

Regulating political party financing

Some insights from the praxis



Regulating political party financing

Some insights from the praxis

Augustine Magolowondo, Elin Falguera, Zefanias Matsimbe



International IDEA

The International Institute for Democracy and Electoral Assistance (International IDEA) is an inter-governmental organisation that supports sustainable democracy worldwide. Its primary mission is to support sustainable democratic change by providing comparative knowledge, assisting in democratic reform and influencing policies and politics.

International IDEA has a specific constitution-building programme that raises awareness of the role constitution-building processes play in managing conflict and consolidating democracy. This work involves providing technical assistance, knowledge and access to lesson learning to national and international actors engaged in processes of constitution-building. The institution also serves a global community of constitution-building practitioners through physical and virtual spaces for dialogue. More information can be found on its website: www.idea.int

Disclaimer

Views expressed in this report do not necessarily represent the views of International IDEA and NIMD or those of their respective Board or Council members.

All records and findings included in this conference report, stem from the discussions that took place during a conference on “The legal framework governing political parties: the Case of Party Financing”, held in Dar es Salaam, Tanzania, in July 2012.

Netherlands Institute for Multiparty Democracy

Netherlands Institute for Multiparty Democracy

The Netherlands Institute for Multiparty Democracy (NIMD) is a democracy assistance organisation established by political parties in the Netherlands to support political parties in young democracies. NIMD specifically provides assistance to processes of dialogue between political parties in programme countries, the institutional development of parliamentary parties and networks of cooperation between political and civil society. NIMD adheres to strict principles of ownership, neutrality and transparency and acknowledges that democracies are homegrown.

NIMD has provided support in context-specific ways and on the request of its partners in constitutional reform processes in countries such as Bolivia, Ecuador, Ghana, Kenya, Malawi, Tanzania, Zambia and Zimbabwe.

NIMD maintains a small knowledge and communication centre that not only facilitates South-South exchanges on specific topics but also regularly develops publications, videos and other materials. More information can be found on its website: www.nimd.org

Content

Foreword	4
Dr. Augustine Titani Magolowondo	
Introduction	6
1 Understanding political party financing	7
2 Political Party Financing in practice: Case Studies	10
2.1 Case Study of Ghana	10
2.2 Case Study of Mozambique	13
2.3 Case Study of Tanzania	15
2.4 Case Study of Burundi	17
2.5 Case Study of Uganda	19
2.6 Case Study of Malawi	21
3 Political Finance in Sub-Saharan Africa: Common Challenges and Opportunities	23
4 Good practices, Key lessons, and Recommendations	26
4.1 Good practices	26
4.2 Key lessons	26
4.3 Recommendations	27
References	30
Further reading	31
Annex	32
Participants Africa Regional Programme Conference Dar es Salaam 10-12 July 2012	

Foreword

The Netherlands Institute for Multiparty Democracy (NIMD) in partnership with the International Institute for Democracy and Electoral Assistance (International IDEA) and the Tanzania Center for Democracy (TCD) convened a conference on 10 to 12 July 2012 whose theme was: "The legal framework governing political parties: the Case of Party Financing". The conference was held at the White Sands Hotel, Dar es Salaam, Tanzania.

The conference brought together senior representatives of political parties from the countries in which NIMD is active in Africa, who were joined by experts and practitioners from both within and outside Africa. This conference provided a unique forum for NIMD, International IDEA and their partners to revisit the question of party financing as an important reform question that many democracies are dealing with. The conference was designed in such a way that it offered political parties a maximum opportunity to share their own experiences from the praxis while at the same time benefiting from the input of a limited number of specialised experts.

During this conference, participants re-evaluated the question of money in politics, shared experiences on and interrogated the various models of party financing and identified best practices with respect to how party financing can best be regulated and implemented. Four key questions were debated at this conference, namely: What is political party financing and why does it matter? What are the various models and regulations of political party financing? How do the various models work in practice, and how do they affect the deepening of democracy in general and the life and functioning of political parties? Informed by regional and global comparative experiences and lessons from the

praxis, what are the key considerations to be made in reforming the legal frameworks governing party financing?

This report is a summary of the proceedings that took place at this conference. The report presents the key issues that were discussed, questions that were raised and conclusions and lessons that were drawn. During this conference, country case studies from Burundi, Malawi, Uganda, Ghana, Mozambique and Tanzania enriched the discussions. These case studies are also presented in this report.

From the feedback provided by participants, it was apparent that this conference not only touched on a relevant issue but was also timely as a majority of countries in Africa continue to pursue initiatives aimed at further strengthening the democratic agenda in their respective countries and that legal frameworks governing political parties are an integral aspect of such reforms.

For NIMD and International IDEA, by partnering in this conference the two organizations demonstrated yet again how closely related they are and how important it is to capitalize on each other's comparative strength in supporting the democratization process on the continent.

We would like to take this opportunity to sincerely thank all those that made this joint undertaking possible. Specifically, we are grateful to the Directors of the two organizations, Hans Bruning and Vidar Helgesen for their leadership in deepening the NIMD-International IDEA strategic partnership.

We would also like to thank the Board of Directors, Management and Staff of the Tanzania Centre for

Democracy for hosting this conference. Within the NIMD Africa Regional Programme, Tanzanians have always kept their door open to hosting regional events. The conference was honored with the presence of the Vice President of the United Republic of Tanzania, His Excellency Dr. Mohammed Gharib Bilali, to whom we are deeply indebted. We are also grateful to all the presenters and discussants for their efforts to enrich this conference. The core team that organized this conference also deserves gratitude. From NIMD, the team comprised of Monique Ronza, Anne-Mieke van Breukelen and Augustine Magolowondo. They were joined by Elin Falguera and Sam van der Staak from International IDEA. We also thank the participants whose active participation and contributions made this a successful event. We also acknowledge Zefanias Matsimbe for ably compiling this report which we hope you will find useful as we continue to pursue the debate on party financing for the sake of deepening democracy.

Dr. Augustine Titani Magolowondo

NIMD Africa Regional Programme Coordinator

Introduction

Today, it is almost inconceivable to have a functioning democracy without political parties. Political parties can and do serve a wide variety of functions such as: aggregating and articulating interests, developing competing policy proposals that provide voice and choice, selecting candidates for elected office, organizing legislatures, coordinating the formation and activities of government, recruiting and linking leaders and supporters and conducting electoral campaigns.

As complex organizations that are at the heart of democracy, political parties require financial resources to perform their functions. Money is the all-important oil that keeps the party machinery going. In addition to money, non-monetary resources in the form of access to state premises, media or vehicles are often made available for political parties, and can make valuable contributions to parties' abilities to organize themselves. In some instances, parties may win or lose elections well before they are held simply on account of their resource endowment or lack thereof. In other instances, how parties practice – or fail to practice – intra-party democracy has to some extent been influenced by the way they are financed and how these resources are allocated within the different parties.

Although money is an important asset in politics, it can at the same time be a danger if not well managed or regulated; money can provide opportunities for abuse by the governing party as they are in control of public assets. Situations of abuse are particularly common in emerging African democracies that are operating in contexts faced with scarce resources and where it is difficult to track the different sources that political parties can use to get their financing. Given the significance of political parties

and the role that money plays in politics, there is an increasing consensus to regard political parties as public entities that should be subjected to some form of public law. Thus, in almost all democracies, political parties are subject to some kind of legal framework. The debate, however, centres on how extensive such legislation should be and which areas of political parties should be legislated.

With respect to regulation of political party financing, there are a number of important questions that arise that the respective legal framework will have to grapple with. How do political parties get money? How much do they get? When? How do they spend it? How much do they spend? These and related questions were at the centre of this conference. From the discussions held, it became clear that in trying to address these questions, there is no single solution that fits all, because democracy is not operating in a vacuum; social, historical, political and economic contexts influence how each democracy operates and – consequently – how these questions will be dealt with will inevitably vary from country to country.

In terms of structure, this report is structured as follows: the next section will build a common understanding of the meaning of political party financing; this section will be followed by a closer look at the state of affairs in six countries (Ghana, Mozambique, Tanzania, Burundi, Uganda and Malawi) in the form of case studies. Highlights on the political party financing regimes in sub-Saharan Africa are provided in section 4, where challenges and opportunities are also dissected. The report concludes by highlighting best practices, key lessons and a way forward in the form of recommendations.

1 Understanding political party financing

This session addresses three important questions: What is political party financing and why does it matter? What are the various models for political party financing? What are the regulations governing political party financing? Answers to these questions come from experts' presentations and plenary discussion in the conference.

Political party financing refers to financial resources or money that is provided to political parties, in between or during elections periods, to cover different political activities such as electoral campaign costs and day to day functioning.

Political parties can use two types of sources of financing: public and private financing. Public financing consists of funds from the government budget in the form of public subsidies or non-financial resources.

Political parties are among the few private associations that can benefit from public finance; and this has given rise to hot debate. As private entities, why should they receive public financing? Critics argue that being voluntary organisations, political parties should not rely on state financing as this might affect their independence.

The rationale behind public financing is the fact that political parties play a crucial role in the public domain. Providing public financing for political parties is a mechanism to stimulate broader levels of diversity and bring different actors and groups into the political playing field, to strengthen democratic competition, to prevent corruption and any undue influence from private interests. Furthermore, despite being private entities they operate in a context of limited income, particularly in Africa, where one

important source of income, the membership dues, is extremely limited.

Public financing can be directly or indirectly allocated to political parties. Direct public funding is pecuniary, while indirect public financing can consist of different benefits such as tax exemptions; free access to public media; free access to public premises for campaign activities or meetings; free access to public spaces for the posting of campaign materials; free or subsidised transport or postage. The state simply needs to establish clear objectives, and fair and reasonable criteria for distribution. Indirect public financing works well in countries with limited financial resources, as is the case in most of the African countries. In some instances, public funds are legally earmarked to finance certain expenses of political parties.

Three models or criteria can be adopted for allocations of public resources: the *proportional model*, *equitable model* or a combination of the two. In the proportional model, the total amount provided is distributed to each political party in proportion to the number of votes or seats won (normally only) in the parliamentary elections; Tanzania is one of the countries that use this model. In the equitable model funds are distributed equally to the political parties, regardless of the electoral results; this is the case in Burundi. Other countries choose to use the two formulas concurrently, as is the case in Tunisia and Mozambique. The discussion during the conference showed that the mixed formula was the most preferable for most of the participants.

How the public financing is allocated still differs from country to country in terms of timing and purpose. Some countries provide public financing only

for electoral campaigning (e.g. Burundi), while others provide public funds for the daily functioning of political party in between elections (e.g. Tanzania). Countries like Mozambique provide public funds for both day to day functioning as well as for electoral campaigning.

Countries like Tanzania and Malawi use a threshold for political parties to access funds, while others provide funds for all political parties with legal existence. The globally, most common, threshold is the acceptance of the political party within the electorate counted by the number of votes received in the previous parliamentary elections or seats won in a representative body.

In countries like Mozambique campaign financing is distributed before the elections, using the number of candidates fielded, while in others funds are made available only after elections based on electoral results (the case of Burundi).

Political parties are also entitled to private financing. This can be financial or in-kind contribution. Sources of private financing can, amongst other, be private donations (national or foreign), political party own investment and membership fees.

Public and private financing are always complemented by a regulatory framework to foster accountability, transparency, to control corruption, and ultimately level the playing field and promote a healthy and competitive democracy.

In some countries, where private financing is allowed, provisions are put in place to regulate its access and use by political parties. Contribution ceilings are meant to prevent that political parties and candidates who are in possession of large

amount of resources overshadow those who don't have enough. However a majority of African countries do not limit the amounts that can be donated to parties and candidates. In some countries, a threshold is set to put a ceiling on the maximum amount of contributions; limitations can also be established for the amount that each political party or candidate can spend in electoral campaigns; to disclose their donations and expenditures, with clear indications of the names of people or organizations who donated and the amount of donations. However it is important to mention here that limitations on spending are less common, particularly in Africa.

Depending on the reality of the country, some sources of financing can be prohibited. The most common forms of banned donations are foreign donations, anonymous donations, donations from companies with partial government ownership or with government contracts. In addition, terrorists groups, religious entities or actors involved in criminal activities can be banned from making contributions.

For a vibrant party system, political parties are encouraged to exercise balance in the use of different sources. Private financing is important, but relying too heavily on it can cause political parties to lose their engagement with the electorate, run the risk of undue influence by private donors and lose focus on public interests. Public financing can also endanger the independence of political parties.

Institutional bodies are put in place to monitor enforcement of the established regulations. Generally the monitoring functioning is assigned to a public entity with legal authority to enforce the law and apply sanctions against violators. This body can consist of an EMB, government

institution, auditing agency, court, party registrar, etc. In Africa the most common institution is the EMB. In situations where this body fails to use its powers, civil society and the media can take over the oversight role.

2 Political Party Financing in practice: Case Studies

This session presents shared experiences by participants on what works, what doesn't, and why, when it comes to party financing models and regulations in their respective countries in country case studies. These case studies aimed at achieving three objectives:

- a) To further deepen the illustration on party financing mechanisms with a special focus on how political parties are affected by the implementation of those mechanisms;
- b) To identify some of the highly contested aspects of party financing;
- c) To reflect on some recent reform initiatives that are being pursued in the area of party financing, and how those reform initiatives are grappling with the contested issues.

With these objectives in mind, the following countries have been selected to prepare case studies: Ghana, Mozambique, Tanzania, Burundi, Uganda and Malawi. Each case study consisted of two parts. In the first part, an overview of the key elements of the legal framework(s) that govern(s) the financing of political parties was provided for each country. The second part identified and reflected on the experiences of political parties in functioning under the given legal framework that governs party financing. In reflecting on the specific experiences, each of the countries identified was given a specific area of focus to ensure that the experiences reflect on some party financing aspects considered to be unique to or particular for a given country. The case studies were also conceived in such a way that all three of the objectives that this session dealt with are given due attention. For purposes of presentation and discussion, the case studies were presented in pairs, each pair reflecting some contrasting experiences.

The case study also took the following key aspects into account: the funding sources, the modalities and criteria for funding, and the control and oversight mechanisms put in place in each country.

2.1 Case Study of Ghana:

A competitive and vibrant party system without public funding? How political parties in Ghana have made it, and future prospects for party financing

Lessons learnt

- Political parties in Ghana have continued to develop and assert themselves as relatively strong democratic institutions without state subsidies;
- Ghana is one of the most competitive and relatively stable democracies with a vibrant party system in sub-Saharan Africa;
- The legal framework for political party financing in Ghana leaves the political parties substantially free to raise contributions for their operations and electioneering campaigns from, through donations from well-wishers and party members, sale of party paraphernalia as well as some membership dues and levies and national businesses;
- There are no limits and no disclosure requirements for the identities of donors;
- The law establishes no limits as to how much a party or candidate can spend and no disclosure obligation for what they spend their funds on. Therefore, huge amounts of money are spent by political parties and candidates in election time and the real figures are not really declared to the electoral commission;
- Political parties are required to declare to the public their assets and revenues and the sources of those revenues and assets, and to publish annual audited accounts;

- Ghanaians have developed a historical affinity for political parties and provide the necessary assistance for their survival; sixty-three per cent of Ghanaians have political party affiliation;
- Ghana also has vibrant civil society organizations and international organizations that assist political parties, especially opposition parties, to maintain an active presence on the political scene;

Ghana is one of the countries with a long tradition of private financing of political parties. Since Ghana gained its independence in 1957, political parties have been relying on private funding ranging from members' contributions to big donations from businesses.

The law only allows funds from party supporters and national businesses. Non-citizens, foreign government or non-governmental organizations are only allowed to provide assistance to the Electoral Commission if that assistance is applied for the collective benefit of registered political parties. There are no limits and no disclosure requirements for the identities of donors. Furthermore, the law establishes no limits as to how much a party or candidate can spend and no disclosure obligation for what they spend their funds on. Therefore, although huge amounts of money are spent by political parties and candidates in election time neither the electoral management body nor any other relevant authority would know the details regarding the amount of resources that are spent and/or their sources.

By law political parties are required to declare to the public their assets and revenues and the sources of those revenues and assets to the Electoral

Commission and to publish annual audited accounts. Those breaking the law are subject to pecuniary sanctions. These sanctions have been established by law but they are not enforced.

The law provides two forms of indirect public funding to contesting political parties and presidential candidates in election periods: free airtime in the state-owned media to present their programmes and campaign messages, and the access to vehicles according to the number of candidates each political party fields in the election. The Supreme Court of Ghana is the body responsible for ensuring enforcement of these legal provisions.

Registered political parties in Ghana raise funds for their operations and electioneering campaigns through the traditional methods of contributions. These include, donations from well-wishers and party members, sale of party paraphernalia as well as some membership dues and levies.

In sum the legal framework for political party financing in Ghana leaves the political parties substantially free to raise private funds for their operations and electioneering campaigns. Though political parties in power are able to raise larger amounts than opposition parties, this cannot be attributed to either legal framework or its implementation. The current law allows corporate financing of political parties without any limits and there are requirement for the identities of very large financiers to be disclosed. However, the current debate for reforms calls for greater public control of private political party financing in Ghana by introducing legislation requiring disclosure of the identities of large contributors or donors to political parties beyond a certain threshold.

The fact that political parties rely mainly on private sources does not necessarily mean that party financing has not fuelled debate in the country, because debate on the issue was raging even before the country became independent.

Three particular factors explain how political parties in Ghana have continued to develop and assert themselves as relatively strong democratic institutions without state subsidies. Firstly, unlike most African democracies, over the years Ghanaians have shown an affinity for political parties. Sixty-three per cent of Ghanaians have political party affiliation. This feature of Ghanaian society has contributed in no small measure to the competitive and vibrant nature of the political party system in Ghana.

Secondly, there are vibrant civil society organizations and international organizations that assist political parties, especially opposition parties, to maintain an active presence on the political scene. Besides the material support, in election years these organizations have sponsored candidates to interact with the voters and to enter into debates on the issues relevant to voters in the election. These encounters receive wide publicity and certainly save the political parties some money that can be deployed for other uses.

Lastly, the National Media Commission (NMC) together with the Ghana Journalists Association (GJA) plays an important role by monitoring the media coverage of the activities of all political parties and presidential candidates to ensure that all are given equal coverage by the state media and to ensure that the private media achieve a fair balance and objectivity in their political reportage.

Despite the three virtues mentioned above, calls have been aired for legal reform in order to bring greater public control over financial transactions of political parties into existence, to curb political corruption and ensure transparency as to the origin of funds, and ensure fairness and equity in the electoral contest. The absence of stringent regulations for private funding and the lack of public financing for political parties is what is affecting the political party landscape in Ghana.

In the recent years, the debate regarding public financing for political parties in Ghana has started. Concrete proposals have now been made to government, spearheaded by the Electoral Commission and CSOs. Interestingly, this debate has to date not yielded any results. Part of the reason why there has been 'lack' of progress is the nature of the party system in Ghana. This country has a de facto two party system. The two main parties tend to alternate in government. While in opposition, there appears to be more incentives to pursue the agenda of advocating for public funding. The incentives disappear as soon as the party ends up in power.

The call for the introduction of public funding is based on two arguments. Firstly, it is believed that unless the public invest in the financing of political parties through public funding there will be no basis to introduce stringent laws for public control of political party financing. Secondly, it is understood that public funding can be used as a tool to fight corruption in the financing of political parties.

2.2 Case Study of Mozambique:

*Public funding and the dominant party system:
Dilemmas and challenges*

Lessons learnt

- Political parties in Mozambique receive regular public subsidies not only for their overall functioning as political organizations, but also for election campaigning;
- In election year a provision is reserved in the National Budget to fund elections;
- Electoral campaign funding is allocated ahead of elections;
- Public funding is allocated on the basis of a mixed model (proportionality and equality);
- Political parties also benefit from indirect funding (free media, premises and tax exemption);
- Political parties are required to declare their revenue (donors and amounts) and expenditure on an annual basis;
- Mozambique shows that when funds are not disbursed at the appropriate time, this can have a negative impact on the competitiveness of political parties;
- The legal framework for party funding is being implemented in an entrenched dominant party system;
- The Mozambican case shows that party funding and campaign financing is important but that it does not necessarily contribute to a vibrant party system and competitive democracy.

Unlike the situation in Ghana, political parties in Mozambique receive regular public subsidies not only for their overall functioning as political organizations, but also for electoral campaigning. Despite that, the party system in Mozambique is less vibrant; in between elections almost all politi-

cal parties disappear, with the exception of those represented in the parliament such as the historic and dominant ruling party (FRELIMO) and its former opponent in war (RENAMO).

Because the legal framework for party funding is being implemented in an entrenched dominant party system, a critical aspect is that of ensuring the prevalence of a competitive and vibrant multi-party system. Issues that can be controversial in such environments include: *criteria for the allocation of public funds, timing of disbursements, independence of the regulatory authority, etc.* This case study critically examines how these controversial aspects are being dealt with, and the experiences and concerns of political parties.

The regular public funding is allocated to political parties represented in the parliament. Each political party receives an amount proportional to the number of elected members. Political parties are accountable to the Ministry of Finance for this funding. Opposition political parties have challenged this criterion on the ground that it leads to an uneven playing field, hurdling for a more vibrant democracy. These political parties suggest that party funding should be distributed equitably to all registered political parties, even those without seats in parliament, as they also represent part of the electorate and taxpayers from whom the public funding is obtained.

In election years the National Budget also reserves a provision to fund all contesting parties, including extra-parliamentary political parties. The criteria for distribution are defined by the Electoral Commission (CNE). The overall amount is divided equally into three (3) parts. The first 1/3 is distributed equitably

to all presidential candidates; the second 1/3 is proportionally distributed to political parties with seats in parliament and the last 1/3 is distributed to all contesting political parties and coalitions in proportion of the number of candidates fielded.

Clearly this formula has mostly benefited the political parties represented in parliament, particularly the ruling party, with more than three quarters of the total number of members of parliament. This is added to the advantage of incumbency for access to state resources, given the fact that the boundary between state and party resources is still fuzzy.

Funds for elections are disbursed in three phases to confirmed contesting political parties and candidates. The first half of the funds allocated to each party is disbursed before the electoral campaign starts and the remainder of the funds is provided in two phases over the course of the 45 days of the electoral campaign. One of the controversial issues here is that the law does not prescribe a timeframe for the government to disburse the allocated funds. As a result, in some cases funds are disbursed late, making it impossible for political parties to organize and prepare their campaign activities on time.

Candidates and contesting political parties have to account for their expenditures to the CNE sixty days after the official proclamation of elections results. Failure to comply with this results in fines and disqualification from running in the next elections.

The independence of CNE as the regulatory body for disbursement of campaign funding is not questioned. However, the reality shows that CNE has no capacity to enforce the accountability mechanisms. Since 1994 no political party has been sanctioned

for its failure to account for its campaign expenditures, because the CNE turns a blind eye to violators. The fact that the CNE is not an institution with specific financial management expertise makes the accountability mechanism fragile. Some voices suggest that the Administrative Tribunal should be the body in charge of overseeing the political parties' financial activities.

In addition to public funding, candidates and contesting parties enjoy indirect financing in election time in the form of free airtime in the state owned media (radio and television), and free use of public premises for electoral campaign purposes. The CNE oversees the process. Political parties are also entitled to tax exemption for the import of items related to their political and electoral campaign activities and, locally, they are not subject to any tax related to their operations.

Alongside the public funding and campaign finance, political parties are allowed to source private funding from in and outside the country. Only foreign governments are not allowed to donate directly to candidates and contesting political parties. Foreign governments are only allowed to contribute to electoral processes through the national budget. This restriction also applies to Mozambican state companies and public institutions. Political parties are required to declare their revenue (donors and amounts) and expenditure, on an annual basis, to the Ministry of Justice which works as the registrar of political parties.

Mozambique presents a legal framework likely to level the playing field between the political competitors as compared to other African countries; however, the existing legal framework on party

funding is still too vague to be properly enforced effectively. Some of the loopholes include the lack of ceilings for private donations, and the lack of limitations on election expenditure.

In a geographically extensive country such as Mozambique, with poor infrastructural development manifested on roads, transport and communication networks, access to financial resources becomes paramount to ensure the proper functioning of a political party nationwide. The issue is: do these resources need to come from state coffers? How important is the public funding and campaign financing in promoting a robust party system and sustainable democracy?

The Mozambican case shows that party funding and campaign financing is important but that it does not necessarily contribute to a vibrant party system and competitive democracy. Some of the small political parties have been in existence and have been receiving government financing for electoral campaigns since the first democratic elections in 1994, but have never won a single seat in the parliament, even after the removal of the 5% threshold for election of members of parliament.

With all the factors explained above, it means that we need to find alternative ways of turning political parties into actors that represent the interests and aspirations of citizens.

2.3 Case Study of Tanzania:

*Regulating campaign financing in practice:
The experiences of Tanzania with the Elections
Expenses Act*

Key lessons

- Tanzania provides public funding for the day-to-day functioning of political parties, but not for campaign financing; however, it has a law that limits election spending;
- Only political parties with at least one seat in the national parliament are eligible for public funding;
- The criteria used for distribution of public funds is perceived as favouring the ruling party with a majority in the national parliament;
- The existence of clear mechanisms to ensure accountability and transparency for private and foreign donations;
- Political parties receiving state funding are compelled to maintain proper accounts of funds and submit financial statements (of national and foreign funds) to the Registrar and to be audited by the Controller and Auditor-General;
- However the enforcement of the rules, regulations and sanctions has rarely been applied.

Tanzania is one example of a dominant party system in East Africa, but with political parties relatively better established, and with opposition parties increasingly emerging as a force to be reckoned with.

By law, political parties in Tanzania are entitled to receive public funding for their functioning. However, in practice this is done on an irregular basis. The public funding does not include direct campaign financing in election periods. Political parties are

also allowed to receive funding from private sources. The newly approved law (Elections Expenses Act 2010) regulates election expenses and controls the use of funds and illegal practices, establishes penalties for breaches of the law, and restricts foreign funding for election expenses.

In addition to conforming to the general outline above, the case study from Tanzania addresses the following questions: *What have been the experiences in practice in trying to implement this law? How effective is it and what lessons can be drawn from the experiences gathered so far?*

To be eligible for public funding, parties must be fully registered and have at least one seat in Parliament or one member in a local government authority. Fifty per cent of the funds are disbursed among qualifying parties on the basis of the ratio between the number of parliamentary constituencies in the United Republic; the other fifty per cent of the funds is distributed amongst those qualifying parties that won no less than five per cent of all the valid votes cast in all constituencies in the United Republic. This formula is problematic in that it favours the ruling party CCM (Chama Cha Mapinduzi) at the expense of other opposition parties. On average, from 1995/96 to now, CCM has been getting 80% of the annual government subvention to political parties. The formula also excludes parties that do not win during elections. All these aspects referred to above constrain the principle of equality of political parties.

Private sources of funds allowed include membership fees, voluntary contributions, proceeds from any investment, project or undertaking in which the party has an interest, donations, bequests and grants from other sources.

Political parties receiving state funding are compelled to maintain proper accounts of funds and submit financial statements to the Registrar, no later than 31st October of each year, to be audited by the Controller and Auditor-General. Statements must reflect all other sources of funding (both national and from outside the country) and provide details of the manner in which such funds were used. Parties who fail to disclose such information or provide incorrect information are subject to sanctions.

Best practices can be learnt from the Tanzanian case: the fact that the law allows for both public and private funding of political parties; the existence of clear mechanisms to ensure accountability and transparency for private and foreign donations; and provision for the State and its regulatory authority to demand accountability and/or impose sanctions for non-compliance.

The legal framework still offers some areas for improvement: firstly, criteria established by the law do not allow for equal competition and the emergence of new parties, and it tends to assist strong political parties to be stronger but the weak and small become weaker; secondly, it still closes doors for public subsidizing of electoral campaigning and lastly enforcement of the law remains poor.

To ensure effective implementation of the law, the office of the Registrar of political parties is working closely with the office of the Control and Auditor General to ensure that political parties submit their returns and expenses according to the law. This is a big challenge due to the fact that the law requires an audited report, but most of the parties that do not benefit from government subventions do not have the funding to hire the registered Auditors to compile their reports.

2.4 Case Study of Burundi:

Party financing and the building of multiparty democracy in a post-conflict society – challenges and prospects

Key lessons

- Political parties receive funding for electoral campaigning only, but the payment is not reliable;
- The provision for funding of political parties comes from one of the protocols of the agreement and it was later integrated into the Constitution;
- To promote competitiveness in democracy, Burundi uses equality as a criterion for the allocation of funds;
- No foreign donations are allowed in Burundi;
- Although party funding is a constitutional provision, funding is not provided on a regular basis;
- An important lesson from Burundi is the creation of a forum for dialogue between political parties which, besides working for enhancement of relationships between parties particularly in a period of elections, it also works as a basis for the discussion of important issues, including party funding. Political parties are funded through this forum and it is the major source that keeps political parties and Burundian democracy alive.

The political party system in Burundi is still faced with challenges as the country is emerging from a conflict which also affected the institutional development and functioning of political parties.

This case study will address the following questions: *Does party financing in Burundi face any unique challenge that can be attributed to its post-conflict situation? Why is the funding limited*

only to elections/campaign financing? How are the political parties in Burundi funding their day to day operations?

In 1993 Burundi witnessed a violent conflict that disrupted the recently re-established democracy. The conflict ended with a Peace and Reconciliation Agreement for Burundi signed in Arusha, Tanzania on 28 August 2000.

The Burundian legal framework regulating political funding is closely linked to the Peace and Reconciliation Agreement. The provision for political party funding comes from one of the protocols of the agreement and it was later integrated into the Constitution.

Other than in Tanzania, public funding in Burundi is limited to the election period. Political parties participating in elections receive an equal amount. This is to promote competitiveness in democracy. Although there are rules and schemes for how and when payments should be disbursed, these are not reliable.

In addition to public funding, political parties in Burundi are allowed to source private funding which can come from private donations, contributions from members, or from income generated by party activities. No foreign donations are allowed.

How is funding provided for elections/campaigning in Burundi? Unlike the system in countries like Mozambique, where campaign funding is distributed before the start of electoral campaigning, in Burundi political parties do not receive the funding prior to the elections; each political party has to use its own funds to cover campaign expenses; the amount

used in elections is then reimbursed after the elections. However, only political parties that win about 20% of the total votes can claim reimbursement.

Why is party funding limited to elections/campaign financing? The main justification is that in a post-conflict situation Burundi can hardly access financial resources to fund the functioning of political parties on a regular basis, taking into consideration that there are other higher priorities. Burundi relies heavily on foreign donations to finance its annual budget, which puts the government in position of having to be highly selective in terms of priorities.

Although party funding is a constitutional provision, funding is not provided on a regular basis; for example, no funding was provided for the 2005 and 2010 elections because the government did not include any line to cover election expenses in the annual budgeting.

How are political parties in Burundi financing their day to day operations? In 2008 a forum for dialogue and enhancement of understanding between political parties was established: the Permanent Forum for political parties dialogue. The forum managed to request the government to provide for a budget line within the global annual budget for financing political parties. Political parties are funded via this forum and it is the major source that keeps political parties and Burundian democracy alive.

Members' contributions are another legal source of subsistence for political parties. However, unlike the ruling party, which can obtain contributions from party members occupying higher positions in the state apparatus, opposition parties do not have the same prerogative, given the high levels of poverty in

which their members live and also the lack of a real political culture. To most Burundians, democracy simply means elections.

2.5 Case Study of Uganda:

In pursuit of fairness: An appraisal of reform initiative in party financing in Uganda

Key lessons

- Uganda has no specific law that deals exclusively with party funding;
- Pieces of legislation on political party funding within umbrella legislation (Political Parties and Organizations Act or PPOA) is perceived to have been designed to control rather than facilitate the growth and consolidation of political parties;
- The section of PPOA that deals with party financing is limited in its ambit and poorly implemented;
- Under PPOA, political parties are required to keep records of donations, contributions, property, etc., but no party is observing this regulation;
- PPOA restricts contributions from foreign sources, but it is silent on private funding from Ugandan citizens, NGOs, businesses and other private entities;
- Although PPOA was amended in 2010 to introduce a section to provide for the use of government funds or other public resources (undefined) to finance political parties, no funding has been given to parties so far under this law;
- PPOA only considers registered political parties represented in the Parliament to be eligible for funding, although Uganda uses multiple electoral systems;
- Funding by foreign and terrorist organizations is clearly forbidden; however, there is no legislation in Uganda to control the private funding of parties;
- The foreign funding permitted by the PPOA is blocked while the public funding allowed by law

remains unavailable to many political parties, especially those in opposition;

- The existence of the Inter Party Organization for Dialogue (IPOD) with responsibility to study the law and propose appropriate reforms.

Uganda is one of the countries where the debate to reform the legal frameworks for party financing is quite intense. Among other issues, this case study provides an opportunity to appreciate the reform initiatives underway in the country. Questions addressed here include: *what is the rationale behind the reform debate? What are the contested or controversial issues in this reform debate? What are opportunities and challenges with regard to the reform debate already underway?*

In Uganda, the legislation for the funding of political parties is sketchy and contained within umbrella legislation (Political Parties and Organizations Act or PPOA). PPOA is perceived as having been designed to control rather than facilitate the growth and consolidation of political parties. PPOA clearly forbids funding by foreign and terrorist organizations.

Given the fact that the Ugandan economy is in itself emergent, neither membership contributions nor private donations from local businesses are adequate to support the necessary evolution of political parties and consolidation of the nascent multiparty democracy. This is why there has been a persistent call for the operationalization of public funding of political parties in this country.

What are the contested or controversial issues in this reform debate? One important controversy is that Uganda has no specific law that deals exclusively with party funding. PPOA is the umbrella legislation

which provides for a number of issues relating to the regulation of political parties and organizations. The section of PPOA that deals with party financing is somewhat limited in its ambit and difficult to implement effectively. For instance, PPOA requires all political parties to keep records of donations, contributions, property, etc. but this has not been adhered to, especially by some of the larger political parties, including the ruling party, which have only submitted their reports long after the close of the deadline period stipulated in the Act.

Secondly, PPOA restricts contributions from foreign sources, but it is silent on private funding from Ugandan citizens, NGOs, businesses and other private entities. This omission is a gap that needs to be filled in the Act, since unbridled (or uncontrolled) private financing of political parties may lead to an undue influence from these private entities.

Thirdly, although the PPOA was amended in 2010 to introduce a section to provide for the use of government funds or other public resources (undefined) to finance political parties, no funding has been given to parties so far under this law. There is no provision in the current 2012/2013 budget for the funding of political parties. This is allegedly because the government is not interested in making public funds available for fear of strengthening the opposition political parties.

Fourthly, the criterion established by the amended PPOA is questionable. The distribution of public funding is based on the numerical strength of each party represented in Parliament. This criterion does not reflect party votes received in the previous election, taking into consideration the Ugandan multiple electoral systems. The first past the post electoral

system, in particular, puts all parliamentary represented parties at a disadvantage and favours the ruling party. This violates the principle of fairness in distributing public funding.

Fifthly, PPOA only requires that the government should contribute funds or other resources towards activities of the political parties represented in parliament for election campaigns and day to day activities. No source is identified, no indication of magnitude, e.g. percentage of budget, is given; nor is there any indication of who should manage the funds. Therefore, follow up action has not been possible because responsibility is not vested in any agency or body.

Lastly, PPOA only considers registered political parties represented in the Parliament to be eligible for funding. As is to be expected, extra-parliamentary parties are arguing that this is unfair and a vigorous debate has opened on this front with the argument that this hinders the development of new political voices. The suggestion, to prevent a proliferation of esoteric parties, is that registration criteria should be sufficiently rigorous (including periodic re-assessment of this criteria).

A number of considerations drive the debate on whether or not the state should fund political parties, campaigns and elections. The debate include questions such as: What proportion of the national budget should be diverted to political party funding? What institutional arrangements should be put in place to administer, manage and account for the funds? Are there any mandatory disclosure requirements for parties to disclose the names and amounts received from donors? Are there limits on campaign expenditure or contributions from

individuals or companies in order to avoid capture of political parties? Are there bans on certain donations, e.g. donations from foreign companies, governments, etc.? Is there a system of clear rules and regulations specifying the eligibility requirements for state and private funding, and identifying the institutions and/or oversight bodies in charge of their enforcement? Are there established voluntary behaviour standards, e.g. codes of conduct of expected behaviour of parties when in government or out of government? Is there cross-party consensus and backing for the regulations as well as political will to adhere to them?

The debate for reform is underway albeit with challenges. One of the challenges is that the Ugandan government of the day is involved in unrestrained abuse of incumbency and not willing to see the reforms progress. Secondly, in the debate, the Ugandan government is not willing to allow an opening for foreign funding of political parties, except the support provided in the form of banded funds. The foreign funding permitted by the PPOA is blocked, while the public funding allowed by law remains unavailable to many political parties, especially those in opposition.

The existence of the Inter Party Organization for Dialogue (IPOD), with responsibility to study the law and propose appropriate reforms for its improvement and facilitate its implementation, is seen as the only opportunity for the progress of reform.

2.6 Case Study of Malawi:

In pursuit of fairness: An appraisal of reform initiative in party financing in Malawi

Key lessons

- Political parties in Malawi have two sources of revenue: private and public sources;
- Private donations (party business, membership dues and other private entities) play a major role;
- Only political parties with more than 10% of the national vote qualify for funding. This threshold assumes an electoral system that is currently not in use in Malawi, and excludes that political parties are smaller;
- The need to balance proportionality with equity to ensure fairness;
- The fragmented nature of the party system which makes it difficult to maintain a consensus.

Malawi is another country where the debate on the legal frameworks for party financing is quite intense. The same questions from Uganda apply here as well. *What is the rationale behind the reform debate? What are the contested or controversial issues in this reform debate? What are opportunities and challenges with regard to the reform debate already underway?*

Political parties in Malawi have two sources of revenue: private and public sources. Private sources include membership fees, donations and money raised from businesses that a party may own. Private donations play a major role in Malawian democracy. Besides private funding, the constitution of Malawi provides for public funding although the current arrangements related to the public funding of political parties are in need of reform.

The rationale for reform in Malawi includes: a) the constitutional threshold – that of receiving more than 10% of the national vote in order to qualify for funding – assumes an electoral system that is currently not in use in Malawi. The relationship between votes won and number of seats a party may have is not that perfect under First-Past-the-Post (FPTP), the system in use in Malawi. Therefore there is a need to come up with a formula that is clear and consistent; b) the 10% threshold of the national vote is not only too high but also contradicts the very basis for multiparty democracy as it can only benefit the 'big' parties while those parties with less than 10% of the national vote are excluded as they do not represent some sections of the electorate.

The current arrangement therefore needs to be reconsidered, because the exclusion of those parties that do not meet the 10% threshold does not facilitate the evolution of a vibrant multiparty system of governance in the country. Moreover, using the 10% threshold is assuming an electoral system that is currently not in use in Malawi.

The debate to reform the legal framework for party financing in Malawi revolves around the following key issues: a) ensuring that democratic pluralism is protected and promoted, while at the same time preventing the unnecessary proliferation of political parties formed out of insincere motives (whether financial or otherwise); b) balancing proportionality with equity to ensure fairness. One way of doing this is to balance the principle of proportionality as it is enshrined in the current system with some sense of equity; c) reviewing the entire legal framework governing political parties to ensure consistency and harmony; and d) looking at ways

in which private financing can be regulated without jeopardizing the basic democratic principles of privacy and transparency.

Under the discussion on private funding some of the key issues include the following: a) allowing political parties to raise funds privately from legitimate sources (both within and outside the country); b) in the event of money from outside the country, ensuring that sources are traceable and known; c) agreeing on a ceiling beyond which it becomes mandatory for any party to declare sources of any donation; d) requiring political parties to prepare and submit duly audited and publicly accessible financial returns to an appropriate authority each year; and e) requiring that political parties renew their registration each year and that such renewals take into account all the necessary requirements that have to be fulfilled, among them the issue of financial accountability.

The existence of the Centre for Multiparty Democracy (CMD) in Malawi and its contribution in getting important stakeholders around the same table and facilitating a debate to reform the legal framework for party financing in Malawi can be looked upon as an important opportunity in the reform process. However, there are also some further challenges, which include: a) the fragmented nature of the party system which makes it difficult to maintain a consensus; b) lack of incentives on the part of the political party in power; and c) lack of incentives on the part of those who finance the political parties to have their details disclosed.

3 Political Finance in Sub-Saharan Africa: Common Challenges and Opportunities

This section of the conference report builds on the paper on Political Finance in Sub-Saharan Africa, presented by International IDEA. The purpose of the presentation was to give a regional perspective on the role of money in the political process in Sub-Saharan Africa; to present common challenges and to present comparative overview of the legal frameworks governing political parties in the region. The information on laws and regulations draws upon the 2012 International IDEA database on political finance which includes information from 180 countries in the world. Patterns of regulatory modes were also presented so that participants could start thinking in terms of placing their country's regulations in a wider context.

On the income side, the presentation showed that nearly 70 percent of the countries in Sub-Saharan Africa provide direct statutory public funding to political parties. It was stated that conclusions on the importance of public funding in African politics cannot be drawn without considering that the levels of public funding are often very low, especially in comparison with amounts raised from private sources.

It was also said that it is unfortunate that not more African states provide indirect public funding, since it is both easier to control and also less costly. Indirect public funding can, for example, be free or subsidized media access, tax subsidies, provision of free accommodation for meetings.

Among the sources of income from the private sphere, African parties get their money from sources such as membership dues, private donations, funding from the party leadership, foreign funding, and income from commercial activities. Unfortunately, reliable information on membership

and dues is available from very few countries, so it has not been possible to establish how important this source of income is for parties in the region. It is, however, likely that its relevance is of no great significance, given that many supporters are of low income. The fact that African parties are not relying on membership dues may not be so very different from other democracies in the world where memberships generally are also on the decline.

Placed in a global perspective, the presentation showed that African countries regulate to a lesser extent against donations from sources that are generally seen as unwanted, such as donations from companies with government contracts or anonymous and foreign donations. In the Sub-Saharan countries there is also a remarkable difference between how political parties and candidates are regulated and the above-mentioned donations are, for example, banned in twice as many African states in relation to political parties as they are to candidates. This even though the electoral systems in Africa are generally candidate focused.

When it comes to legal requirements for parties to report on their finances, the Sub-Saharan African states do not lag behind the rest of the world. However, in terms of candidates having to report on their finances, this number is much lower in Africa (44%) than in the rest of the world (60%). In addition, in comparison to other parts of the world, the practice of making these reports from the parties public is less common, and far less so when it comes to candidates.

Finally, the presentation pointed out that enforcement of laws remains a challenge across the Sub-

Saharan region. Although the legal frameworks specify sanctions, it is rare that sanctions are issued.

It was said that although each country has its own history and context, and even if the situation varies between sub-regions and countries, there are a number of common challenges that can be identified across the Sub-Saharan African countries. It should be noted that these issues are not necessarily unique to the African continent. To summarize the challenges mentioned:

- Opposition political parties are generally in a weak financial position compared to incumbent political parties, a situation that creates an uneven playing field;
 - The misuse of state resources for political gain by incumbent political parties is a widespread problem. Ruling parties tend to use state resources such as government vehicles, government facilities, public media and civil servants for their campaign activities because the separation between the state and political party resources is still unclear;
 - Political clientelism and vote buying are a reality in African democracies;
 - Many African countries are highly dependent on foreign aid, a situation that can impact negatively on national competition and national politics;
 - Private funding plays a much larger role than public funding, but most countries have a very fragile mechanism to control private funding;
 - Countries with public funding face the problem of late or irregular disbursement of funds. In addition, the levels of public funding are often quite low;
 - Most African countries use cash transactions, which makes it difficult to track the funds that flow into politics;
- There is an overall lack of law enforcement. The legislation imposes sanctions on those violating the rules on party financing, but sanctions are rarely applied;
 - In most of the countries the power and mandate for law enforcement is vested in a supervisory body, generally the EMB, an institution without the necessary powers for financial oversight and law enforcement; as a result, in a large number of countries, political parties simply do not report and no sanctions despite the legal call for financial reporting;
 - Lack of financial support by political party members. Members are generally of low-incomes and unable to assist their political party financially in the form of membership dues;
 - Lack of political will to embark on effective legal reform on political party financing;
 - Decline of trust in parties by national citizens;

The presentation also described five global regulatory patterns. These patterns refer to similarities, or the lack thereof, that have been found when examining the countries included in the International IDEA political finance database. The patterns were presented so that conference participants could compare the regulatory situation in their own countries with that in countries nearby and further afield.

- 1) *the assisted autonomy/minimum regulation pattern* (the provision of public funding and the use of a minimal level of regulations of political finance);
 - 2) *the highly regulated pattern* (high level of regulations; bans, limits and sanctions);
 - 3) *the transparency pattern* (use of rules that aim at providing maximum transparency in the flow of money through politics, but without many restrictions on how funds are raised or spent);
-

-
- 4) *the incomplete candidate regulation pattern* (use of an inconsistent set of regulations in relation to candidate finance); and
- 5) *the mixed regulation pattern* ('great variation of regulations').
- The increased alertness of the CSOs as watchdogs, the involvement of national and international NGOs and other important stakeholders to support debates and reform initiatives, can be looked upon as an important opportunity in the reform process.

In principle, none of the 5 patterns is perfect or performs any better than any other, and all are highly dependent on political culture and context.

In the light of the above, there are opportunities for Sub-Saharan Africa to address its challenges. The existence of international standards and principles to regulate political finance can serve as a starting point for the improvement of regulatory frameworks.

- The fact that most African states are signatories to global instruments or guidelines (e.g. United Nations Convention Against Corruption), regional instruments (e.g. African Union Convention on Preventing and Combating Corruption) or sub-regional instruments (e.g. Principles for Election Management, Monitoring, and Observation for the case of SADC region) represents a milestone in compelling national governments to create enabling conditions to enhance transparency and accountability, to eliminate illegal and corrupt practices, and to ultimately level the playing field for political competition;
 - A considerable number of African countries are taking appropriate legislative and administrative measures to regulate political finance. This is an important milestone towards levelling the playing field for political competition on the continent. Tanzania is one example of countries that recently, in 2010, introduced the first campaign finance reporting requirements through its 2010 Elections Expenses Act;
-

4 Good practices, Key lessons, and Recommendations

This section summarises important lessons, experiences and best practices identified throughout the conference and documented in the case studies.

Inputs in the next sub-sections come from the presentations by experts and discussions and experiences from participants.

To share best practices, key lessons and come out with recommendations for the real problems faced in Africa, participants were divided into small groups. Each group was tasked to focus on identifying specific best practices in political party financing, lessons from the reform experiences available and guidelines for reform processes in the domain of party financing. The best practices, key lessons and guidelines were then collated and shared in a plenary session. Discussions in the small groups were guided by the following questions:

- 1) What would be regarded as the qualifications and formula for public party funding?
- 2) What would be regarded as the types and sources of funding for political parties?
- 3) What would be regarded as the control and oversight mechanisms?

4.1 Good practices

Some good practices from the participating countries include:

- 1) The combination of private and public financing (in most of the countries presented in the conference);
- 2) The allocation of public subsidies for overall functioning and electoral campaigning of political parties;

- 3) The use of both direct (monetary) and indirect (non-monetary) public financing. Indirect financing as compensation for low government subsidies;
- 4) The openness of the legal framework to allow political parties to receive some foreign donations;
- 5) The establishment of a forum of dialogue to respect the law and other codes of conduct (particular case of Burundi);
- 6) Establishment of public institutions to monitor party activities (in this case, media monitoring) in Ghana;
- 7) Intense debate for reforms of political party funding around Africa.

4.2 Key lessons

The following lessons were learnt from the conference:

- 1) There are four specific categories of financing sources that should be regulated, namely the private financing (private donations, corporate donations, profits from investments, contributions from party officials); public financing (state financing and indirect financing and/or benefits); foreign financing; and contributions from within the party (membership fees and contributions by those members who hold positions within the party or are members of parliament)
 - 2) State funding based on proportional votes, or worse on seats, is increasingly criticized as it favours the (dominant) ruling party;
 - 3) When it comes to funds allocation, the use of formula that combine equality and equitability is the only way to prevent public financing being monopolised by ruling parties or bigger parties;
 - 4) Public funding does not necessarily mean vibrant democracy, as is shown in the case of Mozambique;
-

- 5) While there is a need to provide public financing for political parties; it should be noted that this in itself is not a guarantee for achieving a vibrant political party landscape and consolidated democracy; some of the most vibrant democracies on the continent, such as Ghana, Mauritius and Botswana, have no public financing for political parties, which raises the question why would we need public funding for political parties at all;
- 6) The implementation or enforcement of rules and sanctions is highly problematic in Africa, and it is one of the biggest challenges that needs to be tackled;
- 7) It is a fact that it is difficult to regulate the private streams of money;
- 8) The challenge is to equitably regulate political party financing, particularly where dominant party systems exist. Because dominant party systems tend to reinforce the dominance of ruling parties while disadvantaging the already often fragmented opposition parties in Africa;
- 9) For a democracy to operate, a legal framework needs to be put in place to regulate the access and use of money and other resources. The regulation is meant to impose obligations on political parties in order to protect democracy;
- 10) There is no blueprint for political party financing; each country will need to reflect its unique historical, political and socio-economic setting in the design of its own regulatory framework;
- 11) There is a missing link between party finance regulations and their effective implementation. This is particularly difficult in countries where the economies are largely informal and the relevant authorities may find it difficult to effectively monitor, investigate and control income and expenditure flows;
- 12) It remains a challenge to effectively monitor the use of public resources by ruling parties, given the fact that they are often entangled with the state apparatus;
- 13) The provision of funds to political parties from civil society organisations might compromise their role as independent watchdogs;
- 14) In order to advance their respective democracies, African countries need to go through legal reforms and put measures in place that will minimize the misuse of money in politics;

4.3 Recommendations

Key recommendations that came out from the conference are grouped under the four broad themes of the conference: regulatory framework; financing sources; modalities and criteria for financing; and control and enforcement mechanisms.

4.3.1 Regulatory framework

- 1) The conference recommended that public financing for political parties should provide structural financing for the day to day functioning of political parties and for campaign financing;
- 2) In relation to campaign financing, the conference recommended that the regulatory framework should cover both direct financing to parties from the government budget, and indirect financing through the provision of goods or services (tax exemptions; media access; use of state premises, etc.);
- 3) In the event of violations of the law, sanctions should be in proportion to the type of violation, and should be used not to prohibit but to discourage political parties from repeating the wrong doing. Fines are the most common sanction in Africa;

- 4) The conference recommended that there was a need to more vigorously regulate the use of state resources, particularly by ruling parties, to ensure that financing them illegally from public funds is effectively curtailed and sanctioned;
- 5) Candidates should disclose their sources of funds. This recommendation comes from the observation that the existing regulations focus mostly on political party financing and less on candidates. This has to change, particularly because in African politics individuals play a more important role than political parties as organizations;
- 6) The legal framework should address aspects such as bans or limits on sources of funds to political parties so as to avoid money from illegal activities; disclosure of sources and amount or resources received; reporting requirements for income and expenditures, debts and assets both during and in between elections.
- 7) Regulations on limits of donations and expenditure should take into consideration: the real cost of the market (cost of campaign materials and support services), particularly during electoral campaigns; the size of the electorate; and, for the African context, the infrastructural conditions to access the electorate in different areas of the country. Limits should not put burdens on contesting political parties and candidates;
- 8) To reduce the pressures on fund raising for political parties, regulations should be put in place to reduce the electoral campaigning period.
- 2) When regulating foreign sources of donations it is important to balance the protection of national interests with the rights of political parties as private entities;
- 3) The conference recommended that financing from corporations should not be limited, but provisions should be put in place for public disclosure of funders above a certain amount of donation;
- 4) Membership fees should not be regulated under the legal framework for private donations, as they fall under the general requirements for reporting of associations; but, donations from party officials should be treated as private donations;
- 5) The conference also stressed the need for the regulatory framework to stipulate where the public financing for political parties should come from, what percentage of the recurrent expenditure in the budget should be allocated to this, and when this should be disbursed to the parties in order to ensure a reliable and predictable source of financing;
- 6) The legal framework on the disclosure of sources of funding should take into consideration the balance between necessary disclosure and the privacy of political parties and private institutions. Intimidation is likely to occur if regulations are not clear on what has to be disclosed, how much has to be disclosed, how it must be disclosed and to whom political parties and candidates must disclose.

4.3.2 Financing sources

- 1) The Conference emphasized the need for regulations on the four specific categories of financing sources: private financing; public financing; foreign financing; and financing from civil society organisations, religious entities and charitable institutions;

4.3.3 Modalities and criteria for public financing

- 1) The conference recommended that in cases where the criteria for parties and candidates to qualify for public financing involve thresholds (percentage of votes or number of seats) these should be low enough to allow for new parties to emerge, but also high enough to prevent opportunism;
-

- 2) The need for a balance between electoral performance and the encouragement of diversity, in particular because it excludes non-parliamentary political parties;
 - 3) Qualification for public financing should not necessarily be limited to parties with national representation, but should also take into account the regional and local levels of governance so as to encourage a reflection of the political landscape and ensure greater diversity and plurality;
 - 4) Furthermore, to ensure greater diversity and political inclusiveness, the conference recommended that qualification criteria for public financing could also stimulate the representation of special interest groups, including women, youth and people with disabilities;
 - 5) Participants recommended that a mixed formula should be used as criterion for the allocation of public financing. This would entail allocating a portion of the total financing to all registered political parties on an equal basis, in order to stimulate greater voice and choice, with a further portion allocated to political parties that participated in general elections according to a mixed formula reflecting both the number of seats and the number of votes that parties receive;
 - 6) In the light of the scarcity under which political parties operate in Africa, provisions should emphasize the need for resources to be made available prior to elections and not post-elections;
 - 7) The timeframe for public financing should be such that funds are provided early enough before the start of electoral campaign to allow political parties to procure the necessary materials for electoral campaigning on time;
- 4.3.4 Control and oversight*
- 1) The law should guarantee the establishment of independent, impartial and capable public institutions to supervise the use of money in politics;
 - 2) A supervisory body, with its composition largely discussed and agreed upon by important stakeholders, particularly political parties, needs to be carefully established and given powers and mandate to work without political fear. International principles determine that a supervisory body must be independent of political influence, impartial, non-partisan, neutral, objective and have the power to investigate infringements and apply sanctions;
 - 3) In countries where the responsibility for regulation, monitoring, and enforcement is assigned to more than one body, greater coherence and cooperation should be established between the various bodies;
 - 4) The legislation in place needs to be properly applied and sanctions imposed. Laws that can't be enforced should not be enacted.
 - 5) Public financing should be accompanied by strong reporting mechanisms to prevent abuse of funds;
 - 6) The conference underscored and recommended the need to ensure minimum standards for accountability by political parties as one of the criteria for accessing public financing. This should include sound internal accountability and reporting systems, annual reporting of income and expenditure on both the running of the party and on elections; annual audit statements and the disclosure of assets and revenues of both parties and candidates.

References

Austin, Reginald & Tjernström, Maja (ed.) (2003): *Financing of Political Parties and Election Campaigns*. International IDEA, Handbook Series. International IDEA, Stockholm

Gashikanyi, Bonaventure (2012): *Political party financing in practice-presentation and discussion of Burundi case study* (Paper presented at Africa Regional Conference on Legal frameworks governing political parties; the Case of Party Financing, White Sands Hotel, Dar es Salaam, 10-12 July 2012).

Liviga, Antihuman J. & John, William (2012): *Political party financing and why it matters* (Paper presented at Africa Regional Conference on Legal frameworks governing political parties; the Case of Party Financing, White Sands Hotel, Dar es Salaam, 10-12 July 2012).

Magolowondo, Augustine (2012): *In pursuit of fairness: Making the case for revisiting financing of political parties in Malawi* (Paper presented at Africa Regional Conference on Legal frameworks governing political parties; the Case of Party Financing, White Sands Hotel, Dar es Salaam, 10-12 July 2012).

Matsimbe, Zefanias & Mulhovo, Hermenegildo (2012): *Party Financing and Campaign Financing in Mozambique* (Paper presented at Africa Regional Conference on Legal frameworks governing political parties; the Case of Party Financing, White Sands Hotel, Dar es Salaam, 10-12 July 2012).

Ohman, Magnus, (2012): *Understanding Political Finance in Sub-Saharan Africa* (Unpublished paper prepared for International IDEA and presented at Africa Regional Conference on Legal frameworks governing political parties; the Case of Party Financing, White Sands Hotel, Dar es Salaam, 10-12 July 2012).

OSCE/ODIHR and the Venice Commission (2011): *Guidelines on Political Party Regulation*. Published by the OSCE Office for Democratic Institutions and Human Rights (ODIHR). Warsaw/Strasbourg

Pwamang, Gabriel (2012): *A competitive and vibrant party system without public financing? How political parties in Ghana made it and future prospects for party financing* (Paper presented at Africa Regional Conference on Legal frameworks governing political parties; the Case of Party Financing, White Sands Hotel, Dar es Salaam, 10-12 July 2012).

Ruzindana, Augustine (2012): *Political party financing in Uganda, an appraisal of the legal framework and ongoing reform initiatives* (Paper presented at Africa Regional Conference on Legal frameworks governing political parties; the Case of Party Financing, White Sands Hotel, Dar es Salaam, 10-12 July 2012).

Tendwa, John Billy (2012): *Paper on regulating campaign financing in practice: The experience of Tanzania in election expenses act* (Paper presented at Africa Regional Conference on Legal frameworks governing political parties; the Case of Party Financing, White Sands Hotel, Dar es Salaam, 10-12 July 2012).

Further reading

Code of Conduct for Political Parties: Campaigning in Democratic Elections (Stockholm: International Institute for Democracy and Electoral Assistance, 2009).

Code of Good Practice in the Field of Political Parties (Venice: European Commission for Democracy Through Law, 2008).

Doublet, Yves-Marie. *Political Financing: GRECO's first 22 evaluations* (19 May 2010, available at [http://www.coe.int/t/dghl/monitoring/greco/documents/2010/Greco\(2010\)8_RapportYVDoublet_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/documents/2010/Greco(2010)8_RapportYVDoublet_EN.pdf)).

International Covenant on Civil and Political Rights (ICCPR) (adopted 16 December 1966, entered into force 23 March 1976), 999 UNTS 171 (ICCPR), available at <http://www2.ohchr.org/english/law/ccpr.htm>

International IDEA. 2013. Political Finance Database (<http://www.idea.int/political-finance>). Stockholm, Sweden

Ohman, Magnus (2012): *Political Finance Regulations Around the World: An Overview of the International IDEA Database*. International IDEA, Stockholm

Minimum Standards for the Democratic Functioning of Political Parties (Washington: National Democratic Institute for International Affairs, 2008).

Ohman, M. and Zainbulhai, Hani. (eds) (2009): *Regulating Political Finance: the Global Experience*. International Foundation for Electoral Systems: Washington DC.

Transparency International (TI) and the Carter Center (TCC) (2007): *The CRINIS Project: Money in Politics, Everyone's Concern*. (TI/TCC: Berlin/Atlanta

Universal Declaration of Human Rights (adopted 10 December 1948, UNGA Res 217A (III) (UDHR), available at <http://www.un.org/en/documents/udhr/index.shtml>

United Nations Convention against Corruption (signed 9 December 2003, entered into force 14 December 2005)

Annex

Participants Africa Regional Programme Conference
Dar es Salaam 10-12 July 2012

32

Name	Organization	Position
ARP		
Augustine Magolowondo	NIMD	Regional Programme Coordinator
Burundi		
Fabien Nsengimana	BLTP	Coordinator
Fides Bigirimana	CNDD-FDD	Commissaire General Chargée de l'art, de la culture et de la visibilité du parti
Pierre Claver Nahimana	Sahwanya-Frodebu	Directeur Général
Bonaventure Gashikanyi		Consultant
Ghana		
Francis Asiedu Agyemfra	IEA Ghana	Senior Fellow
Seidu Paakuna Adamu	Ghana School Feeding Programme	Public Servant
Ahmed Ramadan	People's National Convention	Banking
Gabriel Pwamang		Consultant
Kenya		
Omweri Angima	Centre for Multiparty Democracy	Programme Officer
Justin Bedan Njoka Muturi	Centre for Multiparty Democracy	Chairman
Penina Mwake Mwashegwa	Centre for Multiparty Democracy	Secretary
Malawi		
Boniface Chibwana	CMD- Malawi	Program Officer
Elias Wakuda Kamanga	Democratic Progressive Party	Secretary General
Ken Ndanga	UDF	Publicity Secretary and Chairperson of CMD-Malawi
Mali		
Moumouni Soumano	CMDID	Executive Director
Ahmed Oinargoum	BARA	Enseignant
Younoussa Toure	URD	Chercheur Sciences Sociales
Mozambique		
Dercio Alfazema	NIMD Mozambique	Program Officer
Dalepa Stanley Luis Dalepa	Frelimo	Head of Europe and America Sector
Amarildo Lionel Soulange Lapoule	MDM	Financial
Gania Aly Abdula Mussagy	Renamo	Member of the Permanent Commission of the Parliament and Chief of the Training and Project Department
Nilton Manuel de Barros	MDM	

Zefanias Alberto Matsimbe		Consultant
Maria Luisa Tembe	Frelimo	Chief of Finance Department
South Sudan		
Andrew Ayom Akayding	South Sudan National Legislative Assembly	Minority Chief Whip
Gatwech Lam Puoch	South Sudan National Legislative Assembly	
Tanzania		
Daniel Loya	Tanzania Centre for Democracy	Executive Director
Lawrence Malawa	Tanzania Centre for Democracy	Finance Officer
Aziz Mtela	Tanzania Centre for Democracy	Programme Officer
Hussein Mmasi	Tanzania Centre for Democracy	Supporting staff Conference
Cecilia Obanga	Tanzania Centre for Democracy	Supporting staff Conference
Ally Kaniki	NRA	Representative Political Parties with no representative in Parliament
Wilson Mukama	CCM	Secretary General
Adamson Thinka	CCM	Advocate
Stanslaus Mamiro	CCM	Chief Internal Editor
Wilbrod Slaa	CHADEMA	Secretary General
Godbless Lema	CHADEMA	Member National Executive Committee
Samson Mwigamba	CHADEMA	Regional Chairperson Arusha
Ibrahim Lipumba	CUF	Party Chairman
Abdul Wahid	CUF	
Thomas Malima	CUF	
Haji Ambari Khamis	NCCR - MAGEUZI	National Vice Chairman – Zanzibar
Samuel A.M. Ruhuzza	NCCR – MAGEUZI	Secretary General
Martin B. Mung'ong'o	NCCR - MAGEUZI	Head of Administration and Organization Department
Nancy Mrikaria	TLP	Deputy Secretary General
Dominatha Rwechungura	TLP	Publicity Secretary
Stanley Temba	TLP	Director External Affairs
Isaac M. C Heyo	UDP	Secretary General
Joachim Mwakitiga	UDP	Regional Chair Personal – Dar es Salaam
Careen Mkumbo	UDP	Finance Officer

Tunisia		
Noura Ben Hassan	National Assembly Constituate	Deputy
Uganda		
Shaun Mackay	NIMD Uganda	Representative
Augustine Ruzindana	IPOD Council	Chairman
Hassan Wasswa Galiwango	National Resistance Movement (NRM)	Director Finance & Administration
Zimbabwe		
Nkanyiso Maqeda	Zimbabwe Institute	
David Parirenyatwa	Zanu PF	Secretary for Health
Fungayi Jessie Majome	MDC T	Deputy Minister
Paul T Nyathi	MDC	National Treasurer
Others		
Victor Shale	EISA	Zimbabwe Country Representative
Ambassador Mustaq Moorad	IDEA	Regional Director Africa
Theo Dowetin	IDEA	Programme Manager for West Africa
Elin Falguera	IDEA	Assistant Programme Officer
NIMD		
Hans Bruning	NIMD	Director
Pepijn Gerrits	NIMD	Director of Programmes
Karijn de Jong	NIMD	Senior Programme Manager
Anne-Mieke van Breukelen	NIMD	Programme Manager
Kati Piri	NIMD	Programme Manager
Jerome Scheltens	NIMD	Programme Manager
Judith van Tiggelen	NIMD	Communication Officer

© International Institute for Democracy and Electoral Assistance (International IDEA) 2013
© The Netherlands Institute for Multiparty Democracy (NIMD) 2013

The electronic version of this publication is available under a Creative Commons Licence (CCL) – Creative Commons Attribute-NonCommercial-ShareAlike 3.0 Licence. You are free to copy, distribute and transmit the publication as well as to remix and adapt it, provided it is only for non-commercial purposes, that you appropriately attribute the publication and that you distribute it under an identical licence. For more information on this CCL, see: <http://creativecommons.org/licenses/by-nc-sa/3.0>.

This publication is independent of specific national or political interests. Views expressed in this publication do not necessarily represent the views of International IDEA and NIMD or those of their respective Board or Council members.

International IDEA

Strömsborg, SE-103 34, Stockholm, Sweden
Tel: +46 8 698 37 00, fax: +46 8 20 24 22
E-mail: info@idea.int, website: www.idea.int

NIMD

Passage 31, 2511 AB The Hague, The Netherlands
Tel: +31 (0)70 311 54 64, fax: +31 (0)70 311 54 65
info@nimd.org, www.nimd.org

ISBN/EAN: 978-90-79089-20-8

Authors

Augustine Magolowondo
Elin Falguera
Zefanias Matsimbe

Editors

Anne-Mieke van Breukelen
Sam van der Staak
Judith van Tiggelen

Design

Stephan Csikós, The Hague, The Netherlands

Printing

Impressed, Pijnacker, The Netherlands

The Netherlands Institute for Multiparty Democracy (NIMD) in partnership with the International Institute for Democracy and Electoral Assistance (International IDEA) and the Tanzania Centre for Democracy (TCD) convened a conference on 10 to 12 July 2012, in Tanzania, whose theme was: “The legal framework governing political parties: the Case of Party Financing”. The conference provided a unique forum for NIMD, International IDEA and their partners, the political parties, to revisit the question of party financing as an important reform question that many democracies are dealing with. This report presents the key issues that were discussed, questions that were raised and conclusions and lessons that were drawn. The country case studies from Burundi, Malawi, Uganda, Ghana, Mozambique and Tanzania that enriched the discussions, are also included in this report.