Financing Politics: The Middle East and North Africa

Edited by Magnus Ohman

INTERNATIONAL FOUNDATION FOR ELECTORAL SYSTEMS

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Financing Politics: The Middle East and North Africa

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Financing Politics: The Middle East and North Africa

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Forward

Money and politics have gone hand-in-hand since the earliest days of democracy, and the implications of their relationship are wide. Financing parties and candidates directly impacts the ability of political contestants to campaign and create a connection with voters. It is critical this link remain uncorrupted, and that trust, transparency and accountability are preserved. Legislation to direct how monies are obtained, spent and tracked is necessary and widely-implemented around the world. In practice, regulation and oversight of political finance requires collaboration among many stakeholders and a keen understanding of the context in which issues of money and politics are addressed.

Financing Politics: The Middle East and North Africa is a collaborative effort between the International Foundation for Electoral Systems (IFES) and the Arab Region Parliamentarians against Corruption (ARPAC). It represents a concerted attempt to better understand and document existing political finance regulations and experiences in five countries – Egypt, Jordan, Lebanon, Tunisia and Yemen. The availability of information on the funding of parties and campaigns is a first and significant step in enhancing transparency.

Since 2011, IFES and ARPAC have engaged civil society and parliamentarians in the first regional discussions on money and politics, thanks to funding from the U.S.-Middle East Partnership Initiative (MEPI). This publication emerges at a time of political transformation and uncertainty in the Arab region. Dialogue is underway to chart the political path forward. It is our hope that the importance of political finance as a cross-cutting issue is duly considered by all activists; actors; civil society; political parties; media; legislators; judges; regulators; executives in private and public sectors; and citizens and voters engaged in their democratic societies.

William R. Sweeney, Jr., IFES President and CEO

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We would also like to thank the hundreds of participants at various workshops on political finance that ARPAC and IFES organized as part of this project in Amman, Beirut, Cairo, Kuwait City, Tunis and Sana'a.

In countries where the electoral process has become more competitive as a result of recent changes, we should expect money in elections to become more important, not less.

Why Political Finance is Important in the Middle East and North Africa

The Middle East and North Africa (MENA) is in a state of transition. While there have been setbacks and resistance to change, sometimes violently, there is little doubt the region is evolving.

In countries such as Libya, Tunisia and Egypt, most of the legal framework is being redrawn. Legislators are going back to basic principles when designing political and electoral processes, including what electoral system should be used and the role of political parties. At the same time, political parties, civil society and the media are struggling to understand and manage new freedoms and responsibilities.

Given this, why should attention be given to political finance, an area seen as unnecessarily technical and devoid of practical interest in many older democracies? ***Because money is at the heart of politics around the world.***

Ignoring the role and risks of money in politics closes our eyes to corruption, mismanagement and the undermining of democratic principles. The uprisings in the MENA region stemmed from dissatisfaction in the way existing regimes operated. In countries where the electoral process has become more competitive as a result of these recent changes, we should expect the role of money in elections to become more important, not less. It is also important to pay attention to political finance. Without sufficient funds, new and old political parties and movements will be unable to engage citizens in the type of dialogue essential to democracy.

In early 2011, events in Tunisia illuminated longstanding economic woes and political dissatisfaction. These events were soon followed by protests in Egypt expressing similar sentiments, setting in motion demands for reform. In this environment, the volume of public demand for democratic reform and transparency increased, at first in Tunisia and Egypt, and later across the Arab region. Since 2011, numerous elections have been held in the region and more are on the horizon.

At the time of writing, elections have either recently taken place or are soon expected to take place in each of the five focus countries. In late 2011 and early 2012, Egypt held parliamentary elections and witnessed its first real national election since 1952. Parliamentary elections were completed in Jordan in January 2013; are scheduled in Tunisia in 2013; and Lebanon in 2014. In Yemen, stakeholders are engaged in a National Dialogue Conference in anticipation of presidential elections in 2014.

Naturally, these changes have focused attention on areas that must be addressed if political parties and candidates are to compete effectively in elections. How are parties and candidates to raise and spend money to campaign? What regulations will guide their campaign activities? These practical questions must be considered, along with the challenges of financing parties and candidates in the context of each nation. Political party and campaign finance must be included when considering the new rules of the political game in MENA countries. Universal issues such as reporting requirements, donation bans and spending limits will have to be addressed from a uniquely-MENA angle, considering the political context and goals of each country. This publication analyzes the past and present of money in the politics of Egypt, Jordan, Lebanon, Tunisia and Yemen, and makes recommendations for the future.

Political Finance and its Regulation

Political parties and election campaigns cannot function without resources. Efforts to regulate and enhance transparency in political finance must not remove money from the political process. This is not to say the existence of money in politics cannot be harmful. The regulation of money in politics is crucial to combatting harmful effects of political finance that have been present since the earliest days of democracy. Regulation has been both successful and unsuccessful in different contexts. The links between money and politics in the MENA region will be explored in depth in this publication, since fundamental ideas about their relationship relate to accountability, transparency, participation and equality.

There are universal challenges to be tackled, including a lack of political will among decision makers to move away from the status quo, limited institutional resources, lack of public awareness about money in political issues and the intersection of political finance with broader issue areas, such as corruption. Further, formal regulations will be of no use if they remain words on paper. As articulated by many observers, one of the greatest challenges that remain is the oversight and enforcement of regulations pertaining to money and politics. Regulations that address spending, foreign funding, vote-buying, use of State resources, donations, public funding, access to resources and other relevant political finance issues are only a start to effectively curbing negative influences. Political finance regulations will be ineffective in the absence of mechanisms that allow proper implementation of regulations, actors willing to enforce them and consequences in the case of violation.

Three forms of regulation are commonly implemented to mitigate potential challenges: public funding; contribution and spending limits; and bans. Nearly two-thirds of countries around the world have regulations for public funding in place. Funds made available by the State to political parties and candidates may reduce the burden of fundraising and allow greater access to resources and the political arena by marginalized groups. The use of State funds is also tied to greater accountability because of the link to taxpayers. Limits on the amount of money that may be donated to a party or candidate or bans on the source of funding (foreign, for example) serve to regulate the income of parties and candidates. Similarly, limits on the amount of money that may be spent or bans on how money may be spent can reduce the overall cost of campaigning and the unethical use of funds.

To achieve transparency and ensure political competitors abide by other regulations, most countries require political actors to submit financial reports. Unfortunately, in many countries, submitted reports are subject to cursory scrutiny, at best. Various sanctions against violations of political finance regulation both act as a deterrent and impose penalties on violating actors. For sanctions to be effective, they must be applied when violations are detected. It is also crucial that sanctions are not used to target any particular political player.

Elections provide the framework within which we examine political finance in this publication. In this context, we can narrow our discussion about political finance to the way political parties and candidates raise and spend money related to elections.

This Publication

This publication is part of a regional effort that began in 2011 to identify important issues in political finance in the Middle East and North Africa. Since then, the International Foundation for Electoral Systems (IFES) and the Arab Region Parliamentarians Against Corruption (ARPAC) have collaborated on the Enhancing Transparency in Political Finance in the Arab Region project. The project was born out of recognition that sharing experiences and knowledge about money and politics had not yet been done on a regional level. The aim of this project is to build awareness and capacity among stakeholders across the region on formal and informal tools that can strengthen transparency in political finance.

The project focuses on eight target countries: Bahrain, Egypt, Jordan, Kuwait, Lebanon, Morocco, Tunisia and Yemen. These countries were selected because they represent various degrees of democratization and geographic spread. Three sub regions are represented across these eight countries: the Levant, the Maghreb and the Gulf.

This publication aims to guide the reader through the intricacies of political finance in Egypt, Jordan, Lebanon, Tunisia and Yemen. Before doing so, a chapter on global and regional standards in political finance will set the foundation for political finance across these five countries. Standards for political finance are broken down into four main categories: oversight and transparency; raising funds; spending funds; and the use of State resources in relation to political parties and election campaigns. Chapters on each country have been structured to provide the reader with political context before delving into the legal framework for political finance; relevant institutions; challenges and implementation of the framework; conclusions; and recommendations. At the end of this publication, the various political finance regulations in each of the focus countries have been culled and synthesized to allow for comparison.

The chapter on **Egypt** highlights the deep economic gap within society, clientelism, a multitude of laws and separation of responsibilities related to political finance among numerous bodies as some of the most pertinent challenges. Similarly, in **Jordan**, the current economic conditions pose a challenge and vote-buying persists. An ongoing issue has been the absence of concrete campaign finance regulations, especially a spending limit. The representation of women in political parties and their access to resources and funding is also an area in which there is ample room for progress. In **Lebanon**, foreign influences, the role of wealthy business people and banking secrecy legislation pose unique, multifaceted difficulties, in addition to vote-buying and an obsolete political party law. The experience with political finance in **Tunisia** is new and capacity among institutions and political parties is being improved. Another challenge remains in the lack of clarity of legal framework and, specifically, the lack of a ceiling on political party or election expenditures. This continues to be an issue in **Yemen**, although it has been in discussion for many years. Major areas for reform include the abuse of State resources and vote-buying. As noted, each target country faces a differing set of problems when it comes to money in politics. Where there is overlap, there are ripe opportunities for sharing knowledge and experiences to overcome the greatest challenges.

Political finance regulations existed in some form in all of these countries before recent changes, but these rules were either ignored or put in place to assist those who were in power to stay there. Today, each of these nations is in a period of socio-political and economic transition, even though the degree of change varies significantly. Political finance straddles many areas currently under discussion in these countries. With greater demands for democratic reform come demands for enhanced transparency in political finance. Progress in achieving transparency in political finance cannot be divorced from the reality of the environment, which, in some nations, has fluctuated dramatically since 2011. We cannot say with certainty what the situation will be like in a few years. This publication examines the status of political finance transparency across the MENA region. Each of the five countries profiled have very different levels of transparency. There is more to understand about money and politics, and we hope this publication can be part of wider efforts to share information globally.

Please note that recommendations in each chapter are those of the contributors, and do not necessarily represent the views of ARPAC or IFES.

The development of international political finance standards is in its infancy, but there is agreement on key issues.

Global and Regional Standards in the Regulation of Political Finance

An Introduction to Standards

Each country and its political system are unique; the rules used for the political process must be adjusted to fit the nation's context. This equally applies to the legal framework used to regulate the role money plays in politics. Even so, there are important similarities, and there are more discussions taking place about how political finance should be controlled. The development of international political finance standards is in its infancy, but there is agreement on key issues. In evaluating regulations and potential reforms in individual countries, it is important to review standards developed globally by different regional bodies.

This chapter will evaluate global and regional standards under four separate headings:

1. Oversight and transparency of funding political parties and election campaigns
2. Raising funds by political parties and election campaigns
3. Spending of funds by political parties and election campaigns
4. Use of State resources by political parties and election campaigns

For each of these areas, global and regional standards will be explored. The logical starting point for a discussion on global standards is the United Nations Convention Against Corruption (UNCAC), which has a brief passage about political finance. The United Nations Committee for Human Rights (UNCHR) also provided some guidance in General Comment 25 to the International Covenant on Civil and Political Rights (ICCPR), and the issue of abuse of State resources is indirectly addressed in the International Code of Conduct for Public Officials.

There is no organization covering the MENA region that has issued related documents. Notably, the League of Arab States has not provided guidance beyond stating that citizens have a right to participate in "free and impartial elections" (Arab Charter on Human Rights, Article 24.3).

Documents issued by regional bodies in Africa and Europe have also provided guidance. In Africa, some guidance is available from the African Union (AU), the Southern African Development Community Parliamentary Forum (SADC/PF) and the Southern African Development Community Electoral Commission Forum (SADC/ECF). Unfortunately, none of these bodies provide detailed advice on political finance.

While there are few documents covering these issues in Africa, there are now several in Europe that have created a starting point. Several of these are from the Venice Commission, an advisory body to the Council of Europe on constitutional matters. The Venice Commission is interested in the context of the MENA region, as it counts Algeria, Israel, Morocco and Tunisia among its member States.[1]

Other European institutions that have issued guidance relating to political finance are the Council of Europe; the Organization for Security and Co-operation of Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR); the Commission on Security and Cooperation in Europe (CSCE); and the Commonwealth of Independent States (CIS).

[1] For further information about the Venice Commission, see http://www.venice.coe.int.

Only a brief outline of European standards are presented to illustrate the types of principles institutions in Africa and the Middle East may consider in time; however, it is not suggested that standards in the MENA region should be the same as those in Europe.[2]

Standards Regarding the Oversight and Transparency of Funding Political Parties and Election Campaigns

Global

There are few global standards in political finance. The key passage is Paragraph 7(3) in the UNCAC, which states that:

> Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidates for elected public office and, where applicable the funding of political parties.[3]

The standard is that countries should adopt (or at least consider adopting) rules that enhance transparency. Arguably, this should include regulations regarding financial reporting by stakeholders and the publication of such reports, either by the submitting stakeholders or by the receiving agency.

Africa

The African Union Convention on Preventing and Combating Corruption states that, "Each State Party shall adopt legislative and other measures to... b) Incorporate the principle of transparency into funding of political parties" (Article 10).

The SADC/PF Norms and Standards for Elections in the Region goes into more detail by stating that, "[The Electoral Commission] should be empowered to ensure that proper election expenses returns are submitted on time, to inspect party accounts, and for parties to have properly audited and verified accounts" (Article 6).

In Africa, regulations should call for the submission of financial reports that are reviewed and presumably published to adhere to the "principle of transparency." No mention is made of the finances of candidates in elections.

Europe

The Council of Europe's Recommendation 2003/4 calls on member States to, "provide for independent monitoring in respect of the funding of political parties and electoral campaigns...The independent monitoring should include supervision over the accounts of political parties and the expenses involved in election campaigns as well as their presentation and publication" (Articles 14a and b). It further expands on this idea, saying, "States should require the infringement of rules concerning the funding of political parties and electoral campaigns to be subject to effective, proportionate and dissuasive sanctions" (Article 16).

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[2] See further Ohman, Magnus (2010) *An Introduction to European Standards on Political Finance*. Paper presented at the Electoral Legislation Symposium, Armenia's Proposed Electoral Code and an International Perspective, November 22-23, 2010. There is no claim the list of documents used in this paper is complete. However, key documents regarding political finance regulatory standards are reviewed.

[3] Of the five countries analyzed in this publication, all apart from Lebanon are State parties to UNCAC. Lebanon reached accession status in 2009, but has yet to become a convention State party.

The Venice Commission similarly recommends in its 2001 Guidelines on the Financing of Political Parties that, "Electoral campaign accounts will be submitted to the organ charged with supervising election procedures, for example, an election committee, within a reasonable time limit after the elections...The transparency of electoral expenses should be achieved through the publication of campaign accounts" (Guidelines 11 and 12).

Recently, the OSCE/ODIHR and the Venice Commission covered this issue at length in the Guidelines on Political Party Regulation. In brief, they note, "States should require political parties to keep records of all direct and in-kind contributions given to all political parties and candidates in the electoral period. Such records should be available for public review and must be in line with the pre-determined expenditure limit" (Section 198) and that:

> Political parties should be required to submit disclosure reports to the appropriate regulatory authority at least on an annual basis even in the non-campaign period. These reports should require disclosure of incoming contributions and an explanation of all expenditures. While transparency may be increased by requirements to report the identity of donors, legislation should balance such a requirement with considerations of privacy and protection from intimidation. All disclosure reports should be on a consolidated basis that includes all levels of party activities (Section 202).

In summary, European standards call for submission of both regular party accounts and statements regarding party and candidate campaign finances for review and public consumption.

Conclusion

The standards in both regions correspond to the global standard expressed in the UNCAC that financial reporting should be required, and that such reports should be public. The only variation is that African documents do not mention transparency of candidate finances and reporting requirements for candidates are less common in Africa than in other continents.

Raising Funds by Political Parties and Election Campaigns

Global

No global standards have been identified regarding this issue.

Africa

The African Union Convention on Preventing and Combating Corruption calls on African states to "adopt legislative and other measures to... a) Proscribe the use of funds acquired through illegal and corrupt practices to finance political parties..." (Article 10).

Public funding is mentioned in several African documents. SADC/PF states that, "[t]hose countries that are not yet funding contesting political parties should introduce the necessary legislation to do so in order to foster uniformity and leveling the playing field" (Paragraph 3(iii)).

SADC/ECF states that, "[p]ublic funding should be extended to all parties and independent candidates contesting elections who can demonstrate a track record of support in the most recently held elections, based on, for example, their share of the popular vote. The election management body (EMB) should be responsible for regulating the use of these public funds and beneficiaries of the funds must provide verifiable accounts to the EMB."

African standards call for public funding and a ban on illegal funding of political parties, so long as public funding is in accordance with established principles.

Europe

Council of Europe Recommendation 2003/4 states, "[t]he State should provide support to political parties. State support should be limited to reasonable contributions… States should consider the possibility of introducing rules limiting the value of donations to political parties... States should specifically limit, prohibit or otherwise regulate donations from foreign donors" (Articles 1, 2bii and 7).

The OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation discuss the same issues: "[g]enerally, legislation should attempt to create a balance between public and private contributions as the source for political party funding. In no case should the allocation of public funding limit or interfere with the independence of a political party" (Section 176). The document continues:

> Limits have historically also been placed on domestic funding in an attempt to limit the ability of particular groups to gain political influence through monetary advantages… Anonymous contributions should be strictly regulated, including a limit on the aggregate amount of all anonymous contributions. Legislation should limit the aggregate maximum amount to a reasonable level designed to ensure anonymous donors cannot wield undue influence free from public scrutiny (Section 173-174).

The Venice Commission 2001 Guidelines on the Financing of Political Parties concludes that, "private contributions can be made for campaign expenses, but the total amount of such contributions should not exceed the stated ceiling. Contributions from foreign States or enterprises must be prohibited" (Section B10). The Venice Commission Code of Good Practice in Electoral Matters elaborates further, stating:

> All parties represented in parliament must in all cases qualify for public funding. However, in order to ensure equality of opportunity for all the different political forces, public funding might also be extended to political formations that represent a large section of the electorate and put up candidates for election. The funding of political parties from public funds must be accompanied by supervision of the parties' accounts by specific public bodies (e.g. the Auditor General's Department). States should encourage a policy of financial openness on the part of political parties receiving public funding (Article 111).

Finally, the Council of Europe Recommendation 1516/2001 proposes bans on sources, namely "a. a ban on donations from companies domiciliated in offshore centers; b. strict limitations on donations from legal entities; c. a legal limit on the maximum sum of donations; d. a ban on donations by religious institutions" (Section 8.v).

European standards for funding political parties and election campaigns are that public funding must be balanced with private funding, foreign funding should be prohibited and limits on donations should be considered, especially for anonymous donations.

Conclusion

In the absence of global standards, the regions discussed here vary on standards covering the income side of political finance. The common theme is a call for public funding, although this should be surrounded by controls and should not replace private funding. Only European documents call for a ban on foreign donations and for donation limits.

Spending of Funds by Political Parties and Election Campaigns

Global

The General Comment 25 by UNCHR makes it clear that, "Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind... Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party" (Paragraph 19).

This establishes that limits may be imposed on political party and campaign spending, and that vote-buying is unacceptable globally.

Africa

SADC/PF states, "The Electoral Commission should therefore be legally empowered to prohibit certain types of expenditures so as to limit the undue impact of money on the democratic process and the outcome of an election. It should be empowered to ensure that proper election expenses returns are submitted on time, to inspect party accounts, and for parties to have properly audited and verified accounts" (Paragraph 6).

African standards are limited in the prohibition of "certain types of expenditure." There is no mention of spending limits or vote-buying.

Europe

The Venice Commission 2001 Guidelines on the Financing of Political Parties recommends that ,"In order to ensure equality of opportunities for the different political forces, electoral campaign expenses shall be limited to a ceiling, appropriate to the situation in the country and fixed in proportion to the number of voters concerned" (Guideline 8).

While the Venice Commission focuses on relative funds available to political contestants, the Council of Europe 1 Recommendation 2003/4 puts an emphasis on the overall level of finances by stating that, "States should consider adopting measures to prevent excessive funding needs of political parties, such as establishing limits on expenditure on electoral campaigns" (Article 9).

The Venice Commission Code of Good Practice in Electoral Matters also discusses the "attempt to buy votes, a practice which the State is obliged to prevent or punish effectively" (Section 3.1.b).

The European standard on political finance spending favors spending limits and bans on vote-buying.

Conclusion

The regional standards in Africa and Europe all conform to the global standard that allows for (although does not require) the use of spending limits, and that bans vote-buying as an unacceptable form of campaign spending, although this is not mentioned explicitly in African documents.

Use of State Resources by Political Parties and Election Campaigns

Global

There is a call in the United Nations International Code of Conduct for Public Officials that, "Public officials shall be attentive, fair and impartial in the performance of their functions and, in particular, in their relations with the public. They shall at no time afford any undue preferential treatment to any group or individual or improperly discriminate against any group or individual, or otherwise abuse the power and authority vested in them" (Article 3).

Political activities are further discussed in Article 6: "The political or other activity of public officials outside the scope of their office shall, in accordance with laws and administrative policies, not be such as to impair public confidence in the impartial performance of their functions and duties."

Although not addressing all types of State resources and the way these can be abused, there is a growing global standard that public officials should not give preferential treatment or engage in political activities that may jeopardize their perceived neutrality.

Africa

SADC/PF states that, "The electoral law should prohibit the Government to aid or to abet any party gaining unfair advantage" (Paragraph 3.i).

SADC/ECF elaborates:

> Recommendations; (i) In the interest of creating conditions for a level playing field for all political parties and promoting the integrity of the electoral process, parties should not use public funds in the electoral process. The electoral law should prohibit the Government to aid or to abet any party gaining unfair advantage... (iv) There must be accountability in the use of public funds (Part 2.3).

The African standard calls for bans on the use of State resources to aid political parties, and the use of such resources by political parties.

Europe

There are passages in European standards that deal with this issue. A good starting point is the CSCE Copenhagen Document, which notes that there must be "a clear separation between the State and political parties; in particular, political parties will not be merged with the State" (Section 5.4).

In line with this, the Council of Europe Recommendation 2003/4 has called on member States to "prohibit legal entities under the control of the state or of other public authorities from making donations to political parties" (Article 5c). The Council of Europe 2 Recommendation 1516/2001 further supports a "ban on donations from State enterprises, enterprises under state control, or firms which provide goods or services to the public administration sector" (Section 8.a).

The OSCE/ODIHR Guidelines for Reviewing a Legal Framework for Elections similarly states:

> The legal framework should ensure that state resources are not misused for campaign purposes and that they are used only with strict adherence to the applicable legal provisions... The legal framework should specifically provide that all state resources used for campaign purposes, such as state media, buildings, property, and other resources are made available to all electoral participants on the basis of equal treatment before the law (page 22).

The Venice Commission 2 also states (Section I.2.3.a) that the principle of equality of opportunity "entails a neutral attitude by state authorities, in particular with regard to: i. the election campaign; ii. coverage by the media, in particular by the publicly owned media; iii. public funding of parties and campaigns."

The Commonwealth of Independent States Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms puts the focus on incumbent candidates: "The candidates do not have the right to take advantages of their official position or advantages of office with the aim of being elected. The list of breaches of the principle of equal suffrage, and measures of responsibility for such breaches are determined by laws" (Article 36).

Finally, the OSCE/ODIHR and the Venice Commission Guidelines on Political Party Regulation elaborates further:

> Article 207: The abuse of state resources is universally condemned by international norms. While there is a natural and unavoidable incumbency advantage, legislation must be careful to not perpetuate or enhance such advantages. Incumbent candidates and parties must not use state funds or resources (i.e. materials, work contracts, transportation, employees) to their own advantage… Article 208: To allow for the effective regulation of the use of state resources, legislation should clearly define what is considered abuse. For instance, while incumbents are often given free use of postal systems (seen as necessary to communicate their acts of governance with the public), mailings including party propaganda or candidate platforms are a misuse of this free resource. Legislation must address such abuses. Article 209. The abuse of state resources may include the manipulation or intimidation of public employees. It is not unheard of for a government to require its workers to attend a progovernment rally. Such practices should be expressly and universally banned by law. Article 210. Public employees (civil servants) should not be required by a political party to make payments to the party. This is a practice the law should prohibit as an abuse of state resources.

Apart from rejecting the abuse of State resources, the European standard prohibits donations from public entities and entities under public control that benefit political parties or candidates. It is further stated that public media must remain neutral, and public employees must not be subject to political influence.

Conclusion

There is a rejection of the abuse of public resources in global standards, but the standards lack detail. African standards are equally sparse. European documents address the issue with slightly more detail, elaborating on donation bans, public media and the involvement of public employees in political activities.

Overall Conclusion

This discussion has aimed to provide a brief overview of global standards in the regulation of political finance, as well as regional standards across Africa and Europe.

Overall, there is general agreement on the seven following regulations:

1. Political parties should be required to submit financial reports about their income and expenditure. These statements should be critically reviewed and made public.

2. Public funding should be provided to political parties, but should not replace private funding and should be carefully regulated.

3. Certain types of donations, such as foreign and anonymous donations, should be banned or strictly limited.

4. Limits on the maximum size of donations should be considered.

5. Vote buying should be banned.

6. Limits on the spending of political parties and candidates should be considered.

7. Abuse of State resources, including donations from public entities to individual parties or candidates, should be banned.

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- OSCE/ODIHR and the Venice Commission — Guidelines on Political party Regulation by OSCE/ODIHR and Venice Commission, Adopted by the Venice Commission at its 84th Plenary Session, 2010 (Venice, 15-16 October 2010). CDL-AD(2010)024.
- Venice Commission 1 — Guidelines on the Financing of Political Parties, 2001. CDL-INF (2001) 8.
- Venice Commission 2 — Code of Good Practice in Electoral Matters. Adopted by the Venice Commission at its 51st and 52nd Sessions, (Venice, 5-6 July and 18-19 October 2002). CDL-AD (2002) 23.

The transparency and integrity of campaign financing is critical in increasing the confidence of citizens in the political system

The Political Party Law enumerates the means of controlling party spending as follows:

- In application of the Penal Code, party funds are considered public funds. Party officials and employees are considered public employees. Hence, they shall be subject to the provisions of the Illicit Gains Code. Should any of these individuals be suspected of a felony or misdemeanor, any premises owned by the political party will only be searched in the presence of a public prosecutor. Public prosecution must notify the Head of the Political Parties Affairs Committee of activities carried out at party premises within 48 hours (Article 14).

- Any political party official or member who accepts – directly or by proxy – any unlawful funds, privileges or benefits from an Egyptian legal person or a foreign person or party, to carry out activities relating to the party, shall be punished by imprisonment. In all cases, the court shall confiscate any funds relating to the crime (Article 25).

- Any party that cooperates or allies with a foreign party or political organization against the rules established by the Political Parties Committee shall be punished by imprisonment and/or a fine of no more than £500 EGP ($72 USD) (Article 26).

- Any individual who uses party funds for purposes other than serving the party's needs and objectives will be punished by imprisonment (between one and five years). The same sentence applies to individuals who do not deposit the party's funds at an Egyptian Bank or do not keep regular ledgers containing the party's revenues and expenditures (Article 26).

Law No. 12 of 2011 also canceled financial support the State used to provide to political parties, estimated at £100,000 EGP ($14,317 USD) a year. Egyptian parties now rely exclusively on private sources.

These rules do not provide a comprehensive framework for fundraising and spending by political parties, and this has severely affected the political parties' democratic functions. Political parties in Egypt are failing in political mobilization, a core function of political parties.

Campaign Finance

The transitional period after the January 2011 revolution has seen much confusion in management by the Supreme Council of the Armed Forces, but also among political parties and revolutionary forces. As a result of this confusion, two commissions were formed to supervise the electoral process; one supervises presidential elections and the other the elections of the House of Representatives and Shura Council.

Regulations Issued by the Supreme Committee for Presidential Elections

The decision of the Supreme Presidential Election Committee (SPEC) No. 1 of 2005 on the rules governing the committee's implementation of its terms of reference, as amended by Articles 36 to 39 of Resolution No. 1 of 2012 on the electoral campaign, clarify procedures for the Central Auditing Organization's supervision of accounts of candidates. Additionally, provisions of Law No. 174 of 2005 on the organization of presidential elections, as amended by Legislative Decree No. 12 of 2012, include several important articles. Article 13 requires candidates to submit a statement of fees clearance when applying for candidacy and in accordance with provisions of the Illegal Income Law No. 62 of 1975. Article 20 discusses the components of the electoral campaign. Campaign activities include open and closed meetings; debates; the dissemination and distribution of election campaign material; posting posters and banners; the use of audio-visual components; print and electronic media; and other activities allowed by law or by decisions issued by of the SPEC.

Article 21, of Law 174 of 2005, bans candidates from making direct or indirect gifts or donations in-kind or cash. The ban on indirect donations means candidate supporters may not display posters or pictures of a candidate they support, even if such material was paid for from their own money. This article is vague, and compliance with it is difficult to monitor. Article 24 sets the spending ceiling for presidential candidates, both partisan and independent at £10 million EGP ($1.4 million USD) and £2 million EGP ($286,324 USD) for re-elections (run-off).

Articles 21, 26 and 27 prohibit the acceptance of in-kind contributions from Egyptian legal persons or bodies. Article 24 indirectly recognizes the need for a candidate to open an account in a bank determined by the SPEC. The same applies to political parties, which should notify the committee of any donations received if they exceed £1,000 EGP ($144 USD). Article 25 stipulates that presidential candidates receive financial assistance from the State equal to 5 percent of the campaign spending limit, and 2 percent in the event of re-election.

Every candidate may receive cash or in-kind contributions from Egyptian natural persons and from the party that nominated her or him, provided the contribution does not exceed 2 percent of the maximum amount allowed for spending on the electoral campaign. The candidate must open a campaign bank account in the local currency with a bank determined by the SPEC, where he or she must deposit all cash contributions, State financial assistance and his own money allocated for the electoral campaign. The candidate must immediately inform the committee of any money deposited in the account, in addition to its source and the purpose of spending pursuant to the deadlines and procedures established. No spending on the electoral campaign may be made from outside this account, and the committee will distribute any remaining funds in that account after the election to those who contributed, as per their contribution rates and in accordance with the procedures determined. Political parties must notify the Committee of Political Parties Affairs of all the donations they receive that exceed £2,000 EGP ($287 USD) during the three months preceding Election Day. Notifications must be made within five days following the receipt of a donation.

While the Supreme Committee for the Presidential Elections put financial restrictions for the electoral campaign spending ceiling, it did not expand the monitoring and control mechanisms in the event of infringements. The restrictions also prompted many candidates who enjoy financial solvency to intensify their electoral campaigns before the official start of nomination to stand for elections, and thus circumvent many unrealistic financial controls.

In March 2012, the SPEC issued decision No. 7 of 2012 on the rules of campaign finance. The decision confirmed campaign financing must come from the personal funds of the candidate, which she or he allocates for this purpose, in addition to what the nominating political party provides, and cash and in-kind contributions received by the candidate. The candidate may only accept donations from Egyptian natural persons and is prohibited from directly or indirectly accepting donations or contributions from any legal person – whether Egyptian or foreign – and any country or foreign entity; international organization; or anybody with foreign persons contributing to the capital. The prohibition includes any foreign natural person. This administrative decision confirmed it is only allowable to receive in-kind contributions from Egyptian natural persons.

Moreover, the decision confirmed the total of donations and contributions (in cash and in-kind), that a candidate receives from any donor shall not exceed £200,000 EGP ($28,633 USD) during a regular election, and £40,000 EGP ($5,727 USD) in the event of re-election. The decision also stipulated that a candidate standing for presidential election should open an account with the National Bank of Egypt, Bank of Egypt or *Banque du Caire* to deposit funds dedicated to the electoral campaign. The candidate must notify the SPEC of the name of the bank and account number no later than the day after opening the account. The decision clarified candidates must notify the SPEC within 48 hours of funds being deposited in this account and the source of donations. She or he shall inform the committee of the purposes of ex-

penditure within the same deadline. The candidate must submit this information along with supporting documentation to the General Secretariat of the SPEC.

The SPEC also requires any political party that has nominated candidates in presidential elections to notify the committee of received donations that exceed £1,000 EGP ($144 USD). This regulation came into effect in February 2012.

The SPEC has established sanctions in Article 48 of Law 174/2005, which stipulates any person who spends money on electoral advertising using funds other than those deposited in the campaign bank account, spends all account funds for purposes unrelated to the electoral campaign or exceeds the limit of spending on the electoral campaign shall be imprisoned for a minimum of one year and pay a fine ranging between £5,000 EGP ($716 USD) and £20,000 EGP ($2,864 USD).

In April 2012, the SPEC formed a committee headed by its Secretary General and 10 members from control bodies and concerned ministries, including one representative each from:

The Central Bank	National Security Authority
Central Auditing Organization	Administrative Control Authority
Ministry of Religious Endowments	Anti-Money Laundering Unit
Ministry of Information	The economic sector at the Federation of Radio and Television
Ministry of Local Development	Public Funds Investigation at the Ministry of the Interior

The committee monitors the volume of spending on electoral campaigns by candidates standing for presidential elections. The committee works to verify sources of campaign financing and compliance with regulations set forth by the law. To perform its work, the committee, as defined in Article 3, may request documents, papers, data and information it deems necessary from concerned persons and within the deadlines it specifies. It may request any documents, papers or information from any official or public body, and seek the assistance of public officials or experts.

Regulations Issued by the Higher Elections Commission (HEC) for People's Assembly and Shura Council Elections

The Constitutional Declaration states a judicially-formed supreme committee assumes full supervision over People's Assembly[7] and Shura Council elections and referenda, from voter registration to the announcement of results. Voting and counting are conducted under the supervision of members of judicial bodies nominated by their high boards and selected by virtue of a decision of the HEC.

Law 46 of 2011 on the Exercise of Political Rights issued by the Supreme Council of the Armed Forces amended some provisions of Law No. 73 of 1956 in the regulation of the exercise of political rights. Article 2 stipulates the People's Assembly and Shura Council elections and referenda must be held under supervision of the HEC, provided for in the Constitutional Declaration issued March 30, 2011. This committee is headed by the President of the Cairo Court of Appeal and includes the oldest two deputies of the President of the Court of Cassation, the oldest two deputies of the President of the Council of State and the oldest two Presidents of the Courts of Appeal.

[7] The constitution ratified in December 2013 changed the name of the lower house of parliament to the House of Representatives.

On October 29, 2011, the HEC issued three decisions on the rules governing the electoral campaign; the issuance of permits for journalists and local and foreign reporters wishing to follow up the electoral process; and the organization of civil society organizations' role in elections. The first decision on electoral advertising stipulated that each party or independent candidate has the right of self-expression and to carry out activities aimed at gaining voter support. However, certain restrictions are provided in the Constitutional Declaration and law, especially the prohibition in Article 11 of Law 38/1972 on spending public funds and public sector corporate funds, as well as the prohibition of receiving funds from abroad, from a foreign person, foreign or international entity or whoever represents it inside the country for electoral advertising.

Article 2 of the decision underlined the non-infringement of the private life of any of the rival candidates, as well as a commitment to national unity and refraining from the use of logos or symbols of a religious nature, or that lead to discrimination on the basis of sex, language or creed. The same article also banned the use of buildings, installations and transportation owned by the State or by public sector companies – or other companies in which the State holds shares or contributes to their capital – in the electoral campaign.

The ban also includes the use of houses of worship, schools, universities and other education institutions for the electoral campaign. The restrictions also prohibit any election propaganda that involves the deception of voters or fraud against them through publishing/broadcasting information that exposes the behavior or manners of a certain candidate, or defames him or her through words, images, meanings, symbols or gestures or any other form of defamation in order to coerce or influence the electoral process or incite voters to vote in a certain way. Additionally, the restrictions ban the use of loudspeakers except in meetings, and the defacing, destruction or removal of campaign materials of rival candidates, as well as intimidation or coercion to influence voters.

The maximum amount a 2011 parliamentary candidate was allowed to spend was £500,000 EGP ($71,581 USD) and £250,000 EGP (35,791 USD) in run-off elections.[8]

A candidate who violates electoral campaign regulations will have his or her name removed from the list of candidates. The Chairman of the HEC then requests the Supreme Administrative Court to delete the candidate's name from the ballot before the end of the voting process. The Supreme Administrative Court reviews the request and resolves it as soon as possible. If the court ruled to delete the name of a candidate before the start of the polling process, procedures continue after the removal of that candidate. However, if the court issues its decision relating to the request after the polling process has started, the polling procedures continue, provided the HEC stops the announcement of results of the election in which the deleted candidate is participating, and whereby he or she obtains a number of votes allowing the announcement of victory or re-election. In this case, if the court decides to remove her or his name, elections shall be repeated between all other candidates. In all cases, the decision shall be executed without any announcement.

Institutions in Charge of Monitoring Political Funding

The Central Auditing Organization

Two types of bodies are entrusted with monitoring political funding in Egypt. The Central Auditing Organization (CAO) has full responsibility for all corruption, including political corruption. Judicial committees supervising different electoral processes also monitor funding.

The CAO is an independent body that enjoys legal status and reports to the President. Its main function is to monitor funds of the State, public personalities and others set forth in the law. In relation to political finance, it has the following functions in line with the Political Party Law No. 40 of 1977:

[8] Carter Center (2013) *Carter Center Releases Recommendations for Egypt's Upcoming House of Representatives Elections.* Page 9.

- All political parties shall notify the CAO of donations received and the donors' information at the end of every year (Article 11).
- The CAO periodically reviews the party's financial books, income and spending statements and other financial affairs, to verify the accuracy and legitimacy of funding sources and spending. Parties are required to cooperate with the CAO in this task (Article 12).
- The CAO must draft an annual report on party finances and refer it to the Head of the Political Parties' Affairs Committee (Article 12).

The CAO was criticized for failing to condemn the lack of administrative and documentation structure within parties, as well as the undocumented disbursement and misuse of funds, lack of membership fee collection by parties and accepting donations from legal persons.

Other Supervisory Bodies Monitoring Political Funding

Two judicial committees were set up to monitor the electoral process for presidential and parliamentary elections, respectively. Their tasks include supervising the preparation of a voter database and monitoring and correcting registration. The commissions also established the rules governing the fair allocation of electoral advertisement on both public and private media, defined minimum and maximum limits for electoral spending and monitor sources and aspects of electoral spending.

In a May 2013 ruling, the Supreme Constitutional Court declared Article 10, Section 7 of the Political Rights Law unconstitutional. This section forced the private media to allocate equal time for candidates, contradicting Articles 45 and 48 of the constitution concerning the freedom of expression. The ruling argued that the onus of ensuring equality is on the State and its media bodies, in line with Articles 6, 8, 33 and 55 of the constitution.

There are other supervisory bodies connected to the monitoring of political finance, though less directly than the institution just discussed. The Administrative Monitoring Authority exercises its prerogatives over parties as per Law 54 of 1964, although quite inefficiently. The authority was established in 1964 as an independent body operating under the Council of Ministers and specializing in combating all forms of financial and administrative corruption. The authority is tasked with protecting public funds and countering infractions by public employees and monitoring government agencies' commitment to the application of laws governing the entire spectrum of activities of State sectors and agencies.

The authority exercises its oversight over the State's administrative bodies and all their branches; the public sector; public authorities and institutions; public and private associations; the private sector handling public business; and any parties to which the State contributes.

Law 54 of 1964 provides the authority access to data, regardless of the level of confidentiality; access to copies of documents and files; the right to recall any individuals whose statements are needed; the right to request employees be suspended or dismissed from their jobs or disciplined; and the right to act as members of the Judicial Police throughout the Republic within their capacity (investigating crimes; collecting evidence; and searching and arresting perpetrators).

The Examination and Investigation Authorities operating under the Illicit Gains Authority is involved through the Electoral Parties Law, which views individuals responsible for party funds as public employees subject to Law 62 of 1975 on illicit gains. Like the Political Parties Commission, the authorities monitor partisan activity and issues specific decisions that might include the suspension of political parties. The Ministry of Interior can also play a monitoring role through the Public Funds Investigation Service, which can investigate whether rulings were made against them that were detrimental to their honor or fidelity.

Neither Law 40 of 1977 on Political Parties nor Law 96 of 1996 on the Organization of Press Affairs specified the authority in charge of receiving financial statements from individuals subject to the provisions of the Illicit Gains Law. However, it is common for those individuals to file their disclosure statements with the Political Parties Commission, which is viewed as the administrative authority in charge of political parties in Egypt. Employees of local media outlets and their subsidiaries subject to the law file their disclosure statements to the Directors of Human Resources within the institution or company for which they work.

Challenges to the Implementation of Legal Framework

The Great Economic Gap

Legislative elections in Egypt are enforced amidst unfair distribution of the national income, where the richest 10 percent of the population receive 27 percent of the national income, while the poorest 20 percent receive only 9 percent of the national income and the poorest 10 percent only receive 4 percent of the national income.[9] Egyptian society includes a limited class of citizens possessing ample fortunes, as well as large categories lacking the most basic needs. Further, poverty, unemployment and marginalization are common, which creates a dependency of the poor and underprivileged on those who control the Egyptian economy. This dependency has led to political clientelism. Clientelistic affiliations with a political group are based on service provisions and the welfare of citizens in return for their submissive political support. As for clientelism vis à vis the State, it can be explained as dependency of citizens on certain State apparatuses or sectors, whereby those apparatuses brandish material profits as a carrot in case citizens commit to a certain political track. These carrots may include the promise of bonuses or providing voters with services, should they vote for the ruling party's candidate.

Political clientelism is felt during parliamentary elections, but takes the form of what is dubbed electoral clientelism. The prevalence of this phenomenon is inextricably linked to economic, social and political backwardness, as widespread poverty manifests social disparities observed in all third world countries – including Egypt – that directly nurture clientelistic relationships.

Multiple Laws and a Lack of Implementation

The legal framework of political funding hinges on a multitude of laws. Some of these lack any real enforcement mechanisms – including the law governing political parties and political corruption – while other laws relate to political rights, the work of parliament, delineation of electoral constituencies and presidential elections.

All of these laws require substantial review and significant reforms. More importantly is the identification of clear, transparent mechanisms regarding the implementation against all violators. The situation in Egypt cannot be fully improved unless an independent body is established to oversee all elections, and one which regulates and controls the laws and resolutions governing the process of political finance.

The Role of Civil Society in Monitoring Political Spending

In line with the difficult, historical moments the Egyptian State is experiencing, civil society has yet to fulfill its necessary role of monitoring political funding – both activities of the direct electoral stakeholders and of government institutions. This lapse is not unique to political finance; Egyptian civil society has not yet started to monitor other aspects of the electoral process either.

[9] World Bank GINI Index, available at http://data.worldbank.org/indicator/SI.POV.GINI. Data as of 2008.

Money in Recent Egyptian Elections

There is a gap between existing legislation and the protocols and regulations practiced and enforced in Egypt, not only in terms of compliance with restrictions on electoral campaigns, but also practices used for managing campaigns. This was happening during the former regime, and is happening now, despite the January 25, 2011 revolution that called for rule of law.

After the January 25 Revolution

Incomplete Enforcement of Legal Regulations

The existence of constitutional and legislative frameworks is not enough for effective oversight. Rules must be developed and publicized so candidates, political parties and citizens know what is and is not allowed. The two committees that supervised the elections in Egypt have failed in this regard.

The laws on activities of political parties should not conflict with laws governing the political parties' financial activities or electoral campaigns. In Egypt, the resources of a party come from the contributions of members, donations from Egyptian natural persons and investment of party assets in non-commercial ventures determined by its bylaws. The commercial aspects mentioned in this article do not include the investment of party funds in the publication of newspapers or exploitation of printing/publication houses when their primary objective is to serve the party. These activities do not provide extra income to the party; they incur losses.

The law for both presidential and parliamentary elections requires candidates to submit a statement of account to the CAO showing the total value of funds spent on their electoral campaign, as well as the sources of these funds and whether the candidate has respected or exceeded the spending ceiling for their campaign. Few submitted such a statement in recent elections. Some candidates in the recent presidential election revealed funds spent in their campaign, but did not disclose sources of funding or in-kind donations received from supporters.

The Practical Experience

The HEC for parliamentary elections did not ask candidates or political parties to disclose their accounts or financial sources for their campaigns, or even to provide proof they did not exceed the spending ceiling. The statements made by members of the Freedom and Justice Party, the party currently in power, revealed expenses of the People's Assembly elections neared £4 billion EGP ($572.6 million USD), invoking the need not to dissolve the People's Assembly after the June 2012 Supreme Constitutional Court's decision to dissolve the assembly.

There were reports of campaigning in public institutions, and suspected cases of harassment by security forces.[10] Partisan forces, including those of a religious nature, distributed goods to urge voters to vote for them. For example, some candidates gave electoral bribes in cash or in the form of temporary services. Examples of bribes given as "political charity" include clothes, meat, sugar bags and bottles of oil distributed during the campaigns.[11] Some candidates also sent blankets and *butagas* pipes to homes on Election Day, as the elections coincided with the arrival of winter and the seasonal gas crisis. Gas pipes were delivered to the homes of lower-income Egyptians during the second and third rounds of elections amidst the gas crisis to sway voters.

During the recent presidential election, the question on the minds of many Egyptians was where the money spent by the 13 presidential candidates came from. Hundreds of people were working in elec-

[10] Egyptian Association for Supporting Democratic Development (EASD) *Statement no. 5, Violations of Electoral Campaign; On-going Show*.

[11] See for example Egyptian Association for Supporting Democratic Development (EASD) *Statement no. 1, The Absence of Law*.

toral campaigns, and the cost of their employment began before the start of the campaign period (May 1, 2012). Since none of the candidates committed to this date, the actual campaigning, in many cases, began four months prior to the electoral process. It is estimated that hundreds of thousands of pounds were paid, covering monthly salaries, bonuses, travel allowances, gratuities and meals.

Under the Mubarak Regime

Parliamentary elections in Egypt between 1995 and 2010 showed clear electoral favoritism and did not reflect the voter's opinion or preference. Electoral favoritism in Egyptian elections was related to electoral money, which was spent on advertising, electoral campaigns and bribes. The influence of electoral money in Egypt increased over the years, especially during the People's Assembly elections in 2005 and 2010. This is an electoral client-based relationship between voters and State bodies. It is also a client-based relationships between the voter and a political body, and between voters and candidates.

The 2005 elections of the People's Assembly showed electoral spending took several shapes including:

- Public money used to support candidates from the ruling party
- Private money that increased the chances of candidates who are businessmen or have close ties to business interests
- Investment on the local level supported Muslim Brotherhood candidates

The ceiling for electoral spending was £200,000 EGP ($28,633 USD) and £100,000 EGP ($14,317 USD) during the second round. Candidates should not, directly or indirectly, incur spending that could affect the integrity of the elections. The Chair of the Higher Elections Commission could request the HAC to remove candidates who violated the campaign finance regulations from the list of candidates until the end of the electoral process.

Media was biased in favor of National Democratic Party candidates, especially ministers. At the same time, the Muslim Brotherhood was subject to discrimination and faced negative media attacks. Candidates from opposition parties were not given enough space to expose their platforms to citizens. The Higher Elections Commission did not object to candidates' early electoral advertising or excessive advertising spending. The commission also failed to object to the use of religious slogans.

There were several patterns of spending identified by observers and eyewitnesses. One was that State institutions contributed to electoral advertising of the ruling party's candidates, and the State budget was used to fund the ruling party's campaign, along with money from the business sector and local government institutions. Civil servants were given paid leave and offered meals on Election Day if they voted for the ruling party's candidate. New infrastructure projects were announced, and the relevant equipment was provided in urban districts and neighborhoods in an attempt to win residents' support for the governing party. Measures targeting peasants were taken, including the reduction of agricultural credit interest from 7.5 percent to 5 percent; rescheduling peasants' debts; and reviving suspended projects. There were also large increases in public spending a few months prior to elections.

More than 1,300 independent candidates participated in the 2005 elections, most of whom were businessmen and self-employed. Thanks to the fortune and political connections of some of these candidates, they forced the National Democratic Party to accept their membership following their victory in elections.[12] Businessmen and entrepreneurs who funded campaign activities were rewarded by the regime; this complicity between businessmen and politicians was considered normal, even sensible. The regime would provide the businessmen with facilities in their line of work in return for their assistance

[12] Dr. Sarah Bin Nafisseh and Alaa Din Arafat previous reference. Page 240.

in social services and welfare. This agreement and mutual interests supported a noticeable increase in the number of businessmen and entrepreneurs on the former National Democratic Party's electoral lists, thereby promoting a wider use of funds during the electoral process and fuelling electoral bribery.

Conclusion

The manner in which political money is being employed in Egypt raises concerns over the nation's future. Under the old regime, elections became a way to bolster autocracy and tyranny and tighten the grip of business elite over the legislative process irrespective of the interests of Egyptian society. After the revolution, political money has become even more important, raising such questions as: how long will this phenomenon continue along with its destructive repercussions? Is it possible to rein in the use of political money? If so, what are the measures required to contain the detrimental role played by political and electoral money?

All signs indicate that, should factors allowing political money to control events in Egypt persist, underdevelopment, economic disparities and overlap of power/wealth will follow. The major challenges in money and politics during the post-revolution era can be summarized as follows:

- The revolution did not lead to rule of law for everybody or a truly democratic regime. Executive authority still controls the legislative authority, and an elite few hold substantial political power. It is crucial to separate authorities and ensure different authorities are not controlled by a single party, as during Mubarak's reign.
- There is a lack of real, sustainable development ensuring sufficient quality of life for all citizens and to fill the gap between the rich and the poor. The ensuing deprivation of political and electoral representation affects certain social classes that are ruled out of the political process, affecting the balance required for social stability.
- Existing disparities in political parties' ability to carry out their activities, and the inability of most opposition parties to engage in political and electoral competition, is problematic.
- Civil society organizations are weak and unable to effectively monitor the executive authority's performance and exercise pressure to ensure a free, honest electoral process.
- Gaps exist in legislation – particularly related to electoral spending – no control mechanism exists and the State has yet to criminalize new forms of electoral bribery and fraud.
- The lack of powerful institutions capable of limiting the influence of political money, and the need to bolster the financial monitoring of political parties by the CAO.

Recommendations

Certain conditions must be met to ensure the integrity of political party and campaign finance. The recommendations below are based on the following components of a democratic society:

- Universal suffrage and secret ballot in free and honest elections
- The right of voters to freely express their opinion, and the commitment of the State to enable voters to have their own opinion without undue influence or manipulation
- An effective separation of power, where the legislative authority effectively monitors the executive, while an independent judiciary defends the law against interference (the new, permanent constitution should explicitly provide for the separation of the three powers)

- The right of individuals and parties to conduct electoral campaigns on equal ground
- The right of candidates and political parties to have equal opportunities related to media and the commitment of public media to remain neutral
- The commitment of all States to respect principles of national sovereignty and non-interference in the internal affairs of other States, and to refrain from financing political parties or groups, or providing any form of overt or covert support

It is crucial to anchor the legal framework by establishing an effective political finance regime. One of the main problems with the current situation is the financial crisis plaguing political parties. Measures that can assist partisan funding could be beneficial for democratic development. This includes:

- Amend the Political Parties Law 40 of 1977 to allow political parties to engage in limited economic activity for funding political activities – such as those funded by the social development fund or productive families – while placing such activities under the supervision of monitoring agencies (the CAO) to ensure parties do not engage in illicit economic activity or misuse collected funds.
- Allow political parties to receive donations from Egyptian factions, institutions and organizations with legal personalities. In several European countries, political parties are linked to various organizations, associations and institutions, which provide the parties with financial and moral support on grounds of common ideology and interests.
- Political parties should bolster financial resources through the launching of projects that do not violate the Political Parties Law, such as establishing publishing houses for books and magazines and publishing newspapers (funded through advertisements).

To achieve honest political funding, conflicts of interests must be prevented, and integrity protected completely. There are many recommendations that must be considered by administrative institutions, such as:

- Confirm parties rely on subscription fees and donations from members for funding, while observing transparency and accountability.
- Ensure elections are not marred by excessive spending.
- Establish a truly independent, lively civil society that ensures decision makers observe transparency and integrity and disseminate information for that purpose.
- Establish a law that regulates the work of civil society organizations and allows them to have a real developmental and monitoring role of electoral stakeholders and State institutions.
- Ensure freedom of the press, which remains a vital tool for uncovering corruption and protecting freedom. A new law should grant the freedom of information sharing.

Agree on a political funding code of conduct for political parties, developed by a neutral party who should mediate negotiations between political parties during the drafting and approval phases. Severe violations of the code should be sanctioned by deregistering the concerned candidate. All concerned parties must commit to the code and view it not only as a set of mechanical rules, but as a list of principles. Unfortunately, no code exists that covers all challenges that might transpire during the electoral process.

Jordan's constitution describes Jordan as a hereditary monarchy with a parliamentary system.

Jordan

Introduction

Jordan's constitution (last amended in 2011), describes Jordan as a hereditary monarchy with a parliamentary system. The constitution grants the King extensive powers: full executive authority, including the power to appoint the government (the Prime Minister and Council of Ministers); appoint the upper house (Senate) of the two-chamber parliament; call for elections for the lower house (the House of Representatives) of parliament; and dissolve one or both of the houses of parliament. Although the King appoints the government, each government must maintain confidence in the House of Representatives. A vote of confidence takes place after its appointment, and may be called on request of either the Prime Minister or a request signed by at least 10 members of the House of Representatives at any time.

Discussions of political and electoral reform have been central to King Abdullah's political program since he came to power in 1999. Parliamentary elections resumed 10 years earlier, in 1989, after decades without such elections and during which political parties have been banned. Since 1989, a key component of the debate on political and electoral reform centered on the electoral system used for the election of the House of Representatives.

In 1989, Jordan used the block vote system (multi-member electoral districts, in which each voter has as many votes as there are seats) for the election of the House of Representatives. This system was changed for the 1993 elections to the single non-transferrable vote (SNTV) system, which retained the multi-member districts, but reduced the number of votes each voter has to one, irrespective of the number of seats to be elected in that district. Since each voter has only one vote, in contrast to the multiple votes they had in 1989, this system is commonly referred to as the "one-vote system."

This change had profound implications for political life in Jordan. The SNTV is known to reduce the influence of political parties, and in Jordan had the predictable effect of dramatically reducing the influence of political parties in parliament. The overwhelming majority of successful candidates (more than 90 percent in most elections since 1993) did not have any political party affiliation, but were instead supported through familial and tribal associations. This resulted in parliaments largely without the presence of any organized political parties. This, as will be described in more detail later, had important implications for the regulation of political finance in Jordan.

The one-vote system was retained for all parliamentary elections since 1993 until 2010, with minor changes in 2010 that had no effect on the pattern described. The one-vote system was combined with another controversial aspect of elections: electoral district boundaries and allocation of seats to each district that heavily favors rural districts over urban districts. Put simply, in rural districts, there are fewer voters per seat compared to urban districts. In combination, the one vote system, which tends to break down political parties, combined with boundary delimitation resulted in parliaments dominated by candidates from rural areas who were supported through tribal associations.

In addition electoral system concerns, the management of elections was another area of worry. Particularly, in 2007 and 2010, many, including domestic observer groups, raised questions about the integrity of the electoral process. Numerous allegations of manipulation of voter registration and the electoral process were raised, but due to the lack of a credible process of reviewing complaints regarding electoral results, it was impossible to verify these allegations. However, these allegations resulted in increasing calls for the creation of an independent electoral authority, which should take over electoral supervision and management from the Ministry of Interior (MoI), which managed all elections until 2010.

In 2011, Jordan, along with several other countries in the region, experienced its share of popular protest. During 2011, King Abdullah announced a renewed reform process that focused on reforming aspects of the constitution, the electoral law and the political party law. This resulted in constitutional amendments in 2011, reforms to the political party law and parliamentary elections, as well as the creation of an Independent Election Commission (IEC). The rest of this chapter will focus on these reforms and the new legal framework it introduced, particularly as it pertains to regulation of political finance.

The Current Legal Framework for Political Finance

The Law on Political Parties and Political Party Funding

The first law on political parties in Jordan was enacted in 1992. Since then, this law was amended several times, each time with the intention of strengthening political parties in Jordan. The 2012 Law on Political Parties includes numerous articles that relate to financing political parties and their activities in Jordan.

Before these articles are discussed, one point should be emphasized: there is almost no correlation between the existence of political parties in Jordan and the actual electoral activity of these parties. All candidates, with the exception of candidates for a small number of seats in 2013, compete as individuals. Nothing prevents candidates from representing political parties. However, due to characteristics of the electoral system, which were described earlier, elections in Jordan saw almost no participation, let alone success, of political parties. The only notable exception is of the Islamic Action Front (the political wing of the Muslim Brotherhood), which had some success when it did compete, but boycotted most elections in Jordan, including the two most recent ones in 2010 and 2013.

The Law on Political Parties sets out criteria for the formation of and regulates the work of political parties. Although the focus here is on the political finance aspects of the law, two criticisms of the law should be noted. The first point that opponents of the law raise is that criteria for establishing political parties are unnecessarily restrictive. The 2012 law introduced additional criteria that aimed to increase gender and regional representation in political parties. It stipulated that the mandatory 500 founding members of any political party should include a minimum of 10 percent women and should represent at least seven of the 12 governorates.

A second criticism is that, despite the inclusion of a representative of civil society in the committee that oversees registration of political parties, this committee is headed by the MoI and staffed by government officials mostly from this ministry. Critics would like to see the registration of political parties moved to a body that is seen as more neutral; the Ministry of Justice is often mentioned as an alternative.

The 2012 Law on Political Parties in Jordan includes the following details regarding political party financing:

<u>Permitted and Prohibited Sources of Income</u>

- Political parties may receive donations from individual Jordanian citizens up to a maximum of 50,000 Jordanian Dinar (JOD) ($71,000 USD). The law states that such donations should be "known and declared."

- Political parties may not receive donations from any State or third party, or from any legal entity, private or public.

- Political parties may invest their funds in bonds or invest it in interest bearing accounts, may own property and charge rent for the use of party headquarter facilities.

- Political parties may own media outlets and publish newspapers.

Record Keeping

- Political parties must adopt by-laws that stipulate the rules for regulating its financial affairs, including procedures for approving its annual budget; spending and keeping the accounts of the party; preparing annual financial statements; and approval of the budget and financial statements by an elected party committee.

- The party must appoint an accountant to audit its financial statements.

Financial Disclosure Requirements

- The party must annually submit financial statements to the committee, headed by the MoI, which can audit these statements.

- Political parties may use social and cultural facilities of the State, provided they get approval from the persons responsible for managing these facilities. However, places of worship may not be used, and no funds of associations or clubs may be used in activities of political parties.

Sanctions

- The law provides strict sanctions against violations of political finance provisions (Articles 33 and 34). A party member who receives foreign donations is subject to no less than one year imprisonment – two years if the person receiving the donations is in party leadership.

- If a party member receives money from a legal person (such as a corporation or organization), from a public body, or from an anonymous source, the penalty is a fine of up to 500 JOD ($700 USD), and/or a prison sentence of between three months and one year. In addition, any illegal donations should be confiscated and transferred to the State budget.

- Political parties may be de-registered if it is found guilty of having received foreign funding, and may be suspended while an investigation is ongoing.

Public Funding

- Apart from private donations, political parties in Jordan enjoy limited direct public funding. The law states that, "The State budget shall have a special item on the budget's contribution to the support of parties, the amount and conditions of this support as well as the provisions pertaining to its payment shall be subject to a regulation issued to this end."

- The government provides political parties with direct and annual financial support of 50,000 JOD ($71,000 USD) per party, per year, which is paid in two installments irrespective the size or influence of the party. With less than 20 political parties in Jordan, this will be the equivalent of around 1 million JOD ($1.4 million USD). The financial assistance to parties represents around 0.5 percent of Jordan's budget.

- The Law on Political Parties also links the financing of a political party to its ability to increase the participation of women in its activities. Part of the public financing is allocated as a tool for the development of women's political participation by granting additional allocations to every party that attracts more women among members and leaders.

Comment on the Legal Provisions of the Law on Political Parties

- Not all political parties agree with the current provisions of the Law on Political Parties. Some political party leaders in Jordan believe donations should not be restricted to a specific ceiling and the ceiling for donations should be raised. They also argue legal persons must be entitled to make donations to political parties.

- Perhaps the most important drawback of this law lies in the government's funding of political parties, as there are no clear regulations on how political parties should spend the support that they get from the government. Some even consider such support as a kind of trade or a means of enrichment, as the government provides 50,000 JOD ($71,000 USD) for each party, regardless of the size, activities, influence or representation, meaning secondary and major parties receive equal support.

- Many political party leaders argue the existing requirements for political party financial reporting, combined with detailed records on party membership and political party decisions that must be reported to the committee constitute unreasonable intervention in the internal affairs of parties.

Campaign Finance Regulations: The Parliamentary Election Law and the Independent Election Commission Law

During 2012, important pieces of legislation were passed that had significant impact on the management of elections. The first was the Independent Election Commission (IEC) Law, which established a new IEC responsible for supervising and administering parliamentary elections. The law established a five-member commission, supported by an administrative Secretariat, and it was granted a legal personality and financial and administrative autonomy.

The second piece of legislation was a new Parliamentary Election Law, which introduced a new parallel electoral system in which an additional 27 seats were added and competed for by electoral lists in one national electoral district. The 27 seats would be allocated to the electoral lists based on proportional representation. The law also increased the number of quota seats for women to 15. The remaining 108 seats in the 150-seat parliament would be elected using the old one-vote system as was described earlier. The law introduced important measures for improving electoral transparency, but it had several shortcomings.

As was mentioned above, political party involvement in parliamentary elections remains minimal. When the new election law was passed in 2012, it was hoped that the introduction of an additional 27 national proportional representation seats would help stimulate political party development. However, a number of decisions were made that resulted in minimal improvement of the situation of political parties.

The first decision was that the law did not limit competition for these seats to registered political parties. It was argued that, in the absence of strong recognized political parties, it would be better to open competition to any group of individuals who wanted to compete in electoral lists for these seats. In addition, the newly-established IEC adopted a seat allocation formula (the Hare quota), which favors smaller parties and ruled that electoral lists should compete with a minimum of nine candidates rather than a full slate of 27 candidates. These decisions resulted in a large number (61) of electoral lists competing for the 27 seats, with 22 lists winning seats. Only one list (the Islamic Centrist Party), managed to win three seats, while only three lists gained two seats each. The remaining 18 seats went to separate lists.

In this context, it is clear the legislation governing political party finance remains irrelevant to elections and election campaign purposes.

The 2012 Electoral Law is largely silent on campaign finance. There are no donation limits to candidates or lists, and no spending limits. Nor is there any information about allowed or prohibited sources of income, and it includes no reporting requirements for the competitors.

The only provisions in the 2012 Electoral Law of any relevance are the following:

- Article 12 of the law sets the candidacy fees to 500 JOD ($700 USD), which is nonrefundable even if the candidate's application is rejected.
- Article 20 of the law stipulates that challenges, summoning and objections that are submitted as per the law shall be exempt from fees and stamps. Article 23 (a) of the draft law stipulates candidate announcements and data shall be exempt from fees and taxes.
- Article 25 of the law states: "It is prohibited to any candidate to offer, for the purposes of electoral advertising, any gift, donation or in-kind or in-cash assistance, or benefit or promise to offer the same to any legal or moral person be it directly or through any intermediary. It is moreover prohibited for anyone to claim for himself or for a third party any gift, donation of aid or to obtain the promise of the same from any candidate."
- Article 65 of the law stipulates the following: "Shall be sentenced to imprisonment for no less than six months and no more than two years or to a fine no less than 500 JOD ($700 USD) and no more than 1,000 JOD ($1,400 USD) or to both sanctions, whoever violates any of the provisions of this law that have no particular sanction stipulated for them."

In line with the IEC Law, the IEC issued Executive Instruction 11/2012 about election campaigns. In the Executive Instruction, the IEC included provisions relating to campaign finance. It states that candidates and lists must not accept cash or in-kind support from, "States and foreign governments and official International Organizations as well as Civil and Foreign companies or foreign Nationals," or which he or she suspects may come from illegal sources (Article 11). The Executive Instruction also includes a ban on vote-buying during election campaigns (building on Article 25 in the Elections Law).

The risk for abuse of State resources is addressed through a requirement of official media to maintain neutrality and respect for the freedom of expression (Article 10) and a ban on candidates campaigning in government buildings or from using government resources in their election campaign (Article 7).

Finally, the Executive Instruction includes a provision that the IEC may demand, from any candidate or party, information about their income and expenditures. No further information is given under which situations the IEC may make such requests, nor are there any details about the information that should be provided (Article 12).

Supervision and Implementation

The IEC is entrusted with supervising and administering parliamentary elections in Jordan. Although the IEC has this authority, it has limited authority to sanction those who violate the Election Law. Article 68 of the law gives IEC officials the status of legal enforcement members, in accordance with the Criminal Procedures Law. In effect, this means the IEC has the responsibility to report potential electoral crimes that it may be aware of to the public prosecutor, but cannot act or impose sanctions by itself.

The following examples illustrate some of the problem the IEC has in acting on violations of the Election Law:

First, although the IEC added a provision to require electoral candidates and lists to provide information regarding their income and expenditures, the IEC had no legal basis upon which to introduce such a measure, it was not able to enforce this beyond publication of details regarding lists, which submitted these financial statements.

Second, although vote-buying is clearly illegal and subject to severe punishment, allegations of widespread vote-buying were prevalent during all parliamentary elections in Jordan. The SNTV electoral system is susceptible to vote-buying, as candidates, particularly those in smaller electoral districts, need relatively few votes to win a seat. Therefore, since buying relatively few votes could swing the outcome of an election, there is a clear incentive for candidates to engage in such practices. The opposite would be true for the 27 new seats elected on a national proportional representation basis, where many votes would be required to affect the outcome of results.

Following the 2013 parliamentary elections, the International Republican Institute and the Middle East Marketing and Research Consultants conducted a nationally-representative public opinion survey that included questions on vote-buying. The survey report states:

> Approximately 53 percent of respondents[13] said they believe vote buying occurred to a large or moderate degree; only 20 percent said they believe it did not occur at all. Similarly, 54 percent of respondents said they think that vote buying had a large or moderate effect on the outcome of the elections, while only 12 percent of respondents said vote buying had little or no effect. However, only seven percent of respondents who said they voted reported that they were offered money by a district level candidate for their vote. Only one percent of self-reported voters surveyed stated that a national list offered money for their vote.[14]

The IEC, prior to the January 2013 parliamentary elections, took the unprecedented step of handing over evidence of vote-buying involving four high-profile candidates to the public prosecutor. The candidates were arrested and detained for several days, but they were released prior to elections. The IEC had no choice but to allow these candidates to compete, some of whom were elected. Although the IEC took action, it did not result in anything that would deter vote-buying in the future. No prosecutions for such crimes took place prior to 2013.

Third, although the IEC Executive Instruction prohibits the use of State resources and receiving foreign funding, the IEC does not have the ability to act if these provisions are infringed. The mechanism for dealing with such offences is not stipulated, and presumably it would, like vote-buying, be dealt with through court procedures. Consequently, such cases may only be heard by courts long after electoral processes have been concluded.

Regarding oversight over political party finance, the Committee on Political Party Affairs, which is headed by the MoI, has significant authority in establishing, controlling and dissolving political parties. Since the MoI has such an important role on this committee, many argue it is not independent from the government and that political parties are subject to decisions by a body that primarily makes decisions based on security concerns rather than ensuring free, democratic political participation.

In addition to these bodies, the Anti-Corruption Commission, which was created after Jordan signed on to the United Nations Convention against Corruption in 2006, has the overall responsibility for counteracting corruption.

[13] A sample of 1,000 individuals were interviewed.

[14] "IRI Jordan Index" IRI and MEMRC, March 2013. Page 3.

Challenges in Political Finance Control

The Legal Framework for Political Finance Control

As outlined, the legal framework for political finance control in Jordan requires substantial reform. Campaign finance regulations are currently non-existent. The existing political party finance regulations have not yet succeeded in strengthening political party development, and are, due to the ineffectiveness of political parties in Jordan, largely irrelevant for electoral purposes.

Perceptions of Widespread Corruption and Perceived Lack of Action Against Corruption

Repeated public opinion surveys indicate corruption is consistently one of the top concerns of Jordanian citizens. Such perceptions jeopardize trust in the State and its institutions, including electoral ones. Although it is difficult to measure the actual scale of corruption, it constitutes one of the most flagrant violations of civil, political, social and cultural rights. The Anti-Corruption Commission has, thus far, not been seen to be effective in combating corruption in the Jordanian political system.

The Weakness of Parliament

Many argue the design of the electoral system and boundary delimitation, combined with the concentration of executive power in the King, led to a weak parliament. Many believe parliament is currently the weakest point in combating corruption.

Limitations on Freedom of Opinion and Expression

Many argue limitations on free expression – restrictions on new media, news sites and blogs and arrests of journalists and self-censorship practiced by most news outlets – limit the ability to uncover, expose and prosecute those accused of corruption.

Conclusions

The challenges of ensuring a transparent and regulated political finance environment in Jordan are many and great. Political parties are weak, and play only a limited role in electoral processes. The political party widely recognized to be the most organized, the Islamic Action Front, boycotted both recent elections because of what it saw as a lack of integrity. The remaining candidates preferred to run with tribal or regional support, and not be affiliated with political parties.

Civil society organizations play a limited role in campaigning for reform and combating corruption. There is a lack of partnership between public institutions and civil society organizations in tackling corruption and money in politics. Despite such concerns, Jordanian civil society organizations and observer groups did, especially during the 2013 elections, raise problems with the IEC and provide evidence of legal infringements to the IEC – some of which were prosecuted. These efforts are encouraging and should be supported.

Recent reform processes – in particular the creation of the IEC and introduction of legal measures to enhance electoral transparency – are also encouraging. Despite that, the legal framework for campaign finance regulation remains virtually non-existent, and the IEC has limited authority to create such a legal framework.

Recommendations

In the long-term, certain conditions will be required for political finance reform to be effective in Jordan. This includes:

- Reinforcing the independence and integrity of all institutions involved in regulating and implementing political finance and anti-corruption strategies, including the Constitutional Court, the judiciary, the Anti-Corruption Commission and the Independent Election Commission
- Creating conditions that will enhance the development of political parties and civil society organizations as independent institutions that engage Jordanian citizens in political participation
- Raising awareness about the importance of transparency and combating all types of corruption, especially in the public sector, implementing efficient and clear policies to combat corruption, upholding transparency and integrity and reinforcing good governance and public accountability

The following specific reforms can be considered to improve the regulation of political finance in Jordan:

- Amending current legislation to include more detailed and specific regulations of political finance, including financial disclosure mechanisms
- Reforming the regulatory system to more effectively support political party development and to ensure that there is fair competition between political parties and candidates for elections
- Setting a ceiling for spending on electoral campaigns with effective, proportional sanctions against violations of such regulations
- Confronting vote-buying by applying effective and proportional penalties against those who engage in this practice, and by engaging civil society organizations to play an active role in counteracting vote-buying through raising awareness of voters and political competitors

Today, political funding in Lebanon has a tremendously influential role on the political regime

Lebanon

Introduction

Political Framework

Political funding played a key role in the interaction between elite powers at the end of the Civil War in 1990 in Lebanon. As public institutions and public services degenerated, warlords and businessmen ventured into political life and gained predominance. New elite groups provided citizens with different services, such as health and education, under the cover of political parties or charity institutions. This was considered political money compared to the traditional, family-based political feudalism.

Political money became a core component in the making of power and public opinion in Lebanon as individuals started financing political parties and media outlets, influencing both public opinion and voters. The media in Lebanon owes allegiance to different political parties and leaderships.

Today, political funding in Lebanon has a tremendously influential role on the political regime, where authority is divided among different confessional components. This division is a political tradition governed by two agreements: the National Pact, as unwritten agreement adopted in 1943, and the Taef Agreement, which put this pact into writing.

Political funding feeds current divisions and growing allegiances to a leader or political party who in return provides them with services and benefits. As political parties are exercising more hegemony over the media, they are better placed to control the opinion of citizens. The misuse of political funding is threatening civil peace and increasing political divisions that could escalate to armed conflicts. Such conflicts are difficult to control, given the proliferation of weapons and an inability of the State to secure all regions.

Constitutional and Legal Framework

The preamble of the Lebanese Constitution stipulates that Lebanon is a parliamentary democratic republic based on respect for public liberties – especially the freedom of opinion and belief – and respect for social justice and equality of rights and duties among all citizens without discrimination. The people are the source of authority and sovereignty; they exercise these powers through constitutional institutions. The political system is established on the principle of separation, balance and cooperation between the various branches of government.

The Lebanese people elect their representatives in parliament and local councils (municipalities and *Mukhtars*) by direct ballot, while the parliament elects the President of Republic and provides a vote of confidence to the government.

According to the constitution, legislative power is vested in a single body, the Chamber of Deputies and the executive power in the government. Parliament and the Council of Ministers have the right to propose laws. No law shall be promulgated until the chamber has adopted it. In exceptional cases, parliament can commission the government with legislation on specific matters. The government then issues related legislative decrees.

The constitution stipulates the distribution of seats in the Chamber of Deputies, which is governed by equal representation between Christians and Muslims, and proportional representation among confessional groups within each religious community and proportional representation among geographic regions. Article 1 of the electoral law stipulates the Chamber of Deputies shall be composed of 128 seats.

Lebanon uses a majority electoral system with multi-seat constituencies. Voters can cast their vote for one or more candidates, provided the number of candidates does not exceed the number of seats allocated to the particular electoral district, according to the relevant confessional distribution.

Judicial power is to be exercised by tribunals of various levels and jurisdictions. It functions within the limits of an order established by the law and offering necessary guarantees to judges and litigants. The law determines conditions for the protection of judges and judges are independent.

Political Forces and Power

After the Taef Agreement, Syrian influence and military presence increased in Lebanon. This enabled the Syrian regime to control the Lebanese political scene and led to hegemony of a political class linked to the Syrian regime. Any candidate wanting to win elections had to adopt the Syrian discourse and bribe Syrian officers and decision makers.

Syrian interests tried to influence the outcome of subsequent parliamentary elections by controlling the formation of electoral districts and the creation of electoral alliances that have long been related to money, allied local leaderships and pressure on voters.

During that era, forces opposed to Syrian influence in Lebanon were divided into three groups: those in prison; those forced to leave the country; and individuals who remained at-large in Lebanon, suffering from restrictions placed on them by both Lebanese and Syrian security forces. Subsequently, participation in government was exclusive to elites loyal to the Syrian regime.

However, the Lebanese political scene soon changed after the assassination of former Prime Minister Rafic Hariri on February 14, 2005. The assassination resulted in a backlash of anti-Syrian forces. Many considered Syria responsible for the assassination because of the dominance of Syrian intelligence services in Lebanon. The Future Movement founded by Hariri became the spearhead organization opposing the Syrian regime in Lebanon. In this context, the anti-Syrian bloc was able to mobilize a mass protest on March 14, 2005. This was later considered the symbol of this bloc, providing the pressure that led to the withdrawal of the Syrian army in April 2005. On the other hand, Hezbollah, a Shi'a Islamic militant group and political party, led movements to support the Syrian regime and its presence in Lebanon in a coalition of different forces and parties. Hezbollah organized a demonstration with the slogan "Thank you Syria" in March 8, 2005.

These two demonstrations were symbolic in Lebanese political life, as they led to a new political division that became known as the "March 14" and "March 8" forces. This division has expanded to include crucial political forces. The March 14 movement represents opposition to Syria, Hezbollah and the alliance with Iran against the West. The most prominent parties of this gathering include the Future Movement, the Lebanese Forces, Kataeb, the National Liberal Party and the Democratic Left Movement. The March 8 movement supports Hezbollah, armed resistance and the alliance with Syrian and Iranian regimes that are hostile to the West. The most prominent parties of this gathering include Hezbollah, Amal Movement, the Free Patriotic Movement, the Syrian Social Nationalist Party, Marada Movement and the Baath Party.

The Next Parliamentary Elections

Despite a number of key reforms to the electoral law in 2008, a number of more contentious demands and reform initiatives, including changes to the electoral system, were not addressed and were once again subjects of debate ahead of the parliamentary elections in Lebanon, which were expected in 2013. In August 2012, the Lebanese Cabinet drafted a new election law sent to parliament for approval. The draft law offered modest improvements to the current law and called for the introduction of a pro-

portional representation system over 13 larger districts. However, since August 2012, the law has not moved beyond the parliament. In late February 2013, the legislative committees in parliament approved the Orthodox Law, which calls for Lebanon to vote as a single district, with each sect electing only its own candidates. However, many criticized the law for further entrenching sectarianism and the law did not pass. A number of parties also submitted their own proposals, with some calling for the adoption of a proportional system or moving toward a mixed electoral system. While candidate registration began, parliamentarians continued to discuss the possibility of instituting a mixed electoral system based on a proportional representation and majoritarian system. In a council session, caretaker Prime Minister Najib Mikati declared elections would be held as scheduled, based on the 1960 Law. During this session, he also endorsed a series of electoral decisions that consist of establishing the Supervisory Commission on the Electoral Campaign (SCEC) in addition to other financial and administrative decisions.

However, in late May 2013, when parliament met to vote on the law, the body voted to extend its mandate by 17 months until November 20, 2014. Members of parliament stated that the extension was justified due to the security situation in several Lebanese regions due to the Syrian conflict that gives rise to political escalation and division which often take on confessional forms. Concerns were also raised that security and political tensions prevented election campaigns from being held and would impact election administration.

Many constitutional experts and civil society groups consider the decision to postpone elections unconstitutional, as it limits the application of democratic rights in Lebanon and prevents citizens from casting their votes and running for parliamentary elections every four years. The extension law was also challenged by the President of the Republic Michel Sleiman and 10 members of parliament from the Free Patriotic Movement. The case was referred to the Constitutional Council, the body responsible for reviewing such challenges. However, due to political machinations, the Constitutional Council failed to convene for several consecutive times due to the lack of quorum. The council is composed of 10 members, divided equally between Muslims and Christians. Its bylaws require the presence of eight of 10 members to issue any valid decision, however, in subsequent cases three members failed to attend.

As such, at the time of writing, parliamentary elections remain postponed. To prevent future crises, several experts have called for the selection process for the Constitutional Council to be modified in a way that prevents any political group from interfering in its affairs and guarantees the independence of its members from any political affiliation.

Legal Framework for Political Finance

Electoral Law 25/2008 is the most important legal framework for political funding. Lebanese parties are subject to the 1909 Law on Associations that governs activity of political and non-political associations, but does not tackle the activity and funding of political parties. The laws on media and illicit enrichment indirectly deal with political funding.

The following is a detailed review of the topics related to political funding and the relevant legal frameworks:

Public Funding

No legislation regarding public funding of parties exists in Lebanon. Part of the reason for this is that Lebanon has not promulgated a specific law on the activities of political parties and their funding. Additionally, a lack of State resources makes public funding of political parties less likely, given the many demands on the State budget.

Contribution Limits/Prohibitions

The 1909 Law on Associations does not deal directly with political funding, although Article 8 sets the maximum contribution of a member of any association to 24 gold coins per year. While the Law of Associations is technically still in force in Lebanon, this contribution limit is not currently applied.

Concerning electoral campaigns, Electoral Law 25/2008 stipulates the total amount of all contributions received by a candidate for his or her electoral campaign shall not exceed the electoral expenditure ceiling.[15] There is no limit on individual donations as such.

Candidates may use their own money to fund their campaigns. The money of a spouse, ascendants and descendants is considered the candidate's own money. The candidate may also accept contributions from natural or legal Lebanese persons. Foreign funding is explicitly banned.[16]

Spending Limits/Prohibitions

The Law on Associations does not specify any prohibitions on the spending by associations, including political parties. Thus, political parties in Lebanon are uninhibited regarding spending on advertising, developmental and political activities.

The Broadcasting Law No. 94/382 tackles political funding by subjecting broadcasting stations to specific conditions. The law stipulates in Article 13 that no person, natural or legal, may own more than 10 percent of the company's shares. The same article stipulates that no natural and legal persons may own shares in more than one media company.[17] These provisions attempt to curb the hegemony of a political or confessional party over the media by controlling one or several companies. A sound implementation of these provisions could reduce the abuse of audiovisual media as a platform for electoral advertising during campaigns.

Setting an expenditure ceiling was the most important provision in the law adopted in 2008. Article 57 sets electoral the ceilings as follows:

- A fixed flat amount equivalent to one hundred and £50 million LBP ($33,080 USD)
- A variable amount depending on the number of voters within the candidate's electoral district and determined by the Council of Ministers upon the suggestion of the Minister of Interior and Municipalities; in the 2009 parliamentary elections, the variable was set at £4,500 LBP ($3 USD) for each registered voter in the different electoral districts

Articles 59 and 66 include prohibitions on electoral spending. Parties are not allowed to make donations to voters in-kind or in-cash, nor may they support individuals, charity, social, cultural, family, religious organizations, sports clubs and all non-public institutions during the campaign period. This might be the only provision that addresses vote-buying without explicitly mentioning it. The law also stipulates that no candidate may use more than 50 percent of their total advertising spending to a media company, be it a radio station, TV or print media outlet.

[15] Article 56 of the Elections Law.
[16] Article 56 of the Elections Law.
[17] The spouse, ascendants and minor descendants of any person are considered together.

Disclosure

Article 7 of the 1909 Law on Associations requires political parties and associations to keep detailed accounting records and submit these at any time requested. There is no requirement for parties to submit reports at any particular time without receiving a request.

Each candidate must open an account named "Electoral Campaign Account" that is not subject to bank secrecy. The candidate must attach a certificate from the bank to the candidacy application, proving the existence of such an account.[18] All electoral contributions and expenses are made exclusively through this account during the electoral campaign period. Within one month of polling day, each candidate must submit an exhaustive statement of the account to the commission. The reports should include detailed information about received contributions with sources and dates, as well as expenses paid or to be paid with associated dates during the electoral period.[19]

Private and public media outlets wishing to take part in electoral advertising or promotion must submit a declaration expressing its wish to participate, a price list and information on the spaces in which it intends to advertise to the commission, at least 10 days before the beginning of the electoral campaign.[20]

Regulations on the Use/Misuse of State Resources

The Law on Illicit Enrichment No. 154/1999 deals with the misuse of State resources. It imposes limitations that prohibit senior officials and politicians from abusing State resources. The law requires the head of State, Prime Minister and judges to submit a statement regarding their movable goods and real estate. However, this law is not directly related to political funding or the activities of political parties.

The law stipulates that public utilities and institutions; public, private or public universities; faculties; institutes and schools; and houses of worship may not be used for electoral events and rallies or for posting pictures or for electoral promotion purposes. Civil servants and employees of public institutions, municipalities and municipal unions may not use their powers in favor of any candidate or party list.[21]

Supervision of Political Finance in Lebanon

Supervisory Commission on the Election Campaign

Chapter 3 of the Parliamentary Elections Law details the supervision of election campaigns. In this context, the Supervisory Commission on the Election Campaign is the main authority entrusted with supervising electoral funding. The commission is not permanent, as its mandate ends six months after Election Day.

The Supervisory Commission on the Electoral Campaign is made up of 10 members appointed by the Council of Ministers upon the suggestion of the Minister, and includes:

- A presiding judge of the Court of Cassation (as President)
- A presiding judge from the State Council (as Vice President)
- A presiding judge from the National Audit Office (as member)

[18] Article 55 of the Elections Law.
[19] Article 61 of the Elections Law.
[20] Article 66 of the Elections Law.
[21] Article 71 of the Elections Law.

- A former President of the Bar Association (Barrister, as member)
- A former President of the Bar Association (Barrister, as member)
- Two media and advertising experts nominated by the National Media Council (as two members)
- Three senior experts in election-related disciplines (including elections management, funding and promotion)

The commission has an administrative workforce that may conclude contracts with experts qualified to assist it in practicing its functions. The commission may also request to be temporarily seconded by additional employees working in public institutions. During the 2009 parliamentary elections, the workforce consisted of 45 observers and 12 employees.

Mandate of the Commission

According to Article 19 of the Elections Law, the commission is in charge of the following tasks and prerogatives:

- Receive requests of private print and broadcast media wishing to participate in paid electoral advertising
- Supervise the compliance of rolls, candidates and mass media on the rules and regulations governing electoral competition
- Supervise electoral spending
- Receive and audit the financial statements of electoral campaigns of party lists and candidates within one month of polling day
- Draw up a report on the commission's activities and forward it to the minister who will submit it to the President of the Republic, Prime Minister and Speaker of the Parliament

The commission is an administrative unit linked directly to the Minister of the Interior, not a section or department of the ministry.[22] Upon its formation, the commission draws up its own bylaws to be approved by the Minister of Interior. The commission's decisions are taken on the basis of absolute majority of its members.[23] The commission president and members may not carry out any task or activity incompatible with the functions and impartiality of the commission during their term of office.

The law also attempts to ensure the impartiality of the commission by controlling the activity of its members and protecting them through immunity from direct prosecution. None of the members of the commission shall be subject to criminal action, criminal measure or arrest without the commission's authorization, and at the request of the Minister of Justice, to legally prosecute one of its members.

The Supervisory Commission on the Electoral Campaign is a semi-independent authority because it is directly linked to the Ministry of Interior. The Minister supervises its work, determines its premises and chairs these meetings without voting. The formation of the commission by the Council of Ministers and the role of the Minister of Interior in proposing members make the commission's independence controversial. Quotas, sectarian balance and nepotism are common in appointing ministers, raising questions over the independence and political will of the commission in applying the law.

[22] Report of the Supervisory Commission on the election campaign: 2009 parliamentary elections, page 24.
[23] Decisions may be challenged before the Council of State within three days of notification or publication. The Council of State shall settle the challenge within three days as of submission.

According to the Elections Law, members of the commission should be appointed within two months of promulgation of the law. The term of office for commission members ends six months after general parliamentary elections.[24]

The law does not mention the mechanism or timeframe for the appointment of new members after the end of the first term. This gap raised questions about when commission members are appointed before the next parliamentary elections. Additionally, the Supervisory Commission on the Electoral Campaign did not exist during the 2010 municipal elections and parliamentary by-elections. The ministry did not appoint new members for the commission to carry out its tasks; this void has led to the non-application of the law in governing electoral spending.

Other State Stakeholders Involved in Political Funding

In addition to the Supervisory Commission on the Electoral Campaign, the following institutions are involved with political finance oversight.

Constitutional Council

The Constitutional Council is an independent constitutional authority with judicial status to supervise the constitutionality of laws and to adjudicate disputes/challenges arising from presidential and parliamentary elections. Articles 19 and 30 of the Lebanese Constitution amended in 1990 included provisions for the Constitutional Council, although Law No. 250 on the Establishment of the Constitutional Council was not issued until 1993.

Article 45 of the Law on the Establishment of the Constitutional Council stipulates the council shall decide on the validity of parliamentary elections, as well as challenges and conflicts arising from them. Concerning political funding, the Constitutional Council verifies electoral challenges that may be presented by the losing candidates against their successful rivals. These challenges typically include claims linked to vote-buying, abuse of public resources and violation of the provisions of the Elections Law.

If a challenge is submitted against one of the winning candidates, Article 62 of the Elections Law stipulates that the commission's report and the candidate's exhaustive statement of account will be sent to the Constitutional Council. These documents will be attached to the candidate's election challenge file.[25]

Ministry of Interior and Municipalities (MoIM)

The MoIM is in charge of following up on financial reports of parties as per the Law on Associations. The MoIM provides the Constitutional Council with all minutes, documents and information it has to allow the council to carry out required investigations.[26]

Public Prosecution and Judiciary

The judiciary and the public prosecution have an overall mandate to implement the legal framework for political finance (Elections Law, Broadcasting Law etc.). Some political finance violations such as vote-buying, whether proven by evidence or by confession, are considered bribery. While illegal, this does not fall under any laws relating to elections or party funding.

Challenges Facing Implementation of Legal Framework

Challenges to effective enforcement can be divided into three groups: political challenges, technical difficulties and weaknesses in the political finance legal framework.

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[24] Articles 12 and 13 of the Elections Law.

[25] Report of the Supervisory Commission on the election campaign: 2009 parliamentary elections, page 36.

[26] Article 28 of the Law on the establishment of the Constitutional Council 250/93.

Political Challenges

- Lacking respect for the law: The lack of respect for the law by candidates and their failure to comply with legal provisions can be explained by the weakness of State institutions. There is also an absence of clear sanction provisions in the law.

- Lack of seriousness in implementing the law: The failure to implement any campaign finance regulations during the 2010 Municipal Elections Law indicates a lack of seriousness in implementation. Article 16 of the municipal elections law (Decree No. 118 of 1977) stipulates that provisions of parliamentary elections are applicable without prejudice to municipal elections. The indifference during municipal elections reflects authorities' failure/negligence in implementing the law.

- Confessional regime: The Lebanese confessional system complicated political movements. The political system in Lebanon helps confessional leaders gain immunity against accountability. Any step that threatens the interest of a specific elite group is often presented by this group as being against the interest of the religious community that they represent.

- Foreign intervention: Throughout history, most political and confessional groups in Lebanon have had foreign affiliations. The intervention of foreign authorities in Lebanese politics includes financial support given to parties or grassroots organization through development projects run by religious or party-based institutions.

- Political and security stability: Political and security instability is one of the main challenges faced by Lebanon since the end of the 1989 Civil War. The lack of stability affects political priorities, especially in reforming the political system.

- Tolerating political money: Uncontrolled political finance practices have become a standard of political life, and politicians see no harm in purchasing the loyalty of voters or using uncontrolled money in the media or other sectors. Citizens have also become accustomed to receiving assistance from politicians in light of the poor economic situation. Additionally, these practices have generated a class of local leaders (known as "electoral keys") that facilitate the buying of political allegiances in communities or families.

Technical Difficulties

- Current electoral system and size of the electoral district: The system of the first winner by majority of votes in small districts is the first reason behind proliferation of political funding. A parliamentary seat is won with only a few thousand votes, which encourages candidates to buy voters directly or indirectly.

- Electoral processes and voting mechanisms: Other details of the election law and practical mechanisms for voting play an active role in facilitating the negative use of political money. The most prominent weaknesses in this context can be summarized as follows:

    - Failure to adopt pre-printed ballot papers: Lebanon is one of the few countries that does not use pre-printed ballots. The current system allows any paper filled out manually by the voter or printed by a political party or candidates. This allows different shapes and sizes of papers and handwritings, making it possible to determine the choices of individual voters. This destroys secrecy of the vote and encourages vote-buying.

    - Structure of voter registration lists: The family-focused nature of Lebanese society, especially in rural areas, allows family elders to direct individuals to vote for a specific party or

candidate. The structure of the voter lists is based on the birthplace of parents and divides polling stations according to the family register. This means whole polling stations are almost entirely dedicated to a particular family or group of families. This also encourages vote-buying by jeopardizing secrecy of the vote.

- Non-application of overseas voting: The failure to adopt overseas voting for non-resident Lebanese opens the door for a different kind of spending – air transportation of voters. This kind of spending is one of the most expensive and influential in the outcome of the elections. These operations remain concealed and difficult to prove and control due to a lack of jurisdiction for supervising authorities to carry out this task outside of Lebanese territory.

- The number of institutions and associations with political affiliations: The number of associations and charities with political affiliations is important. Money is necessary to engage in politics in Lebanon. Charitable spending is excluded from financial reports, so party affiliations of such groups are affecting allegiance to the State in favor a leader or community.

- The failed implementation of the broadcasting law: Broadcasting institutions are manipulating the law by establishing fake boards where each member is entitled to 10 percent of shares. This is a breach of law meant to create plurality in media ownership. As a result, media is incapable of combating political money and becomes a tool of cash holders.

- The absence of a permanent authority to monitor political funding: The absence of such a figure empowered to monitor the financial activity of political parties in Lebanon makes the control of political funding difficult. The temporary work of the Supervisory Commission on the Electoral Campaign during election campaigns renders monitoring and controlling process ineffective. The commission adopted the starting date of candidature as the starting point for its supervisory activities, making any campaign activity before then unregulated. This, in addition to the lack of a legal framework, leads to an absence of legal control and sanctions against violations.

- The superficial auditing of financial accounts: This takes place because of the large number of candidates (587 candidates in 2009) and a lack of human and technical capacity. Moreover, the Supervisory Commission on the Electoral Campaign's mandate ended six months after the elections.

Weaknesses in Political Finance Legal Framework

There are many gaps in the legal framework regarding political finance in Lebanon:

- The lack of publicity of candidate reports: Lack of transparency in these reports to the Supervisory Commission on the Electoral Campaign is perhaps the main gap in the law, as it affects citizens' trust in the commission's authority. There is no requirement for the Supervisory Commission on the Electoral Campaign to publish the received reports, and they did not do so in the 2009 parliamentary elections.

- Implementation of the bank secrecy law: The effects of this law on the personal accounts of candidates are another impediment to control. The law only lifted banking secrecy from the campaign account, which leaves room to manipulate it through implicit expenses, including vote-buying.

- Exclusion of volunteer-free services from the campaign account: This is a major gap, as it encourages candidates to compensate human effort from outside the account and list it as volunteer work in the financial report.

- Insufficiency of the one-month period given to candidates to submit reports: This is an impediment, as it is difficult to draft financially-sound, detailed reports in one month. Candidates unable to submit the reports in due time have an easy excuse in blaming the tight deadline.

- The difficulty in controlling charity and development-oriented spending: This spending is prohibited by law during elections. Article 59 of the Electoral Law bans charitable work by candidates, but makes an exception for cases where candidates have been supporting charitable initiatives for more than three years. This provision could be interpreted to allow constant buying of political allegiance for the political factions that can afford uninterrupted charitable expenses. It could encourage the establishment of politically-biased service institutions between elections.

- Absence of a mechanism for controlling political party spending: There is no control mechanism during elections requiring parties to submit reports to authorities.

- Legislation loopholes: Article 62 of the Electoral Law calls for fines/imprisonment for those who break its provisions. However, such sanctions can only be applied if violations are carried out "intentionally." This creates a loophole, making room to interpret the intent of offenders. In practice, the law gives violators the opportunity to escape sanctions, especially in view of obstacles hindering the implementation of the law.

- Limitation on lodging complaints and challenges: This limitation negatively affects the course of justice. Challenges in relation to parliamentary elections can only be made by losing candidates against the declared winner. This reduces the chances of filing challenges. This applies to the Law on Illicit Enrichment, which requires a bank guarantee from the plaintiff before submitting a complaint.[27]

- Absence of mechanisms that document candidate's access to foreign funding: This complicates the commission's auditing ability.

- Absence of a clear sanctioning mechanism: It is unclear how sanctions can be enforced against offenders, as it is not obvious whether or not parliamentary immunity protects candidates against legal prosecution. The commission has detected a number of media violations that were referred to the Publications Court that subsequently issued judgments against those institutions. However, none of the candidates who violated the law by concealing information or failing to submit the required documents were punished.

Enforcement of the Legal Framework

The main difficulty in political finance oversight lies not in the laws themselves, but in how serious authorities are in implementing the laws. The flow of money through Lebanese politics is concentrated in parliamentary elections, so it has only been possible to test the practical implementation of the 2008 Election Law once – during the 2009 parliamentary elections. This limited experience revealed inconsistencies in the implementation of legal provisions. Reports by local and international observers highlighted the role of money in these elections.

[27] Article 10 of the Law on Illicit Enrichment No. 99/154.

According to the report of the Supervisory Commission on the Election Campaign, the major gaps in the application of the legal framework of political funding can be summarized:[28]

- Delay in starting process of monitoring and calculating expenses: In principle, part of the electoral campaigns of parties and candidates has been ignored because the Supervisory Commission on the Electoral Campaign adopted the starting date of candidature as the starting point for activities and calculating candidate expenses.

- Failure by candidates to provide data and statements: Not all candidates provided financial documents as required by law. Only 389 of 587 candidates provided the legally-required statements; 42 of these 389 candidates submitted reports after the legal deadline, which was one month from Election Day.

- Failure to provide accurate data: 67 candidates submitted data containing mistakes, while 43 candidates submitted financial statements that included no content.

- Concealing information: The Supervisory Commission on the Electoral Campaign has confirmed that many candidates did not declare all electoral rallies and gatherings and relevant expenses. Other candidates did not mention sources of funding and contributions received by their campaign account.

- Lack of commitment to paying checks: Despite the provision in Article 55 of the Elections Law on the use of checks in banking transactions exceeding £1 million LBP ($662 USD), most of the candidates did not adhere to this article. Donations above this amount had to be contributed by check, but in practice they were often were paid in cash.

- Lack of control on spending and donations by private charities of candidates: Spending and social and charity donations remained outside the scope of the commission's monitoring because none of the candidates included these expenditures in their electoral spending data. It was difficult for the commission to prove if candidates traditionally spent this way during the last three years. A small fraction of prohibited expenses were spent during the election campaign, but were unsupervised.

- Declaring support for a political party: Some media outlets violated legal provisions by breaking the electoral silence period (24 hours before Election Day) and disseminating advertising materials to support a party. This demonstrates full control of political parties over the media, turning outlets into private platforms for a party.

- Publishing electoral advertising without the commission's permission: The Supervisory Commission on the Electoral Campaign has confirmed that some media included electoral advertising without the permission of the commission. These ads cannot be officially monitored because the commission is unaware of the media's electoral activity. Advertising prices cannot be confirmed and compared with the candidates' data without an official advertising price list submitted to the commission to obtain permission to run such advertisements.

After the 2009 elections, the mandate of the first Supervisory Commission on the Electoral Campaign commission expired and no new members were appointed. This prevented the application of laws governing electoral spending and advertising during by-elections and the 2010 municipal and Ikhtiyari elections, even though these should be subject to provisions of the Parliamentary Elections Law and other spending regulations.[29]

[28] Report of the Supervisory Commission on the election campaign: 2009 parliamentary elections.

[29] In Ikhtiyari elections, public notaries (known as Mokhtars) are elected.

The abuse of State resources has also become an integral part of political funding, as the ruling authority is either abusing these benefits in favor of party members or acquiring public funds illegally and using them to fund electoral campaigns.

Conclusion

The Lebanese legislature has attempted to enact advanced legislation on electoral funding. The constraints imposed on electoral spending and the establishment of the Supervisory Commission on the Electoral Campaign in 2008 are positive steps. However, the law ignores transparency, which can only be made possible by making reports available to citizens and civil society organizations. Moreover, provisions relevant to media remain limited, especially in the absence of audit and accountability mechanisms providing for just, equal coverage.

A weak point in Lebanon is the absence of a legal framework regarding political party funding outside of electoral campaigns. The Law on Associations does not govern funding mechanisms, nor does it control funding of political parties.

Several groups outside the State play a role in the way political finance is organized and controlled. These groups are discussed next.

Nongovernmental Organizations and Charities with Political Connections

Most political movements fund cultural, educational or charity-based organizations. Financially well-off leaders own charities in their names that offer scholarships, medical aid and economic assistance. The frequency of projects and the amounts of money provided by these associations usually increase before elections.

Parliamentary Elections Law 25/2008 tried to reduce the seasonal misuse of these institutions by preventing the provision of services or payment to voters. However, the previously-mentioned donations are not prohibited if granted by candidates or institutions owned/run by candidates who have been doing so on a regular basis for at least three years before the commencement of the electoral campaign.[30]

Civil Society Organizations

Parliamentary Elections Law 25/2008 stipulated the right of civil society organizations to observe elections. Civil society organizations fighting corruption and supervising elections can have an important role in controlling political funding. These organizations must follow all stages of the electoral process and monitor fundraising and spending of political parties and candidates. They should also monitor performance of government institutions to detect exploitation of State resources for electoral interests. The two organizations that have focused the most on this and have issued reports on previous elections are the Lebanese Association for Democratic Elections (LADE) and the Lebanese Transparency Association (LTA).

Unfortunately, the lack of transparency in reports of candidates and political parties makes the task of civil society more difficult in combating corruption.

[30] Article 59 of the Elections Law.

Lebanese Diaspora

The complexity in Lebanese political life and political funding is due to stakeholders who play key roles in financing political parties and groups arising thereof. Perhaps the most prominent stakeholders in this field are Lebanese diaspora, countries with regional interests and active charities and development associations.

The large number of Lebanese living abroad and their wealth make them a prominent source of potential support for political activities. Many political parties work hard to receive financial contributions from wealthy members of Lebanese diaspora. Most political parties and leaders campaign abroad, but this has not been addressed in the regulatory framework.

Foreign Countries and Regional Interests

Financial support provided by foreign countries to their allied political forces is among the most controversial issue relating to political money in Lebanon. During the 2009 parliamentary elections, many candidates filed complaints that their competitors received financial contributions from foreign countries. However, these complaints could not be proven.[31]

Although it is difficult to prove foreign contributions, both the relationship between political parties and others countries and the massive financial resources available to some parties indicate foreign funding plays a big part in Lebanese politics.

Recommendations

Based on the observation and study of Lebanon's current political climate and legislation, implementing the following recommendations would improve transparency in Lebanese politics.

- Develop a comprehensive new law on political funding of parties that requires political parties to submit financial reports. The current Law on Associations dates back to 1909. Despite the freedom this law offers, a new law on parties would promote partisan life and ensure equal opportunities between political parties in controlling foreign funding and limiting political spending.

- Increase powers of the Supervisory Commission on the Electoral Campaign by clarifying mechanisms necessary to implement the law and requiring strict implementation. Civil society groups and some political forces have proposed the establishment of a permanent and independent authority to manage elections, which will be responsible for the management and supervision of the electoral process independently from the authority of the MoIM.

- Adopt transparency – the Supervisory Commission on the Electoral Campaign should focus on transparency and publish the financial reports submitted by candidates.

- Develop a mechanism to monitor the activity of ministers and the performance of public institutions during campaign periods to detect abuse of public resources. Some civil society organizations practice this kind of monitoring, but the goal is to establish official mechanisms and legal frameworks.

- Lift bank secrecy on personal candidates' accounts. Candidates must also be compelled to submit detailed statements of their assets and revenues during the campaign. The United Nations Convention against Corruption has recommended overcoming obstacles of banking secrecy that would impact the detection of violations.

[31] Report of the Supervisory Commission on the election campaign: 2009 parliamentary elections, page 20.

- Establish a timeframe for launching electoral campaigns and prohibit promotional activities prior to that period. Traditionally, electoral campaigns start early, making close monitoring of campaign activities difficult. Once a permanent authority to supervise the elections and campaigns exists, it will be possible to set a timeframe and prohibit advertising and campaigning accordingly.

- Provide candidates and citizens timely, accurate information through media that clarifies the law and violations, and encourage citizens to report violations.

Following the January 14, 2011, revolution, Tunisia witnessed political and constitutional changes that were the result of two fast-moving transitional stages.

Tunisia

Introduction

This chapter examines the transparency of political funding in Tunisian electoral campaigns and political party activities. Apart from relying on written sources, interviews were conducted with six people representing political parties, members of coalitions inside the National Constituent Assembly (NCA) and representatives of the Court of Accounts.

Following the January 14, 2011, revolution, Tunisia witnessed political and constitutional changes that were the result of two fast-moving transitional stages. Fifty years of history were reshuffled in hardly any time. Temporary constitutional arrangements that governed public authorities were adopted pending the drafting of a new constitution. The 1959 constitution was implemented for a short period following the vacancy in the presidential office, but was suspended during the first transitional period, and then completely abandoned in 2011.

The first transitional period stretched from January 2011, when the outgoing President fled the country, to October of the same year when the NCA was elected. The second transitional period began with the promulgation of the Constitutive Law on the Temporary Organization of Public Authorities, ratified by the NCA. This period is ongoing.

First Transitional Period – Suspending the Constitution

The event that determined the first transitional period was the announcement of Tunisia's interim President Fouad Mebazaa in March 2011 to abandon early presidential elections and instead hold the NCA election. The resulting body would be entrusted with drafting the new constitution.[32] This announcement was made in response to popular demand.

Consensus was reached between political stakeholders to seek solutions in the absence of electoral legitimacy and a constitutional basis, since the 1959 constitution was suspended.[33] It was crucial for the State to maintain stability in organizing administration and the judiciary, and in how the interim President was granted the authority to issue decrees and keep the State functioning. The High Commission for the Achievement of the Revolution Objectives, Political Reforms and Democratic Transition (the Ben Achour Commission) equally played a role by issuing decrees that, among other things, regulated political fundraising and spending in Tunisia during the transition, both for the electoral campaign of the NCA and for financing political parties.

Most critics and observers have confirmed the integrity of the October 2011 electoral process, despite violations that should be avoided in future elections, especially regarding spending, which did not significantly affect the final results.

[32] Elections were expected within six months contrarily to the provisions of the constitution, which provides for 60 days in view of the exceptional circumstances that do not allow elections to be held on such short notice.

[33] As for political funding, the decree stipulated in Chapter 5 states that, "shall be deemed as decrees, all text related to the… organization and funding of political parties…"

The Decree Law 35 that governed the NCA elections was a transitional framework linked to a single electoral process (the election of the NCA). New texts must now be created that will assure maximum efficiency and clarity, and, as much as possible, overcome previous loopholes. This can only be achieved after a serious evaluation of the electoral process and of systems used prior to the revolution. The political party finance system is currently governed by several texts, among which the most important is Decree Law 87 of 2011, relating to the regulation of political parties. Decree Law 87 may be modified after evaluating the enforcement process in the current diverse political climate, with nearly 147 registered political parties.

Despite certain gaps regarding sanctions, Decree Law 87 is an improvement on the previous legal system, which combined different texts in this area. The new rules are more detailed and, if retained and applied correctly in future elections, can increase transparency in partisan funding by creating accounting control.

Second Transitional Period – Abolishing the Constitution

This phase started with the passing of the Constitutive Law of 2011, which abolished the constitution, dissolved many State bodies and provided the provisional organization of public authorities.[34] Through the law, the NCA was given the mandate of drafting a new constitution and given legislative authority to elect the President, control the government and pass laws. On this basis, the interim President, the interim Head of Government and the Speaker of Parliament were elected.

New Legal Framework for Political Funding in Tunisia

Before and after the revolution, political funding was subject to several legal texts. Unfortunately, there was no comprehensive and consolidated regulation for funding political parties and electoral campaigns, nor is there today. Tunisian regulations can be divided into those relating to regular political party funding and those relating to election campaigns.

Political Party Financing

Political party funding in Tunisia is currently subject to provisions of the Decree on Organizing Political Parties.[35] A new draft decree has been suggested by the expert committee emanating from the High Commission for the Achievement of the Revolution Objectives, Political Reforms and Democratic Transition, to overcome some of the shortcomings.

The 2011 Decree on Organizing Political Parties devoted an entire title (Title 3) to the financial provisions of political parties and another title for bookkeeping and control (Title 4). Older texts did not tackle the key issues.[36] Decree Law 87 contains principles that parties should respect. Chapter 3 stipulates:

[34] Chapter 2 dissolved the Tunisian Parliament (the House of Representatives and the Counselors Council) along with the Socioeconomic Council and the Constitutional Council.

[35] Decree 87 of 2011. This decree was issued one month before the constitutive elections. However it does not deal with the funding of the NCA electoral campaign, which is regulated by Decree Law 35 of 2011 on the elections of the NCA members, and by some complementary and enforcing texts.

[36] Law 32 of 1988 on organizing political parties (the funding of political parties in general); Law 33 of 1988 on the privileges given to political parties, providing parties with tax exemptions; and Law 21 of 1997 on the public funding of political parties.

> Political parties should, in their bylaws, field of activities and funding, respect the principles of the Republic, the supremacy of the law and democracy and the pacific rotation of power, transparency, equality, the impartiality of management, worship places, public utilities, the independence of the judiciary, and human rights as established and regulated in the international agreements ratified by the Republic of Tunisia.[37]

Specific rules on transparency are included in Chapters 26 and 27 of Decree Law 87. Financial statements by political parties are subject to an annual audit by a certified public accountant, according to standards by the Tunisian Certified Accountants Authority. The audit report is submitted to the President of the political party and to a committee presided by the First President of the Administrative Tribunal, the President of the Appeal Court and the President of Tunisian Certified Accountants Authority.[38] Based on the accountant's report, the committee approves or disapproves the statements. Additionally, each political party must submit a detailed report on the sources of their income and spending to the Court of Accounts annually as the supreme audit institution in the country.

Sources of Political Party Funding

Public Funding

Decree Law 87 distinguished legitimate and prohibited sources of funding. Like two-thirds of countries worldwide, Tunisia provides public funding to political parties. However, application of funding regulations has not been ideal. According to international standards, all funding must respect the independence of political parties from the State and avoid conflicts of interest while assuring transparency. This usually involves monitoring public funds and adopting strict procedures to prevent manipulation. Offering public funding also induces a number of important questions about identifying parties eligible to receive grants, allocation of funds among qualified parties and how to control the use of funds.

Chapter 21 guarantees the right of political parties to receive public funding, but does not set the conditions for such funding. It is unknown what criteria Tunisia will adopt to subsidize political parties. Will funding be based on the number of party members or on the number of seats obtained in parliamentary elections, or will it be related to each party's spending? Moreover, the text does not determine the type of public funding, be it direct (by providing funds or grants) or indirect.[39] Older Tunisian legislation has exempted political parties from taxes on real estate ownership and enabled them to register real estate contracts deemed necessary to their activities for a fixed amount, not for a proportion of the value of the property.

Self-Funding

Decree Law 87 allows for self-funding, defined as any amount paid by the party itself without foreign intervention. The contribution of parties is considered self-funding, although with stricter conditions compared to the former law, as is assistance, aid and donation provided by party members or officials within the limits imposed by Decree Law 87. It also includes revenue generated from assets and activities of the political party, such as the tools and equipment used to run the party, its property and the revenue from any of its assets.

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[37] Transparency was defined in Decree 120 of 2011 (on combating corruption) as "a system based on the free flow of information, open activities aimed at providing correct and complete information in due time to help decision makers identify the means of accomplishing a specific service, making, understanding and assessing decisions and taking appropriate measures and procedures in order to preserve their interests and give them the opportunity to hold the relevant parties accountable without any obstacle or obstruction whenever needed."

[38] The report is also submitted to the Prime Minister within two months after the certified public accountants receive the financial statements.

[39] It only states, "Political parties shall receive public funding."

Private Funding
Donations, grants and the will of legal persons can be accepted to the limits established in Chapter 19 of Decree Law 87. For the first time, loans are a possible source of funding, provided the total pledges by all credit institutions do not exceed a specific amount defined in Decree Law 87. Contributions of party members must not exceed 1,200 TND ($726 USD), and for all contributions exceeding 240 TND ($146 USD), payment must be made by a bank check or wire transfer, not cash.

Prohibited Political Party Funding
Political parties are not allowed to receive several types of funding such as anonymous donations or contributions from legal persons. Anonymous donations are prohibited according to Chapter 19, Paragraph 2. Donations from legal persons, be they private or public are also banned, except for State budgeted funding (Chapter 19, Paragraph 3).

Direct and indirect foreign funding, in whatever form, remains prohibited. Seventy percent of 161 international political funding laws prohibit foreign funding to assure national integrity. This is even more important in countries undergoing democratic transition, such as Tunisia, which might be the target of foreign States, movements or organizations seeking to disrupt the transitional path.

Contribution Limits
The previous system did not put any conditions and limitations in place regarding permitted donors or contribution limits. After the revolution, Decree Law 87 showed improvement from previous texts. This interpretation of the accompanying limits reconciles three interrelated, and possibly conflicting, interests: the interest of political parties in increasing income within reasonable limits; donor's interest in expressing opinion freely through financial endorsements of a party; and the interest of the State in minimizing financial burdens on its budget through strengthening political parties and indirectly blocking potentially corrupt money.

Donations, grants or testaments shall not exceed 60,000 TND ($36,256 USD) per year for any donor, including in-kind donations. These restrictions are similar to the French contribution limit of €7,500 EUR ($9,873 USD). Both countries prohibit funding from legal persons. Membership fees are considered self-funding, not personal donations, which constitute private funding.

The total amount of loans that can be contracted from credit institutions shall not exceed 200,000 TND ($120,854 USD). However, electoral campaigns should be distinguished from party funding, as the latter is subject to the Elections Law.

Obligations Incumbent Upon Political Parties in Regular Funding
Maintaining Financial Records
The new accounting rules are more sophisticated and transparent than earlier ones:

- Each political party must appoint a financial officer to prepare financial statements.
- Each political party must open a single bank or postal account for all financial transactions (Chapter 22, Paragraph 2).
- All financial transactions exceeding 500 TND ($303 USD) must be made by check or a bank/postal transfer. Segmenting transactions makes it easier to obey the limit.
- The bank and postal accounts cannot be frozen without a judicial decision.
- Political parties should adopt the same accounting system as private companies. (Accrual System in line with Law 112 of 1996).
- Political parties must keep books, registers and supporting documentation for 10 years (Chapter 25).

The provisions relating to bookkeeping and establishment of financial statements are clearer in Decree Law 87 than in previous legislation, and should contribute to more accuracy and transparency. However, the restriction of opening a single bank account for each political party cannot be respected in practice, especially when the political party is represented in the different regions (governorates) of the country. The financial statement of a political party is subject to an annual audit by a certified public auditor, chosen from the list of the Tunisian Certified Public Accountants Body or from the list of the Tunisian Accountants Body. If the total resources of a political party exceed 1 million TND ($604,266 USD), then two auditors will be appointed.

Submitting Financial Reports
Regarding disclosure, Decree Law 87 contains revolutionary measures, compared to earlier legislation. Each party must submit an annual report to the Court of Accounts, including a comprehensive, detailed description of income and expenses (Chapter 27). The financial statements must be accompanied by an audit report and be published in a newspaper and on the party's website (if it has one) within one month of these statements ratification.

Although political parties must present a detailed report to the court about their income and expenses, it is unclear if the court must review these reports, or if they are only for reference. The audit report is submitted to a committee presided by the First President of the Administrative Tribunal, the Head of the Appeal Court and the Head of the Office of the Certified Public Accountants of Tunisia. It is unclear what the added value of this commission is, or why it is presided by the First President of the Administrative Tribunal. Moreover, it can be questioned why the head the Appeal Court is a member of the committee, as this position is unrelated to the financial aspects of political parties. This part of the decree must be clarified.

Refraining from Buying Votes
Earlier legislation did not prohibit vote-buying. The then-ruling party offered voters gifts and banquets. Decree Law 87 prohibits political parties from offering financial or in-kind privileges to Tunisian citizens (Chapter 18). If a party violates this prohibition, it is liable to the same sanctions applicable for receiving foreign funds, except for the personal sentence of imprisonment. Sanctions can be administrative (warning and suspension) judicial (dissolution of a party through a judicial decision) or financial (a fine equivalent to the amount of assistance offered to third parties).

Electoral Campaign Funding

In the absence of a legal act regulating all types of elections, the funding of the NCA elections raised issues pertaining to the funding of election campaigns.[40] Several legal acts were issued, as were decisions of the Independent Higher Body for Elections (HIEC).[41] Acts included a set of financial rules relating to candidate lists – be they political party or individual lists – including a requirement to submit financial reports within 30 days of the declaration of final election results.

These provisions are contained in a special legal system regarding the exceptional NCA elections. This means that most of these rules are no longer in force, and a permanent legal framework for campaign finance is required. However, it is useful to study provisions in place during the NCA elections to understand lessons learned.

[40] The 1969 electoral code law was removed after the abolition of the constitution.

[41] The main 2011 decrees are the Electoral Decree Law 35 on the elections of the NCA (as amended by Decree 72); Decree 91 on the procedures established by the Court of Account on the funding of the NCA campaign; Order 1087 on controlling the elections ceiling and public funding in the NCA electoral campaign as per Order 2472; September 3 decision of the HIEC on controlling the rules and procedures of the elections campaign.

Banning Private Funding

The rules regarding sources for campaign funding sometimes coincided with those for regular political party funding, but diverged at other points. In line with the regulations of ongoing party funding, Decree Law 35, sometimes known as the Electoral Law, rejected foreign funding "of any type" and implemented sanctions in the form of imprisonment or losing the nomination. A problem arose regarding whether the use of a foreign television network owned by the president of a movement called the Popular Petition (independent lists) for campaign purposes should be considered foreign funding.

However, Decree Law 35 also banned private funding of election campaigns from either legal or natural persons, making public funding the only option available to election campaigns, apart from self-funding. It can be argued that banning foreign and private funding is a sound strategic decision, especially in a period of new democratic construction that needs all guarantees, be they legal or political. In the future, by providing a democratic electoral atmosphere, private funding for electoral campaigns might be preferable within certain limits and make it easier for voters to express opinions by supporting a party or a candidate. A combination of public and private funding would balance interests of parties and the rights of voters.

Public Funding

A general ban was in place against the use of public resources in the election campaign during NCA elections.[42] However, given the ban on private donations, public funding had to be provided to allow political parties and lists a chance to reach the electorate. Article 53 of Decree Law 35 stipulated, "every list shall be subsidized by means of a grant called public assistance aimed at funding the electoral campaign" and "a decree shall determine the ceiling of electoral funding as well as the measures necessary to pay public aid." Decree 1087 of 2011 included rules on the ceiling of electoral spending and the payment of aid grants in order to fund electoral campaigns.

The public grant was proportionate to the number of voters in each district, with each list receiving:

- 35 TND ($22 USD) per every 1,000 voters (in electoral district with less than 200,000 voters)
- 25 TND ($16 USD) per 1,000 voters (in district with more than 200,000 voters)

Payment should be made in two installments before and during the campaign during the seven days before the campaign starts and no less than 10 days before the end of the campaign. Lists that did not obtain 3 percent of the vote are compelled to repay the second installment. Each list must open a designated bank account to receive funds. The HIEC set the overall amount to 10.2 million TND ($6.1 million USD), and the Ministry of Finance reported a total of 8.3 million TND ($5 million USD) was paid; 5 million TND ($3 million USD) during the first installment and 3.3 million TND ($2 million USD) during the second.

Generally, public contributions were modest and insufficient to cover costs of the electoral campaign in a country undergoing its first pluralistic experience and free elections. Depriving lists of private funding and self-funding, which was limited for candidates and independent lists, reduced competitiveness and forced candidates to search for other and illegal financing sources. This fact remained even though parties and candidate lists also received indirect public funding in the form of free time on Tunisian radio and television.[43]

Apart from public funding, candidate lists were allowed to use their own funds for campaigns. The overall spending must not exceed three times the amount of the public funding, which means self-funding by candidate lists must not exceed twice the amount of the public subsidy. It is unclear how self-funding can be separated from private funding.

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[42] Jouan, Barbara (2012) *Assessment of the legal framework and practices related to campaign finance during the National Constituent Assembly elections*. IFES, page 7.

[43] Ibid.

Sanctions

The Electoral Decree included numerous sanctions linked to the NCA electoral process. Receiving foreign funding could lead to a fine and imprisonment, and losing an elected seat, the right to stand as a candidate or to vote. Decree Law 35 did not mention any kind of sanction for receiving Tunisian private funding, even though that was also prohibited (Article 52). Decree 91 of 2011 relating to the audit procedures of the Court of Accounts added monetary sanctions for violations of the rules relating to bookkeeping. Political parties and lists of candidate could be sanctioned for:

- Failing to present evidence of incomes and expenses or obstruct work of the court
- Failing to open a single bank account for the purpose of the electoral campaign, or not using this account for all their financial transactions
- Failing to keep a record of all their incomes and expenses or not providing a summary of their incomes and expenses on the basis of these records

All decisions to inflict monetary sanctions must be taken by the supreme committee of the Court of Accounts according to its organization law (Chapter 40, Laws 8-68).

Institutions Responsible for Enforcing Political Finance Regulations

It is important to distinguish regulatory and executive systems in charge of political party funding and those related to funding electoral campaigns.

Institutions Overseeing Regulations Related to Political Party Funding

The Tripartite Committee

An important institution in charge of regular party funding is the committee mentioned in Decree Law 87. This committee is composed of three members: the President of the Administrative Tribunal as Chairman; the First President of the Tunisian Appeal Court; and Chairman of the Chartered Accountants Association. At the time of writing, this committee has yet to be activated.

Audit reports by political parties are submitted to the Prime Minister and the Tripartite Committee. The latter confirms or rejects financial statements. In case of violations, sanctions may be applied according to the gravity of the violation. These are administrative sanctions applied only to the political party, not its officials, and range from a basic warning to the suspension of the party activity and, in the most serious of cases, deregistration. Financial sanctions can be applied in cases of parties accepting foreign or anonymous funding. Sanctions have not yet been applied.

Other Concerned Institutions

The Prime Minister plays an important role in applying sanctions resulting from the violation of Decree Law 87. The Prime Minister can begin the sanctioning process by warning the political party to address any committed violation within 30 days, or by suspending the party's activities for no more than 30 days. The political party could present an emergency appeal against a decision to suspend its activities. If the party fails to deal with the violation despite warning or suspension, after appeal opportunities run out, the Tunisian court of first instance may rule for the permanent abolition of the political party through the request of the Prime Minister.

Decree Law 87 also gives a weak role to the Department of Accounting, as Article 27 states that "each political party should present a yearly report to the accounting department including a detailed description of its funding sources, and spending." This vagueness is in contrast to the leading role given to the Accounting Department in monitoring the funding of electoral campaigns.

Institutions Overseeing the Regulations on Electoral Campaign Funding

The Higher Independent Electoral Commission
The general mandate of the HIEC, which is "in charge of preparing and overseeing the elections, as well as monitoring the electoral process, and that through various tasks among which, those regarding the funding of political parties, and the examination of the electoral campaign in order to assure equality between male and female candidates." The HIEC has played a primary role in overcoming the absence of legislative provisions in this area by putting in place a manual on the rules and procedures of electoral campaign funding for the elections of the NCA. Another manual dealt with the electoral campaign's bookkeeping and included a sample of the campaign financial accounting structure.

The HIEC showed its independence through the application of sanctions in chapter 70 of the Electoral Decree, canceling the results of the winners who turned out to have violated the campaign finance provisions, although these decisions were overturned by the Administrative Tribunal.

The Court of Accounts
All political parties and independent lists must submit their financial accounts to the Court of Accounts within 30 days from the official declaration of elections results. Decree Law 35 of 2011 requires the court to prepare a report on campaign funding, but Decree Law 35 did not explain how the court should proceed. Since this was the first time the court was mandated to audit the electoral campaign funding, it prepared a draft decree to clarify procedures and the auditing of campaign funding. The draft decree was submitted to the Ben Achour Commission for discussion, and issued as Decree 91 of 2011. Decree 91 explains the goals, forms and methods of auditing to be carried out by the court and includes a number of requirements for political parties and lists.

The audit carried out by the court was based on the bank account that every political party, independent list or coalition must open, and through field inspections of campaign manifestations the department sought to verify the accuracy of statements presented by stakeholders. The Court of Accounts also aimed to get necessary information from a number of institutions including the HIEC, Tunisian Public Accounting Department, The Ministry of Finance, the Tunisian Customs, Tunisian Central Bank, Tunisian Post Office and general official administration.

Challenges to Application of Legal Framework

It is crucial to assess existing challenges to identify recommendations and reforms to promote transparency.

Challenges in Applying the Regular Political Party Finance Regulations

The current lack of a comprehensive regulatory framework means there is ambiguity in the system of political party funding. While the principle of public funding was expressly mentioned in Decree 87 on Political Parties, it did not include details regarding amounts, allocation or conditions of its usage.

Apart from the legal challenges, there were also difficulties implementing the rules in the 2011 elections. The institutions in charge of enforcing the rules lacked a clear mandate and sufficient capacity. The Court of Accounts had an unclear mandate and lacked staff specialized in political finance auditing. There is also a lack of political will to impose strict, serious control. However, this was the first time these types of regulations were in place, and all actors lacked experience to deal with them. Other economic and social priorities have shifted the focus of the State away from this area. This hinders the principles of transparency and democratic values in the political sphere.

Challenges in Applying the Electoral Campaign Funding Regulations

The procedures adopted by the Ministry of Finance for the disbursement of grants were very complicated. The HIEC sends a single statement including information about political parties to the public accounting administration, which then prepares 33 copies and sends these to the regional collector in each of the 33 electoral constituencies. Each collector prepares a postal receipt for the amount required and transfers it to the political parties. There are, therefore, 33 bank transfers made from 33 postal accounts for a political party running in all constituencies.

There are illogical objectives built into the system, such as instituting unrealistic spending limits. Since public support is weak and private support is prohibited, there is a risk that contestants will resort to vote-buying and relying on associations affiliated to political parties.

Other difficulties have come from the regulations. Prohibiting private funding is problematic, because private funding is considered an expression of citizens' choice to participate in political life. Additionally, preventing political competitors from raising funds privately is difficult, and as a result, very few countries prohibit private funding, although some apply limits.

There is no definition of "electoral expenses," and the HIEC has attempted to fill this gap through its September 3, 2011 decision, through which "electoral expenses" was defined as funds disbursed for the purpose of voting for a candidate or political party. Also, the legislation did not include any provision on in-kind contributions.

Enforcement of Political Finance Regulations

This section demonstrates the extent to which the legal framework has been applied, primary obstacles to implementation and possible remedies to overcome challenges.

Application Legal Framework for Political Party Finance

Decree Law 87 of 2011 has only recently been enforced, and the provisions related to accountability and transparency have not yet been applied. No audit of party funding has been carried out, and no sanctions applied.

There is a need to review the legal provisions regarding political party finance. This should be combined with a comprehensive discussion about the role of money in political party activities and how this role should be regulated. Political parties in Tunisia do not see financial oversight as a priority at the moment; this significantly hampers efforts to introduce effective control.

Application of Financial Legal Framework during NCA Election

The legislative campaign finance framework relating to the 2011 NCA elections was largely enforced. Nonetheless, gaps and obstacles reduced the effectiveness of enforcement. The media and international and domestic observer groups noted cases of vote-buying and distribution of gifts by members of lists and some political parties before and during polling day.[44] The Carter Center noted that, "It does not appear that vote-buying impacted the credibility and legitimacy of the electoral process or the election results" in their final observation report.[45] A number of political parties were accused of receiving foreign funding, although these accusations could not be conclusively proven.

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[44] See *Mission d'Observation de 23 associations de la Société Civile (Réseau Ofiya) en Coalition avec Jeunesse sans Frontières et I WATCH, Elections de l'Assemblée nationale constituante, 23 Octobre 2011.*

[45] The Carter Center, *National Constituent Assembly Elections in Tunisia, October 23, 2011, Final Report*, page 37.

Problems with Recordkeeping and Reporting

There were problems in the recordkeeping and financial reporting by electoral lists:[46]

- Candidates and lists refrained from opening a single bank account for their electoral campaign. Banks refused to open separate accounts for the same party, contrary to provisions of the Central Bank Circular 10/2011.
- Many parties were unable to open regional bank accounts, as banks ignored Central Bank Circular 14/2011. The grant allotted to some lists had to be transferred in cash or by wire, or was directly deposited into the personal bank accounts of political party heads.
- Most political parties did not respect the provision that electoral campaign expenditures above 250 TND ($152 USD) have to be paid by bank check.
- Records were not kept in each district. This meant the HIEC audit teams could not check the financial and accounting records at the regional level.
- A majority of parties did not use serial-numbered and sealed accounting books. Of independent lists, only 6 percent kept a serial-numbered register sealed by the HIEC.
- Receipts for campaign contributions should be issued from serialized receipt books, but no receipt book template was created. The HIEC found 66 percent of parties and 76 percent of independent lists did not have receipt books.
- Overall, 83 percent of political parties did not use order form, neither manual nor electronic. In addition, 88 percent of independent lists did not have a receipt book for order forms.

Actions by Institutions Involved in Monitoring Campaign Finance

Many institutions were involved in the process of regulating and controlling money in the electoral campaign of the NCA, among them the Ministry of Finance, Court of Accounts and the HIEC. These institutions worked on the implementation of regulation related to funding electoral campaigns. Despite the lack of clarity of some legal provisions and practical problems faced during the electoral process, these institutions succeeded, to some extent, in fulfilling their commitments.

Ministry of Finance

Decree 1087 of 2011 regulated the electoral expenditures limit and the way the public grant should be distributed. Article 2 of the decree stated the second part of the installment should be distributed after a written request has been issued by the representative of a political party or independent list, together with information related to the spending of the first installment. Decree 1087 did not explain what kind of control of public grants should be made before releasing the second installment. In practice, problems such as errors in the reports, receipts that were not original and unestablished connections between expenses and electoral campaigns came up.

The Higher Independent Electoral Commission

Since political parties and independent candidates lack experience in bookkeeping and reporting, the HIEC prepared a guide to provide a standard model of financial accounts. However, since there is no legal obligation for political parties and independent lists to adopt this model, most did not.

According to Article 70 of the Decree Law 35 of 2011, the HIEC has the obligation to check if electoral winners have respected the rules on funding and may cancel the results if it appears that a violation has occurred. The HIEC conducted its control according to an audit manual specially prepared by an internal committee of the HIEC. The HIEC claimed some lists obtained restricted private funding, such as the

[46] HIEC report pages 132 – 135.

publishing of campaign leaflets. The HIEC decided to cancel the results of some independent lists in five districts. In each of these cases, funding was received from a private individual who was not a member of the list:

- Sfax1 District – 9,000 TND ($5,439 USD), amounting to 150 percent of the public grant to the list
- Tatawin District – 1,406 TND ($850 USD), amounting to 46 percent of the public grant to the list
- Kasserin District – 5,320 TND ($3,215 USD), amounting to 104 percent of the public grant to the list
- Jendouba District – publishing 20,000 leaflets worth 1,090 TND ($659 USD), amounting to 17 percent to the public grant to the list
- Sidi Bouzid District – publishing 35,000 leaflets costing 6,195 TND ($3,722 USD), amounting to 102 percent to the public grant to the list

The HIEC reported that:

> The audit team of the HIEC found that two parties and five independent lists have violated the rules of electoral funding. The sanctions mentioned in Article 70 concerns only the winners (political parties or lists). In that prospect, the sanctions cannot be applied for the two parties mentioned above because they didn't get seats in the NCA, however the five lists mentioned above (Sfax 1 district, Tatawin District, Kasserin District, Jendouba District and Sid Bouzid District) had won seats but as they have violated the electoral funding rules the sanctions have been applied for them.[47]

The Administrative Tribunal received 104 complaints on the preliminary results of the elections to the National Constituent Assembly. Of these, 52 were rejected by the tribunal on procedural grounds, 31 were considered but rejected on merits, six were accepted and the remaining 15 were not considered, as the plaintiffs dropped the case.

The transitional government agreed to remain neutral throughout the electoral process and provided the HIEC with the means to ensure the success of the elections. However, the administration was late in issuing Decree 91 (September 29, 2011), which led to the shortening of the appeal deadlines regarding the results of the elections and less possibility of proving any violations. The administration also issued a decree regulating the funding of political parties a few days after the electoral campaign began (Decree 87), which affected its efficiency and blocked the possibility of instituting a full financial regulatory system.

The Court of Accounts

The mandate of the Court of Accounts was limited and unclear. It also did not support effective implementation of the rules regarding transparency and accountability. The objectives of the court are to control funding of the electoral campaign. The audit process starts with the designated bank account of political parties and extends to all transactions (incomes and expenses), even if they did not appear in the bank account.

Legislation required the Court of Accounts to audit financial accounts of the winners, based on the bank account each political party and independent list were required to open on behalf of the electoral campaign. However, the court considered that all candidates benefitted from public funding and extended

[47] HIEC report page 137.

an audit of all candidate accounts. All candidates had to submit their accounts to the court 30 days after the official declaration of results, December 15, 2011. Unfortunately, by the end of May 2013, only 32 percent of the 1,662 lists submitted their financial accounts. Only 641 (39%) presented evidence of their financial accounts to the court.

A total of 17 political parties and 31 independent lists won 217 seats in the NCA. Among them, five political parties and 14 independent lists, having won 48 NCA seats, did not present their financial accounts to the court. One of the five parties that did not present its financial accounts is the party of the Tunisian President (*Congrès pour la République*). Representatives claim they lost their accounting books. Moreover, 33 percent of the parties that submitted the required documents did not provide the financial accounts related to the lists of candidates they presented.[48] The following table outlines the details of the political parties and independent lists that submitted their accounts.

Figure 1: Compliance with the Reporting Requirements

	Lists	Accounts	Submitted Accounts	Accounts Submitted by Deadline	Accounts Submitted After Deadline	Presented Accounting Documentation
Political Parties	883	77	39 (51%)	23 (59%)	16 (41%)	387 (43%)
Independent Lists	739	739	223(30%)	174 (78%)	49 (22%)	223 (30%)
Coalitions	40	2	1 (50%)	0 (0%)	1 (100%)	31 (78%)
Total	**1,662**	**818**	**263 (24%)**	**197 (75%)**	**66 (25%)**	**641 (39%)**

Most court findings related to violations of bookkeeping rules and procedures are related to Decree 91 of 2011. A main finding was in relation to private funding. It appears some candidates received money from anonymous sources via bank transfers. The court was not able to prove receipts of foreign funding by political parties or candidates. The court faced difficulties, as candidates were not used to audit procedures and did not follow the rules outlined in Decree 91. The court also faced time pressure, as it had to file a report six months from the official declaration of the results of the elections. The court was unable to respect this deadline, as it was receiving financial accounts and evidence through May 2013.

According to Chapter 40 of Law 8 of 1968 Governing the Organization of the Court of Accounts, the Supreme Committee of the Court is the authority that issues financial sanctions. As of May 2013, 576 dossiers were transferred to this commission, including 402 temporary decisions against political parties and lists that did not present their financial accounts.

Disbursement of Public Funding

Most eligible lists received public funding, but there were delays in the disbursement of the grant. According to national and international reports, the HIEC and related departments at the Ministry of Finance distributed funds late, or in some cases, not at all.

The EU election observation report on the first installment indicated that around 10 percent of candidate lists received the grant only two weeks after the electoral campaign began.[49] The causes for the delays included failure to provide the HIEC with the bank account numbers on time, lack of coordination between the HIEC and the Ministry of Finance and technical problems when conducting wire transfers.

[48] Court of Accounts Report.

[49] Mission d'Observation électorale de l'Union européenne en Tunisie, *Rapport Final – Élection de l'Assemblée Nationale Constituante 2011*, page 16.

According to the Court of Accounts, of 1,529 lists, 1,518 received the first installment. A report filed by the Court of Accounts indicates 13 lists received the grant unduly, while two others did not receive it at all; 78 percent of party lists received the grant within the legal time limits and 21 percent received it after the start of the electoral campaign.

The second installment was based on a written demand by the candidate and the presentation of the evidence of the use of the first installment for purposes of the electoral campaign. Only 1,020 lists requested and received this second installment. The EU observation report stated, "Many of the lists did not ask for (it), because they have to pay back the money they received on behalf of the second installment if they get less than 3 percent of the votes of the constituency in which they were running. Moreover, some of the lists got the funding after the 23rd of October elections."[50] In all, 911 lists benefited from the second installment of the grant without obtaining 3 percent of the declared votes. The total amount to be returned reached 2,976,862 TND ($1,798,817 USD). This included 1,386,675 TND ($837,921 USD) from 66 political parties (430 lists), and 74,065 TND ($44,755 USD) from two coalitions (23 lists) and 1,516,122 TND ($916,141 USD) owed by 424 independent lists.

Failure to disperse public funding on time could affect contestants' competitiveness, especially those with limited self-funding resources, and undermine the principle of equity and equal opportunity between candidates.

Conclusion

Political finance regulations in Tunisia generally comply with international standards, inspired by the principles, provisions and guidelines contained in several international and European texts. Tunisian legislators adopted some of these international principles and standards to varying degrees, the most important being:

- Restrictions and limits on contributions by private donors
- Striving for a balance between public funding, self-funding and private funding
- Limitations on the use of State resources
- Preventing the use of foreign funding
- Placing a ceiling on electoral spending
- Ensures transparency through disclosure requirements
- Limiting the amount that can be disbursed in cash – requiring more expenses distributed via bank check – to facilitate monitoring of transactions
- Requiring political parties to use specific bank accounts
- Installing/implementing a monitoring system that includes dissuasive and proportionate sanctions[51]

To reach the highest levels of transparency, the experience in Tunisia must be evaluated with a focus on enhancing rules and their application. New legislation has elevated Tunisia to the status of mid-level countries in terms of political finance transparency.

[50] Ibid.

[51] See also Jouan, Barbara (2012) *Assessment of the Legal Framework and Practices Related to Campaign Finance During the National Constituent Assembly Elections*. IFES.

Role of Political Parties and Candidates

The role of political parties and candidates lies in promoting transparency by respecting regulations and restrictions on funding, and encouraging citizens to engage in politics. They can also raise political awareness through public and electoral events. Increased transparency can enhance voters' trust in the political party and its candidates, and increase their voting power.

Corruption prior to the Arab Spring and the resulting lack of confidence in politicians made political funding a primary topic and pushed voters to support parties that were transparent. This was clear through the lack of support to the Free National Bloc/Progressive Democratic Party, which had a significant election budget, but their platform was unclear, so voters did not know what they were supporting. Such parties refused to comply with disclosure regulations and received fewer votes than expected, as voters considered this approach evidence of political stubbornness and disrespect of regulations.

In this context, several political parties published their budgets. The Wifek Party, sometimes known as the Entente Party, won four seats in the NCA with a reported budget of around 200,000 TND ($120,853 USD), whereas the Democratic Party won 17 seats for a reported budget of 1 million TND ($604,266 USD). The Ettakol bloc won 19 seats with a budget of 800,000 TND ($483,412 USD), whereas the Congress for the Republic captured 29 seats with a budget of 30,000 TND ($18,128 USD), while the Democratic Front won five seats with a budget of 300,000 TND ($181,280 USD). Notably, the Free National Union won no seats, although it had a reported budget of 1.5 million TND ($906,399 USD). Other parties did not disclose figures and did not obtain a significant number of seats.

Tunisian political parties face a number of challenges, including a weak administrative structure; lack of headquarters for many parties (one estimate is 35%); lack of personnel; lack of internal supervision and control; and an absence of supervisory structures in independent lists. There has also been tension inside parties regarding the use of public grants, especially between central party administrations and the electoral lists and local branches. Several parties and independent candidates claimed to have no knowledge of the regulations put in place, and no capacity to comply with them due to a lack of experience; absence of accounting knowledge; and lack of regulations during the prior system.

The Role of Civil Society and Media

Civil society and media have a role in political education and spreading the ideal of transparency. Both the media and civil society can also assist by conducting political analysis, making information available to the public and exposing financial corruption and illegal activities. They can monitor the funding of political parties and candidates through examining sources and spending, in addition to monitoring the use of State resources. Notwithstanding the work that has been done so far, the role of these two groups needs improvement.

There are few organizations in Tunisia that specialize in financial monitoring. Some associations have tried to identify those who receive illicit funding. With limited human and financial capacities, and little experience accessing this information previously considered confidential, this is a daunting task. Reports published by these associations were not conclusive and did not have a significant effect. The multiplicity of associations, the influence of political parties and the lack of coordination contributed to the reduction of their role during the last elections.

Recommendations

General Recommendations

- Include provisions on the rights and obligations of political parties in the new constitution.
- Develop a unified legislative framework with a comprehensive vision related to the funding of political life, including electoral and non-electoral activities. The new framework should be comprehensive, clear and draw on lessons from current shortcomings.
- Give the Central Bank and the Court of Accounts a more active role in auditing foreign funding of political parties and election campaigns.
- Place a ceiling on political or electoral expenditure.
- Place a ceiling on contributions, both for regular party activities and for election campaigns.
- Subjugate all violations of political party and campaign funding to proportionate and dissuasive sanctions. The sanction of dissolving a political party should be reviewed due to its negative impact on the wealth of political life. Retrieving provided public funds; suspending the membership of a winning candidate until the submission and approval of accounts; and renouncing the right to run for office in the next election are dissuasive sanctions. The HIEC should be able to cancel election results in cases of serious violations against campaign finance provisions.
- Maintain judiciary oversight on such decisions.
- Establish a principle for publishing financial statements of political parties and campaigns.
- Create a code of ethics for political parties.

General Political Party Funding

- Establish accounting standards for political party funding controlled by the Commission of Certified Public Accountants in Tunisia.
- Adopt effective monitoring systems for preserving public money.
- Submit political parties' annual accounts for auditing, and require parties to present a list of donations to the HIEC, not the Ministry of Interior.

Campaign Finance

- Make the legal framework for campaign finance more transparent, including clear rules on in-kind contributions and private donations.
- Reduce the number of monitoring agencies and grant the HIEC powers to monitor various lists and take administrative measures, ranging from warnings to loss of public funding.
- Mandate the Commission of Certified Public Accountants to provide training courses in accounting and financial control for party treasurers and electoral campaign members.

- Develop training and guidance materials for the financial management of campaigns.
- Consider adopting a dual-funding campaign system that combines public and private funding, taking into consideration the requirements of democracy, transparency and fair competition, while combating corruption and manipulation.

Public Funding of Electoral Campaigns

- Study the cost of electoral campaigns and implement objective criteria for determining public assistance, which can include votes or seats in the previous election.
- Link grant disbursement to the authentication of financial accounts by parties and lists.
- Establish a national information system within the Ministry of Finance to pursue all aspects of the public grants disbursement.
- Implement an effective electronic system for data exchange between the HIEC and Ministry of Finance departments involved in the funding of the electoral campaign to avoid delay in disbursement of public grants.

National Dialogue is underway, and the constitutional referendum is scheduled for fall 2013 in Yemen.

Yemen

Introduction

The Republic of Yemen was established on May 22, 1990, through the merger of the Yemen Arab Republic (Northern Yemen) and the Democratic Republic of Yemen (Southern Yemen). Following unification, a constitution for the newborn republic was published, and was approved through referendum the following year.[52] In accordance with the constitution, upon unification, Yemen established a multi-party system led by a five-member transitional Presidential Council. Ali Abdullah Saleh of the General People's Congress (GPC) was named President and Ali Salim al-Baid, Secretary General of the Yemen Socialist Party of South Yemen, was appointed Vice President. A coalition "unity" government between GPC and the Yemeni Socialist Party (YSP) was formed and Haider Al-Attas, President of South Yemen, was named Prime Minister, leading the GPC-YSP coalition.[53] President Saleh was elected in 1999 and again in 2006.

In 2011, protests broke out as a result of dissatisfaction with high levels of unemployment, poor economic conditions, rampant public sector corruption and the government's failure to pursue electoral and political reforms in a participatory, transparent manner. Protesters called for systemic changes to the political system, including the resignation of President Saleh. In April 2011, opposition parties released a list of demands that included the formation of a new Supreme Commission for Elections and Referendum (SCER) that would undertake a referendum on constitutional reforms, as well as parliamentary and presidential elections based on the new constitution's guidelines. As a result of the growing violence and instability, the Gulf Cooperation Council (GCC) brokered a deal that would remove President Saleh from power and instill a provisional government to oversee the political transition process in Yemen. Although the deal was initially rejected by President Saleh, the internationally-backed GCC Agreement was officially signed in November 2011 after months of negotiations. This resulted in the transfer of power to former Vice President Hadi during the February 2012 presidential election, in which Hadi was the consensus candidate, a condition of the GCC Implementing Mechanism.

While the immediate objective was to facilitate a peaceful transition of power, the terms of the GCC Agreement provided an outline for a broader, two-phase transitional period ending in 2014 that would be overseen by a National Unity Government led by President Hadi.[54] Phase I covered the early presidential election held on February 21, 2012, and formally ended with the inauguration of the new President. Phase II of the transition process called for a National Dialogue Conference, followed by a constitutional referendum and parliamentary elections. If required by the new constitution, Phase II will also include local council and presidential elections. Although there have been some delays to the process, the terms of the GCC Agreement have been largely agreed to. Currently, the National Dialogue is underway, and the constitutional referendum is scheduled for fall 2013. This will provide an opportunity for stakeholders to propose legislation that could improve the current constitution and address some of the legislative deficits that currently exist in Yemen.

[52] Constitution of the Republic of Yemen, 1990. Posted on al-bab website. published on website June 23, 2007.
[53] Matsumoto, Hiroshi "*Yemen between Democratization and Prolonged Power,*" 2003.
[54] UN News Centre. Yemeni Parties Reach Agreement Paving Way for Holding of National Dialogue - UN Envoy. November 28, 2012. http://www.un.org/apps/news/story.asp?NewsID=43627&Cr=yemen&Cr1=#.UMjwTNWvZS8.

System of Government

The Executive Branch: The President and the Prime Minister

The President is the Head of State and leads the executive branch of government; he is elected directly by the people for seven years and is responsible for appointing the Vice President, Prime Minister and deputy prime ministers. The Cabinet is the second branch of executive authority and is the highest administrative authority in the State. The Cabinet is headed by the Prime Minister, who is responsible for choosing Cabinet members in consultation with the President and establishing the government, which is subject to parliament's vote of confidence. The Cabinet initiates and drafts legislation and submits it to parliament for consideration. The House passes legislation through a motion of simple majority and, in some cases, by absolute majority or a two-thirds majority.

The executive branch also includes the Council of Ministers, appointed by the President in consultation with the Prime Minister. The Council of Ministers is primarily a technical agency responsible for implementing general policy drafted and adopted by the President. It has historically been made up of GPC members.

The Judicial Branch

The Supreme Court of the Republic is the highest judicial authority. The Law on Judicial Authority, which was published in 1991 contradicts the constitution by giving the President the right to appoint members of the Supreme Court and Supreme Judicial Council.[55] In practice, the judiciary loses much of its autonomy as the President also has the power to remove judges.

The Legislative Branch

Parliament in Yemen is composed of a 301-member House of Representatives and a 111-member Consultative Council. The Consultative Council is appointed by the President and serves in an advisory capacity with some legislative powers per the 2001 constitutional amendments.

The House of Representatives is directly elected, and its members are elected for six years by majority vote in single-member districts. According to the constitution, the House of Representatives is the legislative authority of the State. The Election Law stipulates that any presidential candidate must receive a recommendation from at least 5 percent of the Shura Council and the House of Representatives to be eligible to run for presidency.

Since unification in 1990, parliamentary elections have been held in 1993, 1997 and 2003. In the 1997 elections, the GPC won an outright victory, receiving 75 percent of seats after a boycott by main opposition groups. The GPC has maintained this absolute majority since 1997. Remaining parties have established opposition blocs and engaged in negotiations to change the negative aspects of the electoral system. This dialogue, although started before the 2003 elections, has been unable to achieve any tangible breakthrough.

Only five of the 21 parties that participated in the most recent parliamentary elections in April 2003 won seats. The GPC obtained 58 percent of the votes and 76 percent of the seats; the Yemeni Assembly for

[55] Article 149 of the Yemeni Constitution stipulates, "The Judiciary is an autonomous authority in its judicial, financial and administrative aspects and the General Prosecution is one of its sub-bodies. The courts shall settle all disputes and crimes. The judges are independent and not subject to any authority, except the law. No other body may interfere in any way in the affairs and procedures of justice. Such interference shall be considered a crime that must be punished by law and a charge with such interference cannot be nullified with the statute of limitations."

Reform (Islay Party) obtained 23 percent of the votes and 15 percent of the seats; and the Socialist Party obtained five 5 percent of the votes and 2 percent of the seats.

Due to the political conflicts between authorities and opposition, elections expected for April 2009 were postponed after opposition parties refused to take part in what they argued to be unfair, dishonest elections. The regime and opposition agreed to postpone elections until April 2011 to solve conflicts that had obstructed the elections. However, further delay occurred due to the popular uprising at the outset of 2011. This uprising concluded with the signing of the GCC Agreement in November 2011, which requires parliamentary elections to be held in 2014, following a constitutional referendum.

Political Parties

Regulations governing political parties are set out in Law No. 66 of 1991 on Political Parties and Political Organizations. This law governs the formation and practice of political parties and organizations in Yemen, and guarantees the right of Yemenis to form political parties.[56] A party or political organization is defined as any group of Yemenis organized according to common principles and objectives based on constitutional legitimacy, who exercise political and democratic activities with the aim of achieving the transfer of power, or sharing thereof, peacefully.

Yemen has over 35 registered political parties. Politics was primarily dominated by the GPC until 2010. In 2005, a coalition party called the Joint Meeting Parties (JMP) was formed by five opposition parties, led by the Islah Party, the JMP also includes the YSP, Hizb Al-Haq, the Unionist Party and the Popular Forces Union Party.[57]

The Legal Framework for Political Finance in Yemen

Laws on party financing are a significant and necessary way to strengthen the democratic political system. As stated by the Council of Europe's Committee of Ministers Recommendation (2003), "Raising public awareness of the issues of prevention and fight against corruption in the field of funding of political parties is essential to the good functioning of democratic institutions." Although regulations on campaign funding and electoral spending exist in Yemen, legislation is vague and insufficient in guaranteeing an equitable electoral process, especially since these regulations are not consistently enforced. As Yemen is in a transition period, there is an opportunity to improve the current legislation or develop new laws through the upcoming referendum. Although a regulatory system is not an end in itself, the overall objective will be to increase public confidence in political financial transactions, and establish a framework that will allow parties to compete fairly in the electoral process.

Sources of Funding

All political parties need funding to function. Explicitly allowed sources of funding for political parties include membership fees, contributions from members, the return on the party's investment in non-commercial activities and donations (Article 17 of the Law on Political Parties and Political Organizations). Apart from private fundraising, political parties in Yemen are legally entitled to direct and indirect support from the State.

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[56] "Who's Who in Yemen's Opposition." Al-Jazeera. Feb 28, 2011. http://www.aljazeera.com/indepth/spotlight/yemen/2011/02/2011228141453986337.html and http://www.idea.int/publications/dem_yemen/upload/Yemen_country_report_English.pdf.

[57] *Building Democracy in Yemen: Women's Political Participation, Political Party Life, and Democratic Elections*, page 62. Published by IDEA and Arab NGO Network for Development (ANND) 2005. Contributors: Huriya Mashhur, Abd al-Aziz Muhammad al-Kamim, Mohammad Ahmad al-Mikhalfi. Published 2005, Sweden. http://www.aljazeera.com/indepth/spotlight/yemen/2011/02/2011228141453986337.html.

Public Funding

There is limited reference to the topic of direct and indirect funding and fundraising for election campaigns in the Election Law and constitution.

Article 5 of the 1990 constitution states:

> The political system of the Republic of Yemen is based on political and partisan pluralism to achieve a peaceful rotation of power. The Law stipulates the rules and procedures required for the establishment of political organizations and parties. The misuse of governmental posts and public funds in favor of a specific party or organization is forbidden.[58]

Article 40 of the General Election Law of 2001 states:

> Financing election campaigns from public funds or from the budgets of Ministries, public sector corporations, and/or foreign sources shall be prohibited by Law. The use of public institutions and facilities for election campaign purposes shall also be prohibited by Law.

Section 4 of Law No. 66 of 1991 on Political Parties and Political Organizations has stipulations that govern the funding of political parties. The Committee for the Affairs of Parties and Political Organizations (CAPPO) annually proposes the total amount of support the State will allocate for parties and political organizations to the Council of Ministers, in accordance with the provisions of the Implementing List of the Political Parties Law (Article 36).[59] The total amount of government subsidies to political parties is therefore determined by the CAPPO according to the following division:

- Twenty-five percent of the total is provided equally to all political parties that are represented in the House of Representatives.
- Seventy-five percent of the total is provided in proportion to the votes obtained by the candidates of parties and political organizations in the race for the seats of the House of Representatives. Parties are not entitled a share of this second amount if the total share of votes obtained by its candidates was less than 5 percent.

In the 2003 parliamentary elections, two political parties reached the 5 percent threshold for funding, whereas three parties, that together won around 6 percent of the vote, failed to do so. The governing GPC received 58 percent of the votes, and would therefore be eligible (combining the equal and the proportional allocation) to receive 49 percent of the total public subsidy distributed to political parties.

During the transition period, the Presidential Council will determine the amount of funding provided by the State to political parties, as mandated by the GCC Agreement. The political parties will form a committee and propose a division of the allocated funds. This proposal will then be presented to the CAPPO, and will be approved or amended by the Council of Ministers.

[58] Yemen Constitution, Article 5.

[59] The Implementing List of the Political Parties Law was issued by a presidential decree on August 21, 1995; it was the Presidential Decree No. 109 of 1995 on the Implementing List of Law No. 66 of 1991 on Political Parties and Organizations. It has 65 articles that provide a detailed explanation of the Law.

For presidential elections, the General Electoral Law states that every presidential candidate will be provided with financial assistance paid directly from the treasury, and that subsidized amounts are given equally to all candidates. The total amount of funding is determined by the Prime Minister's Office with approval from the House of Representatives. During the 2006 presidential election, each presidential candidate received 25 million Rials ($115,000 USD).[60]

Regulations Regarding Private Fundraising and Spending

Article 34 of the Implementing List of the Political Parties Law provides guidance on the receipt of private funding. This article prohibits the receipt of gifts and donations from foreign individuals or entities, which means donations from Yemeni private and legal entities, such as corporations, are permitted. The political party must record the name of each donor and the amount received, and must inform the CAPPO of any contribution that exceeds 100,000 Yemeni Rials ($470 USD), or if the total amount donated during a year exceeds twice that amount. There is no limit on the amount eligible donors may contribute to a political party and there is no ceiling for electoral expenditures that can be made by candidates or political parties.

Regarding the receipt of funding from foreign sources, Article 37 of the Election Law states that financing election campaigns with public funds or from the budgets of ministries, State businesses or public bodies or from foreign sources are prohibited.

Regulations on fundraising and spending for presidential candidates is governed by the Election Law No. 13 from 2001, articles 71 through 76, which was amended in 2010. The legal provisions in the General Election Law allows presidential candidates to fund their own campaigns and receive donations from Yemeni legal or natural persons. As with political parties, there is no limit on the amount that can be donated to an election campaign by individuals. Funding from foreign entities is strictly prohibited.

Regulations Against the Abuse of State Resources

Failure to properly enforce campaign finance laws and regulations has impacted the transparency and credibility of past elections in Yemen. The Election Law and constitution contain some provisions regulating the use of State resources to prevent abuse by political parties or candidates. For example, the Constitution of Yemen prohibits misuse of governmental posts and public funds for the special interest of a party or political organization. Article 52 of the Election Law bans the practice of vote-buying. The article states that, "Political party groups or individuals are not allowed to use any kind of pressure, threats, or promises of voters of any kind to benefit directly or indirectly. Additionally, the Constitution of Yemen prohibits the misuse of governmental posts and public funds for the special interest of a specific party or political organization.

Additionally, Article 143 clearly prohibits the use of "State capabilities, resources, bodies, mechanisms and equipment…in favor of any political party…or candidate." Such acts are punishable by imprisonment of up to one year.[61]

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[60] *Yemen Final Report: Presidential and Local Council Elections*. September 20, 2006. European Union Election Observation Mission, page 19. http://eeas.europa.eu/eueom/pdf/missions/yemen-final-report_2006_en.pdf.
[61] Ibid page 21.

Following the 1999 and 2003 elections, opposition parties felt this law was not adhered to. This controversy led to the June 18 Agreement between the governing GPC and the opposition JMP, which was signed in 2006. Article 5 of the June 18 Agreement states:

> Public offices shall not be used in favor of a political party or organization and all directors of directorates or governorates as well as military and security commands are bound to be fully impartial in the competition between political parties and organizations or candidates and shall refrain from promoting in favor or against a political party or candidate during the electoral process.

Article 6 provides additional provisions, stating, "Public funding used in favor of a political party or organization or a candidate to the President or local elections shall be prohibited." The 2006 agreement and Election Law 2001 Article 40 also contain provisions on the use, direct or indirect, of State facilities, resources, bodies, mechanisms and equipment, in favor of any political organization, party or candidate.

Despite this agreement, international and domestic election observation missions observed abuse of State resources and activities in favor of the ruling party candidate during the 2006 elections. The European Union Electoral Observation Mission to Yemen in 2006 observed systematic and exclusive use of State resources favoring the campaign of President Saleh, which compromised the fairness of the electoral process.[62] It was noted that all State agencies, with particular reference to the military and the police headquarters, displayed substantially more posters supporting the incumbent. Observers also reported many governors and other State officials used State resources in support of President Saleh and local GPC candidates. This included the use of State-owned buildings, vehicles and public funds for events. The use of such resources was generally not made available to other candidates or political parties.[63] During the election, neither the SCER nor the Office of the Public Prosecutor took steps to enforce the Elections Law, or seek punishment for clear, repeated violations.

The NDI 2006 Election Observation Mission Report had similar findings. Observers noted serious abuse and misuse of public resources, including government facilities, vehicles and employee time. Additionally, observers reported campaign events for the incumbent were being held in government facilities rather than officially-designated sites, and it was also observed that government employees were involved in campaign activities, including rallies, during official work hours.[64]

Regulations Regarding Financial Disclosure

Any process for regulating the funding of political parties requires checking and inspecting the finances of parties and candidates, particularly as funding is provided by tax revenue. Therefore, transparent partisan funding by disclosure of property, assets and funds is the starting point for any general monitoring framework. The United Nations Convention Against Corruption calls on States to, "enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties."[65] The African Union Convention has gone a step further, as it is the only convention that includes specific provisions on political funding. The convention requires members to include the principles of transparency in the funding of political parties.[66]

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[62] *Yemen Final Report: Presidential and Local Council Elections*. September 20, 2006. European Union Election Observation Mission, page 21. http://eeas.europa.eu/eueom/pdf/missions/yemen-final-report_2006_en.pdf.

[63] Ibid.

[64] *Report on the 2006 Presidential and Local Council Elections in the Republic of Yemen*. Prepared by the National Democratic Institute for International Affairs. Published June 18, 2006. Page 10. http://www.ndi.org/files/2152_ye_report_elections_042407.pdf page 10.

[65] The United Nations Convention Against Corruption: A Critical Overview, by R. Rajesh Babu.

[66] Article 10 of the African Union Convention on Preventing and Combating Corruption, signed 2003.

In accordance with the Political Party Law No. 66, political parties in Yemen are compelled to disclose information annually about their finances to CAPPO. To achieve and maintain party membership, the law also requires parties and organizations to deposit money in a Yemeni bank and keep books in accordance with established accounting principles, showing revenue and expenditure. Each political party must present all assets and annual financial reports, including the final accounts to the relevant authority. All assets must also be registered with the committee, and the committee must be notified of any change.

Institutions Mandated to Enforce Political Finance Regulations

Committee for the Affairs of Political Parties and Organizations

Article 13 of the Law No. 66 of 1991 on Political Parties and Political Organizations established the CAPPO. The CAPPO is a technical body responsible for approving the formation of political parties and implementing the provisions connected with the setting up of political parties and their activities, rights and duties, as specified in constitutional texts, laws and the Implementing List. The CAPPO consists of a seven members including a chairman, who is the Minister of State for Parliamentary Affairs, a member from the Ministry of Justice and a member from the Ministry of Interior. The four remaining members do not have any party or political organization affiliation and are former judges or lawyers; they are nominated by the Higher Judicial Council.[67]

The CAPPO is responsible for determining whether a party is allowed to exist in accordance with the Law, which stipulates that political parties must be viable national organizations consisting of 75 founders and 2,500 members. The CAPPO is also responsible for allocating State financial allocations to the various eligible political parties. The committee submits to the Cabinet a proposal for the total amount of allocations based on the Political Parties Law and the Implementing List. The amount is entered into the draft budget after approval.[68]

The CAPPO has the mandate to monitor sources of party funds, their expenditure and accounting practices. Specifically, the committee has the right to monitor the legitimacy of financial inflows to parties and confirm that their expenditures are legitimate, based on a party's constitution and internal regulations.

Once it has reviewed the annual financial report from a political party, it has the right to inspect and audit the financial accounts of the party to "verify the legitimacy of the revenues and the spending method" (Article 42 of the Implementing List). In such cases, the audit will be carried out by a non-partisan technical committee. A copy of the investigation report must be sent to the political party in question.

If a violation of the law is found, CAPPO will first issue a warning, then an ultimatum if the party ignores the warning. Finally, the committee has the right to refer the party to the judiciary and request the court either freeze the party and its activities, or that the party be dissolved. Requesting that a party be dissolved requires justification by the chairman of the CAPPO with approval from all members. The court can then dissolve the party and liquidate its assets.[69] This can be done if the party no longer satisfies one of the establishment conditions or if it engages in activities prohibited by Article 33 of the Political Parties Law and Article 56 of the Implementing List.

Article 22 of the Political Parties Law states that failure to provide the annual financial reports can result in loss of public funding. The same applies if the party receives prohibited donations or does not follow established bookkeeping practices (in both cases after a court order).

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[67] *Arab Political Systems: Baseline Information and Reforms – Yemen*. Carnegie Endowment for Peace.

[68] Implementing List of the Political Parties Law, Article 35: 15.

[69] Implementing List of Political Parties Law No. 11, articles 59 and 60: 21.

The law in Yemen does not compel parties or the CAPPO to publish political party financial reports or make them available to the public. Additionally, reports about investigations of possible violations must be kept secret, unless a violation was discovered that must be brought to the judiciary. Following the 2006 presidential and local council elections, the EU election observer mission noted there were "inadequate requirements for candidates and political parties to reveal their sources of funding and support in-kind or to account for their campaign expenditure."[70]

The Supreme Commission for Elections and Referendum

As mentioned, individual candidates have to submit financial reports to the SCER. The 2001 General Elections and Referendum Law mandated formation of a permanent EMB, which was assigned electoral administration responsibility. This led to the creation of the SCER, and the first electoral process it administered, including voter registration and boundary delimitation for the 2003 parliamentary election.

The SCER is composed of nine commissioners, including a Chairman and a Vice Chairman, all of whom are appointed by the President from a list of 15 candidates nominated by the House of Representatives. SCER members serve a maximum of two six-year terms. The SCER is responsible for administration, supervision and monitoring of elections, as well as demarcating electoral districts; registering voters; overseeing candidates; regulating election advertising and regulating media; administering the voting and vote count; and announcing winners. A supervisory committee is established at the local level in each province and is responsible for overseeing elections in that district and preparing voter lists.

The SCER is required by the constitution to be "impartial and neutral." The election law requires any member of the SCER who is a member of any political party to "suspend their party activities" during their term. A member of the SCER cannot be nominated as a candidate for an election or "take part in election campaigns of parties or candidates" during their term of office. Prior to 2010, parliament nominated political party representatives, rather than judges, for appointment to the SCER. Although SCER commissioners were required to "suspend party activities" during their term, this did not extend to rescinding party membership.

Since party politics played a large role in the appointment process, opposition parties, specifically the JMP, alleged that many of the SCER's decisions were heavily politicized in favor of the ruling party, the GPC.

The dispute that arose from alleged politically motivated decision making by the SCER led to the 2006 June 18 Agreement. Due to concern about the ruling GPC influence over the SCER, the opposition threatened to boycott the 2006 presidential election unless their demands were addressed. Initiated by President Saleh and signed in 2006 by the GPC and the JMP, the June 18 Agreement outlined several changes to address political tensions. The June 18 Agreement increased membership of the SCER from seven to nine members; stated that membership of election committees at all levels would be set at 54 percent for the GPC and 46 percent for the JMP; decreed that lawyers from both parties could examine the voter registry for violations; and provided that after the 2006 elections, the SCER would be restructured so all appointees were judges.

The June 18 Agreement was a political document that was not legally enforceable. Discussions over the structure of the SCER continued until the end of the commissioners' mandate in 2007. Because various political stakeholders could not come to an agreement, no commissioners were appointed until August

[70] Yemen Final Report: Presidential and Local Council Elections. September 20, 2006. European Union Election Observation Mission, page 19. http://eeas.europa.eu/eueom/pdf/missions/yemen-final-report_2006_en.pdf.

2008. The 2008 appointments were highly contested and rebuked by the JMP. Opposition parties withdrew their members from the SCER prior to the 2009 voter registration update and parliamentary elections. This led to postponement of the 2009 parliamentary elections for an additional two years to allow for agreement. Although new SCER commissioners were appointed in 2010, the general lack of action on all principles agreed to by both parties in the June 18 Agreement led to additional political tension.[71]

The current members of the SCER were appointed in late November 2012 and sworn into office in December 2012 by President Hadi, as was required by the GCC Agreement. Of the nine appointees, six had served on the previous SCER appointed in December 2010. All appointees are judges, a practice that began in late 2010 when former President Saleh appointed nine High Court Judges to the SCER. Although the election law calls for nomination of appointees by two-thirds majority of the House of Representatives, these current appointees came from a pool nominated by consensus in the House of Representatives, as the GCC Agreement states that all decisions by parliament must be reached by consensus during the transition.

Weakness of the Enforcing Institutions and the Judiciary

While legal provisions for the regulation of political finance have been established, their enforcement has been hindered by a lack of a clear implementation mechanism, as well as a system for effective monitoring. Legal texts pertaining to electoral finance in the Yemeni law are weak and do not allow for transparency, independence or impartiality. The laws are also confusing with respect to proper jurisdiction as currently both the SCER and the CAPPO are responsible for oversight and monitoring. Currently, the SCER is responsible for finance around elections, but the CAPPO is responsible for administering state funds on behalf of political parties and organizations, and for scrutinizing their annual financial reports.

Further complicating the enforcement of regulations is the relationship between the judiciary and executive offices in government. The judiciary lacks financial autonomy from the executive, as its budget is given at the discretion of the Ministry of Justice. This prevents the judiciary from enforcing existing or upcoming legislation, as making unpopular political decisions could result in the withdrawal of funds.

Although CAPPO is in charge of monitoring political party finances and for receiving annual financial reports, there is no legal requirement for the these reports to be made public. Publicizing these reports would be an important first step in making money in Yemeni politics more transparent.

Previous election observation missions have reported that legal authorities, charged with enforcing compliance, repeatedly took no action against individuals or organizations alleged to have used prohibited State resources for electoral purposes. The lack of investigation into such incidents and enforcement when there were clear abuses negatively impacted the credibility and equality of the electoral process.[72]

Lack of enforcement of the regulations on the use of State resources stems, in part, from incomplete language on enforcement mechanisms in both the June 18 Agreement and the Election Law. The Election Law gives the judiciary exclusive jurisdiction to resolve allegations of violations to the Election Law, as well as complaints made by a voter against a decision made by the SCER. Additionally, any voter can lodge a complaint before any court against any act or decision of the SCER. Because this is a conflict of interest, the SCER stated in 2006 that it had no authority to deal with any complaints, and referred all cases to the Office of the Public Prosecutor (OPP). However, the OPP is limited to receiving complaints

[71] *Yemen's Transition: Electoral Challenges and Opportunities for Reform*. Zeinab Abdelkarim, Eric Hodachok, Danielle Monaco. June 2013. Center on Democracy, Development, and The Rule of Law; IFES. http://www.ifes.org/Content/Publications/News-in-Brief/2013/July/Yemens-Transition-Electoral-Challenges-and-Opportunities-for-Reform.aspx.

[72] European Union Election Observation mission Yemen 2006 Final Report. Presidential and Local Council Elections, 20 September 2006. Page 13. http://www.eueom.eu/files/dmfile/EUEOMYemenfinalreport.pdf.

about violations that constitute a crime. As a result, neither the SCER nor the OPP took responsibility for enforcing regulations relating to campaign finance. Each institution claiming a lack of jurisdiction over these matters. As a result, redress for violations to the election law was limited to a voter bringing an issue to the attention of the courts.[73]

Improving the regulatory and enforcement mechanisms for political financing in Yemen is an issue that needs to be addressed immediately if future electoral events are going to be perceived as credible, transparent and inclusive.

Conclusion and Recommendations

Money plays an influential role in the electoral process in Yemen. As discussed throughout this chapter, the current Election Law and constitution of Yemen provide minimal and insufficient regulatory mechanisms. There is limited reference to the issue of direct and indirect funding and fundraising for election campaigns. Additionally, the institutions responsible for oversight and enforcement lack independent resources and autonomy to fulfill their mandates. As a result, misuse of funds and resources, as well as general non-compliance during campaigns and election periods are common.

In accordance with the stipulations of the GCC implementation mechanism, the current Election Law will need to be re-drafted, providing an excellent opportunity for stakeholders to address current deficiencies and issues in political and campaign finance laws. Following the upcoming constitutional referendum, there will be an opportunity to address noted deficiencies through passage of new electoral legislation. This would be the perfect opportunity to ensure political finance and campaign spending reforms are introduced that conform to international best practices and standards.

Clear, comprehensive legislation should be passed to create effective laws that regulate funding for campaigns; political party funding and expenditures; and general political finance. Regulations will also need to be developed to establish mechanisms for disclosure, limitations on spending, enforcement, oversight and penalties for non-compliance. Complex laws and regulations hinder the ability of management and enforcement bodies to do their jobs, including the application of sanctions for non-compliance.[74]

It is critical that during the period preceding the referendum and during the drafting phase, there is an effort to build consensus on needed political finance reforms from political parties, civil society organizations and government stakeholders. This consensus will be necessary for purposes of developing comprehensive legislation and ensuring there is political will to adhere to and comply with the new legislation once passed.

It will be important during this period to also reconsider the role of the SCER and the CAPPO in managing this process. Exclusive responsibility and authority of overseeing adherence by the SCER and the CAPPO should be institutionalized. The law should include a clear mandate for these implementing bodies to prevent redundancy, with a clear delineation of responsibilities, powers and resources. It will also be necessary to redefine the processes for enforcement. If jurisdiction for enforcement, including determining penalties for non-compliance with the law, is to remain with a body other than the SCER or CAPPO, then it will be important to transfer this responsibility, currently held by the judiciary, to an independent body. This new, independent body should be established with the exclusive authority for reviewing cases of non-compliance reported by the SCER and CAPPO, and given clear autonomy to assign penalties or sanctions. Because the executive branch funds the institution responsible for enforcement, it will be necessary to create an alternative method of funding this independent body to ensure decisions cannot

[73] European Union Election Observation mission Yemen 2006 Final Report. Presidential and Local Council Elections, 20 September 2006. Page 8. http://www.eueom.eu/files/dmfile/EUEOMYemenfinalreport.pdf.
[74] *Money in Politics Handbook: A Guide to Increasing Transparency in Emerging Democracies*. 2003. Published by Office of Democracy and Governance. Page 56.

be influenced by threats to funding or political intimidation. The process of hiring staff for this independent institution should also be established, with detailed qualifications for membership.

During this period, laws should also be re-drafted to clearly define which individuals and organizations are eligible to make contributions, and clearly state which contributions are illegal, such as foreign funding. Ceilings for political donations or spending should also be established to create fair competition and equal opportunity. Although there are some references to this in the existing legislation, the regulations are not widely known and are not enforced.

The process of disclosure should also be institutionalized and more general. Submitted financial reports must be made public within a reasonable and established time period, and there must also be a mechanism for reporting discrepancies. Finally, civil society organizations should be given an institutionalized role as watchdog. Non-State actors are well-positioned to identify problems; assemble and analyze information; and advocate for compliance.

Once new legislation is passed, it will be necessary for a large-scale public information campaign to be conducted that highlights the new regulations, as well as the responsible implementing bodies. Training should be provided to State officials in charge of regulating political finance laws and regulations, as well as stakeholders and monitoring groups to ensure both compliance with the laws and enforcement.

Overall, the regulations in the five countries under study do not contradict international standards, but this is mainly since there are few standards in this field to contradict.

Political Finance Regulations in Egypt, Jordan, Lebanon, Tunisia and Yemen

This concluding section will draw together the experiences from the five countries under review and compare them with each other, as well as the international and regional standards discussed in the beginning of this publication. Following this comparative table, the experiences in regulating political finance income, spending, reporting and enforcement will be discussed together with the approaches taken to counteract abuse of State resources.

The information in the table below shows the political finance regulations in the five countries as of January 2013. As the preceding chapters have shown, rules in some of these countries have been changing drastically in recent years, and in some countries, temporary rules have been used for elections. In these cases, the rules in use for the most recent election have been applied. To facilitate comparisons, the various amounts are expressed both in the local currency and in international dollars (I$), a hypothetical currency taking into account variations in purchasing power parity between countries.[75]

Regulation	Egypt	Jordan	Lebanon	Tunisia	Yemen
Banned sources of donations to political parties	Foreign entities Legal persons (corporations, trade unions etc.)	Foreign entities Legal persons (corporations, trade unions etc.) Anonymous donations	None (activities of political parties are generally unregulated)	Foreign entities Legal persons (corporations, trade unions etc.)	Foreign entities Anonymous donations
Banned sources of donations to election campaigns	Foreign entities Legal persons (corporations, trade unions etc.)	Foreign entities	Foreign entities	In the last election, all private funding was banned	Foreign entities
Limits on donations to political parties	No	Annual limit is 50,000 JD [I$108,000]	No *(the 1909 law includes a limit but is not applied)*	Annual limit is 60,000 Dinar [I$80,000]	No

[75] Data on international dollars is taken from Alan Heston, Robert Summers and Bettina Aten, Penn World Table Version 7.0, Center for International Comparisons of Production, Income and Prices at the University of Pennsylvania, May 2011.

Regulation	Egypt	Jordan	Lebanon	Tunisia	Yemen
Limits on donations to election campaigns	Presidential elections, maximum 2% of the allowed spending limit (e.g. 200,000 EGP [I$80,000]; 40,000 EGP [I$15,000] in run-off)	No	No (only the total amount of donations must not exceed the spending limit)	In the last election, all private funding was banned	No
Provision of direct public funding to political parties	No (removed in 2011)	Yes, all parties committed to "the law and the system" receive 50,000 JD [I$108,000] annually.	No	Political parties should benefit from public funding, but the law includes no details. In practice, only campaign support is provided (see below).	Yes, part of funding to parliamentary parties, part to those that won 5% of the vote in the previous election. 25% distributed equally, 75% proportional to votes won in last election.
Provision of direct public funding to election campaigns	Presidential: 5% of the spending limit (2% for run-off). This equates to 500,000 pounds (I$200,000) and 40,000 pounds (I$16,000) respectively.	No	No	In the last election, funding was paid to political party and independent lists in two installments before elections, 50% must be returned if party does not receive 3% of the vote in the election. A *total* of 8.3 million (I$11.2 million) was paid out in the 2011 National Constituent Assembly elections.	Presidential candidates receive public funding on an equal basis (25 million Rials, I$285,000 provided to each candidate in the 2006 elections).

Regulation	Egypt	Jordan	Lebanon	Tunisia	Yemen
Provision of indirect public funding to political parties	Political parties are generally tax exempt	No	No	No	Free access to public media, partial tax exemption
Provision of indirect public funding to election campaigns	No information	No	No	Free access to public media for parties and candidate lists	Free access to public media, use of public buildings and print houses
Ban on use of State resources in campaigns	Public facilities and buildings must not be used for campaigning	Public media must be neutral and public institutions and resources must not be used for campaigning	Public institutions must not be used for campaigning and civil servants/public employees must not use position to support party/candidate	General ban on use of State resources for election campaigns	General ban on use of State resources for election campaigns, civil servants must be neutral
Limits on spending for political parties	No	No	No	No	No
Limits on spending for election campaigns	Presidential: 10 million EGP (I$4 million), 2 million EGP for run-off (I$790,000), Parliamentary: 500,000 EGP (I$200,000), 250,000 EGP for run-off (I$100,000), Parliamentary; 500,000 EGP [I$200,000], half that for run-off	No	Varies by constituency, fixed amount plus amount per registered voter	Three times the public funding provided for both partisan and independent lists	No
Financial reporting requirements for political parties	Annual reports on donations only	Annual reports on both income and expenditure	Only upon request	Annual reports on both income and expenditure	Annual reports

Regulation	Egypt	Jordan	Lebanon	Tunisia	Yemen
Financial reporting requirements for election campaigns	Both political parties and candidates should report donations, only candidates report on spending	No (the EMB can, however, request reports if it chooses to)	Candidates must report after the elections on income and spending	Within one month of Election Day	Donations only
Institution(s) in charge of overseeing political finance rules	Central Auditing Organization for Ongoing Party Activities, Supreme Committee for Presidential elections Supreme Committee for Parliamentary elections	Commission on Party Affairs	Supervisory Commission on the Election Campaign	ISIE and Department of accounting; the Tripartite Committee is supposed to oversee regular party finance, but that committee does not yet exist	High Electoral Commission, The Committee for the Affairs of the Parties and Political Organizations
Sanctions available against political finance violations	Fines, prison sentence	Fines, prison sentence	Fines, prison sentence	Fines, prison sentence, loss of nomination or right to vote	Loss of public funding, deregistration of political party

Controlling Political Income

That foreign entities are banned from making donations to political parties in all five countries is not surprising. More noteworthy, Egypt, Jordan and Tunisia all ban financial contributions from legal entities – a fairly restrictive provision that is uncommon internationally. This means that only individuals who are citizens are allowed to provide financial support. In some countries, the rules are less strict for election campaigns, although in Tunisia, the situation is the reverse, as all forms of private donations (other than so-called "self-funding") were banned in the latest election campaigns.

To this should be added public funding provided to political parties in Jordan and Yemen – and, theoretically, in Tunisia – for ongoing party activities, as well as public support to election campaigns in Egypt, Tunisia and Yemen. However, the amounts provided are generally low. In Jordan, all political parties receive the same amount, and the Tunisian legislation, which is likely to change within the foreseeable future, provides no details. Indications are that public funds provided do not play a major role in how political parties and election campaigns are financed in the countries reviewed here.[76]

Jordan and Tunisia use donation limits to political parties, while Egypt limits donations to election campaigns. However, these limits are, by international comparison high, and are unlikely to have much impact on political income (even if they were to be enforced).

Overall, the regulations in the five countries under study do not contradict international standards, but this is mainly since there are few standards in this field to contradict. The African Union recommendation that African States ban the use of funds from "illegal and corrupt" sources is not directly addressed by the regulations in the five countries, but it is also a somewhat vague recommendation. If we compare the income regulatory systems with European standards, the regulations in these five countries are roughly compliant, although the donation ceilings are too high and the bans on anonymous donations are arguably not strict enough. The total ban on private donations to election campaigns in the latest elections in Tunisia would also not be acceptable in a European perspective. Naturally, the transitory nature of the 2011 elections in Tunisia must be taken into account.

Controlling Political Spending

Egypt, Lebanon and Tunisia (in the last election) use limits for how much can be spent on election campaigns. Presidential candidates in Egypt can spend £10 million EGP (I$4 million), which amounts to around I$0.08 per potential voter. As a comparison, a U.S. presidential candidate in 2012 who accepted public funding would have been limited to I$0.4 per voter.[77] The spending limit for an Egyptian parliamentary candidate in 2011/2012 was £500,000 EGP (I$200,000), or around I$0.6 per potential voter.[78] In the Lebanese parliamentary elections in 2009, average spending limits for candidates would have been around £265 million LBP (I$309,000), or nearly I$15 per potential voter. The limit per voter is so much higher in Lebanon, since the average constituency is much smaller than in Egypt. The spending limit in the 2011 elections in Tunisia cannot be calculated in the same way, but the total limit for all electoral lists would have been I$34 million. Because of the way the spending limit was calculated, it was actually much higher in some smaller constituencies than in those with more potential voters.[79]

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[76] This confirms the view in IFES (2009) *Public Funding Solutions for Political Parties in Muslim-Majority Societies*. IFES.

[77] Note however that both the main candidates in the 2012 US elections refused public funding and subsequently were not bound by the spending limit. See page 87 for a comment on the I$ (international dollar) used for comparisons.

[78] This calculation is only valid for the candidates in the two-seat constituencies.

[79] Jouan, Barbara (2012) *Assessment of the legal framework and practices related to campaign finance during the National Constituent Assembly elections*. IFES, page 9.

Both the United Nations Committee on Human Rights and the Venice Commission, of which Tunisia is a member, accepts the notion of spending limits. Regulations in Egypt, Lebanon and Tunisia are in line with this, although the lack of enforcement means this compliance can be seen as superficial.

Reporting Requirements

In all countries apart from Lebanon, political parties must submit annual financial reports; Lebanese parties are regulated by a law dating back to the Ottoman Empire, which is often ignored. The Egyptian reports, however, do not have to include information about spending.

Specific election campaign finance reports have to be submitted in all countries, apart from Jordan. Unfortunately, only Tunisia has a requirement for financial information to be made available to the public, and even there, many parties refused to do so. It is doubtful if regulations in these countries comply with the UNCAC recommendation regarding rules enhancing transparency, nor with the provisions by the African Union or the Venice Commission. The situation becomes worse if one takes into account the actual implementation of reporting requirements, which is far from satisfactory.

Enforcement

As in most parts of the world, the main problem with political finance oversight in these five countries is not with the formal regulations in place, but the lack of enforcement of existing regulations.

Regarding spending limits, the responsible authority in Lebanon readily admitted that, while it had not been able to prove excessive spending, there were ample reasons to believe violations of the limit were common: "It is true that all candidates in all electoral districts did not exceed in their final balance sheets the spending ceiling established by law for each electoral district; yet, the majority of the Lebanese people, election observers, the Lebanese and foreign media have talked about exorbitant amounts of money that absolutely exceeded the ceiling established by the Law."[80]

The same seems to have been the case in the recent elections in Egypt and Tunisia. The chapters in this publication show candidate lists representing nearly one-quarter of the elected seats in the Tunisian NCA never submitted financial reports, while more than a third of candidates in the 2009 Lebanese parliamentary elections failed to do so. Sanctions were not issued in either case.

These are just illustrations of the blatant disregard that political competitors show for the political finance regulations in place. The institutions set to oversee the rules are often weak, and there is little political will among politicians in passing and supporting regulations that control their financial activities.

Controlling Abuse of State Resources and Vote Buying

All of these countries have extensive regulations against abuse of State resources in elections. These regulations are often as detailed as we would expect in most other parts of the world, and generally fulfill international standards. However, these rules are more often ignored than honored. In Egypt and Tunisia, where there has been a recent turnover in the elected leadership, the abuse of State resources is less common than before these changes occurred, although it is likely this problem will grow in years to come. In Lebanon, the 2009 elections saw significant abuse of State resources by a series of government institutions.[81]

There are ample reports of vote-buying in all five countries. While these activities are illegal, there seem

[80] Supervisory Commission of the Electoral Campaign (2010) *Report of the Supervisory Commission on the Electoral Campaign (Supervisory Commission on the Electoral Campaign), 2009 Parliamentary Elections*. Supervisory Commission on the Electoral Campaign, page 53.

[81] Lebanese Transparency Association (2010) *Lebanese Parliamentary Elections, June 2009*. LTA, pages 14-20.

to be few indications that vote-buying is on the decrease in the MENA region. In fact, in countries where elections are becoming more competitive due to the fall of previous regimes, the risk is that vote-buying will become an increasingly-used strategy of political competitors.

Conclusion

There have been significant political changes in the MENA region in the last few years, and the five countries discussed in this publication have all been affected to varying degrees. All five countries have regulations on how political stakeholders are allowed to raise and spend money, and how they should account for financial transactions. However, evidence from this publication indicates the experience so far is that rules are generally ignored, and those who violate political finance regulations do so with impunity.

Admittedly, efforts have been made recently to improve the financial oversight systems (mostly in Lebanon and Tunisia). These efforts should be applauded, but must not shy away from the fact that they will fail unless backed by concerted, long-term commitments from political stakeholders across the board.

About ARPAC and IFES

ARPAC

The Arab Region Parliamentarians Against Corruption (ARPAC) – the Arab Chapter of the Global Organization of Parliamentarians Against Corruption (GOPAC) – was established in Beirut in November 2004 during a meeting entitled "Parliamentarians against Corruption: Improving Transparency and Accountability in the Arab Region." This meeting, supported by United Nations Development Programme on Governance in the Arab Region, was attended by 40 parliamentarians representing 11 parliaments: Jordan, Bahrain, Algeria, Kingdom of Saudi Arabia, Sudan, Palestine, Kuwait, Egypt, Morocco, Yemen and Lebanon.

A non-profit, nongovernmental organization, ARPAC is a parliamentarian platform that seeks to develop the capacity and skills of Arab parliamentarians through innovative knowledge production, regional task forces, advocacy and lobbying to create a network of parliamentarians that disseminates transparency, accountability, rule of law and anti-corruption culture.

ARPAC's main objectives encourage founding members to establish national chapters; persuade them to build coalitions with the media, civil society movements and academics; and call on the Arab governments to ratify the United Nations Convention against Corruption. Additionally, ARPAC arranges for national and regional workshops to promote methods to fight corruption and to promote transparency and accountability in the MENA region.

ARPAC is presided over by former member of the Bahraini Parliament Dr. Saadi Mohammad Abdulla. The organization's head office is located in Beirut. Ten national chapters have been established so far in Palestine, Yemen, Kuwait, Jordan, Lebanon, Bahrain, Morocco, Algeria and Egypt.

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- Empowering the underrepresented to participate in the political process
- Applying field-based research to improve the electoral cycle

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IFES has supported transparency and accountability regarding money in politics for over a decade. A natural complement to IFES' work to aid democratic and electoral processes, political finance assistance can increase public confidence in the political system and reduce political corruption.

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