POLICY BRIEF JANUARY 2017

REGULATING THE FINANCIAL ACTIVITIES OF SOUTH AFRICAN POLITICAL PARTIES DURING ELECTIONS

EXECUTIVE SUMMARY

In all democracies, elections are the process through which political parties compete and governments are chosen. In competing for elective office, political parties need sufficient access to money in order to reach their voters. Access to financial resources for political parties shapes political competition. Thus, money can play a positive role in democratic politics. The need to ensure political parties have access to sufficient money to fulfil their democratic functions, whilst seeing to it that the sources and use of that money do not risk the democratic process presents challenges for policy makers. Thus, there is a need to regulate how political parties raise and spend money, especially during election periods.

INTRODUCTION

Money and politics are increasingly linked as political finance has become important for the functioning of democratic governance worldwide. In contemporary democracies, the funding of political activities has become challenging as substantial financial resources are required to meet escalating costs.

Globally, considerable funds are mobilised for electoral campaign activities, including advertising, travelling, and market research. For instance, the ANC reportedly spent a sizeable 380 million Rands in the 2016 local government elections alone. Although this exemplifies a case of the absence of tight restrictions on how much political parties can spend on soliciting votes, similar trends persist across the world as electioneering has become a very costly political activity.

The rising costs of electoral campaigns sometimes call for a combination of public and private funding sources to ease the financial burden. However, the way money is raised and spent by political parties during elections can undermine the democratic functioning of the parties and important democratic values. Election financing, particularly through unrestricted private money, poses risks of policy capture and plutocracy, where government is indirectly run by rich financiers. When political parties are secretive about how money is raised and spent, particularly during election periods, it undermines the transparency of the electoral process. Likewise, funding that comes with strings attached forces parties to be duty-bound to their donors and not to the voting public. These corruptive influences that money poses in politics can cause citizens to lose trust in politics.

In this respect, various attempts have been made to manage political finance worldwide, with varying degrees of success. Political funding reforms have proven necessary to mitigate the improper influence of money on political decisions. Political finance regulations, particularly those targeting the election period, aim to increase the transparency and fairness of the political funding process and level the playing field for all competing political parties. Accordingly, this policy brief examines and presents a framework of policy options to regulate the financing of electoral campaigns.

ELECTION FINANCING REGULATORY OPTIONS

Most countries have some form of regulation broadly controlling political financing.

But only a few countries, including Australia, France, and Russia, have equivalent regulations specifically on the financing of electoral campaigns. While all countries have some form of political finance laws, how they regulate the role of money in politics varies significantly. Nonetheless, comparative evidence reveals common policy trends used by countries to regulate political finance and to promote openness in party and election financing. These regulations range from public subsidies to spending limits and disclosure requirements.

Public funding of elections

In most countries around the world, including South Africa, the state provides monetary assistance or direct funding to political parties to facilitate electoral and political activity. However, the way they regulate the provision of, condition of access to, and terms of use of direct public funding to political parties varies slightly across countries.

Regarding provision, few countries (e.g. Australia, Ethiopia, Lesotho, Rwanda, and the United States) only provide direct public funding to parties in relation to electoral campaigns. Some countries (i.e. Canada, France, Italy and Spain) give both regular public funding and funding in relation to campaigns; whilst other countries offer regular funding for general party activities, but not specifically in relation to campaigns.

The eligibility criteria for direct public funding to political parties also varies across countries that provide it. However, the common eligibility criteria for accessing public funds include: parties' share of votes received (often in previous elections), parties' representation in parliament, parties' registration, and/or parties' participates in elections. Countries use one or various combinations of these eligibility criteria in deciding a party's right to receive public funds. For instance, in Belgium, Japan, Namibia, South Africa, and the Netherlands only political parties represented in an elected body (in the South African case, in National Assembly and/or provincial legislatures) are eligible for funding. In other countries, including Austria, Canada, Germany, and Malawi, parties are eligible for public funding if they have obtained a certain share of votes in an election.

Moreover, the method for distributing the public funds among eligible parties (allocation criteria) also varies across countries. In this respect, state subsidies provided to parties are usually formula-based funding and are typically allocated according to criteria such as equal access and proportionality. Public money can be distributed equally among eligible political parties, or based on a proportional calculation, or a combination of the two. For instance, in South Africa, regulation prescribes that 90% of the public funding be divided on a proportional basis and 10% divided equally among the eligible parties. However, very few countries (like Germany and the United States) use the matching funds method where government matches all or part of the funds privately raised by political parties during elections.

In addition to the state money, most countries also provide other resources (indirect public funding) – such as free or subsidised access to media (airtime and print space) – to parties for and during elections. These public resources (subsidies and indirect funding) when equitably distributed among parties promotes a level playing field by reducing financial inequality among parties. Regulated public funding can also curb improper donor influence over parties by reducing parties' reliance on private donors.

In the South African context, election campaign funding is not explicitly referenced in the party financing regulation. Although it is presumed that electioneering is a legitimate activity compatible with a party's functioning in a modern democracy, and therefore a permissible expense to be covered by public funds. Even with the public subsidy, South African political parties still rely on and seek private donations. Perhaps it could be that public funding alone is often inadequate to meet the escalating costs of electoral campaigning. Yet, private political funding is largely left unregulated.

In countries like Botswana, Ghana, Mauritius, Switzerland, Tanzania, and Zambia where public funding is non-existent, private funding is the only available source of political financing. In these countries, the survival of political parties is tied to their fundraising activities. The pressure to generate financial resources can contribute to corrupt funding practices. Since it is rare for countries to ban private political contributions completely, most countries carefully balance public and private funding and/or strictly regulate private finance where necessary.

Spending restrictions

A complementary approach to public funding is regulating private donations for electoral campaigns. A number of countries, including Britain, Brazil, Spain, Tanzania, and the United States, strictly regulate campaign finance by imposing statutory limits or ceilings on the amounts that political parties or candidates can spend in electoral campaigns.

However, restrictions on the campaign expenditure of parties varies considerably among countries. Spending limits for parties are commonly based on an absolute amount, percentage of total public funding, or certain amount per citizen in the electoral district. For instance, the political spending ceiling in Austria is set at an absolute amount of 7 million Euros per party. In Greece, the spending limit is 20% of the current total annual amount of public funding received by a party. In Canada, the spending limit for parties is determined through a complicated method of multiplying the number of names on the electoral list(s) by 0.70 Canadian Dollars.

South Africa's multi-party system will benefit from an electoral law or party funding reform restricting campaign spending. Setting limits on the level of expenditure South African political parties can make during the election period will help to control the overall cost of election campaigns. It also reduces the advantages of political parties with significant access to money. These measures are good for small and opposition parties who would otherwise not be able to amass enough funds to compete in elections. It essentially ensures a level playing field (fairness) and fosters political competition (inclusiveness) in democratic politics.

Spending bans

Sometimes, countries ban certain types of spending in order to control the abuse of state resources during electoral campaigns. Almost all countries with political finance regulations prohibit the use of public resources such as state vehicles and public facilities for party or campaigning purposes (except regulated public funding). In the African context, the majority of African countries control the abuse of state resources by banning the provision of state resources to a particular party.

Some countries prohibit disproportionate government spending on advertising before or during campaigns. For instance, in France, all forms of paid commercial advertising are banned three months before voting.

Other countries also ban contributions from certain sources specifically in relation to electoral activities. For instance, Tanzania (like most African countries) bans foreign funds for elections in attempt to prevent foreign influence in domestic elections and decision-making.

These measures are important considerations for funding reform in South Africa as they promote fairness and level the playing field of political competition.

Limiting privileged access to state resources will ensure that a ruling party running for re-election does not gain unfair advantage over opposition parties.

Disclosure requirements

Most countries around the world require political parties to submit some form of information about how they raised (sources and/or incomes) and spent their finances (expenditures) to an oversight body. Disclosure is compulsory for public funding in many countries. For instance, South African political parties are required to audit and report to the Independent Electoral Commission (IEC) on the use of funds allocated to them. The IEC is then supposed to verify and enforce compliance with fund requirements, though this seldom happens. Similar measures exist in almost all countries that provide public subsidies to political parties for electoral campaigns or regular political activities.

However, in a number of countries, financial reporting is not only limited to how public funds have been spent. Political parties are also required to report on private donations obtained and spent. Although, where political parties have to report on their finances in relation to election campaign, and the type of information required to be revealed is uneven amongst countries. Some countries require reporting on sources of party and campaign finance, whilst others require reporting on spending and/or assets and debts. In countries like Australia, France, Germany, and the Netherlands, parties do not have to publicly disclose their finances in relation to election campaigns.

Some countries require mandatory disclosures of campaign incomes and expenditures, whilst others require occasional disclosures. For example, in a few countries (e.g. France, Mexico, Spain, and Turkey), political parties are required to reveal the identity of their donors in their financial reports in relation to election campaigns. Whereas in other countries, like Australia, France, Germany, and the United States, parties are only required to reveal the identity of their donors if contributions exceed a stipulated threshold.

Moreover, countries also vary regarding whether the reports submitted should be made available to the public. A number of countries, including Canada, Italy, Britain, and the United States, require political parties to make financial reports in relation to election campaigns publicly available. In other countries, the financial reports are not released to the public but kept private by the oversight authority.

Financial reporting or disclosure requirements promote greater transparency and accountability in political finance. However, like any political funding regulation, its effectiveness depends on proper implementation or enforcement. This requires a competent, empowered and well-resourced oversight authority. For instance, some countries (such as Australia, Canada, and the United States) have special administrative bodies responsible for enforcing political funding laws. It is important for South Africa to reform its party finance regime by extending disclosure rules to private political donations and financing of electoral campaigns.

CONCLUSION

Money is important for democratic politics. Global trends reveal an increasing demand for money in politics. The growing influence of money in modern politics is particularly evident during election periods. The high cost of electoral campaigning has lead political parties to seek funds from a variety of sources. Money can become a tool for undue influence in the political process if left unchecked or uncontrolled.

Party funding and its associated challenges are addressed in varied ways around the world. Political finance regulations, particularly campaign finance laws, are intended to ensure greater equality and transparency in the electoral and political processes.

FURTHER READING

ACE The Electoral Knowledge Network
•http://aceproject.org/

International IDEA Political Finance Database
•http://www.idea.int/political-finance/question.cfm

Money, Politics and Transparency
•http://moneypoliticstransparency.org/

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