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Technical Assistance Module (TAM)

Political-Party Finance in Argentina, Chile, Costa Rica and Mexico: Lessons for Latin America



Casals & Associates



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2004

Printed in Kwik Kopy Printing
99 Canal Center Plaza
Alexandria, Virginia 22314
Tel.: (703) 549-2434

2004

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Foreword

The Americas' Accountability/Anti-Corruption Project (AAA) is funded by the United States Agency for International Development (USAID). Casals & Associates, Inc. (C&A) has managed the project, currently in its third phase, since 1993. The AAA Project is designed to support USAID missions in the Latin American and Caribbean region (LAC), in the design and implementation of anti-corruption programming in host countries.

In line with project objectives and to advance government anti-corruption activities in the region, the AAA Project identifies, documents and disseminates best practices through a series of Technical Assistance Modules (TAMs). TAMs examine specific reforms that are increasing government transparency and accountability in specific countries, in order to generate interest and discussion among reform-minded stakeholders and promote replication in the region of the most successful experiences.

TAMs will be disseminated in a variety of ways and shared with a multiplicity of stakeholders, including: USAID missions, international donor organizations, business and professional associations, civil society organizations (CSOs), non-governmental organizations (NGO) and government officials. TAMs can also be used to develop and support USAID-mission bilateral and regional activities.

In developing the TAMs, the AAA project solicits input from stakeholders engaged in good governance and anti-corruption activities. Results of conferences, workshops, forums, external assessments and evaluations, research and consultations with experts also contribute to their development. TAMs explore national and local experiences in order to provide valuable, practical information for improving governance by increasing transparency and accountability.

TAMs are not meant to be prescriptive; their general objectives are to:

- Provide examples of a range of anti-corruption activities;
- Generate discussion among practitioners in the field and promote replication of successful models;
- Illustrate best practices—present the tools, methodologies and frameworks being used to fight corruption;
- Describe programming approaches and strategies;
- Provide an overview of the activities of other donors, CSOs and the private sector engaged in reducing corruption;
- Present reform-program case studies, and
- Direct readers to additional resources.

Acknowledgements

For the preparation of this TAM, AAA Project staff reviewed available literature, conducted extensive research, consulted with technical experts in Washington, D.C. and other locations and conducted field visits to Argentina, Chile, Costa Rica and Mexico, in February and March 2004, to examine first hand four distinct political-party finance systems and learn directly from key actors.

The AAA Project wishes to acknowledge the substantive contributions of Laura Alonso, Coordinator for Political Activities of *Poder Ciudadano*, Argentina; Dr. Claudio Fuentes, Coordinator of the Governance Department of the *Facultad Latinoamericana de Ciencias Sociales* (FLACSO), Chile; Dr. Manuel Rojas of the *Facultad Latinoamericana de Ciencias Sociales* (FLACSO), Costa Rica and Dr. Alonso Lujambio, Director of the Political Science Department, *Instituto Tecnológico Autónomo de México* (ITAM). They provided information, counsel, guidance and access to key informants during the field visits. Their expertise and advice were invaluable.

Steven Hendrix, Acting Team Leader, Democracy and Governance Programs, Latin America and Caribbean Bureau (LAC/RSD), United States Agency for International Development in Washington, D.C, provided support and guidance. The AAA project also wishes to express its gratitude to the USAID Mission in Mexico and U.S. Embassy personnel in Argentina, Chile and Costa Rica.

This TAM would not have been possible without the contributions of the team of experts who did the research, conducted interviews and the field work and ultimately prepared the TAM, including Norma Parker, Dr. Gerardo Berthin, Dr. Yemile Mizrahi and Patricio Maldonado.

Last but not least, AAA Project staff, Sylvia Rodriguez and Mariela Lanzas provided important support for this effort.

Abbreviations

AAA	Americas' Accountability/Anti-Corruption Project
AGN	<i>Auditoría General de la Nación</i> , Argentina
COFIPE	<i>Código Federal de Instituciones y Procedimientos Electorales</i> , Mexico
CSO	Civil Society Organization
FPP	<i>Fondo Partidario Permanente</i> , Argentina
GDP	Gross Domestic Product
IDEA	International Institute for Democracy and Electoral Assistance
IFE	<i>Instituto Federal Electoral</i> , Mexico
NAFTA	North American Free Trade Agreement
NGO	Non-Governmental Organization
OAS	Organization of American States
PAN	<i>Partido de Acción Nacional</i> , Mexico
PRD	<i>Partido de la Revolución Democrática</i> , Mexico
PRI	<i>Partido Revolucionario Institucional</i> , Mexico
TAM	Technical Assistance Module
TSE	<i>Tribunal Supremo de Elecciones</i> , Costa Rica
UNDP	United Nations Development Programme
USAID	United States Agency for International Development

Executive Summary

The objective of this Technical Assistance Module (TAM) is to analyze and understand the dynamics of political-party finance experiences of four Latin America countries—Argentina, Chile, Costa Rica and Mexico—including system components, the roles of key actors and the challenges the systems were designed to meet. Information in the TAM supplements other more broad documentation efforts ongoing in the region, such as USAID’s *Money in Politics Handbook*.

This TAM does not rate the political-party finance experiences observed. Rather, it assesses the state of development and identifies strengths and weaknesses in the four approaches. The TAM is not prescriptive, nor does it offer recommendations relative to the specific systems; rather, it focuses on system processes and components. Problems, flaws, innovations and successes relative to the four systems will become apparent in the descriptions and analysis of the country experiences. Based on information collected through interviews, the TAM highlights principles that are believed to be essential for any sound political-party finance system. As such, findings, including lessons learned and strategic concerns identified, will be of use to others in the Latin American region confronting similar issues.

Political-party finance: A Key Issue for Governance and Development

For more than two decades, Latin American nations have followed a strong trend toward democracy, but elected democratic governments continue to face enormous economic and political obstacles. Poverty, inequality and growing distrust of political parties continue to undermine democratic consolidation.

A majority of Latin Americans do not trust political parties. To a great extent, public perceptions of political parties reflect loss of confidence in the effectiveness of governments to solve basic problems.

There is no question that political parties in Latin America have to rebuild trust. How political parties are financed, because parties are one the primary entry points in the fight against corruption, is a key area in which to demonstrate political will for reform of political parties. In the realm of democratic consolidation, an effective political-party finance system is more than an end in itself; it is a means for strengthening political party contributions to democratization, by helping to ensure free and fair elections, promote public confidence in electoral processes, increase transparency and, ultimately, citizen participation.

Even though many international organizations, such as the Organization of American States (OAS), United States Agency for International Development (USAID) and the International Institute for Democracy and Electoral Assistance (IDEA), have done considerable work on the issue, extensive examination of political-party finance in Latin America is still in its infancy. By focusing on the subject now, the AAA Project hopes to expand and deepen dialogue on institutional reform, generally, and political-party finance, specifically, thereby enhancing the potential for democratic governance sustainability. Through the four experiences examined here, one will be able to identify lessons learned and best practices to build more transparent, accountable and efficient political-party finance systems throughout the region. The lessons documented are

meant to be illustrative of the spectrum of issues that make political-party finance reform and its implementation a complex multidimensional challenge.

Lessons Learned

Political-party finance in any country evolves from and is reflective of the political system it supports. There are no ideal models to follow. Each of the four countries examined represents a different model of political-party finance and a different rationale for putting into place legal and regulatory frameworks for controlling the flow of private and public contributions.

The principles behind the reforms in each country were diverse, ranging from fostering transparent and accountable political parties and limiting private contributions, to increasing and strengthening political competition. However, in regulating the flow of money to political parties, all four countries have been compelled to respond to similar challenges related to establishing the appropriate mix of public and private funding, designing mechanisms to regulate, control and disclose private contributions and campaign expenditures, creating oversight institutions and devising appropriate enforcement mechanisms.

Underlying the evolving characteristics and trends of political-party finance systems, the issue of a stable regulatory environment for political-party finance appears to be critical. The establishment and consolidation of effective political-party systems is a process that involves political, economic and social dimensions. What follows is a summary of the findings of the TAM.

Political Parties

- Weak political parties, particularly those that do not articulate and represent the public interest but, instead, pursue predatory political agendas, are a detriment to achieving sustainable democracies.
- Corruption scandals and the flow of illegal financing to political campaigns and parties have weakened political parties, damaged overall trust in democratic institutions and resulted in lower rates of voter participation in elections.
- Political party structures differ at the national, state and municipal levels. Political-party finance laws are applied differently, if at all, at the local level.

Political-party finance

- Ensuring an adequate flow of resources to parties during campaigns and in between elections is fundamental to their ability to consolidate as democratic institutions. The main challenge for most Latin American democracies is to design a system of political-party funding that is transparent and makes parties accountable and responsive to their constituencies.
- Political-party finance is often a key element in the perpetration of the system of corruption in Latin America. Funding parties is a typical mechanism used by powerful interests to “capture” important political institutions. Corruption cannot be tackled unless the issue of political-party finance is also addressed as an integral part of the overall development and governance challenge.

- Campaign costs have risen substantially, largely due to an increase in the number of elections, political parties and competition, which in turn reflects costs associated with purchasing time on electronic mass media and conducting opinion polls. Today, electoral competition in Latin America is inescapably linked to money.
- As elections throughout Latin America become more numerous and competitive, political parties face the need to spend more resources, both on operational and campaign activities. It is critical to devise an appropriate funding approach that addresses both types of activities. The challenge is balancing institutional and party needs with the wider public interest of more diverse political representation, greater transparency and accountability and less corruption.
- The public tends to be highly suspicious of irregularities in political-party finance, more so if it involves public resources, leading to distrust of political institutions and democratic practices. Controlling the flow of money to parties and sanctioning illegal contributions is essential to increasing public trust in democratic institutions.

Public or Private

- There is no clear trend favoring either public or private funding. Countries have opted to support mixed approaches. Some have placed more emphasis on direct public funding, while others have pursued a more balanced approach between public and private.
- There are risks involved in any particular approach or combination of approaches. When political parties rely too much on public funding, they risk wasting resources, losing their independence and, more importantly, links with their constituencies. Over dependence on private contributions is also a problem, particularly with regard to disclosure, unequal access to resources and political privileges and influence.

Regulation, Control and Enforcement

- Money can be a plus or minus in the political process. To some degree, it is essential to invest in democratic parties as institutions in and of themselves. But, political parties and individual candidates can easily misuse money (before and after elections, and when the victorious parties have been seated in government), particularly when appropriate enforcement and oversight mechanisms are not in place and functioning.
- It is evident that legislation, while essential, is not by itself sufficient to ensure more effective control of political-party finance. Legislation must be accompanied by feasible and appropriate enforcement mechanisms and the political will to use them.
- The impact of regulations depends on effective enforcement and legal sanctions. The existence of an autonomous and effective enforcement agency is imperative.
- Effective regulations need to include incentives that encourage political parties to comply with disclosure laws, such as the threat of reducing levels of public funding for non-compliance.

- Disclosure of party income and expenditures must be required and the information should be made available to the public in a user-friendly, easily accessible format.
- Governments must give adequate authority and resources to oversight and control agencies so they can carry out their mandates.

Civil Society

- CSOs have put political-party finance on the political agenda and kept the issue in the public eye through persistent advocacy of reforms.
- Civil society can play a constructive role by monitoring the application of laws and regulations, verifying whether political parties are disclosing required information accurately and monitoring spending, income and private contribution trends.
- CSOs require increased technical capacity to analyze the reports and other information from political parties and reports in the media related to party fundraising and expenditures. CSOs can increase their impact by establishing partnerships with media and other key actors.

Media

- Relative to political-party finance, the media has a key role to play. It can promote disclosure and transparency, conduct investigative reporting and monitor political party income and spending. Where the media has established a partnership with CSOs, they have been able to effectively exercise a form of oversight. Freedom of information laws define procedures, time limits and sanctions and ensure that access to information is not held hostage by bureaucratic and political interests.
- Political parties spend a significant amount on media for political advertising. How the government and the private sector handle the issue of equitable access and pricing and the degree to which the pricing structure is made public are very important in keeping the playing field level for all political parties and in containing the total cost of elections.

I. Introduction

A. Political-Party Finance in Latin America: Problems and Challenges

A characteristic of democratic government is the existence of effective institutions to meet citizen needs, promote accountability and transparency, enforce the rule of law and mediate representation and citizen participation. In addition, critical to stable democracies are capable and accountable executive branches, independent judiciaries, strong and independent legislatures, free and fair elections and effective and strong political parties and party systems. Sustainable democracy requires effective political parties; in turn, functioning multi-party democracies need effective, transparent funding approaches.

Political-party finance is an issue that is directly and indirectly affecting the quality of development and democratic consolidation in many Latin American countries. For more than two decades, Latin American nations have followed a strong trend toward democracy, but elected democratic governments continue to face enormous economic and political obstacles. Poverty, inequality and growing distrust of political parties continue to undermine democratic consolidation. According to two recent regional studies, three additional factors are affecting democratic legitimacy in Latin America: 1) growing perceptions that democratic institutions are not representing citizens adequately and responding to their needs; 2) fragile, fragmented and volatile party systems, and 3) a growing perception of corruption and the incapacity and/or unwillingness of government and party coalitions to reduce and control corruption.¹

Corruption is corrosive to the democratic legitimacy of governments, because it adversely affects support for democracy and democratic institutions, including political parties. Dysfunctional party systems weaken the linkages between elected officials and their constituencies and interfere with transforming campaign rhetoric into public policy thereby making governing party coalitions ineffective in meeting development challenges.

A majority of Latin Americans does not trust political parties,² which has translated into a loss of confidence in the effectiveness of governments. If corruption and weak party systems are allowed to continue the implications for democracy and development in the near future are ominous. Systemic corruption can delegitimize the entire political system rather than just one particular public official, party leader, policy or politician. Moreover, when the primary motive for the pursuit of power by political parties is narrow self-interest, democratic processes are reduced to nothing more than a power struggle undermining policy development and resultant government programs and the electorate becomes apathetic and cynical.

Corruption and weak party systems also reduce accountability, especially when oversight and regulatory agencies fail to act because they have been captured by special interests. Perceptions of widespread corruption and impunity by political-party leaders and members also undermine

¹ UNDP. *Report on Democracy in Latin America*. New York: UNDP, 2004; and *Latinobarometro Survey 2003*.

² *Ibid.* According to the results of the most recent *Latinobarometro*, only 11% of Latin Americans trust political parties. Political parties in Uruguay and Brazil scored the highest approval ratings among those surveyed (18% and 16% respectively), while political parties in Bolivia and Ecuador scored the lowest (8% and 6% respectively). Nonetheless, in spite of those perceptions, 42% of those surveyed would still vote for a political party.

economic development, and are often a major argument but forth by non-democratic forces to justify reverting to more autocratic governance systems.

There is no question that political parties in Latin America have to rebuild trust. How political parties are financed, because it is one the primary entry points in the fight against corruption, is a key area in which to demonstrate political will to reform political parties. In the realm of democratic consolidation, an effective political-party finance system is more than an end in itself; it is a means for strengthening political party contributions to democratization, by helping to ensure free and fair elections, promote public confidence in electoral processes, increase transparency and, ultimately, citizen participation. Thus, the overall process of democratic politics can be adversely or positively affected by the quality of political-party finance systems.

B. Objective of the Technical Assistance Module (TAM)

The objective of this Technical Assistance Module (TAM) is to analyze the dynamics of political-party finance experiences of four Latin America countries—Argentina, Chile, Costa Rica and Mexico—including system components, the roles of key actors and the challenges the systems were designed to meet. Information in the TAM supplements other more broad documentation efforts ongoing in the region, being sponsored by the United States Agency for International Development (USAID), the Organization of American States (OAS) and the International Institute for Democracy and Electoral Assistance (IDEA).

The TAM reviews system funding reforms, not only in terms of intended effects on democratic, political-party systems and transparency, but also with respect to the effectiveness of regulations and their impact.

This TAM does not rate the political-party finance experiences observed. Rather, it assesses the state of development and identifies strengths and weaknesses in the four approaches. The TAM is not prescriptive, nor does it offer recommendations relative to the specific systems; rather, it focuses on the processes involved. Problems, flaws, deficiencies, innovations and successes relative to the four systems will become apparent in the descriptions and analysis of the country experiences. Based on information collected through interviews, the TAM highlights principles that are believed to be essential for any sound political-party finance system. As such, findings, including lessons learned and strategic concerns identified, will be of use to others in the Latin American region confronting similar issues.

C. Methodology

The Americas Accountability/Anti-Corruption Project (AAA) developed, in close cooperation with USAID in January 2004, a scope of work for the TAM. Throughout the preparation process, there was ongoing communication with the USAID mission in Mexico and U.S. Embassies in Argentina, Chile and Costa Rica. A Technical Team was assembled to perform the fieldwork and elaborate the TAM; members included Norma Parker (Team Leader), Gerardo Berthin (AAA Democracy & Governance Advisor), Yemile Mizrahi (Democracy & Governance Consultant), Patricio Maldonado (AAA Project Director) and four national experts (Alonso Lujambio—Mexico, Manuel Rojas—Costa Rica, Laura Alonso—Argentina and Claudio Fuentes—Chile).

Prior to beginning its fieldwork, the Team reviewed documentation available on political-party finance and conducted interviews with more than 20 Washington D.C.-based experts and representatives of international donor organizations (See Annex 1, List of Interviews), which generated theoretical and technical inputs for the TAM (See Annex 2, Bibliography). Given time and resource limitations, the Team selected four countries that recently had dealt with political-party finance system reforms. These were selected based on several criteria:

- Geographic location—Spanish speaking countries in North, Central and South America);
- Type of political system—federal and unitary;
- History of political-party finance—older and more recent, and
- Characteristics—nature of the oversight entity, public funding methodology and other funding mechanisms.

In February and March 2004, the Team carried out its field research in the four countries, conducting interviews with more than 80 key informants (See Annex 1, List of Interviews) with direct involvement in the planning, design, implementation and regulation of political-party finance, including national experts, legislators, government officials, representatives of political parties, business sector leaders and NGO and CSO representatives.

Political-party finance in this TAM refers to income and expenditures of political parties in election-related and ongoing operational activities. The political-party finance system includes election commissions, control institutions, political parties, civil society, the private sector, contributors and governments that provide public funding.

Recently, the international donor community has begun to address political-party finance. For example, the OAS Inter-American Political Parties forum, which has focused on transparency in political-party finance as a major issue in political party development; the 2003 Carter Center Conference of Hemispheric leaders on Financing Democracy; USAID's *Money in Politics Handbook*, which has spurred several activities in the region, and the International Institute for Democracy and Electoral Assistance (IDEA) handbook on political-party finance, in which an array of relevant data and indicators are presented.

In spite of these efforts, the topic of political-party finance in Latin America is still in its infancy. By focusing on political-party finance, the AAA Project hopes to generate dialogue on institutional reform, generally, and political-party finance development, specifically, thereby enhancing the potential for success of democratic governance. Through these four experiences, one will be able to observe four distinct dynamics, understand each individual political-party finance system and identify key unique challenges. While there are common elements in the four experiences, each is reflective of unique, historical, political and institutional roots.

Through the examination of these four experiences, a basic framework evolves for understanding the dynamics of political-party finance. Rather than being prescriptive, the TAM focuses on the processes involved, in order to identify useful lessons and promote dialogue to establish more transparent, accountable and efficient political-party finance systems throughout Latin America.

II. Context for the Analysis of Political-party finance

A. Political-party finance: Implications for Democracy and Corruption

Achieving sustainable democracy requires that special attention be paid to political parties and party systems. A strong party system can articulate citizen demands, represent interests, provide a means to reach consensus, create a governing majority and offer the electorate a coherent development program that reflects needs and interests. It can also help reduce instability caused by popular dissatisfaction, control demagoguery and provide a framework for consensus building and policy development. In a democratic context, a strong political-party system encourages and promotes accountability and transparency.

Political-party finance is recognized, today, as a key issue in achieving sustainable democracy. In as much as parties need financial resources to be effective, party fund raising is not, in itself, the central problem; undisclosed and unregulated funding is.

Nondisclosure of income sources and how funds are spent threatens the legitimacy of the political process and generates mistrust of democratic processes and institutions. This is particularly relevant in countries where there is ongoing democratic consolidation and why political-party finance systems must be governed by such basic principles as integrity, equity, transparency and accountability, which in turn can reinforce democratic processes and the rule of law.

Weak and non-transparent political-party finance systems can generate adverse outcomes and risks for the overall democratic processes. For example:³

1. An uneven playing field for political participation and significant disparities in terms of resources, can result in an unfair political competition;
2. Unequal access to elected office, can result in political exclusion of key stakeholders;
3. Co-opted candidates and politicians, can generate skewed accountability, as elected officials feel more accountable to those who finance their campaigns than to the electorate, and
4. Politics tainted by illicit funding, patronage and immunity can result in the rule of law being undermined.

The definition of “illegal” political funding will depend on country specific regulations. However, there are funding activities that are generally accepted as being detrimental to ongoing democratization efforts, including: political contributions that exceed legal limits and break existing laws; the use of funds from illegal sources for campaign or political party objectives; unauthorized use of public resources for partisan political purposes; acceptance of money in exchange for a future favor; “purchasing” laws and policies and vote-buying.

Political corruption need not involve an exchange of money; it can also manifest itself in less conspicuous ways, such as granting favors and peddling influence related to an array of public

³ Based on USAID/ODG. *Money in Politics Handbook: A Guide to Increasing Transparency in Emerging Democracies*. Washington, D.C.: USAID/ODG, November 2003.

sector activities, before during and after a campaign. There is a subtle distinction between it and bureaucratic corruption. Bureaucratic corruption, for the most part, involves solicitation and acceptance of bribes and kickbacks for favorable treatment. Political corruption is perpetrated by political-party leaders and elected officials (often in complicity with private sector actors) who, as a result of winning an election are vested with public authority for the purpose of representing the public interest, but serve private interests. Table 1 provides a general typology of corrupt practices in political processes.

B. Key Anti-Corruption Areas in Political-Party Finance

From an anti-corruption perspective, there are four key areas in political-party finance:

1. Measures to regulate party financing, which include bans on certain types of contributions; spending limits on political parties and candidates; direct and indirect public subsidies, disclosure as defined by regulations and enforced through penalties and sanctions.
2. Disclosure of the flow of money in politics related to the candidates and the political parties, including income and expenditures. Disclosure fulfills two important functions—accounting for the money and being held accountable for its expenditure. Disclosure sheds light on the relationship between money and political activities and to a greater or lesser degree defines the demarcation between public and private interests. It helps to strengthen political credibility and build confidence in the democratic process.
3. Enforcement of laws requires independent and effective institutions, appropriate powers of investigation, a competent judiciary and the equitable application of sanctions. Enforcement institutions must be empowered to oversee and control political-party finance. If the enforcement entity lacks the tools to carry out investigations of illegal acts, such as authority to access bank-account information, its effectiveness will be diminished.
4. Stakeholder conduct—A variety of actors play roles in political-party finance systems, including: political parties, business, government, non-governmental organizations (NGOs), foreign donors, journalists and civil society organizations. Each has a role to play in ensuring the integrity of the process.

While there is no perfect political-party finance system, experience suggests that some approaches can be more effective than others in promoting transparency and accountability. The temptation always exists for candidates and parties to seek and use loopholes to circumvent control frameworks. The challenge is to design and enforce a framework that closes major loopholes and addresses irregularities, while not being so cumbersome as to undermine the competition that the system is designed to advance.

Table 1: A Typology of Political Corrupt Practices and their Outcomes		
Practice	Vulnerable Actor/Group	Outcome
Vote Buying	Voters, politicians and candidates	Bribing voters, offering incentives (gifts, food, employment) and vote buying on legislative issues.
Funding from illicit sources	Candidates and political parties	Accepting money from drug traffickers or foreign sources.
Political patronage	Candidates, political parties, government officials, civil servants, party members, the public at large	Bribery, kickbacks, political favors and outright ballot theft involving party loyalists.
Nepotism	Candidates, political parties, government officials and civil servants	Favoritism by officials who appoint friends and relatives to positions in government in exchange for favors.
Selling appointments and access to information	Public servants and candidates	Contributors gain access to jobs, a seat in congress or a post in government.
Abuse/Misuse of public resources	Public Sector, government	Using public resources for political gains such as funding campaigns, companies, organizations and individuals.
Personal enrichment	Candidates and politicians	Contributions to a party's election effort; those with wealth are in a better position to participate in political process and win.
Demanding contributions from public servants	Civil service	Imposing fees for office holders and forcing public servants to become party members.
Not obeying political party finance regulations	Political parties and candidates	Accepting contributions from sources that are prohibited; spending more than the legal ceiling allows; double accounting and reporting and lack of transparent funding.
Contributions for contracts and shaping policy	Private sector	Payoffs in exchange for political support in the form of licenses, contracts and favorable legislation.

Source: Based in part on Transparency International. *Global Corruption Report 2004: Special Focus on Political Corruption*. London: Pluto Press, 2004.

Ultimately, the political-party finance framework cannot be thought of as an end in itself, but rather as means to strengthen the democratic process and build confidence in democratic institutions. There are essential elements that help to define such a system, including:

- Requirements for full disclosure and enforcement agencies with the authority and power to enforce sanctions;

- A framework that does not curtail political parties' ability to aggregate and represent interests;
- Rules and regulations that improve the quality of political competition, level the playing field and strengthen linkages between parties and constituencies, and
- Provisions that support public and private funding of parties and elections.

III. Overview: Argentina, Chile, Costa Rica and Mexico

The four country experiences selected for this TAM are not a representative sample of the Latin American region in terms of political-party finance. However, collectively, they present some of the more institutionalized experiences in the region across a range of governance frameworks. For example, all are presidential systems, but two have federal Constitutions (Argentina and Mexico) and two have unitarian constitutions (Chile and Costa Rica). Costa Rica has the second oldest political-party finance system in the hemisphere. Mexico's political-party finance experience reflects a transition from a one-party to a multi-party system. Argentina's experience features *Poder Ciudadano*, an NGO in the forefront of demanding greater political-party finance transparency and accountability. For the first time, Chile in 2003 introduced legislation that gives political parties direct public funding. Each country faces its own set of challenges

Currently all four countries have experienced or are experiencing reform in their respective political-party finance systems. While all have evolved systems that are financed by public and private contributions, the mechanisms, institutions, actors and outcomes in each are diverse. Moreover, each of the four has a different type of regulatory entity, with varying functions, ranges of responsibility, authority and enforcement mechanisms. Furthermore, they have divergent democratic, economic and corruption indicators (Table 2).

Taken collectively, the four country experiences elaborated in this TAM will contribute to the dialogue on political-party finance reform that is ongoing in the Latin American region by highlighting key reform areas and the challenges that will have to be confronted if reforms are to advance.

In the following pages, the most important features of each of these countries regulatory frameworks are described. After presentation of a general background on each country, the primary regulatory measures, their disclosure provisions and enforcement mechanisms are analyzed, as are the important actors. Finally, the most important challenges each country faces in regulating the flow of money to political parties are explored.

Table 2: Snapshot of Relevant Political-Party Finance Indicators				
	Argentina	Chile	Costa Rica	Mexico
Type of Political System	Federal, bicameral	Unitary, bicameral	Unitary, unicameral	Federal, bicameral
Year of introduction of regulation	1961	1988	1949	1977
Year of most recent reform	2002	2003	1996	1996
Type of Political party finance system	Mixed, public/private with private preponderance	Mixed, public/private with private preponderance	Mixed, public/private with public preponderance	Mixed, public/private with public preponderance
Type of public funding	Direct & Indirect	Direct & Indirect	Direct	Direct & Indirect
Allocation criteria for public funding	Combination of votes cast and equity	Votes cast	Votes cast	Combination of votes cast and equity
Main Regulatory Entity	<i>Cámara Nacional Electoral</i>	<i>Servicio Electoral</i>	<i>Tribunal Supremo de Elecciones</i>	<i>Instituto Federal Electoral</i>
Number of Political Parties represented in Congress	11 political parties/ 13 coalitions (<i>monobloques</i>)	2 coalitions	6 political parties	6 political parties
Presidential Electoral Participation*	79%** (1999)	91%** (2000)	60%** (2002)	64%** (2000)
Parliamentary Electoral Participation*	75%** (2001)	87%** (2001)	68%** (2002)	57%** (2000)
TI Corruption Perception Index (CPI) 2003 (Value 10 is low, 1 is high; 133 countries ranked)	2.5 Ranked 35	7.4 Ranked 114	4.3 Ranked 82	3.6 Ranked 69
GDP per capita (in US\$, PPP= Purchasing Power Parity)***	11,320	9,190	9,460	8,430
% of Population below national poverty line****	55	21	19	32

*IDEA; **Compulsory; **UNDP Human Development Report 2003; ****World Bank and ECLAC, 2003.

A. Argentina

Background

Argentina's political-party finance system is in transition. Law 25.600 of June 2002 established a new legal framework that replaced Law 23.298, in effect from 1985 to 2002.⁴ In large part, Law 25.600 was a response by the government of President Fernando de la Rúa to a highly publicized senate bribery scandal. The government hoped the Law would show the public it remained committed to fighting corruption and help repair its reputation for honesty, which took a battering from suspicions that officials from the de la Rúa administration bribed opposition senators to pass a controversial labor market reform in April 2000.⁵ The new law was meant to make it more difficult for individuals and companies to channel money to politicians in hopes of influencing decisions.

Following Presidential Decree No. 990, in 2002, which vetoed 20 of the original 73 articles in Law 25.600, it was first applied in the April 2003 presidential election. The majority of the vetoed articles dealt with the role of the *Auditoría General de la Nación* (AGN).⁶ Since there was no specialized enforcement entity, Law 25.600 attempted to assign political-party finance enforcement and audit powers to the AGN. However, there was opposition from various sectors of society, including the legislative and judicial branches of government based on constitutional and political grounds. An alternative was to create a new independent specialized enforcement entity, but given the economic crisis at the time, this alternative was dismissed due to cost. Instead federal judges, the National Electoral Chamber and the Ministry of Interior were assigned enforcement responsibilities.

The law, a significant first step toward reform, represents considerable progress over the previous law. Before Law 25.600, there were no regulations establishing limits on contributions or controls over party income and expenses. For the first time in Argentina, a law was passed requiring parties to file reports disclosing income and expenditures. In addition, Article 40 of the Law establishes limits on campaign expenditures for presidential and legislative elections. The limit is based on a formula of 1 Peso (US\$ 0.30 cents) per registered voter in each district. For second round elections, the formula is 0.30 Centavos (US\$ 0.09 cents) per registered voter in each district.

⁴ Article 38 of the Constitution requires political parties to report the origin and expenditure of funds, but does not designate an institution to monitor compliance.

⁵ President de la Rúa was elected, in large part, due his promise to clean up politics after a decade marred by corruption scandals under the previous president. The bribery allegations shook public confidence in the administration and pushed the government into crisis when Vice President Carlos Alvarez resigned in protest of de la Rúa's failure to fire two officials who were involved in the scandal. A federal judge named 11 of the nation's 69 senators as suspects in the case and implied the money for the alleged bribes came from the government.

⁶ One justification for Decree 990 was the assertion that members of the AGN were political and too close to the regime of former President Carlos Menem. Constitutionally, the argument was made that the AGN was an agent of control for government and not political parties, which are not part of government. In Argentina the AGN is a board comprised of seven members elected for eight years. The Chamber of Deputies and the Senate appoint three members each, and the balance reflects the composition of the congress, with the largest party nominating the largest number of board members. The President of the AG board is appointed jointly by the president, the Chamber of Deputies and the Senate.

Most importantly, Article 36 of Law 25.600 places limits on individual and corporate contributions—up to 0.5% and 1% respectively of the political party’s total allowed expenditure. According to Article 36, political parties and their candidates cannot receive private contributions that exceed the difference between the overall expenditure ceiling established by Article 40 and the actual public funding given to the political party. So if the expenditure limit is 23 million Pesos and the amount of public funds received is 1 million Pesos, private contributions cannot exceed 22 million.

The new Law also mandates transparency, by requiring political parties to create separate bank accounts to receive public funds; establishes tax exemptions for private contributions and requires that parties document expenditures with receipts. Foreign citizens and companies cannot make contributions. Law 25.600 also clarifies criminal and administrative sanctions for violations; the latter include reduced expenditure limits for parties and suspension of eligibility of individuals to run for office and parties to field candidates.

Highlights of the Political-party finance System

While the Argentine political-party finance system provides for both public and private funding, in reality, the amount of public funding is small, in absolute terms and as compared to private contributions. Moreover, the growing unregulated number of political parties in Argentina weakens and reduces the potential impact of public funding, which provides funds for direct operating costs and indirect subsidies, such as exempting the assets of parties from taxes and paying for the printing of party ballots.

Political parties in Argentina are eligible to receive two types of direct public funding. The Permanent Party Fund (*Fondo Partidario Permanente*—FPP) allocates funds, 80% of which is distributed proportionally based on the number of seats held in congress and 20% equitably. FPP funds, which are distributed annually, are to be used for party operating costs, including 20% for training. Second, Electoral/Campaign Funds are distributed to political parties 10 days following the official announcement of a candidate—30% is distributed on an equitable basis and 70% proportionally, based on seats in congress.

Funding comes directly from the central government budget and is managed by the Ministry of the Interior.⁷ Under the new law, political parties are required to file financial reports with the designated control entities (Ministry of Interior, electoral judges and the National Electoral Chamber). These reports should include information related to assets, income, expenses and information on donors. It is only after the control entities have reviewed and analyzed the reports that the information in them is made public. Federal judges with the National Electoral Chamber are responsible by law for enforcement and issuing sanctions, when appropriate. As noted earlier, sanctions include losing the right to receive private and public contributions, as well as disqualification from running for office or occupying a public office.

Public funding does not specifically apply to municipal and provincial elections. However, if political parties so desire they can use resources from the FPP and the Electoral/Campaign Fund to fund local and provincial election activities. At the provincial and municipal levels, election

⁷In Argentina, the Ministry of the Interior does not supervise the police as in other Latin American countries. Police report to the Ministry of Justice.

campaigns are indirectly and directly subsidized by private contributions, incumbent governors and mayors. As a result, it is more difficult to monitor transparency and disclosure and impose sanctions for violations of the law.

The Ministry of Interior is responsible for oversight of a new system that provides for publicly subsidized and privately⁸ funded support for media expenses. The system authorizes 90 and 120-second ads during the campaign period. Subsidies for these activities are distributed equally to all political parties. It is estimated that parties spend 70-80 % of their total budget on media.⁹

Key Actors

Political Parties: Even though Argentina historically has had two main political parties, the *Justicialista* (Peronist) Party (PJ) and the *Unión Cívica Radical* (UCR), today there are 41 national parties and 655 parties at the provincial level. Trust in political parties in Argentina is low.¹⁰ An overwhelming majority, including older political parties, is not fully institutionalized and lack paid professional full-time staff and adequate training for party leadership. In theory, all political parties should have a treasurer who is ultimately accountable under the law for political-party finances. The national political-party structure is replicated at the provincial level. Observers note that individuals and business interests are still financing political parties at all levels, despite the law.

Ministry of the Interior: The Ministry manages the voter registration process, issues voter identification cards, maintains the data bank of registered voters and organizes the precincts and the entire electoral process through its National Electoral Directorate.¹¹ The Ministry, under Law 25.600, has full responsibility for managing the FPP and the public funds assigned to electoral campaigns, including the media subsidy. Moreover, the Ministry distributes funds to parties and to the National Electoral Chamber.

Federal Judges: The Ministry of Interior collaborates closely with another control agent, federal judges, who act as electoral judges.¹² There are 24 federal judges (one in each of the 23 provinces and one in the Capital). Their wide-ranging electoral responsibilities include overseeing all aspects of the election process including administration, registration, control and levying of sanctions for irregularities, and receiving and resolving complaints from political parties. In short, they oversee the implementation of the Nation Electoral Law and the new Political-party finance Law (25.600). In collaboration with the National Electoral Chamber, they also oversee the establishment and sustainability of political parties, utilizations of party assets, organization, implementation and oversight of electoral registries and receipt and analysis of financial reports from political parties. Election clerks (*secretarías electorales*) assist judges with administrative and technical matters related to these responsibilities.

⁸There is an indirect limit for private advertising, which is the maximum allowed for total party expenditures. In 2003 for example, the limit was set at 28 million Pesos or about US\$10 million.

⁹Civil society organizations dispute these figures and argue that they are somewhat inflated.

¹⁰According to the 2003 *Latinobarometro*, only 8% of those surveyed said they trust political parties.

¹¹The Ministry was charged with recreating the political party system that was dissolved by the military regimes of the 70's. Part of this process involved the return of titles, land, property, and assets, which had been confiscated by the military regime. The Ministry handled more than 10,000 property cases.

¹² Although required by the law, there are no specialized election judges. Thus federal judges have been assigned electoral responsibilities in addition to their normal duties as first instance federal judges.

The National Electoral Chamber (*Cámara Nacional Electoral*) is another key control entity. It is a specialized organ of the judiciary, composed of three judges selected by the Magistrate Council through a competitive process. The Chamber has a staff of more than 270 to carry out the judicial, administrative and registration functions related to the electoral process.

The National Electoral Chamber has important control functions related to the political-party finance system under Law 25.600 and Law 23.298 of Political Parties. In collaboration with federal judges, it is in charge of the national electoral registry, the national registry of political party affiliation, the registry to verify citizenship and eligibility, and the registry of consulates and registered voters living abroad. In addition, the Chamber maintains a number of registries related to political parties, such as: complaints, issuance of sanctions, party symbols, identification numbers, bank account numbers and names of those in charge of party finances. The Chamber is also charged with publishing the results of its analysis of income and expense reports from political parties that are due to the federal courts 10 days before, and 60 days after elections.¹³ It also acts as Court of Appeals for election issues referred by federal judges and courts.

The autonomy and enforcement capacity of the National Electoral Chamber is somewhat constrained by two factors. First, the Chamber is financially dependent on resources assigned by the Ministry of Interior. Second, in many of its activities the Chamber does not have sufficient autonomy from federal judges.

Civil Society: Civil society organizations, especially *Poder Ciudadano*, have been an important actor in the political-party finance arena. Since 1996, *Poder Ciudadano* has continuously and systematically monitored political-party finances and the election process. It looks specifically at political-party income and expenditures; estimates campaign costs drawing on data from print and electronic media and party reports, and analyzes contributions. *Poder Ciudadano* also has established beneficial partnerships with the media to publish reports and monitor campaign financial activity. In addition to *Poder Ciudadano*, there are a small number of other NGOs and CSOs that are tackling the issue of political-party finance reforms. Without the work of these organizations, the issue of political-party finance would not have received serious attention.

While these CSO initiatives have had some impact on the media, academics and certain politicians, they have failed to mobilize public opinion, or sustain enough demand for more accountability and transparency in the political-party finance system. In the last few years, it has become more difficult to generate support from the media, due in great part to the dire economic problems facing the country and its businesses. The government is said to be helping resolve the financial plight of the media, thus, it is claimed, there is some reluctance among editors and owners to approve negative reporting.

The business sector also is considered an important actor, since many believe it is part of the political-party finance problem and, by extension, part of the solution. There is a widespread belief in Argentina that powerful private interests linked to industry and business are able to capture the state's decision-making process through generous contributions to political parties. Furthermore, there is a sense that business-linked political activities too often evade oversight be-

¹³ Most political parties did not comply with this requirement in 2003. The much-anticipated report for the 2003 elections was to be released to the public in May 2004.

cause they lack transparency. *Poder Ciudadano* has documented businesspeople admitting publicly to contributing to a political party, contributions that have not been reported by the political party in its official expenditure report.¹⁴ Similarly, private contributions have been reported to exceed mandated limits.¹⁵ To date, no sanctions have been imposed.

Interviewees were both supportive and critical of the new political-party finance system. Critics focus particularly on the fact that the Law does not have mechanisms to effectively deal with discretionality and equity issues regarding political-party finance, and does little to re-organize and strengthen oversight mechanisms to reduce enforcement overlap and duplication of functions. Considering that Law 25.600 was enacted only recently and the National Electoral Chamber is just beginning to have the opportunity to oversee and exercise some control of party finances, it is too soon to analyze the Law's impact.

During the field visit, informants were asked to list their primary concerns about the political-party finance system. The list is varied, but reflects areas for potential reform. Strengthening enforcement mechanisms and enforcing the new Law, including imposing sanctions, seems to be the main challenge in Argentina. A summary of the key challenges and areas of concern expressed by informants is presented in Box 1.

B. Chile

Background

Between 1973 and 1989, political-party finance was not regulated in Chile. In 1987, a Law for Political Parties (18603) was enacted that required parties to report their contributions to the Electoral Service (*Servicio Electoral*). The system was intended to be self-regulating. Upon the return to democracy in 1989/1990 there was little debate about political-party finance. The system continued unregulated and was mainly financed with private contributions. The state guaranteed equal access to television only during political campaigns. Because, until recently, there was not public funding and equal access to media was subsidized, political-party finance was not a major issue. In spite of that, seven attempts at reform were made to regulate party financing during this period, but failed until Law 19884 passed in May 2003.¹⁶ The new law will be put to the test for the first time in the October 2004 Municipal elections.

Law 19884 was enacted in response to several events. After the 2000 election, the media (particularly television) and civil society organizations like *Participa*, began to report the growing costs of political campaigns and how entrenched money was influencing politics. Moreover, a couple of well-publicized scandals in 2003, involving the Ministry of Public Works, along with

¹⁴ Delia M. Ferreira Rubio. "La Nueva Ley Argentina de Financiamiento de los Partidos," in Gerardo Caetano, et. al, *Dinero y Política*. Uruguay: Ediciones de la Banda Oriental, 2002 (pp.77-90); and Luigi Manzatti. "Keeping Accounts: A Case Study of Civic Initiatives and Campaign Finance Oversight in Argentina," (mimeo), November 2000.

¹⁵ Poder Ciudadano. "Argentina 2003: Monitoreo del Financiamiento de la Campaña Presidencial," 2003.

¹⁶ The Executive presented draft laws in 1991, 1992, 2000, 2001 and 2003. A group of legislators from the Democratic Christian Party (PDC) presented others in 1994 and 1998. Only one of the seven was even discussed. These attempts were unsuccessful because no political consensus could be reached on whether to initiate a public political-party finance system.

Box 1

Key Challenges and Areas of Reform for the Political-Party Finance System in Argentina

- Political will on the part of political parties to fully comply with Law 25.600, including its enforcement and sanction mechanisms.
- More effective and independent enforcement institutions, to oversee and monitor political-party finance issues, including strengthening the National Electoral Chamber technical and audit capacity or the creation of a new autonomous federal entity.
- Strengthening the accounting and auditing culture across the public and political sectors to increase transparency in reporting on sources of income and expenditures by political parties.
- Reducing the wide discretion afforded control entities in enforcing laws including spending and fund-raising limits, free access to media and imposition of sanctions.
- Reducing overlapping roles and duplication of responsibilities among control entities.
- Leveling the playing field. The system, in theory, incorporates the principles of equity and competition; in practice, it still favors the main political parties.
- Controlling the proliferation of political parties at the national and provincial levels. Measures to reduce the number have not been approved by the executive or legislative branches. An excessive number of political parties is increasing the cost of the system and diluting the resources available to legitimate parties.

Source: Highlights from statements made by informants during field visit, March 2004.

congressional influence in awarding contracts¹⁷ helped to establish conditions favorable to passage of the new Law. Given the enormous role played by private contributions to parties, the two central themes of the new law were to level the playing field and to require, for the first time, public disclosure of those contributions.

For two weeks, a special *ad hoc* legislative committee debated the proposed law, which was part of a larger package of reforms, including an increase in salaries for public-sector employees and a provision to limit the number of political appointees. After heated debate and public discussion, consensus was achieved quickly under pressure from the executive branch and congressional leaders on both sides of the aisle. Much of that pressure was driven by a desire to put in place

¹⁷ The allegation was that government officials had received bribes from a businessman seeking a contract to have a vehicle-license concession. In the case of the Ministry of Public Works, allegations involved circumventing official pay scales by routing funds to an outsourcing firm called Gate, which in turn hired Ministry personnel as consultants and charged extra fees. These events, rare for Chile, contributed to a growing public perception that the entire machinery of government was tainted.

measures that would prevent such scandals in the future, and repair the damage done to Chile's very positive image in the international community.

After the Law was passed, it was sent to the Constitutional Tribunal for review. The Tribunal ruled that the section on sanctions was unconstitutional because it did not provide an appeals mechanism and therefore denied due process. Decision makers felt enacting the law, devoid of sanctions, was better than having no law at all. There was a political agreement that a new bill to deal with sanctions would be drafted at a later date. Currently legislation on sanctions is being developed and should be ready in time to be applied to the 2004 October elections.

Highlights of the Political-party finance System

Law 19884 provides for a mixed system of private and public funding. It introduced for the first time in Chile direct public funding for political parties, applicable to national and municipal elections. Although private funding will remain preponderant, the Law marks significant progress in Chile's political-party finance system, as it makes improvements in seven key areas:

1. Limits on private contributions are set—Individuals and firms can donate up to US\$24,285 to one candidate or up to US\$242,850 to a group of candidates;¹⁸
2. Contributions from foreigners are prohibited;
3. The campaign period is reduced from 150 days to 90;
4. Spending limits are established for campaigns—President, 241,666UF (US\$5.8 million), senatorial, 3,000UF for the first 200,000 voters in the district or about US\$72,000; house of representatives, 1,500 UF or about US\$36,000; mayoral and municipal council elections, 120UF for every registered voter or about US\$3,000;¹⁹
5. More transparency related to private contributions is mandated;
6. Public funding for all political parties is provided—up to 20% of total campaign spending—in an attempt to give parties minimal access to an equal amount of funding to level the playing field²⁰; and
7. A system for reporting political-party income and expenditures is created under the supervision of the *Servicio Electoral*, which has enforcement responsibility. The system requires that contributions be made by electronic (wire) deposit and every candidate to

¹⁸ The amount is in fact expressed in 1,000 “*Unidades de Fomento*, UF.” UF is an index that adjusts the cost of living to inflation in the United States and Chile. It is a tool, which has been used in Chile since the 1970s by the economic teams of the various governments. At the time of the field visit to Chile in March 2004, one UF had a value of about 17,000 Pesos or about \$24 at the exchange rate of US\$1=700 Pesos. Thus the limit to 1 candidate was 1,000 UF or 17 million Pesos (US\$24,285) and the limit to more than one was 10,000 UF or 170 million Pesos (US\$242,857).

¹⁹ Limits are expressed in UF. US\$ estimates are based on calculation based on the value of 1 UF=17,000 or US\$24 at a exchange rate of US\$1=700 Pesos.

²⁰ Political parties do not receive the money directly; the *Servicio Electoral* pays bills submitted by the political parties from private sector service providers. This funding applies to all elections except for president.

have an Electoral Administrator (*Administrador Electoral*) who is ultimately responsible for reporting income and expenditures.

The Law does not regulate collective (bundled) contributions or lobbying, although a new lobbying law is being discussed. The Law does require political parties to strengthen their internal controls by making the treasurer solely responsible for tracking contributions and monitoring the complex formula for limits on campaign spending. The new Law legalizes four types of contributions to parties and requires parties to keep records of each:

1. **Anonymous contributions** are not made public; only the contributor and the recipient know the amount. The party or candidate decides if the contribution is reported in the financial report. There are three restrictions on this type of contribution. Each contribution cannot exceed an amount equivalent to US\$500;²¹ no limits are placed on the number of single contributions. The total amount of such contributions cannot exceed 20% of total expenditures; they are not tax deductible. This type of contribution is the most controversial but it involves relatively small amounts of money because of the restrictions.
2. **Reserved contributions** are given directly to the *Servicio Electoral* in exchange for a certificate that records the amount and name of the contributor. The certificate does not say for whom the contribution is designated. The contributor has the opportunity to designate her/his contribution for a candidate(s) in front of an official from the *Servicio Electoral*. The *Servicio Electoral* then adds up the reserve contributions and distributes them electronically to the designated candidates or parties on a weekly basis. This allows for contributions to be supervised by the *Servicio Electoral*, protecting against potential corrupt exchanges between contributors and candidates and political parties. Under this process, the holder of the name of the contributor is actually the *Servicio Electoral*, which relative to bank secrecy laws has sole discretion on whether or not to make the names and amounts public, voluntarily or on request. Reserve contributions are limited to 10% of total campaign expenditures. This is a very innovative mechanism for overseeing campaign contributions.
3. **Contributions in which the identity of the contributor is made public.** For such contributions, the party must issue a written receipt that records the contributor's name and the amount. The contributions generally are not made public unless there is a request for the information. Such requests can be submitted before, during or after a campaign. There are three conditions under which this type of contribution is made public: if the amount is less than \$500, public disclosure is optional; if the amount falls within the limits of the reserve category, public disclosure is prohibited and names of contributors are maintained by the *Servicio Electoral*; if the contribution is above the limits of the reserve category, public disclosure is mandatory.

²¹ The amount is expressed in 20 “*Unidades de Fomento* (UF).” UF is an index that adjusts the cost of living to inflation in the United States and Chile. Government economists have used it in Chile since the 1970s. At the time of the field visit to Chile, in March 2004, one UF had a value of about 17,000 Pesos or about \$24 at the exchange rate of \$1=700 Pesos. Thus 20 UF is equivalent to 340,000 Pesos.

4. **In-kind contributions and sponsorships** cannot be anonymous or reserved. This is very difficult to monitor since there are numerous ways in which cash contributions can be converted into non-cash contributions (for example, printing flyers, providing food on the campaign trail, making t-shirts).

Key Actors

Compared to political parties in other Latin American countries, those in Chile enjoy relatively high public approval ratings.²² They also tend to be better organized and managed; Chilean parties receive funding from three sources: membership dues, cash or in-kind contributions from private businesses, and contributions from international political party foundations (i.e., Germans). Financial support for political parties at the local and provincial levels is often open to abuse.

Political parties compete under a unique and complex arrangement in which they formalize alliances before elections. Currently, two such alliances exist: *Concertación*, comprised of four left-of-center parties—Christian Democratic Party, Radical Social Democratic Party, Socialist Party, and the Party for Democracy); *Alianza por Chile*, consisting of two right-of-center parties—the Independent Democratic Union and the National Reform Party. This arrangement has existed since the 1990 administration of Patricio Aylwin and has provided political stability during the democratic transition. Before the new Law, since there was no public funding involved, political parties were not obliged to make most of their financial assets public. Today, however, the new Law is forcing parties to be more transparent.

Servicio Electoral—It was established in 1925 and functioned until 1973. It was reinstated in 1988 to manage the plebiscite and continues today as the primary regulatory agency for the political-party finance system. It has a staff of 260 in 13 regions; regional offices have an average staff of six, with Santiago having 24. The director, who is nominated by the president and approved by the Senate, enjoys the confidence and support of all major actors in the system. He has served since 1988 and has an impeccable reputation. The *Servicio Electoral* has responsibility for voter registration, determining eligibility of parties, organizing elections and resolving complaints. To resolve especially contentious issues, the *Servicio Electoral* works with the Electoral Court (*Tribunal Calificador de Elecciones*), composed of four of the five Supreme Court justices.

Under the new Law, the *Servicio Electoral* also has overall responsibility for overseeing political-party finance issues. It has begun to implement the Law and is reasonably confident it can manage the October 2004 municipal elections with more than 7,000 candidates. It is setting up rules, regulations and systems to monitor and analyze party expenditure reports and disburse public funding. The certificate system for reserve contributions has been established and it has been receiving monthly expenditure reports from parties since February 2004. The *Servicio Electoral* also is assisting political parties in strengthening their accounting and reporting systems and will provide training to the newly designated party election accountants relative to their responsibilities for reporting contributions and expenditures.

²² According to the 2003 *Latinobarometro*, trust of political parties in Chile is above the Latin American average.

Civil Society—In the past there has not been much effort by CSOs to track political income and expenditures, but that appears to be changing. More recently, organizations such as *Transparencia Chile* and *Participa* have been working to put political-party finance on the public agenda. *Participa* already has begun to monitor election spending and is planning to expand its capacity to do so before the October 2004 elections.²³ Working closely with the media, *Participa* will compare official reports with those of political parties and publish its findings. While civil society believes the current Law should be strengthened, efforts to mobilize wider sectors of society on the issue are few.

Newspapers in Chile were described as not being consistently impartial and seldom covering political-party finance issues or uncovering illegal behavior. Informants questioned if major newspapers use balanced investigative and reporting practices, especially the two most closely associated with the center right, *El Mercurio* and *La Tercera*. At least one major newspaper said it is planning to more closely monitor political-party finance and implementation of the new Law relative to the October 2004 municipal elections. Weekly magazines, such as *Qué Pasa* and *Siete + 7*, have consistently featured articles on political-party finance, including the scandals in 2002-2003. In contrast to the leading newspapers, television regularly covers political finance issues. Generally, there has been little collaboration between the media and CSOs in the area of political-party finance, although *Participa* is actively looking to change that.

The business community, a key actor in the political-party finance system as a contributor to and beneficiary of the parties and candidates it supports, is usually associated with conservative political forces and generally favors free trade and open markets. Businesses prefer to contribute to political parties anonymously in the form of goods and services, often expecting in return to have ready access to elected officials and receive favorable treatment on such issues as taxation. The anonymity, reserve and in-kind contribution provisions of the new Law were supported strongly by business interests.

Since the first test for Law 19884 will be the October 2004 municipal elections, it is difficult to assess its usefulness or impact. Critics of the Law say expenditure limits are set too high and transparency provisions are not strong enough. Supporters say that even though the Law is not comprehensive, it is a good move in the right direction.

During the field visit, informants were asked to list key concerns about the political-party finance system. Their responses varied, but taken collectively identify areas for continuing reform. Effective implementation of the new Law and the ability to enforce sanctions appear to be their main concerns. A summary of key challenges and areas for reform identified by informants are presented in Box 2.

²³ Chilean CSOs are skeptical of the utility of the new Law, particularly with respect to sanctions, but are taking a wait-and-see attitude of how well it works in the 2004 Municipal Elections, after which there will be ample opportunity to assess its strengths and weaknesses.

*Box 2***Key Challenges Facing the Chile Political-Party Finance System**

- Application of Law 19884 in the October 2004 municipal elections. Public funding for the municipal elections will be approximately US\$13 million with the *Servicio Electoral* paying 80% of this amount to service providers before the elections and 20% to reimburse campaign expenditures after the elections. The immediate question is how the *Servicio Electoral* performs under the new Law, particularly to ensure effective control and accountability of these funds.
- The ability and will of political parties and government officials to agree on a sanction mechanism in time to apply it to the municipal elections. If the new Law is applied without sanctions, its credibility will be seriously weakened.
- More active engagement of civil society on the political-party finance issue. Civil society capacity to monitor campaign spending needs to be strengthened; media should provide more balanced coverage of elections and be more aggressive in making political parties accountable.
- Maintaining Chile's global image as a first-world country with functioning democratic institutions that are relatively corruption free, in part, making adjustments to the political-party finance system to ensure accountability and transparency. If there are signs that political manipulation and irregularities are increasing corruption, direct foreign investment in Chile and trade could be adversely affected.
- There is an ongoing debate in Chile about corruption scandals involving illegal funding for political campaigns. Two immediate effects of the debate have been a weakening of the credibility of politicians and increasing willingness by candidates to disclose campaign finance information.
- Public disillusionment—Three million eligible voters are unregistered. Programs must be developed to register newly eligible voters and those currently unregistered.

Source: Highlights from statements made by informants during the March 2004 field visit.

C. Costa Rica*Background*

Costa Rica has the second oldest system in Latin America to regulate public funding of political parties (after Uruguay). Under the system, which was adopted in 1949 but did not become truly operational until 1956, public funds were given to parties after an election to pay for expenses. Major reforms, passed in 1971, provided that parties would receive, in advance of elections, 70% of the total amount of public funding, calculated on the basis of the percentage of votes obtained in the previous election. In 1991, however, the Constitutional Court overturned the 1971 law and ordered a return to the prior system.

In 1997, the finance system again was reformed, mainly as a result of scandals related to foreign governments (Taiwan, Venezuela, Panama) funding political parties and allegations of illicit funding. The reforms we designed to address concerns about the amount of public funds being used and the increasing numbers of political parties seeking funding.²⁴ As a result, the total amount of funds for elections funding was set at .019% of Gross Domestic Product (GDP)—funds to pay for conducting the elections, supporting election agencies and reimbursing parties for expenses. For the last election this amounted to nearly US\$24 million. The reforms also prohibited foreign contributions and set a party eligibility threshold for receiving public funding of winning at least 4% of the total votes cast in the previous election.²⁵

Highlights of the Political-party finance System

The system in Costa Rica allows for public and private funding of political parties, with the parties receiving public subsidies after an election. Private contributions provide most party funds, especially for primary and municipal elections.

Public political-party finance in Costa Rica involves a complex process for subsidizing election activities. Political parties are constitutionally entitled to a reimbursement of a substantial amount of their campaign costs called *Bonos de Contribución del Estado a los Partidos Políticos* (Bonds).²⁶ Parties are required to submit to the *Tribunal Supremo de Elecciones* (TSE) a budget of estimated campaign expenses eight months prior to the election. The TSE uses this estimate as a reference when approving campaign expenses and the Comptroller General (*Contraloría*) uses it when reviewing party financial reports.

Because parties do not receive the public subsidy until after an election, they are allowed to issue provisional bonds, known as “political debt.” The parties convert these bonds into cash by selling them to wealthy party members, private financial institutions and other investors at discount rates and by borrowing against them.

Political parties do not receive public subsidies for normal operating expenses but only for costs related to elections, incurred during the three-and-a-half month campaign period—organizing, campaign management, advertising, printing and the like. Funds raised from private sources are used to pay for operating and other expenses outside of the campaign period.

During elections, parties must submit to the TSE a monthly report of their actual campaign expenditures, accompanied by receipts for all expenses claimed. The Comptroller General audits the expense reports and submits a reimbursement calculation to the TSE, which issues the payment. If discrepancies or irregularities are found, the parties are given an opportunity to clarify and correct the information. Within 45 days after an election, the public subsidies are paid to the parties, based on the monthly reports submitted. These subsidies are then used to pay off the “political debt” incurred.

²⁴ Some experts argue that the growth of public subsidies for political parties has been nominal. When one analyzes growth in real terms and per capita there is a declining trend. See, Kevin Casas. “Contribución Estatal a los Partidos Políticos en Costa Rica: Apuntes Sobre sus Efectos en la Dinámica del Sistema de Partidos” (Mimeo), 2000.

²⁵ Article 96 of the Constitution and in Title X (Article 176) of the Electoral Code.

²⁶ The state pays interest on the bond during its life, which is two years.

Current law prohibits anonymous contributions to political parties and individual contributions are limited to 45 times the minimum monthly salary, or about US\$35,000. There is no limit on the amount of private funds a party can raise for elections or for general operations, although they must file monthly income reports during electoral periods. During non-electoral periods, parties must file contributions reports quarterly. The TSE is responsible for auditing private contributions.

The political-party finance legal framework in Costa Rica provides for criminal but not administrative sanctions. Under the law, political parties are held responsible for receiving illegal contributions and for accepting contributions from individuals that exceed the legal limit. If violations occur, it is the party treasurer who is held responsible.

Following scandals involving fund raising irregularities, the Constitutional Court ruled in May 2003 that bank secrecy laws do not apply to political party assets. Pursuant to Article 96 of the Constitution, such assets are subject to the principles of transparency. Since then, information on party accounts at state or private banks or any non-bank entity are supposed to be available for public review.

Key Actors

Political parties, as democratic institutions in Costa Rica, are surprisingly weak. Public trust of political parties is below the Latin American average.²⁷ They lack regular sources of income for operating expenses. The public financing system linked to elections has led parties to become election focused, organizing actively and spending freely during electoral periods, but leaving their organizations poorly funded between elections. Party leaders generally do not receive a salary. Often, candidates bring their own organizational and financial structures into the party for the campaign, which encourages parallel financial structures leading to irregularities that are difficult to monitor and control.²⁸

Because parties are reimbursed only for specific activities after elections, they are forced to seek large private contributions or go into “political debt,” during campaigns. Since substantial “public subsidies” are provided for campaign activities, parties feel compelled to spend large amounts of money quickly. There is great temptation to evade the rules since competition is heavy and funds have to be raised up front, pending reimbursement after an election.

The **Supreme Electoral Court (*Tribunal Supremo de Elecciones*)** manages the election process, monitors political-party finance and sanctions political parties for violations. It is an independent entity, not part of the judiciary, composed of three full-time and six substitute magistrates. The Supreme Court, by a two-thirds vote, appoints the magistrates to six-year terms; they can be reappointed. The appointment process is staggered (every two years), so that all nine magistrates are never replaced at one time. The TSE has been more successful in administering fair elections than in auditing and controlling political-party finance. The TSE argues that it does not have the constitutional authority to be more aggressive in regulating political parties.

²⁷ According to the 2003 *Latinobarometro*, only 10% of those surveyed said they trust political parties, while the Latin American average is 11%.

²⁸ There have been several investigations related to parallel financing, including of a former President.

Many observers disagree, arguing that it is a question of political will and modernization of the monitoring system, which has not kept pace with political and economic developments. There is a growing perception that the TSE has grown too close to political parties threatening its objectivity and weakening its will to police them. It is important to note that while the TSE has primary authority and responsibility for administering elections, its control function is shared with the Comptroller General, the Public Ministry (the *Fiscalía General*) and an *ad hoc* congressional committee. This fragmentation of oversight and control responsibility has led to reduced party accountability and transparency.

CSOs in Costa Rica appear to be surprisingly weak. Transparency International Costa Rica is the only organization actively pursuing the issue of political-party finance reform; to date its impact has been limited. When scandals occur, there is no effective voice raised for reform. The media plays an important role in the dissemination of information, especially when scandals are involved. But it has been inconsistent in demanding accountability and there has been little collaboration between media and civil society organizations in the area of political-party finance. The 2002 elections were deemed scandalous due to a whistle blower who revealed that the current president received contributions from foreigners, exceeded contribution limits and failed to report other contributions. This incident reflected the weakness of control mechanisms in the system and the need for its reform.

Businesses and wealthy individuals benefit directly and indirectly from the current system, to which they are major contributors. Political debts often are underwritten by private funding. Private financial institutions buy the bonds from parties at discount rates and lend money to them against the value of the bond. Even though political parties are required to report the name of contributors, it is difficult to access this information and private contributors are not eager to disclose such information voluntarily. Many of the scandals have involved private contributions that exceeded the legal ceiling. Similarly, the media in Costa Rica, which is privately owned, has been known to contribute in-kind to political parties, offering discounted advertising rates.

During the field visit, informants identified their key concerns about the system, creating thereby a list of potential reforms. While there are several issues that should be addressed, most discussion appears to be focused on the amount of public funding for parties and whether that funding should be provided in advance of campaigns, rather than as a reimbursement. A summary of the key challenges and areas for reform identified by informants is presented in Box 3.

D. Mexico

Background

The transition to a multi-party system in Mexico occurred over three decades involving a series of reforms, of which political-party finance reform was an integral part. Beginning in 1963, reforms to political-party finance moved gradually but steadily in the direction of strengthening the party system and formulating some form of public funding. An example is the 1963 Federal Electoral Law that exempted political parties from taxes. A decade later, another reform introduced public subsidies for party postage and telephone expenses and guaranteed political parties limited free access to television and radio during electoral periods. In 1977, the Constitution and the Federal Law of Political Organizations and Electoral Processes were amended to allow direct

Box 3

**Key Challenges Facing the
Political-Party Finance System of Costa Rica**

- Weakened political participation and loss of trust in political parties due to scandals have resulted in high voter absentee rates.
- A methodology needs to be created for subsidizing operating costs of political parties.
- Formulate administrative sanctions of parties and candidates for violations of political-party finance regulations.
- Strengthening political parties organizationally.
- Introduce more effective controls on private funding, including greater disclosure.
- Strengthen the TSE. More clearly define its audit responsibilities and revamp its organizational structure.
- Clarify and expand who is held responsible when parties and candidates violate regulations—the political party, treasurer, candidate, campaign treasurer.
- Redefine the role of the Comptroller General in the political-party finance system.
- Introduce a law on illicit enrichment.

Source: Highlights from statements made by informants during field visit in February 2004.

public funding of political parties. Another decade later, in 1987, a new Federal Electoral Code was approved, which established criteria for allocating public funds to political parties based on votes won in the previous election.²⁹

In the 1990s, the pace of reform accelerated, driven by several factors:

- Increasing lack of credibility of the one-party political system dominated by the *Partido Revolucionario Institucional* (PRI);
- Signs of instability of the country as a result of the 1994 assassination of the PRI candidate, Luis Donaldo Colosio;
- Emergence of the Zapatista revolutionary movement in Chiapas state, in 1994, and
- Formal incorporation of Mexico in the North American Free Trade Agreement (NAFTA).

²⁹Alonso Lujambio, et al., *Dinero y Contienda Político-Electoral: Reto de la Democracia*. Mexico: Fondo de Cultura Económica, 2003.

More than 70 years of one party rule became untenable, even for the ruling PRI party. Political will to introduce more substantive and significant reform was forced by the new circumstances, which called for more transparency and political competition. During the period, political-party finance reform continued to be expanded and public funding refined. Granting generous amounts of public funding to political parties was an attempt to convince the PRI that elections could be won without resorting to illegal diversion of government funds for campaign activities.

In August 1990, the *Código Federal de Instituciones y Procedimientos Electorales* (COFIPE) established a new framework to regulate electoral affairs. The *Instituto Federal Electoral* (IFE) was formally constituted in October 1990, as a result of a series of reforms to the Constitution, approved in 1989.

Electoral reforms in 1993 and 1994 prohibited public entities—national, state and municipal—from contributing to political parties. They also banned contributions by businesses, individuals who live or work outside of Mexico, churches or other religious organizations and foreign enterprises and citizens. Moreover, the reforms stipulated that political parties must prepare and submit, to electoral institutions, a report detailing private contributions and all expenditures. The laws also stipulated that only political parties could buy TV and radio spots, putting an end to such purchases by wealthy individuals and businesses.

Highlights of the Political Party Financing System

In 1996, another round of reforms introduced important modifications to the system, including:

- Established that public funding was to be the predominate means for financing parties and elections;
- Significantly increased the amount of public funding going to political parties;
- Established a formula for the distribution of public funds to parties—70% based on votes won in the last election and 30% equally among the parties;
- Established lower limits on campaign expenditures for president, senators and congressmen;
- Prohibited anonymous and foreign-country campaign contributions;
- Increased publicly subsidized time for television and radio spots;
- Established a permanent Monitoring/Oversight Commission (*Comisión de Fiscalización*) within the IFE that could audit political parties at any time;
- Gave IFE full constitutional autonomy; and
- Established the Electoral Tribunal, as a specialized and final instance to resolve political party appeals to the IFE, in relation to resolutions and sanctions.

As a result of the 1996 reforms, IFE spent 52% of its budget on political-party financing and 48% on its own operations. Total public funding for campaigns grew to an amount in excess of US\$300 million in 2000. Political parties now rely more heavily on public funding for both operations and election campaigns. In 2000, public funding was six-and-a-half times greater than private funding. Nonetheless, private funding has been steadily increasing.

In general, Mexico's reforms have made the political arena more competitive and increased transparency. However, the system is costly. Informants believe the price is worth paying to ensure a peaceful transition to a more competitive party system. For example, in 1994, the PRI received 72% of total public funding, while its political rivals, *Partido de Acción Nacional* (PAN) and the *Partido de la Revolución Democrática* (PRD), received 14% and 3% respectively. By 2000, PRI received 34% of total public funding, while PAN and PRD received 23% and 18% respectively. In terms of transparency, in 2002 for the first time, IFE published on the Internet donor names and contribution amounts for all political parties. Furthermore, in 2000, IFE audited 85% of party financial and contributor reports compared to 16% in 1994.³⁰

In Mexico, public funding of parties is applicable to the federal, state and municipal levels. However, the effectiveness of electoral institutions at the state and municipal levels is uneven. There is a clear lack of coordination between the federal and state levels. Mexico has 33 party finance laws—32 at the state level and one federal—which often overlap relative to what government entity has jurisdiction. Nor do the federal government and states coordinate their election calendars; the result is that parties seem to be continuously involved in one election or another, which dramatically increases the overall cost of elections in the country.

Key Actors

Political parties in Mexico are adequately financed and are developing institutionally. Unlike two decades ago, today there are three main political parties—PRI, PAN and PRD. As in many other countries, public trust in political parties is low, ranking below the Latin American average.³¹ There are growing perceptions that political parties have increasingly lost touch with their constituencies because they are less reliant on their supporters for funds, due to the large public subsidies for operations and elections and, therefore, are less responsive to their needs. The intensity of competition and the existence of an independent enforcement agency and special electoral court have forced political parties to be more accountable and transparent.

Often, political parties maintain large bureaucracies and spend on an array of activities that are difficult to monitor and control. While public financing of political parties created a more competitive environment, small parties are still somewhat at a disadvantage.

IFE is the premier electoral management body in Latin America. It has an enormous budget, is staffed with highly competent technicians and is independent from the executive branch. The IFE is solely responsible for all activities related to organizing and conducting electoral processes, including maintaining the registry of political parties, setting limits on campaign expenses, moni-

³⁰ IFE can only audit information and reports submitted by political parties, but it can request additional information.

³¹ According to the 2003 *Latinobarometro*, only 10% of those surveyed said they trust political parties, while the Latin American average is 11%.

toring election expenditures, defining and establishing sanctions and designing and implementing civic education programs.

Since its creation in 1990, the IFE has evolved into a complex but efficient organization. It has policy, executive, technical and monitoring and evaluation bodies. The General Council, presided over by a president, is the main policy body. There are 32 local councils (one per state) and 300 district councils (one per single-member district).³² The General Council is made-up of nine members who have the right to vote and by members who have the right to advise but not to vote, such as: legislative councilors, representatives of national political parties and an executive secretary. The Chamber of Deputies, by a two-thirds vote, elects council members to serve seven-year terms.

Selection of IFE councilors is not completely independent of the political parties. The 2003 election of councilors was particularly heated because the PRI and PAN held enough seats in the Chamber of Deputies (more than two-thirds) to control the outcome and exclude PRD from being a factor. In contrast, in 1996, the three parties had to reach a compromise because no combination of two could achieve the two-thirds majority required. There is growing support to make the selection process staggered so that all nine councilors do not turn over at the same time. This would guarantee more continuity in IFE, as well as more independence and autonomy.

The IFE also has a General Executive Board, which is the main administrative and technical body, made up of the President of the General Council, the Executive Secretary General and six executive committees with responsibility for: the federal register of voters, electoral organization, professional electoral services, electoral training and civic education and administration. The sixth committee, on party financial control, audits the parties' annual income and expenditure reports and their election income and expense reports. It also investigates violations it uncovers or those alleged by political parties and citizens.

In the last five years, the IFE has imposed heavy sanctions for irregularities on a majority of the parties, including the major ones. For example, in 2003, the PRI was fined US\$100 million for illegal use of public resources for political ends (PEMEXGATE case); the PAN and the Green party were fined US\$55 million for failing to report private contributions (*Amigos de Fox* case). More recently, in April 2004, IFE penalized several parties for violating campaign cost ceilings. The PRI was fined US\$8 million, the PRD US\$5 million and the Green Party US\$1.5 million.

Electoral Court (*Tribunal Electoral del Poder Judicial de la Federación*): While IFE serves as the main administrative body for elections, the Electoral Court is the special judicial organ. An established entity in the judicial branch, it mediates disputes between the IFE and political parties; its decisions are final and cannot be appealed. The Electoral Court consists of a Superior Court, composed of seven judges selected by the Senate (Nominations are made by the Supreme Court), and five Regional Courts (in accordance with the five pluri-nominal districts). Since 2000, the Electoral Court has declared the winner of the presidential elections.

Civil Society in Mexico has played a critical role in reforming the Mexican system, particularly in the 1990s. Less visible and influential has been its role in monitoring political parties and their

³² Unlike the General Council, which holds regular meetings, local and district councils only meet during electoral periods.

finances, since this is a primary role of IFE that is fulfilled rather successfully. There are several CSOs, such as *Alianza Cívica* that are actively monitoring the impact of reforms and advocating greater accountability and transparency in the system. To be successful, these organizations need greater access to information and increased capacity to analyze this information and use it to develop and present specific reform proposals. CSOs and the media do not collaborate to any great degree. The media is perceived to be a key beneficiary of the political-party public subsidy model, since parties spend enormous amounts of funds on political advertising.

Business and the private sector: While public funding has reduced the dependency on private contributors, particularly at the federal level, parties and candidates still solicit contributions from private sources, the list of which the IFE now makes public. Contributors can use checks or traceable wire transfers to contribute; cash and anonymous contributions are prohibited.

To be more effective, the IFE should have access to bank, tax records and company reports; bank secrecy remains an obstacle to enforcement. Anonymous and other types of illegal contributions from businesses still take place, but there are more mechanisms in place to discourage them and growing disenchantment with them. In fact, private sector organizations such as COPAR-MEX are encouraging more transparency among businesspeople in dealing with parties and government institutions.

During the field visit, informants were asked to list key concerns about their political-party finance system. Recent scandals involving irregularities in political-party finance³³ and intensive debate about additional electoral reforms have put the issue at the forefront of public dialogue. Giving the IFE additional tools to oversee campaign finance, empowering it to regulate political advertising and media coverage and reducing the amount of public funding, are but three of the more contentious issues. A summary of the key challenges and areas for reform mentioned by informants is presented in Box 4.

³³ For example, the PEMEXGATE scandal that involved illegal use of public resources to fund the PRI; the *Amigos de Fox* that involved unreported private funding by PAN and the Green Party; and, more recently, a PRD video scandal.

*Box 4***Key Challenges for the Political-Party Finance System in Mexico**

- Electoral authorities do not have ready access to key sources of information, such as bank account and tax information. Bank secrecy prevents full audits of political-party finances. IFE, however, is able to obtain banking information on a case-by-case basis, with an Electoral Court order.
- Election campaign periods are too long and primary elections are not regulated.
- NGOs and foundations supporting candidates fall outside of IFE oversight.
- The Freedom of Information Act does not include political parties within the scope of the law. As such, political parties are not required to disclose information to citizens.
- IFE cannot sanction parties that have lost their official registration; responsibility should be given to federal and state agencies to hold them accountable.
- Large public subsidies to parties gives the media a financial stake in opposing efforts to empower the IFE to establish some limit on media costs or allow only IFE to buy time.
- Additional reforms are needed to give the IFE more autonomy, particularly in selecting General Council Members.
- Sanctions should be established for candidates, in addition to political parties, especially related to violating spending limits.

Source: Highlights from statements made by informants during the February 2004 field visit.

IV. Dynamics of Political-Party Finance**A. Characteristics and Trends**

Political-party finance, more often than not involving large sums of money, is a critical component of good democratic governance. In fact, it has been said that money is the mother's milk of politics. But money, when unregulated, can sour the political process, by excluding those who do not have access to it, compromising public officials, subverting rule of law and generally undermining the public's faith in democratic systems.

As was described in the previous sections, political-party finance can take many forms and generate different outcomes. Clearly, political-party finance systems are a product of a unique set of political realities in any given country. There are no ideal models. Each of the four country experiences presented reflect a different rationale for putting into place legal and regulatory frameworks for controlling the flow of private and public contributions (Table 3).

Table 3: Snapshot of Relevant Characteristics of Political-party finance Systems

	Argentina	Chile	Costa Rica	Mexico
Direct Public Funding	Yes	Yes, mainly for services rendered	Yes, in the form of bonds reimbursed after elections	Yes
Scope of Public Funding	Only Federal	National and Municipal	Only National	Federal, State and Municipal
Indirect Public Funding	Yes (Telephone)	Yes (Media Access)	No	Yes (No Taxes)
Public funding for Operational Activities	Yes, but in reality seldom occurs	No	No	Yes
Public Funding for Training	Yes, but in reality training seldom occurs	No	No	Yes, in Particular relevant for the larger political parties
Free Media Time for Political Parties and Candidates	Yes, equally with some restrictions	Yes, equally to all political parties	No	Yes, equally to all political parties
Main Regulatory Framework	Constitutional, Electoral Code (Código Electoral) and <i>Ley de Financiamiento de los Partidos Políticos</i> (Law 25.600)	<i>Ley sobre Transparencia, Limite y Control del Gasto Electoral</i> (Law 19884)	Constitution and Electoral Code (<i>Código Electoral</i>)	Constitution and COFIPE (Federal Electoral Code)
Do Political Parties have to Disclose Contributions? If Yes, do they?	Yes/No	Yes/No	Yes/Yes, some do directly to the TSE	Yes/Yes, to IFE
Does Main Enforcement Agency Disclose Contributions to the Public?	No	Yes, on request	Yes, on request	It has been doing so on the Internet since 2000
Do CSOs monitor information on contributions to political parties?	Yes, estimates from unofficial sources and using own calculating method	No, but are beginning to think of strategies in the context of the new law	No	No
Limits on Private Contributions	Yes	Yes	Yes	Yes
Expenditure Ceiling	Yes	Yes	No	Yes
Sanctions	Penal and administrative	Currently being drafted	Penal only	Penal and administrative
Is there a Law on access to Information	Under consideration	Yes, but ambiguous	Under consideration	Yes

The objectives of the reforms were diverse—fostering transparent and accountable political parties; limiting private contributions; increasing and strengthening political competition. Yet, in regulating the flow of money to political parties, all four countries have been compelled to respond to similar challenges related to establishing the appropriate mix of public and private funding, designing mechanisms to regulate, control, and disclose private contributions and campaign expenditures, creating oversight institutions and devising appropriate enforcement mechanisms. Some experiences have been more successful than others; none of the countries, however, is without problems that still need to be addressed (Boxes 1-4).

The influences that determined success or failure of reform efforts were also diverse. Political will and leadership, effective and engaged CSOs, autonomous enforcement institutions and the synergy and articulation of the judicial and political elements of the systems are just a few of many factors that contributed to successful reforms. The scope of political-party finance will continue to be a subject of debate because the amounts of public financing and the effectiveness of regulations and sanctions are still evolving in each country.

Political-party finance regulations and the degree to which they are effectively implemented and enforced vary from country to country. The USAID *Handbook on Money in Politics*³⁴ lays out six main approaches to controlling political-party financing: contribution limits, contribution bans, spending limits, limits to the length of the campaign period, public disclosure and public financing (Tables 4 & 5). In the four countries examined, all six approaches were being applied in various combinations and are working with varying degrees of effectiveness. In the least successful cases, all too often, laws and regulations adopted sought to achieve desirable objectives but failed to provide for effective implementation and enforcement.

With or without regulations (and even with public financing), candidates and political parties found ways to raise additional financial resources, the use of which was not covered by the established limitations. Money flow into the political arena can be compared to water flowing from mountains into rivers and streams. “If one riverbed is blocked, the water flow will find a new course for itself.”³⁵ This observation suggests that oversight systems must have the capacity to adjust quickly to changing circumstances, in order to effectively regulate the flow of monies into party and candidate coffers. Systems in the four countries studied vary in their capacity to do this.

In all four cases, corruption of varying degrees could be found in the systems. Regulations, by themselves, cannot control corruption. Control is achieved when authorities take effective actions when illegal contributions, unreported expenses or other violations of laws are discovered. Mexico provides a good example of how parties were effectively sanctioned for accepting illicit contributions. Carefully drawn legislation must be accompanied by feasible and appropriate enforcement mechanisms administered by officials with the political will to use them. The case of Costa Rica demonstrates that the ineffectiveness of its enforcement system has more to do with lack of political will to uphold existing laws than to the absence or inadequacy of its regulations.

³⁴ USAID/ODG. *Money in Politics Handbook: A Guide to Increasing Transparency in Emerging Democracies*. Washington, D.C.: USAID/ODG, November 2003.

³⁵ Michael Pinto-Duschinsky. “Financing Politics: a Global View,” *Journal of Democracy*, Vol. 13, No. 4 (October 2002).

Table 4: Primary Disclosure and Contribution Provisions

	Argentina	Chile	Costa Rica	Mexico
Amount of Public Funding	US\$8 million in 2003, which includes subsidies to political parties and resources for main electoral bodies	None as of 2003 New law establishes public funding at 20% of total campaign spending; in the municipal elections of October 2004, public funding will amount to about US\$13 million	0.19% of GDP Total expenditure in 2000 electoral process was about US\$24 million amount includes both private and public funding	US\$300 million in 2000; US\$480 million in 2003
Threshold for Disclosing Single Private Contributions	All contributions have to be disclosed Anonymous contributions are prohibited by law	US\$500	Anonymous contributions are not prohibited but contributions from foreigners are. Political Parties must make all contributions public. However, the means for monitoring and controlling disclosure is unclear and needs two-thirds approval from Assembly	Anonymous contributions are prohibited by law; All contributions must be disclosed Contributions by party members or supporters cannot exceed 10% of total public funding. Each party is responsible for setting its own membership fees
Ceilings on Private Contributions	<u>Individuals</u> 0.5% of party's total allowed expense <u>Corporations</u> 1% of party's total allowed expense Political parties cannot receive private contributions that exceed the difference between the expenditure ceiling and actual public funding they receive	Anonymous contributions (up to \$500 USD) cannot exceed 20% of total expenditures Reserved contributions cannot exceed 10% of total expenditures	45 times minimum monthly wage (approximately US\$35,000, for both individuals and companies)	Single Private contributions cannot exceed 0.05% of total public funding; In 2000, this amount was equivalent to US\$75,000; In 2003, the amount was US\$120,000 A party may not receive private funding in an amount that equals or exceeds public funding

Table 4: Primary Disclosure and Contribution Provisions (continued)

Ceilings on Total Campaign Expenditures	Ceiling varies each electoral cycle. The limit is based on a calculation that sets a cost of 1 Peso (US\$ 0.30 cents) per registered voter in each district (this is applicable to both presidential and legislative elections). For second round elections the calculation is based on 0.30 Centavos (US\$ 0.09 cents) per registered voter in each district Expenditures must be disclosed to the National Electoral Chamber, which makes the information available to the public	Limits are established for presidential, legislative, mayoral and municipal campaigns Expenditures must be disclosed to the <i>Servicio Electoral</i> . Contributions above the limits of the reserve category are made public	None	Ceiling varies each electoral cycle In 2000 election, ceilings were established at US\$51 million for presidential candidate and US\$ \$77,000 for a candidate to the federal legislature Expenditures must be disclosed to the IFE. The information is made public
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Public funding, while it can be effective in reducing the level of dependence on private contributions, does not prevent political parties from collecting illegal or legally non-regulated contributions. One control that does work is the requirement that candidates and parties disclose information on donors, income and expenditures when they are recipients of public subsidies. Thus public funding becomes a lever for greater transparency and accountability, when parties face a reduction in their subsidy for noncompliance with applicable laws.

Regulations and subsidies for reforming political-party finance systems can have varying objectives. A system designed to control corruption in the funding of political parties is likely to be different from a system that seeks to level the playing field and ensure more political competition. For example, if control of corruption in political-party finance is the main problem to resolve, then more emphasis is placed on limits, disclosure and sanctions. If, on the other hand, the main problem is unequal competition, then more weight is placed on increasing the level of public funding to all parties. Chile and Mexico provides examples of the latter approach.

Table 5: Regulatory Frameworks for Political-Party Finance

	Argentina	Chile	Costa Rica	Mexico
Main Oversight Agency	<p>The Federal Justice with electoral competence; the National Electoral Chamber (a specialized organ of the judiciary) and a group of auditors within the National Electoral Chamber</p> <p>The Ministry of the Interior, responsible for disbursing public funding</p>	<p><i>Servicio Electoral</i> is responsible for overseeing political-party finance. It monitors, analyzes and verifies information provided by political parties</p> <p><i>Servicio Electoral</i> works closely with electoral administrators in each party</p>	<p><i>Tribunal Supremo de Elecciones</i> and <i>Contraloría</i> are responsible for verifying expenditures</p> <p><i>Contraloría</i> authorizes reimbursements to political parties</p> <p>The <i>Tribunal Supremo de Elecciones</i> and the <i>Contraloría</i> are responsible for overseeing private contributions and sanctioning parties for violations of laws</p>	<p><i>Instituto Federal Electoral</i> is responsible for checking private contributions and expenditures. It also establishes sanctions for violations of political-party finance regulations</p> <p>Disputes between IFE and political parties are resolved by the Federal Electoral Tribunal</p>
Main Instruments of Control	<p>Single bank accounts for public funding</p> <p>Reports on contributors</p> <p>Receipts for expenditures</p> <p>Civil Society has monitored media expenses</p>	<p>Certificate systems for reserve contributions</p> <p>Electronic deposits</p> <p>Monthly expenditures reports</p> <p>Direct reimbursement for expenses</p>	<p>Budget and receipts for expenditures in order to be eligible to obtain public subsidy</p> <p>Monthly reports during electoral period</p> <p>Civil society monitors media expenditures sporadically</p>	<p>Single bank account for political parties</p> <p>Receipts for expenditures</p> <p>Monitoring expenditures on radio and TV</p>
Main Enforcement Mechanism	<p>Single bank accounts for public funding</p> <p>Report on donors</p> <p>Receipts for expenditures</p> <p>Monitoring of media expenses has been done by civil society</p>	<p>The Constitutional Tribunal removed the section on sanctions from the new law due to lack of due process. New legislation on sanctions is being drafted</p>	<p><i>Contraloría</i> can refuse to reimburse parties for expenses not properly justified</p> <p>Only penal sanctions are established for violations of the electoral law</p> <p>Extremely hard and costly to enforce. Moreover, political parties, by definition, cannot go to jail</p> <p>Limits to private contributions are not enforced in practice, although the Tribunal has the responsibility to oversee these contributions and to sanction parties if violations occur;</p>	<p>Fines are established for illegal or unreported contributions at two times the amount of those contributions</p> <p>Fines can be discounted from future public funding</p> <p>IFE is in charge of administering the sanctions;</p> <p>In case of criminal behavior (embezzlement, deviation of funds, etc.) IFE turns the case over to the <i>Procuraduría</i></p>

B. Elements of a Political-Party Finance Regulatory Environment

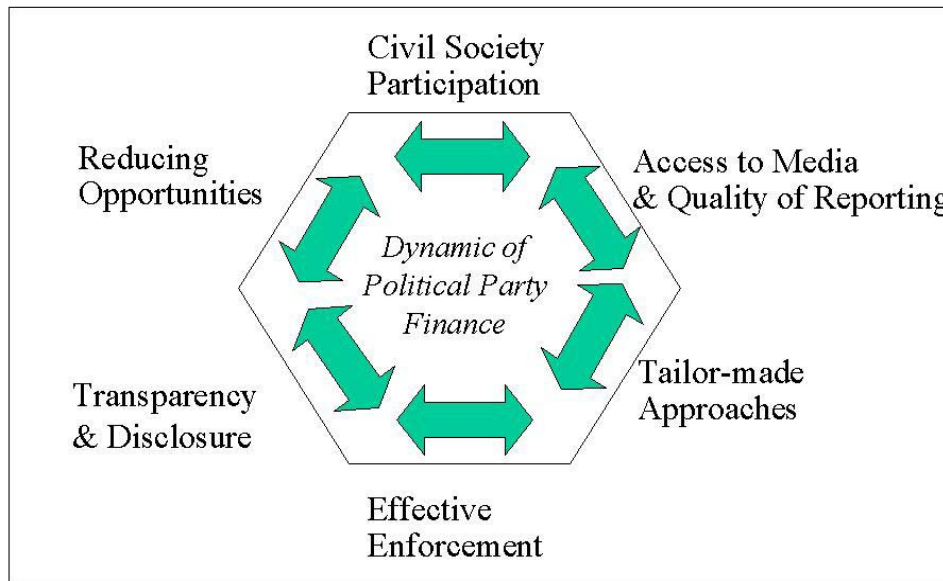
Integral to effective political-party finance systems is a stable regulatory environment, involving political, economic and social dimensions. As illustrated in Figure 1, six areas must be addressed.

1. Reducing Opportunities for Political Corruption in Electoral Processes and Government

Money buys influence in politics. When individuals or businesses contribute to a political party or a candidate, they often expect something in return—contracts, preferential treatment, policies favoring personal interests and jobs. To reduce political corruption, citizens should demand transparency and ethical conduct and political parties, as institutions integral to democratic governance, should be willing to provide it.

Similarly, control institutions must establish credibility by selecting leadership through transparent processes and by carrying out their mandates with integrity and transparency. Such institutions must develop their internal capacity to monitor, audit and, if necessary, investigate aberrations in the system when they occur.

Figure 1: Critical Policy Areas for Political Party Finance



Also essential is the passage of effective laws that address transparency and accountability in influence peddling (lobbying) and confront conflict of interest activities. Citizens must be given tools by which they can participate in public dialogue leading to policy development, including freedom of information laws, public hearings, town hall meetings and other input mechanisms.

At the heart of any effort to reduce opportunities for political corruption is, of course, the political parties themselves. Underdeveloped political parties that are nothing more than campaign machines are a threat to sustainable democracy. Such parties do not represent the inter-

ests of citizens, but pursue practices designed to ensure their own power, often to the detriment of citizen interests. It is clear that political party-strengthening activities are needed and would be welcomed by many parties.

The proliferation of small political parties, the goals of which are solely to secure public subsidies, must be addressed by establishing participation thresholds and other registration criteria. Violations of established criteria should result in administrative sanctions and, if egregious, in criminal penalties related to fraud.

Means also must be found for strengthening political parties at the local level, including providing operating funds. Often, political-party finance laws are applied unevenly, if at all, at municipal and state levels, increasing opportunities for illicit funding and capture of elections and, ultimately, governance by special interest. Sanctions, be it at the national or local levels, should be imposed on party leadership responsible for illegal activities and not just on the party. Parties do not violate laws; individuals who lead them do.

2. Promoting and Implementing Transparency and Disclosure

Disclosure and enforcement are critical to ensuring transparency in political-party finance systems. Laws with sanctions are important for building desire in parties and candidates to disclose income and its sources and expenditures.³⁶ Independent agencies with the authority and capacity to collect, analyze, audit and make such information public in a timely, user-friendly format, closes the accountability loop resulting in transparency.

Access to information through freedom of information laws and other disclosure mechanisms are essential for an accountable and transparent system to function. Beyond the laws themselves, disclosure is still a major problem for many reasons: data is not disaggregated and is often reported in formats that are difficult to analyze; even when information is provided it is not easily accessible by the public; control institutions often are under-funded and understaffed; parties and candidates do not meet reporting deadlines and control agencies are slow to issue public reports.

Legislation that permits wide discretion in its application also is a threat to the legitimacy of political-party finance systems. Such legislation creates loopholes, ultimately facilitating the impunity it is supposed to reduce.

3. Enforcement

Laws are a means to an end. They are effective only when enforced. Overlapping laws provide refuge for those who choose to evade them. Laws must be carefully crafted to address deficiencies in the political-party finance system that will undermine confidence in that system. Control agencies, including courts and other elements of the justice system, must enforce laws evenly and universally, not only at the national level, but also at state and local levels. They must have the authority and responsibility to carry out their mandate and sanction those who attempt to avoid compliance.

³⁶ USAID/ODG. *Money in Politics Handbook: A Guide to Increasing Transparency in Emerging Democracies*. Washington, D.C.: USAID/ODG, November 2003.

4. Finding a Tailor-made Approach to Political-party finance

Political-party finance systems must be responsive to the unique set of experiences that define the electoral environment in a country. Contemplated reforms must be debated publicly and vigorously through inclusive, not exclusive, processes. While some countries might require a substantial public subsidy for political parties, others may need only to provide partial subsidization. In designing a political-party finance system, several factors should be considered. For example, public subsidy is not a remedy for corruption. Political parties will be generally supportive of public funding, while citizens will be suspicious. The amount, methodology and scope of public funding are issues that need broad political and social consensus and support.

All possible mechanisms for providing financial support to political parties should be explored, including:

- Party membership fees;
- Small individual contributions;
- Business contributions in cash and services;
- Direct public subsidy, pre and post election;
- Indirect public subsidy paid directly to media outlets for campaign advertising, based on negotiated rates;
- Public subsidy of operational as well as campaign costs, and
- Media making free airtime available during elections.

Along with other issues related to political-party finance systems, consideration of the full range of funding options will energize public debate and ensure that all possibilities are considered. As with any type of reform, there will be winners and losers, but conducting a vigorous public dialogue should increase the acceptance of the final decisions arrived at, thereby strengthening support the system put in place. Other important issues that should be addressed include the following:

- Does the control agency envisioned have the clear authority it needs to carry out its mandate? Are its resources sufficient?
- Who chooses the leadership of the control entity(s) and how? What voice do political parties have in policy decisions made by the control institutions?
- How much autonomy does the control institution have?
- What mechanisms will enable the control institution to adapt and respond to new corruption practices?
- Are there overlapping responsibilities among control institutions?

- Do the control entities have the capacity to audit and analyze information provided to it?
- Are sanctions administrative, criminal or both?
- Who at the party and candidate level is responsible for the accuracy and completeness of information provided to the control agency and who is responsible for violations of political-party finance system laws?

5. Media Access and Quality of Reporting

Electronic media, particularly television, has taken center stage in election processes around the world, including in Latin America. As newspaper circulation continues to dwindle, television has become a key medium for news and reaching mass audiences. Media owners in Latin America historically have been significant actors in the political arena, often aligned with one or the other political interest, using the “power of the press” to push a political agenda. When media ownership is closely associated with political factions, the independence and objectivity of reporting is adversely affected to the detriment of the public good.

But this is changing in some countries, as global corporations are buying national and regional media outlets—newspapers, radio and television. In some instances, these new owners are recognizing that where the political status quo prevails, markets are constrained, thereby limiting economic growth and, ultimately, their profitability. Even local ownership, in some cases, is coming to this realization. Where this enlightened perspective prevails, the media is becoming more aggressive in addressing corruption issues, adding significantly to the public dialogue on what should be done to increase the accountability and transparency of government and the political process.

In the context of democratic politics, parties have come to rely more and more on media as a means to connect with constituencies and potential voters. Therefore, access and quality of reporting have become key issues.

Relative to political-party finance, the media has a key role to play in two areas. First, as an advocate or greater transparency, characterized by investigative reporting and editorial policy that supports effective reforms. Where the media has established a partnership with CSOs, they have been able to effectively exercise a kind of public oversight of political processes. By pressing for passage of freedom of information laws, they are helping to ensure that bureaucratic and political interests do not hold citizen rights and interests hostage.

Second, because parties spend the bulk of their funds on advertising during elections, equitable access to media, the pricing of airtime and the degree to which pricing structures are made public are important in leveling the playing field for all political parties and keeping campaign costs within reasonable bounds. Standards for achieving balanced media coverage must be established by media outlets. Ideally, the media should be non-partisan in its reporting and support investigative stories on corruption, illegal fundraising and inappropriate use of party and candidate funds. Journalist training in these areas is needed.

6. Civil Society Participation

Civil society can focus public attention on weaknesses of a political-party finance system and the deleterious affects it has on the credibility of political parties and democracy in general. If the current system is not the problem, civil society can monitor enforcement of current laws and regulations and verify whether parties and candidates are reporting accurately on contributors, funds raised and expenditures. Most CSOs appear to need to increase their technical capacity to analyze the reports and other information provided by political parties and published in the media. Establishing partnerships with journalists would also increase the impact of CSO initiatives.

V. Lessons Learned

The AAA Project anticipates that this TAM will serve as a useful tool for donors, government officials, political party leaders and civil society in countries that have begun to address challenges related to political-party finance reform and in those that are about to do so. Following are insights and lessons derived from the examination of systems operative in the four countries that make political-party finance reform and its implementation a complex multidimensional process.

A. Donor Engagement

There is increasing awareness of the link between political-party finance and the corruption that is feeding public distrust of political parties, central actors in the political dynamics of countries. The international donor community is beginning to pay greater attention to this component of national life; studies on the influence of money in Latin America politics are beginning to be produced. In addressing corruption, the role of political-party finance must be high on the list of reform targets, because of its centrality to overall development and governance.

It is clear from the study of the four countries, that the international donor community has role to play in supporting political-party finance system reform, including providing training in auditing and accounting for control entities, assisting in drafting freedom of information laws and strengthening other oversight mechanisms, such as training investigative journalists.

Moreover, the donor community, in bilateral discussions, can play a critical role in raising awareness of the linkages between political-party finance systems and broader problems of corruption and governance in Latin America.

B. Funding Levels

As electoral environments become more competitive, political parties (and candidates) face the need to raise more funds for campaign activities and operations. Campaign costs continue to rise dramatically, largely due to an increase in the number of elections and political parties and the increasing use of electronic media advertising and polling. Parties require non-election operating funds if they are to function as institutions that respond to voter priorities and develop the professional leadership, management and staff required to reach maturity.

Too much funding and inadequate funding can both be problematic. Too much funding from private or public sources leads to waste and, often times, abuse of the system. Inadequate funding inhibits the development of professional party organizations and tips the competition scale in favor of those whose particular expertise is courting contributors with *quid-pro-quo* promises.

Balancing party institutional needs with the wider public interest of more political representation and less corruption is the challenge. In Latin America, where poverty levels and economic inequality are high, finding an appropriate balance between the two is paramount.

C. Public vs. Private Funding

There is no clear trend in the Latin American region favoring either public or private funding. Some countries are placing more emphasis on direct public funding, while others are pursuing a more balanced approach between public and private.

Public funding for political parties—either direct (monetary subsidies) or indirect (tax benefits, access to free media, use of state-owned buildings for political activities, free mail and telephone)—stems from the recognition that political parties are important institutions to a democracy, public-interest entities worthy of public support. Public funding helps to level the political playing field, ensures that diverse voices are heard during elections and provides an opening for marginalized populations to participate.

With public funding, parties theoretically have less need to rely on private contributors (wealthy individuals, organized crime, businesses) and to make promises in return for their financial support. But the reality is that even with public subsidies, parties raise additional funds from private sources, sometimes considerable amounts. One beneficial outcome of public funding has been the requirement for parties to report to a control entity the sources and amounts of private funds raised and the details of all campaign expenditures.

Systems in which political parties are privately funded must institute measures to make parties accountable for the funds raised and expended. There is also a benefit to setting a limit on the total amount that a party or candidate can spend on any given election campaign, to moderate the overall influence of fund raising on the outcome and help level the playing field.

Because of the multitude of campaign scandals related to campaign fund raising across the region, the public has grown cynical about political parties and the role they play in the democratic process. If not addressed, this could lead to less and less voter participation and the eventual crumbling of the central mechanism for choosing countries' leaders.

Regardless of the financing system chosen, countries must develop oversight entities that instill transparency and accountability into the financing process, including substantive sanctions for those who would circumvent the system.

D. Regulation and Disclosure

Whether it is because of lack of political will and or insufficient technical expertise, the operational efficiency of political-party finance systems is often inefficient and unprofessional. Legal frameworks, which often are of high quality, are simply not operationalized in a way that yields the intended results.

When developing regulations, the challenge is to make them comprehensive enough to achieve desired outcomes, but not so complex as to make them burdensome. (Unnecessary complexity often results in confusion and noncompliance.) They should also be unambiguous and consistent.

Major loopholes need to be closed but minor loopholes can be tolerated in the interest of efficiency and to avoid over regulation.

Political-party finance regulations should be developed keeping in mind key principles for advancing democracy:

1. Parties should be permitted to form coalitions to encourage community consensus;
2. Free speech should be protected;
3. A level playing field is essential for equitable participation, and
4. The system should facilitate and encourage public participation.

Sanctions for violations of regulations should be fair, unambiguous and appropriate for the seriousness of the violation. Disclosure information should be collected and aggregated in user-friendly formats to facilitate analysis and to encourage civil society and journalist use of the information.

E. Control Institutions

Control entities can encompass a variety of actors—judges, electoral courts and commissions, comptrollers general and specially created agencies. To be effective, control institutions must be independent and have the financial resources and technical capacity to formulate and administer regulations and carry out the oversight and other activities assigned to them. They must be able to administer, investigate and institute proceedings when laws and regulations are violated and be empowered to forward cases to prosecutors or another appropriate agency when criminal activity is suspected.

To encourage transparency and accountability, they should be required to issue regular reports on their oversight activities and to make public, in user-friendly formats, the information submitted to them by political parties and candidates in reports on campaign contributors, total income and expenditures. Legislation defining the responsibilities and authority of control agencies should be especially attentive to avoiding assignment of overlapping jurisdictions to multiple agencies.

There is no model or trend in the region for enforcement agencies. In some cases there are specialized entities; in others, responsibility is assigned to preexisting agencies. The process of creating a political-party finance system and its oversight entity(s) should involve spirited public dialogue that embraces all stakeholders—government officials in all branches, party leaders, academia, business, journalists, think tanks and civil society. Making this process as transparent as possible will help to ensure that the system evolved has a community of support that will enhance its credibility and, ultimately, its effectiveness.

F. Political Will

Much has been written about political will relative to reform. Regardless of the amount of political will that exists, civil society and the media play a critical role in advancing reform agendas.

If some officials and political leaders put forth an agenda for political-party finance system reform, civil society and media can voice support to help overcome the objections of those who would seek to undermine such efforts. Just as importantly, civil society, as a supportive stake-

holder, can act in partnership with media to ensure that critical components of a control system are not overlooked or discarded as the design evolves.

Where political will does not exist, civil society and the media can be the engine that generates public demand for transparency and accountability from all actors in the political system.

Under either circumstance, international donors should be encouraging and supporting reforms in this area, because success in reforming political-party finance systems will ultimately have an impact on the success of donors' institutional, economic and governance programs.

G. Strengthen Political Party Capacity and Frameworks

Scandals related to the flow of illegal contributions to political campaigns and parties have weakened parties, damaged public trust in them and other democratic institutions, and contributed to increasing rates of voter absenteeism. Underdeveloped political parties that are nothing more than election machines are a threat to sustainable democracy.

Party leaders must come to understand the critical role that parties play as the entry point to the political process and be accountable for their leadership in between and during elections and after the party has won seats in government. To regain the trust of the public, parties must become responsive to voter needs and demonstrate a capacity to develop and introduce sound public policies not tied to special interests. And, of course, they must comply with regulations designed to make them more transparent and accountable, particularly those related to financial disclosure. Political parties must have professional leaders and trained fulltime staff including skilled treasurers.

It is possible for international donors to provide support for training and party development without interfering in the political dynamic of a country, if the training is provided equally to all parties and focuses on management, membership recruitment, platform development and message delivery. Such training would be valuable at the national and sub-national levels; at the sub-national level it could help to democratize parties by strengthening local party organizations, thereby giving them greater leverage in choosing candidates for lists in national elections. Such training would also further decentralization as local parties begin to articulate platforms for local elections that are responsive to local citizen priorities.

Where political parties are multiplying because of the availability of public funding, public dialogue must be entered into designed to craft equitable criteria for assessing the legitimacy of new parties before registration. Numerous parties are not necessarily more responsive to citizens; many are formed to tap public subsidies, serve the interests of individuals or in other ways distort the system.

H. Legal Frameworks

Most countries have a body of law regulating political-party finance systems. In such cases, the need is to refine, clarify and strengthen it and consider whether or not defined sanctions are adequate to prevent major violations. If multiple control entities are involved, it is critically important to ensure that they do not have overlapping jurisdictions; authority and responsibility for enforcement must be explicitly clear and unambiguous. In countries where the system is dysfunc-

tional, consideration should be given to beginning anew, ensuring in such a process that old laws or sections of laws applicable to the system or amended to conform to the new system or, as appropriate, repealed.

Political-party finance-system legal frameworks must be comprehensive taking into consideration that they will be applied at the national and sub-national levels. Whether creating a new system or modifying an existing one, there should be considerable public dialogue as defined in “Section E. Control Institutions,” above. Among the issues a legal framework should address are the following:

- Who can contribute to parties and candidates—domestic and international businesses and individuals; business and professional associations; NGOs and CSOs; government agencies.
- What form can contributions take—cash, check, wire; in-kind services or purchases for the benefit of the candidate or party.
- Are anonymous contributions permitted and, if so, under what circumstances?
- What limits should be set on contributions and total campaign expenditures?
- What are expenses are permitted for election campaigns and, do parties have to meet election-vote thresholds to qualify for funding?
- How are political parties defined; what are the criteria for registration?
- Will the system be publicly subsidized—if so:
 - What is the total amount budgeted; will there be an escalator formula to automatically increase funding as the number of voters increase?
 - On what basis will funds be allocated to parties/candidates?
 - Will subsidies be provided for party operations and elections, or just elections?
 - Will subsidies be paid pre- or post- election?
 - To what extent will private contributions be permitted?
 - Will there be non-cash subsidies—tax breaks, postage, telephone, use of government facilities, supported advertising?
- What government entity will serve as the administrative and control entity for the system; what are it’s authority and responsibilities; how will it administer the system; will the budget proposed enable the entity to execute its responsibilities?
- Whether the system provides public subsidies or not, what are the disclosure requirements for parties and candidates relative to the identity of contributors, amounts and expenses?
- Are the sanctions contemplated sufficient to discourage parties and candidates from major violations of the laws?

I. Civil Society

Civil society has been instrumental in putting political-party finance on the public agenda in several countries and then driving the issue to the point that officials responded with effective legislation. It will be important for CSOs to continue to focus attention on deficiencies in current systems to refine them and increase their effectiveness.

Civil society's role in monitoring and reporting on how well political-party finance systems are operating is critical. It is a role they are just beginning to embrace, thus their capacity to do so is in the early stages of development. If they can build successful partnerships with a willing media, sharing information and reinforcing each other, considerable progress can be made in improving transparency and accountability in the systems.

There also are other issues that CSOs can embrace that will advance greater transparency in party-finance systems, such as protections for whistle blowers and passage of freedom of information laws. Where bank secrecy laws inhibit the investigation of illegal contributions, exemptions should be sought to facilitate prosecution.

As was noted earlier, media has dual roles to play—one as an investigative and reporting force on political party and candidate compliance with laws and the effectiveness of those laws as written and enforced. In partnership with civil society it can be an effective advocate for reform.

In its other role, as the advertising medium of choice for election campaigns, it can demonstrate transparency and help to level the playing field by disclosing and abiding by published ad rates.

J. Scandals: Windows of Opportunity for Reform

Until political-party finance systems are seriously reformed and enforcement of laws and regulations becomes routine, scandals are inevitable. When they occur, they create a window of opportunity to vigorously advocate reforms. Civil society must identify public officials and party leaders who believe in reform. When scandals occur there should be a concerted effort to support these officials, or prod them if necessary, in advancing a previously developed list of reforms. If media is part of the effort, the impact could be considerable. It also is important to keep in mind that parties that are not involved in the scandal could be enthusiastic partners in the reform process. Even if their motives are political, they could be potent partners.

In all four cases differing only in frequency and intensity, there was an array of manifestations of some form of political corruption. Similarly, as has been the case in many developed countries, in all four countries scandals have prompted reform in political party finance. As such, scandals provide an opportunity to test current regulations and laws, and can become triggering mechanisms to reinforce regulations, close loopholes, revive watchdogs and maintain the public interested, informed and involved. Moreover, scandals can enhance the demand for transparent political processes.

Scandals are spontaneous and immediate events that enhance the demand for more transparent political processes. However, if the investigation process is slow and full of technicalities it can work against taking advantage of the opportunity to do something about it. Enforcement and control agencies have to be more agile in responding to scandals.

Similarly, reforms in the area of political party finance cannot be seen as part of an isolated realm. Rather, reforms have to be an integral part of broader political and electoral reforms, such as strengthening the political party system, making political competition more equitable, promoting transparency and disclosure, modernizing political party structures and enhancing control and oversight mechanisms. Moreover, reforms have to deal with the origin, flow and expenditures of political money by imposing contribution limits and bans, limiting spending, effectively regulating political campaign process (length of time, concurrent elections, synergy of electoral processes), requiring timely financial reporting and forcing political parties to be more accountable of public funding.

Evidence tends to support the notion that even when scandals trigger changes, reform in the area of political party finance is a gradual process. It requires political consensus and public debate. Reforms in the area of political party finance are often part of a broader vision and strategic plan to modernize the state.³⁷ The construction of sound and coherent political finance systems involves a multifaceted approach, with ongoing changes and adjustments, sometimes in response to scandals. The reform process has to respond to national political and economic realities.

VI. Strategic Issues to Stimulate Debate

The following set of questions is designed to shape the debate on political-party finance and identify the myriad considerations relative to a very complex issue.

1. What does it take to convince citizens, politicians, legislatures and executive branch officials of the need for a regulated political-party finance system? Who would be the winners and losers? How will the objections of opponents of legitimate reforms be neutralized?
2. What are the transparency and accountability elements that are essential to a credible system?
3. What kind of technical and financial support should be given to political parties to enable them to fulfill their proper role in a democratic system?
4. How can control entities be given the independence they need to carry out their mandates? What elements of due process are needed?
5. What specific manifestations of corruption should the control system be designed to address—vote buying, influence peddling, patronage, nepotism, illicit fund raising, fraud?
6. How is a balance struck between political parties need to raise funds and the necessity of controlling the influence of money on the political and, ultimately, the governance process.
7. How can civil society be mobilized to take a more proactive role in monitoring a political-party finance system? What technical skills are required and what degree of access to information is required to perform the oversight task?

³⁷IDEA. *Funding of Political Parties and Election Campaigns*. Sweden: IDEA, 2004

8. How can the total costs of elections be lowered? What role can the media play in reducing election costs?
9. What is the role of mass media during campaigns and in monitoring violations of political-party finance regulations? What can be done to encourage non-partisan reporting on political party and campaign finance issues?
10. How are violators of laws and regulations sanctioned? What violations merit administrative sanctions or criminal prosecution?
11. What does it take for political parties to become more representative of and accountable to voters?
12. What is the appropriate role of donors in supporting political party-finance systems in making democratization sustainable?

Annex 1: List of Interviews

Washington D.C.

1. Karen A. Harbert, Deputy Assistant Administrator, Bureau for Latin America and the Caribbean, USAID
2. Mike Kozac, Bureau for Democracy, Human Rights and Labor (DRL), Department of State
3. Elizabeth Dugan, Bureau for Democracy, Human Rights and Labor (DRL), Department of State
4. Monica Kladakis, Bureau for Democracy, Human Rights and Labor (DRL), Department of State
5. Denika Walters, Bureau for Democracy, Human Rights and Labor (DRL), Department of State
6. Jim Wagner, Office of Central American Affairs, Department of State
7. Roberta Jacobson, Director, Office of Mexican Affairs, Department of State
8. Steven Hendrix, Acting Team Leader, Democracy and Governance Programs, Latin America and Caribbean Bureau, USAID
9. Laura Libanati, Desk Officer for Argentina and Chile, USAID
10. Thomas Kerst, Desk Officer for Mexico, USAID
11. Robert Khan, Desk Officer for Costa Rica, USAID
12. Michael Eric Kite, Democracy, Conflict and Humanitarian Assistance Bureau, USAID
13. Gene Ward, Senior Advisor, Political Finance, Office of Democracy and Governance, USAID
14. Elizabeth, Spehar, Executive Coordinator, Unit for the Promotion of Democracy, Organization of American States (OAS)
15. Steven H. Griner, Senior Specialist, Unit for the Promotion of Democracy, Organization of American States (OAS)
16. Lisa Ann Bedolla, Deputy Director, Latin America & the Caribbean, International Republican Institute (IRI)
17. Stephen Nix, International Republican Institute (IRI)
18. Gretchen Birkle, International Republican Institute (IRI)
19. Gerardo Le Chevallier, Director Latin America and the Caribbean, National Democratic Institute (NDI)
20. Matt Dippell, Deputy Director Latin America and the Caribbean, National Democratic Institute (NDI)
21. Ivan Doherty, Director of Political Party Programs, National Democratic Institute (NDI)

Argentina

1. Mark B. Krischik, Information and Cultural Affairs Officer, U.S. Embassy
2. Carlos March, Executive Director, *Poder Ciudadano*
3. Laura Alonso, Coordinator for Political Activities, *Poder Ciudadano*
4. Sergio Berensztein, Department of Political Science, *Universidad Torcuato Di Tella*
5. Delia Ferreira Rubio, Law Professor, *Universidad del CEMA*

6. Margarita Solbizer, National Legislator for the *Union Cívica Radical* (UCR) and former Candidate for Governor for the Province of Buenos Aires
7. Carlos Raimundi, former National Legislator for the *Afirmación de una República Igualitaria* (ARI) and co-author of a book on Money and Politics
8. Santiago Corcuera, Judge Electoral Chamber (*Cámara Nacional Electoral*)
9. Alberto Ricardo Dalla Via, Judge Electoral Chamber (*Cámara Nacional Electoral*)
10. Nicolas Ducoté, Executive Director *Centro de Implementación de Políticas Públicas para la Equidad y el Crecimiento* (CIPPEC)
11. Alejandro Tullio, National Electoral Director, Ministry of Interior
12. Ricardo Gomez Diez, National Senator for the *Justicialista* Party and Vice-President of the Senate
13. Marcela Rodriguez, National Legislator for the *Afirmación de una República Igualitaria* (ARI)
14. Roberto Schroder, Member *Recrear* political party
15. Edgardo Srodek, Member *Recrear* political party
16. Daniel Sabsay, Constitutional Lawyer and Co-author of the project to create a Federal Electoral Agency, AFE
17. Nilda Garré, National Legislator for the FREPASO party
18. Fernán Saguier, *La Nación* Newspaper

Chile

1. Thomas D. Mittnacht, First Secretary, U.S. Embassy
2. Claudio Fuentes, Political Science Professor, *Facultad Latinoamericana de Ciencias Sociales-Chile*
3. Sebastian Cox, Transparency International, Chile
4. Luciano Tomassini, Political Science Professor, *Facultad Latinoamericana de Ciencias Sociales-Chile*
5. Guillermo Atria, Businessman
6. Juan Antonio Coloma, National Senator for the *Unión Demócrata Independiente* (UDI) and active participant in the design and discussions of the new law on political-party finance
7. Carlos Montes, National Legislator for the Socialist Party
8. Jaime Bazan, General Manager, AMCHAM, Chile
9. Melisa Rekas, Research Department, AMCHAM, Chile
10. Juan Enrique Vargas, Executive Director, *Centro de Estudios de Justicia de las Américas* (CEJA)
11. Juan Ignacio Garcia Rodriguez, Director *Servicio Electoral*
12. Elizabeth Cabrera Burgos, Judicial Advisor *Servicio Electoral*
13. Maximo Lardies, Chief Electoral Expenses *Servicio Electoral*
14. Carlos Huneeus, Executive Director, CERC
15. Andrea Sanhueza, Executive Director, *Participa*
16. Jimena Saez, Chief of Projects, *Participa*
17. María José Villalobos, Judicial Advisor, Ministry of Interior
18. Alberto Espina, National Senator for the *Renovación Nacional* Party
19. Gonzalo Garcia, Businessman

20. Alejandro Ferreiro, Head of the Superintendency of Stocks and Insurance, and former Head of Transparency Commission
21. Jorge Burgos Varela, National Legislator for *Partido Demócrata Cristiano* (PDC)
22. Cristián Bofill, Director *La Tercera* Newspaper

Costa Rica

1. Linda Stirling, Political and Economic Section, U.S. Embassy
2. Manuel Rojas, Political Science Professor, *Facultad Latinoamericana de Ciencias Sociales-Costa Rica*
3. Kevin Casas, United Nations Development Program and author of various publications and studies on political-party finance in Costa Rica.
4. Luis Antonio Sobrado, Magistrate of the *Tribunal Supremo Electoral*
5. Humberto Arce, National Legislator for the *Bloque Patriótico* Party
6. Mario Carazo, Transparency International-Costa Rica
7. Lorena Vasquez, President of the *Partido de Unidad Social Cristiana* (PUSC)
8. Francisco Pacheco, President of the *Partido de Liberación Nacional* (PLN)
9. Otto Guevara, President of the *Movimiento Libertario* Party
10. Luis Fernando Vargas, General Comptroller (*Contralor General*)
11. Eduardo Ulibarri, Director *La Nación* Newspaper
12. Luis Gerardo Villanueva, National Legislator for the *Partido de Liberación Nacional* (PLN)
13. Antonio Burgués Teran, President of the Costa Rican Chamber of Exporters
14. Otón Solís, President of, and former presidential candidate for, the *Partido de Acción Ciudadana* (PAC)
15. Marco Vargas, Businessmen, former Ministry of Finance, and former Presidential Campaign Manager for the *Partido de Liberación Nacional* (PLN)

Mexico

1. J. Christian Kennedy, Minister-Counselor for Political Affairs, U.S. Embassy
2. Jene C. Thomas, Director, Democracy and Governance Program, USAID
3. Sally Shelton-Colby, Chief of Party, Casals and Associates, Inc.
4. Alonso Lujambio, Director of the Political Science Department of the *Instituto Tecnológico Autónomo de México* (ITAM) and former Councilor of the General Council of the *Instituto Federal Electoral*
5. Manuel Carillo Poblano, Chief of Staff, International Affairs of the *Instituto Federal Electoral*
6. Arturo Sánchez Gutierrez, Councilor of the General Council of the *Instituto Federal Electoral*
7. Alejandro Poiré, Executive Director of Prerogatives and Political Parties of the *Instituto Federal Electoral*
8. Jacqueline Peshcard Mariscal, former Councilor of the General Council of the *Instituto Federal Electoral*
9. Emilio Zebadúa, National Legislator for the *Partido de la Revolución Democrática* (PRD)

10. Andres Albo Marquez, General Council of the *Instituto Federal Electoral*
11. Rogelio Carbajal, Representative of the *Partido de Acción Nacional* (PAN) in the Instituto Federal Electoral
12. Eduardo Bohorquez, Transparency International-Mexico
13. Manuel Camacho Solis, National Legislator for the *Partido de la Revolución Democrática* (PRD)
14. José Luis Stein, former Finance Secretary of the Executive National Committee of the *Partido Revolucionario Institucional* (PRI)
15. José Antonio Crespo, Professor of Political Science at the *Centro de Investigación y Docencia Económicas* (CIDE)
16. José Woldenberg, former President of the *Instituto Federal Electoral*
17. José de Jesús Orozco, Magistrate of the Superior Court of the *Tribunal Electoral del Poder Judicial de la Federación*
18. Raul Avila, Coordinator for International Affairs of the *Tribunal Electoral del Poder Judicial de la Federación*
19. Carlos Vargas, Secretary of Research and Accountability of the *Tribunal Electoral del Poder Judicial de la Federación*
20. José Luis Barraza, President of the *Confederación Patronal de la República Mexicana* (CO-
PARMEX)
21. Augustín Llamas, Chief of the Political and Social Area of the *Instituto Panamericano de Alta Dirección de Empresas* (IPADE)
22. Sergio Aguayo, Professor *El Colegio de México*, former President of *Alianza* (one of the more prestigious NGOs) and founder of the *Partido México Posible*
23. Juan Molinar, National Legislator for the *Partido de Acción Nacional* (PAN) and former Councilor of the General Council of the *Instituto Federal Electoral*
24. Sylvia Alonso, Executive Secretary, *Alianza Cívica*
25. Rafael Reygadas, Directive Council, *Fundación Vamos*

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