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PROMOTING TRANSPARENCY IN POLITICAL FINANCE:

BANGLADESH, INDONESIA AND NEPAL

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The report is based on the findings of country studies undertaken by TI Bangladesh, TI Indonesia and TI Nepal.
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PROMOTING TRANSPARENCY IN POLITICAL FINANCE:

BANGLADESH, INDONESIA AND NEPAL

Table of Contents

Findings of the Study of Transparency in Political Finance in Bangladesh, Indonesia and Nepal

Introduction

Money is a necessary element for a functioning democratic system. Political parties and candidates need resources for building solid organisations and canvassing public support. Yet money in politics can pose serious corruption risks to the quality of government and democracy. Money may come into conflict with the democratic principles of fair competition in elections and can also undermine political representation. Electoral processes can be unduly influenced when sizeable and undisclosed amounts of money are provided to political parties by organisations with their own political agendas. Political parties and candidates may distort the process by resorting to buying votes rather than focusing on the quality of their campaign messages. The quality of government is seriously compromised when decisions made by elected politicians benefit those who funded their ascent to power and not the broader public interest.

Many studies agree that laws and regulations cannot always prevent the undue influence of money and private interests in politics. The role of government bodies is decisive in ensuring compliance with the law. The involvement of the media, political opposition and civil society organisations, as well as academia and citizens, is absolutely necessary: to report violations, to monitor government oversight bodies and ensure they work effectively, and to censor improper practices through voting. In addition, political actors must commit to, and engage in, accountable and transparent political financing practices.

Faced with the evidence of growing influence of money in politics Transparency International (TI) has tried to tackle the problem by building public demand for transparency and empowering civil society to monitor the flow of money in politics. TI's *Standards on Political Finance and Favours* outline the minimum benchmarks for transparency and integrity of political financing, while the *Policy Position on Political Finance Regulations: Bridging the Enforcement Gap*, provides key suggestions for how to ensure that recommendations are effectively enforced.

The purpose of the project assessing the transparency of political financing in Asia is to enhance the transparency of election campaign financing, as well as of the activities of political parties in non-electoral years. The project is based on the assumption that financial resources are necessary for political parties in modern democratic systems, while transparency is the cornerstone of monitoring money in politics. It is also an important vehicle for increasing political accountability and public trust in democracy.

The project uses the methodology of CRINIS ('ray of light' in Latin), a tool that measures the transparency of political financing in a given country. The tool was first successfully piloted in eight Latin American countries in 2006 and Transparency International (TI) has since adapted the methodology to allow the expansion of its geographic scope for measuring the transparency of political financing in other regions of the world. This report presents the findings of the adapted CRINIS study of the transparency of political finance in Bangladesh, Indonesia, and Nepal. The methodology has been slightly amended to better reflect the governance structures and political culture of these countries. This publication summarizes the findings of national reports of individual countries examined and draws regional comparison to identify common trends and recommendations for the steps ahead.

With the objective of transparency in mind, the tool evaluates current legislative systems and studies the practices of key actors involved in political finance, thereby detecting weaknesses in a system and providing guidance in overcoming them.

The following types of political financing were assessed in the selected countries:

- Finances for a legislative election campaign in Bangladesh
- Finances for non-electoral activities of political parties and for a legislative election campaign in Nepal
- Finances for non-electoral activities of political parties and for a legislative election campaign in Indonesia.

Data for the project was collected by research teams in each of the countries. The team of three individuals in each country conducted extensive desk research on existing laws and regulations and assessed practice. The research team also conducted to read one-to-one interviews with the stakeholders[1] and guided the group of citizens and journalists to conduct field tests on accessibility of information on political financing. Overall, the response rate to the questionnaires was very low (less than 50%) and very few public documents were available for the observations of the researchers to analyse. Therefore, the findings in the report are based on observations of the research teams and perceptions of those stakeholders who had made themselves available to provide information. Nevertheless, it was felt that despite the limitations of the research, it was important to publish these findings as a constructive insight into political finance systems in these countries: indeed the lack of participation in and of itself demonstrates the need for greater transparency and openness in financing of political activities.

1. The questionnaires were directed to key stakeholders in the field of political finance in each country, namely: party accountants (a total of 10 interviewees) and legislators (10), auditors (10) and directors of state control agencies (3), donors to parties and candidates (10) and non-donors of the private sector (10), representatives of monitoring organizations (5), members of academia (5), and journalists (5), all with expertise on political finance.

Comparative Analysis

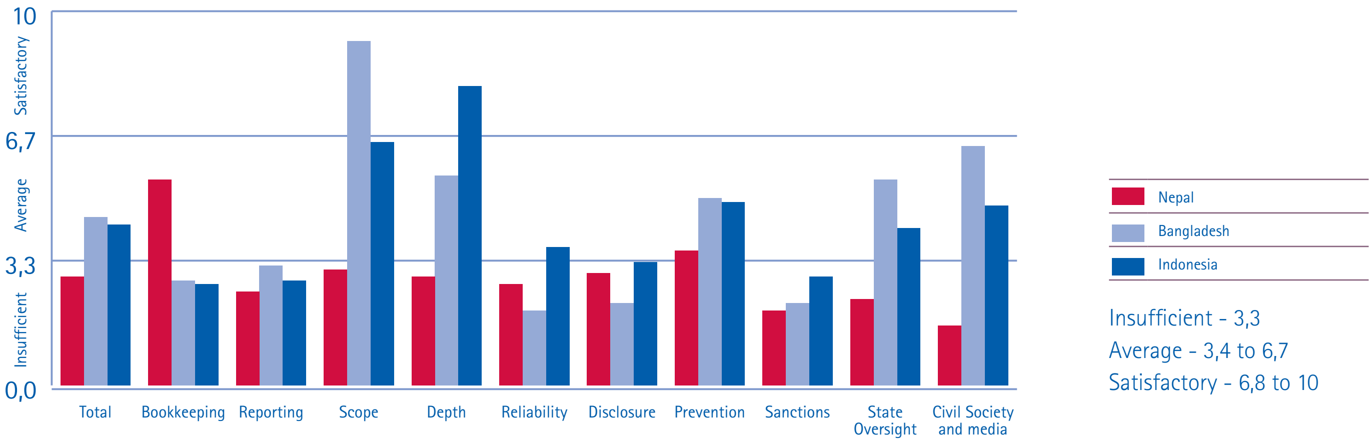
This section of the report provides an overview of the cross-country analysis of the findings on political finance laws and practices in Bangladesh, Indonesia, and Nepal.

Key Findings

The three countries studied under the project are relatively new democracies which have recently embarked on the road of transition. Although levels of democratic development and sophistication of governance structures differ, the issue of transparency in electoral processes (particularly the funding of political parties and campaigns) is a relatively new phenomenon for all three.

The key findings from each of the three countries are grouped in ten dimensions with corresponding scores as highlighted in the table below.

Comparative Average Scores for the three countries:



Insufficient - 3,3
Average - 3,4 to 6,7
Satisfactory - 6,8 to 10

Ten dimensions of transparency (see above) are measured for political financing in a given country. The quantitative index is calculated by averaging all 10 dimensions, each of which is given the same weight in the calculation. A weighed average based on the two types of financing (annual funding of parties and funding of legislative campaign) is made to calculate a total. The scale for each dimension ranges from 0 to 10, where 10 indicates that a country fulfils all criteria expected in terms of transparency and accountability, and 0 indicates no fulfilment of criteria. Scores between 0 and 10 are grouped into three evaluation categories: insufficient (0-3,3), average (3,4 to 6,7) and satisfactory (6,8 to 10).

The CRINIS tool allows quantification of the transparency of political finance activity by using 10 dimensions:

1. Internal bookkeeping refers to the way in which political parties internally manage their financial resources.

2. Reporting to the electoral management body evaluates the extent to which parties or candidates report to a government oversight body.

3. The next three dimensions, comprehensiveness of reporting, **4.** depth of reporting and **5.** reliability of reporting, centre around the nature of data furnished in the financial reports, and help to determine the quality of data submitted to the electoral bodies. These evaluate crucial areas such as relevant financial activity, including cash, in-kind and other transactions; donor identity; the credibility of submitted data and the perception of credibility of reports by key actors.

6. Disclosure of information to citizens examines public access to political finance information.

7. Dimensions encompassing prevention, **8.** sanctions, and **9.** state oversight address the monitoring of compliance with established rules and regulations. This includes preventive measures to facilitate effective oversight, the existence of sanctions that can be imposed and the institutions and actors in charge of performing oversight functions.

10. The last dimension addresses the oversight activities performed by civil society.

1. The weakest, most vulnerable dimensions: sanctions, disclosure of information and reporting

In comparing the ten dimensions of transparency the study found that sanctions, disclosure of public information, and reporting received the worst scores. In all three categories the three countries show clearly insufficient results.

Sanctions: lowest score under this dimension means that penalties set out for violations of reporting and disclosure in the countries' legal frameworks are largely neglected when it comes to enforcement. The legislation seems to be largely in place; e.g. in Indonesia, sanctions can be imposed ranging from political penalties to warnings and disqualification. The law in Bangladesh foresees sanctions for non-compliance both for political parties and candidates, including the cancellation of registration for parties and the stripping of a mandate even for an elected candidate. Nepal also foresees sanctions for non-compliance with the rules of accounting, which can include the suspension of elected officials' mandates. However, as the study has found, sanctions have not been imposed on offenders.

Disclosure of information ranks as the second lowest 'dimension' (research category), and as can be seen from the graph above, the difference between the scores of the three countries is slight. This means that data provided by parties and candidates to electoral management bodies are difficult to access or are completely inaccessible for public oversight actors: citizens, journalists, civil society organisations and academia. Although legal requirements for the public disclosure of information on political financing seem to be more or less in place, in practice very little has been done to grant public access to the actual reports. With varying frequency, there have been isolated cases in all three countries where some political parties have disclosed information on their income and expenditure to their own members on an irregular basis. In Nepal, some candidates have voluntarily mentioned the names of their large contributors during public rallies. Oversight bodies have made some attempts of public disclosure. In Indonesia the EC has published on its website the total income received by each candidate from their parties, while in Bangladesh although the law obliges the EC to disclose received reports on its website, to date, the EC has not disclosed any reports on its website. In general, vital information on who received how much and from which sources, as well as how these funds were spent, remains inaccessible to the public in all three countries.

Reporting, both in terms of requirement to submit reports to the oversight body as well as the reliability of information provided stands out on account of low score. All three countries have some kind of regulation requiring disclosure to a government oversight body.

In fact, all three countries have laws requiring political parties to report on their electoral expenses in a legally defined timeframe, although the requirements vary from country to country when it comes to individual candidates contesting legislative elections. In Indonesia, candidates are not obliged to do bookkeeping and report on their income and expenditure, while in Nepal individual candidates have to submit electoral expense statements to the Electoral Commission (EC), although they are not legally bound to report on sources of income. Bangladesh requires every candidate to submit information on probable sources of funding before an election, together with their nomination paper and a report on income and expenditure after the election. However, the study has found that reports are not generally perceived to contain reliable information in any of the countries examined.

2. Shortcomings in regulatory framework and in compliance

The findings indicate that in recent years, the three countries studied have made progress in introducing relatively suitable legislation. Measures have been introduced to regulate the flow of money in politics. For example, in Bangladesh, for the first time, the law acknowledges private and corporate donations, as well as sets limits for the amount of donations, and clearly requires that all donations must be made via bank accounts. The new legislative framework in Indonesia provides public funding for political parties and makes annual financial reporting mandatory for political parties. Nepal has introduced clear rules for restricting the abuse of public resources for elections, and on the violation of reporting and disclosure of political funding. However, when it comes to actual implementation of the laws, there is a clear lack of enforcement in all three countries.

Bookkeeping: all three countries have laws requiring political parties to keep books on income and expenditure, and to report on their electoral expenses in a legally defined timeframe, although the findings indicate that compliance has been low. In Bangladesh, income from in-kind and cash donations are not officially registered by the parties, while in Indonesia parties have been reluctant to reveal information on internal bookkeeping practices. Political parties in Nepal had not submitted any reports to the electoral body, which makes the assessment difficult to make.

Reporting: while laws in Indonesia and Nepal seem to have a wide scope for reporting requirements for political parties, the research showed that in practice, out of the three countries studied, Bangladesh demonstrated best results as in the parliamentary election, all candidates in Bangladesh submitted statements of estimated sources of income. In terms of depth of reporting required, Indonesia's regulatory framework received highest scores, because of the existing provisions for the most detailed party reports to be submitted to the EC. However, the largest shortcoming in the case of Indonesia is the lack of requirement for individual candidates to report. This is believed to leave significant amount of funding for electoral campaigns unaccounted for. The shortcoming in the legislative frameworks of all three countries is that none of the countries oblige donors or the media to report on their donations and time allocations for either parties or candidates.

Perhaps, the best indicator of low levels of compliance to the existing rules is the dimension examining the quality of reports on income and expenditure. Research teams in all three countries found that the reports are not credible, which translate into overly low scores for reliability of reporting.

With varying degrees, preventive measures feature in legislative frameworks of all three countries. As a preventive measure, Indonesia requires that all political parties make financial transactions only through bank accounts, and Bangladesh obliges parties to receive donations from both individuals and companies through cheques, while Nepal has no such requirement at all. Despite existing legal provisions in the two countries, experts interviewed by the research teams indicated that it is widely perceived that both political parties and candidates receive donations in cash which are not reported through bank accounts, and thus remain outside the scrutiny of either the oversight body or the public. In practice, none of the countries studied seem to have well functioning mechanisms to effectively monitor parties' financial flows.

3. Weak state and public oversight of political financing

State oversight is an indispensable element in regulating political financing. The independence and clear mandate of the oversight body is necessary for effective functioning. It is also critical that political finance oversight bodies have sufficient human and financial resources to carry out their duties.

Bangladesh, Indonesia and Nepal all have Election Commissions (ECs) as designated oversight bodies of political financing. With a slightly varying degree, legislative frameworks in the three countries give ECs the power to review financial statements and accounts, as well as to impose sanctions in cases of violation. However, in practice, the institutions in all three countries seem to be lacking viable monitoring and auditing mechanisms, which can be attributed in some cases to a lack of independence or a lack of capacity, e.g. shortages of human resources and technical capabilities. Bangladesh's EC has tried to use its sanctioning power by rejecting the nominations of several candidates who failed to comply with reporting procedures, but has not managed to follow up consistently on multiple cases of non-compliance. In Indonesia, the question of independence seems to be less of an issue; however, the EC is viewed as ineffective due to lacking sufficient authority to enforce regulations while Nepal's EC is not generally viewed as an independent body overseeing political finance. The legislation does not define clear selection criteria for members of the commission, which would strengthen its independence. Furthermore, the commission lacks the capacity to carry out its tasks effectively.

Public Oversight: in addition to oversight performed by government bodies, other actors such as the political opposition, media, civil society organisations and academia may engage in monitoring the use of money in politics. Monitoring may include activities such as reporting irregularities to the government oversight bodies, analysing reports to inform the public, and holding government agencies accountable to ensure that they monitor financial activities of political actors more effectively.

The number, profiles, and activities of civil society organisations examined in the dimension of public oversight vary among the three countries. Civil society organisations in Bangladesh and Indonesia are involved in a wide range of activities, from monitoring elections to tracking election expenditure and advocating for transparency. Owing to a relatively high degree of press freedom, Indonesia has a high degree of public oversight of the electoral process, including the funding of campaigns. However, the media role has been largely overlooked, thus limiting the potential for its valuable contribution to the reform process.

Conclusions and recommendations

Transparency is a pivotal element in monitoring the flow of money in politics and in helping restore trust in politicians.

In this sense, working toward enhancing the transparency of political competition in both election and non-election periods is critical to support those efforts. Political parties are primary vehicles for citizens to channel their participation in the political process and must therefore have the highest standards of integrity and transparency. Increasing levels of transparency within parties can strengthen their internal democracy and can pay off during elections when voters opt for those parties demonstrating integrity and accountability towards their constituencies.

Funding of the political parties by the state could be a leap forward in addressing the loopholes associated with accountability. Out of the three countries studied, Indonesia is the only one that provides state funding to political parties. Stricter requirements of reporting that come with the disbursement of public funds could prompt the political parties to be more transparent and accountable to the tax-payers of the country.

Regulatory frameworks should address the funding of individual candidates and introduce mandatory and clear measures for candidates to report on their income and expenditure for election campaigns. Laws should provide detailed procedures of how reporting should be done and clearly mandate a requirement for audit. The format used for reporting is crucial to facilitate analysis of the data by public auditors. Reports published in hard copies are often forgotten in the desk drawers of oversight bodies and remain generally inaccessible to the larger public, whereas reports disclosed in electronic format on the internet allow analysis by different stakeholders. Oversight bodies should provide information in an accessible and timely manner, published on the Internet and searchable by users.

Preventive measures can shed light on financial transactions of parties and candidates and ultimately facilitate oversight by the state agency and public. As a key preventive measure, the law should oblige parties and candidates to execute all transactions through bank accounts. Each party must establish a single bank account to receive and spend funds that could help avoid anonymous donations.

As evidenced by the findings of the study, there is no use having sanctions if they are not enforced. The oversight bodies should be mandated and adequately resourced to impose sanctions for non-compliance.

Media is an important platform for waging electoral contests since a large share of party spending during elections goes to media campaigns. Provision of free airtime on public stations can balance the role of the media in elections. The regulation must guarantee that parties and candidates have fair access to the media and that information about time allocations is transparent and easily accessible. The media also carries a critical function as a watchdog to investigate and report on wrongdoing. Coverage of stories that reveal perceived political spending abuses can be a trigger for enforcement agencies to detect and investigate suspected corruption.

Since electoral regulations are created and implemented by the same elected officials they are meant to regulate, civil society voices are especially important.

Civil society organizations monitor campaign spending, scrutinize party accounts, and empower citizens to cast informed votes. The evidence produced by such efforts puts civil society in a good position to help overcome the inherent contradiction of political finance laws. That is why it is critical that the legal framework, both regulatory and institutional, enables civil society organisations to undertake such activities, provides access to information and the opportunity for input into the legislative drafting process.

Bangladesh

Basic information on data collection

1. The index refers to the 2008 general election
2. Data collection occurred from November 2008 to July 2009
3. Interviews with 20 stakeholders were conducted from April to July 2009
4. The letters requesting information were sent out by the local research team in May 2009
5. The field tests investigating access to information by citizens, students and journalists were conducted during the second week of June 2009

Legal framework

After long years of authoritarian rule, parliamentary government was restored in Bangladesh in 1991. The institutionalisation of democracy turned out to be a long and difficult process. Despite the creation of a non-partisan caretaker government in 1996, which was supposed to create conditions for free and fair elections, the EC could not ensure a level playing field for all parties and candidates and properly implement electoral laws or reduce the influence of 'black' money in the elections. After the postponed election of 2007, which resulted in two years of emergency rule restricting all political party activity in the country, the new caretaker government took initiatives to create an environment for fair and more transparent elections. Significant amendments were introduced and new rules were enacted for regulating and bringing more transparency to political parties' financing. The new regulatory framework also gave the EC more authority to take strict action against violations of the electoral rules and code of conduct.

The monitoring and disclosure of political financing is regulated by the *Representation of the People Order (RPO) (as amended in 2008) and the Political Party Registration Rules, 2008*. The EC is the only state agency to oversee the financial accounting of political parties in Bangladesh. As a constitutional body, the EC is responsible for electoral management according to the Constitution (Articles 118-126), and acts as a control mechanism to implement electoral laws and rules.

According to the RPO 2008, registered political parties must do their bookkeeping according to the prescribed format and have them audited by a certified auditor. Parties have to report their income and expenditure statements to the EC before 31 July, after the end of the fiscal year. For the first time, the law acknowledges private and corporate donations, as well as setting limits for the amount of donations and stating clearly that all donations must be made via bank accounts. The law also requires that parties include in their reports private monetary donations, donations in kind and discounts, as well as loans, assets and income from partisan entrepreneurship.

The law defines the amount of electoral expenditure by allowed candidates, depending on the number of voters in a constituency. The highest amount that can be spent by a party depends on the number of candidates it fields. However, the law falls short of ensuring full public access to information on the funding of parties and candidates. While individual candidates have to submit electoral expense statements to the EC, they are not legally bound to disclose information on their sources of income to citizens. Nor are business and the media bound to disclose information on their contributions.

The law foresees sanctions for both candidates and political parties for non-compliance with the rules on reporting financial expenditure. According to the RPO 2008 and the *Political Party Registration Rules 2008*, the registration of political parties may be cancelled if a party fails to submit statements on electoral expenditure, or fails to comply with the preconditions of registration, such as the submission for three consecutive years of annual audit reports and other documents. A candidate may have his or her election registration cancelled if spending limits are violated, and the EC may file a case against a candidate in the event of failure to submit an expenditure statement in the stipulated time. An elected representative can be stripped of his or her elected status if the submission of false information to the EC is proven.

Practice

The transparency and accountability of political finance are new phenomena in the political culture of Bangladesh. Although the legal framework has been significantly improved, its full implementation remains a big challenge. Political finance is a sensitive issue, with parties being reluctant to disclose sources of funding even to their members. It is widely believed that funds are often collected directly from businesses and industrialists. Such funds are often donated voluntarily out of vested interest, or as some of the respondents to the surveys believe, in many cases, through extortion. Large amounts of money are believed to be raised from candidates seeking nomination in elections. Fundraising is also carried out through inter-party contributions, as part of alliance building for elections. Such funds remain concealed from the general public, as well as the EC.

In practice, parties' internal bookkeeping is not properly carried out. The major political parties interviewed for this study tend to run their own accounts of income and expenditure through register books, but none of them has any registry of assets. Income from donations in cash and in kind is not usually officially registered. Despite the legal requirement to undertake a mandatory annual audit, the research team has found that none of the political parties has done so to date.

After the 2008 general election, most parties and candidates submitted reports on incurred electoral expenses. However, in most cases, donor identity was not disclosed in the reports, which also lacked information on loans and liabilities. Despite the legal obligation, up to the date of the completion of the research the EC has neither disclosed these reports on its website nor made them publicly accessible through other channels. A few parties disclose information on income and expenditure to their own members on an irregular basis at party council meetings. Donors never disclose information on their donations for fear of backlashes, such as loss of business, or because the contribution usually comes from undeclared sources.

The dimension on sanctions received the lowest score in the study. While the law envisages a series of penalties for non-compliance with the provisions on regulating political funding, these are almost never enforced by the EC[1].

The study concludes that although the main oversight agency, the Electoral Commission, is mandated with the authority to review financial statements and investigate accounts, in practice the institution lacks a viable monitoring and auditing mechanism.[2] There have been isolated cases of attempts to use its enforcement power by not approving the registration of candidates who have failed to comply with reporting requirements, but it has proven unable to do so consistently. The EC has not taken any action against individuals who had not submitted statements of expenditure in time.

As a result, candidates spent at least three times more than the legally permitted amount, but submitted accounting reports within the spending limits prescribed by the law. [3]

1. There have been isolated cases of the EC enforcing some of the sanctions against a few individual candidates by not approving their nominations. However, they later received a verdict from the High Court deciding in favour of them.
2. There is no appointed auditor in the EC, although in several cases, the EC launched investigations based on complaints lodged mainly by contesting candidates and the media, and took action. The EC has returned expenditure reports to some parties for correction.
3. See TIB report on Election Process Tracking, 2009.

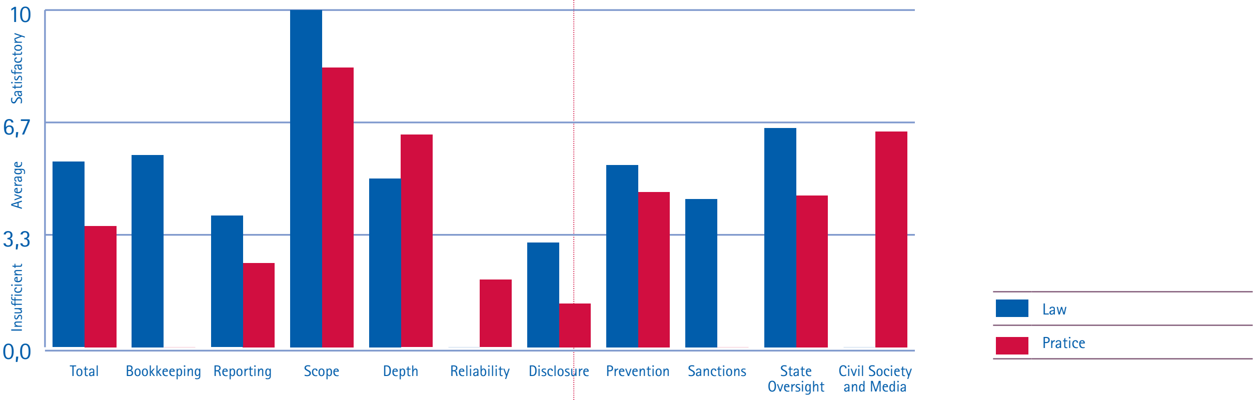
Recommendations

The issue of disclosing information on political finance has not come to the forefront until now, as there has not been any demand from stakeholders including the Government, the EC, the public and, most importantly, from within parties themselves. It will take as much time to develop the practice of disclosing proper and complete information on electoral and party finance as to change the political culture as such, dominated by a 'winner takes all' approach.

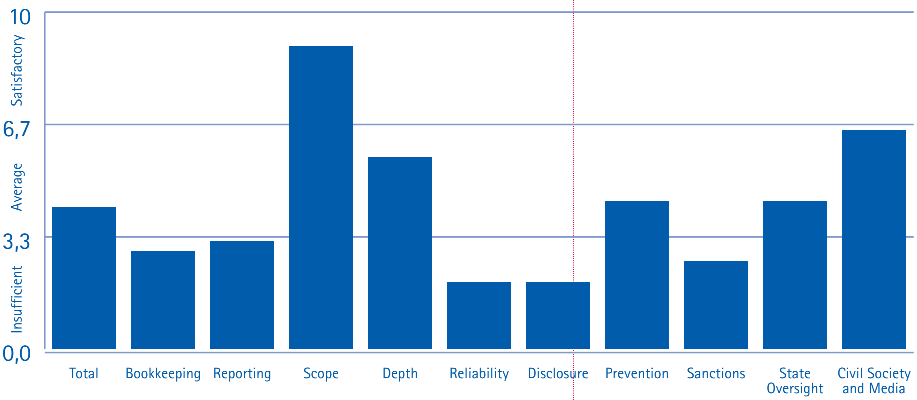
Careful consideration should be given to providing public subsidies to political parties during the election, such as funding, logistical support, the provision of meeting spaces and free broadcasting on state-owned radio and television. Such policies should be developed in consultation with all stakeholders, including the public and political parties. The EC should implement electoral rules without any fear or bias. It should develop a mechanism to monitor the electoral expenditure of candidates and parties, and should take due legal action in cases of violation. It should set examples by disqualifying candidates for violating electoral rules. The EC must disclose through its website all financial information at the end of each fiscal year. As an oversight body, it should appoint auditors to verify parties' audit reports and statements of electoral expenditure, and should take legal action over any inconsistencies.

Political parties should have a well-organised financial management system. All information on their income, expenditure and assets should be disclosed annually through annual reports and websites. Parties must make sincere attempts to shift from the present political culture of secrecy to one of openness. Civil society organisations should continue to carry out more investigative research in political financing and as well as run advocacy campaigns on electoral reforms, democracy within parties and the political accountability of parties towards the general public. The media should report more actively on political funding and undertake investigative reporting of electoral spending. The corporate sector should voluntarily disclose information on its political donations, including monetary and in-kind services.

Average scores for ten dimensions of transparency of political financing in Bangladesh



Total average score: 4.4



Indonesia

Basic information on data collection

1. The index refers to the non-election year of 2008 and 2009 general election
2. Data collection occurred from February 2009 to August 2009
3. Interviews with 30 stakeholders from political parties, business and experts were conducted from May to June 2009
4. The letters requesting information were sent out by the local research team in May 2009
5. The field tests investigating access to information by citizens, students and journalists were conducted from 15-22 June, 2009

Legal framework

Indonesia's political and government structures, including the election system, saw major changes after the fall of Suharto's New Order regime and the beginning of the reform era in 1998. Significant changes included the establishment of the new independent General Election Commission, the introduction of general elections for the president and the vice-president, and the multi-party system. For the first time in the country's history, a presidential election was held in 2004, and over the years there was an increase in the number of political parties contesting elections. However, election funding remained a significant challenge, as both legislative and presidential elections were characterized with problems of illegitimate use of money in the campaign, as well as more severe problems of vote buying[1].

Political parties' internal accounting and reporting to the state oversight agency are regulated by Law No. 2/2008 on Political Parties. Law No. 10/2008 on the Election of Members of Parliament and Law No. 42/2008 on Presidential Elections regulate the campaign financing of legislative and presidential elections respectively. The legislative framework enacted in 2008 introduced public funding for political parties for the first time, proportional to the number of representatives elected in the previous election.

1. The Carter Center, 2004 Indonesia Election Report, p. 91

All political parties are required to provide annual income and expenditure reports, a provision which applies to a party's national headquarters as well as its provincial and regional offices. However, the legal provision on the internal bookkeeping of political parties does not oblige parties to keep books on assets and liabilities.

Nor does the law require individual candidates contesting legislative elections to do bookkeeping or report on their income and expenditure, which creates a serious loophole in the legal framework. Neither are presidential candidates obliged to maintain accounting books. The latter are only required to submit a list of assets and liabilities to the Commission of Corruption Eradication.

The law obliges all registered political parties to report annual financial statements, including income and expenditure details, to the Commission. They are obliged to do so in a standardised format within six months of the end of a fiscal year. Parties are also obliged to submit financial statements on election campaigns to the EC. The reports must include the amount and date of each donation and must identify the donor, as well as the estimated value of in-kind or service donations and the expenditures incurred during the campaign period.

Donors are not obliged by law to report their contributions to parties or candidates. The law also does not oblige media companies to submit statements on allocation of time to certain parties and candidates.

In principle, Law No.2/2008 on Political Parties stipulates that parties' annual financial reports should be accessible for public scrutiny. The electoral laws clearly oblige the disclosure of campaign funding reports by the Election Commission, after auditing by a public accountant. However, the law falls short of defining how the disclosure should be carried out.

The legal framework envisages a number of preventive measures: all political parties' financial transactions must be conducted through official party bank accounts, and political parties are prohibited from receiving financial contributions without proper identification of the donor. The law also regulates the limit for financial support for legislative or presidential election campaigns. The media is required to provide an equal amount of advertising spots to all parties.

The General Election Commission is the main state agency responsible for administering and oversight of political party financing. Under the Law on Political Parties, the Commission manages and oversees all the processes of national and regional general elections.

Practice

In practice, the governance of political party financing in Indonesia still faces problems of transparency and accountability.

None of the nine political parties contacted during the study revealed any information on their internal bookkeeping practices. Most of the experts interviewed believe that parties carry out internal bookkeeping, but not in line with legal requirements. But as a good practice, financial statements are actually signed by an accountant and party executives, although this is not explicitly mentioned in the law.

It is widely believed that a significant amount of funding for election campaigns is raised by individual candidates, but the law makes reporting mandatory only for political parties and does not require candidates to account in any way. Therefore a significant portion of political financing is not reported and is left beyond the scrutiny of the EC and the general public. According to the interviews conducted in the study, it is widely believed that in practice, financial transactions (especially during the campaign season) are often conducted directly in cash, whereas the law strictly requires that all transactions should be made through parties' official bank accounts. Although there is no hard data available, anecdotal evidence cited by the respondents indicated that transactions most often happen only between party leaders and company executives.

When it comes to reporting, the study found that in practice, many parties do not submit their financial statements to the EC, or they miss submission deadlines or submit incomplete reports lacking important details. Consequently, the financial reports' reliability is difficult to measure. The results of auditing undertaken by public accountants have never been publicly reported. The researchers concluded that by examining official accounting, it is not possible to obtain an accurate idea of political financing.

Although the law obliges parties to disclose annual reports, none of the parties examined for this study had actually disclosed information. Until now, the EC has only published on its website the total amount of income received by each candidate.

As in the other two countries in the study, sanctions received one of the lowest scores in Indonesia. The research indicates that none of the strict sanctions prescribed under the law has been applied to offenders. According to the experts interviewed, the EC has been viewed as ineffective to date, in part because it lacks the resources to enforce political financing regulations.

Due to a relatively high degree of press freedom in Indonesia, public oversight of the electoral process, including campaign funding, is active. In addition, the academic community and civil society organisations also monitor elections. However, their roles and inputs are still largely overlooked, thus limiting the potential of their valuable contribution to the reform process.

Recommendations

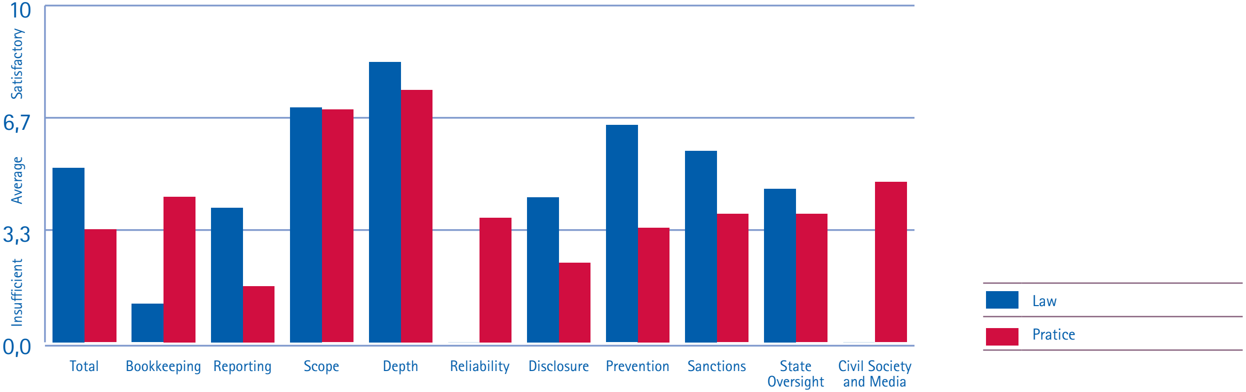
The law and practice in political party financing in Indonesia need to be reformed. A particular legal aspect that needs reform is regulating the compulsory reporting of party finances to the public.

The regulatory framework of political financing in Indonesia remains vague and leaves much room for interpretation and even evasion. For example, the law obliges parties to report their finances on an annual basis, but does not provide detailed procedures for how this should be done, and does not clearly mandate a requirement for the audit. In addition to obliging parties to make an annual financial report, the law should provide a clear set of requirements for the audit process.

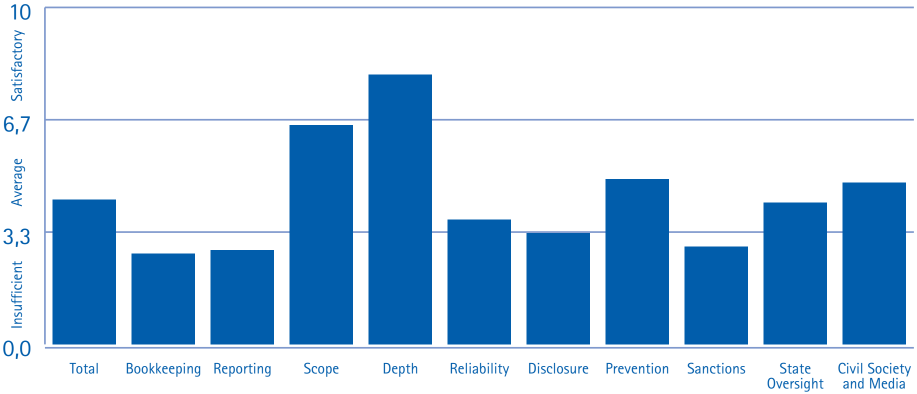
The law should address the funding of individual candidates and introduce mandatory measures for candidates to report their income and expenditure during election campaigns.

Civil society must play a more active role in informing the general public about breaches of political financing regulations, and must closely monitor compliance by parties and candidates.

Average scores for ten dimensions of transparency of political financing in Indonesia



Total average score: 4.3



Nepal

Basic information on data collection

1. The index refers to the non-election year of 2007 and the election for Constituent Assembly/Legislature in 2008
2. Data collection occurred from December 2008 to July 2009
3. Interviews with 15 stakeholders were conducted from April to July 2009
4. The letters requesting information were sent out by the local research team in May 2009
5. The field tests investigating access to information by citizens, students and journalists were conducted during the last week of July 2009

Legal framework

In the last two decades Nepal has undergone many changes. After the end of the monarchy in 1990, the country saw much political instability and the breaking up and regrouping of political forces. Engaging in politics under the old authoritarian regime required secrecy and made public disclosure risky. The regulation of political funding is a relatively new phenomenon in Nepal and the relevant rules were introduced only recently.

The Constitution adopted by the interim parliament in 2007, which turned Nepal from a unitary kingdom to a Federal Republic, devotes Article 142 to the issue of political financing. Regulation is further expanded in other legislation, such as the Act Related to Political Parties, 2002, the Election Commission Act, 2007 and the Constituent Assembly Election Code of Conduct, 2007.

The Act Related to Political Parties, 2002, obliges political parties to submit their annual income and expenditure statements to the EC within six months of the end of a fiscal year. Parties are also obliged to disclose their sources of income publicly, indicating the amounts of donations and the names of donors. The law also requires all candidates contesting legislative elections to report on their election campaign expenses within 35 days of the announcement of election results. There is no legal provision for legislative candidates to report on their sources of income; they are required to report only expenses undertaken during the electoral campaign.

The law in Nepal defines a wide scope for reporting requirements for political parties. They have to report income from membership fees, individual donations and cash and in-kind contributions, as well as payments from other sources, including fundraising activities. The statements must also include the amounts given and the identification of donors (in the case of an individual, his or her name, address and profession).

The regulatory framework envisions penalties for non-compliance with the rules on submission of reports. Preventive measures include penalties such as cancelling the mandates of elected officials in case of non-compliance. A wide range of prohibitions is also foreseen for parties and candidates over the use of government infrastructure for election purposes.

Nepal's EC is the central state oversight agency charged with the registration and oversight of financial accounting of political parties. As an electoral management body, the EC is also mandated to enforce rules on political financing and impose sanctions in cases of violation. However, the major shortcoming of the legislation is that it does not define clear selection criteria for members of the EC, which would strengthen its independence as an oversight body.

Practice

Respondents to the surveys conducted by the research team have suggested that party politics in general is still dominated by political leaders accustomed to working underground and used to the practice of collecting funds for the party by themselves and secretly, as they used to pre-1990, when all political party activities were strictly banned.

The study concluded that in practice, compliance with regulations on political financing is very weak. Political parties have not submitted their reports to the EC, which makes it difficult to assess their reliability. Some parties disclose information about their finances to party delegates during conventions, but this information remains inaccessible to the broader public. Disclosure is not a widely accepted practice in Nepali political culture. The study suggests that political parties have not demonstrated willingness to be more transparent about their financing practices and the state control agency has not been successful in influencing the parties' internal bookkeeping procedures.

Although the law envisages penalties for the violation of reporting regulations, the study has not been able to find that in practice, such violations have been penalised. There have been no repercussions for parties and candidates violating accounting rules or the code of conduct for preventing the abuse of state resources for election purposes. Respondents to the interviews allege that, the appointment and promotion of party-loyal government employees, as well as the provision of transportation services and other facilities to party activists, seems to be a widespread practice.

Respondents to the surveys believe that the EC is not generally viewed as an independent and effective body in overseeing political finance and promoting transparency. It has neither scrutinised parties' financial reports closely nor taken the initiative to disclose any information proactively, even incomplete reports received from parties and candidates. The study found that the EC has proven itself unable to enforce regulations on political finance, while its representatives noted the lack of adequate human resources to undertake its functions effectively.

The study concluded that there is almost no public oversight of political financing in Nepal. Civil society remains extremely weak and although the media reports stories of political party funding, general coverage is not viewed as independent and unbiased.

Recommendations

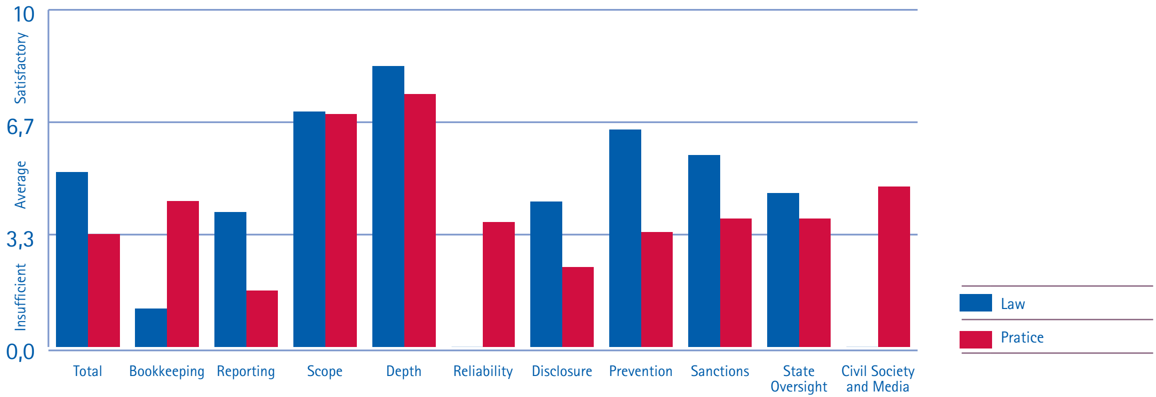
Loopholes in the legal framework should be addressed. The law should oblige parties and candidates to execute all transactions through bank accounts. Each party must establish a single bank account to receive and disburse funds; this could help prevent anonymous donations.

The funding of political parties by the state could be a leap forward in addressing the lack of accountability. It would prompt political parties to be more transparent and accountable to the country's taxpayers.

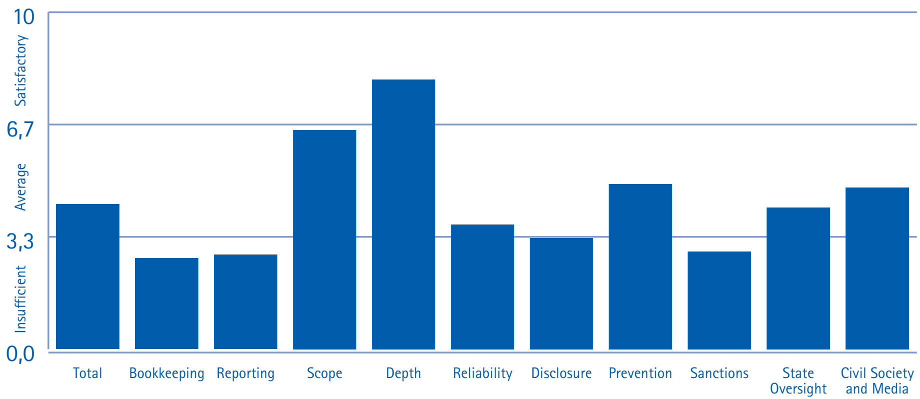
Clear rules should be established for the selection of EC members, based on set criteria of professional qualifications, which would strengthen the institutional independence of the state control agency. In its existing capacity, the EC is unable to execute its tasks effectively and needs support both in terms of human and technical resources to enhance its enforcement capabilities.

The media should adhere to standards of independent and balanced reporting, providing the public with accurate information on political funding. Civil society should play an important role as a watchdog and actively engage in monitoring compliance with existing regulations, as well as promote reforms based on the ideas of transparency and accountability.

Average scores for ten dimensions of transparency of political financing in Nepal



Total average score: 2.9



Methodology

CRINIS methodology allows the examining of the regulatory framework, so as to compare it to internationally recognised principles on political financing. It also compares what happens in practice by testing access to information, party by party and candidate by candidate. By providing thorough diagnosis of the legal framework and actual practice, it provides strong empirical evidence which gives all stakeholders a clear picture of areas in which reforms are most needed.

Ten dimensions of transparency (see below) are measured for political financing in a given country. The quantitative index is calculated by averaging all 10 dimensions, each of which is given the same weight in the calculation. A weighted average based on the parties and legislative financing is made to calculate a total.

The information uncovered through the involvement of a broad spectrum of sources and a variety of different research methods makes it possible to bring together more than 140 evaluation indicators. Questions feeding into each indicator have different range of answers, which translates into different weights for the final score for each indicator. While part of the questions have simple "yes or no" answers, some of them include possibility of multiple answers which translate into quantitative scores ranging from 0 to 10. The scale for each indicator ranges from 0 to 10, where 10 indicates that a country fulfils all criteria expected in terms of transparency and accountability, and 0 indicates no fulfilment of criteria. Scores between 0 and 10 are grouped into three evaluation categories: insufficient (0-3.3), regular (3.4 to 6.7) and satisfactory (6.8 to 10).

Table 1:
Ten dimensions of transparency in political finance

Dimension	Generic questions building indicators
1. Internal bookkeeping of parties	Is bookkeeping mandatory by law? How professional are staff in practice?
2. Reporting to control agency (Election Commission)	By law, do parties, candidates, service providers and the media render accounts of their role in political finance? When and in what format?
3. Comprehensiveness or scope of reporting	Do reports include public and private sources? Do they cover income and expenses? Do they cover monetary contributions, in-kind contributions, rebates, etc.?
4. Depth of reporting	By law, do reports include information on individual donations? Do they give the value and the date of each donation? Do they clearly identify each donor?
5. Reliability of reporting	Do different actors disclose all resources in reports? How accurate are reports, to the knowledge of experts?
6. Disclosure to the public	Is it mandatory for state agencies/parties/candidates to disclose information on political finance? In practice, how accessible is such information to experts, journalists and ordinary citizens?
7. Preventive measures	Are donations channeled exclusively through official bank accounts? Are there any loopholes for anonymous donations?
8. Sanctions	What are the existing sanctions – civil, criminal and political – according to the law? In practice, are existing laws strictly enforced?
9. State oversight (Election Commission)	Do experts evaluate institutions of state oversight as independent? Are they considered efficient? From the perspective of self-evaluation, do they lack human resources? Do they lack training?
10. Civil society oversight	Do Civil Society Organisations monitoring political finance exist? In which areas of political finance do they develop activities? Do experts evaluate organisations of public oversight as independent?

Data collection mechanisms:

a. Disclosure of laws and regulations for the purpose of creating a database of legislative framework in each country.

b. Collection of country-specific data such as information on recent legislative reforms, political financing, corruption cases and the activities of civil society organizations in this area.

c. Analysis of the operation of the political finance system and on how it is monitored. Reporting and dissemination practices were specifically studied. To do so, a survey was conducted with key actors in each country, including party accountants and treasurers, elected politicians, electoral management body auditors, judges, businesspeople (potential donors) and members of civil society watchdog groups.

d. Field tests were also conducted to measure how easy it is for citizens to access financial data and thereby evaluate rates of response among bodies and institutions that should provide the public with this information. The first tests were conducted by local research teams, who had to use standard procedures to contact various actors: the electoral management body, political parties, congressmen, private companies and television stations. The second tests were conducted by groups of volunteers. The aim was to contrast the ability to access the same set of information by actors with different backgrounds and different levels of knowledge.

Table 2:
Summarises the information presented above, classifying the data according to type of information and sources used, and identifying data collection methods.

Type of information	Sources of information	Data collection method
Legal framework	Documents about laws and regulations	Law review
Party practice on financial issues	Party reports, official records and public information	Team analysis, complemented by interviews of party accountants and experts
Disclosure of information	Testing the availability of information through letters sent to different players	Written requests for information
Disclosure of information by parties	Testing the availability of information through demands made by citizens	Access to public information by common citizens and journalists
Electoral campaign expenditure of parties and candidates	Parties, candidates, donors and prosecutors / watchdogs / officials	Interview
Practice on political finance	Parties, MPs, the EC, academia and civil society activists	Interview

The information collected over the course of the project was used as input in preparing narrative reports for each country. This publication includes only the executive summaries of major features of the legal framework, the results of the diagnostic and recommendations for reform in the political financing system of each country.