# OFFICE OF DEMOCRACY AND GOVERNANCE

*"...promoting the transition to and consolidation of democratic regimes throughout the world."*

# MONEY IN POLITICS HANDBOOK: A GUIDE TO INCREASING TRANSPARENCY IN EMERGING DEMOCRACIES

**November 2003**

**Technical Publication Series**

**Office of Democracy and Governance**
**Bureau for Democracy, Conflict, and Humanitarian Assistance**
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## ABOUT THIS PUBLICATION

This is the first publication by USAID on the topic of political finance in emerging democracies. Its purpose is to increase understanding by USAID field staff, host-country political leaders, civil society organizations, and the media of the sometimes obscure and sensitive topic of political finance. It also creates awareness of the issues and benefits of open finances and suggests some practical technical assistance options that encourage the use of disclosure as a methodology for strengthening national democratic political processes.

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## ABOUT THE DG OFFICE

The Office of Democracy and Governance is the U.S. Agency for International Development's focal point for democracy and governance programming. The DG Office's role is to provide USAID and other development practitioners with the technical and intellectual expertise needed to support democratic development. It provides this expertise in the following areas:

- **Rule of Law**
- **Elections and Political Processes**
- **Civil Society**
- **Governance**

## ACKNOWLEDGMENTS

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**International Foundation for Election Systems (IFES)**
IFES was responsible for the data collection for this handbook. Founded in 1987, IFES is a private, non-profit, nonpartisan over-funded organization dedicated to providing need-based assistance in election administration and sustainable democracy building. It also serves as a clearinghouse for information and resources on elections worldwide. Headquartered in Washington, DC, with field offices in 25 countries across Africa, the Americas, Asia, Europe, and the Middle East, IFES has supported democratic initiatives in more than 120 countries. It has a multilingual staff of over 200 worldwide, offering vast country-specific experience in election administration, good governance, rule of law, civil society, conflict resolution, applied research, gender issues, public information technology, and more.

IFES commissioned case studies and contributions from the following researchers: Randhir Jain (on India), Joel Rocamora (on the Philippines), Marcin Walecki (on Ukraine), Laura Thornton (on Thailand), Menachem Hofnung (on international court cases), Nicole Gordon (on enforcement), and Robert Dahl (on a model disclosure law). Eve E. Epstein completed the final technical edits. The Organization of American States (OAS) is translating this handbook into Spanish.

# MONEY IN POLITICS HANDBOOK: A GUIDE TO INCREASING TRANSPARENCY IN EMERGING DEMOCRACIES

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# EXECUTIVE SUMMARY

This handbook is a primer on the topic of money in politics with special emphasis on the role of disclosure. "Money in politics" refers to the funds used for electioneering and influencing political processes. "Political finance" is an umbrella term for "party finance" or "campaign finance." In parliamentary systems, which are largely party-driven, party finance is the term of choice. In presidential systems, which are candidate-driven, campaign finance is the term of choice.

The handbook provides an overview of campaign and party finance, examines the role that money plays in the politics of a nation, and describes how countries attempt to regulate the flow of funds into political contests. Its main premise is that disclosure of campaign and political party finance is the cornerstone upon which all other attempts to control money in politics rest. Transparency is a foundational principle for democracy, and key to the legitimacy of every nation's elected officials as well as its electoral and political processes.

The purpose of the handbook is to orient and provide action-related ideas to democracy practitioners, civil society organizations and activists, political leaders, scholars, election authorities, and the international community concerned with the influence of money in politics. In addition to highlighting the risks of money in politics, it summarizes strategies to control the flow, showing that the need for more disclosure and enforcement lies at the heart of reform efforts. It provides a framework for understanding the money in politics landscape in a country and suggests a variety of program options.

> *Sunlight is the best disinfectant.*
>
> Justice Louis Brandeis (U.S. Supreme Court 1916-1939)

This handbook contributes to existing literature in the emerging field of political finance and is the first publication entirely committed to the topic of political financial disclosure. It reflects the findings of a rigorous, systematic survey of disclosure laws in 118 developed and developing countries around the world and examines the global state of transparency.[1] It also provides highlights of the U.S. effort to make political finance fair and transparent.

### A. Why Money in Politics is Important

Without money in politics, competitive multi-party democracies could not function, nor could their governments operate. Like a form of free speech, political finance is linked to the health and strength of a democracy. Laws and regulations to control political finance risk stifling the basic right of citizens to provide funding to the candidate or party of their choice.

[1] See Appendix A for the disclosure status of each country surveyed: 23 percent of countries (N=27) surveyed were from Africa; 20 percent from the Asia/Pacific region (N=20); 29 percent were from eastern and western Europe (N=29); with the Caribbean and Latin American countries comprising 26 percent of the surveyed countries, and the United States and Canada representing 2 percent of the surveyed nations. Under USAID sponsorship, the International Foundation for Election Systems (IFES) conducted a survey to determine the state of the art of disclosure in the world. Information on the political finance disclosure laws of 118 countries was collected. This survey provides the most comprehensive comparative examination of disclosure laws to date.

Nevertheless, there are at least four risks associated with money in politics that prompt the effort to control it:

- **Uneven playing field**—the risk that large sums of money in politics give undue advantage over others and constrains competition
- **Unequal access to office**—the risk that certain sectors of a population lacking money are prevented from running for office or getting meaningful representation
- **Co-opted politicians**—the risk that those who donate funds will control the politicians they finance
- **Tainted politics**—the risk that dirty or illicit money will corrupt the system and undermine the rule of law

These risks threaten both democratic and economic development and many emerging democracies have yet to address them.

### B. The Key Role of Disclosure in Controlling Money in Politics

In general, there are six main approaches to controlling money in politics. They are contribution limits, contribution bans, spending limits, campaign time limits, public disclosure, and public financing. Often a combination of approaches are included in a given reform initiative, but there is no agreed upon formula for what constitutes the best mixture of approaches.

What is clear is that limits and prohibitions on money in politics, or political finance, can work only if there are adequate rules for disclosure. Public disclosure is the most basic method of controlling money in politics. It requires two things: (1) that candidates and parties report in detail on receipts and expenditures; and (2) that campaign and party funding reports are available for timely public scrutiny. Founded in transparency and openness, public disclosure lets the public decide what to do with the information disclosed. Disclosure is generally accepted as more neutral than other restraint strategies. Without disclosure, most of the other strategies to control money in politics simply won't work or are not enforceable.

It is, therefore, an important finding of the USAID survey of 118 countries that most nations do not hold their politicians accountable through disclosure requirements. Highlights of survey findings include

- **Hidden donors—**Very few countries require politicians to reveal sources of campaign funds. Only 32 percent require revealing the names of donors to political parties. This means that in most of the countries, parties and campaigns could be funded by anybody and escape public scrutiny.
- **Secrecy—**Of the countries surveyed, 23 percent have no disclosure laws whatsoever, thus depriving their publics of any basis for informed discussion. Another 17 percent practice a kind of "hidden" disclosure. They collect some political finance information, but do not release the information to the public.
- **Insufficient disclosure**—The vast majority of reporting takes the form of aggregate numbers. However, without itemization of contributions or expenditures, reports cannot be audited by

electoral commissions or civil society. Countries that require reporting of names of donors to political parties may not require listing the amount of money each donor contributed. Countries that require expenditure reporting may not require identification of vendors and products or services purchased. This inhibits the audit trail and obviates full disclosure.

### C. Understanding the Money in Politics Landscape

It is not easy to determine whether—and in what way—money in politics is a problem in a given country. For one thing, a widespread bias towards more suspicion of wrongdoing than empirical studies can refute tends to obscure the analysis process. For another, very few people understand how political finance works, and information is hard to come by. Further, there is no systematic methodology for studying the issue.

To get an analytical handle on these challenges, this handbook offers a framework for strategic assessment. It offers key questions as starting points for data gathering and discussion in a three-stage process:

1. **Defining the nature and extent of the problem**—This stage guides assessment of the problem within the context of the four principal risks. It helps determine which risks are the most serious, and how risk factors inter-relate. The nature and extent of the problem will dictate the kinds of interventions with the highest potential for success.

2. **Identifying key actors and allies**—This stage guides assessment of the players who are, or could be, the advocates or champions for money in politics reform. Possible key actors and allies are election commissions, civil society, media, and reform-minded politicians and parties. These groups work on their own and together. It is critical to know who the advocates are or might be, what they can or could do, and what kinds of strategic alliances among them can advance money in politics reform.

3. **Identifying the legal framework and practice**—This stage guides assessment not only of laws and regulations that are on the books, but also of the realities reflecting compliance and enforcement. It helps identify the nexus between policy and practice as well as the incentives and disincentives the legal infrastructure creates for candidates and parties.

Answers to these questions will better enable democracy practitioners to determine whether there is a need for campaign and party finance reform, with particular attention to disclosure, and if so, whether conditions are sufficiently favorable for promoting reform through disclosure.

### D. Assistance Options for Democracy Practitioners

Each country situation is unique, and money in politics programming is still in the developmental stage. Nevertheless, some NGOs, political leaders, media representatives, researchers, and regional and international organizations have implemented a number of initiatives that hold promise for achieving results. External assistance can support these initiatives, singly or in combination. Options include

- **Establish and strengthen coalitions and their members**. Greater transparency in political finance requires joining the forces of those interested in reform, potentially including civil society organizations, political parties or selected politicians, the media, and election commissioners.

Assistance can focus on increasing advocacy skills for disclosure, introducing innovative techniques for partnering, defining a coalition leadership structure, identifying ways to draw additional strategic partners into the alliance, planning for managing opposition, and other functions that support coalition members individually and collectively.

- **Review and enhance the legal framework.** Research completed for this handbook found that few nations have adequate disclosure laws and regulations. Programs can provide expertise in reviewing the country's disclosure laws and other relevant legal and regulatory provisions, resulting in detailed recommendations for improvements. They can also assist various constituencies (such as reform-minded legislators, election commissioners, other relevant government agencies, and NGOs) considering options for new and/or revised laws and regulations, and facilitate a group effort to draft them.

- **Encourage reform with political parties and leaders.** Political parties and leaders can be engines of political finance reform and proponents of public disclosure. There are types of assistance that may be specifically targeted to parties. Identifying reform-minded parties and political leaders is the first step, followed by assistance to help shape a reform agenda that stresses disclosures benefits to both parties, the public, and candidates. Or if disclosure is already in place, helping political parties to build systems and capacities can achieve greater compliance.

- **Strengthen enforcement.** Public disclosure effectively enforced is the backbone of most approaches to controlling money in politics. Enforcement of public disclosure can be strengthened indirectly by working with coalitions to lobby for better enforcement of laws and regulations, to assist in monitoring disclosure reports, and to encourage the will of enforcers to follow through on their responsibilities. Or enforcement may be strengthened through improving the legal framework, addressing legal barriers to effective public disclosure and/or the institutional weakness of enforcement bodies.

- **Link with anti-corruption initiatives.** USAID-supported anti-corruption initiatives are increasing worldwide. Many can easily expand to incorporate disclosure. One of the easiest anti-corruption measures that cross over into political finance disclosure is asset disclosure by elected and appointed officials. It is becoming increasingly popular within the context of countering corruption, is reasonably acceptable politically, and relatively easy to implement and verify.

- **Support regional organizations.** The focus on money in politics is a global phenomenon. Many regional organizations are increasingly concerned with money in politics, especially disclosure, as people addressing the issue learn from each other's experiences and identify opportunities for collaboration. Such organizations as the Association of Central and Eastern European Election Officials (ACEEEO) and the Organization of American States (OAS) are actively pursuing an agenda of campaign finance disclosure through education, research, and technical assistance.

The political history of nations is well known, but their political financial history is just now being written through the study of money in politics, and much more needs to be learned. The state of the art of disclosure has shown that much more needs to be done to be able to account for how much money political parties and candidates in emerging democracies are actually collecting or spending to win elections. Even less is known about where the money comes from.

Disclosure allows the government and the public to keep score on the amounts, sources, and destinations of money in politics. Disclosure reports are to politics what profit and loss statements are to business. Without them, governments and citizens risk never knowing the price tag of their democracy or the identity of the major influences behind it, whether corporate, union, ordinary citizens, special interest groups, drug lords or other criminal elements.

Political finance is a vital issue for democracy, governance, and development. No matter how flawless are a country's elections, how active its civil society, how competitive its political parties, and how responsible its local authorities, the role of money in politics undeniably influences the quality of democracy and governance. Only through greater transparency will one fully understand the extent and nature of this influence.

# I. INTRODUCTION

The relationship between money and politics has many implications for all democracies, including emerging democracies. The proposition of this handbook is that money in politics affects the equilibrium of democracy. Therefore, democracy practitioners need to understand how money influences politics in the countries where we work.

Many democracies are concerned that money is dominating politics, buying politicians, and corrupting policies. A major concern is the threat posed by unrestrained money from commercial or criminal interests. Though money is required to finance democracy, undisclosed and unregulated campaign funding has the potential to warp the political contest and the governing process that follows an election. Politicians need money to get into office and remain there. When campaign and party finance costs increase, fundraising must also increase. There is an upward spiral of money in politics. Payback of campaign debts in the form of political favors breeds a type of corruption that is commonly encountered around the world.

Transparency in money in politics is key to better governance. Better governance is key not only to democracy, but also to development overall:

> *Rotten, corrupt, wasteful, abusive, incompetent governance is the fundamental bane of development. Unless we improve governance, we cannot foster development.*[2]

Without transparency in political finance, early, tentative transgressions by politicians can grow into full-blown corruption and a breach of public trust, with major consequences for the body politic.

Understanding these dynamics in the countries in which USAID works is key. However, understanding depends on information and, more frequently than not, the information is not available. Ideally, campaign and party finance disclosure answers questions about who gives money, how much money they give, to whom the money goes, and for what purposes it is used. Not all countries practice the principle of open reporting of political finances. Of the 118 countries surveyed for this handbook,[3] less than one third have finance disclosure laws that require political parties to reveal their sources of funding. Without more disclosure and transparency in emerging democracies, the links between money

> *Disclosure increases the quality of information reaching the body politic and furthers the first amendment goal of producing an informed public capable of conducting its own affairs.*
>
> U.S. Supreme Court (Buckley v. Valeo, 1976)

[2] *Foreign Aid in the National Interest: Promoting Freedom, Security, and Opportunity*, USAID, 2002.

[3] Under USAID sponsorship, the International Foundation for Election Systems (IFES) conducted a survey to determine the state of the art of disclosure in the world. Information on the political finance disclosure laws of 118 countries was collected and is presented in Appendix A. This survey provides the most comprehensive comparative examination of disclosure laws to date. The 118 countries were included in the survey based on data availability. 23 percent of countries (N=27) surveyed were from Africa; 20 percent from the Asia/Pacific region (N=20); 29 percent were from eastern and western Europe (N=29); with the Caribbean and Latin American countries comprising 26 percent of the surveyed countries, and the United States and Canada representing 2 percent of the surveyed nations. The 118 countries in this survey represent 62 percent of the 191 U.N. member states; therefore, examination sheds considerable light on international trends.

and politics will remain obscure, and voters will have no way to gauge money's influence on the officials they elect.

Nearly all in the political finance debate accept that disclosure is a good thing, provided the information is not used to intimidate or harass opponents. Even those who suggest an end to all spending limits, regulations, or fundraising ceilings agree that disclosure is first and foremost in controlling and maintaining, as well as in understanding, political finance. Financial disclosure reports are to politics what financial statements are to business. Without them, there is simply no way to "follow the money."[4]

This handbook will improve understanding of (1) the relationship between money and politics and (2) what can be done to make it more transparent through disclosure techniques.[5] It is the first publication in the field to focus exclusively on the issue of disclosure and transparency in political finance. It is a practical guide, promoting analysis and action.

Although the bulk of the literature on political finance is focused on North America and Europe, this handbook examines political finance from the perspective of developing countries to the extent possible.[6] If there is any lesson from our examination of comparative political finance, it is that no nation stands above others as a model of how best to deal with money and politics. All have had their share of scandals. This handbook underlines the importance of paying attention to the need for transparency and openness in money in politics; it says nothing about which country's political finance system works best.

**Purposes of This Handbook**

- To orient democracy practitioners, particularly USAID democracy officers, so that they can better understand money in politics, identify problems, and design effective programs
- To provide host-country civil society organizations and activists, the media, reform-minded political leaders, and scholars with information and potential approaches to promote more coherent disclosure and monitoring of money in politics
- To support the work of governments and election commissions, the international community, and bi-lateral donors in advancing knowledge about money in politics and in stimulating disclosure reforms

[4] "Follow the money" became a *de facto* definition and slogan for financial transparency during the Watergate scandal and highlighted the need for political finances to be traceable to their sources.

[5] USAID is encouraged to promote political party and campaign finance disclosure by the "International Anti-corruption and Good Governance Act of 2000." (See excerpts in Appendix B)

[6] Appendix C comprises a bibliography on money in politics and a list of relevant web sites.

# II. CAMPAIGN AND PARTY FINANCE: RISKS AND REFORM

This section provides an overview of the potential risks associated with the influence of money in politics.[7] It also describes common strategies that countries use to control that influence, particularly the influence of big money in elections. Money in politics is not in itself negative, but there can be a myriad of misuses attached to it.

"Political finance" is a common umbrella term for "party finance" and "campaign finance." Parliamentary systems are largely "party driven," whereas presidential systems (as in the United States) are "candidate driven." In parliamentary systems, party finance is the term of choice. In presidential systems, campaign finance is the term of choice. Whether raised and spent by candidates or by parties to fund the political process of a democracy, the importance of money in each system is the same. In this handbook, party finance refers to all party funds and expenditures, not only for election campaigns, but also for supporting the party's operational, educational, and regular voter-relations functions. This is because the line between contesting elections and carrying out these functions is rather difficult to draw, and both operations contribute to the party's success at the polls. Figure 1 shows the flow of money in politics and its potential influence on politics.

> *Corruption starts from the top, let's not make any mistake about it.*
>
> President of Kenya, Mwai Kibaki[8]

## A. Money in Politics: Potential Risks

Without money in politics, competitive multi-party democracies could not function, nor could their governments operate. Like a form of free speech, political finance is linked to the health and strength of a democracy. Laws and regulations to control political finance risk stifling the basic right of citizens to provide funding to the candidate or party of their choice.Therefore, when attempting reform, there is great controversy about what is fair, equitable, or just. Campaign and party finance reform is largely a trade-off between various competing interests. No political finance system has been able to fulfill all the demands placed upon it. However some approaches, especially those promoting transparency and disclosure, have been able to achieve more than others. Nor is any system perfect or neutral. Nevertheless, in many countries concern for the role of money in politics is prompting calls for reform.

### *1. Uneven Playing Field*

Significant disparities of money in politics often create an uneven playing field in election contests. Large sums of money give certain parties or candidates undue advantage over others. Though the party or candidate with the most money doesn't always win the election, a correlation exists between the two. Wide discrepancies in levels of funding between parties and candidates constrains opportunities for political competition and tends to weed out challengers.

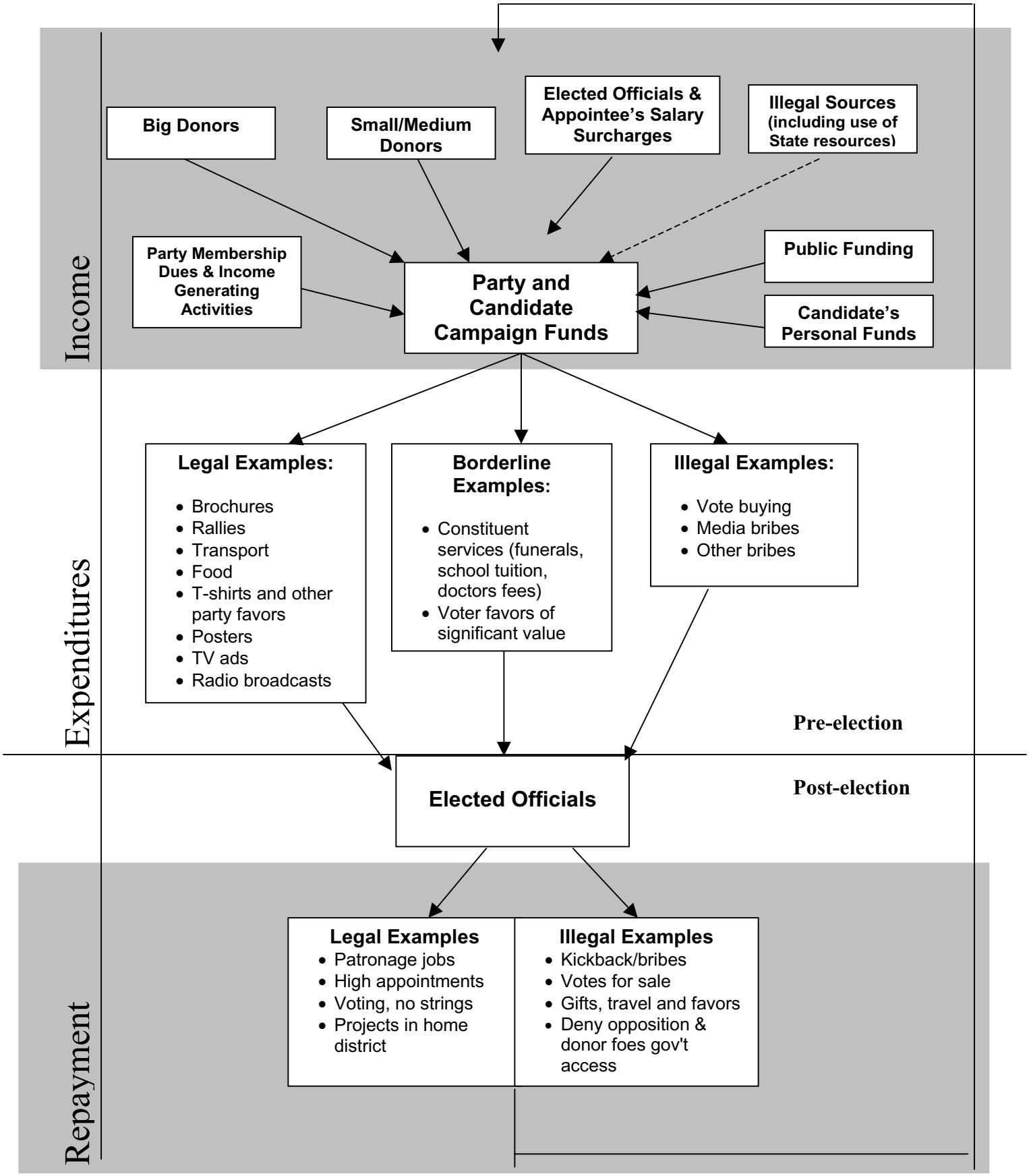
Most often, the uneven playing field results from the fact that the ruling party controls the government apparatus and uses it to its

[7] All international comparative statistics in this chapter come from Michael Pinto-Duschinsky, "Financing Politics: A Global View," in *Journal of Democracy*, Vol. 13, No. 4, October 2002.

[8] Francis Openda, "I'll be the first to declare wealth, says Kibaki," *East African Standard*, Thursday, July 24, 2003.

**Figure 1.**

# HOW MONEY CAN INFLUENCE POLITICS



own advantage and to the disadvantage of challengers. In Zimbabwe, for example, opposition parties were told at one point that they had to have at least 15 seats in Parliament before they would be eligible for public financing.[9] This eliminated their access to public funding while the ruling party could be fully funded by taxpayers' money.

The ruling party's access to other state financial resources can further skew the playing field, and can also escalate the cost of political contests. For example, when in power in Mexico, the Partido Revolucionario Institucional leaders diverted $45 million to Francisco Labastida's 2000 presidential campaign from the funds of the state-owned oil company.[10] State-run enterprises are suspected in all parts of the world of being popular sources of political finance for incumbent parties.

**Money in Politics: Potential Risks**

- Uneven playing field → Lack of competition
- Unequal access to office → Political exclusion
- Co-opted politicians → Poor governance
- Tainted politics → Rule of law undermined

In some countries, elected officials and appointees are expected to pay their political parties a percentage of their salaries. Incumbents have access to these kick-backs generated from state funds whereas challengers do not, skewing the playing field.

Government control of media is another factor that distorts the playing field. In Cambodia, the minority party had the money to buy radio advertisements but was prohibited by law from doing so. This forced the party to campaign on site in villages throughout the country.

Inequitable access to private funding can also influence the playing field and further constrain competition. For example, in Hong Kong, where the legislature is dominated by well-funded, Beijing-appointed legislators, the Hong Kong Democratic Party (the nation's only opposition party), is prohibited from having any large-scale fundraising events. In order to survive, it has been relegated to selling raffle tickets in the streets of Hong Kong to raise campaign financing.

### *2. Unequal Access to Office*

By and large, elected officials are simply a reflection of the larger society that they represent. However, the financial requirements for entry to competitive politics appear to be getting higher and higher, resulting in political exclusion of those who cannot afford the cost. In countries using party lists, sometimes candidates pay the party large sums of money to get on to the list. In the United States, the campaign finance system has become increasingly expensive. A concern of advocates for reform is that certain sectors of a population that lack

[9] The Political Parties (Finance) Act of 1992 stipulated that a political party's eligibility for public funding was to be determined by a party having previously won at least 15 seats in Parliament. In 1998 in *United Parties v Minister of Justice, Legal and Parliamentary Affairs and Others*, the Zimbabwe Constitutional Court struck down Section (33) of the act which had set the high threshold of 15 seats because it meant only the governing party would be able to obtain state funding.

[10] Mary C. Turck, in *Connection to the Americas*, March 19, 2003. In 2003, the Federal Electoral Institute levied a $92 million fine on the Institutional Revolutionary Party for these financial improprieties during the 2000 presidential campaign. See also "Drilling Strikes at Mexico's Heart - Sight of Foreign Gas Rigs Stirs Nationalist Ire," by Mary Jordan, *Washington Post*, Friday, January 25, 2002.

money will be prevented from running for office or getting meaningful representation. In the United States, for example, the Associated Press reported that "almost 43 percent of the incoming freshmen (to Congress in 2003) were millionaires, compared with 1 percent of the American public."[11]

Self-financing is becoming more widespread in the United States. While U.S. campaign finance laws limit the amount of contributions that can be received from others for congressional races, they allow unlimited spending of one's own money. In a democracy, money is not thought of as a first fitness test for public office, especially in the United States where the escalating cost of elections challenges this thinking and the ideal that anyone in America can grow up to be president of the United States.

### *3. Co-opted Politicians*

A third concern is that elected officials will become more accountable to those who finance their campaigns than to their constituents. Because of the escalating costs of seeking election, some people running for office may abandon their principles, spending the rest of their tenure paying back their election obligations. Elected officials are also tempted to "sell access" or spend an inordinate amount of time with big contributors. Time is diverted away from constituents, exacerbating detachment from voters, and often only one side of an issue is heard. This engenders poor governance.

A common fear is that large corporate or single donor funding for parties and candidates dominates political decisions. Influence over the political process is in proportion to the amount of money a donor contributes. Only about eight percent of countries have complete bans on corporate donations.[12] This means corporations still have considerable political muscle in most nations.

### *4. Tainted Politics*

A fourth concern is that corruption pervades politics and undermines the rule of law. The corruption may be caused when politicians accept money from illegal sources. There have been political scandals throughout the world arising from dirty money in politics. Often the scandals involve criminal syndicates and narcotics traffickers financing campaigns. In some countries, illicit money has entered into the mainstream elections process. Dirty money can warp the allegiance of elected leaders in favor of the interests—illicit or political—of the people who paid their election expenses rather than to the people of the nation. Organized criminal interests may contribute to campaigns of politicians they believe will protect them from prosecution if caught. In countries with immunity for parliamentarians, some criminals enter politics as a way to insulate themselves from prosecution.

Corruption may also stem from the broader system of political patronage. In many parts of the world, elected and appointed officials pay the political party for a place on the party list or for a political appointment, and payback time begins the day after the election or appointment. According to Larry Diamond, "[i]n a context of rotten governance, individuals seek governmental positions in order to collect rents and accumulate personal wealth—to convert

[11] *Washington Times*, December 26, 2002

[12] Michael Pinto-Duschinsky, "Financing Politics: A Global View," in *Journal of Democracy*, Volume 13, Number 4, October 2002.

**TABLE 1: Reform Approaches to Control Money in Politics**

| Approach | Implementation | Expected Outcome | Potential Risks |
|---|---|---|---|
| **1. Contribution Limits** | Legal cap on contributions | Less funding | More disguised income |
| **2. Contribution Bans** | Law excluding certain contributors | No illegal contributions | New organizations or "front persons/fake names" recruited to circumvent bans |
| **3. Spending Limits** | Legal cap on spending | Less expensive campaigns | Disguised over-spending |
| **4. Campaign Time Limits** | Legal cap on campaign period | Less money required | Underground and "off-season" campaigns |
| **5. Public Disclosure** | Law requiring timely financial reporting | Honest reporting and public accountability | Dishonest reporting and untimely information |
| **6. Public Financing** | Various | Less corruption and lower election costs | Little effect on private fund-raising or reliance on large donors |
| **a) Money to parties** | Disbursement based on percentage of votes or seats won in last election | Curtailment of private funding | Continued pursuit of private funding |
| **b) Money to candidates** | Disbursement based on percentage of votes or seats won in last election | Curtailment of private funding | Continued pursuit of private funding |
| **c) Tax incentives** | Taxpayer deductions and credits | More smaller donors | Little public interest |
| **d) Free or discounted broadcast media** | Government provision or low-cost private provision | Equal air time | Persistent incumbent advantage |
| **e) Other subsidies** | In-kind products and services | Less expensive campaigns | Persistent incumbent advantage |

public resources into private goods."[13] The major beneficiaries of this system are the political parties, and disproportionately ruling parties.

In either situation, when political parties, candidates, and political appointees rely on illegal resources to obtain power, the rule of law is seriously undermined.

[13] Larry Diamond, "Moving Out of Poverty: What Does Democracy Have to Do With It?" paper presented at World Bank Workshop, "Moving out of Poverty: Growth and Freedom from the Bottom Up," Washington, DC, July 15-16, 2003.

## B. Controlling Money in Politics: Main Reform Approaches

The literature on campaign and party finance is replete with examples of governments and reformers trying to enact laws to regulate the flow of money into politics. In general, there are six main approaches to controlling money in politics. Often a combination of approaches are included in a given reform initiative, but there is no agreed upon formula for what constitutes the best mixture of approaches. Nevertheless, it is clear that the effectiveness of

all approaches depends on strong and consistent enforcement. Table 1 summarizes the six main reform approaches, and their expected and actual outcomes.

### *1. Contribution Limits*

Popular in many countries, with an estimated 28 percent of nations having some type of law limiting campaign and party finance contributions, this approach puts legal limits on the size of per-donor contributions. This is assumed to be the easiest way to limit the influence of any individual or group on an election and to limit the cost of political campaigns. Contribution limits are usually higher for corporate or other organizations than for individual donors. The problem with limits is that they can be circumvented by breaking donations into smaller amounts (sometimes called "bundling") or by donating in the names of others. Contribution limits also encourage wealthy candidates to self-finance their own campaigns.

### *2. Contribution Bans*

This approach prohibits donations from certain groups and individuals, usually foreign nationals, corporations, and unions. About half the countries in the world partially or completely ban contributions from foreign nationals. In the United States, for example, foreign residents (except permanent resident aliens) are banned from contributing to all federal and state political contests. However, surrogate donors or organizations in the United States serving as covers for foreign funders have circumvented this ban. A recent example was the funneling of money from foreign nationals into the 1996 U.S. presidential election.[14]

Only 16 percent of nations partially or completely ban corporate contributions, and in many countries, corporate contributions are an important source of political finance. For example, India allows up to five percent of a corporation's profits to be donated to political parties. Taking action to regulate the influence of corporations on politics may be a long-term endeavor. Appendix H outlines the U.S. experience in controlling the influence of corporate and union contributions which began in 1907 and is still being debated today.

### *3. Spending Limits*

These are more popular than contribution limits and are imposed in 41 percent of countries. Most cap either the gross amount of expenditures of each candidate or party, or alternatively the candidate's or party's expenditure per voter. The intent is to restrain the cost of political campaigns and, at the same time, establish an even playing field that limits the influence of any party or candidate. Limiting the high costs of campaigns is assumed to reduce the demand for deep-pocketed donors. This approach has fallen short of expectations because spending limits, often set unrealistically low, tend to promote non-compliance, abuse or false reporting. For example, before a new rule was passed in Russia in 2001, the legal spending limit was only a few thousand dollars for a candidate to the Russian parliament or Duma, but analysts generally agree that candidates must spend over U.S. $1 million in order to win a seat.[15] By setting unrealistically low spending limits, ruling parties may gain political advantage because they may use state resources (e.g. government offices, phones, faxes, copiers, mail, etc) not counted under the limit.

[14] According to the U.S. Department of Justice, (April 9, 2002 Release), an Indonesian national paid a record $8.6 million in criminal fines in January 2001 and pled guilty to a felony charge of conspiring to defraud the United States by unlawfully reimbursing campaign donors with foreign corporate funds in violation of federal election law.

[15] "Veshnyakov says election campaign spending limits up sixfold," *The Russian Journal*, August 28, 2003.

### *4. Campaign Time Limits*

This approach limits the campaign period. The assumption is that the shorter the period, the less money is needed. In contrast to the United States where there is no legal limit and presidential campaigns usually begin one to two years before the election, other countries limit legal campaigning to periods as short as two weeks (e.g., Japan and Malaysia). Some countries also limit the amount of TV or radio advertising that can occur over a certain period of time.

The difficulty has been that many political parties and candidates disguise their pre-election appearances as being "non-political" when in fact they are. When a country has spending as well as time limits, both can be evaded in this manner. Legally, money spent outside of the campaign period does not count against any expenditure limits, so unlimited spending can take place outside of the designated period. In some countries, this makes campaigning a charade of sorts where candidates have to pretend they are not campaigning. A member of the Japanese Diet, for example, reported that he had only a two-week campaign period in which to count his spending against the legal limits. Although he had actually campaigned for a full six months in advance, expenditures before the two week campaign period did not count against the spending limit.[16] Artificial time lines or campaign laws that turn a blind eye to this practice are actually encouraging more campaign spending rather than less.

### *5. Public Disclosure*

Limits and prohibitions on political finance can work only if there are adequate rules for disclosure. Therefore, public disclosure is a foundational approach for controlling money in politics and without it, most other approaches will fail.[17] Without a party or candidate disclosing expenditures, spending limits could not be monitored or enforced, and without the names of the vendors who were paid by the campaign funds, spending could not be audited and verified.

Effective public disclosure requires two things: (1) that candidates and parties report in detail on receipts and expenditures; and (2) that campaign and party funding reports are provided to the public in a timely manner. Two benefits result from effective disclosure. First, more educated and informed voters are better prepared to

**Model Disclosure Law**

**Disclosure law should be written in clear, unambiguous language that**

- sets out the scope of the law and defines terms
- defines political finance reporting procedures, formats, and thresholds, including in-kind contributions as well as loans
- assures accountability by designating who is specifically responsible for compliance with the disclosure law
- establishes clear enforcement guidelines and penalties for non-compliance
- allows for the public to inspect political finance information disclosed

**(See Appendix G for details.)**

[16] The member of the Japanese Diet reported this information as a participant at the "International Conference of Democracy Forum On Political Finance and Democracy in East Asia: The Use and Abuse of Money in Campaigns and Elections,", Renaissance Seoul Hotel, Seoul, Korea, June 28-30, 2001.

[17] See potential costs and disadvantages of disclosure in Section III.

exercise their rights in a democracy. Second, the media and civil society are empowered to "follow the money" thereby keeping a check on politicians. The logic is that openness is the antidote to the influence of big money, and to the secrecy that enables illicit funding or unsavory donations.

Knowing that contributions will be made public (via 'naming and shaming') is thus one of the pressures that disclosure can bring to bear on contributions. This is especially important in combating illegal contributions because disclosure sends a warning signal or notification to illegal donors that they are being watched. Though public disclosure is not a guarantee against illegal contributions, it serves to discourage and complicate illegal donations by forcing the creation of fictitious names or organizations to get around disclosure laws.

Loans and in-kind contributions must also be subject to disclosure. In-kind contributions, including election commodities such as vehicles, computers, signs, banners, gifts to voters, and refreshments can cost considerable amounts of money, while being easily overlooked. Professional voluntary campaign services constitute another type of in-kind contribution that is often neglected in laws. In-kind contributions can provide a significant campaign advantage. If they are not disclosed, citizens would not know about this advantage. Loans likewise if not disclosed, could be disguised as campaign contributions with no intention of being paid back. The number of countries with laws requiring the disclosure of loans and in-kind contributions is very low.

The main weakness with existing disclosure requirements is that very few countries require the names of donors, the size of the contribution, and the use of the contribution in sufficient detail to audit or verify the information. The disclosure laws of many countries permit the information to be aggregated, which hides the identity and size of donations and the identity and level of spending through specific vendors, and thus thwarts the intent of the law. To enforce spending or contribution limits, money in politics must be traceable to both the contributor and the vendor. An example from Hawaii illustrates why itemized information is required. A candidate got a fake invoice from a printing vendor and passed it to a deep-pocketed friend who had already given the maximum allowed by law to the candidate. The friend then paid the invoice to the vendor, who passed the money on to the candidate, hence disguising the illegal contribution. When the transaction was audited, it was discovered that no goods or services had changed hands. The candidate was sentenced to one year in federal prison for mail fraud involving the use of campaign contributions for personal purposes. If the name of the vendor had not been known, this corrupt practice would have gone undetected, which illustrates the value of vendor disclosure.

Another common difficulty with disclosure, especially in some developing countries, is that the control of state resources like print and broadcast media (as well as the ability to provide government jobs) is far more important than the money reported on disclosure statements. Most disclosure laws do not require reporting the use of these resources because it is usually illegal to use state property or public workers for political purposes. Nevertheless, the practice is widespread.

The last difficulty with disclosure is that information may be misused. If disclosure is likely to provide information that may be used to harass political opponents, invade privacy or intimidate contributors, disclosure is not advisable until or unless political circumstances change.

### *6. Public Financing*

This approach seeks to counter the dependence of candidates on large donors and to even the playing field by providing some form of public funding for political campaigns. The level of funding varies from substantial to partial. One assumption is that public funds help ensure that candidates, especially challengers, have sufficient resources to run viable campaigns without dependence on big donors. Another is that it boosts disclosure. Presumably public money requires accountability for how it is spent. Public funding of political campaigns and parties is today by far the most popular approach; in 2001, the vast majority of democracies had some form of direct public funding of their parties and elections.

**Forms of Public Financing**

- Money to parties
- Money to candidates
- Tax incentives
- Free or discounted broadcast media
- Other subsidies

*a. Money to parties*

Government funds are transferred to political parties that meet certain criteria, generally in proportion to the number of votes or seats received in the last election. In most countries, the qualifying threshold for public funds is about 5 percent of the votes cast or seats received in the last election, but it can be as high as 15 percent. The assumption is that government funds will keep political parties out of the pockets of big money donors.

*b. Money to candidates*

Public funds go directly to candidates who meet certain criteria, such as abiding by campaign spending limits. As with money to parties, the assumption is that government funds will keep candidates out of the pockets of big donors.

*c. Tax incentives*

Some governments reward campaign contributions by providing tax breaks to donors. An estimated 18 percent of countries, mostly developed nations, provide some form of tax relief for political donations. Either tax deductions or credits are allowed for donations given to a party or candidate who agrees to abide by the campaign funding limits. The logic is that tax incentives encourage contributors to support their candidates or parties directly.

*d. Free or discounted broadcast media*

Some countries have attempted to use media access to even the playing field for all candidates and parties and reduce their reliance on wealthy donors. For example candidates cannot purchase television or radio airtime in Japan, although they are allowed to advertise free of charge during the campaign period on either the Japan Broadcasting Corporation or at government expense on any privately owned radio or television station. Canada requires radio and television networks to provide free advertising time to registered parties.

Media, especially television, has become an important part of operating a national political campaign, and access is a key determinant to electoral outcomes. Between 40 and 70 percent of all national campaign expenditures pay for various forms of print and broadcast media. This suggests that free or discounted media is a very important approach for reducing the influence of money in politics. An estimated 79 percent of countries provide some form of free political broadcasts. If the media is not free of charge, or owned by the government, some countries mandate discounted private media for political parties or candidates. For example, the United States requires the media to provide the lowest

advertising rates for political advertisements, often begrudged by the broadcasters because it cuts into revenues.

*e. Other subsidies*

Examples include subsidies-in-kind such as free or reduced postal rates for candidates, free rent for party offices or for election meetings, free poster sites, and free newspaper advertisements. Some countries provide public subsidies which fall on the borderline between electoral administration and election day in-kind contributions to parties and candidates. Examples include free transportation for voters who may find it difficult to travel to the polls (such as the elderly or infirm) and public advertising campaigns to encourage voter turnout in general, but not support for a particular party or candidate. In other countries, including the United States, providing election-day rides to the polls is a form of campaigning and is not publicly subsidized.

Despite its popularity, public funding is not without drawbacks and more research is needed to determine its impact on reducing spending or reliance on private donors. Often public funding is structured to benefit incumbents. For example, the qualifying threshold for money to parties can prevent opposition parties from effectively competing if they do not already hold seats. While noted earlier, Zimbabwe required opposition parties at one point to have 15 seats in Parliament before they would be eligible for public financing. This eliminated their access to public funding, while the ruling party could be fully funded by taxpayers' money. Another concern is that public funding can lead to multiplication of small and weak parties, which has a negative effect on overall competitive party development. To guard against this, in Canada, funds are not given to candidates until they spend their own money first. Candidates are then reimbursed up to 50 percent of their election expenses. Registered parties can be reimbursed for 22.5 percent of their election period expenses.

## C. Enforcement: Turning Laws into Practice

Even the best drafted laws to reform political finance depend on effective enforcement to achieve impact. If disclosure exposes money in politics, it is enforcement that controls the actual flow. Little or no enforcement equals no compliance, which is almost the same as having no laws. Thus, all the reform approaches depend on enforcement, but there are several reasons why enforcement often falls short.

**Why Enforcement Can Fall Short**

- Lack of will
- Legal and regulatory barriers
- Insufficient resources
- Weak enforcement institutions

### *1. Lack of Will*

The will of supporters and opponents, as well as the prevailing opinion of the majority of the country's decision-makers, determines whether political finance laws are reformed and/or enforced. Will is often weak or absent. Strong civil society advocacy can strengthen political will.

### *2. Legal and Regulatory Barriers*

Enforcement cannot take place without clear laws and regulations that define disclosure requirements as well as which entities have responsibility for which aspects of enforcement. Ambiguities or contradictions create loopholes and fail to communicate precisely what is expected of candidates and parties, and how they will be measured against these standards. For example, parties and candidates are not always held to the same standards. Corporations in Japan are not allowed to make contributions

to candidates, but they can contribute to parties, which in turn give this corporate money to candidates. In theory, the party acts as an intermediary to cut off direct influence of the corporation on the candidate, however, in practice, corporate influence is exercised through the party on the candidate. Additionally, ambiguities about enforcement powers can effectively inhibit or paralyze the enforcement agency, enabling candidates and parties to circumvent the law with impunity.

### *3. Insufficient Resources*

It takes money in government to monitor money in politics. Resources, especially in some emerging democracies, are far from adequate. For example, Indonesian law[18] requires that asset disclosure reports be filled out by almost 55,000 elected officials and top government officers and returned to a specific government office within a prescribed period of time. Without sufficient funds for the office to follow up by mail or phone, only about 50 percent of those required to return the report actually do so. Even when funding is adequate and the personnel are sufficiently large, there may be a shortage of critical expertise. Enforcers cannot do their jobs without the necessary knowledge and skills.

### *4. Weak Enforcement Institutions*

Some countries do not even designate an institution responsible for enforcement. Others fail to empower the institution with the appropriate authorities to enforce. Effective enforcement requires an independent or politically balanced governmental body, or a quasi-governmental organization created and funded by the government. Such institutions are usually related to or part of the nation's executive branch or justice sector. They cannot function without a clear mandate—the power to investigate complaints, issue subpoenas, gather information, audit reports, and impose sanctions, penalties, and fines. They also need the power to punish wrongdoers. This includes powers to deny or revoke certification of a candidate or party, to seek monetary penalties, or even to imprison for failure to comply with the political finance laws, including requirements for meeting levels of accuracy or filing deadlines. But the punishment should fit the crime and the enforcement of disclosure laws should not be for the purpose of excluding opposition candidates from running for office against the ruling party.

**Political Balance and Enforcement**

The U.S. Federal Election Commission (FEC) is comprised of three Republican and three Democratic commissioners to ensure equal representation of both major parties, regardless of which party occupies the White House. The chair of the commission rotates between the parties on an annual basis. Though the commissioners are all appointed by the president, the advice and consent of the Senate is required. It takes four commissioners to vote in favor of an investigation of a political party or candidate for federal office. If the investigation confirms a violation of the law, the commission tries to resolve the matter by reaching a conciliation agreement with the respondents. Otherwise, the case goes to U.S. District Court for resolution.

If the commission were politically imbalanced, it would not be credible. But political balance has its risks, such as gridlock.

[18] Laws of Indonesia, Law No. 28, (May 19, 1999) "Implementation of a Clean Government, Free from Corruption, Collusion and Nepotism," Article 5, Point 3.

For example, in 1999 one of Russia's main liberal parties was disqualified by the Central Election Commission (and later reinstated by a court) because the party's leader neglected to report a family member's possession of a vehicle.

Even if an institution is designated to monitor and investigate regulations, there need to be courts available and prepared to adjudicate the campaign and party finance laws and regulations. Some countries, like Mexico, have special tribunals designated solely for the purpose of hearing election and political finance-related issues. Appendix F shows how courts are becoming increasingly involved in enforcing disclosure requirements.

In summary, the demand for reform of political and campaign finance systems is driven by concerns that the influence of money is undermining political competition, excluding those without money, compromising public officials, and/or subverting the rule of law. Six main approaches to controlling money in politics are applied in different combinations across the world, and while no single approach is a "silver bullet," without disclosure, most other approaches will fail. For this reason, disclosure is the main focus of this handbook, and is explored in greater detail in the next section.

# III. THE ANATOMY OF DISCLOSURE

This chapter addresses the cornerstone of campaign and party finance—the transparent process of disclosing information about money in politics. It lays out the necessary elements that make disclosure effective, and underlines the need for public disclosure.

Disclosure means the accurate reporting of the amounts, sources, and destinations of money in politics, with the reporting seen by the public. A totally transparent disclosure system calls for political parties as well as candidates to itemize both income and expenditures in disclosure reports accessible to the public—the names of contributors and vendors as well as a listing of contribution amounts by donor and the types of goods or services purchased with the funds. Transparency enables citizens to see who gives how much money to whom, and where it is spent and for what purpose. It is the presumed antidote to the influence of big money, and to the secrecy that enables illicit funding. Disclosure gives citizens information. Citizens then decide for themselves what it means.

> *Disclosure allows voters to place each candidate in the political spectrum more precisely than is often possible solely on the basis of party labels and campaign speeches. The sources of a candidate's (or party's) financial support also alert the voter to the interests to which a candidate (or party) is most likely to be responsive, and thus facilitate predictions of future performance in office.*
>
> U.S. Supreme Court (Buckley v. Valeo) 1976

## A. The Disclosure Process

Figure 2 illustrates the disclosure process. The rules that govern the process need to specify the information that must be disclosed and provide for timely access to the data. To maximize efficiency, a nation's disclosure process should be comprehensive and enforceable, without being burdensome or discouraging to the parties and candidates. (See guidelines for writing a disclosure law in Appendix G.)

## B. Who Needs to Disclose What, and To Whom?

### *1. Who Discloses?*

Political parties and candidates should bear responsibility for producing financial disclosure reports. In parliamentary systems, political parties are the major recipients of funds. In presidential systems, individual candidates are the primary recipients. The most comprehensive disclosure laws require both parties and candidates to file disclosure reports.

### *2. What is Disclosed?*

Two categories of information need to be disclosed: contributions (monetary and in-kind) and expenditures.

*a. Contributions*

The disclosure requirement for monetary contributions should be the name of donor, the amount, and the date of receipt. Donor identity is important because it reveals potential influences on elected officials. In the research conducted for this handbook, only 32 percent of the 118 countries surveyed have laws that require political parties to report the names of their donors to the public. Most of those that require public disclosure of individual donations require relatively little detail about contributors. (See examples in Appendix A.)

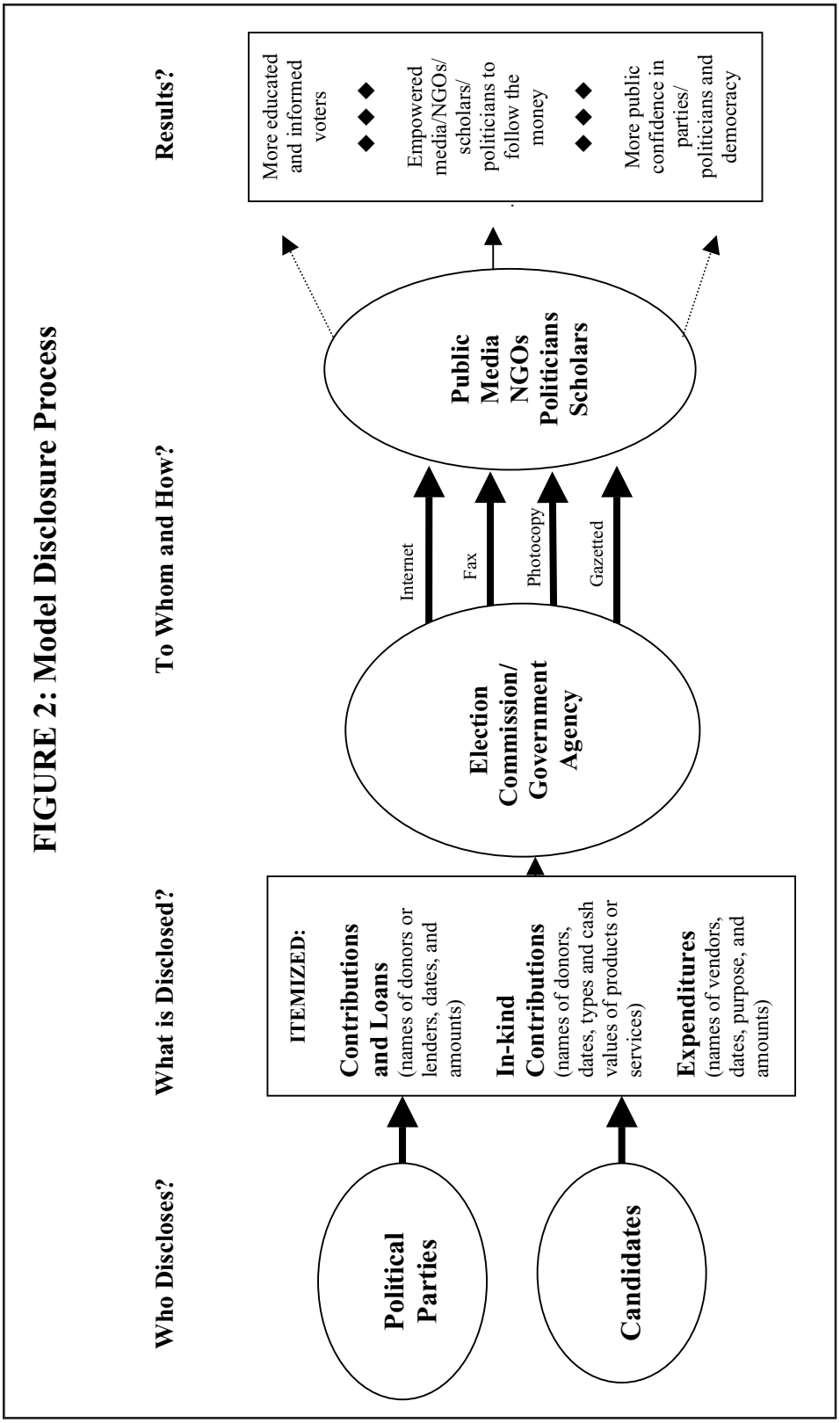


FIGURE 2: Model Disclosure Process
Who Discloses?
What is Disclosed?
To Whom and How?
Results?
Political Parties
Candidates
ITEMIZED:
Contributions and Loans (names of donors or lenders, dates, and amounts)
In-kind Contributions (names of donors, dates, types and cash values of products or services)
Expenditures (names of vendors, dates, purpose, and amounts)
Election Commission/ Government Agency
Internet
Fax
Photocopy
Gazetted
Public Media NGOs Politicians Scholars
More educated and informed voters
Empowered media/NGOs/ scholars/ politicians to follow the money
More public confidence in parties/ politicians and democracy

Loans are also monetary contributions and should be reported as well by name of lender, the amount, and the date of receipt. If there is no expectation of payback by the candidate or party, loans amount to disguised contributions and/or unreported expenditures. In Australia, for example, loans were not considered contributions and the country only recently closed this loophole.

In-kind contributions can and should be included in reporting requirements by assigning them a monetary value. In-kind contributions include donated items or use of equipment, vehicles, printing presses, etc. as well as professional voluntary services (e.g., graphic artists designing brochures, lawyers writing legal opinions). Professional voluntary campaign services that have a monetary value constitute an in-kind contribution that is often overlooked. Canada recently tackled this problem by making a distinction between work that involves political tasks and work that involves the normal professional services of the volunteer. For example, if a lawyer helps to distribute leaflets for a candidate, this qualifies as a voluntary activity with no financial worth. But if the same lawyer provides a *pro bono* legal opinion or other free legal services for the candidate or party, then the standard costs of these activities must be reported as a political contribution. U.S. and U.K. regulations are similar, requiring the reporting of free professional services at market value.

Disclosure laws should also establish contribution thresholds, basically levels at which a contribution becomes reportable. The assumption is that the higher the contribution, the more likely it is that the donor will expect something in return. Establishing an appropriate threshold is essential. Cumbersome disclosure of very small contributions can lead parties and candidates not to report donations at all. Yet if too high, they allow a number of large donations to go undetected. (See disclosure thresholds by country in Appendix E.)

*b. Expenditures*

Knowing who receives the funds expended and the service or product provided enables invoice verification. Without knowledge of what vendor received what funds, and for what purpose or category of expenditure, campaign spending limits cannot be enforced.

The survey conducted for this handbook reveals that expenditure data are often readily disclosed, but are in such aggregated form that they are rather meaningless. Expenditures are usually reported in gross figures, and rarely reveal a vendor's identity. If disclosure requires only expenditure summaries rather than itemized lists, there is no way to check the accuracy of the information.[19] This breaks the audit trail and has other consequences as well. For example, in nations providing public financing, party and campaign funds could go unaccounted for. Without itemization of expenditures, taxpayers' funds intended for the party or campaign could end up spent on family members or a new house.

Or in other countries, large expenditures on practices like vote-buying, or providing "gifts" to voters as incentives to vote for certain candidates or parties are largely overlooked by most disclosure laws and enforcement bodies. These expenditures can be significant; in Micronesia, for example, villagers expect pigs of considerable size for weddings and funerals from elected officials seeking re-election. In Ukraine, a candidate for the parliament reportedly distributed over $100,000 worth of live baby pigs to farmers to gain their support. Tracing and monitoring these transactions is difficult, but a very important step in accounting

[19] Groups such as Transparency International have monitored party and candidate ads on television, radio, and in newspapers, projecting their costs based on published advertising rates and comparing them to disclosure reports in order to identify discrepancies.

for all expenditures in campaign and party finances.[20]

### *3. To Whom and How?*

Disclosure reports are filed with the election commission or government agency legally designated with this responsibility. The government agency or election commission requiring the filing of the reports is the first to see them, and in many cases, the information remains with the government.

However, meaningful disclosure is disclosure to the public. Although most voters have neither the time nor the sustained interest to view voluminous campaign spending reports, press and media organizations, NGOs and other civil society organizations, and academics can use the information, analyze it, and then disseminate their findings. The public is better able to digest and act on information in this form.

Restrictions are often placed on public access to disclosure information. The data collected for this handbook reveal that the laws of very few countries allow some form of public access to or copying of the campaign and party finance reports.

For example, for political donations made between election campaigns, Estonia does not permit photocopying of the entries in the special registry. Though the records are open to pubic scrutiny, details must be copied by hand. In an Asian country, an NGO took on this challenge, mobilizing volunteers to spend about 70 person-days copying the materials by hand since photocopying donor lists was prohibited by law.

Moreover, the Internet is making the traditional issues of accessibility increasingly irrelevant.[21] The operating hours of local government offices and the charges imposed for photocopying accounts become unimportant if the information is available online. For example, during election campaigns, Estonia does list donations on the Internet. Latvia and Bosnia Herzegovina post campaign finance reports on the Internet, and the Lithuanian Election Commission publishes full details of all political donations on its website. In Bulgaria, the only public access to information is in the form of reports by a commission whose members are nominated by Parliament. The Internet will not eliminate the occasional need to consult original hard copies of documents, but there will be less need for documentary access.

A balance must be achieved in disclosure laws between protecting privacy while providing for donor or lender identity. U.S. law has provisions to achieve this balance. Donors to national campaigns must be identified by full name, complete address, and occupation to the Federal Election Commission (FEC); however, there are two safeguards on the privacy of this personal information. First, the FEC blocks out the street addresses when it releases the financial disclosure reports to the public. Second, other politicians or enterprises are banned from using donor lists for commercial or political purposes. To catch violators, the lists released include a number of false names. Firms or politicians that solicit these non-existent donors are liable

[20] A member of a Ukrainian NGO reported this information in the workshop *"Analysis of Campaign Finance-The Reality of the Ukrainian Political Finance*", organized by the Europe XXI Foundation, sponsored by the International Renaissance Foundation and funded by USAID, and held at the National Academy of Science, Kiev, Ukraine, April 29, 2002.

[21] USAID, through its partner IFES, is working with the Association of Central and Eastern European Election Officials to create a software program enabling member countries to construct a database from their country's party finances and put it on the Internet. The data will be downloadable by the media, NGOs, and others for analysis.

to prosecution. Appendix D provides sample disclosure forms from the United States.

### C. Timely Access to Disclosure Data

Disclosed information must be available to the public in a timely manner and disclosure rules should specify time requirements. (See guidelines for writing a disclosure law in Appendix G.) In general, public disclosure should occur before polling day. Knowledge about financial backers may sway opinions and votes. Only a handful of nations surveyed meet this criterion.

Despite the clear case for rapid disclosure of donations, compliance can be difficult. In the United Kingdom, parties must normally publish donations quarterly, but weekly disclosure is required during election periods. Central party organizations have to disclose all donations above $7,500 in value. This requires collecting information from several hundred local party organizations to ensure that a donor has not exceeded this amount through a series of small payments to different branches. Some of the branches are small, run by a few volunteers. It is a challenge to collect information from all of them, collate it at the central level, and report every seven days in the run-up to a general election. Fortunately, the advent of the Internet and affordable personal computers is making disclosure easier for most countries.

### D. Potential Costs and Disadvantages of Disclosure

Disclosure and transparency have costs and disadvantages attached under certain conditions. Though far outweighed in most countries by the advantages and benefits, an objective analysis of disclosure must point out potential risks.

#### *1. Intimidation and Harassment*

In the wrong political environment, disclosure can lead to intimidation, harassment, or life endangerment. In the United States, for example, the Socialist Workers Party sought protection of its donors from harassment and won a U.S. Supreme Court judgment in 1982 exempting the party from having to file disclosure reports.[22] In Egypt, donations to parties that exceed a prescribed limit must be reported in newspapers. This provision has been criticized as a device to limit contributions to opposition parties. The argument for this view is, first, that it imposes additional costs on parties receiving political contributions and, second, it inhibits would-be donors, who are likely to be reluctant to see their active support for anti-government parties advertised in this way.[23] During the 1999 presidential elections in Ukraine, President Kuchma was reported to have used the police, fire, and tax inspection services to harass opposition candidates.[24]

Where opposition parties are punished or intimidation is used as a political weapon,

[22] In the 1982 case *Brown v. Socialist Workers Party*, the U.S. Supreme Court ruled that if there were a reasonable probability that disclosure of donors might lead to threats, harassment, or reprisals, the campaign could be exempt from disclosure laws.

[23] In the Laws of Egypt, "Law No. 40/1977 of the Political Parties' System" Article 11 states that political parties must publish the name of a donor in at least one daily newspaper if the amount donated exceeds 1,000 Egyptian pounds ($164) over one year. See also *"Parties and Candidates: Access to Disclosed Information,"* Ace Project; at http://www.aceproject.org/main/english/pc/pcd04c04.htm

[24] See "Application to the Central Electoral Commission to Eliminate Errors in the Personal Electoral Account Funds of Presidential Candidate O. Moroz," published in "Tovarysh #33," August 1999, as cited in Marcin Walecki, "The Dangers of Halfway Disclosure-Campaign Finance in Ukraine," IFES case study, October 2001.

disclosure is not recommended since it may undermine political competition and place political leaders at risk, nonetheless, long-term possibilities should be discerned.

### *2. Violation of Privacy*

Disclosure is often criticized on the ground that it violates the principle of the secret ballot, widely regarded as essential to democracies because it frees citizens' voting decisions from scrutiny and pressure by employers, social elite, or family members. When contributions are public, pressure can be brought to bear to give or not to give to particular candidates and parties. For example, Sweden's Supreme Court ruled that Swedish parties did not have to disclose their private contributors' names because disclosing these transactions would be tantamount to violating the secrecy of the ballot.

Finland, Sweden, and Switzerland share a philosophy about privacy of political funding information. It is, however, worth noting that Sweden practices a form of voluntary disclosure where political parties show each other their financial reports.

### *3. The Potential to Lower Donations*

One of politicians' biggest but largely unsubstantiated fears is that disclosure may cost them a lot of money in lost donations. Some think it will scare away donors or discourage those who like to keep behind the scenes. People who want to hide their contributions will give only small amounts below the disclosure threshold, or not give at all, or possibly revert to some illegal scheme. If a country faces the somewhat rare problem of too little money in politics, disclosure may not be worth the cost. However, there is no research to suggest that disclosure laws have caused legitimate money in politics to decrease. It is more likely that they have contributed to preventing illegal donations.

## IV. INTERNATIONAL TRENDS IN DISCLOSURE

This section analyzes the findings of a survey of disclosure laws in 118 nations.[25] Sponsored by USAID and conducted by the International Foundation for Election Systems (IFES), the purpose of the survey was to increase understanding of the status of disclosure law across countries and regions. It represents one of the most comprehensive examinations of disclosure laws in political finance to date.

The survey consisted largely of developing countries in various stages of democratization. The electoral systems were predominantly proportional representation (51 percent), while 35 percent were majoritarian and 14 percent were mixed, combining elements of the other two.

Table 2 illustrates the extent to which countries surveyed have disclosure laws on the books, by region.

Outside of North America, disclosure laws are most prevalent among the countries in eastern and western Europe. All nations surveyed from the former Soviet Union have disclosure laws. In eastern Europe overall, 89 percent have some form of reporting campaign

> *Corrupt people fear information. What the government knows, the people should know.*
>
> Prime Minister of Thailand, His Excellency Dr. Thaksin Shinawatra

**TABLE 2: Prevalence of Public Disclosure Laws**

| Region | No. of Countries Surveyed (N=118) | Percent of Countries Requiring Public Disclosure Reports |
|---|---|---|
| **Africa** | **27** | **44%** |
| **Asia** | **15** | **67%** |
| **Europe:** | | |
| Western | **17** | **82%** |
| Eastern | **18** | **89%** |
| **Pacific/Oceania** | **9** | **44%** |
| **The Americas:** | | |
| U.S./Canada | **2** | **100%** |
| Caribbean | **11** | **27%** |
| Central | **7** | **29%** |
| South | **12** | **58%** |

[25] The 118 nations were included on the basis of availability of data on their disclosure laws. The 118 countries are primarily electoral democracies (84 percent). Eighty-one percent 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 percent (n=14) are Not Free, and 56 percent (n=40) are Partially Free—all countries in which political finance disclosure 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. See Appendix A for a listing of the countries surveyed and other information on methodology.

**TABLE 3: Prevalence of Public Disclosure Reporting Requirements**

| Region | Candidate Income and/or Expenses | Party Income and/ or Expenses | Names of Donors to Parties |
|---|---|---|---|
| **Africa** (n=27) | 11% | 37% | 7% |
| **Asia** (n=15) | 53% | 47% | 27% |
| **Europe:** | | | |
| Western (n=17) | 41% | 71% | 53% |
| Eastern (n=18) | 39% | 83% | 67% |
| **Pacific/Oceania** (n=9) | 33% | 33% | 33% |
| **The Americas:** | | | |
| US/Canada (n=2) | 100% | 100% | 100% |
| Caribbean (n=11) | 27% | 0% | 0% |
| Central (n=7) | 0% | 0% | 29% |
| South (n=12) | 8% | 58% | 25% |

and party finances to the public. This is rather a remarkable achievement over the last 10 years and may be attributed to most of these countries having recently drafted new constitutions, election and political party laws. Nevertheless, there is often a considerable difference between having a legal framework for disclosure and the actual practice of disclosure. Despite numerous laws on their books, former Soviet Union nations and as well as countries in Eastern Europe still lack full enforcement.

Table 3 illustrates the extent to which the disclosure laws of countries surveyed, by region, incorporate three types of reporting requirements: (1) disclosure by candidates of income and/or expenditure accounts; (2) disclosure by political parties of income and/ or expenditure accounts; and (3) disclosure by political parties of the names of donors.[26] The prevalence of disclosure in the regions is measured by percentages of countries in the region possessing these laws.

With respect to disclosure of *candidate income and/or expenses*, Latin America rates lowest. The rate is also very low among African, central American, and Caribbean nations. Indeed, it is not strikingly high anywhere outside of North America.

With respect to reporting *party income and/or expenses*, Caribbean and central American countries stand out for having no or very few disclosure requirements. In Africa, Pacific/ Oceania, and Asia, less than half of the countries require reporting such figures.

Although countries may favor certain types of disclosure regulations based on their election system—majoritarian systems may focus on funding to candidates and proportional representation systems may focus on financing to political party finance—there are serious consequences if both types of disclosure are

[26] Information on whether laws require candidates to reveal the names of donors was not collected in this survey because of time and resource constraints.

not required.[27] In Argentina for example, disclosure laws only require that political parties (not candidates) report their campaign finances. (See Appendix A.) Candidates take advantage of this by obtaining the majority of their campaign funds from their own fundraising activities and are not required to disclose any monies raised. There are similar potential loopholes in many countries where disclosure laws cover political party funding but exclude any requirement for candidates to disclose. This means that considerable amounts of money in politics—going to and spent by candidates—remain hidden.

**Levels of Transparency in 118 Countries Surveyed**

- **High**—13 percent (15 countries)
- **Medium**—22 percent (26 countries)
- **Low**—25 percent (30 countries)
- **No Public Disclosure**—17 percent (20 countries)
- **No Disclosure**—23 percent (27 countries)

With respect to disclosure of *the names of donors to parties*, Caribbean and central American countries barely have any such laws, and only a handful of countries in Africa and South America do. These four regions appear to be least transparent in regards the origins of donations in their political finance systems. While many Latin American countries require disclosure of party income and/or expenses, many of these do not require disclosure of party donor names, and disclosure of candidate income and/or expenses is very rare.

Table 4 organizes the countries surveyed into five disclosure categories—high, medium, low, no public disclosure, and no disclosure. The laws of each country were examined, and countries were rated according to the comprehensiveness of their disclosure requirements.

Three types of disclosure requirements are desirable: (1) disclosure by candidates; (2) disclosure by political parties; and (3) disclosure of the names of donors for political party contributions. Countries with laws encompassing all three types of disclosure requirements were rated "High," two types of disclosure requirements were rated "Medium," and one type of disclosure requirement were rated "Low."[28] Countries listed as "No Public Disclosure" require some kind of disclosure reporting to be submitted to the government, but this information is not available to the public. Another 23 percent of countries have no disclosure requirements at all. It is significant to note that in 40 percent of the countries, the public has no access to financial reporting, either because there are no reporting requirements ("No Disclosure") or because reports are reserved to official bodies. Appendix A shows the status of each country with respect to these requirements.

**High Public Disclosure** (13 percent)
Countries in this category have laws requiring both parties and candidates to disclose their income and/or expenditure accounts, and laws requiring parties to disclose the names of donors. All disclosure information is reported to the public. These countries require the names and/or addresses of party donors, but do not always

[27] Majoritarian or candidate-based electoral systems in such countries as the Caribbean, North America and some European countries generally have more disclosure requirements for candidates than political parties. The opposite is true for proportional representational electoral systems which are party-based and require less candidate reports than party reports - as is generally the case in such regions of central and South America, and many parts of Africa and Asia. Nevertheless, maximizing transparency in political finance should require disclosure requirements for both parties as well as candidates.

[28] Appendix A shows the status of each survey country with respect to these requirements.

**TABLE 4: Money in Politics Transparency**

| Level of Public Disclosure | Countries |
|---|---|
| **High** | Armenia, Australia, Brazil, Canada, Denmark, Greece, Japan, Lithuania, New Zealand, Philippines, Russia, Thailand, Ukraine, United Kingdom, United States **(N=15)** |
| **Medium** | Argentina, Azerbaijan, Belgium, Benin, Bosnia and Herzegovina, Colombia, Czech Republic, France, Germany, Hungary, Ireland, Italy, Latvia, Lesotho, Macedonia, Moldova, Netherlands, Norway, Papua New Guinea, Poland, Portugal, Romania, Singapore, Slovakia, South Korea, Tanzania . **(N=26)** |
| **Low** | Austria*, Bangladesh, Barbados, Belarus, Bolivia, Botswana, Bulgaria, Chile, Costa Rica*, Ecuador*, Gambia, Ghana, India*, Indonesia*, Israel*, Jamaica, Kenya, Mali*, Malta, Mauritius, Mexico*, Morocco*, Namibia, Nicaragua*, Nigeria, Peru, Spain, Taiwan, Tonga, Trinidad and Tobago **(N=30)** |
| **No Public Disclosure** | Algeria, Central African Republic, Dominican Republic, Finland, Gabon, Guatemala, Guyana, Honduras, Lebanon, Malaysia, Maldives, Niger, Panama, Paraguay, Senegal, Seychelles, Togo, Tunisia, Turkey, Venezuela **(N=20)** |
| **No Disclosure** | Albania, Angola, Antigua and Barbuda, Bahamas, Belize, Croatia, Dominica, El Salvador, Fiji Islands, Grenada, Kiribati, Madagascar, Malawi, Mozambique, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Samoa, South Africa, Sri Lanka, Sweden, Switzerland, Tuvalu, Uganda, Uruguay, Vanuatu, Zambia **(N=27)** |

*Public access to some, but not all, financial reports filed.

require the amount of the donation. Sometimes only aggregate donations are reported. Similarly, expenditure reports may be aggregated, not showing the names and addresses of vendors who provide products and services to candidates or parties. Although Table 4 shows which survey countries fall in each category, it is important to distinguish between high disclosure on this table and "full" disclosure as described in Section III. Full disclosure requires more detailed information than represented by the criteria used in this analysis.

**Medium Public Disclosure** (22 percent)
Countries in this category have laws requiring the provision of some financial information to the public, resulting in partial public disclosure. Most countries require reporting of party income and/or expenditures, and sometimes the names of party donors but lesser so the reporting of candidate income and/or expenditure. Compared to countries with "High" public disclosure, countries with "Medium" public disclosure share fewer kinds of information with the public and make following money in politics slightly more difficult.

**Low Public Disclosure** (25 percent)
Countries in this category have laws that require only one type of disclosure reporting—income and/or expenses for parties, or income and/or expenses for candidates, but never both. Very few require reporting the names of donors to parties. Moreover, some of these countries disclose to the public only some of the information reported. These countries may have crossed the threshold by starting down the path of transparency but have much room to increase their openness in the future.

**No Public Disclosure** (17 percent)
Countries in this category have laws that

require candidates and/or parties to file financial disclosure reports, but only members of a governmental or quasi-governmental body can see the information. Laws do not require the sharing of data with the public. This category includes countries in which harassment or abuse might be visited upon donors if their names were revealed. A danger associated with a lack of public disclosure is that access by the government or ruling party 'insiders' to the records of all political fundraising may provide the opportunity for a ruling party to intimidate donors who give to the opposition.

**No Disclosure** (23 percent)
Countries in this category lack legal provisions for any kind of disclosure to anyone about money in politics. A number are small island nations with populations of under one million. Without campaign and party finance laws, many of these countries are susceptible to corporate or criminal interests. Other countries in this category share an authoritarian past and still lack democratic freedoms. Nevertheless, as demonstrated by the strong disclosure laws in countries of eastern Europe and the former Soviet Union, a nation's past does not seem to be a deterrent to open campaign and party finance disclosure. Some countries in this category are in, or just emerging from, various stages of civil strife or conflict. Finally, this category also includes countries like Finland, Sweden, and Switzerland whose laws equate secrecy of the ballot with privacy in political finance. Nevertheless, as previously noted, Sweden practices "voluntary disclosure" with political parties disclosing to one another their financial reports.

# V. CONTROLLING MONEY IN POLITICS: THE U.S. EXPERIENCE

This chapter provides a brief overview of the U.S. experience in wrestling with money in politics—a match that continues today. It illustrates the pitfalls and pains of working out a system of political finance that is agreeable to all. It also highlights key system elements resulting from the complicated and time-consuming process of campaign finance reform. Democracy practitioners familiar with the U.S. experience will have a better understanding of issues confronting emerging democracies, and of options for campaign finance reform.

## A. Legal Framework of Campaign Finance in the United States

The history of campaign finance in the United States is one of attempting to remove barriers to transparency and eliminate the influence of big money. It begins with a battle against coercion and forced contributions and then spreads to laws limiting the size of contributions and secrecy of campaign funds, to limiting expenditures, and to enforcement. Key milestones are as follows:[29]

### *1. Eliminating Coercion*

The first campaign finance laws barred politicians, particularly incumbents in government, from forcing dock workers (1867) and then federal employees (1883) to give to their political campaigns. These remained the only campaign finance laws in the United States until 1907.

### *2. Banning Certain Large Contributors*

The Tillman Act of 1907 was the first attempt to limit the flow of money from big donors in U.S. politics. By this time, corporations had become the biggest financiers of America's elections. The Tillman Act banned direct financial contributions to federal candidates from corporations and interstate banks, but had weak enforcement mechanisms. The Smith-Connally Act of 1943 extended to unions the ban on federal campaign contributions. The Taft-Hartley Act of 1947 extended the union ban to federal primaries. In 2002, the Bipartisan Campaign Reform Act (BCRA) or "McCain-Feingold" restricted the use of non-federal, or so-called "soft" money. Soft money is money from corporations, unions, and wealthy individuals that is raised outside of the Federal Election Campaign Act (FECA), but subject to state and local contribution limits and source prohibitions. Soft money is not supposed to be used to directly support federal candidates, but instead to allow, for example, political parties to support state and local election activity or generic election activity such as voter education, party building, and get-out-the-vote. "Hard" money is to be used directly for federal elections and is subject to federal campaign finance laws (according to FECA), including contribution limits and source prohibitions. Since the late 1980s and early 1990s, the concern grew that more and more of the soft money raised by federal candidates

> *I know of no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion by education.*
>
> Thomas Jefferson

[29] See a more detailed listing in Appendix H.

and the national political parties was, in fact, being used directly for financing federal election campaigns. This gave rise to BCRA, which bans the national party committees, federal officeholders, and candidates from raising and spending this previously state regulated soft money and adds new federal restrictions to the use of non-federal "soft" money by state and local party committees. The constitutionality of this act is being legally challenged. A May 2003 federal district court ruling struck down some of the act's provisions but the case was appealed to the U.S. Supreme Court which is expected to rule on the bill in late 2003 or before the 2004 presidential and congressional elections begin.

#### *3. Increasing Transparency and Limiting Expenditures*

In 1910, the Federal Corrupt Practices Act established disclosure requirements for names of donors contributing over $100 to U.S. House candidates. The following year, legislation extended these requirements to Senate candidates and also established expenditure limits for House and Senate campaigns. This act, revised in 1925, served as basic federal campaign finance law for over 45 years, until it was repealed by the FECA in 1971. FECA created a comprehensive framework for regulating federal campaign financing. Three years later, inspired by the Watergate scandal, FECA was amended, requiring more detailed disclosure, imposing new contribution limits, and creating the FEC. In 1976, in ruling on *Buckley v. Valeo* which challenged FECA restrictions as unconstitutional violations of free speech, the Supreme Court upheld some provisions, including disclosure requirements and limits on individual contributions, and struck down others, such as limits on candidate expenditures (unless the candidate receives public financing) and on contributions by candidates and their families to their own campaigns. Regarding self-funding, *Buckley* ruled that candidates could spend unlimited amounts of their own money, but members of the candidate's family were subject to contribution limits like any one else. FECA was amended in 1976 to comply with the court's decision. Amendments in 1979 addressed a variety of issues, including raising the reporting threshold and limiting the value of in-kind contributions.

#### *4. Enforcement*

The Corrupt Practices Act of 1910 established disclosure requirements and assigned the major responsibility to the clerk of the House of Representatives for enforcing these requirements. For nearly 60 years, clerks refused to take their responsibility seriously because no one in the Congress took it seriously. Thus, the act was essentially self-policing. It was not until 1967 that a clerk began trying to actively enforce the law, though with little effect. Following the Watergate scandal and the creation of the FEC, an independent regulatory agency, was the first serious step. The FEC enforces the provisions of all national campaign finance law, including disclosure.

### B. Highlights of the U.S. National-level Political Finance System[30]

The U.S. political finance system is very complicated and sophisticated. The following highlights provide an overview of key points:

#### *1. Recipients of Money in Politics*

The majority of funds goes to candidates. Political parties receive the next largest share. Although the United States is basically a two-party system (Republican and Democrat), third parties proliferate at the national and state levels. Political action committees (PACs) receive the

[30] Political finance at sub-national levels is governed by state and local laws that vary.

lowest share. PACs represent special interests, such as employees of large corporations or unions, or economic sectors, such as the film industry, gas, or small businesses. Other special interest groups, focusing on issues such as consumer protection or the environment, form PACs as political arms of their organizations to influence election outcomes.

### *2. Sources of Money in Politics for Candidates, Parties, and PACs*

The majority of funding comes from individual citizens.[31] Additional sources include other PACs and public funds. The amount of public funding (available only to presidential candidates) is very limited.

### *3. Disclosure Requirements*

The United States requires full disclosure. With a threshold of $200, both parties and candidates must report the name and address of contributors, amounts of money, loans, and in-kind donations (defined as "anything of value"), the date received, where the funds were deposited, and how they were spent. Candidates and parties are also required to ask donors for their occupation and principal place of business, and to report that information if they receive it. Knowing the occupation enables an analysis of the interests represented by a particular donation or set of donations.

Each transaction must be itemized by donor and by expenditure (vendor name, address, and service or product provided), and then summarized. National candidates must file their disclosure reports with the FEC periodically before election day, and within hours of the election if the amount of funds collected exceeds $1,000. Beginning with the 2002 national elections, all House of Representative disclosure reports were required to be filed electronically, reviewed and posted on the Internet.[32] PACs also must file disclosure reports.

### *4. Contribution Limits*

The United States limits the amount of hard money political contributions. The limits include in-kind contributions and vary by source. Individuals can contribute up to $4,000 per election cycle, with $2,000 for the primary election and $2,000 for the general election per candidate. If giving to more than one candidate, the limit is $37,500 per two-year election cycle for all candidates. Total contributions to all national parties and PACS is $57,500 for a two-year cycle, but only $25,000 per year can be given to a national party, for a total of $50,000 of the $57,500 limit. Overall contributions from a single individual are thus limited to $95,000 over a two-year period.

### *5. Public Funding of Campaigns*

There is public funding for presidential campaigns, but not for U.S. Senate and House races.[33] Candidates must agree to certain conditions to receive public funding, especially in regards how much private money can be raised and how much overall money can be spent in the race. Of the nearly $3 billion spent on House, Senate, and presidential races in 2000, only about 8 percent came from public

[31] Individuals generally provide the majority of funds for national as well as sub-national elections. Their share decreases slightly in national presidential and congressional races, where PACs play an important role.

[32] Almost 40 states also have campaign finance reports on the Internet.

[33] State election laws allow more opportunities for public funding of candidates, usually linked to the candidate's agreement to abide by campaign spending limits.

funding.[34] Only candidates, not political parties receive public funding in the United States.

### *6. Candidate Spending Limits*

U.S. spending limits apply only in presidential races, and only to those candidates who choose to accept public funding. In the primaries, if a candidate accepts public funding, then he or she must limit private fundraising to no more than the amount of the public funding available. The government "matches" every $250 contribution that candidate receives with $250 of government money, but only up to the level of the public subsidy. In the general election, if candidates accept public funding, then they cannot accept private funds. Since the enactment of these limits in 1974, most presidential candidates accepted public funding in the general election, as well as during the primaries. For example in the 2000 election, President Bush declined public funding for the primary, but accepted public funding ($68 million) for the general election. In the general election, public funding is designed to place the two major-party nominees on an equal financial footing.

### *7. Costs to Run*

A serious run for the presidency costs an estimated $100-$200 million. For example in the race of 2000, Albert Gore spent $132 million, and George W. Bush spent $193 million. Serious U.S. Senate races cost between $2 million to $5 million. In 2002, the average senate candidate spent $2.2 million, and winners spent an average of $4.8 million. Serious U.S. House races costs between $500,000 to $1 million. In 2002, the average House candidate spent $468,000 and winners spent an average of $900,000.[35]

### *8. Contribution Bans*

The United States bans both cash and in-kind contributions from citizens of other countries (except permanent resident aliens), corporations and labor unions (except for soft money to national parties), national banks, and federal contractors. It also bans proxies or contributions made in the name of others (which would effectively make the real donor anonymous).

### *9. Restriction on Use of Government Property for Fundraising During Campaigns*

The United States bans political solicitations in all federal government buildings, in Congress, and in congressional office buildings. In addition to bans on the use of all federal and congressional telephones to solicit funds, candidates while in these buildings cannot use private cellular phones, fax machines, or Internet communication for these purposes. Neither government property nor government employees can be used for fundraising or electioneering.

The U.S. experience is interesting, but far from complete. It speaks volumes on how difficult and how slow money in politics reform can be. There has been considerable progress over the last 30 years, and the U.S. political finance system is now perhaps the most open in the world. A thorough system of disclosure, open to public

[34] Makinson, Larry *et al*. 2001. *The Big Picture: The Money Behind the 2000 Elections*. Washington, DC: Center for Responsive Politics as quoted in Rogan Kersh, "Influencing the State: U.S. Campaign Finance and Its Discontents," *Critical Review* Vol. 15, Nos. 1–2, p. 2.

[35] Costs of the 2000 presidential race and the 2002 congressional races are based on figures provided by the Center for Responsive Politics, Washington, DC. State legislature races cost considerably less, depending on size. For example, in Hawaii (population 1.3 million), the cost of running for the House, with each seat representing approximately 22,000 people, is approximately $35,000, while the comparable figure for the Senate is $70,000-$100,000.

scrutiny as well as challenge, accounts for most of the money collected and spent. Depending on priority problems, available resources, and political traditions, various components and approaches may be applicable in other countries.

The U.S. experience may have particular relevance in anti-corruption initiatives. U.S. scandals are not usually about hidden money or donor identity; in fact, they generally result from donor identity. Enron is a case in point. Following its financial collapse, campaign disclosure reports revealed to the public that the Enron Corporation, its major subsidiaries, and its executives had made millions of dollars of both soft and hard money political contributions at the national and state levels. This propelled the momentum for new campaign finance reform measures in 2002. It demonstrates the impact that disclosure can have on democracy and governance. The ability to follow the money is the first defense against system irregularities. Disclosure is one of the best anti-corruption initiatives for detection.

One other lesson from the U.S. experience is that fighting corruption in political finance is a process of reform, evasion, identifying loopholes, and then more reform, which is followed by evasion, identifying loopholes, and more reform. Like most anti-corruption efforts, political finance requires constant vigilance and is not for the easily discouraged.

# VI. UNDERSTANDING THE MONEY IN POLITICS LANDSCAPE

In many countries, particularly emerging democracies, very little is known about money in politics—whether it is a problem, whether there are constituencies for reform, and whether the climate is right for addressing this issue within the context of democracy and governance. Anecdotal evidence is not enough. This chapter provides democracy practitioners with approaches to increase their understanding of money in politics in a given country setting, and to make strategic decisions about whether and how to work on reforms.

While emphasizing disclosure, this chapter recognizes the need to look at the entire political finance system as well as the environmental factors that influence reform choices. Offering key questions as the starting points for discussion, it suggests a framework for analyzing the nature and extent of the problem, identifying key actors and allies, both current and potential, and defining the legal framework and actual practices. The result will be a strategic assessment of the problem, of assets that can be mobilized, and of likely obstacles to reform.

> *You don't know how much corruption costs until you smell the stench of its consequences.*
>
> Hon. Sam Rainsy, MP, Cambodia

## A. Defining the Nature and Extent of the Problem

Section II described four potential risks associated with money in politics. These risks provide the framework for identifying the money in politics problem and its severity. In most countries, the problem will be multi-faceted. Addressing key questions related to these risks will help determine which ones are the most serious. It will also reveal inter-relationships between risk factors. Understanding these complexities will help define intervention points with the highest potential for impact, as well as those that could have unintended effects—either positive or negative—on other parts of the political system.

### *1. Uneven Playing Field*

Money in politics is one influence on the playing field, and an important one. It is critical to determine whether lack of competition is a problem and, if so, whether money in politics is the principal cause. The key questions are

- In the last election, were the winners the parties or candidates that were believed to have spent the most money?
- In terms of what is generally known about levels of political financing, was there a big discrepancy between the winning party or candidate and the two or three closest running parties or candidates?
- Did ruling parties and incumbent candidates have exclusive access to state resources to fund their campaigns? Or imbalanced access?
- Does the ruling party require their appointees or elected officials to reimburse a percentage of their salaries as a way of channeling state resources back to the party?

> **Potential Risks**
>
> - Uneven playing field
> - Unequal access to office
> - Co-opted politicians
> - Tainted politics

- Did corporations and/or unions provide significant financial support to parties or candidates? If so, was the support balanced or imbalanced among competitors?
- Are people who contribute to one party or candidate threatened or harmed by political opponents of these parties and candidates?
- Do challengers from minority or opposition parties suffer harassment, audit, or other abuse by the government in power before, during, or after elections?

In countries where competition is very limited due to overt repression, disclosing political finance could make contributors vulnerable. However, if competition is constrained only by access to resources, disclosure may be helpful in determining just how uneven the playing field is, and in revealing points at which the imbalance can be safely and effectively redressed. Definitive answers to many of these questions are impossible without disclosure, but an attempt to answer questions generally based on public perceptions should reveal whether this is a key concern driving the need for reform.

### *2. Unequal Access to Office*

Disparity in the halls of power is a fact of life in many democracies. However, if certain individuals or groups are systematically denied the chance to compete for office or get the representation they deserve because they lack financial resources, the influence of money in politics may require reform. The key questions are

- Are there acknowledged financial thresholds for running for office, i.e. candidates have to pay to get their name on the party list? If so, are particular sub-populations un-or under-represented among elected officials because they lack money?
- If political appointees must pay large sums of money for their positions, are particular sub-populations excluded from high office for lack of resources?
- Do certain geographic areas suffer because they do not generate political contributions?
- Do political parties formally exclude certain sub-populations from participation because those sub-populations do not contribute to the parties?
- Are certain marginalized sectors of the population the main supporters of anti-system/anti-democratic parties?

Disclosure by itself will not remedy political exclusion. However, disclosure provides the foundation for understanding the extent of the inequalities and exclusion, and for upholding and enforcing other controls that might offset inequalities (e.g. contribution and spending limits, subsidies).

### *3. Co-opted Politicians*

Money in politics has ramifications for the quality of governance. It is critical to determine how—and how much—political finance is affecting the allegiance and performance of elected officials. The key questions are

- Is there evidence that elected or appointed officials are acting in the interest of large contributors (wealthy families, corporations, unions, and others) and against the interest of their constituents?
- Is there evidence that elected and appointed officials misuse state resources to cover their party or campaign expenses?

- Is good governance undermined substantially by elected officials providing public sector jobs to donors as a way of repaying their campaign debts?

Where these kinds of problems exist, full, transparent disclosure is tremendously helpful in informing the public about which private interests are associated with which candidates or parties, and about use and abuse of public resources. Itemized data enable the public to track compliance with laws that prohibit financing from certain sources, limit total contributions and expenses, and ban the use of state resources for electioneering.

#### *4. Tainted Politics*

Illicit money in politics is an obvious threat to the rule of law and a major cause of corrupt government. Suspicions about it are high, but little is really known about it—where, how much, and from whom. Nevertheless, the perception is that corruption in political parties is widespread, and more important than corruption in the justice and law enforcement systems according to respondent to a recent Transparency International survey in 47 countries.[36] In examining tainted politics, key questions are

- Are illegal funds believed to be a common source of political financing for candidates or parties?
- Is there evidence that elected officials use their positions to benefit criminal interests?
- Do public officials divert revenues from publicly owned enterprises for personal or political party gain?
- Do elected or appointed officials engage in corruption as a way to earn-back what they spent to be elected or appointed?
- Do people seek office as a way of gaining immunity from prosecution?
- Are lower level government employees required to join the ruling political party, or contribute part of their monthly salary?[37]

Disclosure will never prevent illicit money, which will remain hidden. However, requiring disclosure can deter politicians from accepting illicit funds. In addition, by tracking both legal contributions and political expenditures, disclosure can reveal whether there is a difference between the two, thus shedding light on what is hidden. It is the cornerstone for enforcement of controls on political finance, supporting audit and investigation.

### B. Identifying Key Actors and Allies

Money in politics reforms generally need broad advocacy and support. As illustrated throughout this handbook, existing rules and practices generally favor incumbents and ruling parties. While some within the system are more

[36] See Transparency International's "Global Corruption Barometer" (July 2003) survey of over 40,000 people in 47 countries. A major finding was that respondents cited political parties as the institution in which they would most like to eliminate corruption (29.7 percent of respondents) compared with 11 other institutions (in descending order courts, police, medical services, education system, business licensing, tax revenue, customs, utilities/telephones/etc., immigration and passports, private sector, other). For more details, http://www.transparency.org/pressreleases_archive/2003/2003.07.03.global_corr_barometer.en.html

[37] For example, some countries in eastern Europe and South America practice a form of "macing" government workers who do not have security of civil service tenure or serve at the pleasure of an elected official, and are charged (or surcharged) a monthly fee that goes to a political party or a campaign contribution. For more information on "macing," see *Ace Project, Parties and Candidates: Other Illegal Donations*," at www.aceproject.org/main/english/pc/pcd03b.htm.

amenable to change than others, it generally takes pressure from outside change agents as well, often acting in coalitions, to raise consciousness about money in politics and achieve meaningful reform. In evaluating environmental readiness as well as intervention options, it is critical to know who the advocates or champions are or might be, what they can or could do, and what kinds of strategic alliances among them can advance reform efforts.

**Key Actors and Allies**

- Election commissions
- Civil society
- Media
- Reform-minded politicians and parties

### *1. Election Commissions*

An election commission is the first line of institutionalized change in campaign and party finance. It is responsible for monitoring parties and candidates to ensure that they play by the political finance rules. Its vigor varies from one country to another. The first question is whether such an institution exists. If it does, the key questions are

- Is the mandate clear?
- Does the commission actually exercise the authorities defined in its mandate, i.e., enforce the campaign and political party finance laws? If not, why not?
- Does the commission have ultimate authority, or are there courts for appeal and adjudication?
- Are financial and other resources sufficient to carry out all the assigned functions?
- Are there outside influences that inhibit the commission's exercise of its authorities?
- Is the commission actively interested or engaged in campaign and party finance reform?

The election commission is a crucial enforcement mechanism that can be a driving force for reform, and is a necessary actor in implementing reform. It is important to determine how likely it is to become a major strategic ally.

### *2. Civil Society*

NGOs, other civil society organizations, and individuals, such as activists, academics, and researchers, are increasingly concerned with money in politics reform. They are well positioned to identify problems, assemble and analyze information, bring the attention of the public to the risks of money in politics, and advocate for change. Academics and researchers bring credibility to findings and analysis. Frequently, elements of civil society work in tandem with each other, and with other actors such as the media and reform-minded politicians. For example, researchers and academics spearhead attention to political finance problems through research on election histories or developing background profiles on candidates. This facilitates reform activities by the media as well as NGOs and other civil society organizations.

Many other networks and affiliates often join political

**Successful Advocacy for Disclosure**

Poder Cuidadano, an affiliate of Transparency International in Argentina, attracted media attention and raised public consciousness about the need for public disclosure of sources of political funding. Paving the way first at the municipal level, the effort eventually led to public disclosure of assets and donors by presidential candidates.

reform efforts, for reasons of principle and/or because they will benefit from reform. Examples are the small business community, labor, and various professional organizations. While money in politics may be outside the mainstream agendas of these specialized groups, these players may become valuable assets in broader constituencies that exert pressure for reform, especially disclosure. Key questions are

- Which NGOs and civil society organizations are already mobilizing around political finance reform?
- Which NGOs and civil society organizations have related agendas that could easily expand to include political finance reform?
- Is national or local political finance reform on the agenda at universities or other institutions? If so, who are the leading experts in the field, and what are their specific interests?
- Are there any civil society coalitions already formed to advocate fir political finance reform? If not, are there opportunities for coalition building?
- Are there any watchdog organizations or coalitions already functioning?
- Are these advocacy and watchdog groups acting independently, or are they part of other coalitions?
- What would increase the constituency?

### *3. Media*

In many countries, the independent media (non-government owned) can play a leading role in investigating and publicizing corruption, including in political finance. Media can be an energizing, independent source of support and information as well as an instrument of public education. By uncovering and disseminating critical data, media can also support the critical analysis and advocacy development activities of civil society. On the other hand, media interests are not always pro-reform. For example, the confidant and national security advisor of ousted President Alberto Fujimori of Peru is, at the time if this writing, on trial for charges including bribery to the media. There is a long history of corrupt politicians paying bribes to control the media; therefore, a careful assessment of media opportunities is required. Key questions are

- Is the media free and independent of government?
- Which media institutions, broadcasters, or reporters have demonstrated their interest in money in politics? How?
- Which media institutions, broadcasters, or reporters have demonstrated their interest in related issues? How?
- Have media ever joined political reform coalitions?
- What level of interest has the media shown in investigative reporting on campaign and political party finance?
- Have media ever published political finance scandals?
- How likely is it that activist media focusing on money in politics reform will suffer harassment from the government?

Often it is scandal that gets the headlines, and when a political finance scandal emerges, the role of the media in exposing wrongdoing and providing informed coverage of reform options can be essential for galvanizing public support.

### *4. Reform-minded Politicians and Parties*

Not all politicians fit the stereotype of corrupt, dishonest, or purely self-interested. Many may be interested in reforming money in politics, for various reasons. Newly elected leaders who are

young and highly educated may feel trapped in the existing political finance system. Opposition parties, marginalized and disadvantaged through existing rules and practices, may also be pro-reform. Key questions are

- Which politicians or parties are already advocating for money in politics reform, and which ones might be prone to do so?
- What are the incentives those politicians or parties see in reform? For example, is it more votes? More popularity? Better balance of power?
- Are there links between pro-reform parties and elected leaders with other reform advocates?
- How strongly anti-reform are ruling parties and elected leaders?
- Are politicians or parties that support reform likely to suffer any kind of abuse or harassment?

Answers to these questions may be hard to find. In many countries, those who are pro-reform are quiet, and there is little documentation. Information may be limited to word-of-mouth. Nevertheless, it is important to investigate whether there are pro-reform factions within the system, and whether they are—or could be—members of broader coalitions.

### C. Identifying the Legal Framework and Practices

The legal framework governing money in politics is one thing. Actual practice—compliance with and enforcement of that framework—is another. Information developed on actors and allies will reveal whether or not there is an enforcement agency and, if so, whether that agency generally fulfills its enforcement responsibility. Inventorying the laws and practices related to the key reform strategies described in Section II will fill out the picture.

There are common questions for each element of the framework, as well as questions specific to each.

**Contribution Limits**

- Are there legal limits?
- Do they differ by type of contributor?
- Does the law define "contribution" as including in-kind contributions?

**Contribution Bans**

- Does the law prohibit certain individuals or organizations from contributing (e.g., foreigners, unions, corporations)?
- Does the law ban contributions in the name of another?

**Spending Limits**

- Are there legal limits?
- How is the limit defined (e.g., aggregate or by amount per voter)?

**Time Limits**

- Does the law limit the campaign period?

**Public Disclosure**

- Does the law require both parties and candidates to file disclosure reports?
- Does the law require disclosure of both political contributions and expenditures?
- Does it require itemization of cash contributions by donor name, address, and amount?
- Does it require itemization of loans by lender name, address, and amount?

- Does it require itemization of in-kind contributions by donor name, address, type of contribution, and cash value?
- Does it require itemization of expenditures by vendor name and address, amount, and product or service purchased?
- Does the law require disclosure reports to be given to a government body only and not the public?
- If provided to the public, does the law require timely public disclosure, e.g. before an election takes place?
- Is the information easily accessible by the public (e.g., by fax, photocopy or Internet)?

**Public Financing**

- What form does the public financing take? To Parties? To Candidates?
- What are the eligibility prerequisites for public funding or subsidy?
- To what conditions must recipients agree to in order to receive public funding or subsidy?
- Do eligible candidates or parties actually receive the funding or subsidy? If not, why not?
- Do the eligibility requirements allow the funding of minor and new parties?
- Is their protection from fraud?

Knowing what is, and what should be, will help democracy practitioners identify the nexus between policy and practice as well as the incentives and disincentives the framework creates for political finance disclosure by candidates and parties. Strong legal frameworks alone can be deceptive. Disclosure makes strong enforcement more likely by providing the information enforcers need to uphold limits and bans, as well as to answer the questions that help us to understand the influence of money in politics.

**Reform Strategies**

- Contribution limits
- Contribution bans
- Spending limits
- Time limits
- Public disclosure
- Public financing

# VII. ADVANCING DISCLOSURE

Hidden and uncontrolled funding for campaigns and parties can threaten the health of democracy, the quest for good governance, and citizens' confidence in elected officials and political parties. The purpose of this chapter is to provide some programmatic guidelines for democracy practitioners to advance transparency in money in politics.

Democracy programs that ignore money in politics as a factor in governance will fall short of their goals and fail to get at the heart of political reform. For example, election assistance may serve only to ensure that those with the money can get elected and re-elected. Legislative strengthening and local government programs may have a difficult time convincing politicians of the need to respond to constituents. Political party strengthening programs may fail to see the how campaign finance laws shape and drive party activities and fundraising strategies. Civil society advocacy development may be limited if influence depends on financing candidates or parties. Anti-corruption programs that focus only on money and individuals, rather than on power and political parties, may fail to address root problems.

> *Money in politics is the most important problem facing modern democracies.*
>
> Herb Alexander

Despite the newness of the field and the inherent challenges to money in politics interventions, there is some experience on which to draw in designing disclosure programs. There is no ideal approach, nor does one size fit all. Because the issue is so sensitive, and because often so little is known, program design requires customization and innovation. However, past experience provides some insights. Democracy practitioners can take advantage of them in deciding how best to address the priority money in politics problems in each environment.

In many respects, the program options outlined below are inter-related—legislative improvements can strengthen enforcement, competent media can stimulate civil society advocacy and encourage stronger enforcement, greater awareness and advocacy can force political party reforms as well as changes in the legal framework, and links between national and regional organizations can strengthen capacities and networks for the reform of campaign finance laws and practices. Typically, strategic assistance is a package of services from among options, selected and sequenced in response to country conditions and opportunities.

**Program Design Options**

- Establish and strengthen coalitions and their members
- Review and enhance the legal disclosure framework
- Encourage reform among political parties and leaders
- Strengthen eforcement
- Link with anti-corruption initiatives
- Support regional organizations

### A. Establish and Strengthen Coalitions and their Members

Greater transparency in political finance requires joining the forces of those interested in reform, potentially including civil society organizations, political parties or selected politicians, the media, and election commissioners. Where coalitions concerned with money in politics exist, assistance can facilitate their work and highlight the importance of disclosure. Where they don't exist and potential reformers of

money in politics remain isolated from one another, assistance can focus on strengthening the building blocks of an emerging coalition. Assistance can focus on increasing advocacy skills for disclosure, introducing innovative techniques for partnering, defining a coalition leadership structure, identifying ways to draw additional strategic partners into the alliance, planning for managing opposition, and other functions. Illustrative approaches include

### *1. Supporting NGOs and Other Civil Society Organizations*

Many NGOs and other civil society organizations have adopted a political finance oversight function. They understand and work on behalf of public disclosure. For example, Poder Ciudadano in Argentina monitored how much politicians were actually advertising in media, recording all of their commercials, calculating the costs from TV and radio price lists, comparing these figures to politicians' disclosure statements, and feeding disparities to the media. Like Poder Ciudadano, other chapters of Transparency International in places like Kenya and Latvia are adapting and applying oversight strategies, making use of public disclosure. Assistance to civil society can include direct support to maintain or expand existing watchdog functions. This could include strengthening capacities in effectively monitoring campaign finance laws and regulations, analyzing campaign information, packaging this information for effective dissemination to the public, forging strategic alliances, and participating in drafting and leading legislative change. Another option is to assist NGOs and civil society organizations to develop and conduct advocacy and public education campaigns. Training for groups on how to monitor campaign spending reports may also be useful. In the United States the state of Hawaii has developed a monitoring model at the Hawaii Campaign Spending Commission (http://www.state.hi.us/campaign) as well as through a NGO entitled, "The Hawaii Pro-Democracy Initiative," which instructs citizens on how to read campaign finance reports (http://www.newhawaii.org/).

### *2. Increasing Awareness*

Breaking the taboo associated with transparency in political finance is a first step in empowering reformers. The best programs do not stop at awareness alone. Instead, they lead participants in identifying concrete opportunities to put their awareness to work. This sets the stage for networking and widening the circle to form a coalition. Mass public awareness initiatives complement these programs. Public pressure for political finance reform both stimulates and supports the array of allies and actors.

### *3. Training Media*

Because the media is often a critical reform coalition member, or even a stimulator of a reform coalition, increasing understanding of public disclosure and how the information may be used by the media can be a strategic beginning. Key subjects for training may include media rights and responsibilities as well as use of sources, including government, NGOs, political parties, and candidates. Where media is primarily owned by the government or under strict government controls, the training needs to address the risks that media representatives can face if they promote money in politics disclosure.

### *4. Sponsoring Data Analysis and Research*

Research may involve policy analysis to convince decision makers that disclosure is important. For example, an NGO in South Africa, IDASA is analyzing data and providing policy options to parliamentarians on political party disclosure of private funding. Alternatively, programs that support research

and publications that analyze disclosed information can catalyze interest and increase broad awareness on the value of transparency.

### B. Review and Enhance the Legal Framework for Disclosure

This handbook has illustrated both that few nations have adequate disclosure laws and regulations, and that having such a framework does not necessarily mean that it is enforced. Programs can provide expertise in reviewing the country's disclosure laws and other relevant legal and regulatory provisions, resulting in detailed recommendations for improvements. They can also assist various constituencies (such as reform-minded legislators, election commissioners, other relevant government agencies, and NGOs) considering options for new and/or revised laws and regulations, and facilitate a group effort to draft them.

Complex, unclear, or absent laws and regulations hinder the ability of enforcement bodies to do their jobs, including the application of sanctions for non-compliance. Assistance can include careful analysis of two areas. The first is whether the law and regulations provide the independence or autonomy, authority, resources, and clear guidance that enforcement bodies need. The second is whether the law and regulations clearly delineate which bodies are responsible for which functions, the powers of each, professional qualifications of members, and the extent of their budgetary autonomy.

One frustration has been that most nations have been in search of a single solution on how to put together "the best" campaign and party finance system. No "silver bullet," or perfect system has ever been found, and each legal reform should be considered a stepping stone on a path of progressive reform, rather than a destination. For some ideas on drafting a comprehensive disclosure law for political parties or candidates however, Appendix G was prepared for the purpose of suggesting some guidelines and examples that countries might consider.

### C. Encourage Reform with Political Parties and Leaders

Political parties and leaders can be engines of political finance reform and proponents of public disclosure. Sometimes they are part of coalitions, but not always. There are a variety assistance services specifically targeted to parties, whether they act alone or in concert with others:

#### *1. Supporting Reform-minded Parties and Political Leaders*

Programs can support platforms for dialogue among internal reformers who choose to tackle their own problems. For example, at a workshop in Bangkok in early 2002, 28 Asian political party representatives addressed strategies for preventing corruption within their own parties as well as their societies.[38] This event was one of the first ever in the region to bring the topic of political party corruption into the open. One of the highlights of the workshop was on agreement that contributions to political parties and candidates should be disclosed, though some opposition parties feared that this could result in some retaliation against themselves or their contributors. The next meeting will include members of NGOs and the university communities to broaden the outreach. Further, after developing a political finance reform agenda, each nation plans to engage the press in disseminating it. Thus, support to internal reform can lead to the alliances that are so critical in addressing the money in politics problem.

[38] The research and conference were conducted by the National Democratic Institute for International Affairs (NDI), sponsored by the National Endowment for Democracy.

### 2. *Facilitating the Development of a Reform Agenda*

Parties that are not in power are usually in the best position to benefit from reform, and may supply the largest number of reform-minded politicians with whom to work. For example, the Millennium Democratic Party of South Korea and the Democratic Progressive Party of Taiwan were opposition parties when they engaged in political reforms. They are now the ruling parties in their respective nations, showing that reform is not only good politics, but also wins elections. Their efforts had ripple effects, with other parties beginning to initiate reforms as well.

Democracy practitioners can assist parties in making disclosure part of their reform agenda or a party platform. Once one party signs an ethics agreement or a commitment to disclose assets, other parties tend to want to follow or are pressured to conform. The key is to identify the early adapters and then bring the others on board after reform momentum has been gained.

Practitioners can also support public opinion polling or focus groups to inform political parties on public views that can influence the disclosure reform plan.

### 3. *Increasing Accountability and Improving Reporting*

Suspicion abounds about the accuracy of political party accounting and reporting, where it takes place at all. While in some cases inaccuracy may be deliberate, some parties may simply lack the capacity or resources to maintain accounts that enable them to comply with reporting requirements. Building will and capacity among parties and candidates can increase compliance and reduce the burden on enforcement. Programs can include assistance to parties and candidates in developing codes of conduct, ethics standards, and other self-initiated efforts that demonstrate their will to comply. They can also include training on reporting requirements and technical assistance in designing and installing a professional bookkeeping system that complies with local disclosure laws and regulations. USAID is now sponsoring a program implemented through IFES to help election commissions to put political finance reports on the Internet for public viewing. The computer application will make it easier for political parties and candidates to send campaign finance reports to electoral commissions electronically. This new technology that will simplify as well as speed up the filing process is now being piloted in Bolivia, Bosnia, Latvia, Lithuania, and Romania.

## D. Strengthen Enforcement

Many argue that enforcement of disclosure requirements is as important as the legal framework, and that public disclosure effectively enforced is the backbone of most approaches to controlling money in politics. Enforcement of public disclosure can be strengthened indirectly, by working with coalitions to lobby for public disclosure, to monitor disclosure reports, and to encourage the will of enforcers to follow through on their responsibilities. Or enforcement may be strengthened through improving the legal framework, addressing legal barriers to effective public disclosure and/or the institutional weakness of enforcement bodies.

Enforcement may also be strengthened by developing skills and systems within enforcement institutions. If personnel lack the skills to enforce political finance controls or the resources to carry out their responsibilities, programs can focus on increasing the capacity of enforcers to advocate on their own behalf—for greater independence, autonomy, resources, and/or authority. Programs may also provide training and technical assistance in key enforcement functions, including oversight. In addition, they can assist enforcers in raising their profile so that enforcement bodies can monitor party

activities, audit for compliance, and investigate campaign and party finance fraud. Alternatively, better systems and standards may serve to help enforcers by reducing resistance and increasing compliance. An approach for enforcement enhancement is being developed by IFES. The T.I.D.E. Program (Training in Investigation, Detection, and Enforcement) targets Political Finance Regulatory Agencies (PFRAs enforce campaign finance laws) for the purpose of diagnosing and then developing enforcement training tool kits for public agencies and civil societies in order to strengthen a nation's level of compliance with campaign finance regulations.

Other programs can include technical assistance to enforcement bodies to adopt simple, electronic disclosure reports that are easy to file, as well as training in using electronic reporting systems, such as the Internet program mentioned above now being piloted in Bolivia, Latvia, Lithuania, and Romania.

Another example of using electronic innovation as a way of increasing enforcement is a USAID project in Thailand. USAID is working with a local organization in Bangkok to install an Internal Revenue Service-type electronic asset disclosure system that automatically links elected and appointed officials' asset disclosure reports electronically to the nation's banks and land department and other government agencies to verify the veracity of their reports. It is being built to accommodate the many thousands of asset disclosure reports required every year by the new Thai constitution and expects to automatically "red flag" or draw attention to information on disclosure reports that clashes with other official information. The labor savings to be realized with this new system is considerable, and the assistance to enforcement of asset disclosure is expected to be extensive.

### E. Link with Anti-corruption Programming

USAID-supported anti-corruption initiatives are increasing worldwide. Many can easily expand to incorporate disclosure. This obviates the need for a stand-alone money in politics initiative, and in fact can maximize the impact of the anti-corruption program. For example, asset disclosure is becoming increasingly popular within the context of countering corruption. It is reasonably acceptable, and relatively easy to verify.

President Vicente Fox of Mexico posted his personal finances on the Internet as an example to his 150,000 federal employees required to do the same under the terms of a new law. In Thailand, a court case involving lack of asset disclosure by the prime minister nearly led to his dismissal. (See Appendix F.) In the United States, candidates, elected and appointed officials must file an annual statement of assets. Instead of stating the actual value of the asset, only a range of the value is required. For example, if one owns a house valued at $170,000, it would fall in the category of assets with a range of $150,000 to $250,000.[39] The purpose of requiring public officials to disclose their assets serves a number of purposes. It records the official's assets and enables oversight authority to identify conflicts of interest that could arise in the official's conduct of duties, or to question an unexplained accumulation of assets over time. It also enables a comparison of declared assets to actual assets to determine if disclosure reports are accurate. The assumption is that if a political leader does not tell the truth on very simple disclosure forms, it is likely on matters of more importance, such as the public

[39] For more details on how these ranges are scaled or how to design an asset disclosure form, see the House Ethics Financial Disclosure Instruction Booklet at: www.house.gov/ethics/FDannouncement.html.

treasury, that there will be a larger lack of trust. Therefore, introducing limited, relatively mild asset disclosure reforms within the umbrella of anti-corruption programming can lay the foundation for broader money in politics transparency programming over the longer term

### F. Support Regional Organizations

Many regional organizations are increasingly concerned with money in politics, especially disclosure, as people addressing the issue learn from each other's experiences and identify opportunities for collaboration. These organizations are good vehicles for increasing awareness and understanding of campaign finance reform options. Because they are already moving on designing and implementing reforms, an investment by USAID generates added value. Programs could involve technical assistance in election law analysis, advocacy for campaign and party disclosure laws, and presenting workshops on money in politics. In Eastern Europe, the Association of Central and Eastern European Election Officials is actively pursuing an agenda of campaign finance disclosure. It is collaborating with IFES in a USAID sponsored project to have member countries display their campaign finance reports on the Internet.

In Latin America, Mexico's Institute of Federal Elections has organized a number of conferences on money and politics and is active in disclosure enforcement. In Asia, the Democracy Forum has convened a number of meetings on political finance, and the British Council has begun a series of anti-corruption workshops with special focus on political financing in new democracies.

### G. Move Forward

Each country requires a tailored approach, based on readiness to tackle the difficult issue of money in politics and the resources willing and available to join in the task. It is up to the democracy practitioner to select the appropriate path, or combination of paths, with the highest potential for impact.

Despite the newness of the political finance discipline in emerging democracies, numerous organizations have experience on which democracy practitioners can draw. In addition to USAID's growing portfolio of campaign and party law reform initiatives, the Organization of American States has launched a hemispheric initiative to research money and politics and holds numerous regional conferences. Another example is the British aid agency, Department for International Development, which has launched a multi-year research agenda in money and politics in Africa that will cover unexplored territory in the topic as well as countries with scant research data. Additionally there is increasing dialogue about party finance in the anti-corruption efforts of the World Bank, the United Nations, Transparency International, and the Soros Foundation, and the World Movement for Democracy, with hundreds of civil society organization members worldwide, also has a serious interest in the subject. Lastly, the Institute for Democracy and Electoral Assistance's *Handbook on Funding of Parties and Election Campaigns* will provide a global collection of information on political finance laws when it is released in the near future.

Drawing on the fundamental understanding of money in politics and the role of disclosure provided in this handbook, democracy practitioners can begin the process of assessing opportunities and options in the countries where they work. Consultations with other organizations and individuals already working in this arena (See websites and organizations listed in Appendix C.) will help open the window on what has previously been illusive, and will accelerate the transfer of best practices. More extensive networks, more successes, and more visibility for money in politics will fill in the

gaps of what we still don't know. They will also validate the role that money in politics plays in democracy, governance, and the rule of law.

Disclosure is clearly not the last word, or the only word in campaign and party finance, but it is the most essential first word on how to increase transparency in emerging democracies.

# APPENDIX A: Basic Disclosure Rules in 118 Countries

| Name of Country | Any Public Disclosure Rules | By Party | | By Candidate | No. of Disclosure Requirements Met |
|---|---|---|---|---|---|
| | | Income and/or Expenditure Accounts | List of Donors | Parliamentary or Congressional | |
| Albania | no | no | no | no | 0 |
| Algeria | no | Submit | Submit | Submit | 0 |
| Angola | no | no | no | no | 0 |
| Antigua & Barbuda | no | no | no | no | 0 |
| Argentina | yes | yes | yes | no | 2 |
| Armenia | yes | yes | yes | yes | 3 |
| Australia | yes | yes | yes | yes | 3 |
| Austria | yes | yes | Submit | no | 1 |
| Azerbaijan | yes | yes | no | yes | 2 |
| Bahamas | no | no | no | no | 0 |
| Bangladesh | yes | no | no | yes | 1 |
| Barbados | yes | no | no | yes | 1 |
| Belarus | yes | no | no | yes | 1 |
| Belgium | yes | yes | no | yes | 2 |
| Belize | no | no | no | no | 0 |
| Benin | yes | yes | Submit | yes | 2 |
| Bolivia | yes | yes | no | no | 1 |
| Bosnia & Herzegovina | yes | yes | yes | no | 2 |
| Botswana | yes | no | no | yes | 1 |
| Brazil | yes | yes | yes | yes | 3 |
| Bulgaria | yes | yes | no | no | 1 |
| Canada | yes | yes | yes | yes | 3 |
| Central African Republic | no | Submit | Submit | no | 0 |
| Chile | yes | yes | no | no | 1 |
| Colombia | yes | yes | yes | no | 2 |
| Costa Rica | yes | Submit | yes | no | 1 |
| Croatia | no | no | no | no | 0 |
| Czech Republic | yes | yes | yes | no | 2 |
| Denmark | yes | yes | yes | yes | 3 |
| Dominica | no | no | no | no | 0 |
| Dominican Republic | no | Submit | no | no | 0 |
| Ecuador | yes | yes | Submit | no | 1 |
| El Salvador | no | no | no | no | 0 |
| Fiji Islands | no | no | no | no | 0 |

| | | | | | |
|---|---|---|---|---|---|
| Finland | no | Submit | no | no | 0 |
| France | yes | yes | Submit | yes | 2 |
| Gabon | no | Submit | Submit | no | 0 |
| Gambia | yes | yes | no | no | 1 |
| Germany | yes | yes | yes | no | 2 |
| Ghana | yes | yes | no | no | 1 |
| Greece | yes | yes | yes | yes | 3 |
| Grenada | no | no | no | no | 0 |
| Guatemala | no | Submit | no | no | 0 |
| Guyana | no | Submit | no | no | 0 |
| Honduras | no | Submit | no | no | 0 |
| Hungary | yes | yes | yes | no | 2 |
| India | yes | Submit | no | yes | 1 |
| Indonesia | yes | yes | Submit | no | 1 |
| Ireland | yes | no | yes | yes | 2 |
| Israel | yes | yes | Submit | no | 1 |
| Italy | yes | yes | yes | no | 2 |
| Jamaica | yes | no | no | yes | 1 |
| Japan | yes | yes | yes | yes | 3 |
| Kenya | yes | yes | no | no | 1 |
| Kiribati | no | no | no | no | 0 |
| Latvia | yes | yes | yes | no | 2 |
| Lebanon | no | Submit | no | no | 0 |
| Lesotho | yes | yes | yes | no | 2 |
| Lithuania | yes | yes | yes | yes | 3 |
| Macedonia | yes | yes | no | yes | 2 |
| Madagascar | no | no | no | no | 0 |
| Malawi | no | no | no | no | 0 |
| Malaysia | no | no | no | Submit | 0 |
| Maldives | no | no | no | Submit | 0 |
| Mali | yes | yes | Submit | no | 1 |
| Malta | yes | no | no | yes | 1 |
| Mauritius | yes | no | no | yes | 1 |
| Mexico | yes | yes | Submit | no | 1 |
| Moldova | yes | yes | yes | no | 2 |
| Morocco | yes | yes | no | Submit | 1 |
| Mozambique | no | no | no | no | 0 |
| Namibia | yes | yes | no | no | 1 |
| The Netherlands | yes | yes | yes | no | 2 |
| New Zealand | yes | yes | yes | yes | 3 |
| Nicaragua | yes | Submit | yes | no | 1 |
| Niger | no | Submit | Submit | no | 0 |
| Nigeria | yes | yes | no | no | 1 |

| | | | | | |
|---|---|---|---|---|---|
| Norway | yes | yes | yes | no | 2 |
| Panama | no | Submit | no | no | 0 |
| Papua New Guinea | yes | yes | yes | no | 2 |
| Paraguay | no | Submit | Submit | no | 0 |
| Peru | yes | yes | no | no | 1 |
| Philippines | yes | yes | yes | yes | 3 |
| Poland | yes | yes | yes | no | 2 |
| Portugal | yes | yes | yes | no | 3 |
| Romania | yes | yes | yes | no | 2 |
| Russia | yes | yes | yes | yes | 3 |
| St. Kitts and Nevis | no | no | no | no | 0 |
| St. Lucia | no | no | no | no | 0 |
| St. Vincent & the Grenadines | no | no | no | no | 0 |
| Samoa | no | no | no | no | 0 |
| Senegal | no | Submit | no | no | 0 |
| Seychelles | no | Submit | no | no | 0 |
| Singapore | yes | no | yes | yes | 2 |
| Slovakia | yes | yes | yes | no | 2 |
| South Africa | no | no | no | no | 0 |
| South Korea | yes | yes | no | yes | 2 |
| Spain | yes | yes | no | no | 1 |
| Sri Lanka | no | no | no | no | 0 |
| Sweden | no | no | no | no | 0 |
| Switzerland | no | no | no | no | 0 |
| Taiwan | yes | no | no | yes | 1 |
| Tanzania | yes | yes | yes | no | 2 |
| Thailand | yes | yes | yes | yes | 3 |
| Togo | no | Submit | no | Submit | 0 |
| Tonga | yes | no | no | yes | 1 |
| Trinidad & Tobago | yes | no | no | yes | 1 |
| Tunisia | no | Submit | Submit | no | 0 |
| Turkey | no | Submit | Submit | no | 0 |
| Tuvalu | no | no | no | no | 0 |
| Uganda | no | n/a | n/a | no | 0 |
| Ukraine | yes | yes | yes | yes | 3 |
| United Kingdom | yes | yes | yes | yes | 3 |
| United States | yes | yes | yes | yes | 3 |
| Uruguay | no | no | no | no | 0 |
| Vanuatu | no | no | no | no | 0 |
| Venezuela | no | Submit | no | no | 0 |
| Zambia | no | no | no | no | 0 |

SOURCE: The information has been prepared by Michael Pinto-Duschinsky, a member of the board of directors of the International Foundation for Election Systems, with the assistance of Violaine Autheman and Jeffrey Carlson. Data for Latin American countries was also contributed by published works from Daniel Zovatto and others, particularly Kevin Casas. The matrix records laws and regulations in force in some countries as of January 1, 2000,

and for others on September 1, 2001. Laws are not always clear and the assignment of categories is some cases a matter of judgment. While care has been taken in the preparation of the matrix, there is always the possibility of error. Corrections and comments on interpretations of categories will be gratefully received at [info@ifes.org].

**NOTES:**

Col. 2. Any Public Disclosure Rules: 'Yes' means that a country's laws require a party's or candidate's income or expenditure accounts to be submitted to a public authority and made available for public scrutiny. 'No' means that income and/or expenditure accounts are required to be submitted to a public authority but not made available for public scrutiny, or that no reports are required.

Col. 3. Disclosure by Party: 'Yes' means that a party's income and/or expenditure accounts are required to be submitted to a public authority and made available for public scrutiny. 'Submit' means that income and/or expenditure accounts must be submitted to a public authority but need not be made available for public scrutiny. Guyana: expenditures only; Kenya: theoretically, political parties are obliged to publish their accounts under the terms of the Societies Act; Lebanon: political parties are subject to laws applying generally to non-governmental organizations but these are not enforced in practice as far as submission of party accounts is concerned; Lesotho: accounts will be published under the terms of recently introduced legislation; The Maldives, Tonga, Tuvalu: political parties do not exist in practice; Uganda: as of 1.1.2000, political parties were not permitted.

Col. 4. Disclosure of Donors Names: 'Yes' means that parties must disclose identities of donors. Where donations need be disclosed only if they exceed a certain threshold, see Appendix E.

Col. 5. Disclosure by Candidates: 'Yes' means that the income and/or expenditure accounts of the candidate must be disclosed as distinct from those of the candidate's party. Brazil: senators only; Bulgaria, Colombia, Panama, Papua New Guinea, Poland: except for independent candidates; Thailand: applies to all candidates for constituency seats.

Col. 6. No. of Disclosure Requirements Met: This column indicates how many of the three kinds of information must be disclosed according to law, i.e., disclosure by political parties of income and/or expenditure accounts; disclosure of the identity of donors to political parties; and, disclosure by candidates of income and/or expenditure accounts. A "3" means that all three types of disclosure information are required; a "2" means that two types of disclosure information are required; and a "1" means just one type is required. A "0" indicates that the countries have no public disclosure or campaign or party finance reporting requirements.

# APPENDIX B: Act Of Congress To Improve Financial Disclosure In Foreign Countries: "International Anti-corruption And Good Governance Act Of 2002" (HR 1143—Title II)

**(Excerpted References to Political Financial Disclosure Requirements)**

**SEC. 201. SHORT TITLE**
This title may be cited as the `International Anti-Corruption and Good Governance Act of 2000'.

**SEC. 202. FINDINGS AND PURPOSE**
(a) FINDINGS- Congress finds the following:

(12) The United States should attempt to improve accountability in foreign countries, including by-

(A) promoting transparency and accountability through support for independent media, promoting financial disclosure by public officials, political parties, and candidates for public office, open budgeting processes, adequate and effective internal control systems, suitable financial management systems, and financial and compliance reporting;

(B) supporting the establishment of audit offices, inspectors general offices, third party monitoring of government procurement processes, and anti-corruption agencies;

(C) promoting responsive, transparent, and accountable legislatures that ensure legislative oversight and whistle-blower protection;

(D) promoting judicial reforms that criminalize corruption and promoting law enforcement that prosecutes corruption;

(E) fostering business practices that promote transparent, ethical, and competitive behavior in the private sector through the development of an effective legal framework for commerce, including anti-bribery laws, commercial codes that incorporate international standards for business practices, and protection of intellectual property rights; and

(F) promoting free and fair national, state, and local elections.

(b) PURPOSE- The purpose of this title is to ensure that U.S. assistance programs promote good governance by assisting other countries to combat corruption throughout society and to improve transparency and accountability at all levels of government and throughout the private sector.

**SEC. 205. AUTHORIZATION OF GOOD GOVERNANCE PROGRAMS**
(a) IN GENERAL- Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), as amended by sections 105 and 107, is further amended by adding at the end the following:

**SEC. 133. PROGRAMS TO ENCOURAGE GOOD GOVERNANCE**
(a) ESTABLISHMENT OF PROGRAMS-

(b) SPECIFIC PROJECTS AND ACTIVITIES- The programs established pursuant to subsection (a) shall include, to the extent appropriate, projects and activities that

(1) support responsible independent media to promote oversight of public and private institutions; `

(2) implement financial disclosure among public officials, political parties, and candidates for public office, open budgeting processes, and transparent financial management systems;

(3) support the establishment of audit offices, inspectors general offices, third party monitoring of government procurement processes, and anti-corruption agencies;

(4) promote responsive, transparent, and accountable legislatures and local governments that ensure legislative and local oversight and whistle-blower protection;

(5) promote legal and judicial reforms that criminalize corruption and law enforcement reforms and development that encourage prosecutions of criminal corruption;

(6) assist in the development of a legal framework for commercial transactions that fosters business practices that promote transparent, ethical, and competitive behavior in the economic sector, such as commercial codes that incorporate international standards and protection of intellectual property rights;

(7) promote free and fair national, state, and local elections;

(8) foster public participation in the legislative process and public access to government information; and engage civil society in the fight against corruption.

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# APPENDIX D: Sample Disclosure Forms

## U.S. FEDERAL ELECTION COMMISSION
## FORM FOR ITEMIZED RECEIPTS OF CONTRIBUTIONS

**SCHEDULE A (FEC Form 3)**
**ITEMIZED RECEIPTS**

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one) ☐ 11a ☐ 11b ☐ 11c ☐ 11d ☐ 12 ☐ 13a ☐ 13b ☐ 14 ☐ 15

PAGE OF

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)

**A.**
Full Name (Last, First, Middle Initial)
Mailing Address
City State Zip Code
FEC ID number of contributing federal political committee. C
Name of Employer Occupation
Receipt For: ☐ Primary ☐ General ☐ Other (specify) ▼
Election Cycle-to-Date ▼
Date of Receipt M M / D D / Y Y Y Y
Amount of Each Receipt this Period
☐ Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(i)/441a–1)

**B.**
Full Name (Last, First, Middle Initial)
Mailing Address
City State Zip Code
FEC ID number of contributing federal political committee. C
Name of Employer Occupation
Receipt For: ☐ Primary ☐ General ☐ Other (specify) ▼
Election Cycle-to-Date ▼
Date of Receipt M M / D D / Y Y Y Y
Amount of Each Receipt this Period
☐ Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(i)/441a–1)

**C.**
Full Name (Last, First, Middle Initial)
Mailing Address
City State Zip Code
FEC ID number of contributing federal political committee. C
Name of Employer Occupation
Receipt For: ☐ Primary ☐ General ☐ Other (specify) ▼
Election Cycle-to-Date ▼
Date of Receipt M M / D D / Y Y Y Y
Amount of Each Receipt this Period
☐ Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(i)/441a–1)

**SUBTOTAL** of Receipts This Page (optional) ▶

**TOTAL** This Period (last page this line number only) ▶

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FEC **Schedule A (Form 3)** (Revised 02/2003)

# U.S. FEDERAL ELECTION COMMISSION
# FORM FOR ITEMIZED LISTS OF EXPENDITURES

**SCHEDULE B (FEC Form 3)**
**ITEMIZED DISBURSEMENTS**

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one) ☐ 17 ☐ 18 ☐ 19a ☐ 20a ☐ 20b ☐ 20c ☐ 21

PAGE OF

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)

**A.**

Full Name (Last, First, Middle Initial)

Mailing Address

City State Zip Code

Purpose of Disbursement

Candidate Name

Category/ Type

Office Sought: ☐ House ☐ Senate ☐ President

State: District:

Disbursement For: ☐ Primary ☐ General ☐ Other (specify) ▼

Date of Disbursement M M / D D / Y Y Y Y

Amount of Each Disbursement this Period

Refund or Disposal of Excess Contributions Required Under 11 C.F.R. 400.53

**B.**

Full Name (Last, First, Middle Initial)

Mailing Address

City State Zip Code

Purpose of Disbursement

Candidate Name

Category/ Type

Office Sought: ☐ House ☐ Senate ☐ President

State: District:

Disbursement For: ☐ Primary ☐ General ☐ Other (specify) ▼

Date of Disbursement M M / D D / Y Y Y Y

Amount of Each Disbursement this Period

Refund or Disposal of Excess Contributions Required Under 11 C.F.R. 400.53

**C.**

Full Name (Last, First, Middle Initial)

Mailing Address

City State Zip Code

Purpose of Disbursement

Candidate Name

Category/ Type

Office Sought: ☐ House ☐ Senate ☐ President

State: District:

Disbursement For: ☐ Primary ☐ General ☐ Other (specify) ▼

Date of Disbursement M M / D D / Y Y Y Y

Amount of Each Disbursement this Period

Refund or Disposal of Excess Contributions Required Under 11 C.F.R. 400.53

**SUBTOTAL** of Disbursements This Page (optional) ▶

**TOTAL** This Period (last page this line number only) ▶

# U.S. FEDERAL ELECTION COMMISSION
# FORM FOR ITEMIZED LISTS OF LOANS

## SCHEDULE C-1 (FEC Form 3)
## LOANS AND LINES OF CREDIT FROM LENDING INSTITUTIONS

Supplementary for Information found on Page _____ of Schedule C

Federal Election Commission, Washington, D.C. 20463

NAME OF COMMITTEE (In Full)

FEC IDENTIFICATION NUMBER C

LENDING INSTITUTION (LENDER)
Full Name

Amount of Loan

Interest Rate (APR) %

Mailing Address

City State Zip Code

Date Incurred or Established M M / D D / Y Y Y Y

Date Due M M / D D / Y Y Y Y

A. Has loan been restructured? ☐ No ☐ Yes If yes, date originally incurred M M / D D / Y Y Y Y

B. If line of credit,
Amount of this Draw:

Total Outstanding Balance:

C. Are other parties secondarily liable for the debt incurred?
☐ No ☐ Yes (Endorsers and guarantors must be reported on Schedule C.)

D. Are any of the following pledged as collateral for the loan: real estate, personal property, goods, negotiable instruments, certificates of deposit, chattel papers, stocks, accounts receivable, cash on deposit, or other similar traditional collateral?
☐ No ☐ Yes If yes, specify: _____

What is the value of this collateral?

Does the lender have a perfected security interest in it? ☐ No ☐ Yes

E. Are any future contributions or future receipts of interest income, pledged as collateral for the loan? ☐ No ☐ Yes If yes, specify: _____

What is the estimated value?

A depository account must be established pursuant to 11 CFR 100.82(e)(2) and 100.142(e)(2).

Date account established: M M / D D / Y Y Y Y

Location of account:

Address:

City, State, Zip:

F. If neither of the types of collateral described above was pledged for this loan, or if the amount pledged does not equal or exceed the loan amount, state the basis upon which this loan was made and the basis on which it assures repayment.

G. COMMITTEE TREASURER
Typed Name
Signature

DATE M M / D D / Y Y Y Y

H. Attach a signed copy of the loan agreement.

I. TO BE SIGNED BY THE LENDING INSTITUTION:
- I. To the best of this institution's knowledge, the terms of the loan and other information regarding the extension of the loan are accurate as stated above.
- II. The loan was made on terms and conditions (including interest rate) no more favorable at the time than those imposed for similar extensions of credit to other borrowers of comparable credit worthiness.
- III. This institution is aware of the requirement that a loan must be made on a basis which assures repayment, and has complied with the requirements set forth at 11 CFR 100.82 and 100.142 in making this loan.

AUTHORIZED REPRESENTATIVE
Typed Name
Signature

Title

DATE M M / D D / Y Y Y Y

## APPENDIX E: Disclosure Thresholds By Country[40]

### (BY DAILY WAGES)

| | TYPE OF DISCLOSURE REQUIREMENT | DISCLOSURE THRESHOLD (LOCAL CURRENCY) | DISCLOSURE THRESHOLD (US DOLLARS) | DISCLOSURE THRESHOLD INDEX (Days of average income) | |
|---|---|---|---|---|---|
| **Australia:** | By parties to candidates | AUD 200 | 116 | 1.2 | days |
| **Canada:** | All donations | CAD 200 | 134 | 2.1 | days |
| **Bosnia and Herzegovina**: | All donations | BAM 100 | 47 | 2.3 | days |
| **United States**: | To parties and candidates | USD 200 | 200 | 2.4 | days |
| **United States**: | Independent expenditures | USD 250 | 250 | 3.0 | days |
| **Greece**: | To candidates | GRD 50,000 | 137 | 3.4 | days |
| **United Kingdom**: | From companies | GBP 200 | 303 | 5.3 | days |
| **Japan**: | All donations | JPY 50,000 | 464 | 7.0 | days |
| **Slovakia** | From individuals | SKK 10,000 | 216 | 8.2 | days |
| **New Zealand:** | All donations | NZD 1,000 | 454 | 10 | days |
| **Australia:** | By parties to parties | AUD 1,500 | 869 | 14 | days |
| **Greece**: | To parties | GRD 300,000 | 819 | 20 | days |
| **United Kingdom**: | From individuals to constituency party organizations | GBP 1,000 | 1,513 | 26 | days |
| **Romania**: | All donations | ROL 10 million | 461 | 30 | days |
| **Norway**: | All donations | NOK 20,000 | 2,272 | 31 | days |
| **Denmark:** | All donations | DKK 20,000 | 2,473 | 37 | days |
| **Russia**: | To registered candidates | RUB 20,872 | 741 | 43 | days |
| **The Netherlands:** | From 'non natural' persons | NLG 10,000 | 4,182 | 66 | days |
| **Czech Republic**: | All donations | CSK 100,000 | 2,588 | 77 | days |
| **Singapore**: | All donations | SGD 10,000 | 5,799 | 78 | days |
| **Slovakia** | From companies | SKK 100,000 | 2,156 | 82 | days |
| **Italy**: | All donations | ITL 10 million | 4,760 | 84 | days |
| **Israel**: | All donations | NIS 23,000 | 5,629 | 112 | days |
| **United Kingdom**: | From individuals to national party organizations | GBP 5,000 | 7,566 | 132 | days |
| **Germany**: | All donations | DEM 20,000 | 9,425 | 154 | days |
| **Russia**: | To electoral associations | RUB 83,490 | 2,964 | 171 | days |
| **Lesotho**: | Foreign donations | LSL 20,000 | 3,205 | 569 | days |

[40] Table constructed by Michael Pinto-Duschinsky. The exchange rate used for conversion to U.S. currency was the average exchange rate for 2001. "Days of average income" was calculated by GNP per capita divided by 365.25.

## APPENDIX F: Enforcement of Disclosure by Courts[41]

Disclosure laws must not only secure passage during the legislative process, they must also withstand challenges in court. In countries with disclosure laws, they have often been contested, providing examples of how disclosure has withstood legal challenges. Listed below are a number of cases that demonstrate that courts are becoming increasingly involved in enforcing disclosure requirements in both established, as well as, emerging democracies.

| *Country* | **Court Cases** |
|---|---|
| **Thailand:**<br><br>Non-disclosure of assets almost unseats prime minister<br>----------<br>**Thailand:**<br><br>Non-disclosure unseats interior minister | **Facts**: Accused of deliberately concealing assets in the 1990s when he was a cabinet minister, Prime Minister Thaksin Shinawatra was indicted on graft charges for concealing his wife's assets.<br><br>**Decision**: By eight votes to seven, Thailand's Constitutional Court cleared the prime minister of the charges. In 2001, the court ruled that Thaksin did not deliberately conceal his wife's assets.<br>----------<br>**Facts**: Thailand Interior Minister Kachornprasart was accused of falsely claiming to have borrowed 45 million baht (the equivalent of $1.21 million) from a private company in an attempt to conceal his assets.<br><br>**Decision**: In 2000, the Constitutional Court, the highest court in Thailand, found he had fabricated a document for a $1.2 million loan to hide his assets. The court ruled that no such loan was ever made and as a result, the minister was banned from running for political office for five years. |
| **United Kingdom:**<br><br>Failure to disclose not dishonest | **Facts:** Fiona Jones, member of the House of Commons, was convicted at Nottingham Crown Court of making a false declaration of expenses during the 1997 General Election. The conviction automatically cost her the Newark seat.<br><br>**Decision**: The conviction was over-turned by the Court of Appeal in 1999. The court found that although some election expenses were questionable there was no evidence to conclude the non-disclosure was dishonest. |
| **United States:**<br><br>Communist Party not bound by U.S disclosure rules | **Facts**: In the 1976 presidential elections, the Hall-Tyner Election Campaign Committee supported the presidential and vice-presidential candidates of the Communist Party, USA. The Federal Election Commission (FEC) asked that the committee reveal the names and maintain records of contributors to its campaign coffers.<br><br>**Decision**: District Court Judge Gagliardi dismissed the FEC's complaint, holding that the record-keeping and disclosure provisions of the FEC were unconstitutional as applied to the committee because there existed a reasonable probability that the compelled disclosure of the names of contributors would subject them to threats, harassment, or reprisals from either government officials or private parties. |

[41] Based on research by Dr. Menachem Hofnung, Department of Political Science, The Hebrew University of Jerusalem, Jerusalem, Israel

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| **Germany:**<br><br>Chancellor fined for lack of disclosure | **Facts:** Former German Chancellor Helmut Kohl was indicted for accepting at least $1 million in cash donations for his political party, the Christian Democratic Union, and not disclosing the information.<br><br>**Decision**: In a deal approved in 2001 by a district court in Bonn, Kohl acknowledged to a breach of trust for illegally accepting the cash donations and paid a fine of a $143,000 in exchange for the fraud investigation being dropped. |
| **Philippines:**<br><br>President's asset disclosure case dismissed | **Facts:** Former President Joseph Estrada was accused of lying about the sum of his assets as he only claimed 35 million pesos (673,000 dollars) in an official declaration in 1999. It was charged that his bank deposits alone were allegedly worth much more than that sum.<br><br>**Decision**: In 2001, the Sandiganbayan anti-graft court dismissed the case, ruling that the prosecution, in accusing former President Estrada of under-declaring his assets for 1999, should have been precise in indicating on the charge sheet exactly how much wealth he allegedly hid. |
| **Poland:**<br><br>Lying vs. concealing the truth about spousal sssets | **Facts**: Before the 1995 presidential elections, Justice Minister Jerzy Jaskiernia asked the Constitutional Tribunal to clarify whether politicians needed to include spousal assets in their financial disclosures.<br><br>**Decision:** The Constitutional Tribunal declined to issue a ruling on the basis that the relevant article was ambiguous. It was the first instance of the Tribunal refusing to issue a ruling. Following Kwasniewski's electoral win, The Prosecutor's Office refused to launch an investigation against Kwasniewski for failing to include his wife's holdings in the assets declaration he submitted to the Sejm. The stated reason: Kwasniewski's report was not a lie, but merely concealed the truth The latter is subject only to an administrative penalty in the Sejm. |
| **Russia:**<br><br>No need to disclose children's assets | **Facts:** Presidential candidate Vladimir Zhirinovsky's financial statement was declared invalid by Russia's Central Election Commission because it failed to include an apartment owned by his son.<br><br>**Decision:** The Supreme Court ruled that banning Zhirinovsky from the 2000 presidential election for this omission was unlawful and ordered that the election commission register him in the race. |
| **Georgia:**<br><br>Enforcement of disclosure requires competent plaintiffs | **Facts**: Four plaintiff parties asked the court to issue a judgment prohibiting several other parties from participating in the coming elections for failing to submit financial reports during the local elections of 1998.<br><br>**Decision:** In 1999, the Krtsanisi-Mtatsminda Regional Court of Tbilisi dismissed the claim and found the four plaintiff parties to be without standing and the case was dropped. |
| **Israel:**<br><br>False disclosure costs minister his job<br><br>----------<br><br>**Israel:**<br><br>False disclosure reporting detected | **Facts:** A deputy minister was charged with making a false declaration on his party's election finance report. He refused to resign his ministerial post.<br><br>**Decision:** Taking the right of silence while charged with being involved with false party election reports with the intent of misleading the state comptroller resulted in the removal from his deputy minister post.<br><br>**----------**<br><br>**Facts:** Three Shas Party respondents were indicted for filing false campaign expenditure reports for the national elections of 1988 and the local elections of 1989. They did not report cash payments given to party activists of $600,000. The intent of filing the false reports was to avoid fines for violations of campaign spending regulations.<br><br>**Decision:** In plea bargaining arrangement, the respondents received suspended jail terms. |

# APPENDIX G: Detailed Guidelines on Drafting a Disclosure Law[42]

**Overview and Caveat:**
One size does not fit all and there is no "model law" for political finance, but there are certain commonalties in all good disclosure legislation. Those points are highlighted below with annotated guidance on the meaning and significance of each component. Democracy practitioners with a legal bent may also benefit from the legal terms and definitions listed below (*usually in italics*), although they should be adapted with caution in their applicability to a country-specific situations.

**Two Main Purposes of Political Finance Legislation:**

- Laws written for the purpose of disclosing political finance have two main purposes. First, these laws provide valuable information **to inform the voting public about the raising and spending of funds** by political parties, candidates or other political participants (especially regarding their sources of financial support).
- Second, **disclosure laws assist enforcement** of, and encourage compliance with, laws and regulations that impose restrictions upon political finance activity (especially prohibitions or limitations upon contributions to parties or candidates).

**Five Main Prerequisites of a "Model" Disclosure Law:**
To facilitate transparency in political finance, it is essential that disclosure laws contain the following elements:

1. Clear language setting out the scope of the law and definition of terms.
2. Unambiguous language setting forth campaign and party finance reporting procedures, formats and thresholds for reporting contributions and expenditures.
3. Assurances of accountability by language designating who is specifically responsible for compliance with the disclosure laws.
4. Setting forth of clear enforcement guidelines and penalties for non-compliance.
5. Language that allows the public to inspect campaign and party finance information disclosed.

**PREREQUISITE #1**
**<u>A Model Disclosure Law States in Clear Language the Scope of the Law and Definition of Terms</u>**

The most common weakness of political finance disclosure laws is a failure to encompass all relevant financial activity within their scope (either in drafting or implementation). Hence loopholes render much of the law ineffective.

Persons and entities required by law to report their political finance activity—generally candidates and political parties—narrowly read or ignore the law's authority, and often operate through 'off-the-books' financing or through surrogates or other allies. Reporting and public disclosure of only some accounts or activity can become a formality and a sham. To be effective, political finance laws must declare the full scope of their jurisdiction and clearly define terms. If the law is not clear when it passes, it will likely never be clear in its implementation.

[42] Based upon article by Robert Dahl, Esq.," Model Political Finance Disclosure Law" (2001), a consultant to the International Foundation for Election Systems(IFES) and an expert in election and political party law.

**Terms to Watch Out For:**

- **EXPENDITURES:** The most important (but most difficult) legal term to draft in a disclosure law is what constitutes a political **expenditure.** An expenditure is any payment or disbursement of funds for 'political purposes' (including a commitment or obligation to make a payment or disbursement [unpaid bills]). 'Political purposes' not only depends upon the apparent objective of spending—to influence elections, or to support candidates or parties—but also who is spending funds and when. Thus, expenditure under a political finance disclosure law would generally include payments:
  - By any political party (or ongoing non-party 'political organization'), for any purpose, including: 1) for routine operational expenses (administration, development, research, fund-raising, or public communications), and 2) for spending to influence an election (to promote that party, or to support or oppose any political party or any candidates for public office) during the election campaign period;
  - By any candidate for public office, to advance his or her candidacy, or to support or oppose any other candidacy or political party, during the election campaign period;
  - By any other person (or entity that is not an ongoing 'political organization'), for purposes of influencing an election (to support or oppose any political party or any candidates for public office) during the election campaign period.

- **CONTRIBUTIONS: A contribution** is 1) any donation or gift of money, or non-monetary resources (goods, services, or use of facilities or equipment), or **anything of value**, or any loan of funds, that is 2) made or provided to a candidate or political party (or ongoing non-party 'political organization'), or to any other person or entity for the purposes of influencing an election.
  - As noted, contribution includes outstanding loans made by any non-commercial source, and also includes 'in-kind' contributions—providing goods (computers, vehicles, fuel, paper, etc) or services or use of facilities or equipment, which are valued and reported at their market value. Political leaders often have many friends who would gladly provide these items and they would go unreported if 'in-kind' contributions were included in the law.

**Other Key Provisions**

To give meaning to these definitions and to clarify and protect jurisdictional scope, a model political finance disclosure law should also include these key provisions:

- Political parties (and other ongoing political organizations) should be required to make all expenditures from, and place all contributions received into, official bank accounts that are fully reported and disclosed. Parties should be prohibited from using other funds, accounts or resources apart from or outside their official, reported accounts.
- Candidates should be required to 1) conduct their political activity through the official accounts of the party that nominated them, including directing contributions they receive to the party, which shall report them; or 2) establish an official bank account for their own campaign activity, subject to reporting and disclosure requirements.
- Contributions passed through an intermediary, or falsely reported in the name of another person or entity, must be prohibited. Persons or entities identified on political finance disclosure reports as making contributions to a political party or candidate may not receive advance payments or reimbursements from other persons or entities.
- Political parties and their agents should not cause, authorize, consent to or coordinate with other persons or entities to spend other funds or use other resources (that do not belong to them) for political purposes, unless such spending of funds or use of resources is treated as a contribution to that party and fully reported.

**PREREQUISITE # 2**

**A Model Disclosure Law Clearly Establishes the Process, Format And Thresholds for Reporting Obligations**

The following are some types and the timing of campaign and party finance reports suggested by a model political finance disclosure laws:

- ***'Baseline' financial statement.*** This statement provides for the full accounting of assets and liabilities for the reporting entity (especially political parties). It sets the factual foundation for subsequent reports of receipts and expenditures. It is often required just once (at enactment of law for existing political entities, and at time of registration/certification of new parties, candidates or non-party 'political organizations'), or on a cyclical basis, before each election period.
- ***Routine reports of receipts (contributions) and expenditures.*** The reports record the accounting of receipts and expenditures (raising and spending of money and non-monetary donations). They are required of ongoing political committees, especially political parties, and are based on a calendar timeline, such as annual, biannual or quarterly reporting schedule.
- ***Reporting during or after election campaign period***. These are the routine reports on the financing of activity to influence election outcomes (particularly to support or oppose candidates). Timing often just before election (such as report due ten days before the election, covering activity up to fourteen days before election) or just after an election (such as report due thirty days after the election, covering activity since prior report and twenty days past election). Policy dilemma is that pre-election reports closer to election reveal more relevant information for voters, but are more burdensome for political participants.
- ***Reports of particular political activity***. These are reports out of the ordinary and routine reports required for campaigning, Such as reports of large contributions received close to an election; or reports by media outlets about buyers of paid broadcast time for election-related communications.

**Format and Content of Campaign and Party Finance Reports**:

- The international practice varies widely, and provides numerous models that can be followed. The best format should reflect conventional accounting standards, provide logical flow of financial data and require receipts, expenditures and 'cash-on-hand' to balance. Content requirements should be thorough but not absurdly detailed or complicated. Receipt itemization should include information about any non-monetary donations or loans received. If the requirements get too strict, the probability is that they will not be followed correctly, or even ignored.

**Campaign and Party Finance Reporting Thresholds:**

- Disclosure laws often employ 'threshold' amounts to distinguish what or how much information must be reported for particular receipts and expenditures. For example:
- Contributions exceeding a certain amount (such as $50) must be itemized to include the donor's name, address, and date of contribution.
- Expenditures exceeding a certain amount (such as $100) must be itemized to include the payee's name, address, and date of the expenditure.

Choosing these threshold amounts must balance the value of information with the administrative burden to reporting entities and disclosure authorities. Transactions that are less than threshold amounts must still be included in aggregate numbers for total contributions and expenditures, and relevant records/documents maintained.

**PREREQUISITE # 3**

**A Model Disclosure Law Unambiguously Assigns Responsibility for Compliance by Reporting Entities**

Political finance disclosure laws often fail to ensure 'accountability'—to assign responsibility for record-keeping and reporting to specific persons. An ideal disclosure law would require each political party (and candidates [if reporting obligations separate from party] and ongoing 'political organizations') to designate a 'finance officer' (often called 'treasurer'). The finance officer

- is legally responsible for keeping complete and accurate records of the political finance activity of the reporting entity, and for submitting reports about such activity in a timely and accurate manner pursuant to the law
- must be a qualified accountant and follow accepted accounting procedures in performing record-keeping and reporting duties
- must approve all expenditures by the entity (exceeding a minimum amount), and review all receipts (contributions) for compliance with restrictions under the law
- should receive full cooperation from all political party officials, candidates or other relevant personnel of the reporting entity

**PREREQUISITE # 4**

**A Model Disclosure Law Sets up Clear Enforcement Guidelines and Penalties for Non-compliance**

Reporting requirements are significant political finance controls. As with other regulatory elements (such as prohibitions upon certain types of contributions or expenditures), reporting requirements must be fully enforced. Disclosure laws should clearly describe or specify

- governmental entities with responsibility for enforcement (generally, the election authority, supported by law enforcement bodies [police and prosecutors] and courts)
- particular violations, such as: late filing of reports; failure to file reports; submitting false or incomplete information in reports; inadequate record-keeping or failure to maintain documentation; conducting political finance activity outside of the reporting account or through cooperation with surrogates
- process for adjudication of complaints and prosecution of violations, including: format of complaints, procedural timelines, requirements for evidence, investigation mechanism, jurisdiction of election authorities and courts, and process for appeals
- penalties and sanctions

♦ Based on a 'graduated' scale proportionate to the amount, seriousness and degree of culpability (mistake, negligence or deliberateness) of the violation, and
♦ Including civil penalties (monetary fines or political consequences [denial of candidate certification, dissolution of political party]) and criminal sanctions.

**PREREQUISITE # 5**

**A Model Disclosure Law Allows the Public to Inspect Campaign and Party finance Information**

Disclosure of political finance information is of fundamental importance to political finance controls and to the integrity of the political process. This information is useful to election authorities and law enforcement bodies to prosecute violators of political finance laws, and also of value to the public in evaluating political parties and candidates. Broad access to such information permits increased scrutiny and 'self-policing' through the watchfulness of competing parties, civil society, reform-minded **politicians, and the news media.** Thus, disclosure laws must clearly guarantee the rights of public access

to political finance reports and should provide appropriate means for the examination of such reports:

- An election commission or other (usually governmental) body must be assigned responsibility for disclosure of political finance reports: receiving, photocopying, organizing, filing, and making available for public scrutiny. Public access to this information should be according to a reasonable timeline (such as within 48 hours of receipt). The responsible body must provide suitable facilities for public examination of reports and permit photocopying at a reasonable cost and in a convenient manner.
- Access should be given to the general public—any person or group interested in examining such information. Restrictions upon access must be clearly presented in the law and justified by public policy; decisions about rights of access cannot be left to the discretion of the body responsible for disclosure. For example, the law might stipulate that political financial reports be available by photocopy (for a small fee), facsimile copy, or by hand copying, or by the Internet, or all of the above methods of access by the general public. Sometimes, without restricting general access, disclosure laws will identify particular persons (such as representatives of political parties, civil society or the news media) to ensure their right of access.
- In addition to providing public access to political finance reports, disclosure laws may also require the responsible body to publish certain information from (or summaries of) these reports. Publication can be through 'in-house' studies, or data posted on the Internet or in official gazettes or newspapers.

Laws written with the above criteria have not been taken from any country, but from the principles of transparency and openness in political finance. Using these principles will not make a country's campaign and party finance law perfect, but it is a good standard by which a country's political finance laws may be measured and fine-tuned.

## APPENDIX H: Controlling Money in Politics: U.S. Legislative Milestones

**1867 - The birth of campaign finance.** The Naval Appropriations Bill prohibited officers and employees of the government from soliciting campaign funds among naval yard dock workers. This was the first federal attempt to regulate campaign finance.

**1883 - Prohibition against soliciting campaign funds from all federal employees.** The Civil Service Reform Act extended the above rule of 1867 to all federal civil service workers. Previously, government workers were expected to make campaign contributions in order to keep their jobs.

**1907 - Corporate contributions prohibited.** The Tillman Act prohibited corporations and nationally chartered (interstate) banks from making direct financial contributions to federal candidates. It resulted from a proposal two years earlier by President Teddy Roosevelt that "[a]ll contributions by corporations to any political committee or for any political purpose should be forbidden by law." The proposal, however, included no restrictions on campaign contributions from the people who owned and ran corporations. Weak enforcement mechanisms made the Tillman Act unenforceable.

**1910-11 - First disclosure requirements and expenditure limits introduced.** The Federal Corrupt Practices Act in 1910 established disclosure requirements for names of donors contributing over $100 for U.S. House candidates. Legislation 1911 extended requirements to cover U.S. Senate candidates and established expenditure limits for House and Senate campaigns. Lacking mechanisms for verification and enforcement, these measures proved meaningless.

**1925 - Disclosure reporting requirements and expenditure limits modified.** The Federal Corrupt Practices Act (Revised) codified and revised previous campaign reform legislation regarding expenditure limits and disclosure reporting. This served as basic federal campaign finance law until 1971. However, with power of enforcement vested in Congress, the act was routinely ignored.

**1940 - Prohibiting political activity of federal employees and others doing business with the federal government.** The Hatch Act amendments set a limit of $5,000 per year on individual contributions to a federal candidate or political committee, but did not prevent contributors from giving that amount to multiple committees, each working for the same candidate. The amendments also made campaign finance regulations applicable to primaries as well as general elections, and barred contributions to federal candidates from individuals and businesses working for the federal government

**1943 - Union contributions prohibited.** The Smith-Connally Act extended to unions the same prohibition on contributions to federal candidates from corporations and interstate banks. This followed a major increase, beginning in 1936, in labor's use of union dues to support federal candidates.

**1944 - Formation of First Political Action Committee (PAC).** The first PAC was formed by the Congress of Industrial Organizations in 1944 to raise money for the re-election of President Franklin D. Roosevelt. Because PAC money came from *voluntary* contributions from union members, rather than from union treasuries, it was not prohibited by the Smith-Connally Act of 1943. Effectively, this provided a loophole for unions and corporations to remain in the mainstream of American political finance.

**1947 - Union and corporate contributions permanently banned.** The Taft-Hartley Act made permanent the ban on contributions to federal candidates from unions, corporations, and interstate banks, and extended the prohibition to include primaries as well as general elections.

**1967 - First attempt at enforcement of campaign finance laws:** 57 years after passage of the 1910 Corrupt Practices Act, was passed**,** the clerk of the House of Representatives for the first time performed his duty under the act to collect campaign finance reports and to report violators. However, the Justice

Department ignored his list of violators, but this was a serious first attempt to make disclosure work in the United States

**1971 - Regulation of federal campaign financing.** The Federal Election Campaign Act (FECA) repealed the Corrupt Practices Act and created a comprehensive framework for the regulation of federal campaign financing for primaries, runoffs, general elections, and conventions. It required full and timely disclosure; set ceilings on media advertising; established limits on contributions from candidates and their families; permitted unions and corporations to solicit voluntary contributions from members, employees, and stockholders; and allowed the use of union and corporate treasury money for overhead in operating PACs.

**1971 - Public funding of presidential campaigns**. The Revenue Act was passed as companion legislation to FECA. It created the public campaign fund for eligible presidential candidates (starting with 1976 election) through a voluntary one-dollar check-off on federal income tax returns. It provided the option of $50 tax deduction (for individual filers) for contributions to local, state, or federal candidates (subsequently eliminated in 1978) or a $12.50 tax credit (raised to $50 in 1978 and subsequently eliminated in 1986).

**1974 - The FEC is born and with it serious changes to campaign finance inspired by the Watergate scandal.** Amendments to the FECA created the FEC to administer campaign finance law, with four of six commissioners appointed by Congress. The FEC was to be an independent regulatory agency that enforces provisions of the law such as limits and prohibitions on contributions, and oversee the public funding of presidential elections. The law required that no more than three commissioners be from the same political party. The tradition has been to fill the commission with three Republicans and three Democrats, at the same time requiring that all motions be passed by a vote of four commissioners to encourage bi-partisanship**.** The chair of the commission rotates between parties on an annual basis to increase bi-partisanship. The FEC is the only federal commission whose leadership is not dictated by which party controls the White House. With the advent of the FEC, campaign and party finance disclosure was for the first time thoroughly and strictly enforced since it was legislated in 1907

Other amendments made violations of the campaign finance laws civil offenses rather than criminal offenses as in the past; it also provided for the option of full public financing for presidential general elections, matching funds for presidential primaries, and public funds for presidential nominating conventions. It also set spending limits for presidential primaries and general elections, and for House and Senate primaries; revised (previously unenforced) spending limits for House and Senate general elections; created a candidate-per-election contribution limit of $1,000 for individuals and $5,000 for PACS (triggering the PAC boom of the late 1970s); limited aggregate individual contributions to $25,000 per year; limited candidates' personal contributions to their own campaigns; limited independent expenditures on behalf of a candidate to $1,000 per election; ended 1940 ban on contributions from individuals and groups working on government contracts; abolished limits on media advertising.

**1975 - Federal Election Commission established.** Congress created the FEC to administer and enforce FECA governing the financing of federal elections.

**1976 - *Buckley v. Valeo* strikes down campaign spending limits.** This court case challenged the restrictions in FECA (as amended in 1974) as unconstitutional violations of free speech. The Supreme Court *upheld* disclosure requirements, limits on individual contributions, and voluntary public financing, and affirmed president's authority to appoint all six FEC commissioners. The Supreme Court *struck down*, as infringement on free speech, limits on candidate expenditures (unless candidate accepts public financing), limits on contributions by candidates to their own campaigns, and limits on "independent expenditures" (election spending not coordinated with candidates or their committees).

**1976 - FECA amendments**. Following *Buckley v. Valeo*, FECA was amended to bring it into conformity with the court's decision which limited individual contributions to national parties to $20,000 per year, and individual contributions to a PAC to $5,000 per year.

**1979 - Disclosure threshold for donations raised from $100 to $200.** FECA amendments raised the threshold for reporting contributions from $100 to $200.

**1979 - Other FECA amendments**. These increased from $500 to $1,000 the amount volunteers could contribute in-kind (e.g., use of home, food, vehicle); effectively prohibited the FEC from conducting random audits; and allowed state and local parties to promote federal candidates by spending unlimited amounts on campaign materials (such as signs and bumper stickers) used by volunteers and on voter registration and get-out-the-vote drives.

**1988 - Soft money loophole exploited.** The soft money loophole was created, not by Congress, but by the FEC in an obscure administrative ruling in 1978. For years, this potential loophole remained largely dormant. It emerged in the 1988 presidential campaign, first when the Dukakis campaign, and then the Bush campaign, began aggressive soft money fundraising. This involved the solicitation of corporate and union treasury funds, as well as unlimited contributions from individuals. Originally, soft money was only used for party-building activities, such as get-out-the-vote campaigns and voter registration drives, but this soon turned in to tens of millions of soft money dollars going to television advertising supporting candidates.

**2002 - Bipartisan Campaign Reform Act (McCain-Feingold) closes soft money loophole.** The centerpiece of the bill is a ban on soft money and restricting "issue advertising" that mentions a federal candidate immediately before elections. It requires all contributions to the national political parties to comply with the restrictions on hard money contributions in current federal election law. In addition, it bars federal officeholders and candidates for those offices from soliciting, receiving, or spending soft money. Further, to prevent the loophole from simply migrating from national to state party fund-raising, it prohibits state and local political parties from spending soft money on any activity that might affect a federal election. It also prohibits the political parties from fund-raising for, or transferring money to, nonprofit organizations. President Bush signed this legislation on March 27, 2002. It was challenged in court the same day due to "serious constitutional concerns," most notably its limits on individual contributions to political parties. A decision from the U.S. Supreme Court is expected Fall 2003.

***Source: USAID and the Hoover Institution based on information from www.campaignfinancesite.org/histor and www.opensecrets.org.***

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