensions of the ‘state capture’ phenomenon.⁷ It found that approximately one-fifth of all firms surveyed considered themselves to be significantly or very significantly affected by illegal political donations.⁸

The survey does not give a complete picture of corrupt political finance, since it does not consider other forms of irregular political finance, such as misappropriation of public funds (when a ruling party uses its power to embezzle funds from state-owned companies, for example) or the abuse of state resources (the use of state employees, offices and vehicles for campaign purposes).

Measures to regulate political finance

Unregulated political financing presents specific problems for modern liberal democracies in that it fails to provide a framework in which candidates and political parties can compete on equal terms. Political competition under unregulated political financing, according to one noted expert, is like ‘inviting two people to participate in the race, with one participant turning up with a bicycle and the other with a sports car’.⁹

In general, measures concerning political financing are divided into regulations and subsidies. These include: (1) bans on certain types of donations, (2) contribution limits, (3) spending limits for political parties and presidential candidates, (4) public subsidies, (5) indirect public funding and in-kind subsidies (including regulations concerning political broadcasting), (6) comprehensive disclosure and reporting regulations, and (7) severe penalties.

Controls on income and spending

Most democracies restrict the use of at least some sources of private donations, either by setting limits or banning them altogether. Worldwide, half of the countries surveyed ban certain kinds of donations, with bans most prevalent in Central and Eastern Europe and Latin America (see Table 3.1, page 39).

The regulation of expenditure generally involves restrictions on direct vote buying, or limitations on the expenditures of parties or individual candidates. Restrictions on how much parties spend on their activities are based on the assumption that unregulated political finance denies societies a level playing field in the competition for power. But certain political environments require special caution: authoritarian regimes impose strict limits on campaign expenditure that marginalise the opposition and aid the non-democratic regime by allowing it to exploit resources, such as state-controlled television.

Transparent public funding, if awarded based on objective and fair criteria, is one option for combating the abuse of state resources and the illegal funding that fuels corruption in politics. In semi-authoritarian regimes, the absence of public funding starves the opposition of resources, while the existence of such funding – including indirect subsidies like state-regulated airtime – limits the opportunities for oligarchs to capture parties and their policy-making. In all countries, direct public funding relieves parties of the incessant pressure to raise funds. Public funding is very common in Western



Europe, Central and Eastern Europe and Latin America. Yet as scandals worldwide demonstrate, even substantial public funding is not enough to eliminate other forms of political finance-related corruption, such as personal enrichment, illegal expenditure or vote buying.

Box 2.2: Soft money 'reform' in the United States: has anything changed?

The need for campaign finance reform has been a dominant corruption issue in the United States for many years. Opinion polls indicate that a substantial majority think the US campaign finance system gives excessive influence to big contributors. Reduced voter turnout and a decrease in trust are both symptoms of an electoral system in trouble.

After being introduced and debated in every Congress since 1995, the Bipartisan Campaign Reform Act (BCRA), also known as the McCain-Feingold-Cochran Bill, was passed in March 2002 and took effect on 6 November 2002 – the day after the mid-term congressional elections.

Proponents consider the BCRA a significant step toward reducing corruption in politics by putting an end to soft money and restricting issue advertising. These claims, however, are questionable since the legislation has already been subjected to legal challenges and other efforts to circumvent it.

The BCRA bans 'soft money' – *unlimited* contributions channelled through parties ostensibly for get-out-the-vote and 'party-building' activities – as opposed to 'hard money' – money donated to registered campaign committees with stricter limits on amounts and disclosure requirements. Soft money contributions grew rapidly from the late 1980s onwards.¹ While disclosed at the federal level, the soft money given to state party committees drew much less scrutiny.

A connected concern was the use of funds for 'issue ads' – advertisements that escaped regulation because they advocated points of view on issues, without mentioning candidate names. To the viewer, however, issue ads were little better than thinly disguised attack ads.

The BCRA's four main provisions aimed to address these problems.² They include a total ban on soft money in federal campaigns, and the requirement that all 'electioneering communication' (in effect, most broadcast advertising) within 60 days of a general election and 30 days of a primary should be paid out of hard money contributions. In effect, the law bans issue ads during those critical periods.

Limits on individual contributions to campaigns were raised from US \$1,000 to US \$2,000 per federal election campaign (one candidate running in one primary or general election is treated as a campaign). This increase was a welcome change since inflation had reduced the value of the previous maximum contribution of US \$1,000, enacted in 1976, to US \$316 in constant dollars, forcing candidates to fund ever more expensive campaigns with smaller and smaller contributions. Limits on individuals' total contributions across a two-year election cycle were also raised, and both the total and the per-campaign limits were indexed for inflation. Political action committee contribution limits, by contrast, were neither raised nor indexed.

Finally, a 'millionaire opponent' provision applies to House and Senate candidates whose opponents spend large amounts of their own personal funds – spending that remains unlimited. Ceilings on individual contributions to those facing such opponents are raised and limits on party spending on behalf of those candidates are removed as opponents' expenditures from personal funds exceed various thresholds.



The BCRA was hailed as a first and important step towards cleaner politics. Others are more sceptical, waiting to see whether the soft money ban will be effective at the federal level, or simply provide new incentives to route it through state and local committees. Private foundations and think tanks closely allied to – but legally separate from – the major parties and campaign committees have already emerged to raise and spend campaign funds without any form of disclosure requirements.

Typical of the complexity of any reform is the concern that any all-hard-money regime, if realised, will be slanted in favour of incumbents, who find it far easier to raise hard money (via modest contributions directly to a campaign fund) than challengers. The restriction on issue ads – already the subject of several first amendment challenges over the implications for free speech – is also viewed as aiding incumbents, since issue ads are most often targeted against them. The millionaire opponent provision, which aims to deal with an obvious unfairness, could also be interpreted as working in favour of the incumbent since challengers are more likely to spend large amounts from personal resources than incumbents, who – again – find hard money easy to acquire.

The re-election of incumbents is not necessarily a bad thing. However, from 1980 to 2000, the share of incumbents whose re-election bids were successful ranged between 90.5 and 98.8 per cent, while the proportion winning with at least 60 per cent of the vote ranged between 65.2 and 88.0 per cent.³ Re-election rates are only somewhat lower in the Senate.⁴ Nearly a quarter of House incumbents running in 2000 faced only token opposition, or none at all.⁵ There are many reasons for such high re-election rates, but if the BCRA actually proves to make life more difficult for challengers, it will further tarnish the quality of political life and make it more difficult to fight corruption at the polls.

The future of several BCRA provisions will remain in doubt until they are resolved in court. A contradictory bundle of rulings by a special three-judge federal court in May 2003 only set the stage for the real legal battle before the US Supreme Court, which assembled for a rare one-day special session in September 2003. Ten groups of plaintiffs squared off against the bill's powerful backers.

Opponents argued that the soft money and issue ad provisions of the BCRA are wholly in violation of the Constitution. Proponents held that a compelling public interest in limiting corruption justified the soft money restrictions, and that the issue advertising ban would further reduce the role of money in election campaigns. The court's eventual decision is difficult to predict, although a group of Supreme Court justices regards political money as a 'form of speech', to be protected by the Constitution like any other. No doubt they will find it difficult to disentangle the issues raised by the BCRA, raising the possibility that the 2004 federal election campaigns will get underway in an unsettled legal environment.

Michael Johnston (Colgate University, United States)

Notes

1. In the 1996 election cycle, national party committees raised and spent more than US \$250 million in soft money exempt from federal contribution limits. Committee for Economic Development (CED), *Investing in the People's Business* (New York: CED, 1999).
2. An excellent summary is available from the Campaign Finance Institute at www.cfinst.org/eguide/update/bcra.html
3. Norman J. Ornstein, Thomas E. Mann and Michael J. Malbin, *Vital Statistics on Congress 2001–2002* (Washington, D.C.: American Enterprise Institute, 2002). Tables and commentary available online at www.cfinst.org/studies/vital/3-3.htm
4. *Ibid.*
5. *Ibid.*



Disclosure

As an anti-corruption measure, disclosure requires systematic reporting, auditing and public access to records. The purpose of disclosing political finances is to enhance incentives for honesty, by making party and politicians' accounts public knowledge and subject to free debate (see 'The role of disclosure in combating corruption in political finance', Chapter 3, page 38).

Civil society organisations are increasingly active in promoting better disclosure and transparency, lobbying for reform in party and campaign finance. Pressure from NGOs and the mass media is vital to the creation of an atmosphere that promotes anti-corruption initiatives, and the two groups can serve as reliable watchdogs of party and campaign finance.

Enforcement

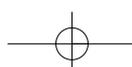
A critical weakness undermining the implementation of effective political finance regulation is the lack of independent enforcement mechanisms. Effective enforcement requires the law to impose penalties to serve as a deterrent to violators, but proportionate sanctions should not always be limited to criminal law. Recent evidence from Central Europe indicates that more effective enforcement results from administrative sanctions and the possibility of forgoing public funding through cuts in the reimbursement of election expenses or direct state subsidies, rather than from severe criminal penalties. In fact, some argue that when penalties are too severe, they discourage enforcement.¹⁰ What is more alarming, however, is when criminal sanctions against illegal party funding are used selectively.

Effective enforcement of political funding requires parties to introduce internal control mechanisms in the form of financial agents and managers, codes of conduct, accounting procedures, financial checks and balances and ethics committees to oversee management and fundraising activities. Parties must be required to maintain professional bookkeeping and conduct most of their financial operations through bank accounts. An independent and professional audit should review the campaign and the party's financial reports (see 'Enforcement: how regulation of political party finance is managed in practice', Chapter 3, page 53).

Finding the right formula

The legal framework of political finance should be comprehensive (including provisions for sources of funding, allowed expenses, disclosure, reporting, enforcement and sanctions), should be stated in clear and unambiguous language and should be objective and based on political consensus.

State enterprises and other public bodies should remain politically neutral, however. Legal entities providing goods or services for any public administration and publicly owned companies should be prohibited from making donations to political parties. Extra measures to prevent such prohibitions from being circumvented should be adopted.



Box 2.3: A selection of the year's legislation on political party governance, funding and disclosure

Positive developments:

Brazil: Legislation approved in February 2002 requires candidates to present their campaign donation and expenditure statements electronically. Previously, such statements were presented only in paper format, making it virtually impossible to organise and aggregate the data or make it available to a broader public.

Canada: Amendments to the Canada Elections Act approved in June 2003 introduced strict limits on political donations. To compensate for the loss of private financing, parties will receive state financing in proportion to the number of votes received.

Costa Rica: The constitutional court ruled in May 2003 that bank secrecy privileges do not apply to political party assets. All accounts held by political parties at state or private banks or any non-bank entity must now be made available to the general public.

USA: The Bipartisan Campaign Reform Act (BCRA), otherwise known as the McCain-Feingold-Cochran Bill, was passed in March 2002. Proponents consider it a major step towards reducing corruption in US politics by putting an end to 'soft money' and restricting candidate-specific 'issue' advertising. However, the legislation has shortcomings and has already been subject to legal challenges and efforts to circumvent it.

Mixed developments:

Kenya: The Public Officer Ethics Act of May 2003 requires all public officials, including members of parliament, to declare their wealth. It does not provide public access to the information, however, nor does it provide a framework for inspecting declarations.

Uganda: On the positive side, the Leadership Code 2002 requires elected politicians and senior public officials to declare income and assets or face a penalty, and provides for their declarations to be made public. Nevertheless, the Political Parties and Organisations Act 2002 bars political parties from campaigning for office, limits their freedom to hold public meetings and stops them from operating outside the capital. The law's constitutionality is still being challenged.

Negative developments:

Azerbaijan: Adopted by referendum in August 2002, a constitutional amendment allows ordinary courts to close down political parties; formerly, only higher level courts could ban parties. A second amendment increases the term for official confirmation of election results from seven to 14 post-election days, which gives incumbents a better opportunity to falsify results.

Kazakhstan: The July 2002 law on political parties controls donations, but crucially also increases the number of members required to set up a party from 3,000 to 50,000 people. As a result the number of parties in existence was reduced from 19 to seven, of which only one is an opposition party.

Zambia: In March 2003, the president refused to give his assent to the parliamentary Political Parties Fund Bill, which would have funded political parties in proportion to their number of members of parliament.



"I've moved my campaign headquarters to Nevis,
so I can keep my fundraising secret from the I.R.S."

Harley Schwadron, United States, www.CartoonStock.com

One formula for greater public control of money in politics requires a comprehensive system of political financing based on three main pillars: (1) full disclosure, (2) an independent enforcement agency and (3) reasonable public funding.

Disclosure encourages transparency in fundraising and spending. Effective enforcement requires an independent agency endowed with the necessary powers to supervise, verify, investigate and, if required, institute legal proceedings. Assuming that private funding will remain a constant, the regular, adequate funding of parties by the state provides a guarantee of a diversification of parties' financial resources and reduces the possibilities of state capture.

Notes

1. Marcin Walecki is the adviser for political finance at the International Foundation for Election Systems, or IFES.
2. This typology borrows from Michael Pinto-Duschinsky, 'Financing Politics: A Global View', *Journal of Democracy*, vol. 13, no. 4, October 2002.
3. BBC News (Britain), 18 June 2001; *Financial Times* (Britain), 15 April 2003.

4. Donatella della Porta and Alberto Vannucci, *Corrupt Exchanges: Actors, Resources, and Mechanisms of Political Corruption* (New York: Aldine de Gruyter, 1999).
5. Author's interviews with senior politicians, Warsaw and Kiev, 2001.
6. Based on Freedom House categories, which classify countries as 'consolidated democracies', 'transitional governments' and 'consolidated autocracies'. See www.freedomhouse.org/research/nitransit/2001/index.htm
7. State capture is defined by Joel S. Hellman, Geraint Jones and Daniel Kaufmann as 'shaping the formation of the basic rules of the game (i.e. laws, rules, decrees and regulations) through illicit and non-transparent private payments to public officials'. See www.econ.worldbank.org/docs/1199.pdf
8. The data comes from the 1999 Business Environment and Enterprise Performance Survey (BEEPS). See www.worldbank.org
9. Keith D. Ewing, *Money, Politics and Law: A Study of Electoral Campaign Finance Reform in Canada* (Oxford: Oxford University Press, 1992).
10. Author's interview with representatives of the Polish ministry of justice and the national electoral commission, Warsaw, June 2002.

Box 2.4: Political corruption: a global comparison

New data gathered by the World Economic Forum (WEF) draws attention to the extent of political corruption around the world. In October 2003, the WEF published the results of its 2003 Executive Opinion Survey in the *Global Competitiveness Report*. The survey, which aims to obtain information about the economic environment in which firms operate, asked business leaders in 102 countries about how their own countries compared to global standards across a range of economic, technological and institutional dimensions. Worldwide 7,741 firms were surveyed.

Of the more than 100 questions in the 2003 survey, three were intended to assess the frequency of different forms of political corruption (see Table 2.2).

The first question asked businesses to estimate how commonly firms in their industry make undocumented extra payments or **bribes to influence government policy-making**. Business leaders in only 27 per cent of the countries state that such payments never or rarely occur in their industry, while business leaders in 17 per cent say such payments are common or fairly common.

The second question asked business leaders to assess how common **illegal donations to political parties** are in their countries. Responses to this question are even more negative; in only 18 per cent of the countries do business leaders claim that illegal donations are rare or fairly rare, and these countries include some – such as China and Vietnam – where the rating may reflect not so much the extent of corruption as the nature of political parties. Business leaders in 41 per cent of the countries regard illegal donations as common or fairly common.

The third question asked business leaders to estimate the extent of the **direct influence of legal political donations on policy outcomes** in their country. In 89 per cent of the countries, businesses regard the impact as either moderate or high. The question highlights how businesses may remain within the law while nevertheless engaging in what may be regarded as corrupt practices. Business leaders in the United States make a striking claim. While irregular payments (score 5.1 on a scale from 1 to 7, where 7 indicates low political corruption) and illegal donations (score 4.8) are perceived to be less common in the





Table 2.2^a

	1. Irregular payments in government policy-making	2. Prevalence of illegal political donations	3. Policy consequences of legal political donations
Low political corruption (score ≥5)	27% of the 102 countries (Australia, Austria, Belgium, Botswana, Canada, Denmark, Finland, France, Germany, Hong Kong, Iceland, Israel, Jordan, Luxembourg, Malaysia, Malta, Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, Taiwan, Tunisia, United Kingdom, United States)	18% of the countries (Australia, Austria, China, Denmark, Finland, Hong Kong, Iceland, Jordan, Luxembourg, Netherlands, New Zealand, Norway, Singapore, Sweden, Switzerland, Tunisia, United Kingdom, Vietnam)	11% of the countries (Denmark, Finland, Hong Kong, Iceland, Jordan, Luxembourg, Netherlands, New Zealand, Singapore, Sweden, Tunisia)
Medium political corruption (score between 3 and 5)	56% of the countries (Algeria, Brazil, Bulgaria, Cameroon, Chile, China, Colombia, Costa Rica, Croatia, Czech Republic, Egypt, El Salvador, Estonia, Ethiopia, Gambia, Ghana, Greece, Hungary, India, Indonesia, Ireland, Italy, Jamaica, Japan, Kenya, Korea, Latvia, Lithuania, Macedonia, Malawi, Mauritius, Mexico, Morocco, Mozambique, Namibia, Nicaragua, Pakistan, Peru, Poland, Russian Federation, Senegal, Serbia, Slovak Republic, Slovenia, South Africa, Sri Lanka, Tanzania, Thailand, Trinidad and Tobago, Turkey, Uganda, Ukraine, Uruguay, Venezuela, Vietnam, Zambia, Zimbabwe)	41% of the countries (Algeria, Belgium, Botswana, Canada, Egypt, El Salvador, Estonia, Ethiopia, France, Gambia, Germany, Greece, Hungary, Indonesia, Ireland, Israel, Italy, Japan, Korea, Latvia, Lithuania, Malawi, Malaysia, Mali, Malta, Morocco, Mozambique, Namibia, Pakistan, Poland, Portugal, Senegal, Serbia, Slovenia, South Africa, Spain, Taiwan, Tanzania, Thailand, Uganda, United States, Uruguay)	69% of the countries (Algeria, Angola, Australia, Austria, Bangladesh, Belgium, Botswana, Brazil, Cameroon, Canada, Chad, Chile, China, Costa Rica, Croatia, Czech Republic, Dominican Republic, Egypt, El Salvador, Estonia, Ethiopia, France, Gambia, Germany, Ghana, Greece, Haiti, Hungary, India, Indonesia, Ireland, Israel, Italy, Jamaica, Japan, Kenya, Korea, Latvia, Lithuania, Macedonia, Malawi, Malaysia, Mali, Malta, Mauritius, Mexico, Morocco, Mozambique, Namibia, Nigeria, Norway, Pakistan, Poland, Portugal, Senegal, Slovenia, South Africa, Spain, Sri Lanka, Switzerland, Taiwan, Tanzania, Thailand, Turkey, Uganda, United Kingdom, Uruguay, Vietnam, Zambia, Zimbabwe)
High political corruption (score ≤3)	17% of the countries (Angola, Argentina, Bangladesh, Bolivia, Chad, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Madagascar, Mali, Nigeria, Panama, Paraguay, Philippines, Romania)	41% of the countries (Angola, Argentina, Bangladesh, Bolivia, Brazil, Bulgaria, Cameroon, Chad, Chile, Colombia, Costa Rica, Croatia, Czech Republic, Dominican Republic, Ecuador, Ghana, Guatemala, Haiti, Honduras, India, Jamaica, Kenya, Macedonia, Madagascar, Mauritius, Mexico, Nicaragua, Nigeria, Panama, Paraguay, Peru, Philippines, Romania, Russian Federation, Slovak Republic, Sri Lanka, Trinidad and Tobago, Turkey, Ukraine, Venezuela, Zambia, Zimbabwe)	21% of the countries (Argentina, Bolivia, Bulgaria, Colombia, Ecuador, Guatemala, Honduras, Madagascar, Nicaragua, Panama, Paraguay, Peru, Philippines, Romania, Russian Federation, Serbia, Slovak Republic, Trinidad and Tobago, Ukraine, United States, Venezuela)
Average (median) score	4.1	3.25	3.8

^a In each case, respondents were asked to indicate the extent or impact of a given corrupt practice on a scale from 1 to 7, where 1 indicates the practice is common or very influential, and 7 indicates the practice is rare or not influential. The table places countries in three groups for each question: countries with a score of 5 or better ('low political corruption'), between 3 and 5 ('medium political corruption') and 3 or worse ('high political corruption').





United States than the average of the 102 countries, legal donations are perceived to have a noticeably greater impact on policy outcomes (score 3.0) than average.

While each question addresses a specific type of practice, taken together the questions may allow a comparison of the extent of political corruption across the world. Eleven countries are consistently in the 'low political corruption' category, and three have an average score for the three questions of 6.0 or above: Denmark, Finland and Singapore. In contrast, the 'high political corruption' category consistently includes 10 countries, of which three are in Central America (Guatemala, Honduras and Panama), four in South America (Argentina, Bolivia, Ecuador and Paraguay) and three elsewhere (Madagascar, Philippines and Romania).

Scores cut across the divide between the developed and developing world. Two developing countries have an average score greater than 5.0 for the three questions: Jordan and Tunisia. On the other hand, among those countries with an average score less than 4.0, three are members of the European Union: Greece, Ireland and Italy.

World Economic Forum (www.weforum.org/gcr)

Campaign finance reform: is Latin America on the road to transparency?

*Bruno Wilhelm Speck*¹

Most Latin American countries have introduced some legislation on party or electoral finance in the last decade (for an overview see Table 2.3, page 35).² While some started with higher standards, most face the task of balancing integrity and equity with the legitimate demand for resources to finance political competition.

Severe shortfalls in public purses across the region, with their direct impact on people's welfare, have made Latin Americans unwilling to grant more resources for political competition, regardless of evidence demonstrating that some public funding tends to clean up politics. Although state resources already play a significant role in some countries, they coexist with only moderate limits on private funding sources.

Bans and limits

Despite a wave of reforms of party and electoral legislation since 1990, bans and limits were adopted only recently in several Latin American countries. Half of the countries have still not set any limit on the amount of private financing for electoral campaigns. In those countries where funding limits have been established, doubts remain about the respective control bodies' ability to implement them.

Most countries have, however, totally prohibited foreign funds, except Colombia, Peru and Uruguay, where laws still allow for contributions from any source. In Paraguay, legislation to ban such funding explicitly covers financing by multinational companies and the activities of political parties' international foundations.



Several countries prohibit funding from companies doing business with government, but the very definition of what this means varies across the region. In Argentina and Ecuador the law excludes suppliers of public goods and services from making donations, while Brazil and Paraguay allow donations from these sources, but exclude companies that depend on public licences (such as broadcasting companies). In the past, legislation in some countries prohibited donations from any legal entity on the grounds that democracy serves citizens, not companies. In Brazil, a ban on business donations was abandoned in 1993 after the investigations that resulted in the impeachment of President Fernando Collor. Reformers recognised that campaign funding by private companies was an undeniable reality and concluded that the law must be adapted to be applicable.

Current legislation in South America also bans financing by certain organised social groups, such as churches, unions, business associations and professional associations. Bolivia's law on political parties does not allow contributions from any non-governmental organisation or religious group. Similar prohibitions are in place in Argentina, Brazil and Paraguay. Bolivia also specifically bans money from illicit activities or criminal sources.

Argentina has the most complete model for limitations, with restrictions on the size of individual donations and the total amount of private contributions. These are defined in relation to the total volume of funds raised by the candidate or party. While Argentina stipulates that individual donors can contribute up to 1 per cent of the total amount raised by a party, Bolivia and Ecuador have 10 per cent limits – illustrating the difficulty of defining a line that distinguishes desirable donations from problematic ones. Brazil's particular solution was to set donation caps for legal entities and individuals, based on corporate or personal wealth, respectively. The caps, apparently, were imposed to protect business owners from candidates, not candidates from donors.

Similar heterogeneity is found in the amounts defined for caps on individual donations. While some countries set low absolute amounts, others set them at a considerable volume. In Paraguay the absolute limit is six times the minimum monthly salary; in Costa Rica it is 45 times the minimum monthly salary.

Argentina, Colombia and Ecuador have recently developed rules to limit expenditures.

Public subsidies

Public financing has a long tradition in Latin America. Candidates or parties in most countries receive some direct or indirect public support. But subsidies vary widely in form and importance. For a long time, state support was limited to free public services, tax exemption for party activities and other benefits with only minor economic impact. This symbolic support exists in nearly every country. Cash contributions from the state to parties were introduced in Costa Rica as early as 1956, but significant cash subsidies only came about elsewhere after re-democratisation at the end of the 1970s (Ecuador 1978, Argentina 1985, Colombia 1986, Brazil 1995). Public contributions range tremendously from a few cents to several dollars per voter. Venezuela is the only Latin American country to have revoked public financing of parties. President Hugo Chávez withdrew funding in 1997 to cut down the privileges of what he considered a corrupt political class.

Brazilian parties are granted free airtime on public and private stations but are forbidden from buying additional time. Other countries have introduced less comprehensive laws on media access: limiting the free time on radio and television to the electoral campaign period (Paraguay) or providing free access to parties and candidates only for radio (Argentina) or exclusively for state-owned media (Bolivia). Complementing this effort to provide free media access for all candidates, Brazil and Chile have also developed laws that limit paid advertising time in private media (see Box 3.2, 'Media discounts for politicians: examples from Latin America', page 49).

Transparency and control

The reality of financial reporting differs across countries. In Peru and Uruguay, parties are not required to report in any form on their income. In other countries, parties and candidates are required merely to keep accounting records for a certain period but they are not submitted to the electoral courts or any other regulatory body (see 'The role of disclosure in combating corruption in political finance', Chapter 3, page 38).

And there are numerous ways in which parties and candidates can avoid identifying their contributors and the amounts donated. Sources can be camouflaged through mass collections, as in Argentina, or by not revealing donors' names for a certain period of time. Legislation in Argentina – one of the most permissive in the past – is now exemplary, requiring an interim report prior to voting taking place, as well as full accounts after the elections. It is the only country in South America to require some form of pre-electoral accounts reporting.

Peru is an example of continuing negligence. The electoral court's attempt to introduce more reporting requirements in 2002 was rejected by legislators, who responded by drafting a law that actually withdrew any obligation for parties and candidates to report on their fundraising activities.

When accounts information is submitted to electoral courts, it is not easily available to the general public. Brazil is the only country in the region to post such information on the Internet. Elsewhere, researchers must pore over official journals or make an individual request to the electoral courts. In many cases, broader citizen access is not provided for in legislation; in others, existing laws on access to information are simply ignored. It remains problematic that electoral courts and other oversight bodies have a monopoly on campaign information as well as regulatory responsibility.

Notes

1. Bruno Wilhelm Speck teaches political science at the State University of Campinas, Brazil, and is director of research at Transparência Brasil.
2. This review of political finance regulation in Latin America is based on research coordinated by the author for Transparency International – Latin America and the Caribbean. Reports prepared by national chapters of TI have been complemented by additional research. The core study is based on nine countries in South America (Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru and Venezuela). Additional examples are drawn from Costa Rica, Panama and Uruguay. For more on this research project, see www.transparency.org/tilac/trabajo_en_red/financiamiento/diagnostico-comperativo.html

Table 2.3: Recent reforms regarding transparency of party and candidate accounts in South America

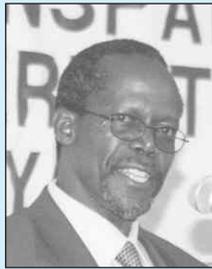
	Reporting on accounts	Identification of donations	Access
Argentina	Since 1985, account records within 60 days after the fiscal year and after campaigns. In addition, in campaigns, complete information 10 days prior to and 60 days after the elections.	Legislation from 1985 still provides for the possibility of mass collections and the non-disclosure of donors. Since 2002, the identification of donations has been mandatory.	Since 1985, publication of accounting records of parties and campaigns in official gazette. Since 2002, posting on the Internet has been required. The law requires access by any citizen to the information.
Bolivia	Since 1999, parties have been required to report on their accounts annually regarding the source and purpose of funds.	Individual identification of donations.	Information is public.
Brazil	Since 1995, balance of party accounts within 120 days after the fiscal year. Since 1993, reporting on accounts within 30 days after election.	Source and amount of donations must be identified individually.	Information on parties is published annually in official journals. Since 2002, access to information on campaign finance on the Internet.
Chile	Since July 2003, parties are required to report monthly to the electoral authority on large donations received, and must report on accounts 30 days after elections.	Since July 2003, donations above US \$500 must be identified. Smaller donations need only be identified if they exceed 20 per cent of total donations.	Since July 2003, information on campaign finance must be made available to the public on request.
Colombia	Since 1994, parties must report on accounts annually, and separately on elections.	Since 1994, donations must be identified individually.	Information is published.
Ecuador	For parties, since 1978 legislation has required accounting records, but oversight refers only to public funds. For elections, since 2000, reporting on accounts within 90 days.	Since 2002, complete information on individual donations.	Information is not accessible in practice, although the law requires it to be available to the public.
Paraguay	Since 1990, complete report on both party and election accounts.	Since 1996, inclusion of source of donations.	No information published.
Peru	Parties do not report on accounts. Regarding elections, candidates must provide estimate 60 days prior to election, and report on accounts 60 days after election.	Attempt by electoral courts to introduce individual identification of donations was rejected by the legislature in 2002.	No information published.
Venezuela	Since 1964, parties must keep accounting records with revenue and expenses.	No individual identification of donations.	No information published.

Box 2.5: Parliamentarians join the fight against corruption

The Global Organization of Parliamentarians against Corruption (GOPAC) is an international network of parliamentarians working to build integrity and promote effective governance. GOPAC is organised into regional networks and national chapters. Its regional network for Africa – the African Parliamentarians Network against Corruption (APNAC) – was formed in 1999 in Kampala, Uganda.

The fight against corruption has to resound in the personal convictions of elected leaders. My personal conviction and that of other Kenyan politicians led to the establishment in 2001 of the Kenyan chapter of APNAC. This is an association of members of parliament who are committed to fighting corruption from the floor of the House and to extending the fight to all spheres of life in which they are engaged.

Of the original 21 members, 12 were re-elected in the December 2002 general elections, and the APNAC-Kenya Chapter intends to increase its membership. Of those who were re-elected, eight are now in the cabinet, following the change of government. As I am now a government minister, I remain keenly aware that the National Rainbow Coalition government was elected on an anti-corruption platform. President Kibaki himself is on record as saying that his government intends to fight corruption 'from the top'. I cannot agree more.



Prior to the recent election, I served as chairman of Kenya's first parliamentary select committee on corruption. The committee did eventually achieve its objectives, in spite of difficulties along the way. It prepared a 'list of shame' that identified specific instances of official corruption and the individuals who were culpable, but the House voted to delete the names of individuals from the select committee's report. The committee's work also helped re-establish the Kenya Anti-Corruption Authority, headed first by a politician-cum-businessman and, thereafter, by a respected high court judge. As happens in many parts of the world, however, the Anti-Corruption Authority was frustrated by political intrigues aimed at shielding corrupt officials.

Nevertheless, we did not relent. The original bill against corruption, which was drafted by the select committee, took many forms before it was eventually enacted in May 2003 as the Anti-Corruption and Economic Crimes Act, alongside the Public Officer Ethics Act. The momentum to enact these two pieces of legislation was sustained by great personal commitment from members of the APNAC-Kenya Chapter.

We now have a golden opportunity in Kenya to pull out corruption by the roots. It is a challenge that we have accepted. It is a fight we have every intention of winning.

*Musikari Kumbo
(minister for regional development, and former chairman of the parliamentary select
committee on corruption, Kenya)*

Box 2.6: Anna Hazare: TI Integrity Awards winner 2003

Anna Hazare (as Kisan Babu Rao is widely known) is a renowned anti-corruption campaigner in the Indian state of Maharashtra. He has been campaigning for more than 20 years to end corruption in local government and the forestry industry in his home state.

As a result of Hazare's efforts, two ministers in the ruling party in Maharashtra resigned over corruption and the government took legal action against corrupt officials in the forestry department. Hazare and a team of lawyers now handle corruption cases brought to their attention by citizens and have submitted more than 700 to the government.



Hazare has suffered personally in his fight against corruption. He was sentenced to three months in prison in 1998 for defamation in a corruption case against a former state minister. He was released after more than 125,000 people travelled to his village in protest.

Hazare threatened to 'fast unto death' from 9 August 2003 unless appropriate action was taken to investigate corrupt politicians and officials, including four ministers. Nine days into his hunger strike, the government finally conceded most of his demands.