

Political Financing in Afghanistan: Working towards a Legitimate State

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Abstract

As Afghanistan prepares for the Presidential elections in August 2009 and the Parliamentary Elections and District Elections in mid-2010, it is an ideal opportunity to address the pressing issue of political finance, in order to strengthen the quality and legitimacy of the Afghan government. Through this paper, I will explore the role of political financing in Afghanistan, and propose policy solutions to strengthen the transparency and accountability of the campaign financing mechanism. Initially, I explore the role that political finance plays in post-conflict societies and the key pillars for a strong political finance regime. Then, I specifically examine how political finance has played a role in the recent history of democratic Afghanistan. After identifying some of the key shortcomings of the recent political finance administration, recommendations for reform will be proposed as the nation prepares for the upcoming elections. Considering that Afghanistan is still in the formative stages of its democratic development, it is essential that political finance regulations are respected as fundamental values to encourage transparency, legitimacy, and the credibility of the electoral process.

Introduction

In December 2001, Afghanistan reached the historic Bonn Agreement, which outlined an ambitious plan to rebuild the devastated nation after decades of conflict. Afghans have since embarked upon the challenging journey to establish a modern democratic state, in light of a lingering insurgency, a complex reconstruction process, and a growing skepticism of government institutions. To achieve the goal of developing a sustainable and legitimate Afghan state, the issue of how political processes are financed is critical.¹ The presence of corruption in political party and campaign financing can undermine democratic institutions and distort political competition. In an already fragile post-conflict environment, factors such as funding from illegitimate sources and unequal opportunities for political participation, undermine election outcomes and foster mistrust of democratic institutions.²

The successful conclusion of the 2004 Presidential election and the 2005 National Assembly and Provincials Council elections represented major achievements for Afghanistan and the nation's election administration framework. Yet, the experience of these two elections has highlighted a number of shortcomings in the area of election administration, and specifically political finance regulation. As Afghanistan prepares for the Presidential elections in August 2009 and the Parliamentary Elections and District Elections in mid-2010, it is critical to address some of these weaknesses in order to strengthen the quality and legitimacy of the Afghan government. Through this paper, I will explore the role of political financing in Afghanistan, and propose policy solutions to strengthen the transparency and accountability of the campaign

¹ Grant Kippen, 'Case Study of Afghanistan,' eds. Fisher, J., Walecki, M. and J. Carlson, Political Finance in Post-Conflict Societies, (Washington, DC: IFES, 2006), 25.

² Jeffrey Carlson and Marcin Walecki, "Main Determinants of Post-Conflict Societies and Implications for Political Finance, eds. Fisher, J., Walecki, M. and J. Carlson, Political Finance in Post-Conflict Societies, (Washington, DC: IFES, 2006), 3.

financing mechanism. Initially, I explore the role that political finance plays in post-conflict societies and the key pillars for a strong political finance regime. Then, I will specifically examine how political finance has played a role in the recent history of democratic Afghanistan. After identifying some of the key shortcomings of the recent political finance administration, recommendations for reform will be proposed as the nation prepares for the upcoming elections.

Overall, at this critical juncture in Afghanistan's development, it is necessary that the government and international stakeholders proactively address the issue of political financing. The relationship between money and politics is quite controversial, and much of the debate on the role of money is concerned with the improper influence that it can have on the democratic political process.³ This powerful force within the political system influences the relations between politicians, political parties, and the electorate. Therefore, the funding of political candidates and political parties in transitioning democracies should be an important area of public policy in order to ensure the effective development of democracy.

Political Finance Corruption in Post-Conflict States

Following decades of devastating conflict, Afghanistan confronted a myriad of challenges characteristic of post-conflict states, which included, "perceived irreconcilable political divisions, widespread destruction of social and physical infrastructure, severe population displacement and dislocation, collapse of the State... and competing foreign interest and intervention."⁴ As Afghanistan adopted a strategy for development and reconstruction

³ Ingird van Biezen, Financing Political Parties and Election Campaigns – Guidelines, (Council of Europe Publishing: Strasbourg, 2003), 12

⁴ James Katoboro, "Democratic Institution Building in Post-Conflict Societies," (UNDESA paper presented at the presented at Fifth International Conference on New or Restored Democracies, New York, NY, June 18-20, 2003), 5.

following the fall of the Taliban in November 2001, the establishment of sustainable governance institutions was a top priority. Afghan and international stakeholders adopted the Bonn Agreement in December 2001, which outlined a series of steps to establish a peaceful and democratic Afghan state. The priority areas of the Bonn Agreement demonstrate the preeminence of developing strong governance institutions as one of the key foundations of a sustainable Afghanistan. The Afghan policymakers strongly believed the nation fit within the framework of other post-conflict nations in that, “Sustainable recovery from violent conflict depends on rebuilding all sectors of the policy and society, but none so much as re-constituting a viable, trusted State authority through the creation of democratic institutions.”⁵ Although the process laid out in Bonn did successfully manage to appoint an Afghan Transitional Administration (ATA), draft a new constitution, and conduct Presidential, Parliamentary and Provincial Council elections, the achievement of these ambitious milestones was only a first step in establishing legitimate government institutions within Afghanistan.⁶

The continuing evolution of Afghan governance institutions is particularly evident when analyzing the culture of accountability between the Afghan state and its citizenry. The presence of formal accountability mechanisms is lacking, and citizens have few avenues to hold authorities accountable for flaws in governance. Therefore, the strengthening of the state’s core

⁵ James Katoboro, “Democratic Institution Building in Post-Conflict Societies,” (UNDESA paper presented at the presented at Fifth International Conference on New or Restored Democracies, New York, NY, June 18-20, 2003), 5.

⁶ Sarah Lister and Andrew Wilder, “Subnational Administration and State Building: Lessons from Afghanistan,” *Governance in Post-Conflict Societies: Rebuilding Fragile States*, ed. Brinkerhoff, D, (New York: Routledge, 2007), 242.

functions and the formal accountability mechanisms between the citizens and the state is “vital in the process of achieving a stable and democratic political system.”⁷

The necessity for formal accountability mechanisms is particularly crucial in the area of political finance regulation. In a narrow sense, political finance can be considered the money utilized for electioneering or campaigning, and therefore encompasses funds spent by candidates for public office, by their political parties, or by other individuals and organized groups of supporters.⁸ The definition of political finance corruption can be broadened to incorporate personal enrichment and vote buying, among other things. A comprehensive list of types of political finance related corruption is outlined in Attachment 1. Even when considering a more narrow definition of political finance corruption, the controversial relationship between money and politics calls for a particularly stringent approach to regulate its relationship in post-conflict societies. It is clear that, “Secret money and corruption hurt the economic and polity of a nation, distorting the behavior of politicians, stunting development and weakening citizen confidence in democracy.”⁹ In post-conflict environments, irregularities in the funding of political parties and candidates are the norm because clear standards rarely exist.¹⁰ In post-countries that have limited experience with democracy, concepts of transparency, accountability and equity in political funding are typically not components of the political culture. Therefore, in the midst of the dramatic political and social change that transitioning nations undergo, a clear articulation of the

⁷ Lotte ten Hoove and A. P. Scholtbach, “Democracy and Political Party Assistance in Post-Conflict Societies,” in Netherlands Institute of Multiparty Democracy, http://www.nimd.org/documents/N/nimd_kc_fragilestates.pdf, (accessed March 2, 2009), 7.

⁸ Marcin Walecki, “Challenging the Norms and Standards of Election Administration: Political Finance,” *Challenging the Norms and Standards of Election Administration*, (Washington, DC: IFES, 2007), 75.

⁹ Gene Ward, “The Role of Disclosure in Combating Corruption in Political Finance,” ed. Transparency International, *Global Corruption Report 2004*, (Sterling: Pluto, 2004), 38.

¹⁰ Shari Bryan and Denise Baer, “Money in Politics: A Study of Party Financing in 22 Countries,” (Washington, DC: National Democratic Institute for International Affairs, 2005), 5.

rules surrounding political funds is highly recommended. This allows for the systematic prevention of fraud and corruption, the initiation of healthy political party development, and a clear avenue through which the principles of openness and transparency are reinforced.

The absence of stringent norms and standards can result in funds from undesirable sources dominating the realm of political financing. In nations that have experienced extensive conflict, “armed groups, both official and unofficial, are likely to have gained access to taxes, rents, or foreign aid of various kinds to finance their military and political activity and, often, to enrich their key personnel.”¹¹ These illegal or irregular funding prospects facilitate access to the political arena for illegitimate interests. Therefore, “Illegal flows of funding can be exacerbated by a lack of distinction between legal and illegal mechanisms through which the funds are provided. Illegal funding may come from criminal/terrorist groups, foreign nationals (through illegal or quasi-legal means) or pilfered state resources.”¹² If the political financing framework supports the presence of these criminals, the threat of violence and intimidation quickly becomes an inherent part of the “democratic” process in an already delicate political situation. If this fundamental culture of fear is perpetuated, it can inhibit the population’s ability to vote for their preferred candidate for fear of retaliation. As the Netherlands Institute for Multiparty Democracy confirms, “First and foremost, the links between political parties, organized crime, paramilitary

¹¹ Madelene O’Donnel, comment on “Public Finance in Post-Conflict State-building,” Center on International Cooperate website, posted on March 2005, <http://www.cic.nyu.edu/peacebuilding/publicfinancepubs.html>, (accessed March 18, 2009), 3.

¹² Jeffrey Carlson and Marcin Walecki, “Main Determinants of Post-Conflict Societies and Implications for Political Finance, eds. Fisher, J., Walecki, M. and J. Carlson, Political Finance in Post-Conflict Societies, (Washington, DC: IFES, 2006), 7.

groups and militias, that prevail in many post-conflict societies undermine the democratization efforts in general, and effective and fair political funding in particular.¹³

For these complex reasons, the influence of money in politics is recognized as a powerfully corruptive force.¹⁴ Financial resources dominating elections can quickly compromise democratic ideals, alienate citizens from the political process, and foster mistrust of government institutions and elected officials.¹⁵ Although, post-conflict societies may face a particular challenge in developing and implementing effective political finance regulation, in order to ensure political legitimacy and citizen engagement in the political process, it is a core requirement for an effective and legitimate state.

Goals of a Political Finance Regime

In a newly democratic society, such as Afghanistan, it is not enough to simply provide the framework for free and fair elections. Instead, throughout the election process, it is critical to adhere to international standards in order to enable a level playing field in the electoral environment. This complex reality means that money, which is seen as the “mother’s milk of politics,”¹⁶ needs to be regulated closely to ensure equality. Overall, this necessitates the State’s intervention to minimize the effects of economic inequalities, and curb the ability to translate economic power into political power. As Herbert Alexander, the late leading Political Finance

¹³ Lotte ten Hoove and A. P. Scholtbach, “Democracy and Political Party Assistance in Post-Conflict Societies,” in Netherlands Institute of Multiparty Democracy, http://www.nimd.org/documents/N/nimd_kc_fragilestates.pdf, (accessed March 2, 2009), 13.

¹⁴ Karen Fogg, P. Molutsi, and M. Tjerstrom, ‘Conclusion,’ eds. Austin, R., and M. Tjerstrom, Funding of Political Parties and Election Campaigns, (Stockholm: International IDEA: 2003), 170.

¹⁵ Office of Democracy and Governance, Money in Politics Handbook: A Guide to Increasing Transparency in Emerging Democracies, (Washington, DC: USAID, 2003), 2.

¹⁶ Karl-Heinz Nassmacher, “Political Parties, Funding and Democracy,” eds. Austin, R., and M. Tjerstrom, Funding of Political Parties and Election Campaigns, (Stockholm: International IDEA, 2003), 5.

scholar, states, “Money enables individuals as well as groups to develop means of influence and power, competing with the arena of existing political structures, institutions, and processes established by the community for its governance.”¹⁷ Therefore, within such a reality, the goal of political finance regulation is to enable a “level playing field for parties and citizens as well as freedom of expression for everyone,”¹⁸ so that healthy electoral competition is preserved, and no one candidate or party is able to influence political decisions due to financial resources.

Particularly, in nations such as Afghanistan, where former warlords or authoritarian leaders have unfair access to resources and can utilize them to their political advantage, these regulations become increasingly critical. Political finance regulations are a proactive mechanism to ensure that people who have access to resources do not exercise undue influence in the democratic process. In addition, due to Afghanistan’s long history of conflict, many communities have been systematically excluded from the political process, and particularly from holding public office. Therefore, working towards a level playing field ensures that all citizens can consider running for office, without being restricted by financial considerations.

When designing a framework for political finance, it is absolutely critical that: 1) the norms of disclosure are created and clearly articulated, 2) an independent enforcement agency is empowered to implement the regulations, and 3) civil society and the media is actively engaged as a third party watchdog. In outlining some of these key characteristics, respected political finance specialist K.Z. Patiel explains, “Disclosure requires systematic reporting, auditing, public access to records and publicity. Enforcement demands a strong authority endowed with sufficient

¹⁷ Herbert E. Alexander and Rei Shiratori, “Introduction,” eds. Alexander, H. and R. Shiratori, Comparative Political Finance Among the Democracies, (Boulder: Westview Press, 2004), 1.

¹⁸ Karl-Heinz Nassmacher, “Comparative Political Finance in Established Democracies,” ed. Nassmacher K., Foundations for Democracy: Approaches to Comparative Political Finance, (Berlin: Baden-Baden, 2001), 16.

legal powers to supervise, verify, investigate and if necessary institute legal proceedings. Anything less is a formula for failure.”¹⁹ In addition to these foundation principles, it is absolutely necessary that a given State’s regulations are “in accord with its national history and culture, compatible with its government structure (parliamentary, presidential, or a mixture of both), and relevant to its other nation-centric variables, (party-oriented or candidate centered politics),”²⁰ in order to ensure local effectiveness.

Disclosure is one of the core principles of any political finance regime, and enables an overall transparency so that the electorate has access to asset and expenditure information of candidates and political parties.²¹ Ideally, financial reports should be made accessible to the public on a periodic basis, and should be submitted for public inspection and audit.²² Michael Pinto-Duschinsky describes that the broad sweep of financial disclosure measures should be implemented in nations to achieve full effectiveness. These include disclosure requirements for: 1) primary elections; 2) election campaigns by individual candidates for public office; 3) the routine (non campaign) budgets of national and local party organizations; 4) personal political funds of individual politicians; 5) interest groups participating in political campaigns and 6) referendum campaigns.²³ The goal of transparent disclosure policies is to facilitate trust in the government. It is quite common that, “Hidden or secret methods of funding in the electoral

¹⁹ Karl-Heinz Nassmacher, “Comparative Political Finance in Established Democracies,” ed. Nassmacher K., *Foundations for Democracy: Approaches to Comparative Political Finance*, (Berlin: Baden-Baden, 2001), 28.

²⁰ Herbert E. Alexander and Rei Shiratori, “Introduction,” eds. Alexander, H. and R. Shiratori, *Comparative Political Finance Among the Democracies*, (Boulder: Westview Press, 2004), 2.

²¹ Karl-Heinz Nassmacher, “Political Parties, Funding and Democracy,” eds. Austin, R., and M. Tjerstrom, *Funding of Political Parties and Election Campaigns*, (Stockholm: International IDEA, 2003), 11.

²² Herbert E. Alexander and Rei Shiratori, “Introduction,” eds. Alexander, H. and R. Shiratori, *Comparative Political Finance Among the Democracies*, (Boulder: Westview Press, 2004), 9.

²³ Michael Pinto-Duschinsky, ‘Financing Politics: A Global View,’ *Journal of Democracy*, (2002): 81.

process breed skepticism and cynicism about democratic politics.”²⁴ The importance of disclosure in political finance corruption is even captured within the United Nations Convention Against Corruption, which calls on governments to “enhance transparency in the funding of candidates for elected public office and, where applicable, the funding of political parties.”²⁵

To make the disclosure policies truly effective, the presence of an independent enforcement agency is also necessary to ensure the appropriate adherence to the political finance regulations. In certain countries this independent body is a department within the Electoral Management Body and in others it is a separate entity that is give the appropriate jurisdiction. In either scenario, the independent agency needs to possess the appropriate legal powers in order to effectively investigate financial reports and complaints filed. In highlighting the importance of an independent agency, Transparency International explains, “To this end, they must be endowed with the necessary resources, skills, independence and power of investigation. Together with courts, they must ensure that offenders be held accountable and that they be duly sanctioned.”²⁶ Given this role, it is absolutely critical that members of the enforcement agency remain non-partisan, and their funding remains independent of politicians in power. As Political Finance scholar Marcin Walecki explains, “Any enforcement agency’s autonomy must result from many factors, including its membership, terms of appointment, funding and administrative

²⁴ Gene Ward, “The Role of Disclosure in Combating Corruption in Political Finance,” ed. Transparency International, *Global Corruption Report 2004*, (Sterling: Pluto, 2004), 40.

²⁵ United Nations Office of Drug and Crime, “United Nations Convention against Corruption,” United Nations, http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf, (accessed March 29, 2009).

²⁶ Transparency International, “Standards on Political Funding and Favors No. 01/2005,” Transparency International, www.transparency.org/content/download/13187/133268/version/1/file/TIPPN, (accessed April 5, 2009), 3.

jurisdiction.”²⁷ This is a body that needs to be separate from the impact of politics, and should preserve its impartiality and independence. A lack of secured financial independence can quickly evolve into “politicians who are reluctant to enforce laws against their colleagues... or non-partisan commissioners reluctant to challenge the government party due to personal fear or fear that the commission’s budget will be cut in retaliation.”²⁸ If the enforcement of political finance regulations is weak, it does not manage to build confidence in the political process and “leads to disenchantment and cynicism toward democracy.”²⁹ Therefore, enforcement is a key lynchpin to guaranteeing the effectiveness of political finance regimes, since the mere presence of regulations will not effectively solve the problem. Since enforcement may be challenging in a post-conflict environment struggling to establish the rule of law, it becomes all the more important to institute a small independent body that is given the appropriate enforcement jurisdiction, rather than depending upon the judicial system at large. If this small body is given the appropriate mandate, it could create an enabling environment for enforcement.

In order to complement the existence of political finance regulations and an independent enforcement agency, it is also critical that a society has an informed and engaged civil society with regards to the issue of political financing. Just as civic education efforts are conducted around the issues of voting and voter registration, public awareness campaigns are also required to inform the public about the nature of political finance regulations and the public’s right to information. This knowledge empowers civil society and the media to serve as a robust

²⁷ Marcin Walecki, “Political Money and Corruption”, (Washington, DC: IFES, 2006) in http://www.moneyandpolitics.net/researchpubs/pdf/Money_Corruption.pdf, (accessed March 20, 2009), 9.

²⁸ Marcin Walecki, “Challenging the Norms and Standards of Election Administration: Political Finance,” *Challenging the Norms and Standards of Election Administration*, (Washington, DC: IFES, 2007), 85.

²⁹ Karen Fogg, P. Molutsi, and M. Tjerstrom, ‘Conclusion,’ eds. Austin, R., and M. Tjerstrom, *Funding of Political Parties and Election Campaigns*, (Stockholm: International IDEA: 2003), 172.

watchdog in the field of political finance. It is clear that, “Journalists are often at the frontline of those monitoring ties between moneyed interests and political power – and here they depend on properly functioning disclosure laws in order to do their job.”³⁰ Media and civil society inquiries or formal complaints, can prompt the enforcement agency to investigate a specific claim.

Through investment in a variety of avenues, including media training and public awareness campaigns, the public can be actively informed on this issue and become proactive stakeholders in the goal to regulate political finance.³¹

Ultimately, the political finance framework should establish, “the rules of the game.”³²

The goal is that the existence of such regulations creates a cultural of accountability and reformed behavior amongst politicians, political parties, and citizens. The regulatory process will therefore not discourage competition in the political process, but instead create a renewed legitimacy of governance institutions, and a certain degree of trust within the polity.

Lessons Learned from Bosnia and Herzegovina

Bosnia and Herzegovina (BiH) presents an interesting comparative example, where despite the differing cultural contexts of BiH and Afghanistan, the political parallels are striking. Both Afghanistan and BiH are working to build strong democratic societies in post-conflict states, while also managing a high degree of international involvement. Following an intense multi-ethnic conflict between the Bosniaks, Serbs and Croats, the Dayton 1995 Peace Agreement

³⁰ Transparency International, “Standards on Political Funding and Favors No. 01/2005,” Transparency International, www.transparency.org/content/download/13187/133268/version/1/file/TIPPN, (accessed April 5, 2009), 3.

³¹ Marcin Walecki, “Challenging the Norms and Standards of Election Administration: Political Finance,” *Challenging the Norms and Standards of Election Administration*, (Washington, DC: IFES, 2007), 88.

³² Karl-Heinz Nassmacher, “Comparative Political Finance in Established Democracies,” ed. Nassmacher K., *Foundations for Democracy: Approaches to Comparative Political Finance*, (Berlin: Baden-Baden, 2001), 29.

was signed under immense international pressure. The agreement's two primary objectives were to end the fighting and to build a stable, democratic state. The Stabilization Force in BiH, a multinational force led by NATO, was to oversee compliance to military provisions and a High Representative, oversaw the implementation of the civilian components of the Dayton Agreement.³³

The Organization for Security and Cooperation in Europe (OSCE) was initially assigned with all responsibilities of election administration, and the Head of the OSCE Mission was also the Head of the Provisional Election Commission. While political finance was considered a secondary issue in this complex environment, it was nonetheless addressed head on in the nation's election law. Prior to the 1998 general elections, the first financial reporting requirements were introduced in the provisional rules and regulations. This required all candidates to file a financial disclosure report before registering as a candidate and also upon leaving office. In addition, prior to the 1998 election, "the PEC banned all paid political advertising with the goal of attacking the political finance problem from the demand side."³⁴ This coincided with strict requirements for balanced media coverage and the necessity for electronic media to carry free spots during the campaign period. This media regulation only lasted through the 2002 elections, since it was highly unpopular with media moguls and wealthy politicians.

Eventually, after considerable debate, the election regulations of campaign finance were enacted into The Law on Political Party Finance, which came into force in April of 2001. The

³³ United Nations Development Program, Vetting Public Employees in Post-Conflict Settings: Operational Guidelines, (New York: United Nations, 2006), 37.

³⁴ Robert Barry, 'Case Study of Bosnia and Herzegovina,' eds. Fisher, J., Walecki, M. and J. Carlson, Political Finance in Post-Conflict Societies, (Washington, DC: IFES, 2006), 39.

Bosnians also boldly enacted the Law on Conflict of Interest, which forbid elected officials to hold “incompatible positions, such as management posts in state corporations or private companies that rely on government contracts or investments.”³⁵ These regulations provided an outline of a comprehensive political finance regime that serves as an interesting theoretical model. Bosnia and Herzegovina represents, “an interesting case,” in which an effective disclosure and reporting mechanism was engineered and realized with the help of substantial foreign assistance.³⁶ Through the Bosnian model, critical lessons can be drawn about implementing a sustainable political finance regime in a complex post-conflict environment.

According to Ambassador Robert Barry, former OSCE Head of Mission and chair of the Provisional Election Commission, some of the financial regulations proved to be quite effective while others did not work as well. Although it was only implemented for a short period of time, the ban on paid political advertising did a great deal to level the playing field. Creating a level playing field for electronic media coverage of campaigns has been a relative success in Bosnia and Herzegovina, in part because violations are easy to detect and because the potential penalty – losing one’s broadcast license – is severe.³⁷ This suggests that utilizing access to media can be a critical tool in the implementation of an effective political finance regime.

In addition, the law prohibiting conflict of interest proved to be relatively successful in its efforts to curb corruption. Officials with an outright conflict of interest were easy to discover, and the penalty of losing the right to be elected was quite stringent. Although this regulation did

³⁵ Robert Barry, ‘Case Study of Bosnia and Herzegovina,’ eds. Fisher, J., Walecki, M. and J. Carlson, Political Finance in Post-Conflict Societies, (Washington, DC: IFES, 2006), 39.

³⁶ Janis Iktens, Daniel Smilov, and Marcin Walecki, “Campaign Finance in Central and Eastern Europe: Lessons Learned and Challenges Ahead, (Washington, DC: IFES, 2002), in http://moneyandpolitics.net/researchpubs/pdf/CEE_CampFinEng.pdf, (accessed April 16, 2009), 24.

³⁷ Robert Barry, ‘Case Study of Bosnia and Herzegovina,’ eds. Fisher, J., Walecki, M. and J. Carlson, Political Finance in Post-Conflict Societies, (Washington, DC: IFES, 2006), 45.

not close all the loopholes to accessing state resources in an election campaign, it certainly began to address this complex problem.

Widespread outreach to the non-governmental community was also initiated in response to the political finance regulations. American and German organizations implemented trainings programs to build the capacity of local institutions to understand the disclosure and enforcement requirements. Although these efforts were a positive start, it was evident that a great deal more training and awareness needs to be conducted within the Central Election Commission of BiH (CEC) and the non-governmental community to ensure that the appropriate expertise exists to enforce complicated laws related to disclosure requirements, limitations on contributions, audit reports, etc. Therefore, BiH represents a case where the regulations existed, but there was a lack of internal capacity to effectively implement them. The Bosnian experience poses relevant lessons learned for the Afghans, as they attempt to prioritize a political finance regime, and make the system workable within the Afghan context.

Political Finance in the Afghan Context

Recent Electoral History and Role of the Independent Election Commission of Afghanistan

Following an extremely difficult period of prolonged conflict, Afghanistan conducted its first democratic elections in 30 years in 2004 (Presidential Elections), followed a year later by National Assembly and Provincial Council elections. Preparations for the 2004-05 elections took place under significant political uncertainties and within a deteriorating security environment.

The Joint Electoral Management Body (JEMB), a joint Afghan and international election authority, was created to prepare and conduct the transitional electoral events.

In early 2006, the JEMB was dissolved and the Independent Election Commission of Afghanistan (IEC) was established as the exclusive electoral body, with full responsibility for the organization and conduct of the all elections in the country. The August 2009 elections will be the first time the IEC will be administering elections independently. In order to build the democratic process in Afghanistan, it is of critical importance that the IEC is supported in its efforts to administer a credible electoral process. As in other post-conflict nations, addressing this challenge of complex election administration requires the reinforcement not only of the neutrality and independence of the IEC, but also its efficiency and professionalism.

In terms of assessing the independence of the IEC, some of the main criteria would include: methods for appointment and removal of commissioners, autonomous capacity for making its own budget both for ordinary and electoral operations, and the development of professional skills for an effective and efficient operations of the different departments. While the independent, neutral and non-partisan nature of the IEC would provide a strong basis of credibility to the electoral body, it also is essential that it be able to perform its duties in an efficient and transparent manner.³⁸ At the moment, the legal framework governing the IEC and outlining the process for Commissioner appointments is being reviewed, and the goal is to further entrench the body's independence. For instance, it is critical to advocate for the Commissioners to be vetted through the National Assembly, and not simply appointed by the

³⁸ Rafael Lopez-Pintor, "Comparative Costs and Cost Management," eds. Lopez-Pintor, R. Getting to the CORE: A Global Survey on the Costs of Registration and Elections, (New York: United Nations Development Program, 2005), 19.

President. Although the experience with the parallel international and national electoral administration in 2005 launched the way to a national independent electoral commission, there is still a lot of work to be done to achieve a fully professional Afghan electoral body.

The Election Commission of India (ECI) serves as an example of an independent and impartial election body that plays a critical role in strengthening India's robust democracy. In the world's most populous democracy, overseeing all aspects of election administration is no small feat. Yet the ECI is known to be, "highly independent of the government and generally able to provide a level playing field for all political parties and candidates during an election."³⁹ There are three commissioners, and once appointed they "do not depend on the mercy of the ruling party or the government, thus enabling them to exercise powers independently, impartially and with an even hand."⁴⁰ This framework is one of the crucial features that provide the Indian electoral system with legitimacy within the eyes of the electorate, and can provide a useful comparative model for the IEC.

Political Finance Regulations of the 2004 and 2005 Elections

In the complex and transitioning democracy of Afghanistan, the IEC and the international community are working to establish a political environment of transparency and accountability. Due to the tumultuous past of Afghanistan, there is an increasing risk that citizens will discount the electoral process entirely as a result of a growing frustration that corruption is an inherent component of the process. Afghan political parties, in particular, are widely regarded as corrupt

³⁹ T.S. Krishna Murthy and Vijay Patidar, "Case Study: India," eds. Lopez-Pintor, R. Getting to the CORE: A Global Survey on the Costs of Registration and Elections, (New York: United Nations Development Program, 2005), 68.

⁴⁰Ibid, 69.

organizations representing specific ethnic interests. Andrew Wilder, formerly of the Afghanistan Research and Evaluation Unit (AREU) explores how this reality was clearly exhibited in the 2005 elections. He outlines, “The resulting lax candidate vetting process enabled many candidates with links to illegal armed groups, narcotics trafficking, criminal gangs, as well as some facing war crime allegations, to contest and win seats.”⁴¹ Political candidates’ widespread involvement in and financing through illicit activities continues to cripple the public’s confidence in fair and just governance practices.

In a proactive effort to level the political playing field, and ensure the legitimacy of both candidates for office and political parties, questions about the role of political finance in the Afghan electoral process have been raised. Despite the political sensitivity that surrounded the issue of political financing, campaign finance regulations were introduced prior to both the 2004 and 2005 elections.

In 2004, the JEMB introduced The Regulation on Political Campaign Finances that was pursuant to Articles 16.3, 39.2, and 61 of the Electoral Law. The regulation prohibited contributions from foreign sources, financial or in-kind. Candidates were also instructed to set-up a separate bank account for their campaign, which could clearly demonstrate campaign income and expenditure to the JEMB. The regulations also stated that a campaign or candidate could only receive a contribution of up to two million Afghanis. Additionally, any individual contribution over AFG 1000 was to be reported to the JEMB. Candidates were also requested to file reports of both their income and expenditures at specified dates. Yet, as election specialist

⁴¹ Andrew Wilder, “A House Divided: Analysing the 2005 Afghan Elections,” (Kabul: AREU, 2005), in http://www.areu.org.af/index.php?option=com_content&task=view&id=39&Itemid=73 (accessed March 10, 2009), 1.

Grant Kippen explains that during the presidential election, campaign finance regulations were introduced “48 hours prior to the start of the campaign period, with no prior consultation or training.”⁴² Therefore the candidates were not in a position to take the time to fully understand the regulations, and put in place the necessary procedures to meet their reporting requirements.

At that time, in order to address the large concern over the manipulation of public resources, Article 4 of the Regulation also prohibited the use of public resources for election campaigns. Despite these efforts, there were complaints from presidential candidates that as the incumbent candidate, President Karzai, was unfairly utilizing government resources in his campaign. Unfortunately, the responsibility for enforcement of this issue fell upon the shoulders of the JEMB, along with the myriad of other election administration challenges that the body confronted in the 2004 elections. Therefore, the regulation of political finance fell to the periphery due to the “compressed timelines, resource constraints, and operational imperatives associated with conducting the presidential election.”⁴³ Yet, another effort to level the campaign playing field, proved to be more successful. Presidential candidates were provided access to government television and radio advertisements equally. Also, campaign posters were provided for all candidates. These efforts were monitored by a Media Commission, which worked to ensure fair and equitable access to media outlets. Ultimately though, in terms of the broader political finance regulation, only two of the eighteen presidential candidates submitted the required financial expenditure reports to the JEMB. Due to the JEMB already being overstretched, there was no follow-up with the candidates who did not file the appropriate

⁴² Grant Kippen, ‘Case Study of Afghanistan,’ eds. Fisher, J., Walecki, M. and J. Carlson, Political Finance in Post-Conflict Societies, (Washington, DC: IFES, 2006), 29.

⁴³ Ibid, 28.

reporting.⁴⁴ The experience during the 2004 election process did illuminate some critical shortcomings in the implementation of the political finance regulations.

In preparing for the next round of the elections in 2005, the JEMB attempted to decipher a more realistic political finance regulation framework that could govern the Parliamentary and Provincial Council elections. In preparation for the 2005 elections, the JEMB once again addressed its concern over political financing through the *Regulation on Campaign Finance* (Decision 48).⁴⁵ This law mandated asset disclosure of political parties and candidates, and attempted to impose restrictions on the financing of campaigns. The Regulation also addressed issues including: the prohibition of the use of public resources in favor of or against any candidate; the prohibition of income derived from illegal activity, including, but not limited to, drug trafficking or sales; and the necessity for candidates to be always prepared for an audit of campaign financial records. The regulations also provided for additional allowances to ensure the safety and security of the candidate of up to 50,000 Afghani for National Assembly candidates and 25,000 Afghani for Provincial Council candidates.

Once again, an article was specifically implemented in order to prohibit the use of public resources or facilities by any candidate. In another drastic effort to level the playing field, Decision No. 2005-33 was enacted which banned advertisements by or on behalf of any candidate or political party related to an election campaign on television, radio, and/or newspapers. Interestingly, during the campaign process, this was briefly lifted when, television and radio ads were allowed for a period prior to the election date. The change in media

⁴⁴ Grant Kippen, 'Case Study of Afghanistan,' eds. Fisher, J., Walecki, M. and J. Carlson, Political Finance in Post-Conflict Societies, (Washington, DC: IFES, 2006), 29.

⁴⁵ 'Regulation on Campaign Finance,' released by Joint Electoral Management Body, 1 August 2005, http://www.jemb.org/eng/Legal%20Framework/regulation/reg_on_campaign_finance_eng.pdf (accessed on March 14, 2009), 1-3.

regulations created a degree of confusion amongst the candidates, and illuminated a lack of coherent strategy from the JEMB.

Unfortunately, the political finance regulations did not specify a separate agency dedicated to enforcement. Instead, the JEMB had authority over all election-related financing issues as defined within the electoral law. In addition, the regulations were introduced so late in the process that it was impossible to comply within the given timeframe. A recent study conducted by the Free and Fair Elections Foundation of Afghanistan (FEFA) reveals that the JEMB never investigated whether candidates complied with the spending limits and did not ask any candidates to turn over their financial records. Therefore, a significant gap existed in the capacity for independent and effective enforcement.⁴⁶ The political finance regulations proved to be a first step, to begin the slow process of building the capacity of election officials, candidates and political parties in compliance measures. It became evident that a more thorough approach would need to be adopted between elections, in order to comprehensively address the issue.

Key Shortcomings of the Political Finance Regulations

Despite these far-reaching regulations present in both the 2004 and 2005 elections, an enabling environment did not exist for these newly introduced regulations to be translated into transformative political practices. The inability of the JEMB to review, or even to collect the majority of financial reports highlighted a lack of technical capacity and adequate resources. No mechanism for policing the spending and contribution limits was put in place, and therefore, “no

⁴⁶ Free and Fair Elections Foundation of Afghanistan, “The Transparency of Political Wealth,” (Kabul: FEFA, 2008), 16-17.

systematic audit was conducted during or following the election period to determine whether candidates had complied with the regulations.”⁴⁷

The existence of political finance reporting requirements were further complicated by the lack of an Afghan familiarity with financial record keeping and reporting. Within the primarily cash-based economy of Afghanistan, detailed financial reporting was difficult without a modern financial infrastructure. In addition, the nation lacked a personal income tax system. Grant Kippen describes, “Few, if any, public accountancy companies – where professional advice or an independent audit could be obtained – were operating at the time.”⁴⁸ Furthermore, it was also critical to be mindful of candidates from the rural areas, whom without proper training would be unable to comply with strict record keeping rules. This correlated with the regulations being introduced late in the process, at a stage when it was unrealistic to train candidates in compliance measures.

Another continued area of concern is the public perception that incumbents seeking re-election are able to draw upon government resources to support their election campaigns. Although this is addressed through the regulations, it is rarely enforced. In particular, the weak government structures outside of Kabul, allow for corruption to take place in the provinces with little notice. A study published by AREU found that many citizens specifically noted the activities of the Independent Directorate for Local Governance (IDLG) as illegally supporting election efforts for the 2009 and 2010 electoral cycles. The study elucidates, “The IDLG is allegedly being used to direct the re-election efforts of the President. Critics of the Directorate

⁴⁷ Grant Kippen, “Elections in 2009 and 2010: Technical and Contextual Challenges to Building Democracy in Afghanistan,” (Kabul: AREU, 2008), in www.areu.org.af/index.php?option=com_docman&Itemid=26&task=doc_download, (accessed March 20, 2009), 13.

⁴⁸ Grant Kippen, ‘Case Study of Afghanistan,’ eds. Fisher, J., Walecki, M. and J. Carlson, Political Finance in Post-Conflict Societies, (Washington, DC: IFES, 2006), 30.

are quick to point out that the IDLG unofficially places sympathetic public officials in positions from which they can support President Hamid Karzai's re-election efforts."⁴⁹

In addition, the utilization of opium-related funds has a pervasive influence on Afghan politics. As it stands, the Electoral Law prohibits the use of funds originating from illegal activities. Unfortunately, with the lack of enforcement this regulation has had little impact on campaign financing strategies. As a senior government official anonymously proclaimed in a recent AREU study, "The use of black money will be prevalent in the 2009 elections unless steps are taken to address it now." Overall, while Afghanistan has made attempts to address this critical issue in past elections, the nation fell into the classic trap of having regulations in place without the institutional capacity to enforce the policies.⁵⁰ Unfortunately, many post-conflict countries have experienced this scenario, including Bosnia and Herzegovina and Liberia, as nations struggle to establish political finance regimes in the midst of complex election administration challenges.⁵¹

The Vetting Process for Election Candidates

The presence of illicit funds in the electoral process also raises the more general challenge surrounding the vetting of election candidates. One of the key shortcomings in the last two elections, which contributed to the problem of political finance, is the lack of clarity around the legal framework to disqualify candidates. Shortly after the fall of the Taliban government,

⁴⁹ Grant Kippen, "Elections in 2009 and 2010: Technical and Contextual Challenges to Building Democracy in Afghanistan," (Kabul: AREU, 2008), in www.areu.org.af/index.php?option=com_docman&Itemid=26&task=doc_download, (accessed March 20, 2009), 13.

⁵⁰ Michael Pinto-Duschinsky, 'Financing Politics: A Global View,' *Journal of Democracy*, (2002): 81.

⁵¹ Jeffrey Carlson and Marcin Walecki, "Main Determinants of Post-Conflict Societies and Implications for Political Finance, eds. Fisher, J., Walecki, M. and J. Carlson, Political Finance in Post-Conflict Societies, (Washington, DC: IFES, 2006), 5-8.

political leaders and commanders suspected of war crimes entrenched themselves in the new government. The vetting process became a mechanism to try and eliminate some of these politicians from the scene. As an International Center for Transitional Justice report explains, “Since governance and justice reforms make little appreciable progress, an extrajudicial vetting process seemed like the legitimate, timely way to diminish the influence of armed warlords who had a history of violent activity and human rights violations.”⁵² The vetting process was based upon data collected through the Disbandment of Illegal Armed Groups (IAG), a UN project, and high threat candidates were identified. Unfortunately, while 1100 candidates were linked with IAGs, many of these candidates were not disqualified due to insufficient evidence or the fear that they would pose a critical threat to the nascent government. These realities, combined with a shortage of information and lack of clear institutional procedures, resulted in a deeply flawed vetting process. Similar to political finance regulations, vetting is another mechanism to determine the eligibility of candidates, and ensure that they are properly adhering to the norms adopted by the democratic state of Afghanistan. Many of these issues are deeply intertwined, and it is imperative to recognize that if the vetting process for candidates was further strengthened, certain violators of the political finance regulations would also be removed from the electoral process.

⁵² Fatima Ayub, Antonella Deledda and Patricia Grossman, “Vetting Lessons for the 2009-10 Elections in Afghanistan, (New York: ITCJ, 2009), http://ictj.org/static/Asia/Afghanistan/ICTJ_AFG_VettingLessons_pa2009.pdf (accessed on April 4, 2009), 39.

Recommendations for Political Finance Reform in Afghanistan

As Afghanistan prepares for the next rounds of elections in 2009 and 2010, it is necessary to learn from the weaknesses of the past and capitalize upon this opportune juncture to establish comprehensive political finance regulations to ensure transparency and accountability in the electoral process. Fortunately, Afghanistan's Constitution establishes an enabling framework to approach this critical issue, as it has prioritized the need for effective and supportive systems to encourage transparency in the political process and stifle corruption. In order to address the most pressing requirements of the political finance regime, I would propose the following reforms:

Institute an Improved Regulatory Framework

It is recommended that the electoral law is revised to institute a new regulatory framework for political finance. It is necessary that Afghanistan implements a more comprehensive regulatory framework that clearly mandates assets disclosure, finance reporting of income and expenditure, campaign spending limits, and specifies penalties for non-compliance or false information. For example, as it stands Article 53 of the electoral law clearly prohibits the use of funds originating from illegal activities or of foreign funds in electoral process. Yet, the law makes no specific provisions for how to monitor these funds. It is recommended that the electoral law expands upon these provisions to specifically outline a process for enforcement, and delineate clear lines of responsibility.⁵³ It is critical that the present regulations are built upon and incorporated into the Electoral Law with a much greater level of detail.

⁵³ Free and Fair Elections Foundation of Afghanistan, "The Transparency of Political Wealth," (Kabul: FEFA, 2008), 28.

Another critical aspect is that the revised electoral law should be should be appropriately tailored to realistically reflect the resource constraints of the Afghan reality. Therefore, the financial reporting and disclosure requirements should be mindful of the levels of illiteracy and unfamiliarity with maintaining financial records to enable an effective system. Extensive training programs should therefore be a critical component of an effective regulatory framework, and that is described in further detail in the next recommendation.

In order to encourage compliance with the regulatory framework, it is also recommended that in-kind subsidies are provided to candidates that successfully adhere to their financial reporting requirements. In Afghanistan's past and also in other post-conflict examples, the utilization of in-kind contributions was successful approach. Providing the incentive of free broadcast time, the printing of campaign materials, and the access to political party office centers with technical equipment, could inspire candidates and political parties to comply with the political finance regulations due to the potential for electoral advantage.

Empower an Independent Enforcement Agency

Empower an independent regulatory body with the legislative authority, operation budget, staff resources, and requisite technical training to undertake all aspects of monitoring and enforcement of political finance regulations. The agency would be a government body within the structure of the IEC secretariat, and have the ability to thoroughly evaluate, investigate, and report on candidates' financial affairs. Importantly, the agency would be equipped with the ability to enforce the law and impose penalties for noncompliance. This would eliminate any lack of clarity about who is directly responsible for monitoring and enforcing these regulations.

The enforcement of political finance violations will continue to be the most elusive part of the regulation system. Ideally, the existence of a separate regulatory body with the authority to investigate and enforce penalties will circumvent the larger judicial system of Afghanistan. This body will work similarly to the Electoral Complaints Commission (ECC), which remains a separate adjudication body at the time of elections to process election related complaints. Given the current limited development of the judicial system in Afghanistan, there is a good case for a quasi-judicial adjudicator of political finance disputes. The body could be led by a small number of commissioners (i.e. judges, lawyers, and academics) that are proposed by the Parliament, and approved by the President.

In order to tackle the complex issue of political finance, this body within the IEC will also have to engage in close inter-ministerial coordination. Considering the complexities involved with ensuring that candidates or political parties are not receiving external funding or illicit income from the drug trade and organized crime groups, multiple stakeholders are involved. In order to curb these growing financial influences, the IEC will need to play a lead coordinating role with the Ministry of Justice, Ministry of Counter Narcotics and others. The International Crisis Group explains, “Greater political will, inter-ministerial cooperation and improved resources for investigation are needed to trace illegal monies such as may be acquired through the *hawala*⁵⁴ transfer system, which is still commonly used for both domestic and foreign transactions in Afghanistan.”⁵⁵

⁵⁴ *Hawala* is an unofficial alternative remittance and money exchange system that enables the transfer of money without its actual physical movement.

⁵⁵ International Crisis Group, “Political Parties in Afghanistan,” (Kabul: ICG, 2005), in <http://www.crisisgroup.org/home/index.cfm?id=3493&l=1> (accessed April 1, 2009), 5

In the past, one critical shortcoming was the absence of reliable information regarding the requirements and enforcement of the law. The monitoring and enforcement of political finance regulations requires wide dissemination of relevant information in clear, understandable formats. This should be part of an extensive public awareness campaign prior to the election to explain financial regulations to the candidates, agents, political parties and observers. Therefore, in order to make the revised regulatory framework a workable reality, it is essential for this independent body with the IEC to establish training programs for candidates and political parties, on how to report financial information and comply with all the requirements. It would be recommended that each party/candidate appoint one specific official who is responsible for ensuring that the political entity obeys political finance regulations. The office should also develop procedural manuals to serve as a reference guide to their political officials. This also reinforces the agency's necessity to develop a clear and cohesive dissemination strategy, so that candidates and political parties are fully aware of their responsibilities.

Such trainings have proven to be effective and have significantly improved the level of voluntary compliance in countries such as Bosnia and Herzegovina, Liberia and Kosovo.⁵⁶ Violating the political finance regulations is not always a deliberate action in order to conceal corruption. In certain circumstances it is a result of a lack of knowledge of the reporting requirements, and an unfamiliarity with how to adhere to the strict guidelines. A more thorough civic awareness program will increase understanding while also fostering a culture of

⁵⁶ Jeffrey Carlson and Marcin Walecki, "Main Determinants of Post-Conflict Societies and Implications for Political Finance, eds. Fisher, J., Walecki, M. and J. Carlson, Political Finance in Post-Conflict Societies, (Washington, DC: IFES, 2006), 3-8.

accountability. As an increasing number of candidates understand the requirement and file the appropriate reports, it will become an expected norm and a built-in expectation of the process.

Aside from its public outreach responsibilities, it would also be critical to ensure that the regulatory body has sufficient technical capacity. Therefore it is recommended that the enforcement agency works closely with the international community to provide technical assistance and teach international best practices. The program should also work to enhance the government's capacity in: public official and candidate financial disclosure; audit methodologies; evidence collection and organization; compliance standards and penalties; forms review; and other key matters. In this effort it is critical that the IEC networks with other Electoral Management bodies, and utilizes their lessons learned.

Increased Role of Civil Society and the Media

It is necessary to encourage civil society and the media to serve as a third party watchdog for the monitoring of political financing of candidates and political parties. Civil society and watchdog journalists can effectively provide information to the electorate, which would empower voters to make educated decisions and hold their elected representatives more accountable. As the FEFA report explains, "Citizens must understand the monitoring process and be aware of their right to file objections and complaints regarding possible election finance violations, including complaints regarding illegal income sources and other financial affairs."⁵⁷ In order to achieve this, it is recommended that methodologies for monitoring political finance activities should be introduced to civil society organizations. The international community could

⁵⁷ Free and Fair Elections Foundation of Afghanistan, "The Transparency of Political Wealth," (Kabul: FEFA, 2008), 29.

work closely with leading Afghan NGOs to develop these methodologies and appropriately tailor them to the Afghan context. American NGOs and German Party Foundations in particular, have been particularly effective in providing technical assistance and building the capacity of local counterparts in this area.

Presently, there are few journalists equipped to cover this issue effectively, in part due to the dangers associated with investigative journalism in this area and the fear of physical attack. Trainings should be developed for media organization and journalists on the overall issue of political finance and the corresponding regulations in Afghanistan. It is recommended that journalists are also trained specifically in investigative techniques to gain skills on how to report on this critical issue in a professional and objective manner.

In addition, a major component of the IEC's political finance public outreach program should be directed towards the civil society and the media. This would serve to inform the general public of the political finance regulations, and specifically how to go about filing complaints and accessing financial disclosure data. It would underscore that the regulation and reporting of political finance is a means of ensuring fairness and transparency in the political process, and fostering a culture of accountability.⁵⁸

Conclusion

Overall, political finance is a vital issue for democracy and development. It is clear that, “No matter how flawless a country's elections, how active its civil society, how competitive its political parties and how responsible its local authorities, money in politics undeniably

⁵⁸ Grant Kippen, ‘Case Study of Afghanistan,’ eds. Fisher, J., Walecki, M. and J. Carlson, Political Finance in Post-Conflict Societies, (Washington, DC: IFES, 2006), 30.

influences the quality of democracy and governance.”⁵⁹ The complex issues of regulating political finance are further magnified in the early stages of political transition.⁶⁰ Financial distortions can have a serious impact on electoral outcomes, and leave doubts with respect to the transparency, legitimacy, and credibility of the process. Establishing a sound political finance regime is critical in the broader context of constitutional and legislative provision of democratic institutions. As experienced in other post-conflict nations, such as Bosnia and Herzegovina, the regulations also serve to strengthen the electoral process and ensure a level playing field in support of sustainable and effective democracy.

As Afghanistan has embarked upon the difficult process of building democratic institutions, question over how to address the critical challenge of political finance have been raised. Amidst complex election administration challenges in the 2004 and 2005 elections, the JEMB introduced politically sensitive regulations to monitor political financing. Establishing the regulations were a bold step in the right direction, but unfortunately an enabling environment did not exist for the policies to be truly effective. First of all, the regulations were introduced late in the electoral process, and did not provide candidates sufficient time to understand and properly comply with the financial reporting requirements. In addition, the lack of a modern financial infrastructure in Afghanistan made financial reporting a complex prospect. Therefore, it is necessary for candidates and their officials to be trained in these reporting techniques in order to realistically expect compliance. Finally, while the regulations were in place, an appropriate mechanism did not exist to effective enforcement.

⁵⁹ Gene Ward, “The Role of Disclosure in Combating Corruption in Political Finance,” ed. Transparency International, *Global Corruption Report 2004*, (Sterling: Pluto, 2004), 48.

⁶⁰ Karl-Heinz Nassmacher, “Comparative Political Finance in Established Democracies,” ed. Nassmacher K., *Foundations for Democracy: Approaches to Comparative Political Finance*, (Berlin: Baden-Baden, 2001), 11.

As Afghanistan moves forward and prepares for the next two electoral cycles, it is critical to learn from the shortcomings of the past, and address this issue of political finance more comprehensively. It is recommended that Afghanistan reforms its political finance regulatory framework, in order to be more comprehensive and clearly delineate expectation and lines of responsibilities. In order to enable successful enforcement, it is recommended that an independent regulatory body be established within the IEC to specifically address issues of political finance. This body will be given the appropriate training, resources and jurisdiction to effectively monitor and enforce the regulations in place. Finally, it is recommended that civil society and the media becomes an active partner in the fight against unjust political finance. Civil society and the media are in a unique position to serve as third party watchdogs, and can empower the electorate with critical information on candidates for office.

Considering the multifaceted political challenges Afghanistan faces, the strengthening and enforcement of political finance regulations are often considered to be a secondary concern. However, “post-conflict elections are precisely where disparities in resources and lack of transparency in funding are most damaging to political competition.”⁶¹ The upcoming Presidential elections provide an ideal opportunity to address this pressing issue. Afghanistan is still in the formative stages of its democratic development, and it is essential that political finance regulations are introduced as fundamental values to encourage transparency, legitimacy, and the credibility of the electoral process.

⁶¹ Jeffrey Carlson, B. Dahl, and M. Walecki, ‘Contemplating Political Finance Reform in Post-Conflict Environments,’ eds. Fisher, J., Walecki, M. and J. Carlson, Political Finance in Post-Conflict Societies, (IFES: May 2006), 122.

Attachment 1 – Forms of Political Finance Corruption⁶²

Type	Actor Group*	Description
Illegal expenditure including vote buying	Voters and election officials	A political party or candidate may directly or indirectly bribe voters and election officials. They may alternatively offer the electorate different kinds of incentives (gifts, food, alcohol, or even short-term employment). Beside elections, in some parliaments there is an unofficial market for votes – parliamentarians or councillors might be paid for votes or for joining different caucuses.
Funding from infamous sources	Candidates and political parties	A political party or candidate may accept money from organised crime (such as drugs traffickers), terrorist groups or foreign governments. These groups might even form their own political parties.
Selling appointments, honours, or access to information	Public servants and candidates	Contributors may gain rewards in the form of job selections, appointments (ambassadorial, ministerial or judicial), decorations or titles of nobility. Money may also be used to buy a seat in Parliament, a place on a party's national list or a candidacy.
Abuse of state resources	Public sector	Certain state resources, such as money and infrastructure, which are available to office holders may be extensively used for electioneering. In addition, through the unauthorised channelling of public funding into controlled companies, organisations or individuals, the political party or candidate may capture state resources.
Personal enrichment	Candidates and politicians	Candidates are required to contribute significant amounts, much higher than their official income, to a party's election fund and also to pay for their individual campaign. Politics becomes a rich man's game and elected representatives accumulate necessary funds to pay for the next elections by taking a percentage on secret commissions and accepting bribes.
Demanding contributions from public servants	Public servants and public sector	A political party or candidate in need of money often imposes excises upon office holders, both public and elected. In some regimes a political party may also force public servants to become party members and then extort kickbacks for some of its expenditure from their salaries.
Activities disobeying political finance regulations	Political parties and candidates	A political party or candidate may accept donations from prohibited sources or spend more than the legal ceiling permits. Violations of disclosure requirements, such as inaccurate accounting or reporting, or lack of transparent funding, are often the cause of political scandals.
Political contributions for favours, contracts or policy change	Private sector	One of the motives for political contributions to a political party or candidate is the possibility of payoffs in the shape of licenses and government public contracts. Donations may also be given for a governmental policy change or legislation favourable to a specific interest group.
Forcing private sector to pay 'protection money'	Private sector	Extortion, for instance through blackmail, tax raids and customs inspections may be used to force entrepreneurs to hand over part of their profits to a political party.
Limiting access to funding for opposition parties	Opposition parties and candidates	Authoritarian regimes with a patrimonial economic system and political repression may seriously constrain financial resources available to opposition parties.

*Actor group that is particularly vulnerable/corruptible

⁶² Marcin Walecki, "Political Money and Corruption", (Washington, DC: IFES, 2006) in http://www.moneyandpolitics.net/researchpubs/pdf/Money_Corruption.pdf, (accessed March 20, 2009), 5.

BIBLIOGRAPHY

Alexander, Herbert E., editor. *Comparative Political Finance in the 1980s*. Cambridge: Cambridge University Press, 1989.

Alexander, Herbert E., editor. *Political Finance*. London: Sage Publications, 1979.

Alexander, Herbert E. and Rei Shiratori. "Introduction," In *Comparative Political Finance Among the Democracies*, edited by Herbert E. Alexander and Rei Shiratori, 1-11. Boulder: Westview Press, 2004.

Ayub, Fatima, Antonella Deladda and Patricia Grossman. "Vetting Lessons for the 2009-10 Elections in Afghanistan." New York: International Center for Transitional Justice, 2009. http://ictj.org/static/Asia/Afghanistan/ICTJ_AFG_VettingLessons_pa2009.pdf, (accessed on April 4, 2009).

Barry, Robert. "Case Study: Bosnia and Herzegovina," In *Political Finance in Post-Conflict Societies*, edited by Jeffrey Carlson, Jeff Fisher and Marcin Walecki, 37-48. Washington, DC: IFES, 2006.

Boneo, Horacio and Bob Dahl. "Lessons Learned about Political Finance in Post-Conflict Societies," In *Political Finance in Post-Conflict Societies*, edited by Jeffrey Carlson, Jeff Fisher and Marcin Walecki, 9-20. Washington, DC: IFES, 2006.

Brinkerhoff, Derick W. "Introduction: Governance Challenges in Fragile States," In *Governance in Post-Conflict Societies: Rebuilding Fragile States*, edited by Derick W. Brinkerhoff, 1-19. New York: Routledge, 2007.

Bryan, Shari and Denise Baer. *Money in Politics: A Study of Party Financing in 22 Countries*. Washington, DC: National Democratic Institute for International Affairs, 2005.

Carlson, Jeffrey, Bob Dahl and Marcin Walecki. "Contemplating Political Finance Reform in Post-Conflict Countries," In *Political Finance in Post-Conflict Societies*, edited by Jeffrey Carlson, Jeff Fisher and Marcin Walecki, 117-122. Washington, DC: IFES, 2006.

Carlson, Jeffrey and Marcin Walecki. "Main Determinants of Post-Conflict Societies and Implications for Political Finance," In *Political Finance in Post-Conflict Societies*, edited by Jeffrey Carlson, Jeff Fisher and Marcin Walecki, 3-8. Washington, DC: IFES, 2006.

Free and Fair Election Foundation of Afghanistan. *The Transparency of Political Wealth*. Kabul: FEFA, 2008.

Fogg, Karen, Patrick Molutsi and Maja Tjernstrom. "Conclusion," In *Funding of Political Parties and Election Campaigns*, edited by Reginald Austin and Maja Tjernstrom, 169-179. Stockholm: International IDEA, 2003.

Hodess, Robin. "Introduction," In *Global Corruption Report 2004*, edited by Transparency International, 11-18. Sterling: Pluto Press, 2004.

Hoove, Lotte ten and A.P. Scholtbach. "Democracy and Political Party Assistance in Post-Conflict Societies." Netherlands Institute of Multiparty Democracy.
http://www.nimd.org/documents/N/nimd_kc_fragilestates.pdf. (accessed March 2, 2009).

Ikstens, Janis, Daniel Smilov and Marcin Walecki. "Campaign Finance in Central and Eastern Europe: Lessons Learned and Challenges Ahead." Washington, DC: IFES, 2002.
http://moneyandpolitics.net/researchpubs/pdf/CEE_CampFinEng.pdf, (accessed April 16, 2009).

International Crisis Group. "Political Parties in Afghanistan." Kabul: ICG, 2005.
<http://www.crisisgroup.org/home/index.cfm?id=3493&l=1>, (accessed April 1, 2009).

Joint Electoral Management Body. "Regulation on Campaign Finance." Joint Electoral Management Body.
http://www.jemb.org/eng/Legal%20Framework/regulation/reg_on_campaign_finance_eng.pdf, (accessed on March 14, 2009).

Kataboro, James. "Democratic Institution Building in Post-Conflict Societies." Paper presented at Fifth International Conference on New or Restored Democracies, New York, NY, June 18-20, 2003.

Kippen, Grant. "Case Study: Afghanistan," In *Political Finance in Post-Conflict Societies*, edited by Jeffrey Carlson, Jeff Fisher and Marcin Walecki, 25-36. Washington, DC: IFES, 2006.

Kippen, Grant. "Elections in 2009 and 2010: Technical and Contextual Challenges to Building Democracy in Afghanistan." Kabul: AREU, 2008.
www.areu.org.af/index.php?option=com_docman&Itemid=26&task=doc_download, (accessed March 20, 2009).

Lister, Sarah and Andrew Wilder. "Subnational Administration and State Building: Lessons from Afghanistan," In *Governance in Post-Conflict Societies: Rebuilding Fragile States*, edited by Derick W. Brinkerhoff, 241-255. New York: Routledge, 2007.

Lopez-Pintor, Rafael. "Comparative Costs and Cost Management," In *Getting to the CORE: A Global Survey on the Costs of Registration and Elections*, edited by Rafael Lopez-Pintor, 11-54. New York: United Nations Development Program, 2005.

Murty, T.S. Krishna and Vijay Patidar. "Case Study: India," In *Getting to the CORE: A Global Survey on the Costs of Registration and Elections*, edited by Rafael Lopez-Pintor, 67-80. New York: United Nations Development Program, 2005.

Nassmacher, Karl-Heinz. "Comparative Political Finance in Established Democracies," In *Foundations for Democracy: Approaches to Comparative Political Finance*, edited by Karl-Heinz Nassmacher, 9-33. Berlin: Baden-Baden, 2001.

Nassmacher, Karl-Heinz. "Monitoring, Control and Enforcement of Political Finance Regulation," In *Funding of Political Parties and Election Campaigns*, edited by Reginald Austin and Maja Tjerstrom, 139-155. Stockholm: International IDEA, 2003.

Nassmacher, Karl-Heinz. "Political Parties, Funding and Democracy," In *Funding of Political Parties and Election Campaigns*, edited by Reginald Austin and Maja Tjerstrom, 1-19. Stockholm: International IDEA, 2003.

O'Donnell, Madelene. "Public Finance in Post-Conflict State-building." Center on International Cooperation. <http://www.cic.nyu.edu/peacebuilding/publicfinancepubs.html> (accessed March 18, 2009).

Office of Democracy and Governance. *Money in Politics Handbook: A Guide to Increasing Transparency in Emerging Democracies*. Washington, DC: USAID, 2003.

Open Society Justice Initiative. *Monitoring Election Campaign Finance: A Handbook for NGOs*. New York: Open Society Institute, 2005.

Pinto-Duschinsky, Michael. "Financing Politics: A Global View." *Journal of Democracy* (2002): pages 69-86.

Transparency International. "Standards on Political Funding and Favors No. 01/2005." Transparency International. www.transparency.org/content/download/13187/133268/version/1/file/TIPPN, (accessed April 5, 2009).

Transparency International. "Political Finance Regulations: Bridging the Enforcement Gap No. 02/2005." Transparency International. http://www.transparency.org/publications/publications/policy_papers/ti_pp_pol_finance, (accessed April 5, 2009).

United Nations Development Program. *Vetting Public Employees in Post-Conflict Settings: Operational Guidelines*. New York: United Nations, 2006.

United Nations Office of Drug and Crime. "United Nations Convention against Corruption." United Nations,
http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/0850026_E.pdf
(accessed March 29, 2009).

Van Biezen, Ingrid. *Financing Political Parties and Election Campaigns – Guidelines*.
Strasbourg: Council of European Publishing, 2003.

Walecki, Marcin. "Challenging the Norms and Standards of Election Administration: Political Finance," In *Challenging the Norms and Standards of Election Administration*, edited by IFES, 75-93. Washington, DC: IFES, 2007.

Walecki, Marcin. "Political Money and Corruption." Washington, DC: IFES, 2006.
http://www.moneyandpolitics.net/researchpubs/pdf/Money_Corruption.pdf, (accessed March 20, 2009).

Ward, Gene. "The Role of Disclosure in Combating Corruption in Political Finance," In *Global Corruption Report 2004*, edited by Transparency International, 38-49. Sterling: Pluto Press, 2004.

Wilder, Andrew. "A House Divided: Analysing the 2005 Afghan Elections." Kabul: AREU, 2005. http://www.areu.org.af/index.php?option=com_content&task=view&id=39&Itemid=73,
(accessed March 10, 2009).