



Briefing Paper 298

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Political Party Funding

*"The relationship between money and politics may well be the biggest threat to democracy in South Africa."
– Steven Friedman, 15 April 2009*

1. Introduction

South Africa's multiparty democracy aims to promote a diversity of political thought and voting options. Underpinning this, section 236 of the Constitution states, "To enhance multi-party democracy, national legislation must provide for the funding of political parties participating in national and provincial legislatures on an equitable and proportional basis."¹ The African Union Convention on Preventing and Combating Corruption (2003), which was ratified by SA in 2005, also calls for signatory states to 'incorporate the principle of transparency in the funding of political parties'.² In fact though, while the principle of publicly-funded multiple parties is protected under our Constitution, insufficient amounts are actually made available to enable the parties to function effectively. And, when it comes to transparency, there is no legal requirement upon parties to disclose the sources of their funding, other than the amounts they receive from the public purse. There is no doubt that transparent and publicly accessible information regarding party funding is central to democracy; this briefing paper therefore seeks to provide a concise look at the issue.

2. Background

Many civil society organisations, political analysts and politicians have publicly declared that party funding regulation is central to protecting democracy. However, despite this call, the governing party has not committed itself to

introducing the necessary regulation, despite having pledged to do so as far back as 1997. Civil society has been vocal on the issue. Andile Sokomani supports this claim; he says, "the regulation of non-state party financing in South Africa remains a glaring legislative loophole, which has prompted a network of civil society groups, such as the Institute for Democracy in South Africa (IDASA) and the Institute for Security Studies (ISS), to bring the issue to the public attention."³ According to Robinson and Brümmer, in April 2005, a High Court application by IDASA, geared at compelling the DA, the ANC, the Inkatha Freedom Party and the New National Party to disclose their chief private financial donors, was dismissed. Then, in July 2005, a proposal was made at the ANC's National General Council to impose more stringent party funding measures, and IDASA, supported by other civil society groups, consequently decided against taking the matter to the Constitutional Court as it believed that Parliament should rather initiate legislation.

Opposition parties such as the DA and ID have made efforts to introduce a legislative framework, but have been unsuccessful in gaining material change. February notes that the DA submitted a private members bill to Parliament,⁴ while de Wet points out that Lance Greyling of the ID made a submission to Parliament as well⁵. Both parties sought to address certain issues regarding party funding in their respective bills. On a more positive note, the matter has now been taken up by the ANC: *The ANC Today* reports that one of the proposed

resolutions at the party's recent policy conference was to introduce regulations for party funding⁶. Matthews Phosa's statements, much reported in the media, are encouraging in this regard. He claims that regulation of party funding is needed, and has called for a substantial boost in public party funding and for formulae to be considered to help strengthen small parties.⁷

3. Complexities

A number of difficult questions arise in connection with the regulation of party funding:

- If public funding is allocated, how will it be divided equitably?
- Will funding be allocated based on the proportion of votes a party receives or on a different system?
- Will public funding be supplied to the national and provincial levels of government only? If so, what about local government?
- Should the auditor general monitor private party funding?
- What activities should be publicly funded: only election campaigns, or also party think-tanks and policy institutes?
- Should private donors be allowed to fund factions within a party, and what mechanisms will be used to prevent this?
- What about opportunists seeking to make money? Political parties may be started by such people, especially in the pre-election period.
- Lastly, are parties public or private organizations? They operate in the public milieu and serve the interests of the public, but the laws which apply to them are similar to laws which regulate private organizations.⁸

Preliminary answers to some of these questions include the following:

- Party funding should be completely transparent, and it should be divided in a way which aids smaller parties, as the opposition parties in South Africa remain weak.
- A limited amount of funds, for example 30%, should be divided proportionally with the remaining 70% divided equally. (This view is, not surprisingly, held by some of the smaller parties.)
- The ANC enjoys a high proportion of the votes and division of funds based only on

votes would therefore create inequality in terms of party funding.

- Funding needs to be provided at all three levels of government to allow all political office holders to serve the public in an efficient and effective manner.
- The accounts of political parties should be published openly, thus enabling voters to draw their own conclusions about who funds the various parties.
- The auditor general should review party funding and a commission should be established to monitor it and uncover any irregularities.
- Limits should be placed on how much each party receives for campaigns in order to prevent the excessive spending that is commonplace in countries like the US.
- It may prove difficult to prevent funders from funding factions within parties, but full disclosure of who donors are may prevent this occurrence.
- Donors might be less inclined to fund factions if the public was aware of what they were doing.
- All parties, including newly-formed ones, should receive funding even if they later choose to dissolve; this is needed for a viable multi-party democracy.
- Parties are public entities because they serve the public and draw support from the public; thus the law that applies to public bodies should apply to parties.

4. The Potential for Impropriety

It is sometimes argued that full disclosure of political donations is not necessary as politicians and parties are honest enough to use their own moral compass to guide their actions. Recent experience suggests otherwise. For instance, Robinson and Brümmer claim that Chancellor House – an ANC-owned company which helps finance the party – has been implicated in suspicious deals. They allege that government granted rights to significant manganese reserves to a conglomerate that consisted of Chancellor House and a Russian oligarch, Viktor Vekselberg, who himself has a murky reputation. They believe that government may have awarded the tender based on the ruling party's need for funding, in addition to a desire to improve economic ties with Russia. Chancellor House also owns a stake in Hitachi, the company that won a

multi-billion Rand tender to supply boilers for the Eskom's new coal-fired power stations; the ANC stands to earn a great deal from this arrangement, despite the obvious conflict of interest.

In 2005 the *Mail & Guardian* reported that R11 million of public funds were redirected to the ANC's reserves prior to the 2004 elections. PetroSA, a state-owned company, paid R15 million to Imvume Management, a company closely linked to the ANC, which then conveyed R11 million to the party. Robinson and Brümmer point out that this led to Petro SA and taxpayers funding the ANC's election campaign. (They also believe that the money was supposed to be used to empower previously disadvantaged black South Africans by introducing them into the oil and gas market.⁹)

In most countries some form of control regulates party funding. In France, for example, businesses are not allowed to make any donations to political parties and they cannot get involved in election campaigns either; only private individuals can make donations. The amount of funding which each party gets is capped to encourage parity between political parties. France has also established two commissions to encourage transparency, namely the National Campaign Accounts and Political Funding Commission, which reviews the accounts of parties and later publishes them; and the Commission for Financial Transparency in Public Life, which seeks to investigate whether elected officials have attained wealth in an irregular way as a result of their political positions.¹⁰ Despite these measures, though, the country was recently rocked by a party-funding scandal. It is alleged that former President Sarkozy accepted campaign donations from the L'Oreal cosmetics billionaire, Liliane Bettencourt. The amount mentioned is €50 000, in excess of ten times the legal amount according to French party-funding law.¹¹

In the United States election campaigns have become massively costly affairs. According to Rosenthal, US\$300 million was used for the 2010 Congressional elections, and it is predicted that both President Obama and the Republican challenger, Mitt Romney, will spend more than US\$1 billion in this year's presidential campaign. To make matters worse, the largest donations are made in secret as they are donated to advocacy groups or 'political action committees' (PACs) which then go on to campaign for favoured

candidates. The existence of PACs and Super-PACs enables candidates to get around legal requirements relating to disclosure and transparency. For example, when Newt Gingrich's presidential aspirations were threatened by Mitt Romney's multi-million dollar election campaign, Gingrich supporters got Sheldon Adelson (a billionaire casino owner) to donate US\$5 million to Gingrich's PAC. This was 1 000 times more the legal amount of US\$5 000 which he could have directly given to Gingrich's campaign¹². One is left to wonder, what are the motives behind such generous donations? Surely no-one parts with sums like this without anticipating some benefit in return? All this fosters a climate where "elections are bought by the biggest cheque writers."¹³

The influence of business and big money on public policy decisions and political parties has been an issue in America for a long time. Charles Lewis, Director of the Centre for Public Integrity in Washington D.C., in his 2004 book *The Buying of the President*, points out that the logging and mining sector benefited from George W Bush's administration as numerous forest management projects were excused from adhering to the country's National Environmental Policy Act. US\$44 million was donated to the Bush administration and the Republican Party by these industries. In another example, there was surely a link between a US\$17 million donated by chemical companies and other manufacturers and the permission this sector received to drill for oil near certain US national parks.¹⁴

5. A Comparative Perspective

According to the Netherlands Court of Audit (equivalent to our Auditor General), political parties are only forced to disclose donations when they exceed € 4,537.80, and when the donor is not a natural person¹⁵. However, the donor can remain anonymous if he or she chooses. This amount is higher than that of other European states, and the Court of Audit argues that openness is thereby constricted, especially since information is supplied only through official party websites. All this makes it easier for party funding corruption to arise.¹⁶

In some states – Tunisia being a case in point – no foreign donors can supply any party with funds. According to Larbi, this was viewed by some as a significant action which helped set the stage for the country's October 2011 elections. Most of the

parties agreed to this ban, the exception being Ennahda, an Islamist movement that was allegedly receiving funding from certain Arab and Gulf states.¹⁷

Closer to home, other states in the SADC region may provide South Africa with insight as to how to go about formulating party funding policy. Most SADC countries provide public funding to political parties; these include South Africa, Angola, Zimbabwe, the Seychelles, Namibia, Mozambique, Malawi, Madagascar and Lesotho (which provides public funding for election campaigns). This in itself may be an indication that public funding is important for the survival of many political parties in the region. The remaining countries do not provide public funding: Zambia, Tanzania, Mauritius, Botswana, the Democratic Republic of the Congo and Swaziland (where party funding is completely unregulated). Some SADC states prohibit foreign governments from providing funding to political parties; these include Angola, Zimbabwe, the DRC, Madagascar and Mozambique. Surprisingly, only three states have no private funding regulations in place: South Africa, the Seychelles and Malawi¹⁸. This seems to suggest that it is time for South Africa to revisit its political party funding policy.

6. Conclusion

There is no best-practice model with regards to legislation regulating party funding. This has been proven time and again by the re-emergence of corruption in spite of the strict regulation which exists in many countries. Moreover, party

funding legislation must always take into account the context of the state in which it is implemented. The reality of South Africa is that corruption levels are unacceptably high and smaller parties are weak. Our laws should therefore protect smaller parties and discourage corruption. The disclosure of private party funding sources will also allow the electorate to be more knowledgeable. For instance if they know who the donors are and what the amounts are of political donations, they will be able to understand how certain donors may have influenced party policy, and they can choose to vote accordingly.

Although the process of drafting, implementing and enforcing controls will undoubtedly be complex, it would definitely be worth the effort. Party funding is crucial to strengthening and protecting democracy, and we need to create a society where openness is not merely guaranteed by our Constitution but is practiced in all spheres, including that of party funding. Of course, legislation will not be enough: a culture of respecting ethical principles is equally a necessity. Nevertheless, the debate on this topic is set to continue, and will hopefully produce viable and meaningful results.

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¹ *The Constitution of the Republic of South Africa*, (1996), South Africa Government Printers

² Pienaar, G., (2009), *Political Finance in the SADC Region - the South African Experience*, <http://www.idasa.org>

³ Sokomani, A., (2005), *The party funding challenge in Southern Africa*, African Security Review, 14 (4), <http://www.iss.co.za/pubs/ASR/14No4/ESokomani.htm>

⁴ February, J., (2012), *Political party funding: Legislation should regulate donations*, <http://www.polity.org.za/article/political-party-funding-legislation-should-regulate-donations-2012-02-22>

⁵ de Wet, P., (2012), *Forget Malema's money, party funding is the real threat to democracy*, The Daily Maverick, <http://dailymaverick.co.za>

⁶ ANC, (2012), *Recommendations from the 4th ANC Policy Conference*, <http://www.anc.org.za/docs/anctoday/2012/at32.htm>

⁷ Author Unknown, (2012), *Party funding reform urgent – Phosa*, News 24, <http://www.news24.com>

⁸ These questions were raised by various speakers which attended the CPLO and Hanns Seidel Foundation Roundtable discussion, *The future of smaller parties*, 13 July 2012

⁹ Robinson, & Brümmer, (2006), *Corporate fronts and political party funding*, <http://www.idasa.org>

¹⁰ Author Unknown, (n/d), *France*, <http://www.diplomatiegouv.fr/en/france/institutions-and-politics/elections-in-france/article/political-parties-in-france>

¹¹ Author Unknown, (2012), *Sarkozy's premises raided part of campaign funding probe*, <http://www.dw.de/dw/article10.16070617.00.html?maca=en-aa-top-86/-rdf>

¹² Confessore, N & Lipton E.,(2012), *A Big Check and Gingrich Gets a Big Lift*, The New York Times, <http://www.nytimes.com>

¹³ Rosenthal,A.,(2012), *And refuse to revisit the Citizens United disaster*, The New York Times, <http://www.nytimes.com>

¹⁴ Calland, R. & Right to know, (2004), *Party funding avoiding the slippery slope*, <http://www.idasa.org>

¹⁵ There is no indication of why such an unlikely figure has been set. It may simply be that it was originally a round number, but has been increased over the years by a percentage, resulting in the present amount. It may also have arisen during the conversion from Guilders to the Euro in 2000.

¹⁶ Author Unknown,(2011), *Funding of Political Parties*, <http://www.courtofaudit.nl/dsresource?objectid=91133&type=org>

¹⁷ Larbi,K.,(2011), *Tunisa moves to ban foreign party funding*, <http://www.google.com/hostednews/afp/article/AleqM5gi7eiARGRWBOZQmkpi2MP-4pjhnA?docId=CNG.80842cce49ab707aca10cae6608b94ca:371>

¹⁸ EISA,(2010), *Political party finances*, <http://www.eisa.org.za>

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