

**REGULATION OF POLITICAL PARTIES ZIMBABWE: REGISTRATION,
FINANCE AND OTHER SUPPORT**

Prepared for the Zimbabwe Elections Support Network (ZESN)

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August 2006

Executive Summary

The now defunct Electoral Supervisory Commission (ESC) in its valedictory report on the Senatorial elections and the Gutu House of Assembly by-election of November 2005 notes that the absence of laws for the registration of political parties had led to the emergence of ‘fly-by-night’ political parties. It then recommended that to curb this tendency, political parties should be formally registered.

This Report is an attempt to contribute to the debate not so much to stir the debate further but to clarify issues by more objectively but critically looking at the merits and demerits of the proposal. It does so by situating Zimbabwe within a community of nations but one that is struggling to consolidate its democratic practices and by interrogating the rationale for party registration, drawing lessons from other countries – developed and underdeveloped, old and new democracies – and recommending the ‘best’ way forward on this contestable issue.

The Report also gives a background of the regulation of political parties, reviews various models of political finance and the different issues normally regulated including corruption, disclosures, public subsidies and the penalties for non-compliance with the law. It then focuses on Zimbabwe by examining the regulatory framework applicable in the country but also doing so from a comparative canvass. After critically analysing the various models, the report then recommends what is deemed to be the most appropriate reforms in the country that can best promote transparency, accountability and efficiency in electoral management and processes.

Many countries have regulations governing political parties at some stage of the political game. These include mature democracies in North America like Canada and the United States, many European countries including Belgium, Denmark, the Netherlands, France, Germany, Sweden, Italy, Austria, Spain and African countries like South Africa, Kenya, Mozambique and Zimbabwe. There are numerous aspects of party activity that can be regulated but in almost all cases, it is the financing of political parties that is the most prominent and also the most contested and controversial. In this Report, we conclude that when done in good faith i.e. without ulterior and sinister motives, party regulation promotes transparency and democratic accountability to the public, curbs corrupt practices and provides for penalties for breach of the regulations. However, when the impulse to control drives the introduction of party registration, then the move can be a recipe for mutual suspicion and distrust which can further poison the political atmosphere.

On Political Party Financing :

- Mass parties, because they are membership-driven and oriented, tend to opt for a grassroots funding methodology, relying on small membership dues from numerous individuals or on union support.
- Political parties also use various fundraising techniques to finance their activities, and where corporate donations are not readily forthcoming, political parties, especially governing parties, often resort to *toll-gating* and *kickbacks*.
- In most of the developing countries undergoing economic reforms, privatisation programmes provide another lucrative source of party (and indeed, personal) funding.

- By and large the fortunes of parties are determined by the amount of resources at their disposal. Their capacity to sponsor election candidates and organize effective campaigns is largely determined by access to such resources.
- One mechanism for subsidizing political parties in the developing world is through public funds, something that others view as indefensible.

On Legal and Institutional Framework

- There are no laws in Zimbabwe that compel political parties to register in order to legally exist.
- The only time registration is obligatory is during elections when a party wants to contest by fielding a candidate/s. That is, a candidate is required by law to be proposed and endorsed by a certain number of registered voters in his/her constituency and has to pay a candidacy deposit which is returned if he/she gets a certain stipulated threshold of valid votes cast.
- The Political Parties Finance Act of 2001, (first enacted in 1992 and amended in 1997 before being repealed in 2001 only to be replaced by a 'new' one by the same title) explicitly defines a political party as "an association of persons the primary object of which is to secure the election of one or more of its members to a local authority or Parliament."
- A cursory look at the Political Parties Finance Act of 2001 framework indicates that political parties are free to regulate their affairs as they deem fit. The state does not interfere at all in the running of the 'domestic' affairs of these parties.

On the Funding of Political Parties in Zimbabwe

- State-led political party financing is spelt out in the Political Parties Finance Act which stipulates the requirements for accessing public funds not only to run elections, but to finance political party activities even outside the electoral arena.
- By law any political party that garners at least 5% of the vote in the previous election is eligible to receive public funds, and to date only two political parties – the ruling Zanu-PF and the main opposition MDC - have enjoyed the privilege.
- Most political parties in the country, great or small, still depend on the financial and other resources of generous individuals, businesses and private organizations.
- Political parties are not required by law to disclose their source of donations from within the country nor does it set ceilings for such contributions, let alone account for public funds that would have been available to them.
- Contributions from 'well-wishers' is also a key source of funding for major political parties.
- Some revenue is generated from sale of membership cards, party regalia and literature.
- Another lucrative source for big parties is their business interests. Both the Zanu PF and the MDC have substantial business interests that contribute to party finances.
- Other small parties do not have similar ventures but Zanu-Ndonga depends a great deal on the funds generated by the business interests of its president, who contributes about 60% of the party's revenue.

- For the ruling Zanu-PF, as is the case with other governing parties throughout the world, an important dimension is the sourcing of resources by virtue of being at the centre of the state.

On Registration of Political Parties in Zimbabwe:

- The ESC report claims that the absence of laws for the registration of political parties had led to the emergence of “nondescript small parties with little content and no standing, let alone sustainability”
- In addition, the ESC asserts that registration of parties will supposedly defend national security interests as the state could use the information so availed through registration to carry out investigations to ascertain the party’s intentions and to weed out potential saboteurs.
- There is no consensus on this proposal with opinion deeply polarised along partisan lines. Ruling party sympathizers feel this regulation will stop the emergence and existence of “brief case” political parties whose only purpose is to confuse the masses.
- The two MDC factions counter-argue that the ESC recommendations are not only unconstitutional but fail to take into account that political parties are voluntary organizations and that legal requirements will undermine the volunteer character of parties, and lead to their privatization and bureaucratization. The essence of electoral democracy, they contend, is that political parties involve individuals and organizations that are independent of undue control by the state and hence should be left alone to determine their internal affairs.

Recommendations

- There is nothing inherently wrong with registration of political parties per se but only if it is done *in good faith*.
- The registration of parties must be done by a strictly impartial and inclusive body of public-spirited citizens who have no partisan affiliations. Though free political participation is guaranteed in the Zimbabwe Constitution, no political party may participate in an election unless it is registered as political party.
- Public funding should be provided for registered parties based on a consensually arrived at formula and only for electoral purposes. The formula must be such that it discourages the sprouting of ‘one person’, ‘brief-case’ and phantom parties.
- Political parties must be able to fund their own operations outside the electoral arena.
- Legislation should define what a “registered political party” is, and a definition appropriate to the Zimbabwe situation which has two partly elective and partly appointive chambers would have to be worked out.
- Legislation will need to be put in place limiting expenditures of parties and candidates in elections and must define election expenses.
- Candidates should be reimbursed for a portion of their electoral costs but only if they satisfy a defined threshold of votes in their constituency.
- A maximum amount of the donation per donor should also be specified.
- Legislation must require the disclosure of the names of donors to registered parties and candidates if the donation is more than a stipulated amount.

- No contributor can donate through a third party.
- Parties and candidates must also be required to account publicly for the uses to which they put public and donated funds.
- In line with regulations and best practices elsewhere, foreign donations to political parties and candidates must be prohibited.
- Stiff penalties must be imposed for infractions of the law governing party financing.

In conclusion, political parties, like biological organisms, need to be nurtured in order for them to grow and develop into healthy and functional entities. For this, a conducive operating and institutional environment is a minimum condition. A regulatory framework can set parameters within which all credible political parties can compete for power, market their electoral wares to the public while allowing the court of public opinion as freely and fairly expressed in the ballot to be the final arbiter who shall govern the demos. Regulation of political parties does not of necessity vitiate these tenets; but controlling may well do.

1: Introduction

In early June 2006, *The Herald* had a screaming headline on the registration of political parties in Zimbabwe. The story emanated from a recommendation by the now defunct Electoral Supervisory Commission (ESC) in its valedictory report on the Senatorial elections and the Gutu House of Assembly by-election of November 2005. The, perhaps aspiring to die with a bang, observed that the absence of laws for the registration of political parties had led to the emergence of “nondescript small parties with little content and no standing, let alone sustainability.” It then recommended that this ‘problem’ could be curbed if parties were required to register with its successor, the Zimbabwe Electoral Commission (ZEC). The recommendation then triggered considerable debate and controversy in the political and civic community that was partly captured in *The Herald* (8 June 2006) article: “Bid to amend electoral laws stirs debate.” This report is an attempt to contribute to the debate not so much to stir the debate further but to clarify issues by more objectively but critically looking at the merits and demerits of the proposal. It does so by situating Zimbabwe within a community of nations but one that is struggling to consolidate its democratic practices and by interrogating the rationale for party registration, drawing lessons from other contrives – developed and underdeveloped, old and new democracies etc. – and recommending the ‘best’ way forward on this contestable issue.

The report first gives a background of the regulation of political parties, reviews various models of political finance and the different issues normally regulated including corruption, disclosures, public subsidies and the penalties for non-compliances with the law. It then zeroes in on Zimbabwe by reviewing the regulatory framework applicable in the country but also doing so from a comparative canvass. After critically analysing the various models, the report then recommends what we deem to be the most appropriate reforms in the country that can best promote transparency, accountability and efficiency in electoral management and processes.

2. Regulation of Political Parties: Background

In public affairs, regulating entails setting rules of behaviour for individuals and/or institutions to comply with and these regulations are almost always backed up directly by the sanctions or penalties of the state. The term regulation conveys the same message and intensity as ‘standards’ in that standards also set rules of conduct backed by negative sanctions that apply if the standards or procedures are not met or followed. It may be observed that regulations and standards carry with them the notion of equality of treatment and equality before the law, powerful ideas in democratic societies. Both ‘regulations’ and ‘standards’ are qualitatively different from ‘guidelines’ in that the latter suggest flexibility and a capacity to recognise that circumstances and situations are different and unique. It is important to note though, that in some cases, regulations and standards, despite being backed by sanctions of the state, may in fact be applied flexibly while guidelines may be obeyed as if they are standards. When governments intervene directly in governing human affairs, they often do so through regulations. However, not all things are regulated, and even those that are, the intensity of regulating varies from one country to another. This is the case with political parties.

Political parties are organised human entities through which political gladiators struggle for power to control the state and its resources for purposes of governing the society in which they are located through the implementation of its policies and programme. They are one of the manifestations of modern polities, be those polities be democratic or tyrannical. The historical genesis and development of political parties was an acknowledgement that the mass of the people needs to be taken into account in the organisation of the polity. American political scientist Schattschneider is in full praise of political parties:

The rise of political parties is indubitably one of the principal distinguishing marks of modern government. The parties, in fact, have played a major role as makers of governments, more especially, they have been makers of democratic government (1942, 1)

ormally, political parties can be defined as “any group that presents at elections, and is pable of placing through elections, candidates for public office” (Sartori 1976, 64). They e agencies for the acquisition of power and arose as a natural outcome of the extension and pansion of the suffrage in the 19th century and they became necessary as a mechanism to ganise the mass of people now legally entitled to vote.

arties are vehicles for popular mobilisation especially for purposes of interesting people to rticipate in elections. They are not only aggregators of peoples interests and aspirations, but rties are important in forming the opinions of voters. As Rautenbach and Malhembe point it, parties “influence public opinion and political tendencies, and form a link between the ople and the government” (1999, 136). To this extent, they are indispensable to the process e the formation of the political will in a democratic society

Should these political organisms be regulated and if so how? If political parties are agencies for the acquisition and exercise of power, should the public fund their power seeking activities? If, so how? What are the practices in Africa and beyond? To appreciate answers to these questions we must first note and realise that there are different types of parties and each type has its own requirements and mode of operation. One basic distinction between parties is that based on party structure and membership, which leads to the distinction between *cadre* and *mass* parties. Cadre parties have been described as a “grouping of notables” whose primary goal is attaining office (Landes 1983, 257). Membership in such parties is loosely defined, with no formal admission procedures or registration forms. The party’s ideology is general and diffuse rather than specific, and for our purposes, we note that party finance is dependent on large individual and corporate donations. Typical examples of cadre parties are North American parties (Republican and Democratic parties), the British Conservative party and most moderate Europeans parties. In contrast, the mass party “is characterised by permanent organisation and effort even between election campaigns, by formal membership requirements, and by an emphasis on ideology and platform rather than simply electoral success” (Ibid). Moreover, mass parties base their finances on individual membership dues, trade union support, and in recent years, the public financing of election campaigns. In Europe, the British Labour party is the most outstanding example. Africna political parties tend invariably to be mass parties and in Zimbabwe, the ruling Zimbabwe African National Union-Patriotic Front (Zanu-PF) and its nemesis the Movement for Democratic Change (MDC) are without doubt mass parties.

Most if not all functional democracies have a party system by which is meant the competitive relationship between two or more political parties. The Zimbabwean party universe has been a dominant one-party system from Independence in 1980 to September 1999¹ when the opposition MDC was founded and has remained as a viable and serious threat to the indefinite prolongation of power by the ruling party. Since 1999, the country’s party system can effectively and justifiably be described as a two-party structure.

Regulation of political parties can be said to be universal wherever these political entities exist but the mode and degree of regulation differ. It is important to stress that *registration* of political parties is only one of many ways of regulating political parties. In other words, regulation of political parties includes, but is not at all limited to the requirement for registration of political parties. It also does not follow that political systems that require party registration are of necessity more authoritarian and therefore less democratic than where such registration is not required. The absence of requirements for party registration may actually mask the existence of even more insidious legislation that suffocate or stifle the operations of the ‘free-to-exist’ political parties. People can form political parties as and when they wish, but then the operating environment is so hostile as to enfeeble such political

¹ The party system was mildly competitive from 1980 to 1987 when there were two strong liberation war parties (PF-Zapu and Zanu-PF) before they merged in 1987 to form the unified Zanu-PF thereafter.

organisations. This appears to be the case in Zimbabwe. Political parties can be freely formed but are not free to operate.

There are gradations of regulatory frameworks ranging from the permissive to the most rigorous. In other words, party regulations can be defined and understood in two senses: liberally and expansively. The expansive sense of party regulation is when virtually all activities of political parties are regulated in one way or another from birth and throughout their lifespan. The liberal or 'light' sense is when only a few aspects of political party activities are subject to official intervention and control otherwise the parties enjoy considerable autonomy and space to operate as they deem fit, of course within the confines of the law of the land. In this 'light' sense, political parties need not formalise their existence by registering their birth with any state regulatory agency.

In a multi-party, electorally competitive system, it is indeed inevitable that political parties, as gladiators for power, do register their presence on the electoral field should they decide to contest elections. This suggests that registration of the parties for purposes of participating in the struggle for power via the modality of elections is unavoidable and compelling. This is because the parties have to appear on the ballot paper with other rival parties and so as to enable voters to make a ballot box choice between or among them. This is the 'soft' end of the registration continuum. Often, the supreme law of the country, i.e. the Constitution, is silent on the existence and rights of political parties.

The German Constitution prior to unification ignored political parties, which prominent patriots tended to view with distaste². However, its Basic Law institutionalised them as essential instruments of democracy and, recognising the enormous influence of political parties, even goes to the extent of requiring that their internal organisation "conform to democratic principles."³ This appears excessively intrusive until the German case is viewed in the context of its troubled history. It has been persuasively argued that the principle that political parties may be formed freely allows the formation of parties that propagate the destruction of the state or the very democratic system itself that allowed their birth in the first place. To this extent, in Germany political parties may be proscribed or prohibited by the Federal Constitutional Court if their goals, objectives or activities of their supporters are directly against the democratic basis of the state and its existence⁴.

Moreover, there is no universal consensus on the need for so regulating. There are plausible arguments for and against regulating political parties. Some of the arguments for requiring registration of political parties are self-serving and are usually advanced by incumbent regimes and in such circumstances, party regulations are not necessarily in pursuit of the public interest. Often, the regulation of political parties is done for purposes of monitoring, controlling and upstaging opposition or non-governing political parties. In short, such registration is done so as to create an unfair political playing field and therefore is not done in good faith. This is the case not only with most post-Independence partial or pseudo-democracies but was also the standard legal staple under apartheid in South Africa and in settler colonialism in Rhodesia. In apartheid South Africa and colonial Rhodesia, numerous political parties and organisations were routinely banned in terms of security legislation and 'security' was broadly defined to capture within its definitional ambit many otherwise innocuous organisations.

When done in good faith, party regulation is meant to promote transparency and democratic accountability to the public, curb corrupt practices and provide for penalties for breach of the regulations. Many countries have regulations governing political party at some stage of the political game. These include mature democracies in North America like Canada and the United States, many European countries including Belgium, Denmark, the Netherlands, France, Germany, Sweden, Italy, Austria, Spain and African countries like South Africa, Kenya, Mozambique and

² David Currie, "The Constitution of the Federal Republic of Germany" (1994, 207)

³ Ibid.

⁴ Rautenbach and Malhembe, *Constitutional Law*, 3rd ed., 1999, 135. Since the commencement of the German Constitution, only two parties had been banned by 1999.

Zimbabwe. There are numerous aspects of party activity that can be regulated but in almost all cases, it is the financing of political parties that is the most prominent and also the most contested and controversial.

3. Models of Party Finance

Political parties are first and foremost electoral machines and consequently, their major expenses are related directly to campaign expenses. One Canadian professional fundraiser, Israel Tarter once declared: “elections are not won by prayers alone”! He said this nearly forty years ago and since then, election campaigning has been very sophisticated and exorbitantly expensive. Party organisation and election campaign techniques now involve mass media advertising in the print and electronic media, including now the Internet.

As can be implied from the categorisation of political parties given above, the pattern of party finance varies between the cadre and mass parties. Cadre parties tend to be largely dependent on large contributions from few but big corporate donors. These parties now often rely on professional fundraisers sometimes called “bagmen.” This pattern uses several techniques. The essential first step in this kind of fundraising is to select bagmen who have access to the financial and corporate elite: “you need millionaires to get money from millionaires,”⁵ one time Canadian Prime Minister once advised (Landes 1983, 280). The fundraisers would then visit wealthy individuals and corporate executives for their annual contributions. A long time practice was for the donations to be split 60% for the governing party and 40% for the opposition. Such contributions thus ensured that no matter which party won the next election, the individual or corporation, having donated to the party coffers, could count on access to the political leaders. The Conservative parties in Canada and Britain are typical examples that rely on cadre type party finance with individual and business contributions from relatively few donors. Such parties have been more than able to finance themselves and often have opposed public subsidies of political activities. It may be mentioned that this ‘bagman’ phenomenon also tends to encourage the institutionalisation of a two-party system as little parties can hardly attract enough corporate largesse to sustain the operations.

In marked contrast to cadre parties, mass parties, because they are membership-driven and oriented, tend to opt for a grassroots funding methodology, relying on small membership dues from numerous individuals or on union support. This grassroots approach typically relies on two sources of party finance: annual membership dues and contributions from trade unions and interest groups. Annual membership and subscription dues are not very reliable and adequate to cover an average party’s activities, especially in-between elections when enthusiasm and zeal for party activities are relatively low. A combination of the two sources is a much more dependable avenue. It may be noted though that one Canadian mass party, the Parti Quebecois in Quebec province was so successful in mass funding that it had the luxury of not only sending back corporate donations in the 1973 and 1976 provincial campaigns, but, after winning the 1976 provincial election, went on to proscribe such contributions. The British Labour party is another typical example that relies on individual and trade union financial backing and at one time the trade unions accounted for 80% of party funds.

There are many fundraising techniques used by political parties to finance their activities. Where corporate donations are not readily forthcoming, political parties, especially cadre parties, can resort to *toll-gating* and *kickbacks*. Toll-gating is whereby government contracts or business would be allocated to those business firms and organisations that had contributed to the party coffers, while its related practice, kickbacks, is a scheme whereby once a firm had received government work, a certain percentage would be ploughed back to the ruling party, usually by way of campaign contributions (Wearing 1981, 58-64). Corrupt kickbacks are a very common practice, especially for governing parties. For instance, in Ghana, Gyimah-Boadi (2000) noted that the ruling NDC, by virtue of controlling the state, already had a powerfully lucrative source of funding – kickbacks on government contracts and the sale of

⁵ It goes without saying that for the 2005 parliamentary elections in Zimbabwe, the bagman would need to be a billionaire, if not a trillionaire!

state assets. He refers to a GHC 3 million (Int'l \$ 4.189) donation to the governing party in Ghana by Construction Pioneers, a road-building company that had a huge contract with the government. In most developing countries, these are sometimes referred to as "10% commissions".

In Africa and other developing countries, privatisation programmes provide another lucrative source of party (and indeed, personal) funding. These "political privatizations" are proving to be even more lucrative channels for party and personal funding than the old "10 per cent commission" levied on the value of government contracts awarded. *Africa Confidential* dissects the interconnections between the leadership of the ruling party in **Côte d'Ivoire**, the Parti Démocratique du Côte d'Ivoire (PDCI), and the business class in the context of privatization. Needless to say, these opportunities for political funding through the control of the state become available to new parties as well once they are voted into office, as in Zambia (1991), Malawi (1994) and Nigeria (1999) (*Africa Confidential* 39, 13 June 1998).

In short, healthy political parties are often well-resourced political machines and the more resourced they are, the more they are likely to be in electoral contests. This is also the conclusion arrived at by Lloyd Sachikonye in his study of political parties in Zimbabwe:

In sum, the fortunes of parties are, by and large, determined by the amount of resources at their disposal. Their capacity to sponsor election candidates and organise effective campaigns is largely determined by access to such resources. The same relates to their capacity to run a party secretariat and to pay party workers regular salaries. Similarly, the capability to advertise in the press depends on whether they have the requisite financial resources. The smaller parties clearly lack such resources (Sachikonye 2006, 34).

One mechanism for endowing parties with the necessary resources is through public funding, a matter that we address below.

Public Funding

Public funding is increasingly the most popular form of party finance, at least with regard to election expenses. This is also the most controversial model of party finance. The principle of state funding of political parties applies in various countries⁶, but, Rautenbach and Malhembe argue, in a developing society that has only recently adopted a democratic system and where party financing is only available to parties actually represented in the legislature, the exclusion of non-represented parties may indefinitely paralyse such parties. It also has the effect of protecting represented parties from competition (success breeds success!) It appears, therefore, as if this arrangement is unfair under such circumstances and places an unreasonable limitation on the free political participation of non-represented parties and their members.

Issues of campaign funding have posed difficult problems of policy and law in many countries, including in Germany and the USA. In Germany, animated debates have raged over the question of public funds being used to fund the quest for power by political parties. Should the quest for power be treated in the same way as state funding for private schools? It has been argued that the doctrine of equal electoral opportunity forbids the state to take sides in election campaigns. Currie notes that this understandable principle has obvious implications for state support of political parties (1994, 208). He notes that in Germany, the government may not distribute political propaganda for the parties to which its members belong and this means the disfavoured parties are excluded from the free use of public broadcast media that other parties enjoy.

⁶ Examples include: Germany, France, Sri Lanka, Canada, Denmark, Belgium, the Netherlands, Greece, Sweden, Austria, Italy, Spain and Zimbabwe.

A related, and even more interesting argument is that unrestricted state subsidies infringe on the autonomy of political parties. Political parties are normally formed freely and on any basis and being state-funded, it is contended, raises the unappetising prospect of political parties that are dependent on the state, which further raises the prospect that ‘who pays the piper calls the tune.’ This will then raise the spectre of the very unwholesome symbiotic relationship that existed between the Nazi party and the state during the Hitler era. To be sure, a partial public financing of the parties through yearly or monthly payments for their entire political activity might not necessarily incorporate the parties into the state’s organizational sphere, but it would entangle them in it and render the parties dependent upon state support. Supporters of state subsidies to political parties argue that if voting is a constitutional right, then the state must be compelled to subsidise the assertion of a constitutional rights. Their argument goes like this: “Since the holding of elections is a public function and the parties have a decisive role to play in the electoral process under the constitution, it must be permissible for the state to make financial resources available not only for the elections themselves but also for the political parties that sustain them” (Currie 1994, 212).

On one hand, the assertion goes, state subsidies can pose a significant threat to freedom; on the other, they may be necessary to make freedom a reality.

In Germany, the state-funding issue has triggered intriguing philosophical and legal questions that have been brought before the Constitutional Court. State subsidies for political parties, the Court once concluded, not only abridged the freedom of the parties themselves under Article 21 (1); they also offended the provision of Article 20 (2) that “all state authority emanates from the people” (Currie 1994, 211). Political parties, the Court seemed to be saying, were the indispensable instrument through which the people asserted their prerogative to determine the actions of public authority. Government assistance, by weakening the parties’ dependence on the people, thus impaired the people’s right to exercise their sovereign powers. In 1992, the Constitutional Court decision ruled as follows:

The freedom of parties from the state posited by the Basic Law requires not only that parties be independent of the state itself but also that they retain their identity as freely constituted associations rooted in the social and political sphere. The parties must remain dependent upon citizen approval and support not only politically but economically and organisationally as well. Public funds thus may not be permitted to liberate individual parties from the risk of failure of their efforts to obtain sufficient support from the voters.

In short, the argument is against unrestricted grants to political parties not disavowing them completely. The weight of the argument is towards *targeted* state funding, i.e. that the state could provide financial support to parties in order to cover the necessary costs of an appropriate electoral campaign – not to subsidize the activities of the parties in their entirety. State financing of political parties must be sharp and targeted instrument for legitimate electoral activities. In this vein, since elections are indubitably public functions, they deserve public funding; however, such funding for non-electoral activities becomes impermissible. This then immediately raises the question of disclosure and accountability for the public funds disbursed.

It has been argued that permissible though it may be for developed countries to subsidize political parties, it is morally reprehensible to do so in developing countries afflicted by the economics of scarcity. This school of thought argues that there are other worthier sectors that desperately need the money, e.g. education, health, infrastructure etc than creating another “gravy train” for politicians. This was the argument passionately advanced by one vocal and now late ruling party MP, Lazarus Nzarayebani during parliamentary debate on the Political Parties (Finance) Bill in 1994:

May I say from the onset that this is a bad law. I say this with all sincerity, with all my heart and conscience put together. My concern is, as an hon. Member that we have no money. At least I am well informed that we have unbearable debts internally and externally and our ability to service these debts is not just there. I am a cadre of this party and I am well disciplined, I suppose. I know that the party

ZANU PF will continue to form Government from now until time immemorial. If this money was put up to viable/economic projects in our constituencies, this would be the most important thing that would help every Tom, Dick and Harry. This way of spending money is not good when we are beggars and when we have no money – I do not think that is a reasonable thing to do at all. ... We need to pay for food, we need to do a lot of things - and then we budget for supporting political parties, what for? We do not have the money.

... It is my contention and my submission that if that money – if it was considered how best we should use it in our constituencies, almost of all which are ZANU PF, I tell you, for the next five years we are in power, if we had a viable project in each of these constituencies it would be more profitable to our people, to the party, and to ourselves than actually dishing that money into the dust bin. This is money we do not have, money we have to borrow. When will we learn to do things economically? (*Parliamentary Debates* 27 August, 1992, 1306).

The counter-argument, equally valid, is that democracy does not come cheaply and therefore that in fact, state funding is needed for all political parties in countries with fragile democracies where the governing party has inexhaustible access to state resources that it routinely abuses bolster its party activities and to campaign in elections against enfeebled opposition parties. The gross inequality of resources between ruling and opposition parties has been noted to a point of outspending all opposition parties put together. For instance, Fall (2000, 313-331) calculated that, in Ghana, the ruling party outspent all opposition parties combined by 15:1, probably by a bigger margin in Kenya, and by as much as 30:1 in Senegal. Clearly, such a situation affects that democratic content and quality of elections. To Fall, fairness of electoral processes and outcomes is, in turn, a major factor in the chances of successful consolidation of a fledgling democracy. “It is for the sake of consolidating the fragile democracy that has re-emerged in Africa that public funding of political parties should be considered seriously and may need to be adopted widely”, he writes.

There are strong arguments, therefore, for state funding of political parties. Political parties need funds in order to play their roles effectively in the democratic process, especially the opposition parties’ role of balancing the incumbent regime. Moreover, the argument goes, if parties received public funds, the incentives for resorting to illicit avenues for funding might diminish. Public funding can also level the playing field somewhat for all players and, equally important, act as the “sweetener”, the quid pro quo, for a stringent regulation of election expenditure. Parties that accept public funding can be made to agree thereby to disclose their other sources of income, publish audited accounts and observe spending limits. A legal provision entitling any registered political party to seek judicial enforcement of the regulations will give all participants in the democratic process the tools to insist on transparency, and thereby protect and advance democracy.

According to Currie (1994, 211), the Germany state-funding of political parties dilemma was resolved, at least tentatively, by noting that there was no basis for distinguishing between elections and other party activities; what mattered was the total amount of the subsidy, its relation to resources raised from other sources, and their distribution among the various parties. The bottom-line was that the total subsidy for all parties was not to exceed the mean sum that had been granted during the preceding three years; that no party was to receive more from the state than it raised on its own; and that each party’s share must be based in part upon its relative success in attracting private contributions.

It may equally be noted that one of the arguments in favour of public financing of political parties in Germany, as in the US and other countries, was that it would limit the influence of large private corporations. Nonetheless, legislative measures appear necessary to combat excessive private influence by limiting private contributions directly.

Once the principle of public funding is accepted, then it begets the question of accountability for those taxpayers funds. Political parties, to the extent that they perform a socially desirable function in a democratic system, must be required to account publicly for the sources and uses of not only public funds obtained, but other sources of funding as well. This is meant to ensure public knowledge of all contributions large enough to have a significant influence on party policy. Germany goes further by requiring that the internal organisation of political parties “conform to democratic principles.”

In South Africa, the rights in respect of free political participation are not absolute. In terms of the Electoral Law, no political party may participate in an election unless it is registered as a political party and in order to register, a party must supply various particulars and a deposit must be paid. Further, inside the legislature itself, the rules of procedure in terms of the South African Constitution must provide for financial and administrative assistance to parties in parliament to enable them to perform their functions effectively (Rautenbach and Malhembe 1999, 136). In national legislation, provision must also be made for the funding on a proportional basis of political parties that participate in national and provincial legislatures. This is consummated in the Public Funding of Represented Political Parties which created a fund for party funding of only those parties represented in the National Assembly or provincial legislature.

In Canada, one response to the traditional techniques of party finance was the passage of the Election Expenses Act in 1974 which not only regulated party fundraising activities but also provided public subsidies for election expenses. One significant requirement of the Act is that the parties have to file an annual financial report with the Chief Electoral Officer. In addition to requiring an annual report, the Election Expenses Act

- puts a ceiling on the amount of money that parties and candidates can spend;
- it provides for the disclosure to the sources of party and candidate incomes;
- grants subsidies for candidate expenses and party media advertising; and
- establishes a tax credit for people contributing to party funds (Landes 1983, 281).

The effectiveness of this Act in curbing some of the undesirable party financing practices was open to challenge. First was that the limits to party and candidate expenditures were set relatively high. In other words, the ceiling was set so high that no party could reasonably exceed it and as such, the legislation did not really curtail party spending in campaigns. A second defect concerned the amount of individual contributions: any donation of over C\$100 must be disclosed, but no limit was put on how much can be given. Thus, the financial dependence on small groups of financial backers and donors was not greatly diminished. Third, the enforcement provisions for violations of this Act were weak in that it was up to the public or the various parties to lay complaints with the Chief Electoral Officer. Given these limitations of this 1974 Act, the traditional pattern of party finance remained largely in place, with public funding grafted on. The chief critique of this Act then was that it provided a legal way of raiding the public treasury without either curbing traditional patterns of party financing or giving the public control over the area of party finance.

In the United States, disaffection with the manner in which electoral campaigns were funded led to reforms in the 1970s. These reforms sought to put more effective limits on contributions and spending for both individual candidates and parties. In a major departure from past practice, the USA in 1974 adopted provisions for the public financing of presidential election campaigns. Under the reform, a party’s presidential nominee who accepted public money was prevented from obtaining private donations for general election expenses. Another major reform concerned the development of political action committees (PACs). PACs may be formed by any group to support a particular cause, candidate, or party and they have become a major source of political funding in the American system.

Foreign Donations as Source of Party Funding

In many countries – developed and developing, foreign funding of domestic electoral campaigns is viewed with a jaundiced eye and this has consequently been prohibited or severely restricted. In Africa, most opposition parties are formed by either trade union organisations or civic movements and these often require seed money. Foreign donations in various guises have become handy in this regard. Foreign donations are an even more lucrative source of party finance for incumbent parties.

In Botswana, the giant South African Anglo-American Corporation, which has mining interests in the country, apparently dispenses its largesse to the ruling Democratic Party in Botswana, reportedly paying South African consultants to manage the party's election campaign (*Africa Confidential* 40(21) 1999). Nigeria's General Sani Abacha appeared to have used donations to political parties in power in other African countries to buy diplomatic support. In Ghana, it was widely believed that Abacha made a large donation to the election fund of Jerry John Rawlings' National Democratic Congress (NDC) during the 1996 election campaign, although Rawlings denied in public that he or his party had received any such donation. It would appear that the Nigerian government continued where Abacha left off, making friends through donations to ruling parties in other African states. According to *Africa Confidential*, in February 1999 it "made a generous contribution to the ANC's election fund" [*Africa Confidential* 40 (5) 1999:4].

The African National Congress (ANC), as is widely known, survived its epic struggle against the apartheid regime in South Africa largely through the financial and other support it received from organizations and governments around the world. In 1994, fighting its first election, the ANC was not short of money, and most of it would have come from abroad. Three years into its rule, according to *Africa Confidential*, it had to retrench 163 out of the 560 staff it employed, put its headquarters up for sale and sell its vehicles to staff (*Africa Confidential* 38(22) 1997).

There are unconfirmed reports that former president Nelson Mandela capitalized on his reputation and stature to raise huge donations from leaders of foreign countries for the ANC's 1999 election campaign. One survey of South Africa indicated that in 1999 parties expected between 50 and 80 per cent of their campaign funds to come from business and foreign donors (IDASA 1997).

Analysts of African politics often have to take account of foreign backers. Thus, for instance, in the Niger presidential elections in October 1999 the *Africa Confidential* correspondent in Niamey reported that Yssoufou Mahamadou, the candidate of the Parti Nigérien de la Démocratie et du Socialisme (PNDS), was backed by France through the PNDS's affiliation to the Socialist International and the candidate's friendship with Guy Laberti, the African specialist of the ruling French Socialist Party [*Africa Confidential* 40(20) 1999:8]. He was also said to enjoy the backing of the rulers of Algeria, Nigeria, Burkina Faso, Mali, Chad and Libya. The late President Eyadema of Togo was named as the foreign backer of Mahamadou's main opponent, while the United States was linked with a third candidate. Whatever foreign backing in such context means in concrete terms, it has to be assumed that money is a large part of it. There have been persistent and widespread unconfirmed press reports about Colonel Muammar Ghadafi's generous financial support to many African political party leaders. But most publicized donations from foreign sources are far less defensible. The late "Tiny" Rowland of the Lonrho conglomerate was reportedly also a regular contributor to the funds of the ruling parties in the African countries where Lonrho did business (Bower 1993).

An interesting dimension of 'foreign' funding involves donations from citizens living in the Diaspora and are an important source of funding for political parties in Africa, particularly for opposition parties. In Ghana, political parties list "Ghanaian citizens living abroad" in their disclosure of sources of funds, and the presidential candidate of the main opposition party allegedly received USD 100 000 from its US branch for the 1996 elections (Gyimah-Boadi 2000). Such apparently small individual donations from party members and supporters would normally be counted favourably as an index of support for democracy, especially if the donations go to support opposition parties that face

the combined resources of a ruling party and, thus, the state. As we will see later, the Zimbabwe regime banned foreign funding, inclusive of that from bona fide citizens working and living abroad, many of whom are suspected to be supporters or sympathizers of the main opposition MDC party.

Returns on Investments as Source of Party Financing

Some political parties, especially the older ones dating from before 1990, such as the PDCI, KANU in Kenya, and UNIP in Zambia had extensive investment portfolios that generated substantial incomes. In Uganda, President Yoweri's National Resistance Movement has an investment arm whose income he expects to be adequate to be more or less adequate to oil his party's activities. As will be shown below, the ruling Zanu-PF in Zimbabwe has had extensive though murky and opaque investment portfolios since Independence in 1980 though apparently the accounts had not been properly audited until recently.

3.5. Other Sources of Funds

Subscriptions and Fund-Raising: There is evidence that political parties still derive some income from membership subscriptions and local fundraising. For instance, in Zambia a candidate for the post of UNIP Treasurer donated materials for the printing of a large consignment of party membership cards (*Times of Zambia*, 30 November 1999), and by so doing suggesting that the sale of membership cards (membership dues) still raised money for the party. Fund raising is not always a reliable and rich source of party funding. In Ghana, when the NDC held a fundraising dinner-dance in a major port city with a pool of contractors and other businessmen who could be expected to be eager to pay their way into the good books of the government, it raised the equivalent of only USD 600 gross, before the cost of hiring the venue, the band, food and so on had been deducted (*Sunday Mirror* 28 November 1999). From the amounts mentioned in such reports, it is clear that these sources can yield only a tiny proportion of the income required by the political parties.

However, the general level of poverty means that setting membership fees at levels that would produce respectable incomes for the parties would also put them beyond the reach of most people. Further, substantial numbers of voters and potential party members in many African countries probably take the view that they should be paid by political parties and politicians rather than that the other way round, i.e. that they should pay - through dues and local fundraising activities - for the privilege of supporting their favourite party or candidate.

An incomparably more lucrative source of funds, but only for governing parties, is state funds funnelled through front organizations, voluntary groups and NGOs affiliated with the party but which receive state subventions for ostensibly doing useful and necessary community or welfare work. Gyimah-Boadi (2000) draws attention to Ghanaian examples, and Throup and Hornsby discuss Kenyan examples of this phenomenon. Youth for KANU 92 and the "Moi fan clubs" were set up for the 1992 Kenyan elections as "a means to siphon huge amounts of money from the government and party coffers into the political arena". The authors quote a Kenyan newspaper, the *Weekly Express*, which claimed that Youth for KANU 92 had a budget of KES 3 billion (Int'l \$311 million), "mainly looted from parastatals such as the National Social Security Fund and Kenya National Assurance Company" (Throup and Hornsby 1998:354-355).

3.6. Indirect Funding

Indirect funding is any help or resources which can be shown to have monetary value but are given free to political parties or taken or used freely by governing parties. Free air time on radio and television or free advertising space in the publicly-owned print media are good examples of the former; a governing party's use of state vehicles (Defence Force helicopters in the case of one KANU candidate), government employees, office equipment and so on are examples of the latter.

In many African countries elections are not really contests between candidates and parties; they turn out, in effect, to be contests between all opposition parties/candidates on the one hand, and the governing party's candidates and the state on the other. A report in *The Economist* on the 1999 Algerian elections made the same point when commenting on the funding of Abdelaziz Bouteflika's presidential election campaign: "With plenty of money from somewhere he set up the flashiest campaign offices and the noisiest loudspeakers playing specially commissioned music from popular Algerians" (emphasis added). The report went on to imply that once the *pouvoirs* (the generals and senior politicians who run Algeria's affairs) pick a candidate, as they had evidently picked Bouteflika, resources are not a problem (*The Economist* 17 April 1999:78). The state resources behind the state candidate evidently proved so overwhelming that all the other candidates pulled out of the race!

In an account of their experience as monitors of Gabon's December 1998 presidential election, Tordoff and Young remarked that: "The superior financial resources of the ruling party were readily visible; on the opposition side only Abbesale's campaign showed evidence of much spending capacity" (Tordoff and Young 1999:261–276). Similarly, the Commonwealth Observer Group which monitored the 1991 Zambian elections drew attention to the unfair advantage UNIP had as the governing party, using state resources, including government vehicles, although even its superior resources did not save it from defeat that time.

In Botswana, one of only a handful of African states that have always had multiparty elections, the disparity in resources between the governing party and the opposition parties has led to critical comments about the quality of its democracy (Fernandez 1994:112). In many African countries the opposition parties have been too weak and divided to succeed in extracting from the government even the most basic aid the state can give to political parties, namely, free and equal access to the government-owned and -controlled mass media. Such access remains one of the most persistent demands made by opposition parties. In Ghana the opposition parties had to go to court to obtain the free and equal access to the media that the constitution²⁷ guarantees. In Kenya it took the threat of a lawsuit and the personal intervention of the visiting Secretary-General of the Commonwealth to secure equal access for the opposition parties – 90 seconds per day "paid up" advertising on Kenya Broadcasting Corporation's radio and television, and live coverage "where possible" of their rallies. This great victory for fairness and democracy was won only six weeks before the December 1992 election. If governments resist demands for free and equal access to the media they ought not to control in the first place, it is not surprising that they resist even more vigorously any requests for greater equality in party financing.

Even if the principle of state funding of parties is accepted, what exactly should the state support and at what stage of the political process and to what level?

Public Funding of Political Parties in Africa

Public funding (i.e. in the sense of legislated provisions) of political parties gladiating for power is a novel concept on the African continent. Thus, Africa lags behind other regions of the world in the proportion of countries that have public funding provisions (Öhman 1999; and Öhman in a study commissioned by IDEA). As of the beginning of 2002, on the basis of the available research, only 14 African states were known to fund political parties directly, with or without legislation. These were Benin, Burkina Faso, Chad, Egypt, Equatorial Guinea, Gabon, Malawi, Morocco, Mozambique, Namibia, the Seychelles, South Africa, Tanzania and Zimbabwe. Of these, only in four were the sums involved sizeable enough to make a difference to the operation of the opposition parties (South Africa, Morocco, Seychelles and, if the ruling party there had allowed it at the time, Zimbabwe). In South Africa, for instance, according to the amounts cited by Soggot in a study commissioned by IDEA, the five largest opposition parties would have received ZAR 43 million (Int'l \$21 m.) as against ZAR 64 million (Int'l \$31m.) for the ANC over the period 1998–2000.

The relative absence of public funding provisions in both the new constitutions and the laws that governed the recent transitions to multiparty democracy in Africa are testimony to the extent to which the transition programmes were directed and dominated by incumbent authoritarian rulers who had no shortage of financial resources. From the perspective of such rulers and ruling parties, adopting provisions for the public funding of political parties (including opposition parties) was or seemed like a careless dissipation of the advantages that incumbency conferred.

Thus even parties that “came in from the cold” to topple autocrats and despots, such as the MMD in Zambia, promptly saw the advantages of not having the state prop up the opposition, which is how the concept of public funding of parties or candidates is viewed by those ensconced in power. The incumbents somehow view legislated public funding of political parties as tantamount to providing oxygen and other nutrients (instead of withdrawing or withholding them as much and as far as possible) to political rival (dubbed ‘enemies’ of the state by some intolerant incumbent authoritarians).

Thus in Uganda, President Yoweri Museveni declared his opposition to public funding of political parties, even before the people had the chance to vote in a promised referendum on whether Uganda should remain a ‘no-party’ state or become a multiparty democracy. In Ghana, the then ruling NDC in 1999, not surprisingly, declared its opposition to a bill to authorize public funding of political parties (*Ghanaian Chronicle* 3 December 1999).

The New Patriotic Party (NPP), in government since January 2001, prevaricated over the issue of legislation for public funding of political parties notwithstanding that it argued passionately for it when the party was in opposition.

Ruling parties in the new, multiparty contexts have been not only reluctant to help their opponents (as they see it) remove one of the major reasons for their ineffectiveness, namely, their lack of financial resources. But worse, as Cowen and Laasko have observed: “the strategies of many African governing regimes have been directed precisely at making opposition parties as institutionally weak as possible” (Cowen and Laasko, 1997:736).

The partisan self-interests of the ruling parties is a major reason for the relative absence of public funding schemes in Africa. The poor economic and financial base of the state in Africa can also, no doubt, be invoked as a contributory factor.

Another technique and often a substitute to direct donations, involves patronage appointments to bolster party finances. Those receiving such appointments are often expected to contribute a portion of their salaries to the party that appointed them. These practices clearly favour the party in power, with electoral defeat often creating a crisis of party finance.

The major change in this traditional pattern of party finance came with the passage of the 1974 Election Expenses Act, which attempts to regulate party fundraising activities and to provide public subsidies for election expenses. One reason for its passage was that campaign expenditures were increasing so rapidly that all of the parties feared their inability to raise adequate funds in future elections. As a result, the parties collectively turned to public funding and proceeded to raid the public treasury without greatly changing the existing practices of party finance.

It is not Zimbabwe alone that seeks to regulate political parties financing, Mali, for instance, bans the funding of political parties and election campaigns through foreign donations but has no provisions regarding other aspects of political financing. Benin, another West African Francophone state, limits campaign expenditure and has provisions on public funding but not on other aspects of political financing. Ghana has disclosure provisions and bans foreign donations, but the relevant act is silent on other equally pertinent issues of political financing, such as limits on campaign expenditure. South Africa has no provisions on general disclosure or bans on foreign donations but it has provision for substantial public funding and accounting requirements with respect to the public funds. Kenya used to have limits on campaign spending by parties and candidates (although admittedly these were universally ignored), but removed them in 1992, before the first multiparty elections to be held there since the 1970s. In 1999, however, the

Kenyan Parliament approved a bill for state funding of political parties (*The Nation* 21 July 1999; Pan-African News Agency 22 July 1999). For reasons of partisan or personal advantage, incumbents at the time of transition, during constitution-making and at the passing of legislation on political parties, elections and electoral commissions have preferred to address none or only some of the issues involved in political financing. The opposition parties which stand to benefit most from the adoption of regulations that enhance transparency and limit funding and spending have usually been too divided and too weak for their views and interests to influence these provisions strongly.

3.2. Corrupt Kickbacks

Parties that were created within governing circles when dictatorial or autocratic incumbents finally bowed to pressures to reform their undemocratic systems - for instance the NDC in Ghana - had less need for political entrepreneurs with fat wallets. In their control of the state they already had a powerfully lucrative source of funding - kickbacks on government contracts and the sale of state assets. Gyimah-Boadi (2000) refers to a GHC 3 million (Int'l \$ 4.189) donation to the governing party in Ghana by Construction Pioneers, a road-building company that had a huge contract with the government. Independent newspapers in practically every African country provide illustrations of the kickback. As many have observed, in the era of International Monetary Fund (IMF), World Bank and donor country-inspired privatization programmes in Africa, "political privatizations" are proving to be even more lucrative channels for party and personal funding than the old "10 per cent commission" levied on the value of government contracts awarded. *Africa Confidential* dissects the interconnections between the leadership of the ruling party in Côte d'Ivoire, the Parti Démocratique du Côte d'Ivoire (PDCI), and the business class in the context of privatization. Needless to say, these opportunities for political funding through the control of the state become available to new parties as well once they are voted into office, as in Zambia (1991), Malawi (1994) and Nigeria (1999) (*Africa Confidential* 39(13) June 1998).

4. Regulation of Political Parties: a Comparative Overview

Legal provisions governing the raising of political funds are relatively new ground in Africa. In general, the raising of funds by parties and candidates is a matter of unregulated self-help. Less than one in five African states has comprehensive laws to govern the raising of revenue, detail permitted sources of revenue, and prohibit others (such as foreign and corporate donations), or impose ceilings and specify sanctions. For instance, in Zimbabwe the Political Parties (Financing) Act prohibits foreign funding, whether directly from a donor or indirectly through a third person. Thus political parties are required by law to disclose sources of party funds and audited accounts - the minimum regulation required to grapple with issues associated with the difficult relationship between political financing and liberal democratic governance - exist only in a tiny minority of African states. Even in those states, implementation is usually a problem.

In Ghana for instance, funding of opposition political parties came from a "group of young upwardly mobile, cellular-phone clutching business executives and professionals who provided substantial financial backing for Professor Adu Boahen's 1992 presidential bid" (Jonah 1998). Adu Boahen was the opposition challenger to the incumbent, Jerry Rawlings.

In Zambia, trade unionists led the formation of the Movement for Multiparty Democracy (MMD), not only with their organizational skills and energy but also with donations from local business tycoons who regarded politics as business by other means and political parties as appropriate investments. Their donations either founded parties, which they owned, or made them king-makers in the parties they heavily bought into being.

In Nigeria, politicians are called "money-bags" and local wags call the political system "nairacracy" and "contractocracy", on account of the brazen role that money plays in politics and the corruption it engenders. In 1992 Nigeria held presidential primary elections during its unusually long-drawn-out transition programme. These

elections were distinguished not only by the extent of rigging – “seriously rigged”, according to one commentator, and “reaching unimaginable levels of electoral fraud” (Igwe 1994) - but also by the amounts of money that were reportedly spent by the candidates who owned the parties that nominated them.

When Nigeria finally organized its transitional presidential elections, seven years and three generals later (in February 1999), the amounts of money that the presidential aspirants had to raise were staggering by any standard. Indeed, they made the amounts involved in presidential campaigns in the USA pale into insignificance. According to *Africa Confidential*, at a pre-election fund-raiser meeting of the People’s Democratic Party (PDP), the eventually successful PDP presidential candidate brought in over NGN 400 million (Int’l \$ 11,6 m.) for the party, much of it reportedly furnished by his chief financial backer, now his defence minister, a vastly rich businessman and oil tycoon (*Africa Confidential* 40(21) 1999). According to unconfirmed reports, the presidential candidate for the coalition of the Alliance for Democracy (AD) and the All People’s Party (APP) similarly secured his nomination because he was able to bring in over NGN 100 million (Int’l \$ 2,91 m.) (Igwe 1994)

In Kenya the leaders of all the three major opposition parties that were formed to contest the December 1992 elections were multimillionaires. They had to be to make any impression on the then incumbent president, who spent, directly and through his proxies, an estimated KES 2 billion (Int’l \$ 208 million) between January and November 1992, in addition to the vast state resources he pressed into service on his behalf (Throup and Hornsby 1998). The presidential hopefuls pumped millions of shillings of their own money into the campaign (Throup and Hornsby 1998). In addition, their wealthy friends made large donations. Thus, the Democratic Party (DP) was said to have the financial backing of big Kikuyu business, while the inner circle of the Forum for the Restoration of Democracy-Asili (FORD-Asili) reportedly included the chairman of British-American Tobacco (BAT) Kenya, who had close ties to the Kenyatta family. Even FORD Kenya, with fewer wealthy friends, raised 80 per cent of its central fund, some KES 14 million (Int’l \$ 1,45 m.), from “a few large donations from anonymous well-wishers” (Throup and Hornsby 1998).

5. Regulation of Political Parties in Zimbabwe

Legal and Institutional Framework: There are no laws in Zimbabwe that compel political parties to register in order to legally exist. As a matter of fact, in Zimbabwe, it is easier for one to form a political party than to open a banking account⁷! The only time registration is obligatory is during elections when a party wants to contest by fielding a candidate/s. That is, a candidate is required by law to be proposed and endorsed by a certain number of registered voters in his/her constituency and has to pay a candidacy deposit which is returned if he/she gets a certain stipulated threshold of valid votes cast. With the exception of the Political Parties Finance Act of 2001, the development of parties is not blocked by excessive legal regulation. In fact, it is this Act (first enacted in 1992 and amended in 1997 before being repealed in 2001 only to be replaced by a ‘new’ one by the same title) that explicitly defines a political party as “an association of persons the primary object of which is to secure the election of one or more of its members to a local authority or Parliament” (PPFA, S.2, 2001).

From the look of things, the impulse to regulate any aspect of political party activity in Zimbabwe stems from the imperative to constrict the operations of political rivals and therefore any regulations to govern such activities are part of the weapons in the armoury of the ruling Zanu-PF party. In the absence of a de jure one party state, but in the context of the one-party mindset, the regulatory route is irresistible for purposes of asphyxiating political rivals. It is fair to say that in Zimbabwe, the regulatory environment seems to confirm this characterisation. To this extent, the comparatively competitive two-party system that exists in Zimbabwe since 2000 is unwanted and a target for a concerted attack. It may be stressed that though there are more than two dozen parties in the country, Zimbabwe is

⁷ While forming political parties is easy, maintaining them is not. This explains why, though there are no less than 20 political parties in existence in the country, only four were represented in the first two Parliaments of Zimbabwe and only three had parliamentary representation since 1990.

not a functional multi-party. In fact, at a practical level that matters in politics, Zimbabwe is a *party-state* i.e. where the ruling party and the state are virtually indistinguishable. In this conceptualisation then, any deviation or perceived deviation from Zimbabwe as a party-state is viewed as anomalous from the point of view of the ruling class. It is in this sense that any regulations directed at political parties are part of the repertoire for bringing about or consolidating the party-state. The control imperative appears to have been ‘learnt’ from the settler colonial regime especially after the genesis of serious and organised nationalist political movements from the mid-1950s. This era saw the enactment of some of the most obnoxious and vicious pieces of legislation that consciously and determinedly sought to mutilate any signs of active anti-colonial organisations.

If the regulation of parties is viewed in two senses – the *internal* and the *external*, a cursory look at the framework indicates that political parties are free to regulate their affairs as they deem fit. The state does not interfere at all in the running of the ‘domestic’ affairs of these parties. However, the external dimension of political parties is regulated (if not over-regulated) by the state. The paradox though is that in order to exist as political entities, these parties need not register at all but once they are born, they come face to face with the wrath of the regulatory ambience.

According to Sachikonye (2006, 1) the Zimbabwe Constitution, the Zimbabwe Electoral Act (ZEA), Political Parties Finance Act (PPFA), Public Order and Security (POSA) Act and the General Laws Amendment Act – taken together, this corpus of laws represents the constitutional and legal framework in which political parties operate and in which elections are held in Zimbabwe. In addition, the external environment is controlled through such legislation as the rather incongruously named Access to Information and Protection of Privacy Act (AIPPA) and the Broadcasting Services Act to the extent that these impinge on the capacity and access of parties to transmit their messages to their constituencies and to the political community in general.

The Constitution of Zimbabwe has a justiciable Declaration of Rights that enshrines various liberties, freedoms and rights of individuals including the freedom of assembly and association. It is such rights and freedoms that give rise to political parties in the country. The ZEA essentially governs the participation of parties in the electoral processes, including the nomination and polling stages. For instance, the Act requires that at the same time that a candidate registers his/her intention to contest in an election by lodging his/her nomination paper, a deposit must be paid and this money is forfeited to the State if the candidate obtains less than twenty per cent of the number of valid votes cast for the successful candidate. The PPFA is the most salient piece of legislation for purposes of discussing the rules and regulations governing the funding of political parties.

The Funding of Political Parties in Zimbabwe

In his discussion on funding for political parties in Zimbabwe, Sachikonye prefaces his discussion by observing that: “The viability of parties largely depends on whether they generate or receive satisfactory funding for their activities. Little funding cripples a party’s operations and reach. Clearly, there are major differences in scale in the amount of funding that different parties are able to generate and mobilise” (2006, 32). What is the situation in Zimbabwe?

Like in many other jurisdictions, there are both overt and covert techniques of funding the activities of political parties in Zimbabwe. The overt techniques are governed by the PPFA which was first enacted in 1992, amended in 1997, repealed in 2001 and replaced by the present Act. Below, we highlight the evolution of this regulation, its key features and the controversies generated by the legislation.

Since 1992, a major source of party funding in Zimbabwe is the public purse. The PPFA originally stipulated that only parties with a minimum of 15 seats in parliament were entitled to party funding. Of particular significance is that in 2001, the Government repealed the old PPFA and replaced it with the present law whose major innovation was the prohibition of foreign funding of local political parties. This was later modified in 1997 to extend funding to a party which received at least 5% of the vote in the previous election. However, only two parties – Zanu PF and the MDC –

have been beneficiaries of party funding under this formula. The other parties are smaller and complain about their exclusion from funding; they argue that unless they get funding, they will not perform well in elections to the extent of garnering at least 5% of the total vote. In 2000, some Z\$100 million was disbursed and shared between Zanu-PF and the MDC.

As already noted above, since 2001, parties have been prohibited from receiving foreign funding. Section 6 of the PPFA spells out that: “No party, member of political party or candidate shall accept any foreign donation, whether directly from the donor or indirectly through a third person.” This prohibition on foreign funding appears to have hurt all parties, big and small. Both Zanu PF and the MDC had received significant donor support in the past. In fact, Zanu-PF was a major beneficiary of foreign funding since Independence⁸. For instance, ‘Tiny’ Rowland of Lonrho reportedly donated ZWD 14 million (Int’l \$ 4,0 m.) to Zanu-PF to finance its 1996 election campaign (*Financial Gazette* 21 May 1998). When he retired from Lonrho in 1997, *Africa Confidential* reported the event thus: “Lonrho has lost its close links with ZANU” (*Africa Confidential* 38 (24) 1997).

In Zimbabwe the 1992 Political Parties (Finance) Act, which authorized state funding for political parties, merely formalized what had existed since 1980. Zanu PF had been receiving an annual grant of ZWD 32 million (Int’l \$ 21 m.). From 1992, any party that gained 10 per cent or more of the seats in the 150- member parliament (i.e. fifteen seats) was entitled to state subventions. This meant that all the funding went to the ruling party, which controlled, until 2000, 97% of the 120 elective seats in Parliament. Supporters of the Act have argued that this is acceptable as many other countries have passed similar legislation⁹.

Given the high threshold, the opposition parties did not qualify, while ZANU-PF received increased subventions. According to one calculation, ZANU-PF should have received the sum of ZWD 312 million (Int’l \$ 33 m.) from state coffers by the end of 2000, or an average annual subvention of just under ZWD 40 million (Int’l \$ 4,2 m.) (“The Unfairness of Party Financing,” *Financial Gazette* 31 October 1997). One opposition party challenged the constitutionality of the whole Act, and the 15-seat threshold in particular. The Supreme Court found in favour of the opposition, lowering the threshold to 5 per cent of the popular vote. Even then, from 1992 to 2000, only the ruling party was the recipient of these funds. No opposition party ever came near to qualifying for the statutory funding provided under this Act (Makumbe and Compagnon 2000)

Until the June 2000 general elections, opposition political parties had failed to compete at the same pedestal as the ruling ZANU PF, thanks partly to the prolonged diversion of large amounts of tax-payers money into their coffers, creating a huge gap in financial resources of ZANU PF and other political parties. Where all the contesting political parties have roughly the same amount to spend on electioneering, voters are treated to a relatively balanced output of views and arguments and can therefore make informed decisions in the ballot box.

⁸ The MDC and many observers strongly suspected that the new law proscribing foreign funding was targeted at the MDC so as to cripple its operations and ultimately strangle it by starving it of resources. The MDC took exception to this law when it was proposed in Parliament. One of its MPs, Tapiwa Mashakada articulated the conspiracy theory thus:

“We from this side believe that the Bill has been motivated by a number of reasons but primarily, the desire to limit the financial space of MDC. It was clear that Zanu PF had seen that the MDC was now becoming a power politically to reckon with. ... This is an undemocratic piece of legislation. It is not surprising as it is just a high gear on the part of government to try to subjugate the MDC into submission, which will never materialize (*Parliamentary Debates*, 3rd April 2001, 6501).

⁹ The PPF Act was not proposed in good faith nor was it based on ‘best practices’ elsewhere. Rather, it appears to have been motivated and guided by the exclusivist thinking and monopolistic shrust of the ruling party. In any case, in the eyes of Zanu PF, it was inconceivable that any other party could garner that many seats, especially after the 1997 Unity Accord.

The unfairness of the 1992 PPF Act prompted the United Parties (UP) to file an application in the Supreme Court under section 24(1) of the Constitution of Zimbabwe arguing that The Political Parties (Finance) Act section 3_3 was unconstitutional (BCLR 224 (ZS):225). The Supreme Court judgment in this case provides such relevant material to this study that it is necessary to quote it at length. The judgment reads in part)

Turning to the question relating to political funding, the Court observed that unhindered freedom of political expression was essential to the proper functioning of a democratic system. Political parties contending for ascendancy should not be subject to legislative measures that limited their capacity to engage in dialogue and communicate arguments and opinions to enable the populace to make informed judgments as to how they should be governed. Public funding of political parties was a vital element of sound democracy both as an egalitarian measure and as a means of curbing the dependency of political parties upon private interests. The system of public funding had, however, to be respectful of pluralism and the possibility of political change. It had been recognized internationally that the regulation of public funding for elections had five goals: (a) To ensure equality of opportunity in a liberal democracy characterized by inequalities in the distribution of wealth; (b) to make enough money available for competitive campaigns to occur; (c) to allow new entrants, while not encouraging frivolous candidates or propping up decaying political organizations; (d) to reduce the possibility for undue influence; and, (e) to prevent corruption. The formula adopted to allocate State funding to political parties would determine whether these goals would be achieved or not. Certain formulae would do no more than entrench and re-enforce the regime of the major political parties, and sideline their minor or new opponents (BCLR 224 (ZS):225-226, quoted in Makumbe and Compagnon (2000).

It therefore becomes obvious that the Political Parties (Finance) Act (1992) favored the ruling party at the expense of other political parties. The formula adopted in the Act was therefore clearly designed to “entrench and re-enforce the regime of the major political parties and sideline their minor or new opponents.” It must be borne in mind that Zanu PF was receiving no less than Z\$32 million (nearly USD 4,6 million) each fiscal year from the national Treasury from 1992 to 1996. In 1997 the ruling party was allocated a staggering Z\$64 million (about USD 9 million) for the eighteen months from July 1997 to December 1998. Efforts to establish how the ruling party uses this money were frustrated as the party’s officials refused to release such information citing sections of the ubiquitous Official Secrets Act. It is important to note that practically all of the five goals itemized in the judgment quoted above were violated in one way or other through or as a result of the Political Parties (Finance) Act. The Act did the very opposite of ensuring equality of opportunity in that it provided the ruling party with an undefeatable head-start in virtually all forms of political contest. To that extent, public financing of political parties under the Act made an already uneven playing field even more rugged.

The Act did not make money available to opposition parties, which most badly needed it in order to effectively compete with the ruling party, especially during election campaigns. It also totally excluded new entrants since its criterion for funding was based on the existence in parliament of, at least, fifteen members of a political party. To the extent that opposition parties had to depend on the financial and other resources of generous individuals, businesses and private organizations, the Act can be argued to have neither reduced undue influence nor prevented the possibility of the occurrence of corruption. The Supreme Court was, evidently, aware of this unhealthy situation as its judgment continues:

The legislation *in casu* provided a very high threshold for entitlement to receive State funding in the form of the requirement that the party should have at least fifteen elected representatives. The effect would be that small but meaningful voices would not be heard. In a poor society where inadequate funding from private sources was available, the threshold rendered it virtually impossible for other political parties to gain any foothold. The practical effect of the funding system which had been provided was that the ruling party alone would receive assistance. This had been demonstrated in two general elections. While the enactment was neutral on the face of it, it offended the

constitutional guarantee of freedom of speech in its effect.... It followed that the provision should be declared to be in contravention of section 20(1) of the Zimbabwean constitution which guaranteed *inter alia* that no person would be hindered in the enjoyment of the freedom to receive and impart ideas and information.

The Court declared that section 3(3) was unconstitutional and fell to be struck down (BCLR 224 (ZS):226).

The fiscus is now undoubtedly the major milk cow for those two parties that since 2001 have been eligible to receive public funding. For instance, the opposition MDC says 60% of its funding is from the state meaning without state subventions, the party would have considerable difficulty effectively participate in national elections and oiling its organisational machinery.

It should be also noted with concern that the PPFA does not require disclosure of sources of donations from within the country not does it set ceilings for such contributions. Even more weird is that the recipients of the public funds need not necessarily account¹⁰ for them to the public and are free to use the funds as they deem fit. This is manifestly unfair to the taxpayer who pays the piper. Moreover, the Act supports political party activities, and not just its electoral activities.

Other Sources of Funding for Zimbabwe Political Parties

Contributions from 'well-wishers': This is a significant source of funding for major political parties who incidentally are also the recipients of the state largesse. Zanu-PF has raised considerable sums of money from its business interests that include shareholding in companies, and from wealthy supporters who have included bankers and industrialists. For its 2004 congress, it was set to raise about Z5 billion from both business interests and supporters. The MDC also relies substantially on business donors and one study revealed that business donations account for 10% of the party's revenue (Sachikonye 2006, 33)..

Membership dues: These are another major source of revenue for the two major parties. The sale of membership cards, especially in the run-up to elections, also generates considerable amounts of funds. For the MDC, membership dues contribute a respectable 20% of the party revenue. The small opposition Zanu-Ndonga also gets about 20% of its income from membership fees while the other little party, the Democratic Party, got as much as 95% of its revenue from membership fees¹¹.

Party business interests: Both the ruling Zanu PF and the opposition MDC have substantial business interests that contribute to party finances. Zanu PF, for instance, has an extensive investment portfolio. Through a holding company called M&S Syndicate, the party owns or has substantial shares in a wide array of companies dealing in motor vehicle sales and garages, properties, the import and distribution of industrial machinery, water pumps, steel, building materials and mining (*Financial Gazette* 21 May 1998). Some of its companies have supply contracts with government departments, such as the Defence Force and Central Stores, and supply, for instance, books to schools and colleges nationwide. The party has a 50 per cent share in Catercraft, a company that provides catering services to airlines at Harare International Airport, and in National Blankets, a company that manufactures blankets in Bulawayo. Its printing and publishing company, Jongwe Printers had for along time a contract to print Hansard, official the record of parliamentary proceedings.

¹⁰ The 2001 Act provides for ministerial regulations that may provide for "the keeping by political parties of proper books of accounts, the audit of the accounts of political parties, and the form, content and publication of statements of accounts by political parties" (Section 8). To date, there does not appear to have been invoked such a regulation and the two parties have consequently escaped public scrutiny of how they have used the public funds.

¹¹ However, its revenue base is so small that it did not have more than Z\$2 million (less than US\$50) in its bank account in 2006. It acknowledged 'scrounging around' in terms of funding (Sachikonye 2006 33).

The likelihood of conflicts of interest in all these areas, where policy, legislation and regulation would be called for from time to time, and the probability that the tax office and other state agencies would feel inhibited in performing their statutory functions with regard to such companies are clear. A tax office spokesperson reportedly complained: “We face a lot of hiccups and political interference when we try to investigate companies owned by the ruling party” (*Financial Gazette* 21 May 1998).

For its part, the MDC relies as well as rental revenue from leasing properties in Harare and several provincial centres. This source of party funding contributes 10% of the party income. It may be noted that the MDC party views those Zimbabweans in the Diaspora as potentially a major source of funding and has therefore been making appeals to them.

Other small parties do not have similar ventures but Zanu-Ndonga depends a great deal on the funds generated by the business interests of its president, Wilson Kumbula who contributed about 60% of the party’s revenue.

Whatever the source of funds, there is no public accounting for the funds raised. This is especially indefensible where a party is recipient of state funding. The accounting of party funds is done within a party and is not meant for public consumption. Clearly, this is any area that needs to be addressed.

Patronage: For the ruling Zanu-PF, as is the case with other governing parties throughout the world, an important dimension is the sourcing of resources by virtue of being at the centre of the state. This entails the dispensing of patronage or prebends by those who control the state and its resources. Such prebends are dished out to supporters of the party. Sachikonye comments that:

Access to government power and resources ensures that only the ruling party possesses significant means of patronage. Examples of patronage would include jobs and contracts in government departments and parastatal corporations, the construction of roads, dams, schools and clinics in favoured rural and urban districts, facilitated access to credit sources, and diplomatic postings (2006, 4).

In short, the power of incumbency gives ruling parties a head start in electoral contests. In Zimbabwe’s case, in addition to owning substantial resources thanks to state subventions since 1992 and returns from business interests since 1980, the ruling Zanu-PF draws on other state resources, such as significant regular coverage on television, radio and in state-owned newspapers. Infrastructure (such as schools as venues for meetings and rallies) is also at its disposal, more so than is the case for the opposition parties, Sachikonye observed (2006, 34). These are some of the issues that need to be more critically examined in reforming the electoral landscape in the country.

With regard to broadcasting services, the Zimbabwe Broadcasting Services Act theoretically guarantees equality of opportunity to the state media. However, on the ground, the ruling party has monopoly over the state media, particularly the radio and television. This is evidenced by more than 90% of election campaign news coverage on the state owned radio and television exclusively focusing on portraying a positive picture of the ruling party, its candidates and supporters. In as much as there is minor coverage of the opposition political parties, more often than not they are given maximum coverage either when they are making a joke out of themselves or have uttered statements that work to the benefit of the ruling party. Of late, the main opposition party in Zimbabwe has been receiving a lot of attention from the state owned broadcasters largely because of the split in the party and lately the violent attack of Ms Trudy Stevenson and her colleagues who belong to the Arthur Mutambara faction of the MDC, by alleged youths aligned to the rival Morgan Tsvangirayi faction.

Then there is Public Order and Security Act which replaced the notorious Law and Order Maintenance Act. This is also an attempt by the government to limit civil liberties and legalise the control of street demonstrations, public gatherings and other forms of civic action which may be viewed by the state as having the potential of *violence* or

subversion as defined in that Act.

Registration of Political Parties in Zimbabwe: the state of the disputation

In its report on the Senate elections and the Gutu House of Assembly by-election of 2005, the now disbanded Electoral Supervisory Commission (ESC), notes that the absence of laws for the registration of political parties had led to the emergence of “nondescript small parties with little content and no standing, let alone sustainability” (The Herald, 8 June 2006). The ESC then recommends that this problem could be curbed if parties were required to register with the Zimbabwe Electoral Commission. It goes on to claim that this would also ensure the observance of national security as the state could use the information so availed through registration to carry out investigations to ascertain the party’s intentions and to weed out potential saboteurs. Below we will critically engage this proposition to determine its merits, suffice to say for the moment that there appears to be questionable grounds for so recommending, especially twenty six years after Independence in 1980.

Ruling party and government circles have praised the recommendation while opposition forces have roundly condemned it. The pro-registration camp has argued that this regulation is long overdue, and it will deal with the fly-by-night parties that go underground after losing the election by embarrassing margins, whilst at the same time having divided the electorate. “There is no guarantee that the nation’s detractors would not one day sponsor such political parties in order to cause mayhem in the country.” the state-controlled *The Herald* commented (June 8, 2006). For instance, Zanu-PF Secretary for Administration and also Minister of State for National Security, Lands, Land Reform and Resettlement supported the recommendation saying it would separate the grain from the chuff. “We welcome such provisions because this will distinguish serious political parties from pretenders. We should have political parties that are truly Zimbabweans and not those bent on championing foreign interests.” The Mutasa statement suggests that the proposed legal provision would have “Zimbabwe nationality test” however this is defined.

Proponents of registration say the exercise is a formality that will make sure that unscrupulous people will not ride on the goodwill of established parties by adopting names and symbols almost similar to those of established parties, in the hope of confusing the electorate, Thus registration will ensure that a party establishes its trade mark so that no other grouping will in a way that will mislead voters. This may be important in the case of the Movement for Democratic Change, where both factions are not prepared to let go of the party open palm symbol, slogan, name and other paraphernalia for identifying and distinguishing political parties.

It is also contended in support of party registration that political party registration will not be unique to Zimbabwe as Namibia has a law that requires signatures and particulars of 500 supporters, a registration fee, the party constitution and a list of members of the executive are required before a party is registered.

The counter-argument is that the ESC recommendations fail to take into account is that political parties are voluntary organizations; legal requirements will undermine the volunteer character of parties, and lead to their privatization and bureaucratization. The essence of electoral democracy is that political parties involve individuals and organizations that are independent of undue control by the state and hence should be left alone to determine their internal affairs.

Finally, the completely unacceptable would be kickbacks from recipients of government contracts and other largesse, diverting state resources to the governing party through front organizations, and donations from foreign sources such as business owners, multinationals and governments. Of the above, the most prominent in Africa in terms of size and frequency are donations (of various types, including those by founders of political parties and foreigners), corrupt kickbacks, state subventions and returns on business investments, in that order.

In Zimbabwe opposition parties struggle for consistent support from business owners who would rather donate to the ruling party which can deliver prompt returns than risk the vengeance and vindictiveness that is associated with ZANU PF when its paths are crossed. With the sanctions and the fallout between London and Harare, any business owner who decides to finance any opposition party in the country, would just possibly be an unusually committed democrat, because it is a high-risk game for their business.

6: Reforming the Regulatory Framework for Political Parties in Zimbabwe

This paper supports Sachikonye's apt observation that strong and sustainable democracy is dependent on well-functioning political parties because they are crucial actors in bringing together diverse interests, recruiting and presenting candidates, and developing competing policy proposals that provide people with a choice (2006, 37). Political parties therefore need public support in order for them to be able to contest in elections. Electoral participation demands huge financial, human and organisational resources, hence the need for well-crafted and targeted public subsidies.

There is nothing inherently wrong with registration of political parties per se, i.e. in principle, registration is in and of itself, unproblematic but only if it is done *in good faith*. It should not be informed by the alleged need to safeguard national security. The registration of parties must also be done by a strictly impartial and inclusive body of public-spirited citizens who have no partisan affiliations. Representation in such an agency should be cross-national and cross-sectional but including nominees of the political party community, representatives of civil society – especially but not exclusively religious groups and academia, the private sector and the government. The stress must be that such people must be of unquestionably high integrity.

In addition, the registration of political parties should be tied to public funding of credible parties as defined in national legislation. In other words, parties that do not wish to participate in elections and therefore to be considered for receive public funding should not be compelled to register. It should also be accepted that electoral participation is a public function and therefore those parties participating in elections should be subsidized using a formula that filters out frivolous parties that see electoral participation not as a public function but as an entrepreneurial economic activity. This will discourage rent-seeking behaviour on the part of political entrepreneurs. Further, public funding of parties and candidates participating in elections must be for electoral participation only and not for subsidizing party activities. Political parties must be able to fund their own operations outside the electoral arena. More specific recommendations on public funding are:

- The registration of political parties that wish to receive public funding for participating in elections. Legislation should define what a “registered political party” is. For instance, the Canada Elections Expenses Act defines a registered political party as a political party which was either represented in the House of Commons on the day before the dissolution of Parliament immediately preceding the election, or 30 days before polling day had officially nominated candidates in at least 50 electoral districts in Canada. A definition appropriate to the Zimbabwe situation which has two partly elective chambers would have to be worked out;

- Legislation will need to be put in place limiting expenditures of parties and candidates in elections and must define election expenses. Election expenses could include the cost of services like media, time and space, personal labour and goods that are donated and have a commercial value up to a certain amount. In some jurisdictions, the formula limiting election expenses is based on the number of voters registered in every constituency in which a party has an official candidate. This will of course demand that the voters roll be accurate and reliable. Volunteer labour cannot be included under election expenses;
- Candidates should be reimbursed for a portion of their costs but only if they satisfy a defined threshold of votes in their constituency. For instance, if a candidate receives at least 15% of the valid votes cast in his/her constituency and has fulfilled all the requirements stipulated in the relevant legislation, the candidate should be entitled to a reimbursement of part of the expenses as stated in the legislation. The present threshold for returning the deposit paid by candidates could be a starting point;
- Legislation must require the disclosure of the names of donors to registered parties and candidates if the donation is more than a stipulated amount. A maximum amount of the donation per donor should also be specified. No contributor can donate through a third party. Donations may take the form of money or the provision of goods and services. Parties and candidates must also be required to account publicly for the uses to which they put public and donated funds. All registered political parties will have to be required to file returns itemising their election related expenses and their annual receipts and expenses. Each registered party and candidate must appoint an auditor who is required to report the receipts and expenses and all statements of contributions and expenditures by parties and candidates must be filed with the designated electoral officer and become available for public inspection;
- An income tax credit system for taxpayers donating to parties or candidates. This will permit a taxpayer to deduct from his/her income tax payable a portion of a political contribution that an individual makes to a registered (but not to an unregistered) political party or to a candidate. For avoidance of doubt, to be eligible for a tax credit, the contribution must be made only to a registered agent of a registered party or to an official agent of a candidate. The amount of the tax credit will vary with the amount of the donation up to a maximum credit stipulated from time to time or from one taxation year to another. The rationale for introducing such a tax credit is that it broadens the basis of financing of the democratic processes without overburdening the treasury. A public consultative process could also determine whether contributions by taxpayers could be made annually to a political party or to a party or candidate only during an election.
- In line with regulations and best practices elsewhere, foreign donations to political parties and candidates must be prohibited.
- Stiff penalties must be imposed for infractions of the law governing party financing.

This paper concludes by echoing what Lloyd Sachikonye has recently pointed out, that:

Clearly, the healthy development of parties requires a conducive and ‘enabling’ institutional framework. To the extent that the present framework is restrictive, it should be made more relaxed and transparent, and not inhibitive to parties. In this respect, restrictive laws on rights of association, assembly, and expression as represented by the POSA, AIPPA should be urgently reviewed. ... If the current institutional framework is not reformed, then party development and the wider democratisation process will continue to be adversely affected (2006, xiii).

The Zimbabwe electoral landscape is crying out for a radical overhaul to level the playing field while making the political game more transparent. The regulatory framework suggested above is an attempt to achieve that.

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