

5cRW Background Paper

**FACTS, SCEPTICAL
THOUGHTS AND
POLICY IDEAS**



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EXECUTIVE SUMMARY

The financing of political parties and election campaigns has rightly become regarded as an essential subject for those concerned with public integrity and good government.

Policy on such matters as lobbying, organised crime, drug trafficking, and public contracting abuses cannot realistically be considered without taking account of the role in many countries of political finance. Conversely, controls of party and election funding are likely to be ineffective if they exist in isolation. On their own, they are likely to result merely in the re-channelling of money spent to obtain political influence through lobbies and through organisations which are legally independent from parties but which are like off-shore islands of parties.

The reality that political finance frequently causes severe problems does not mean that there are any straightforward remedies. Political finance reforms often fail because they have been based on myths and on a resort to laws which are largely unenforced, riddled with loopholes, and sometimes damaging in their unintended consequences. The paper starts therefore with a critical summary of the state of research into party and election campaign finance, with a focus on invalid or unproven claims. It then suggests an agenda of initiatives by scholars and policymakers, some of which may be followed up by the OECD and other bodies participating in the forum.

There has been a global tendency toward greater regulation of the funding of political parties and election campaigns and toward public subsidies. However, the conventional justifications for these reforms have not been based on solid empirical evidence.

Among the most common of these factually weak arguments are:

1. there has been an explosion in spending by parties and candidates,
2. this cost explosion has been driven by the expenses of modern media campaigning, especially television advertising,
3. increasingly expensive campaigns have been responsible for loss of public trust in democratic politics and thus for low electoral turnout.

Debates about electoral and constitutional rules are inherently ideological and political. Though there is widespread agreement that elections should be both "free" and "fair", there is no consensus about the relative weight to be given to freedom of expression (which often implies a lack of regulation) and to fairness (which, on the contrary, normally involves regulation). There are legitimate arguments from the political right for systems which stress freedom of expression and from the political left for a greater priority for rules to assure fairness.

Among all the different options for legislation concerning the control of political finance, the one that has the widest support is that of transparency. However, even here there is room for legitimate disagreement. Moreover, it is not easy to translate the ideal of transparency into reality.

Transparency may have distorting effects if political parties are subject to more onerous rules than lobbies and various indirect forms of money in politics. Carefully considered applications of the policy of transparency are needed.

It follows that it is dangerous for international bodies to advocate and, even more dangerous, to seek to impose a common world order in the field of political financing.

International bodies play their important roles most usefully when they refrain from proposing standards and codes about matters which are inherently political, ideological and subject to national variations. The attempt to find wording which papers over disagreements too often results in vague declarations which conceal practical problems.

It is all the more important to be careful about legal reforms since a feature of political finance regulation and subsidy which seems to be increasingly important is the role of courts - both national and international - in making rulings on both the principles and on the details of political finance regimes. Political funding has already led to significant clashes between courts and national legislatures (for example, in the United States). These conflicts threaten to become even more serious when an international court such as the European Court of Human Rights invalidates national law of any of the 46 member states of the Council of Europe.

The value of international NGOs in the field of political finance varies according to whether they provide technical information, training and support for legislators and electoral administrators (which are potentially valuable functions), or whether they suggest headline-grabbing or ideologically-loaded solutions and pursue the largest available contracts from donor agencies. In the author's judgment, the value in the field of political funding of what have come to be called "civil society organisations" has been oversold. This is partly because these bodies often have weak local roots and partly because the campaigns they tend to mount are too crude.

The objective of presenting a cautionary reality check is to suggest ways in which international organisations can play positive and important roles. The paper concludes with a set of personal conclusions and thoughts which are intended to direct debates on political financing into some new, potentially fruitful directions.

1. Special problems such as the political finance role of organised crime and drugs trafficking are particularly suited for attention by international bodies since they typically involve cross-border activity. Apart from research into national-level political spending, there is a need for local case studies. It is local-level studies which are likely to be the most revealing when it comes to matters such as vote-buying, the exchange of public contracts for political donations, and the role of organised crime and drugs trafficking.
2. A potentially valuable role both for national and international democracy promotion bodies is in funding schemes to train to provide in depth training for locally-based researchers and experts in the field of political finance.
3. There needs to be more empirical study of agencies responsible for the enforcement of political finance laws - their structure and powers, their staffing, and their record in achieving prosecutions and convictions.
4. There needs to be empirical study of "indirect" public funding. This includes the use of public resources by incumbent legislators national and local governments for partisan purposes.

5. In practice "political finance" includes money used for political purposes via the media and via pressure groups. Comprehensive study of the role of money in politics requires investigation into varied channels and not only of political parties.
6. There is a need for research with a greater focus on factual investigation rather than on policy recommendation or on examination of existing laws in different countries. For example, there is a shortage of comprehensive national studies of trends in political spending.

There is also a lack of research into the funding of sub-national elections and of local party.

Organisations judgment

1. There needs to be more detailed comparative study of cases relating to political funding and to other aspects of electoral law which have come up before international courts such as the European Court of Human Rights and before national courts.
2. Since problems of political finance regulations and laws stem typically from matters of detail and definition, more attention needs to be paid to technical issues of legislation. Problems which have arisen in one country may be useful to another in matters such as the definition for regulatory purposes of terms such as "political party", "election campaign", "electoral purposes", and "donation".

1. INTRODUCTION: POLITICAL FUNDING AS PART ANY OVERALL STRATEGY TO ASSURE PUBLIC INTEGRITY AND GOOD GOVERNMENT

1. The financing of political parties and election campaigns has rightly become regarded as an essential subject for those concerned with public integrity and good government.

2. Policy on such matters as lobbying, organised crime, drug trafficking, and public contracting abuses cannot realistically be considered without taking account of the role in many countries of political finance. Conversely, controls of party and election funding are likely to be ineffective if they exist in isolation. On their own, they are likely to result merely in the re-channelling of money spent to obtain political influence through lobbies and through organisations which are legally independent from parties but which are like off-shore islands of parties. A number of examples (Box 1) illustrate why a consideration of political funding needs to be part of any overall strategy to assure public integrity and good government.

Box 1. Political funding, public integrity and good government

The International Monetary Fund and the World Bank spent a weekend some ten years ago with at least half of the members of the legislature of an African country. In the surroundings of a luxurious seaside hotel, the IMF delegation delivered a fairly brutal warning to the country's politicians: until the authorities brought prosecutions in at least two corruption cases, there will be no agreement on for the requested loan from the IMF.

In conversation during a break in the proceedings, a parliamentarian talked about his election campaign costs. When someone in his home district died and relatives could not afford the hospital fees, the family would come begging him to pay so that the body could be released for burial. His unavoidable spending on many such favours was so heavy that he and others like him entered the legislature deeply in debt.

The implication - later confirmed by an IMF expert - was that the system of campaign funding (which was out of bounds in the formal proceedings) virtually forced some parliamentarians to recoup their huge informal election costs once they had been elected. There was a powerful incentive for them accept bribes to use their influence with the government or to sell their votes in the legislature to some business enterprise when a matter crucial to that enterprise came up for consideration. In short, it did not matter that much whether or not the authorities demonstrated their determination to bring prosecutions for corruption. Provided the system of campaign financing remained unaltered, corruption would remain a functional necessity.

Around the same time, a major international bank was considering loans to improve the electricity systems in an Asian country. A problem was the common practice of householders to install wiring which by-passed the electricity meters, a practice which reportedly cost a great deal in lost revenue, thus putting the viability of the proposed loans in question. Reputedly, the problem was only partly that householders bribed electricity inspectors to ignore the by-passes but that the inspectors themselves gave their seniors a cut of the bribes. The suspicion was that the bribes went right up the chain of command to senior politicians whose electoral coffers benefited from the scam and who, in return, offered protection against inquiry and prosecution.

In Europe, a study of recent municipal politics in Spain (Jimenez and Villoria, 2012) indicates that the excessive construction boom which sparked the country's deep financial crisis was possible largely because of corrupt political contributions to local politicians.

Source: Author

3. It is equally important for specialists in political finance to appreciate that regulations relating specifically to political parties and to election campaigns should not be considered in isolation. Where the funding of party organisations is subject to special legal restrictions which do not also apply to other political organisations such as lobbies, the simple effect will be to re-channel political donations to these other bodies. For example, when a court in the German Federal Republic of Germany ruled that the country's Basic Law imposed particular legal restrictions on political parties, the effect was to promote the activities of "party foundations" - bodies which were legally separate from parties but closely linked in

practice. The term "third parties" has come to refer to politically active lobby groups - sometimes linked informally with parties and election candidates. The question of whether and how to regulate them has arisen in much of the world.

The complex scope of "political finance"

4. Money is interrelated with politics in so many different ways and through so many different channels that the important subject of "political finance" presents severe problems for political scientists as well as for national policy-makers and for international organisations. If it is difficult to define "political finance", how can it be measured and analysed? If it cannot easily be defined, how can it be subject to effective legal regulation?

5. Compounding the difficulty of determining the scope of "political finance", agreement on appropriate measures of public policy is made even harder by an underlying clash of political philosophies. Believers in private business enterprise see it as the fount not only of prosperity but also of political freedom. Critics of free enterprise who follow Marxist as well as Social Democratic approaches are fearful that what they see as the excesses of capitalism and gross inequalities of wealth and income undermine the political equality between citizens which is at the core of democracy.

6. There is a further group of problems. These result from the conflicting organisational and professional interests of scholars and of campaigning "Non Governmental Organisations" or NGOs (a term placed in inverted commas because many such bodies are heavily dependent upon governmental grants and their status is disputable). Not only do political scientists disagree among themselves, there also are notable differences between academic researchers and these NGOs. In addition, from the 1990s onwards, the field of those claiming to be "stakeholders" has burgeoned, including international organizations.

7. "Public interest" lobby groups have an incentive to put forward bold theses and to press simple proposals which gain publicity and provide them with active roles. The doyen of United States specialists in the study of campaign finance, the late Herbert E. Alexander, had long-standing disagreements with one such organisation for its populist pronouncements. From the 1990s onwards, the field of those claiming to be "stakeholders" has burgeoned. Various inter-governmental institutions have become active in commissioning studies, providing advice and - in particular - in drawing up documents claiming to set forward international "guidelines", "codes", or "standards". At the same time, there has been a growth of bodies which have badged themselves as international "civil society organisations". These non-governmental organisations and have been active and influential in the global politics of "anti-corruption", "good government", "democratisation" and electoral integrity. In practice, there has been a symbiotic relationship between inter-governmental bodies (such as the United Nations, European Union, the Council of Europe, and the World Bank) and so-called "civil society" lobbies ("so-called" because their claims to have considerable memberships are unjustified).

8. The increasing activism of inter-governmental bodies and NGOs in discussions of political finance has had the general effect of producing over-simplified remedies. Unproven factual propositions have been repeated endlessly as if they are beyond dispute.

9. A gulf has opened between evidence and advocacy. In particular, a simplistic, reform formula has been too readily accepted and advocated. It consists of (1) publicly funded political parties and election campaigns, (2) transparency of donations to parties and election campaigns (but not of other forms of money-in-politics) and (3) limits on donations to parties and election campaigns (but not on other forms of money-in-politics).

10. As the OECD expresses in its announcement notice for this meeting: “A number of recent examples highlight the need to reassess the effectiveness of existing regulations in enforcing a system that is capable of containing money’s undue influence. Forms and channels of financial and non-financial support have become more sophisticated; and associations, third parties etc. have emerged as key new players, suggesting that the time is ripe to reassess the role and relevance of money, and influence, in politics”.

11. Political finance is a difficult topic which requires carefully shaded judgements. The first parts of the paper provide all sorts of qualifications and sceptical observations. They are necessary because the subject too often attracts general slogans, myths and crude solutions. The opening sections are intended to be critical but not destructive. The objective of the presentation is to move the agenda into fruitful areas to which insufficient attention has been given.

12. This paper has been written in fulfilment of a commission to prepare a "think paper"/"vision paper" together with a "state of the art" summary of the existing state of studies of the topic. It is the author's judgement that policy making has too often been damaged by rushed solutions, by failure to pay sufficient heed to evidence and by an unwillingness to acknowledge shortcomings in past projects. It is also his experience that the development of democracy promotion as an industry with increasingly large numbers of career consultants has had the consequence of deterring frank self-examination.

13. The review of some of the common arguments and policies about the regulation of political finance in the first sections of the paper inevitably include cautionary statements. However, these are necessary if the unending cycle of repetition of unproven assumptions is to be challenged and the discussion is to be guided into more careful and modest but potentially more productive avenues. The last part of the paper makes suggestions about questions which require greater attention and which, in the author's opinion, provide a scope for useful action by bodies such as the OECD. Since the paper's readiness to acknowledge failure in past programmes may be outside the comfort zone of a number of organisations represented at the meeting, it must be stressed that the judgements which it presents are those of the author alone.

2. REGULATING POLITICAL FINANCE: TWO MYTHS AND AN UNPROVEN ASSUMPTION DRIVING THE POLICY DEBATE

14. It is the author's judgement that policy making has too often been damaged by rushed solutions and by failure to pay sufficient heed to evidence. In particular, a number of issues that have been used as conventional justifications for regulatory reform, have not been based on solid empirical evidence, including: (i) there has been an explosion in spending by parties and candidates; (ii) this cost explosion has been driven by the expenses of modern media campaigning, especially television advertising; and (iii) increasingly expensive campaigns have been responsible for loss of public trust in democratic politics and thus for low electoral turnout. The purpose of this section is not to express an opinion in favour or against these regulatory measures, but to show that the bodies and politicians which have advocated them have frequently done so on the basis on incorrect statements.

a. The first founding myth of political finance reform: the exploding cost of modern election campaigns

15. There are many possible grounds for favouring the idea that taxpayers should be required to pay for some of the costs incurred by political parties and by candidates for public office. Certainly, such payments are now made in a clear majority of democracies. To a lesser or greater extent, they are a reported feature of politics in all but one of the member countries of OECD (Annex 1). Equally, there are legitimate arguments of principle and of practice against direct taxpayer funding.

16. Equally, there are legitimate arguments of principle and of practice against direct taxpayer funding. The debate has consumed much of the energy of scholars and policymakers. It is not the task of this paper to summarise or to evaluate the extensive literature on the topic. It is worth commenting that some careful commentators, such as Jonathan Mendilow, Michael Brogan and Kevin Casas-Zamora, have reached the conclusion that the intense arguments both in favour of public funding and against it may be exaggerated. (See Casas-Zamora, 2005 and 2009; Mendilow and Brogan, 2012.) [1]As Daniel Smilov has suggested, the division between supporters and opponents of public funding reflects a division between libertarian and egalitarian political philosophies rather than differences about factual evidence. (Smilov, 2007, 4). Nevertheless, the case for political finance reform, including public subsidy, has often cited alleged facts and trends. It is therefore important to start by examining the evidence. At the same time, it should be borne in mind that the inaccuracy of some of the common empirical justifications for public funding and for tight regulatory controls does not necessarily mean that those measures are unjustified.

17. Several recent academic studies, some by scholars who oppose and others by scholars who favour public funding, have reached similar conclusions about one of the most frequent arguments cited in favour of public funding and of spending and contribution limits.

18. These empirical studies have been united in casting doubt on the argument raised frequently in public discourse, namely that there has been a cost explosion in political spending.

19. The increasing expense of running a modern election campaign - it is commonly stated - has led to ever greater demands for money by political parties and by candidates and hence to greater pressure to solicit money corruptly.

20. As late as 2012, this was a central claim of the Global Commission on Elections, Democracy and Security. The commissioners were a group of eminent persons brought together by former United Nations Secretary General Kofi Annan and by the Stockholm-based International Institute for Democracy and Electoral Assistance (IDEA).

21. The Commission referred to the "explosive growth" in campaign expenditure across older democracies. International IDEA then stated as established fact that "[t]he cost of political campaigning is escalating in democracies all over the world which means that political parties are in greater need of campaign funds." The costs of the 2012 elections in the United States were "dizzying".

22. There was nothing unusual in these strong statements. In his 2009 book on *The Funding of Party Competition: Political Finance in 25 Democracies*, Karl-Heinz Nassmacher cites a whole series of assertions to the same effect. In a chapter titled "Cost Explosion: Fact or Fantasy?" he cites a number of works which advocate the cost explosion thesis - a thesis which he comes to view as fantasy rather than fact.

23. In his 2008 publication on political funding in the United Kingdom, subtitled "Myths and realities in British political finance", the author of this paper independently reached a conclusion similar to Nassmacher's and rejected the "arms race" theory of increasing political expenditures as myth.

24. Other academic works give further independent evidence against the cost explosion thesis. Notable among them are a prize-winning doctoral dissertation at Oxford University by Kevin Casas-Zamora (Casas Zamora, 2005)[2] and research for the United States Bureau of Economic Research by a team at the Massachusetts Institute of Technology, which combined expertise in political science and in economics (Ansolabehere et. el. 2002).

25. A flavour of the widely held "cost explosion" view is given in Box 2. The Box shows also how the unsubstantiated pronouncements of some of the best known international organisations and by leading politicians have been contradicted repeatedly by academic studies but have continued to be mouthed in disregard of evidence.

Box 2. The alleged "cost explosion" of modern election campaigns

There is a cost explosion: unsubstantiated claims

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE,
POLITICAL AFFAIRS COMMITTEE, RAPPORTEUR VLASTA
STEPOVA, CZECH REPUBLIC

In the absence of any limits, party public relations costs spiral out of control.

STUDY COMMISSIONED BY THE COUNCIL OF EUROPE, 2003

Politics in modern democracies has become progressively more expensive.

STATEMENTS BY THE UNITED KINGDOM'S LABOUR
GOVERNMENT, 2006-7

The ... 'arms race' of spending between the parties ... an environment which has seen spending go up dramatically... the huge levels of national expenditure increased over the 1980s and 1990s ...

Speech by the Leader of the House of Commons, 5 September 2006

The Government believed ... that the fundamental problem - the arms race between the political parties -had to be tackled.

No 10 Downing Street press briefing, 11 January 2007

"GLOBAL COMMISSION" OF EMINENT PERSONS ESTABLISHED
BY THE KOFI ANNAN FOUNDATION AND INTERNATIONAL
IDEA, 2012

... an era of explosive growth in campaign expenditure across older
democracies ...

INTERNATIONAL IDEA, STOCKHOLM, 2012

The cost of political campaigning is escalating in democracies all over the world which means that political parties are in greater need of campaign funds. The price tag for the 2012 US elections ended up at a dizzying \$US 6 billion. In Kenya the cost of the presidential race for the election in 2013 is estimated to hit US \$130 million, double to the amount of the previous 2007 election.

There is no cost explosion: evidence-based academic refutations

ELECTION CAMPAIGN SPENDING IN THE UNITED STATES, 1912-2000 (Ansolabehere et. al., 2002)

Much of the academic research and public discussion of campaign contributions appears to be starting from some misguided assumptions.

Campaign spending, measured as a share of GDP, does not appear to be increasing.

MAJOR PARTY SPENDING IN THE UNITED KINGDOM, 1966-2005 (Pinto-Duschinsky, 2008)

In the most recent electoral cycle, 2001- 05, the highest-spending political party, the Conservatives, spent 4 per cent less than in 1966-70. The calculation ... measures inflation by the Retail Prices Index (RPI). Compared with average earnings, Conservative Party spending in 2001-05 was half as much as in 1966-70

TRENDS IN POLITICAL SPENDING IN AUSTRIA, CANADA,
GERMANY AND JAPAN (Nassmacher, 2009)

Despite academic and public hysteria about rising costs ... [i]f GDP deflated per capita expenses for U. S. politics are compared for a period of some 90 years, they peak in 1912 and 1940. Following a trough between 1944 and 1964, political spending shows a lower and declining level since 1968. ... Political spending in Canada peaked in 1984, in Germany and Japan in 1983.

ELECTION CAMPAIGN SPENDING IN COSTA RICA, 1978-1998

(Casas-Zamora, 2005)

... contrary to common perception, total electoral expenditure has not grown constantly, or even at all.

Sources: Council of Europe, 2001, Paragraph 13, Van Biezen, 2003, Pinto-Duschinsky, 2008, 15, Global Commission, 2012, para 72, Falguera, 2012, Ansolabehere et. al., 2002, Pinto-Duschinsky, 2008, 5., Nassmacher, 2009, 191-92, Casas-Zamora, 2005, 112.

26. The task of calculating trends in political spending faces problems of evidence and of statistical definition. First, there still are relatively few countries for which there is reasonably reliable factual evidence about political expenditures over a considerable period of time. Nassmacher identified only six: Austria, Canada, Germany, Japan, United Kingdom and the United States. (See Nassmacher, 2009, 156.) Moreover, it is not enough to obtain evidence about national-level campaign spending alone. Any calculation of overall party and candidate spending needs to include both campaign and inter-campaign costs both nationally and locally.

27. Second, even where there is factual data for a considerable number of years, it will need to be interpreted with care if it is to be used as the basis for recommendations about policy. Trends may themselves be influenced by existing regulations or public subsidies. To give two examples, the notable fall in major party spending on general elections in the United Kingdom between 1997 and 2010 was partly a result of spending limits introduced in 2000. This, however was not the only cause since the parties spent considerably less than the limit. (See Pinto-Duschinsky, 2011c.) In Estonia, the notable increase in political spending resulted from the increase in the level of state aid. (Sikk and Kangur, 2008.). Further problems of interpretation arise from the use of official statistics. They often are notoriously unreliable and incomplete.

28. Third, official statistics may be wildly inaccurate or incomplete and may not exist for periods when they were not required. Ideally, empirical research needs to draw also on internal party and candidate archives.

29. Fourth, cost trends cannot be interpreted without taking account of changes in the size of the electorate. For example, between the years of presidential elections in the United States of 1968 and 2012, the population of voting age more than doubled. Between 1968 and 2012, parties and candidates not only had to supply their messages to twice as many electors, they also were able to draw on twice as many contributors. Any interpretation of raw political spending figures in 1980 and 2012 needs to take account of this notable population growth. Indeed, since 1912 there has been a seven-fold increase in the United States electorate. (Nassmacher, 2009, 157.)

30. Fifth, it is also necessary to take account of inflation. Here an issue arises as to the appropriate index of inflation. A commonly-used inflationary yardstick is an index of consumer prices. This is calculated on the basis of changes in the prices of a basket of consumer products. However, political parties and election campaigners are not typical purchasers of domestic items. A large proportion of their spending is devoted to the salaries of paid staff. They are in a position similar to that of hospitals or schools. With growing prosperity, wage levels have risen faster than the prices of consumer products. It is therefore more relevant to use an index of average wages as the measure of inflation when calculating the measure of inflation to be used in assessing trends in political expenditure. The author's 2008 study of trends in political spending in the United Kingdom uses both the Retail Price Index and the Average Earnings Index as deflators.

31. A measure which takes account both of population and of wages is the Gross Domestic Product. Thus Ansolabehere and his co-authors and Nassmacher both use GDP as a deflator. Once raw spending statistics have been adjusted to take account of growth in the electorate and inflation, it becomes easier to understand why Nassmacher, one of the most careful and authoritative scholars in the field of political finance, rejects the cost explosion thesis. In the same vein, Ansolabehere and his co-authors at the Massachusetts Institute of Technology provocatively titled their key article "Why is there so little money in U. S. politics?" Both Ansolabehere and Nassmacher have published graphics demonstrating the decline in real (i.e. GDP adjusted) terms between 1912 and 1996. (Ansolabehere et. al.' 2002, 55 and Nassmacher, 2009, 185.)

32. Clearly, there is a huge gulf between the claims of International IDEA and the Global Commission of eminent persons and some of the main scholars of political finance.

33. It is worth summarising some of the academic evidence on trends in political spending. According to Nassmacher, reasonably comprehensive information is available for Austria, Canada, Germany Japan, United Kingdom, and United States

United States

34. When GDP is used as the deflator, as shown in Table 3, it is the relative stability of election spending in the United States over the past six decades the emerges.

Table 1. Total campaign spending in United States elections in presidential election years, 1952-2008. In millions of dollars at 2012 values (GDP deflator)

1952	6,185
1956	5,594
1960	5,233
1964	4,738
1968	5,174
1972	5,385
1976	4,671
1980	6,811
1984	7,236
1988	8,350
1992	8,000
1996	8,423
2000	6,076
2004	7,245

Sources: For years to 1996, Alexander, 1999, 19 and 23 (as cited in Nassmacher, 2009, 160-61; for years from 2000, Magelby 2011, 28.

United Kingdom

35. Two recent studies by author of this paper (Pinto-Duschinsky, 2008 and 2011c) reach conclusions similar to those given by Ansolabehere and Nassmacher for the United States. Both studies are available on the internet. The latter covers spending of the three main UK political parties during the 2005-10 parliamentary cycle. Some of the historical research in the 2008 publication focuses on the highest-spending party, the Conservative Party. This permits continuity of coverage back to 1874. The 2008 study uses previously unpublished internal party documents as a source.

36. Table 2 presents a trend of spending that has fallen relative to average earnings. This downward trend is all the more notable since it took place while the size of the electorate was growing rapidly. The fall in spending per elector is shown in the final column.

Table 2. Overall Conservative Party spending (approximate) in electoral cycles from 1874-80 to 2001-05 (in millions of pounds) and spending per elector (in pounds)

	Current prices	2007 values (RPI)	2007 values (AEI)	2007 values (AEI) per elector (in pounds)
1874-80	1.9	164.7	980.9	322.66
1906-10	1.9	161.3	765.7	99.51
1924-29	3.7	167.5	683.4	23.69
1966-70	13.8	166.9	322.3	8.18
1979-83	52.5	133.5	204.0	4.83
2001-05	143.5	160.7	168.7	3.81

Notes: RPI = Retail Price Index, AEI = Average Earnings Index. In the final column, the "per elector" calculation is based on the total electorate and not on the number voting Conservative. The calculation shows overall party and candidate spending throughout the electoral cycle, routine and campaign, national and local.

Source: Pinto-Duschinsky, 2008, Table 11.

Austria, Canada, Germany, and Japan

37. Statistics derived from Nassmacher are shown in Table 3. Once again, they do not reveal burgeoning spending.

Table 3. Trends in political spending per citizen in Austria, Canada, Germany and Japan, 1971-2000. (indexed to spending in 1980)

	Austria	Canada	Germany	Japan
1971	n.a	15.7	59.6	n.a
1972	n.a.	72.1	111.0	n.a.
1973	n.a.	18.6	63.3	n.a.
1974	n.a.	75.0	77.6	n.a.
1975	n.a.	n.a	91.4	n.a.
1976	n.a.	49.3	102.7	90.4
1977	n.a	52.9	66.4	87.3
1978	n.a.	63.6	77.4	84.5
1979	n.a.	105.7	n.a.	97.2
1980	100.0	100.0	100.0	100.0
1981	79.2	60.0	62.4	83.3
1982	113.4	62.9	52.2	87.2
1983	117.8	70.0	119.0	113.9
1984	91.2	168.6	89.2	84.2
1985	93.5	76.4	76.0	95.7
1986	156.2	85.7	88.2	106.0
1987	87.9	70.7	83.8	88.0
1988	79.0	124.3	66.9	98.7
1989	97.8	50.7	87.4	89.1
1990	133.7	58.6	72.2	83.7
1991	87.8	56.4	44.9	79.5
1992	101.6	55.0	56.8	72.9
1993	95.0	131.4	57.9	71.2
1994	124.2	38.6	91.4	61.1
1995	85.9	45.0	56.3	65.6
1996	n.a.	52.9	58.4	61.9
1997	n.a.	122.1	51.9	52.5
1998	n.a.	43.6	76.7	67.8
1999	n.a.	41.4	70.1	55.8
2000	n.a.	87.1	51.3	n.a.
Year of maximum spending				
1986	1984	1983	1983	

Note: Deflated according to GDP. 1980 is used as the base year because it is the earliest year for which Nassmacher provides date for all four countries.

Source: Derived from Nassmacher, 2009, Table 5.5.

38. An analysis published in 2012 reaches the following conclusion about political finance in the six countries that have been considered (Austria, Canada, Germany, Japan, United Kingdom and the United States: (i) in none of the six countries studied has party spending "exploded" over time; and (ii) party spending does not expose a steady increase; most data suggest considerable ups and downs. (Kulick and Nassmacher, 2012, 34.)

39. Apart from these six countries, some of the most detailed existing information concerns Costa Rica. This has been the subject of two studies by Casas published in 2005 and 2013. Though they deal specifically with national election campaign spending rather than overall political spending, they indicate that that spending rose by some 30% in terms of US dollars deflated by consumer prices. Using GDP as a deflator (as for the six countries previously analysed), this amounted to a sharp fall.

40. It is to be hoped that further research will cast light on medium and long term trends in political spending in more countries. In many cases, this will require detailed investigation stretching back to a time when the subject was not studied and, in many cases, when there were not yet any competitive elections. In the meantime, it is worth noting that some studies of new democracies in Eastern Europe have reported a rise in political spending. For instance, Ingrida Unikaite's 2008 study of Lithuania recorded a dramatic rise in political costs from the 1990s. (Unikaite, 2008, 39.) However, the balance of existing evidence supports Nassmacher's general conclusion.

41. What makes academic research into cost trends so important is that they are cited so often as the virtually fact-free basis for far-reaching legislative proposals. The 2012 report of the Kofi Annan Foundation-International IDEA Global Commission is a particular offender in this regard.

b) The second founding myth of political finance reform: television advertising in election campaigns as the main cause of rocketing campaign costs

42. A further area of conflict between common rhetoric about modern political finance and some academic research is the role of television advertising and its effect on political spending. Recent developments in the widespread use of social media and in computer-driven techniques of targeting individual electors may soon render this discussion partly obsolete.

43. It is commonly stated that political parties have to spend more to reach electors by means of modern advertising - especially on radio and television - than they did in the old days when party workers went from house to house to canvass electors (Box 3).

Box 3. Modern mass media campaigning as the alleged cause of increased political spending

DANIEL ZOVATTO, 2001

The cost of political campaigns [in Latin America] has risen, particularly with respect to the media.

STUDY COMMISSIONED BY THE COUNCIL OF EUROPE, 2003

[The progressive increase in the cost of politics in modern democracies] has been the result of the increased use of the mass media and more cost-intensive campaigning techniques.

KEVIN CASAS-ZAMORA, 2005

The perception that TV outlays are the quintessential 'electoral spending trigger', to use Zovatto's expression, has become in article of faith in Costa Rica and beyond. ,

SPEECH BY THE LEADER OF THE HOUSE OF COMMONS, 5 SEPTEMBER 2006

... the huge levels of national expenditure ... increased over the 1980s and 1990s - most of it channelled into national advertising campaigns ...

INTERNATIONAL IDEA, STOCKHOLM, 2012

The cost of political campaigning is escalating ... Why is this happening? In many countries the trend is related to the growing significance of media campaigning and the use of political broadcasting, which in many countries gobbles up most of the campaign expenditure.

Sources: Zovatto, 2001, 372, Van Biezen, 2003, Casas-Zamora, 2005, 117, citing Zovatto, 1998, xlix, Pinto-Duschinsky, 2008, 15, Falguera, 2012

44. The contention that TV advertising has had a key role in driving up campaign costs was a particular theme of discussion in Latin America in the 1990s. The premise that TV advertising accounted for the lion's share of campaign spending was the main basis for a scheme for monitoring campaign costs established by the Argentina chapter of an NGO named Transparency International.

45. There are several reasons to question this claim. This is, first of all, because the cost-explosion thesis is itself open to question, as argued in the previous section. Second, there are a number of countries in which parties and candidates are provided opportunities to make campaign broadcasts on television free of charge and where paid political advertising on TV is banned. A 2002 study of 104 countries showed that 22% banned paid electoral broadcasts. (Pinto-Duschinsky, 2002, 76-77.) The analysis in Table 5 indicates that such bans have been introduced in 41% of the member countries of OECD. Parties and/or candidates have the opportunity to make free election broadcasts throughout the OECD.

46. Third, in some countries where paid political broadcasts are permitted, there is evidence that they do not consume the overwhelming portion of overall political financing. The author made the point in his 2002 publication "Financing politics: a global view":

47. Even in those countries, such as the United States, in which the ownership of television sets is most widespread, the importance of televised political advertising easily lends itself to overstatement. Admittedly, TV is vital in campaigns for the U.S. presidency and for other major elective offices. But there also are elections for hundreds of thousands of lesser posts in which television plays little or no part. The standard study of U.S. elections in the presidential election year of 1988 found that television accounted for less than a tenth of the total sum spent on all electoral campaigns for public office:

48. According to . . . the U.S. Census Bureau in 1987 there were 504,404 popularly elected offices in the United States. . . . But most of the candidates for these offices never buy any television advertising time nor even get near a television camera. Usually, only serious candidates for major offices—presidential, senatorial and gubernatorial—make substantial use of television advertisements. Probably only about one-half of the House candidates purchase television time, and its cost often represents just a small portion of their campaign spending." (Alexander and Bauer, 1998, 98)

49. Peter Aucoin reports a similar finding about campaign costs in Canada. In the 2000 election, television and radio advertising accounted for 39.6% of campaign spending by national parties but only 8.4% of spending by individual parliamentary candidates. (Aucoin, 2005.) When spending on the routine activities of national and local party organisations are included, the proportion of spending accounted for by television advertising falls further. [3]

50. Fourth, the assumption that television advertising costs more than traditional methods of electioneering is itself subject to strong dispute. There is ample evidence that old-style patronage politics involved far heavier per-capita costs.

51. While the evidence that is currently available is impressionistic, it does seem to point to the surprising conclusion that old-fashioned, face-to-face politicking costs more than the new mass-marketing, media-heavy approach. This becomes apparent if account is taken of the differences in per capita incomes in different countries. Arnold J. Heidenheimer discovered that in 1960–61 the amount spent on each vote in the Philippines was (relative to the average industrial wage) 14 times greater than the comparable amount spent in the United States. In 1996, the per capita costs of the elections in Thailand, where vote-buying was prevalent, were reportedly 4 to 5 times higher (relative to average incomes) than in the United States. Studies of Uganda and of Antigua and Barbuda indicate that traditional patronage politics imposes far greater financial burdens than television-based campaigning. The "mass distribution of imported hams, turkeys and other giveaways" in the 1999 elections in Antigua and Barbuda meant that the cost-per-vote

amounted to at least US\$60 (the estimate offered by the ruling Antigua Labour Party) and may have been as high as US\$300 (the opposition's preferred figure). Taking differences in income levels into account, these elections cost between 9 and 44 times more per capita than all the elections—state, local, and federal—that took place in the United States in 1996. (Pinto-Duschinsky, 2002, 83.)

c.) *Political finance as a reportedly major cause of scandal, public loss of trust in politics and low electoral turnout*

52. There is good reason for serious concern about the potential damage to public life which may result from major political scandal. In country after country, cases of corruption or suspected corruption involve political finance. In the International IDEA *Handbook on Funding of Political Parties and Election Campaigns: Overview* (Pinto-Duschinsky, 2001, 9-11), the author of this study included a section on "Scandal and Political Finance" which covered 19 countries, including 14 current member countries of the OECD (Australia, Belgium, Brazil, Colombia, Czech Republic, France, Germany, India, Ireland, Israel, Italy, Japan, Republic of Korea, Spain, Sweden, Thailand, Ukraine; United Kingdom and United States [4]).

53. It seems reasonable to hypothesise that abuses relating to political finance have contributed to falling levels of trust revealed in opinion surveys in many countries. As the OECD highlights 'today, a majority of citizens surveyed within 26 countries distrust government. This feeling of mistrust is heightened by concerns about fairness of fiscal consolidation measures and the sacrifices required for structural adjustments: is the burden shared fairly? Are governments adequately protecting the general public interest? These concerns are reflected in that "corruption/fraud" and "wrong incentives driving policies" explain together 50% of the reasons for trusting government less".

54. It is not surprising that well-publicised scandals about financial misbehaviour by politicians may lead to loss of public trust. Survey research conducted by the United Kingdom Committee on Standards in Public Life showed clearly that revelations prior to the general election of 2010 about widespread abuses by legislators in both Houses of Parliament in claiming expenses were followed by a distinct decline in public trust. Public confidence took an upward turn when new system of regulation of expenses was introduced. (Committee on Standards, 2013.) A recent study of Italy states that "the recurrent financial scandals have caused a growing level of mistrust in political parties among Italian citizens". The authors report ISPO data of 22 February 2012 showing that "91 per cent of the interviewees declared to have little or very little trust in political parties". (Pacini and Piccio, 2012, 15.)

55. Related hypotheses are that political finance reform will reduce corruption and, resulting from this, it will increase public trust in the working of politics (Box 4). Likewise, it may argue that lack of trust may be related to low electoral turnout.

Box 4. Political Finance, public disaffection and lower political participation

COUNCIL OF EUROPE PROJECT GROUP ON "HUMAN RIGHTS AND GENUINE DEMOCRACY", 1995

[It is] essential to lay down requirements as to the clarity of parties' accounts in order to avoid situations where citizens might abandon all thought of taking part in politics and gradually be overcome by disaffection, wariness and indifference vis-a-vis the institutions.

COUNCIL OF EUROPE, REPORT OF OCTOPUS INTERFACE CONFERENCE ON CORRUPTION AND DEMOCRACY, 1996

Corruption related to political finances appears to be a major factor contributing to the declining trust of citizens in many countries of Europe. .

"GLOBAL COMMISSION" OF EMINENT PERSONS ESTABLISHED BY THE KOFI ANNAN FOUNDATION AND INTERNATIONAL IDEA, 2012

[P]oorly regulated political finance can corrode electoral integrity ... [can make] citizens lose faith in the electoral process. They suspect that wealthier citizens and corporations have greater influence in public affairs, and particularly on the media, notably by buying time and space for political advertisements. ... Poorly regulated campaign finance in turn leads to lower participation in the democratic process ...

Sources: Council of Europe, 1996, paragraph 24, Council of Europe, 2008, 192, Global Commission, 2012, Paragraph 72.

56. Yet, the relationship between a lack of public engagement in political life and political finance scandal is complex and uncertain. Low turnout may reflect technical factors (such as the day of the week on which elections are held). Moreover, its relevance is open to dispute (for example, there is room for dispute about whether low turnout in the United States is an important indicator of democratic failure). Finally, falling turnout is likely to have many short term and long term causes apart from political finance scandals,[5] while reforming political funding systems might not lead to an increase in voter turnout.

57. Likewise, the attempts to relate public trust to political financing are not unproblematic. As Pauline Beange argues, with special reference to Canada, the United States and the United Kingdom, "the use of trust as an indicator of either public desire for further campaign finance reform or as evidence demonstrating success or failure of such reform is unreliable". (Beange, 2012, 285).

58. First, there is room for differences of interpretation about the significance of levels of electoral turnout. High turnout may reflect technical factors (such as the day of the week on which elections are held). Moreover, its relevance is open to dispute. There is room for dispute about whether low turnout (as in the United States) is an important indicator of democratic failure.

59. Second, falling turnout is likely to have many short term and long term causes apart from political finance scandals.

60. Third, evidence is inconclusive about the relationship between political finance-related corruption and low level levels of trust shown in surveys.

61. Fourth, even if corruption linked with political funding is shown to be a significant cause of a severe fall in public trust, it does not follow that measures designed to avoid such corruption will necessarily improve trust. The remedy may prove worse than the disease. This is both because some political finance reforms may fail to tackle corruption effectively and because complex regulations and public funding themselves tend to be unpopular.

62. On the basis of the assertion cited in Box 4, the Kofi Annan Foundation-International IDEA Global Commission advocates more highly regulated systems. Yet, the documents shown in Box 4 provide no factual evidence that the suggested solution has led to increased public confidence and improved

political participation. Further, the efficacy of the medicine of regulation and subsidy in achieving higher public trust and therefore improved political engagement is not as self-evident as it may seem.

63. As far as public subsidy of political parties is concerned, it is all too often the favoured response to scandal made by political officeholders (again without sufficient factual evidence to support this regulatory approach). This solution seems more obvious to the political class - the beneficiaries - than to the citizenry. Professional politicians offer themselves financial rewards at the expense of taxpayers as the solution to past wrong-doing. Higher salaries for legislators are proposed as a way to remove them from temptation. Political parties agree with each other that they need public money in order to relieve themselves of the need to raise campaign funds. Observers have frequently commented on the unpopularity of public subsidies to political parties and candidates (Box 5).

Box 5. Public subsidies and public attitudes

"A common characteristic in the Nordic countries is that opinion polls and other studies have shown that the general public has been less enthusiastic and more negative than its political representatives towards the parties being financed, to a large extent, by public funds" (Gidlund, 1991, 179)

"In Italy, a referendum held in April 1993 resulted in a 90.3 percent vote to abolish public financing for parties, both for election campaigns and for routine organisational expenses of the party organisations. The system of subsidies introduced in 1974 was, therefore, abandoned. However, a new law reintroduced another public funding scheme in the form campaign reimbursements for campaigns for the legislature." (Pinto-Duschinsky, 1998, file pcd01a03 "Public Opinion on State Subsidies for Parties".)

Marcin Walecki cites survey data, albeit dated, showing opposition to public funding in Austria, Costa Rica, Finland, Germany and Poland. By contrast, public funding was more popular in the United States. (Walecki, 2005, 253-59.)

In Latvia, survey evidence showed 87% of persons surveyed in 1998 and 72% in 2001 opposed public subsidies, (Ikstens, 2008, 48)

Stephen Roper summarises the findings from nine countries in Eastern Europe with the comment that "as many of the chapters in this volume point out, public acceptance of state finance is rather low". (Roper, 2008, 7.)

Source: Author

64. Because of the unpopularity of public funding in the United Kingdom, the Electoral Commission, which evidently favoured state aid to parties, attempted in 2006 to mount a case that such negative feelings were due to ignorance. When properly informed, citizens would become more sympathetic to the idea. So the Commission asked an opinion polling company to conduct a "deliberative poll". Small focus groups would first be informed of the underlying facts - as the Electoral Commission saw them - and would be asked for their views on this basis. The objective was to show that, once properly informed, members of the public would abandon their opposition to state subsidies. According to the Electoral Commission,

65. [t]he possible future options for funding are prone to misunderstanding and misinterpretation. In order for informed debate to occur, a strong degree of information provision will need to be built into the process, allowing citizens to fully understand ... possible future models ... in order to achieve an in-depth and considered response towards party funding. (Pinto-Duschinsky, 2006.)

66. The focus groups were criticized as "a bit like a Chinese re-education session during the Cultural Revolution". (Pinto-Duschinsky, 2006.) In 2011, the UK Committee on Standards in Public Life, under a leadership which favoured state aid to parties, resorted to another exercise in "deliberative research" in which members of focus groups were again presented with arguably slanted information prior to being asked for their opinions.

67. Given the complexity and sensitivity of the subject matter and the need to generate 'informed' and 'meaningful' discussion, a deliberative approach was adopted for this research. Essentially, deliberative research is an in-depth process that moves people beyond their initial and unreflective reactions by providing evidence to promote informed debate. (Committee on Standards, 2012, 32.)

68. Even so, the results demonstrated a combination of mistrust of politicians with mistrust of public funding of political parties:

69. For the most part, participants voiced unwillingness for the taxpayer to take on the burden of any additional costs, especially if this resulted in further tax increases. There were also increasing doubts about whether it should be the responsibility of the taxpayer to fund parties.

70. Strongly linked to this were concerns regarding how effectively and efficiently the money would be spent and this linked directly to a lack of trust in politicians and political systems. There was a fear that the cap would have a minimal impact on corruption resulting in the wastage of any additional state funding. (Committee on Standards, 2012. 26)

71. A comparative study published in 2013 by Paul Whiteley as part of the project based at Leiden University on Party Law in Modern Europe offers some of the most comprehensive evidence on popular attitudes about political finance and its regulation in Europe. Using European Social Surveys conducted since 2002 as the source, and deploying a multi-level modelling strategy which controls for a number of variables which might account for trust in parties and partisanship at the individual level, he reaches this conclusion:

72. The evidence suggests that heavy regulation of political parties is associated with low levels of trust in parties and fewer partisans in these countries. The analysis uses cross sectional data and so definitive causal relationships cannot be fully identified, but the data implies that regulation by the state in the context of a severe economic recession could be having the effect of stifling support for political parties and weakening civil society. (Whiteley, 2013, 1.)

73. Whiteley rightly warns of the danger of misinterpreting the causal process. His data on 24 European countries in 2010 do not demonstrate whether what he calls "over-regulation" reflects an adverse public response to political finance reform. Another possibility is that such reforms tend to be introduced in countries where public confidence is already low, possibly as the result of scandals related to reportedly corrupt political funding. In any case, Whiteley's evidence acts as a warning that detailed political finance regulation is not a reliable way to improve public trust.

74. These results show that the party systems in advanced industrial countries are weakened by prolonged recession and by government failure. But having controlled for these effects in the multivariate model it is still the case that **over-regulation of political parties weakens their support among European electorates**. State capture makes parties more remote from the concerns of individuals who have less and less of an ability to influence them as ordinary citizens. At the same time this process associates parties with policy failure and growing scepticism about the effectiveness of democracy in these countries. Quite clearly **in some countries political parties are over-regulated and this inhibits their attraction to the public quite independently of the recession**.

75. The policy implications of these findings are hard to discern from cross-sectional data.

76. A longitudinal study of party support across Europe would greatly enhance our ability to untangle the causal processes. If regulation is the primary cause of weakening parties then de-regulation should have a positive influence. On the other hand if mistrust is the primary cause of party regulation then de-regulation might be ineffective. Future research should focus on acquiring such longitudinal data so that this important question can be addressed. (Whiteley, 2013, 21. Bold lettering added)

77. Whiteley's findings coincide with those Beange and of an academic team at Leiden University. The analysis was based on a comparison of political finance regulations and subsidies in 37 countries (28 in Europe, eight in Latin America) with Transparency International's "Global Corruption Barometer". They conclude that "in our examination of the extent to which political finance regulation has helped to reduce the level of corruption among political parties, the most remarkable discovery is that the former does not seem to produce any of the (positive) relationships on the latter that both academics and political elites have promised. In particular, (1) the introduction of a rather restrictive regime of public finance, in which the state constitutes the most important financial contributor to party organizations, (2) the provision of a more independent system of control of party finance, and (3) the stricter penalization of illegal funding activities, are related to high perceptions of party corruption rather than low ones. More importantly, and contrary to what has been traditionally argued, the inclusion of important caps to the amount political parties can receive through private donations seem to be related to the propensity of party organizations to exploit illegal funding resources" (Bertoa et al., 2013, 19).

78. While making allowances for the uncertainties of survey evidence and of other measures, it is reasonable to heed the conclusions of Jonathan Mendilow and Frank Rusciano, who highlight "a general problem inherent in public funding". They acknowledge the danger of large-scale political funding by the wealthy. Such funding makes it "hardly possible to prevent widespread suspicion that democracy has been rendered meaningless except for the few."

79. Especially in hard times, the average voter's sense of a lack of efficacy can develop into alienation, thus weakening the legitimacy of the political system. Public funding, on the other hand, may generate a widely shared feeling that parties have become irrelevant ... and that politicians live in a private world of their own (and live well). Needless to say, such estrangement too spells danger to the legitimacy of the system, again particularly in hard times. (Mendilow and Rusciano, 2002, 237-38)

3. REGULATING POLITICAL FINANCE: SOME PRACTICAL PROBLEMS

80. Caution is needed, as has been shown, with regard to some of the most common statements about the background facts used to justify political finance reform. There is good reason for similar wariness about the practicalities. Legislative measures do not always succeed in fulfilling the objectives of their advocates. They may have unanticipated side-effects and consequences.

81. It may be argued, of course, that the remedy for a law which does not work as expected or which has minor problems is to amend it. Bertoa and Walecki have pointed out that in Poland “since the fall of Communism in 1989, the political party and campaign finance regulations have been changed over 15 times”(Bertoa and Walecki, 2012, 22.)

82. The repeated changes in political finance laws in countries attempting to introduce significant changes in their political systems may either be exercises in fine-tuning or they may reflect more basic difficulties in the laws themselves. Political finance has proved a subject that has not easily been amenable to legal control. It goes without saying that political actors will be ingenious in finding loopholes in the regulations and in exploiting ambiguities in legislative wording. Woe-betide the legislator who wishes to control foreign campaign donations to political parties and candidates without first being aware of the legal quagmires involved in defining what constitutes a "political party", a "candidate", an election "campaign", or a "donation", or what qualifies as being "foreign".

83. It is thoroughly dangerous for policymakers to assume that they can safely relegate such supposedly technical questions to bureaucrats and to those experienced in public law. For the sake of simplicity, this section will consider the practicalities of only two measures - transparency rules and limits (on donations or on expenditures).

a) Transparency rules

84. Of all the measures relating to money-in-politics, transparency is the one commanding the most widespread support. Transparency has two potential advantages. (1) It is a guard against corruption and improper influence. If a politician is elected to office with major financial support from an individual donor, corporation or industry and subsequently uses his or her power unduly to benefit the benefactor, the link between donation and reward will not pass unnoticed. Corruption is harder to perform if it must be done in full public glare. (2) If donations have to be declared before the poll, transparency may have a further benefit. It will permit the elector to know the identity of each candidate's and each political party's main backers. This information will permit the elector to be informed about the interests behind the rival contestants. Yet, even transparency is not without practical problems as well as principled objections.

1. *Difficulty of rapid collection and collation.*

85. An initial difficulty is that there may be a glut of detailed information which it is very difficult for parties and for candidates for major office to collect (especially if it must be collected and compiled rapidly in order to be ready for publication before the poll).

86. The problem of collection and publication has been considerably eased by the advent of computer technology. However, this does not eliminate the difficulty faced by central party or campaign organisations and by electoral management bodies in ensuring that every local party association or candidate committee submits information in a timely manner. Where local organisations are manned by volunteers, or where very small parties are involved, it may be specially hard to gather information. In the United Kingdom, for example, national party organisations are required to collect and collate information

from several hundred local party organisations for collation and publication every week during the month-long general election campaign. The Electoral Commission, which is responsible for overseeing the system, finds itself hard-pressed to meet the weekly deadline.

87. Where rules require that those donated an annual amount above a stated threshold, there are other difficulties. It may be hard to differentiate between donors with similar names without requiring information which may impinge unduly on their privacy (for example, by requiring the publication of place of residence or at least the district of residence). It may be extremely difficult to trace a series of small donations which, in combination, exceed the disclosure threshold.

2. *Problem for the would-be "informed voter" of absorbing a glut of information.*

88. In a country as large as the United States, the number of donors may be so extensive that there will be far too much information to absorb and interpret, especially when it concerns donations declared shortly before the poll. The objective of informing voters of the interests behind a candidate is likely to be hard to realise. Newspapers and lobby groups act as channels of information, but may present their analyses with a sensationalist or ideological spin. In any case, knowledge of the financial backers of a party or candidate may be of less weight to most voters than other considerations.

3. *Common failure of parties and candidates to obey disclosure rules.*

89. In countries where democratic elections have not been well established, and in many developing nations, legal disclosure requirements are regularly ignored. A recent publication by the International Foundation for Electoral Systems (IFES) and by The Arab Region Parliamentarians against Corruption (ARPAC) shows the widespread non-compliance with the law concerning disclosure of campaign accounts in the Tunisian elections of 2011.

90. Legislation required the Court of Accounts to audit financial accounts of the winners, based on the bank account each political party and independent list were required to open on behalf of the electoral campaign. ... All candidates had to submit their accounts to the court 30 days after the official declaration of results, December 15, 2011. Unfortunately, by the end of May 2013, only 32 percent of the 1,662 lists submitted their financial accounts. Only 641 (39%) presented evidence of their financial accounts to the court.

“... five political parties and 14 independent lists, having won 48 NCA seats, did not present their financial accounts to the court. One of the five parties that did not present its financial accounts is the party of the Tunisian President (*Congrès pour la République*). Representatives claim they lost their accounting books. Moreover, 33 percent of the parties that submitted the required documents did not provide the financial accounts related to the lists of candidates they presented”. (Ohman, 2013, 67-68.)

91. Such disregard of disclosure rules is not unusual even in countries where the holding of elections is well-established (for example, in parts of the West Indies and Africa). Even when election campaign accounts are submitted by the legal deadline, their accuracy often goes unchecked and there is little incentive for candidates and their representatives to present accurate figures. In the United Kingdom, a senior electoral official declared to an investigation into electoral administration that Electoral Registration Officers not only neglected to check the truthfulness of the accounts submitted to them but normally did not bother even to check if the sub-totals were consistent with total declared spending.

92. The "Crisis" project of Transparency International has illustrated in a considerable number of countries some of the same practical shortcomings of parties as well as election management bodies in implementing transparency rules.

4. *Scope for evasion when disclosure rules apply to parties and candidates but not to lobbies..*

93. Disclosure rules that apply to political parties but not to lobbies, legally-independent, party-related political foundations (such as the German political *stiftungen*), think tanks and politically-oriented charities are likely to redirect political money away from parties into these other bodies. Not only will electors be less than fully informed but the system will be biased against parties.

5 *Deterrence of donations to opposition parties and candidates in authoritarian countries certain contexts.*

94. There are countries where disclosure requirements may result in revenge against persons known to the authorities as donors to opponents of the regime. Walecki has reported on the harassment of known donors to opposition parties in the Ukraine in an article titled "The authoritarian abuse of disclosure". (Walecki, 2004.) Daniel Smilov writes that "*in certain countries, it is dangerous for the opposition to disclose its main donors because they, the donors, will be subject to administrative harassment by the government. In such circumstances, small and large donors alike are afraid to disclose their identity and the party in question is obliged to flout the legal requirements if it wishes to remain a viable political force. Therefore, faced with the danger of complete marginalization, some political parties in the region (especially in Milosevic's serbia and in Ukraine) have systematically evaded financing restrictions*" (Smilov, 2007, 15-16.)

6 *Deterrence of donations to especially unpopular parties and candidates.*

95. Even in established democracies such as the United States, supporters of highly unpopular political parties may be inhibited from making contributions if they are thereby to publicise their affiliations. The U.S. Supreme Court acknowledged the point in its judgement in 1982 in the case of when it gave special dispensation in 1982 to allow contributions to the Communist Party to go undisclosed.[6]

7. *General deterrence of donations because of intrusion into the privacy of donors.*

96. This is a point which raises issues of principle as well as of practicality. Even in established democracies where donors do not feel under the same degree of threat as in authoritarian regimes, the requirement to disclose political contributions acts as a significant deterrent to political giving even for those with no corrupt motives. They simply may not wish their political sympathies to become a matter of press comment; they may in some circumstances fear that they will be subject to discrimination in the award of local government contracts if they publicly back the "wrong party" or to internet abuse.

97. The question of public policy is whether loss of the right to privacy and the deterrence of honourable political giving is a reasonable price to pay for a measure designed to deter corruption. According to Beange, the relative lack of corruption in Canada (the subject of her research) makes disclosure rules disproportionate: "while advocates of sunshine' laws favour disclosure laws because it is possible to trace the origin of contributions, there are possible disincentive effects relating to donors wishing to protect information about their personal financial status and perhaps more importantly their association with a particular political party. Canadians (per LeDuc) are notoriously fickle—and secretive—about their political affiliations. The possibility of harassment in the workplace or within a social or ethnic minority in going against the flow 'is impossible to determine' . It is quite possible that the extensive Canadian disclosure regime could be challenged under the Charter [of Rights and Freedoms] as a violation of privacy. (Beange, 2012, 295.)

98. In similar vein, Bruce Cain of Stanford University proposes a form of "semi-disclosure" designed to protect privacy while guarding against corruption. This is to be achieved by obliging donors to report contributions to the government which, however, will not publish the identity of the givers. He points out

that computer search engines can now easily identify those who make relatively small political donations and has the same concern as that of Beange, with reference to his home state of California, about the reality of harassment (Cain, 2010.)

b) Spending and donation limits

99. The objectives of spending limits are to promote fairness between political parties and between candidates, to prevent a spending "arms race" between them and to limit the incentives for corruption stemming from high expenditures. The purpose of limits on donations is to control undue influence by the very rich. The validity of both types of limit have been the subject of considerable debate, not least within the U.S. Supreme Court. What will be considered here is not these underlying debates about the desirability of limits but rather their practicality and some of their side effects. Five issues will be mentioned.

1. Spending limits and third party spending.

100. A limit on permitted spending by candidates for the U.K. House of Commons came into force with the Corrupt Practices Act of 1883 and it has remained the central feature of the British regulatory framework. There is strong evidence that the limits worked very well. Reported costs of parliamentary contests declined significantly during the following decades. The number of electoral petitions - legal appeals against alleged corrupt electoral practices - fell sharply. Nevertheless, the lessons of this success are complicated.

101. One feature of the system of limits was that it involved a ban on third party spending. Virtually all spending and all electoral activities had to be certified by one of the candidates or by one of their formally-appointed "agents". This meant that other persons and groups were banned from spending money in supporting or opposing a candidate whose views were offensive or welcome to that group. Over a century later, a British anti-abortion group successfully brought a case before the European Court of Human Rights that the restriction on third party campaigning was a breach of their right to freedom of expression. The legal restriction on third party campaigning had to be loosened in response to the judgement. It was not only in the U.K. that spending limits led to court action by third parties. The dilemma is that a restriction on third party spending is needed if spending limits are to be effective. Otherwise they will be evaded by re-channelling election spending through supposedly independent committees and interest groups.

2. The problem of legal definition.

102. A second problem which stemmed from the legal limit was to determine when someone became a "candidate" and which activities were to be included as "election" expenses. For decades, election petitions brought before U.K. courts alleging over-spending rested on arguments about these questions. A bizarre case law was created. If someone campaigned as a "prospective" candidate, his expenses would not count against the limit before formal adoption by a local party organisation, but there was a proviso that the cost of any leaflets distributed before formal adoption by the "prospective parliamentary candidate" would count against the limit if they included the prospective candidate's photograph. The state of the law was so fuzzy that when eventually a serious case came before the courts in 1998 about alleged overspending by a Labour Member of Parliament, it became clear that some legislative clarification was needed as to the boundary between "election campaign" costs and non-election costs. The answer was to limit the time before an election during which costs were to count against the limit. The new law came into force for the general election of 2001. But the very specificity of the new definition of "election campaign" for the purposes of the spending limit created a major loophole. It allowed unlimited spending right up to the time when the "election campaign" legally started.

103. This is a classic example of the regulatory dilemma which affects much of political finance. When terms such as “candidate “,” political party and "election campaign" are described precisely, it becomes easy to evade the definitions, for example, by spending before the designated period, by spending through a body which escapes the definition of "candidate" or "political party".

104. Whether legal loopholes are widely exploited or not may depend on cultural, political and economic considerations. The success of the spending limit for candidates exacted in Britain in 1883 was partly a result of the increasing discomfort of the rival political parties about the costs of electioneering, the introduction of a secret ballot in 1872 which made vote-buying less efficient, and a number of other developments which have been the subject of continuing scholarly analysis. (See Pinto-Duschinsky, 1981, Chapter 1, and Stokes, 2011.)

105. Added to the legal ambiguities of such terms as "election campaign" or "for electoral purposes", there are further problems in deciding what is or is not a "donation". There are significant in systems where donations must be disclosed or where they are capped. When is a loan a "donation"? How is the provision of services in kind to be valued? How is it possible to determine whether separate donations from members of the same family or from partners in the same company are genuinely separate (and thus below the legal limit) or whether they are effectively a single donation?

3. *Party bureaucratisation.*

106. The imposition of legal limits may have a profound effect on the character of a political party. Volunteer party helpers may have neither the skill nor the inclination to carry out the necessary form-filling which is needed if the overall campaign spending by a party at all levels of its organisation are to be calculated. If spending at the lowest levels of a party are excluded from reporting their spending, the objective of a cap will be undermined since there will be a temptation to channel spending through the unregulated parts of the organisation. (Where there is one limit for a party organisation and separate limits for candidates, a further complication is added to the system of control.)

4. *Spending limits and internal party power structure.*

107. Whenever there is a legal cap on a party's campaign spending, it will be functionally essential for a party treasurer to have the authority to authorise or to refuse to authorise spending by regional and local party organs. The effect will be to restrict ordinary party members and to create a hierarchical, probably less participatory structure.

5. *Problems arising from limits which are low.*

108. Where the legal limit is set at a level which parties and candidates consider far too low, as in Russia, the effect is to encourage undeclared spending. This has the side-effect of undermining transparency. (See Smilov, 2007, 15.) In Walecki's words, "in some countries the artificially low legal limits on permitted campaign spending make the reporting of political party expenditure irrelevant." (Walecki, 47.)

c) **The problem of enforcement**

109. Political finance regulations are notoriously hard to enforce and in many jurisdictions there is no will or administrative capacity to enforce them.[7]

110. Though electoral management bodies may technically be independent, they may be extremely reluctant to pursue powerful politicians and their parties. The fact that it is some ninety years since a Member of Parliament has lost his or her seat for exceeding the legal campaign expenditure limit is not an

indication of exceptional determination to abide by the law. It results both from informal (and sometimes collusive) understandings between the parties to avoid exposing each other and from the lack of pro-active investigation by the electoral authorities.

111. There is a general tendency for national legislatures to respond to political finance scandals by passing laws which then are not enforced. Likewise, at the international level international organisations and NGOs are too ready to suggest a menu of regulations without considering whether there is any real prospect of their being obeyed. This reality led Colin Hughes, who was both a professor of politics and the former head of the Australian Electoral Authority to write with weary realism about the inherent problems of political finance regulation:

“equally serious is the ease with which almost all prohibitions may be evaded. If corporations cannot make donations at all or beyond a certain size, their officers and employees will be utilised to achieve the same end. If a person cannot, then their family and friends help. If parties are constrained by prohibitions, the PACS and their equivalents are brought into existence to carry out party functions like advertising about issues and funding candidates' campaigns. ... The hidden risks and unintended consequences that so often accompany prohibition should be mentioned. With hindsight, prohibition may have been the Northwest Passage of election finance, promising so much but producing little but disappointment” (Hughes 2001, 217).

112. Hughes concluded that rules about disclosure of political funds are important but other forms of regulation are no more than "bells and whistles".

113. Casas-Zamora, another political scientist who has benefited from his practical experience as Vice-President of Costa Rica, has written in similar vein:

“General spending ceilings are relatively rare amongst democracies. This is a reflection of their significant normative and practical drawbacks. The empirical record of general spending ceilings is mixed at best. ... Inadequacies in the definition of electoral expenses, unrealistically low ceilings, poor enforcement mechanisms, and strong incentives towards electoral spending derived from other institutional features have undermined decisively the efficacy of expenditure caps.” (Casas-Zamora 2009, 6.)

114. The author of this study wrote in his Overview of International IDEA's *Handbook on the Funding of Political Parties and Election Campaigns*, there has been "There is too much law, too little enforcement." (Pinto-Duschinsky 2001a, 16.)

115. Problems of enforcement feature prominently in the GRECO evaluation reports of member countries of the Council of Europe. According to its chief official

“... infringements of political finance rules are rarely brought to light and, if they are brought to light, they often do not lead to any meaningful reaction by the supervisory authorities.” (Rau 2011, 33.)

116. Failures of enforcement result partly from the inherent problems of some forms of regulation and partly from avoidable shortcomings in the machinery of enforcement. Laura Thornton writes on the basis of long experience in Asia with the National Democratic Institute for International Affairs

“In many cases, ... reforms have introduced perverse incentives and loopholes. Contribution limits and disclosure have sometimes encouraged parties to drive their fundraising efforts underground or find different methods to achieve the same end ...” (Manikas and Thornton, 2002, 15.)

117. Some of the most alarming evidence about the unintended consequences of regulations has been given by the scholars Donatella Della Porta and Alberto Vannucci about Italy:

“[A]s strict regulations made *legal* private contributions difficult, parties had no incentive to reveal their real revenues and expenditures, at either the center or the periphery, leading to a massive underreporting of private contributions, encouraged by missing or ineffective formal controls. Further, even when in existence, sanctions were rarely applied. ... As a consequence of the substantial underreporting of private financing, irregularities in official party budgets were widespread and controls and enforcement were ineffective. In addition, criminal contributions became more easily disguised within the financial operations of the candidates’ political machines. Irregular financial support to politicians and party structures was eventually easily concealed, since verifications were traditionally almost nonexistent”. (Della Porta and Vannucci, 2013, 197.)

d) The role of the courts of law

118. An increasingly important feature of the regulation of political finance, which is too often neglected or downgraded by political scientists specialising in the financing of parties and election campaigns, is the role of courts of law.

119. In countries with a system of common law (such as the United Kingdom and Canada), the interpretation of the precise meaning of statutes has long been a subject of litigation. In countries with written constitutions, senior courts have had the additional function of judicial review - the power to invalidate legislation on the ground of its incompatibility with the constitution. Since constitutional documents are broadly worded with such guarantees as freedom of speech and freedom of expression, judges have considerable leeway in interpreting the meaning of these terms. Hence, they have extensive power to invalidate legislation about political finance.

120. Two developments have extended judicial power over political finance still further. Countries with common law traditions have enacted charters of rights which have come to operate largely like written constitutions. Judges in those countries are now able to exercise considerable (though not absolute) powers of judicial review. Canada enacted a Charter of Rights and Freedoms in 1982 and the UK enacted a Human Rights Act in 1998.

121. The second development, potentially even more far reaching, has been the creation of the European Court of Human Rights. Based in Strasbourg, it operates under the aegis of the Council of Europe, a body not to be confused with the European Union. Persons in all 46 member countries of the Council of Europe are entitled, having exhausted domestic avenues, to bring cases before the Strasbourg court. In effect, this means that the court is able to overturn laws passed in each of the 46 member countries on a very broad range of matters covered by the European Convention on Human Rights - including laws relating to democracy and elections.

122. Courts have reached significant verdicts on cases relating to the validity of political finance laws in a considerable number of member countries of the OECD including Australia, Canada, France, Germany, Israel, Italy, Turkey, and the United States. Cases involving Switzerland and the United Kingdom have been decided by the European Court of Human Rights.

Box 6. Sampling of landmark legal judgements concerning political finance

German Federal Republic 1966 (*Party Finance Case II*) Public funding for parties not permitted for routine party activities but only for election campaigning.

United States, 1976 (*Buckley v Valeo*) Spending limit for congressional election campaigns declared unconstitutional

Israel (*Agudat Derech Eretz*) Legal amendment decreasing free broadcasting time for new party lists declared invalid

Canada 1984 (*National Citizens' Coalition Inc v Canada*) Ban on third party campaign spending declared invalid

France 1990 *Conseil constitutionnel décision 89/271* Threshold for receipt of public funding (5% of the national vote) declared too high

Australia 1992 *Australian Capital Television Pty* Ban on paid political advertising on television declared invalid

European Court of Human Rights, 1998 *Bowman v United Kingdom* U.K. ban on third party spending in parliamentary election campaigns declared invalid

United States, 2010 *Citizens United v Federal Election Commission* Prohibition of independent election expenditures by corporations and unions unconstitutional

European Court of Human Rights, 2013 *Animal Defenders International v United Kingdom* Refusal to allow paid political advertisements on television or radio under Communications Act 2003 declared valid

Source: Author

4. THE ROLE OF INTERNATIONAL ACTORS: POSITIVE OR DAMAGING?

123. The last quarter century has seen major developments in the burgeoning field of the promotion of democracy and good governance. The author's interpretations of these developments are inevitably affected by his roles throughout this period as participant and adviser to a number of the main bodies and, at the same time, as an academic specialist. It has been a period of considerable achievement combined with unfulfilled hopes.

124. A striking change has been the great expansion in the budgets of national and international bodies devoted to democracy promotion and "good government". This has resulted in a notable bureaucratisation of activities and thus in a lack of flexibility. This expansion took place in the years after the most exciting period in the late 1980s and early 1990s which saw the "third wave" of democratisation. Following a time of transition to multi-party democracy, there has followed a duller, more challenging and frustration time of attempted democratic consolidation

125. In the late 1980s, the development agencies of national governments as well as the main inter-governmental organisations and international financial institutions were hesitant to pay attention to issues which were not strictly economic. Corruption was a no-go area. Electoral assistance was generally considered inappropriate and futile (one exception being the German Federal Republic). One of the only countries which invested heavily in "political aid" was the German Federal Republic which gave considerable funding from its development aid budget and later from its foreign affairs ministry to fund the foreign operations of "party foundations" (*stiftungen*). When the United States decided in the early 1980s to introduce a variant of the West German model. It was the U.S. Congress rather than the country's development agency (the U.S. Agency for International Development) which provided the funds. In the United Kingdom too, the development agency was initially opposed to widening its activities beyond schemes of economic assistance designed to help reduce poverty.

126. The initial activities from 1984 onwards of the U.S.-based National Endowment for Democracy and from 1992 of the U.K.'s Westminster Foundation for Democracy were small-scale. In the following years, the national development agencies and inter-governmental organisations entered the arena with far larger resources.

127. Expansion and bureaucratisation in late 1990s and early 2000s went hand in hand. Often the consequences were negative because the procedures used to administer large contracts for "good government" projects were too similar to those for roads, bridges, agricultural schemes and similar infrastructure projects typically run by international organisations. The expansion of democracy-promotion and "good government" projects run by national and international development assistance organisations has been accompanied by the creation and growth of "civil society organisations". This is considered later in this section.

128. A third development has been the proliferation of international bodies seeking to carve roles for themselves. A year after the breach of the Berlin Wall, the Conference on Security and Co-operation in Europe was transformed in 1990 into the Organization for Security and Co-operation in Europe. The following year, 1991, an Italian and an American diplomat constituted the sole staff of a new organisation in Warsaw created under the aegis of the OSCE. It was named the Office of Human Rights and Democratic Institutions (ODIHR). Also in the early 1990s, The International Foundation for Electoral Systems (IFES) became operational. It had been created as an NGO, funded mainly by the U.S. Agency for International Development, as part of the same bipartisan "Project Democracy" initiative which had seen the creation of the National Endowment for Democracy. Wishing to counter United States influence over democracy

promotion, Sweden created and largely funded The International Institute for Democracy and Electoral Assistance (IDEA). Its first chief executive was a former head of the Swedish International Development Agency. Founded in 1995, International IDEA initially brought the four Scandinavian countries together with Chile, India and South Africa. National election management bodies such as the Australian Electoral Commission, Elections Canada and the Mexican Federal Election Institute became active in international electoral assistance.

129. A number of the main national and international organisations have carried out projects on political finance. Probably the most active has been the International Foundation for Electoral Systems, which has concentrated on providing technical advice and training to members of election management bodies as well as academics, journalists and activists in a large number of countries. IFES also has pioneered the training of electoral management bodies in the enforcement of political finance laws and the use of the internet to make official data on political contributions more readily available. Much of its funding has come from the U.S. Agency for International Development, which has also made a special study of political finance transparency. Other organisations undertaking political finance activities have included International IDEA, two branches of the Council of Europe (the Group of States Against Corruption (GRECO) and the Venice Commission for Democracy through Law), [9] the Office for Democratic Institutions and Human Rights, the Organization of American States, the Commonwealth Secretariat, the U.S. National Democratic Institute for International Affairs, the Carter Center, and Transparency International. [10]

130. Some of these activities have been especially noteworthy. Apart from the important activities of the International Foundation for Electoral Systems, an example is the set of evaluation reports on political finance in 46 countries carried out by GRECO (Council of Europe). These have provided a trove of factual information. The latest International IDEA database of political finance laws in 179 countries is a useful work of reference albeit with gaps in items of information for some countries. [11] The National Democratic Institute has published a model piece of research by its political finance expert, Laura Thornton. It gives detailed information based on interviews with Asian legislators on payments regularly made to their parties from their salaries ("party taxes"). This throws light on a significant form of indirect public funding.

131. Much of the work on political finance has been disappointing and occasionally damaging. It is important to attempt to diagnose the problems, though any assessment must inevitably be subjective and subject to bias.

a) Lack of in-depth research

132. Political funding takes many forms and differs from country to country. Some official statistics may be non-existent, difficult to access and unreliable. Where there are documents covering recent years, there may be an absence of comparable information for earlier times, thus hampering research into trends. Research into unreported payments, illegal payments and local-level political finance present obvious problems. There are ways in which the difficulties may be overcome, at least partially. But this requires painstaking investigative research using interviews, party archives (where available), press reports and similar sources.

133. In general, neither international organisations nor NGOs are prepared to sponsor for such work and few are equipped to carry it out themselves. The contracts under which their activities are funded by development agencies rarely include sufficient time for detailed analysis, debriefing, and writing in-depth studies based on their experiences. For their part, NGOs normally are unable to pay members of staff for prolonged periods of research from their non-project budgets.

134. Realistic appraisal and research is also difficult because of the culture of success-claiming which permeates most of the project reports of bodies funded by national development aid agencies and by international organisations. When summing up "lessons learned" from a project, it is only the bravest of employees who will write that a project has been futile and ought not to be replicated. Major NGOs and important national and international donor bodies may be constrained in their analyses and recommendations. They may wish to avoid risk to future business or diplomatic problems arising from the publication of critical findings.

135. In view of these difficulties, research may resort to short cuts. One easy but not very revealing method is to examine a country's political finance laws and changes in those laws instead of researching into political finance realities. Another is to devise a one-dimensional path of inquiry. An example here was the system of monitoring election campaign spending devised by the Argentine Chapter of Transparency International, Poder Ciudadano. This consisted of monitoring broadcast election advertising as well as other forms of public advertising and estimating the costs according to known market rates. This approach is useful but only if it is combined with other avenues of inquiry. It assumes that national advertising consumes a major part of overall political spending. Moreover, it makes assumptions about the likely level of discount below market rates for advertising obtained by the parties. The focus on monitoring national advertising provided Poder Ciudadano with publicity and with international credit but it meant that the clientelistic practices which were a strong feature of local party politics in Argentina went unexamined and, moreover, that the focus of its monitoring led to a distorted view of the political process by ignoring these practices.

136. Poder Ciudadano later explained that, despite the limits and inaccuracy of its monitoring method, it served to put pressure on Argentina's political parties and led to a subsequent change in legislation which achieved greater transparency.

137. Casas-Zamora complains about the general absence of empirical research with a citation from the American scholar of political finance Frank Sorauf:

“In a perverse way, it may even be because the facts and realities of campaign finance are so hard to grasp that the pseudo-fact and codified explanations are so gripping and so convincing. (Casas-Zamora, 2005, 1.)”

138. Casas-Zamora justifiably comments that "the funding of political activities remains an under-researched ... topic" and that it "is crippled by the dearth of reliable data in most countries". He remarks further on the tendency to focus on political finance laws rather than on "*actual* political finance practices" and consequently on the absence of a "reliable pool of information." Remarking on the "sweeping claims" which substitute for research, the same author writes that:

“the field has yet to come to grips with the remarkable heterogeneity of political finance regulations and their complex linkages to their surrounding political and institutional framework, which frequently conditions heavily their features and effects”. (Casas-Zamora, 2005, 2-3.) “

139. The pressure faced both by international organisations and NGOs to advocate simplified analyses and solutions often proves counter-productive. In the related field of political corruption, the growth and activism of anti-corruption NGOs since the 1990s may have acted as a deterrent to empirical research. It is the policy of Transparency International to avoid research into actual examples of alleged corruption. Instead, it has concentrated on what Sorauf called "pseudo-fact" in the form of various indices derived from surveys of perceptions. Only in 2011 did Transparency International modify its Guiding Principle #4. The clause "although we ourselves do not seek to expose individual cases of corruption" was finally eliminated.

140. The financial structure of NGOs usually deters in-depth analysis. An employee of an NGO who has worked for two or three years in a foreign country is likely to find out a great deal about it. Realistic appraisal and research is also difficult because of the culture of success-claiming which permeates most of the project reports of bodies funded by national development aid agencies and by international organisations. When summing up "lessons learned" from a project, it is only the bravest of NGO employees who will write that a project has been futile and ought not to be replicated. Cautious judgement and detailed evidence are perceived - often realistically - to be barriers to professional advancement. In the case of a body based in Western Europe which was the subject of research by the author of this paper, the department responsible for policy and evaluation was at loggerheads with the department which commissioned projects. Information was not passed to the policy and evaluation team. In one case, a critical evaluation was rejected and a potentially more amenable evaluator was employed to write another evaluation. The head of the policy and evaluation department was later assigned to a post in a faraway land.

141. Major NGOs and important national and international donor bodies may be constrained in their analyses and recommendations. They may wish to avoid risk to future business or diplomatic problems arising from the publication of critical findings.

b) Simplistic, vague recommendations

142. Casas-Zamora writes that in the absence of "empirical rigour", the topic of political finance clearly invites "sweeping claims" and "generalisations" based on "normative preconceptions". (Casa-Zamora, 2005, 3.)

143. Such normative statements, expressed at what Smilov calls a "level of abreaction" (Smilov, 2007, 20) have proved attractive to international organisations and NGOs. They have produced a whole series of proposals variously badged as "guidelines" "standards", "rules", "conventions", "recommendations", "benchmarks", "policy positions", "codes" and "principles".

144. The problem with all such documents is that they must express views on issues about which there are reasonable differences of opinion on political and moral grounds. These essential underlying conflicts can be dealt with in two ways, each equally unsatisfactory: by taking sides and producing a document which is not value-neutral; or by wording which is so ambiguous that it can mean all things to all persons. The first option involves an attempt to establish a ideologically hegemonic approach for the international community; the second involves a fudge. The more a set of guidelines seeks to set out details, the greater the problem. The implication is that it is not necessarily wise to seek to formulate such documents and still less wise to attempt to endow them with a significant degree of authority.

145. An example of the fudge is Article 7(3) of the United Nations Convention Against Corruption. Following months of unresolved argument about transparency of political funding, the wording used to avoid deadlock was hedged with qualifications and banality. State parties to the Convention were to:

“consider taking appropriate legislative and administrative measures, consistent with the objectives of this convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties”

146. This article obliged signatories to do nothing except "consider" the matter in an unspecified way. In so doing, they were to look into measures which they felt were "appropriate". It is hard to imagine what it would mean for a state to consider inappropriate steps. The measures were in any case to be "in accordance with the fundamental principles of its domestic law". The wording is sufficiently vague as to

permit campaigners to claim that the Convention accepts the transparency principle and governments unprepared to advocate it to adopt the opposite interpretation.

147. For member states of the OECD which are members of the Council of Europe too, the most relevant statements of principles of political finance are those set out in the Parliamentary Assembly of the Council of Europe's report of 2001 on "Financing of Political Parties" (Council of Europe 2001) and Recommendation 3(4) of 2003 approved by the Committee of Ministers of the Council of Europe on "common rules against corruption in the funding of political parties and electoral campaigns". Smilov comments:

“[D]onors along with EU and Council of Europe structures seem obsessed with this standard set of measures and rarely attempt to go beyond it. ... This attempt to produce a pan-European normative framework for political finance is commendable and serves useful purposes. The difficulty with it is the level of abstraction at which the norms are formulated”. (Smilov, 2007, 19-20.)

148. The problem, of course, is that it is inherently difficult to formulate a set of normative rules which present the outlines of desirable institutional structures and which, at the same time, are acceptable and easily applicable to countries ranging in size from Andorra and San Marino to Russia and varying in their backgrounds from Albania to Iceland. The statements about democratic elections in the Universal Declaration of Human Rights and in the European Convention on Human Rights were acceptable because they were at a much greater level of generality still and could not reasonably be viewed as institutional blueprints. The Council of Europe's attempt to set out "common rules" is open to criticism both on the ground that it is too vague in some parts and on the opposite ground that it is too specific in other parts.

149. In connection with the funding of political parties, the Council of Europe's "common rules" recommend in Article 1 that the state is "entitled to" and, moreover, that it "should" support political parties. The principle of state subsidy of parties is politically controversial in parts of Europe. Were the OECD to propose to adopt the same "common rules", greater controversy would be likely. There are fierce disagreements in the United States and in Canada about some of the basic principles of political finance regulation and subsidy. Both these countries are OECD members. It is arguably inappropriate for an international body to seek to impose a doctrine with a particular political and ideological tendency.

150. If Article 1 is open to challenge on the ground that it is too specific, Article 2 may be seen as defective for the opposite reason. It defines a "donation" as "any deliberate act to bestow advantage, economic or otherwise, on a political party." It follows that any law to limit the size of permitted donations would need to count all forms of non-economic advantage. Where the donation is a gift of goods or services for which the party otherwise would need to purchase (such as the free use of premises for a party office or the free use of computers or motor vehicles), there is substance to the recommendation. However, it goes further. A speech on behalf of a candidate or any volunteer work for a party would qualify as a "donation" too. Likewise, Article 6 attempts to deal with the thorny issue of third party (lobby) donations in a way which is so expansive as to be unhelpful. It states that

[r]ules concerning donations to political parties, with the exception of those concerning tax deductibility referred to in Article 4, should also apply, as appropriate, to all entities which are related, directly or indirectly, to a political party".

151. "Indirect" relationships are notoriously hard to define. A brief statement of principle fudges the issue of how best to set a borderline between forms of support which it is and which it is not suitable to control. For example, major newspapers may throw their weight behind one political party. They frequently act deliberately to "bestow advantage" on that party and thus, under the Council of Europe's

definition "donate" to that party. Does this mean that the press should be caught in the regulatory net for political donations?

152. For international organisations and NGOs, and for that matter for groups of scholars, it is tempting to draw up codes and lists of rules because it is so easy to do so. Where there are disagreements, they may be resolved by some let-out words such as "where appropriate" or "should be considered". The bodies producing such documents normally do not bear the responsibility for putting the recommendations into law and the task of implementing them.

153. Along with the temptations which arise from lack of responsibility for the consequences, codes and principles sometimes suffer from a further problem. Since it is easier to suggest some form of control than to face the practical problems of definition and implementation there is a tendency in such codification exercises to over-standardise and to over-regulate. For example, it is all too easy for the "common rules" of the Council of Europe to say that states should "consider the possibility of introducing rules limiting the value of donations to political parties" and that they should "adopt measures to prevent established ceilings from being circumvented". Without encountering the problems involved in preventing donation limits from being circumvented, the practicality and thus the desirability of such limits is not possible to assess.

c) "Civil society organisations"

154. Some of the most avid followers of the main international organisations and banks are "civil society organisations". The World Bank, defines "civil society organisation" as:

“the wide array of non-governmental and not-for-profit organizations that have a presence in public life, expressing the interests and values of their members or others, based on ethical, cultural, political, scientific, religious or philanthropic considerations. Civil Society Organizations (CSOs) therefore refer to a wide of array of organizations: community groups, non-governmental organizations (NGOs), labor unions, indigenous groups, charitable organizations, faith-based organizations, professional associations, and foundations”. (The World Bank, 2013.)

155. The World Bank points out that there has been "a dramatic expansion in the size, scope, and capacity of civil society around the globe over the past decade". The number of international NGOs reportedly increased from 6,000 in 1980 to more than 50,000 in 2006. "Civil society organisations" have become "significant players in global development assistance" as well as "important actors" in the implementation of programmes as a complement to government action.

156. Several organisations, including those falling under the umbrella term “civil society organisations” lobby actively for and against political finance reform in the United States. They include Common Cause (founded in 1970), Center for Responsive Politics, Center for Public Integrity, Public Campaign Action Fund, Democracy Initiative, Sunlight Foundation, Cato Institute, Center for Competitive Politics and the Campaign Legal Center. In the United Kingdom there is Unlock Democracy and IDASA in South Africa, a body which recently became defunct.

157. It is claimed that civil society organisations can be effective watchdogs and have proven instrumental in advancing transparency and anticorruption efforts in the field of political finance. In his paper prepared for this meeting, Bruno Speck advances these claims while at the same time acknowledging that they remain unproven. Speck writes:

“Despite an increased interest in gathering information on how civil society organizations engage in the debate on political financing (TI 2007) and in providing guidance for activists (OSI 2005),

we still know little about how nonprofit organizations evolve and become important stakeholders on political financing, how they balance independence and activism and whether they prove effective in informing voters and pushing for reforms". (Speck, 2013.)

158. The first ground for caution is that organisations which announce themselves as representing citizens or society do not necessarily have strong grounds for doing so. Many of them are the creations of wealthy individuals or are essentially titles for enterprises by small groups of individuals. Amnesty International is relatively rare in having a large and international membership base. This contrasts with Transparency International (TI), an organisation with headquarters in Berlin and "chapters" in over 100 countries which has undertaken a considerable number of projects relating to political finance. TI was created in 1993 by former officials of The World Bank and Commonwealth Secretariat. Many but not all of its national chapters are membership organisations but the reported worldwide total is only 7,700 persons. The largest national memberships are in Germany (1,041), Dominican Republic (594) and Senegal (500). Despite the claim to be rooted in "civil society", TI is primarily a centralised creation dependent on funding from corporations, government aid agencies and international organisations. The Bangladesh chapter, for example, received only USD 209 out of its annual income in 2011 of USD 3.9 million from membership subscriptions. It had a payroll of 300 employees. (Transparency International Bangladesh, 2013.) The worldwide annual budget of TI has grown to over USD 70 million.

159. The reality that many civil society organisations effectively are advocacy groups or lobbies funded mainly by large donations from wealthy individuals and foundations, by corporations and by public bodies affects the way they tend to operate. It is important for them to seek publicity, partly to strengthen their prospects of future funding. This may create perverse incentives and lead to over-simplified projects or to the expression of a particular ideology.

160. It has been a matter of conviction for some development assistance agencies that civil society organisations are effective as watchdogs based in the countries to which assistance has been given. Transparency International has developed "tools" designed to be wielded by local chapters, often with development agency grants. The Crinis project is designed to gather information not about actual political finances but about the laws relating to political finance in a country and about the efficiency with which they are administered. The objective is to derive an overall score for each country examined and to rate countries according to the results. In The Maldives, for example, the local branch of TI was commissioned by the U.K. Foreign and Commonwealth Office to carry out a study of political finance transparency in that country with under 300,000 electors. In 2009, the local chapter of TI administered a standard Crinis questionnaire of 440 questions with a total of 4,000 data points. (Transparency Maldives, 2011, Appendix E.) Those administering the questionnaire gave a numerical score for each item (such as efficiency of a party's bookkeeping). The value of producing meta-data or, to use Sorauf's term, "pseudo-facts" is a matter of opinion. The report on political finance in The Maldives consists of a set of scores on ten dimensions of transparency but no information on the funding of parties and elections in The Maldives. The likely policy result of such studies is to highlight procedural shortcomings in the internal management of parties, including small ones.

161. The case for civil society organisations such as TI is that they may be highly effective in banging the drum for such worthy causes as anti-corruption. Thus, TI's "Corruption Perception Index", though subject to reasonable criticism, is widely cited and thus may be seen as a valuable awareness-raising tool. The case against them is that they absorb development aid funds which could be deployed more usefully in other ways. Moreover, it may be argued that organisations which are shaped largely by the prospect of money from foreign governmental and inter-governmental bodies all too often are unsustainable.

d) International standards and national sovereignty.

162. The issue of legal jurisdiction threatens to introduce a new dimension of serious conflict into discussion about the role of certain international organisations. Concerns have been expressed from parts of the Right within the United States and from Labour as well as Conservative Party ranks in the United Kingdom.

163. Provided that international "standards" have a purely advisory status and provided that differences in political systems and cultures in different countries are fully recognised, there need be no basis for concern about national sovereignty. However, any attempt to bind nations to international standards raises fundamental questions about national sovereignty. The legal status and applicability of United Nations conventions is itself a technical matter. In the United States, for example, many of the laws about elections and their funding are decided by each of the 50 states. It is open to question whether state governments are bound to change their laws in accordance with international treaties made by the U.S. federal authorities. Nevertheless, fears have been expressed by commentators such as John Fonte of the Hudson Institute about incursions into U.S. sovereignty by its adherence to United Nations conventions and " the vastly underappreciated threat to American democracy posed by the global governance movement ". (Kurtz, 2011.) [12]

164. In Europe, there is an unresolved conflict between an overwhelming majority of both Conservative and Labour Members of Parliament in the U.K. and the European Court of Human Rights in Strasbourg. It has been triggered by a set of legal decisions about the voting rights of prisoners. This has important implications for the relationship between Britain and the Council of Europe. At the time of writing, a joint committee of the House of Commons and the House of Lords is considering how the U.K. Parliament is to respond to the Strasbourg court's judgement which found existing British franchise law incompatible with the European Convention on Human Rights.

165. According to one interpretation, there is no incompatibility between the national sovereignty of the member nations of the Council of Europe and acceptance of the final jurisdiction of the European Court of Human Rights. The U.K. Parliament agreed in 1994 to accept the permanent jurisdiction of the Strasbourg court when it accepted the U.K. government's ratification of Protocol 11 of the European Convention on Human Rights. It was a transfer of sovereignty by consent. The contrary argument is that legislatures rarely discuss the technicalities of treaties. The House of Commons never debated Protocol 11 of the European Convention on Human Rights. Certainly, the acceptance of a fundamental constitutional change represented by the final jurisdiction of an international court over a wide range of matters was never a matter of public discussion and consent. Moreover, the doctrine of Parliamentary Sovereignty means that a British Parliament cannot bind its successors. It is clear that the current Parliament is deeply concerned about the Strasbourg's court's judgement on prisoner franchise and does not wish to cede national sovereignty to the Council of Europe.

166. This on-going disagreement is not of direct relevance to this paper. The prisoner voting controversy in Britain bears on political finance because several cases about national political finance laws have come up for decision by the Strasbourg court. In 1998, Strasbourg declared U.K. political finance law incompatible with the European Convention in its ban on third party spending in elections for the House of Commons (*Bowman v U.K.*).

167. The *Bowman* case and others like it raise questions about the status of the "common rules" on political finance adopted in 2003 by the Council of Europe's Committee of Ministers. According to the Statute of the Council of Europe, the "common rules" are "recommendations" rather than requirements. They are not binding on member countries. But a possible problem is that they may have indirect legal

effect. The European Court of Human Rights may take account of the "common rules" on political finance in future cases about national political finance laws.

168. Any suspicion that the country evaluations of political finance carried out by the GRECO organisation of the Council of Europe may impact on future rulings by the Strasbourg court threatens the monitoring scheme. The value of the reports is their exceptionally detailed factual presentation. The ready exchange of information by national authorities with GRECO officials depends on the informal nature of the process. The role of international organisations is enlarged if national sovereignty is seen to be respected.

169. An attempt by the European Union to impose a common set of political finance laws on member countries will be even more problematic. For some, the objective of the European Union in its projects concerning political finance is to promote a standardisation of national laws with a view to promoting a United States of Europe. By contrast, projects concerning political finance by the OECD will not be subject to similar fears about loss of national sovereignty.

e) Towards a selective approach

170. The object of this section has been to give warnings about some of the possible shortcomings of large-scale international projects, bland generalisations and general rules on political finance. It has also given examples of projects which, in the subjective view of the author, have been useful. The conclusion is that international organisations need to take a considered and selective approach to projects relating to political finance. It is open to dispute whether it is appropriate for international bodies to issue general guidelines and recommended regulations. In any case, a sufficient number of them are already in existence. There should be more thought and discussion about the main gaps in our knowledge and about the specific ways in which international organisations may hope to contribute.

5. NEW DIRECTIONS

171. The approach taken so far in this paper may seem paradoxical and self-defeating. It starts with an insistence on the importance of political finance for any consideration of public integrity. It then proceeds to give a series of cautionary, sceptical reflections. The justification for this caution is that there has been too great a demand for relatively simple solutions. Pressure to produce quick answers may be counter-productive.

172. An international organisation such as OECD has the advantage that it need not engage in the common controversies in many countries about the desirable forms of political finance regulation and subsidy. Nor is it primarily an aid agency though it does engage in issues concerning development assistance. It is exceptionally influential and respected for its analytical capabilities. It is in an excellent position to coordinate and stimulate new thinking and to bring together officials from its member countries with subject experts from several related disciplines.

173. Before giving a list of potentially fruitful areas of inquiry, three strategic points will be advocated.

1. Focus on investigating the links between political finance and corruption, trading in influence and organised crime. Do this on cross-disciplinary basis.
2. Focus on local case studies.
3. More depth, less breadth. Whether in research, training or advisory functions, focus on doing a few things in depth rather than spreading efforts widely.

Strategic priorities and method

1. *Focus on investigating the links between political finance and corruption, trading in influence and organised crime. Do this on cross-disciplinary basis.*

174. In broad terms there are two main reasons for interest in political finance. One of them is a concern for fairness and access in democratic politics. It is a common argument that the rich should not have an unfair electoral advantage over their fellow citizens; it should be open to all to run for elective office, not just the wealthy. Regardless of the undoubted importance of this line of argument, the value of making it the focus of OECD involvement in the field of political finance is open to question. This is because it is essentially a debate about political values about which there is disagreement. This arises from differing weights that may be given to the competing principles of the electoral "level playing field" and of freedom of expression. It is also because the competing viewpoints have been fully rehearsed already.

175. A second reason for concern about the role of money in politics is about the danger of corruption and influence-peddling. It is suggested that OECD should focus on this second aspect since it has been the subject of less attention and because it is less subject to the ideological divisions which are part of the discussion about the relative weight to be given to fairness and to freedom of expression in regulating political finance.

176. A focus on anti-corruption directs attention to areas which have been relatively neglected and which call for greater attention as well as for new methods of investigation. There are too few writings on the links between corruption and political finance and between organised crime and political finance. This

makes the recent edition by Casas of essays in seven countries especially valuable as initial contributions. Titled *Dangerous Liaisons: Organized Crime and Political Finance in Latin America and Beyond*, it is a fascinating and important work which is also frustrating because it shows how much more needs to be done on the subject. One of the contributors, was the co-editor of another significant edition published in 2007 titled *Political Finance and Corruption in Eastern Europe: The Transition Phase*. (Smilov and Toplak, 2007.)

2. *Focus on local case studies.*

177. One of the most striking, albeit to be expected, features of the recent Casas-Zamora edition is that it shows clearly that many of the problems of corrupt political funding occur at the local level. This emerges as well from the Jimenez and Villoria study of 2012 on "Political Finance, Urban Development, and Political Corruption in Spain". It tends to be at the municipal level that problems of corruption relating to public contracting occurs. (An exception is defence contracting, which has been the subject of national-level scandals in countries including Japan, Belgium, France, South Africa and India.) It is at local or regional level that capture of public authorities (especially law enforcement) usually occurs (Box 7). Yet, the attention of scholars and policymakers has been devoted disproportionately to the national level.

Box 7. Political Finance, Corruption and Organised Crime, mainly a local level problem

Brazil: The infiltration of organized crime in Brazilian politics has advanced more rapidly at the municipal and state levels, as these seats often go unchallenged by insiders and are ignored by institutional checks and balances. (Speck, 2013, 69.)

Bulgaria: In some cases, in particular at the local level, criminal entrepreneurs may take direct part in politics. As a rule, the lower the level, the more direct the involvement of organised crime. (Gounev and Bezlov, 2010, 213) [13]

Costa Rica: While the danger of proceeds from organized crime making their way into campaign coffers has clearly receded at the national level, it remains a real concern at the subnational level. ... Despite a decentralization process that seems to be gaining momentum, the powers of local governments and the attention paid to municipal elections continue to be very limited in Costa Rica. (Casas-Zamora, 2013, 129.)

France: Political party financing has been the biggest corruption driver: a process that has been further accelerated by administrative decentralisation and regionalisation in recent decades. Public contracts in large cities like Paris have been granted to companies that have provided support to political parties. (Nacer Lalam, 2012, 116.)

Italy: Circumvention of political finance norms is a common practice in Italy, especially at the local level, where organized crime is more influential, politicians' demand for money more intense (because public contributions are limited to central structures), and inspections and sanctions are absent. During the 1990s, in fact, when new laws instituting direct election of local administrators induced a strong personalization of political competition, in some contexts criminal organizations became a decisive ally for contending candidates. (Della Porta and Vannucci, 2013, 197-98.)

Mexico: The real Achilles' heel of Mexico's electoral system is the focus on what happens at the national level, rather than at the local level. [14] Thus any progress in driving organized crime out of political campaigns has been at the federal level. The control and auditing mechanisms explained above have inhibited political parties from taking funds from criminal organizations. In addition, radio, newspapers, and television report on national politics, as opposed to small towns and rural areas. (Curzio, 2013, 145 and 158.)

Spain: In 2009 public hearing before the Parliament, the Spanish attorney general revealed that the Public Prosecutor's Office was in the process of investigating some 750 political corruption cases, with more than 800 individuals involved. ... According to the information we gathered most belong to [the] local level. In one prominent case (Marbella) ... twenty politicians (two former mayors and eighteen councillors) were indicted. ... Cases pointing to a link between political finance corruption and urban development ... surfaced on a regular basis. (Jiménez and Villoria, 2012, 121-22.)

Sweden: in this area (city of Södertälje) organised crime has infiltrated all structures of society except the judiciary. This is evident both at the street level, where 4-5 groups have competed for influence through methods

such as extortion and targeted assassinations, and in the political structure. ... if a member of a group is nominated for a political party it guarantees that the rest of its members will vote for that party. Groups change party based on the type of favors each party is able to provide: subsidies to local organizations for questionable activities, liquor licenses, etc. The political parties are aware of this situation, but they are not addressing it as it would impact their local electoral base. (Helgesen, 2013.)

United States: Some of the classic studies of political corruption and its connection with the financing of politics in the United States have been about municipal politics. They include Lincoln Steffens' *Shame of the Cities* (a collection of magazine articles first published in 1904) and the study of a then-unnamed town called "Wincanton" (now identified as Reading, Pennsylvania) submitted in 1966 to the President's Commission on Law Enforcement and Administration of Justice. (Steffens, 2012, Gardiner and Olson, 1967, and Gardiner 1970.)

Source: Author

178. The implication of these remarks is that international organisations should consider a different model of work on political finance and public integrity along the lines implied by the studies in the Casas-Zamora edition. Among the main elements of this suggested approach are:

- greater empirical detail and rigour through the careful use of investigative techniques,
- including inquiry into cross-border aspects of political-finance linked organised crime,
- wider definition of "political finance" to include the areas of money in politics at the borderland of party and election funding, such as lobbying and payments to individual politicians,
- analysis of payoffs in known cases of political finance-linked corruption: favouritism in public contracts or legal immunity from criminal investigation of organised criminals

3. *"more depth, less breadth"*

179. The themes of "more depth, less breadth", "more empirical rigour, less pseudo-data and fewer indices", "too much law, too little enforcement", "more attention to the details of political finance laws, less debate about the general principles" have implications for the conduct of training programmes.

180. There has been a tendency to conduct short meetings for relatively large numbers of people. Such a procedure is necessary when the task is to inform large numbers of election officials, party officers and candidates in a very short period of time about newly-enacted laws to be applied in a forthcoming election. At other times, skim-the-surface methods are undesirable and tend to be financially wasteful. It may cost USD 50,000 to 100,00 to mount an international meeting involving long distance travel for participants. A similar sum might suffice to support a programme of in-depth research or to help train a very limited number of locally-based future experts.

181. It is hard to prove whether it is more "effective" to provide a small amount of assistance to a larger number of people or a larger amount to a smaller number. Obviously any scheme must start with a larger number because the task of pre-selection may be difficult and prone to favouritism or abuse. One method is to start by organising relatively short meetings or courses in a local setting for a larger number of people and to provide scholarships or other forms of aid for in-depth study to those who perform best.

182. From the parochial view of a British author, it is a matter of satisfaction that several of the scholars of political finance who are most prominent in the field (such as Casas-Zamora, Smilov and Walecki) previously were holders of the Chevening Scholarships offered by the country's Foreign and Commonwealth Office for study in the U.K.

183. A cost-effective scheme of in-depth training in a related field was spear-headed by the Portuguese academic Elizabete Azevedo-Harman. It takes the form of an institutional co-operation between the Catholic University of Lisbon and a partner Catholic University in Beira, Mozambique. An intensive one-year course for government officials is run by organising classes during one week a month. During that week, there are classes for four hours every evening during the week and all day on a sixth day during the weekend. Every month a separate faculty member visits Mozambique from Lisbon. During the academic year, there are eight different visits with a total of some 250 contact hours. Having established personal connection during nearly thirty hours in the classroom during their week in Mozambique, the faculty members then keep in touch with students by electronic means, marking their papers and holding face to face tutorials with them.

184. The preference for a relatively small number of in-depth activities applies to research, to training and technical assistance, and to selected reports by field representatives of NGOs and aid agencies. For example,

- where research is carried out into corruption related to political funding, it is better to commission thorough reports into a small number of municipalities or into a small selection of countries rather than a larger number of briefer ones.
- Concerning reports by NGO representatives who have recently completed a tour of duty, an occasional, highly detailed review may be considerably more valuable than a whole series of hastier reports.
- A further application of the same approach is to offer assistance in improving the expertise in the topic of enforcement of political finance laws on an intensive basis to a few officials of election management bodies in countries with particular needs. This may involve a placement in an election management body with the capacity to act as a model.
- Where a country is in the process of debating a new political finance law, experience has shown that it is important for at least one member of the legislature to have both technical knowledge of the details and pitfalls of such laws and a special interest in them. Detailed briefing, advice and encouragement may usefully be offered by a fellow legislator who brings the experience of spearheading similar legislation in his or her own country. [15]

Some applications of the suggested strategy

185. The concluding recommendations constitute a menu intended to serve as a basis for discussion.

1. *Political finance and corruption: organised crime, drug trafficking and contracting abuses.*

186. There is much talk but relatively little evidence. This is hardly surprising since corruption is a hidden (or, at least, deniable) activity. It also may be a dangerous field of inquiry, especially when it is organised crime and international drug trafficking which are under scrutiny. There are additional legal hazards in making potentially defamatory allegations. The approach used in the Gardiner and Olson study of the unnamed town of "Wincanton" (Reading, Pennsylvania) may act as a model. It is now known that much of the evidence of specific links between politicians and organised criminals were based on surveillance by the legal authorities which planted a listening device in a motor vehicle.

187. Following the publication of the Casas-Zamora edition, and following the academic studies of Italy and Spain cited in Table 9, there should be a small working group of OECD and related bodies to examine how to take forward a deeper inquiry. It is highly probable that this will in some way involve

local case studies. For safety reasons, they should not be headed by persons living in the countries under investigation. The working group should consider the arguments for and against inclusion of law enforcement agencies in the project.

188. In order to underline the importance of this difficult subject, it must be remembered that the unsustainable housing boom in Spain was a prime trigger of the country's economic difficulties and of the difficulties for the world economy which were partly a result. Further study of the municipal-level corruption which reportedly was a feature of the housing boom is therefore much to be desired and the work of Jiménez and Villoria provides a good base.

189. Concerning drug trafficking, organised crime and political corruption, it obviously is a problem of great importance for countries such as Mexico and Colombia, but its effects are far wider. Special problems such as the political finance role of organised crime and drugs trafficking are particularly suited for attention by international bodies since they typically involve cross-border activity.

2. *In-depth training of local-based political finance researchers and experts.*

190. It is noteworthy that the report of Transparency Maldives (mentioned earlier) into political finance transparency noted its lack of knowledge and expertise. Its project therefore consisted of a standardised box-filling exercise which did not and was not meant to deliver any actual information about party funding in the Maldives. A lack of specialised knowledge is only to be expected in many parts of the world, especially those where competitive elections do not have a long history.

191. There is a limit to what might reasonably be expected from foreign advisers who may not speak the local language and who are likely to have only a fleeting involvement in advising on political finance. There are further shortcomings of foreign advisers. They tend to be too attached to the system of their home country. Although they may gain authority and neutrality from the fact that they have flown a long distance to provide advice, their outsider status has disadvantages. In the long term, there is no substitute for local expertise.

192. In the author's experience, a great deal may be achieved by a local academic expert or by a legislator who has the determination of a "product champion" in the area of political finance. The impact of a very small number of committed and well-informed experts is likely to be greater than that of members of civil society organisations who undertake whatever work is funded by a development agency. The fear that local experts will be tempted to abandon their countries of origin has not been borne out.

193. There is a notable contrast between the former Soviet satellites of Central and Eastern Europe and some other parts of the world. Though there is still a long way to go in some countries, the level of interest and expertise in political finance in several neighbouring countries is impressive. This contrasts with South America and the Caribbean, the Middle East and North Africa, Sub-Saharan Africa, and much of Asia.

194. It is essential that local experts should not merely copy recommendations and templates used in other countries and that they should not limit themselves to contributing a quick chapter on political finance laws in their home country to an edited edition. They need to conduct serious empirical research. Support for such research normally requires funding as well as a robust method of merit selection.

3. *Research and training in the enforcement of political finance laws.*

195. It is well known that political finance laws are widely unenforced. There are a number of reasons why this is the case, including the reality that some of the laws are inherently hard to enforce for reasons

outlined in this report. The issue of enforcement was the subject of a study, partly drafted by the author of this paper, carried out by the International Foundation for Electoral Systems and published in 2005.

196. Since the IFES publication was primarily a training vehicle, it did not consist of an empirical investigation. Detailed studies of a few countries are needed which will investigate in detail the way in which the relevant authorities set about (or neglect to set about) enforcing the laws, the staffing and powers of the authorities, the obstacles faced and their record in securing compliance and, where necessary, in imposing sanctions.

197. A further priority is the training of a few persons in electoral management or other relevant administrative bodies in the techniques of investigation and enforcement which may have been used successfully in other countries. The Commonwealth Secretariat has secured limited funds for the training of young electoral officials through secondments to electoral authorities in other Commonwealth nations. It is suggested that OECD and its member countries should consider a similar scheme. For a few countries, this should include specialist training in detection and enforcement of contraventions relating to corrupt contracting and to organised crime. For others, the focus should be on issues such as checking the accuracy of financial accounts submitted by parties and candidates.

4. *There needs to be empirical study of "indirect" public funding. This includes the use of public resources by incumbent legislators and national and local governments for partisan purposes.*

198. The World Bank recommended in 2000 a "ban" on the use of state resources for political purposes:

“Parties in government should not use state funds, postal services, cars, computers, or other assets for political purposes or in election campaigns”. (The World Bank, 2000, Box 4.2.)

199. The issue of the use of public resources for partisan purposes reaches beyond central governments to legislatures, local government authorities and elected mayors and councillors, other public bodies as well as state governments in countries with federal systems. The policy of banning the use of such resources also comes up against the question of drawing a boundary between a use of resources for governmental or legislative purposes or for political purposes.

200. The partisan use of state resources has been a subject of recent attention by the Venice Commission and by OSCE's Office of Democratic Institutions and Human Rights. Pending the results of these studies, careful research into this question is a priority for the study of political finance.

201. If there is a limit on permitted spending by candidates in parliamentary election campaigns and if incumbent legislators are able to use public funds supposedly to carry out their duties to their constituents but in practice to campaign for their votes, there will be a doubly unbalanced effect. First, incumbents will obtain public funds while the challengers will not; second, the incumbents will be able to escape the spending limit by funding activities designated as "carrying out their legislative duties" while challengers will be unable to spend in parallel even if they are able to raise the funds to do so.

202. As the writings on political finance in New Zealand by Bryce Edwards have shown, the use of public funds by incumbent legislators in that country became a matter of intense controversy. In the United Kingdom, several public bodies have been reluctant to agree to the author's suggestion that the working of the rules relating to the use of public funds by Members of Parliament for political purposes be the subject of investigation. Before the British general election, leaks of documents about the use by Members of Parliament for their personal and family purposes became a subject of prolonged fascination and scandal and is the subject of a play being shown on the London stage. Its title "The Duck House" refers to the revelation that one hapless parliamentarian had claimed expenses to buy a structure to house the ducks

which inhibited a pond in his garden. What has been forgotten amid this publicity is that the use of public funds by parliamentarians for political purposes raises issues which are of greater political importance even if they lack the same capacity for amusement.

5. *"Indirect" party and campaign finance: political funding by lobbies, advocacy groups and by the media.*

203. In practice "political finance" includes money used for political purposes via the media and via pressure groups. A comprehensive study of the role of money in politics requires investigation into varied channels and not only of political parties. The reality that political funding flows through multiple channels complicates research as well as regulation.

204. Clearly, funding through party and non-party channels frequently is interchangeable. For example, in Britain, parliamentary candidates are subject to a strict campaign spending limit. If, a candidate pays for and publishes the results of an opinion poll showing the support for the different candidates in the constituency, the costs count against the permitted spending limit. Such polls typically benefit an outsider candidate wishing to stimulate support by demonstrating that he or she is near the winning line. If precisely the same poll is commissioned and published by a sympathetic newspaper, the expenses do not count as "political" expenses.

205. As mentioned in Section 5, the "boundary problem" is difficult for many kinds of regulation. If governments wish to control "pornography", they will need to surmount the borderline issue. If there is ambiguity, it will then be for the courts to decide.

206. For political finance, there are good reasons for seeking to extend the boundary of control beyond parties and candidates, as the legal academic Jacob Rowbottom has suggested. (Rowbottom, 2013) It is easier to advocate such an extension than to define in legal terms where the precise borderline should be placed. Yet, failure to provide a knowable boundary causes intolerable concern. When the United Kingdom's Coalition Government brought forward draft legislation in July 2013 to extend certain controls to spending by non-party organisations ("third parties") led to such uncertainty and concern among voluntary organisations and think tanks that the provision was withdrawn.

207. The boundary problem arises from the "common rules" on political finance recommended in 2003 by the Council of Europe. In practice, the monitoring reports of the Council of Europe's GRECO have not paid attention to minoring "indirect" party finance.

208. The regulation of third party funding and the most workable legal wordings setting out boundary lines is an important topic which will benefit from careful discussion on the basis of existing laws in different OECD countries. A project group of constitutional lawyers, electoral administrators and, perhaps, political scientists should be set up. Such a group will need to discuss also the forms of lobbying which should be controlled. In particular, there is the question of whether and how "cause" lobbies and lobbying activities by campaigning charities should be controlled.

209. Apart from legal discussion, political expenditure by lobbies is an important subject for further empirical research. A valuation of political spending by partisan media and newspapers is a further area deserving study.

6. *There is a need for research with a greater focus on factual investigation rather than on policy recommendation or on examination of existing laws in different countries.*

210. For example, there is a shortage of comprehensive national studies of trends in political spending. There is also a lack of research into the funding of sub-national elections and of local party organisations.

211. In a "Concluding Statement" a Council of Presidents and Prime Ministers of the Americas, meeting at The Carter Center in Atlanta, Georgia, recommended that:

"The OAS Inter- American Forum on Political Parties, other international organizations, multilateral banks, and universities should sponsor research to help us better understand the contributing factors of campaign costs ... For example, conflicting information exists with regard to whether and how fast campaign costs are rising relative to GDP and what the sources may be: television and radio advertising costs in modernizing campaigns; taxation systems; patronage politics and vote-buying in more traditional campaigns; internally democratizing parties; length of the campaign; the nature of the electoral system". (Council of Presidents, 2003.)

212. As set out in Section 1, a study by Nassmacher found only six country about which there is sufficient information to make informed statements about trends in levels of political spending relative to GDP. The fullest information on a country in Central and South America appears to be that of Casas-Zamora on Costa Rica. It is unclear whether the advice of the Council of Presidents and Prime Ministers led to the recommended action. It remains relevant.

213. According to information received recently from the Kofi Annan Foundation-International IDEA Global Commission its statement about the rise in campaign costs in older democracies had not been based on research but on the inchoate sense of some of the members based on the United States case.

214. The substitution of impressions for carefully analysed facts is wholly unsatisfactory. Further studies may emerge challenging the statistics given in Tables 1 to 3 of this paper or adding statistics for other countries which tell a different story. The crucial point is that analysis should "follow the facts".

215. The importance of studies of local level funding has already been discussed in the context of investigations into possible corruption and organised crime. In many places where there is no ground for such suspicions, there is good reason to fill the gaps in knowledge on the costs of the lower levels of party politics. The degree of financial centralisation or decentralisation of parties is a useful measure of party structure and changes in the central-local ratio may be revealing. Moreover, it is at the local level that the character of political life and the existence or absence of patronage are more likely to be revealed.

7. *A study of constitutional court cases.*

216. There needs to be more detailed comparative study of cases relating to political funding and to other aspects of electoral law which have come up before international courts such as the European Court of Human Rights and before national courts.

8. *Study and advice on technicalities of campaign finance law.*

217. Since problems of political finance regulations and laws stem typically from matters of detail and definition, more attention needs to be paid to technical issues of legislation. Problems which have arisen in one country may be useful to another in matters such as the definition for regulatory purposes of terms such as "political party", "election campaign", "electoral purposes", and "donation".

ANNEX 1. POLITICAL FINANCE LEGISLATION IN MEMBER COUNTRIES OF THE OECD

218. Categories of legislation used for international comparisons need to be regarded with caution. Among countries with public funding of parties and election campaigns, there are different forms and degrees of such funding. Public subsidy may come in the form in benefits-in-kind (especially free broadcasting facilities for parties and candidates), in the form of payments specifically for election campaign costs, or for the regular expenses of party organisations between campaigns. Similarly, there is sufficient variety in rules in different countries about transparency of political funding to necessitate care in interpreting simple statistics of the percentage of countries with such regulations.

219. With this important proviso, studies of international legislative trends are of some interest. The author developed a scheme for categorising and researching such legislation on a worldwide basis when he acted as lead author on political finance for International IDEA (Pinto-Duschinsky 2001). It was subsequently extended by International IDEA in 2012.

220. A simplified listing of broad categories of subsidy and regulation in each OECD member country, derived from the 2012 International IDEA database, is given in Table 1. It shows that almost all OECD member countries (97%) have at least some direct public funding of political parties or candidates.

221. There are disclosure rules in 97% of the member states. In 68% of the member countries there are legal limits either on donations or on campaign spending or on both. There are limits on donations in 53% of OECD countries and spending limits in 59%.

Table 4. Political Finance Laws In Member Countries of the OECD, 2012

Countries	Direct Public Funding	Limits on spending	Limits on donations	Disclosure rules
Australia	Yes	No	No	Yes
Austria	Yes	No	No	Yes
Belgium	Yes	Yes	Yes	Yes
Canada	Yes	Yes	Yes	Yes
Chile	Yes	Yes	Yes	Yes
Czech Republic	Yes	No	No	Yes
Denmark	Yes	No	No	Yes
Estonia	Yes	No	No	Yes
Finland	Yes	No	Yes	Yes
France	Yes	Yes	Yes	Yes
Germany	Yes	No	No	Yes
Greece	Yes	Yes	Yes	Yes
Hungary	Yes	Yes	No	Yes
Iceland	Yes	Yes	Yes	Yes
Ireland	Yes	Yes	Yes	Yes
Israel	Yes	Yes	Yes	Yes
Italy	Yes	Yes	No	Yes
Japan	Yes	Yes	Yes	Yes
Korea	Yes	Yes	Yes	Yes
Luxembourg	Yes	No	No	Yes
Mexico	Yes	Yes	Yes	Yes
Netherlands	Yes	No	No	Yes
New Zealand	Yes	Yes	No	Yes
Norway	Yes	No	No	Yes
Poland	Yes	Yes	Yes	Yes
Portugal	Yes	Yes	Yes	Yes
Slovakia	Yes	Yes	No	Yes
Slovenia	Yes	Yes	Yes	Yes
Spain	Yes	Yes	Yes	Yes
Sweden	Yes	No	No	Yes
Switzerland	No	No	No	No
Turkey	Yes	No	Yes	Yes
United Kingdom	Yes	Yes	No	Yes
United States	Yes	No	Yes	Yes

Note: "Yes" denotes provisions either for parties or for candidates or for both. Except for Israel, spending limits for parties apply to election spending alone but not to routine organisational costs between elections.

Table 5. Political Broadcasting Regulations and Subsidies in Member Countries of The OECD, 2002-

Countries	Free TV advertising	Ban on paid TV advertising
Australia	Yes	No

Austria	Yes	No
Belgium	Yes	Yes
Canada	Yes	No
Chile	Yes	No
Czech Republic	Yes	Yes
Estonia	Yes	No
Finland	Yes	No
France	Yes	Yes
Germany	Yes	No
Greece	Yes	No
Hungary	Yes	No
Iceland	Yes	No
Ireland	Yes	Yes
Israel	Yes	Yes
Italy	Yes	Yes
Japan	Yes	Yes
Korea	Yes	No
Luxembourg	?	No
Mexico	Yes	No
Netherlands	Yes	Yes
New Zealand	Yes	No
Norway	Yes	Yes
Poland	Yes	No
Portugal	Yes	Yes
Slovakia	Yes	No
Slovenia	Yes	No
Spain	Yes	No
Sweden	Yes	Yes
Switzerland	No	Yes
Turkey	Yes	Yes
United Kingdom	Yes	Yes
United States	Yes	No

Sources: Pinto-Duschinsky, 2002, 76-77; New Zealand Electoral Commission, <http://www.elections.org.nz/parties-candidates/broadcasting/election-broadcast-advertising>; GRECO evaluation report on Iceland, http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/ReportsRound3_en.asp; and Ikstens et. al. 2002.

222. There is a great variation in the proportion of their income which parties and candidates derive from the state. In the United Kingdom and in the United States, for example, direct public funding is provided only for very limited purposes.

223. Information on the amount of direct public funding and on the estimated proportion of party income derived from public funding is given for a few countries in Table 12. The statistics are derived from the valuable country evaluations carried out by the Council of Europe's GRECO unit.

Table 6. Estimated Percentage of Revenues of Eligible Parties Derived from Direct State Funding

Germany (2009)	30-40%
Netherlands (2008)	30-60%
Poland (2008)	54-90%
Iceland (2008)	60-90%
Norway (2009)	67-88%
Finland (2007)	70-80%
Sweden (2009)	70-80%
Portugal (2010)	70-90%
Denmark (2009)	75%
Spain (2009)	80-95%
Belgium (2009)	85%

Source: GRECO evaluation reports as analysed in Pinto-Duschinsky 2011.

Notes: Dates denote the year in which the GRECO third wave evaluation report was adopted by the Council of Europe. Normally, the fieldwork was carried out several months earlier. The percentages are for extra-parliamentary revenues of parties eligible for public funding. It is unclear from some of the GRECO evaluation reports whether or not the percentage includes or excludes (where applicable) public funding in the form of tax relief. For Germany, the percentage falls within the law according to which parties may derive no more than a half of their money from the public purse. However, this excludes large-scale public funding via contributions from elected office-holders from their official salaries as well as state funding for party foundations. (see Pinto-Duschinsky 1991.) For Norway, the four largest political parties derived 67% of their revenues in 2006 from the state and three smaller parties eligible for public funding derived 88% of their revenues from the state.

ENDNOTES

1. "... irrespective of the vast dissimilarities among the U.S. and European systems (and among the American states themselves), public campaign funding played a more modest role than the skeptics or its supporters had anticipated. Rather than the key factor determining the evolution of party systems, it tended to enhance the effects of other factors ... Consequently, the outcome of public funding could be different in different contexts." (Mendilow and Brogan, 2012, 108.) For summaries of the arguments on both sides, see Casas-Zamora, 2009, and Pinto-Duschinsky, 2011b.
2. In his publication of 2005, Casas-Zamora shows that national campaign spending fell relative to consumer prices between 1978 and 1998. His follow-up chapter on Costa Rica in his 2013 edition, indicates a small rise relative to consumer prices between 1998 and 2010. Between 1978 and 2010, total national election spending by the competing political parties rose by a quarter using consumer prices as the deflator. Using GDP as a deflator, election costs fell sharply, as did per-electoral costs. Trends in election spending were almost wholly the result of changes in the amount of public funding. See Casas-Zamora, 2005, 112 and Casas-Zamora, 2013, 123
3. For a discussion of non-campaign costs of local Canadian party ("riding") organisations, see Joan Bryden and Steve Rennie (2013).
4. See also Pinto-Duschinsky, 2002 and 2006b, Smilov and Toplak, 2007, Jimenez and Villoria, 2012, Casas-Zamora, 2013. These sources add political finance-related scandals in other countries including Antigua and Barbuda, Bahamas, Bulgaria, Costa Rica, Croatia, Hungary, Lithuania, Mexico, Nicaragua, Pakistan, Papua New Guinea, Peru, Poland, Russia, South Africa, Suriname, Uganda, Venezuela, and Zimbabwe. For Spain, see Jimenez and Villoria, 2012. For a discussion of the various forms of political finance-related corruption, see Pinto-Duschinsky, 2002, 71-72. For Luxembourg, see the GRECO third round evaluation report. It must be stressed that the list is based on reports some of which were unproven.
5. Beange argues that there has been no clear relationship between political finance reform and turnout and that "defence of tighter campaign finance legislation based on a hypothesized increase of trust, at least operationalized as turnout, needs to be much more cautious. As numerous authors, such as Blais (2003) and others, have demonstrated, the number of factors driving turnout is multiple, which suggests that using measures of turnout to demonstrate dissatisfaction with political parties and to justify institutional reforms of the Canadian campaign finance regime have been ill-founded." (Beange, 2012, 278)
6. "In a landmark case the US Supreme Court accepted the argument of the Socialist Worker's Party, who brought an action to allow an exemption from the legal disclosure obligation on the ground that their backers would be harassed if their financial support was known. (*Brown v Socialist Worker's '74 Campaign Committee*, 450 US 87, 1982 ...)" (Pinto-Duschinsky, 2003, Paragraph 54.2.)
7. The principle of disclosure is itself subject to debate. See Smith, 2003, Samples, 2008, Lessig, 2009 and subsequent articles in *The New Republic*, and Cain, 2010. For a review of some of the arguments, see Pinto-Duschinsky, 2003, an affidavit to the High Court of South Africa in the case of *Institute for Democracy in South Africa v African National Congress and others*. The same case generated affidavits from other academics.
8. Parts of the discussion on the problem of enforcement are taken from Pinto-Duschinsky 2011a
9. Greco and the Venice Commission have some member states additional to those belonging to the Council of Europe.
10. The U.K. Department for International Development, World Bank, Inter-American Development Bank, the National Endowment for Democracy, Open Society Justice Initiative, have paid some attention to political finance.

11. The International IDEA database was developed in a more limited version by the author and published in summary in 2001. (See Pinto-Duschinsky, 2001.) The most recent version was published by International IDEA on its website in 2012. Other convenient sources, some of which contain greater detail but which cover fewer countries are: the online publications of the project on Party Law in Modern Europe, based at Leiden University, the successive series of publications by the Law Library of Congress on Campaign Finance in Foreign Countries, and the third round evaluations of 46 countries published online by GRECO. For studies of political finance laws in Latin America, a useful and detailed source produced by the Organization of American States and International IDEA is Gutiérrez and Zovatto, 2011.
12. See also Kyl et. al., 2013. For a contrary view, see Kaminski, 2012.
13. The authors refer to the town of Dupnitsa which has been the subject of extensive reporting both within Bulgaria and internationally.
14. See also Kupferschmidt, 2009, for a similar analysis: "According to Dr Edgardo Buscaglia, narco-traffickers and organized crime have infiltrated some local governments by financing the mayors' political campaigns or by bribing their officials."
15. A variation of this in-depth approach has been the policy of the Danish International Development Agency of choosing a single country, Nepal, as a special partner country.

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