

ADDRESSING ELECTION AND PARTY FINANCE

Working Group 2

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Rapporteur Report (*Felix Odhiambo Owuor*)

The working group on Elections and Party Finance was tasked with the responsibility of discussing and making recommendations on comparative experiences and best practices with regard to Elections and Party Finance. The gist of this discussion was premised on the fact that political party finance and related electoral corruption pose one of the greatest threats to democratic and economic development worldwide. Indeed, corruption in politics, particularly during elections, compromises a critical asset to democracy.

The Chairman of the group, Mr. Ognyn Minchev (TI Bulgaria) laid down the general procedure and facilitated the introduction of the panelists. Ms Robin Hodess, (TI-S) gave a summary of critical issues that had emerged in previous work of Transparency International on the subject of Election and Party Finance. Issues outlined included:

- Curbing Influence peddling and conflict of interests;
- Disclosure and supervision (effectiveness and supervision of regulatory measures);
- Income and spending limits;
- Fairness, integrity and access to the media;
- Civil society participation;
- Enforcement and regulatory mechanisms;
- Time frame (priority and sequencing).

The Kenyan Experience

Presentation on the Kenyan experience was made by Mr. Davinder Lamba, Executive Director of Mazingira Institute. The presentation outlined a brief historical background on electoral reforms and party financing in Kenya. The process for reforms began in earnest in 1991, when the clamor for multi party democracy reached its peak. The culmination of this process was the multi-party general elections of 1992. Despite the 1992 elections, it was evident that the political process that led to the restoration of multi-party democracy was not accompanied by corresponding reforms reflective of a true multi-party democracy.

As a consequence of this scenario, the clamor for comprehensive constitutional reforms continued unabated in the intervening period between 1992 and 1997, and between the 1997 and 2002 general elections. President Daniel Arap Moi, who had served his two five years constitutional term limit was not eligible for re-election in 2002. In the period preceding the 2002 elections, President Moi yielded to the pressure of a comprehensive constitutional review, and the Constitution of Kenya Review Commission (CKRC) was subsequently formed.

Mr. Lamba noted that, since the restoration of multi party politics in 1991, various organizations have been pursuing and implementing different programs. The agenda for

electoral reforms, and public funding for political parties, was spearheaded by the Center for Governance and Development (CGD). The need for electoral reforms, and in particular provision for state funding for political parties, was motivated by three factors; the first was the uneven playing ground that clearly benefited the ruling party at the expense of the opposition parties. Second, the glaring disparity in campaign resources, between the ruling party and opposition parties was enormous. Third, rampant corruption and electoral malpractice accompanied the electoral process.

Although CGD initiated the first debate on funding of political parties in 1997, it was in 2002 when these efforts culminated into the tabling of a Bill in parliament. The Political Parties Funding Bill (Kombo Bill), was amended in Parliament to include registration and regulation of political parties.

Following the 2002 elections, the debate on funding of political parties was revived by CGD in collaboration with the National Democratic Institute (NDI), under the African Political Parties Finance Initiative (APFFI). The new initiative is part of the global initiative that NDI is implementing in 22 countries on party financing and the implication of money in elective politics. The APFFI has two main components;

- Phase 1 – Involves a comparative survey on the linkages between money and electoral politics.
- Phase 2 – In depth program in 4 countries focusing on building a broad based coalition for the enactment of Political Parties Act.

The initiative taken by the government through the Kenya Law Reform Commission and the draft Political Parties Bill was also mentioned. Mr. Lamba informed the group that CGD/NDI had held consultative forums with the government with a view to harmonizing the various initiatives and developing a common approach that would ensure the involvement of all stakeholders in the debate and the development of the final Bill.

Korean Experience

The Korean experience was presented by Mr. Geo Kim Sung. Mr. Kim emphasized that the electoral and party finance reforms was driven by the citizens who had been disillusioned by unregulated financing of political parties and candidates. The process that resulted to the enactment of a party law in Korea took a systematic pattern that was presented as follow:

- Corruption in Politics: Various surveys and polls conducted in 2003, revealed that electoral corruption was a major problem in Korea that needed to be addressed urgently.
- Presidential Elections (2000): The 2002 presidential elections was characterized by illegal donations to candidates. The donations took various forms; money stashed in trucks, bonds and outright bribery.
- Citizens Response: The reported cases of corruption led to strong public criticism, and a demand for independent investigation. Members of Parliament named in the investigation were promptly arrested and charged.

- Enactment of a New Election Law: The next step was the debate and the subsequent enactment of a new election law. The process was all inclusive and an Election Act was enacted whose salient features included; impeachment of the president, strict penalty on electoral malpractices, strong enforcement mechanisms, provision and regulation of political party fund (disclosure, regulation of private contribution, prohibition of corporate donations), and transparency in the management of political parties fund.
- General Elections: The ensuing general elections were held in a more fair environment and attracted a record turnout. The election was monitored by international observers among them NDI, and saw a dramatic reduction in campaign funds for parties and electoral malpractices.
- Lessons Learnt: Mr. Kim isolated the following as best practices and lessons learnt in the Korean experience; effective mobilization of the citizens (the demand must come from the people; reforms require solid and consistent leadership; there is need or strong and effective legal and legislative framework; strong enforcement- compliance to the laid down rules is key.

Interviews

Apart from the Panel presentations, two interviews were conducted with representatives from Mexico and Peru. The purpose of the interview was to generate additional specific information that could complement the panel presentations. The interview of Mr. Blas Perez Henriquez elicited the following response;

- In Mexico state funding constitute the bulk of funds to political parties approximately US \$500 million.
- Generous allocation of state funds to parties has in effect ensured drastic reduction in illicit money.
- Effective legislative measures are required to ensure successful implementation.
- Public involvement in the process is key. Mexico has enacted Freedom of Information Act.
- Challenges still exist with regard to implementation particularly on disclosure.

The interview with Ana Townsend of Peru focused on disclosure and enforcement generated the following answers:

- There is a need to enact effective laws to regulate various aspect of party fundings and campaigns.
- Credible and effective enforcement bodies. In Peru, there are three bodies that supervise elections and political parties namely; (Electoral Court, National Office of Electoral Process, and the National Identification and Registration office).

Recommendations and Best Practices

1) Constitutional and Legal Framework

There is need to enact a comprehensive constitutional and legal framework for effective regulation of political parties and the electoral process. The right of citizens to participate in the electoral process and definition of political parties should be entrenched in the constitution. Enabling statutory provisions should also be enacted. Among the proposed laws included; Electoral Act; Political Parties Act and Political Parties Financing Act.

2) Political Party Financing

States must consider providing funding for political parties to facilitate their effective participation in the electoral and political process. An appropriate formula taking into consideration proportional and equitable criteria for allocation should be examined. Private contribution is also required to complement public funds. However, effective regulation and limits should be introduced on private donations.

3) Enforcement and Adjudication

Introduction of independent constitutional bodies among them the electoral commission is key to the success and management of party funds and the regulation of political parties. Clear separation of roles is also required to avoid overlaps and duplication. Electoral courts should arbitrate over criminal electoral offences, while the role of supervising political parties and the management of funds should be left to the electoral commission.

4) Enabling Political Environment

The success of any reform depends largely on the enabling political environment and political goodwill on the part of leaders and key players. There is a need for the establishment of a better political system, responsive constitution, and legitimate multi party systems.

5) Citizen Participation, Civil Society involvement.

The experience of Mexico, Korea and Peru, demonstrates the fact that citizen participation and involvement to the reforms process is key. There is therefore need for effective mobilization of the citizens to gain public support of the process.

6) Media

State media should provide proportional access to all competing parties. Often the ruling party unfairly benefits from the state media at the expense of opposition parties. Access to private media should be at the cost of public media and the state should consider providing tax concession to private media in order to subsidize coverage for parties during elections.