



ENSURING FREE AND FAIR ELECTIONS

ELECTORAL COMMISSION

SUSTAINABILITY OF ELECTORAL OPERATIONS, WITH A FOCUS ON FUNDING OF POLITICAL PARTIES & CAMPAIGN FINANCING – CASE OF SOUTH AFRICA

Commissioner Terry Tselane
Electoral Commission of South Africa

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STRUCTURE

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- Pillars of sustainability
- Context
- Global trends & best practice
- Private funding in South Africa
- Public funding in South Africa
- Analysis
- Conclusion
- Voting abroad



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SUSTAINABILITY

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Sustainability & quality of elections dependent on:

- Electoral logistics
- Electoral staff
- Quality of voters' roll
- Political environment



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SUSTAINABILITY

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Sustainability of electoral logistics:

- Determine material needs – bill of materials (BOM)
- Plan material requirements – material requirements plan (MRP) which is converted into Procurement Plan
- Scheduling of projects – use of project management approach & SAP Project system
- Procurement of materials – cost effective procurement using economies of scale, competitive bidding, publicizing of tenders, transparent competition, and use of e-Procurement system
- Supplier management – quality management of suppliers using SLAs
- Track deployment of materials – 4 level supply chain, different supply chains for security items & normal items



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Sustainability of electoral staff:

- Electoral staff numbers for general election: approx. 200,000 to operate some 22,000 voting stations
- National database of electoral staff – enables repeat recruitment of effective staff
- Performance assessments after each election – choose best performing staff
- Electoral staff are approved by political contestants through MPLCs – quality check to ensure political impartiality of staff
- Continuous training of electoral staff – sustainable development of human capital



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Quality of voters' roll:

- Use of 'continuous' voters' roll – updated on continuous basis in between elections & special voter registration weekends ahead of general elections
- Continuous updating of voters' roll secures an up-to-date and comprehensive (full) voters' roll
- Voters required to provide physical address of residence – allows for voters to be allocated to correct voting district segment of voters' roll – minimizes electoral fraud & assists with efficient materials planning
- Voters' roll checked against National Population Register each month – quality check to remove deceased, non-SA citizens, etc.



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Political environment:

- Sustainability of political environment defined by conditions conducive to credible, free & fair elections
- Effective conflict resolution mechanisms
- Clear electoral legal framework
- Impartial & effective election management body
- Multiparty democracy underpinned by healthy & capable political competitors
- Central to healthy & capable political competitors is sustainable funding of political parties



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CONTEXT

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- Strong democracies need healthy, functional political parties & vibrant political contestation, and healthy, functional political parties need sustainable sources of funding. Yet...
- Political financing remains the number one corruption risk globally, according to *Global Integrity*
- In South Africa (SA), political parties are funded from both public & private sources
- Public funding in SA is regulated & is available to represented political parties who are required to publicly account for funds received



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CONTEXT

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- Private funding of political parties in SA is not regulated, with no public disclosure requirements
- Public funding of parties accounts for a relatively small proportion of total funds raised by the larger parties in SA
- Critics of current funding arrangement in SA argue that private interests are able to exert undue influence over public office at the expense of integrity of SA's emerging constitutional democracy
- Critics also argue that regulated public funding of political parties is biased towards incumbency at the expense of smaller parties & strengthening of multi-party democracy



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GLOBAL TRENDS

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International IDEA (2012) study on public & private funding of political parties & candidates in **180 countries**:

- One in five countries (22%) ban private sector donations to parties
- Two-thirds (68%) of countries ban foreign sources of funding to parties & 51% ban foreign funding of candidates
- 85% of countries ban their governments from political donations (this excludes regulated public funding of parties)
- Just over half (55%) of countries do not attempt to limit amounts donated to parties or candidates, although donation limits in Africa & Oceania are almost non-existent



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GLOBAL TRENDS

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- Two-thirds (68%) of countries have provisions for the direct public funding of parties
- 69% of countries provide political parties with free or subsidized media access, with Africa standing out with largest focus on indirect public funding of parties
- Just under a third (29%) of countries limit the amount of money that parties are allowed to spend & 44% limit amount of money that candidates may spend
- The vast majority (88%) of countries globally require some form of financial reporting from political parties or candidates. However, only half (53%) require financial reporting from both parties & candidates



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GLOBAL BEST PRACTICE

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- In three-quarters (75%) of countries that require financial reports from parties or candidates, this information may be publicly disclosed
- Countries in which political contestants are primarily funded by private interests, rather than having access to regulated public funding, appear to be vulnerable to undue power of private money over public office. This has the potential to undermine integrity & credibility of electoral process & democracy
- In countries that provide for regulated public funding of political contestants, a key challenge is how best to strike a balance between funding existing contestants with demonstrable electoral support, versus resourcing emerging political contestants in interest of multi-party democracy



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GLOBAL BEST PRACTICE

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- A balance should be struck between public & private funding of political contestants, rather than a reliance on only public or private sources
- With the exception of countries in the Americas, a majority (78%) of countries do not attempt to ban private funding of political contestants. Rather, the preferred approach appears to be the regulation of private funding of contestants
- A central means of regulating private funding of political contestants is the requirement for financial disclosure and accountability



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PRIVATE FUNDING in SA

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- Both private & public funding of political parties is permitted in South Africa (SA)
- Any political party may obtain funds from its members & other sources, including private sector (local & foreign) & civil society organizations
- Currently, SA has no law regulating private funding of political parties
- The public disclosure of political party income & expenditure is discretionary in SA, with no constraints or limits to private funding of parties
- Owing to non-disclosure requirement of private funding, little is known about the full cost of political campaigning in SA, but estimates are available



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According to *Open Society Foundation for SA (2012)*:

National & provincial election	Public funding	Private funding estimate	Ratio public: private funding
1994	R44m	R100m	1:2
1999	R53m	R350m	1:6
2004	R67m	R400m	1:6
2009	R93m	R550m	1:6



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- Table shows that estimates of private funding to parties have increased by a factor of 5 between 1994 & 2009, according to *Open Society Foundation for SA (2012)*
- Amount of funding to parties from private sources is estimated to be six times greater than amount of public funding
- Two largest political parties attract bulk of private funding – the ruling ANC (African National Congress) & main opposition DA (Democratic Alliance)
- Smaller parties that are represented in a legislature are more reliant on regulated public funding



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PUBLIC FUNDING in SA

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There are two main types of regulated public funding of political parties in SA:

- The Public Funding of Represented Political Parties Act 103 of 1997 (PFRPP), which provides for funding which *may be used by political parties for election campaigning*, and
- Constituency office allowances, which *may not be used by parties for election campaigning*



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PUBLIC FUNDING in SA

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- **Public Funding of Represented Political Parties Act 103 of 1997 (PFRPP)** governs eligibility of political parties & allocations received from Represented Political Parties' Fund
- A political party is entitled to an allocation of public funding for any financial year that the party is represented in National Assembly or in a provincial legislature (but not to parties only represented in municipal councils)
- Parliament allocates funds to Electoral Commission who administers the Fund & allocates funds to represented parties based on a formula:
 - 90% of funds are allocated proportionally & 10% on an equitable basis



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- Proportional allocations are based on number of seats awarded to parties in National Assembly & provincial legislatures jointly
- Equitable allocations made to provinces in proportion to number of members of respective provincial legislatures
- Allocation to a province is divided equally amongst participating parties in legislature of that province
- Funding may be used for political campaigns & is also intended to enable parties to maintain a stable core administrative structure



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PFRPP Act funding allocations to all represented parties:

Fiscal year	Allocation (% change)
2000-01	R57,8m
2001-02	R62,8m (8%)
2002-03	R67,4m (7%)
2003-04	R66,6m (-1%)
2004-05	R70,8m (6%)
2005-06	R74,1m (4%)
2006-07	R79m (6%)
2007-08	R83,8m (6%)
2008-09	R88,3m (5%)
2009-10	R92,9m (5%)
2010-11	R98,9m (6%)



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In terms of the **PFRPP Act**, public funding **may** be used for:

- Development of political will of people
- Bringing party's influence to bear on the shaping of public opinion
- Inspiring & furthering political education
- Promoting active participation by individual citizens in political life
- Exercising an influence on political trends
- Ensuring continuous, vital links between people and organs of state



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PUBLIC FUNDING in SA

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In terms of **PFRPP Act**, public funding may **NOT** be used for:

- To pay any direct or indirect remuneration or other benefit of any kind to any elected representative of the party or any public servant
- Finance or contribute directly or indirectly to any matter, cause, event or occasion if it contravenes any code of ethics binding on members of parliament or any provincial legislature
- Use money directly or indirectly to start a business or acquire or maintain a right or financial interest in any business
- Use money directly or indirectly to acquire or maintain a right or financial interest in any immovable property unless if solely for ordinary party-political purposes
- Use the money for anything else that is incompatible with a political party's functioning in a modern democracy



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- In terms of the PFRPP Act, the CEO is responsible for the management & administration of the Fund
- Each political party receiving an allocation needs to keep a separate account with a bank in SA into which money allocated must be deposited
- Appoint an official in the party as accounting officer who is responsible for the money received & ensure the party complies with requirements of Act
- Accounting officer must keep separate records & books for this money in manner prescribed
- An income & expenditure statement, showing for what purposes the money has been applied, must be audited annually. The auditor is to express an opinion whether allocation has been spent for purposes not authorized
- Accounting officer must submit the financial statement & auditor's report to Electoral Commission annually



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- Public funding is also allocated to members of parliament (MP) to maintain **constituency offices**. Such offices are meant to serve equally all members of public – not only supporters of MP's party
- Parliamentary constituency allowances may only be used to maintain such an office & benefit all constituents in area surrounding constituency office
- Thus, political parties may use public funding from PFRPP Act 103 of 1997 to fund election campaigns. However, parties may **not** use public funding from their ***Parliamentary constituency allowances*** for campaign purposes



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- Allocations are determined based on number of seats a party holds in Parliament
- Parties are required to account in detail annually to Secretary of Parliament on use of constituency allowance & financial statements must be audited independently
- Funds are allocated as subsidies from national fiscus through Parliament by means of annual Appropriation Act



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PUBLIC FUNDING in SA

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Financial year	Total annual constituency allowance & associated services (% change)
2002-03	R95m
2003-04	R110,5m (16%)
2004-05	R118,1m (6%)
2005-06	R156,1m (32%)
2006-07	R236,5m (51%)
2007-08	R433,5m (83%)
2008-09	R465,8m (7%)
2009-10	R457m (-1%)
2010-11	R491,2m (7%)
2011-12	R508,7m (3%)

ANALYSIS

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- *Sustainable funding of political parties has two parts:*
 - Access to funding to sustain functional parties, and
 - Access to funding that does not undermine or compromise the integrity of constitutional democracy
- In line with global best practice, South Africa allows for both public & private funding of political parties in the interests of financial sustainability of parties
- Also in line with global best practice, SA provides for regulated public funding of political parties



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ANALYSIS

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- SA requires represented political parties that receive public funding to publicly account for funding received
- However, SA is at odds with global best practice with respect to private funding of political parties in that there is no legal framework for the private funding of political parties
- Public disclosure by parties of funding from private sources is discretionary & there are no limits or constraints to private funding of parties in SA



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ANALYSIS

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- Critics of the current arrangement argue that those elected to public office in SA are vulnerable to undue influence of private interests. This has potential to undermine the integrity & credibility of constitutional democracy
- Critics also argue that regulated public funding of parties is biased towards incumbents (represented parties) at the expense of smaller, emerging parties. This does not favor a vibrant multi-party democracy in SA
- Critics further argue that un-regulated private funding of parties also favors incumbents (particularly the ruling party & main opposition party) – further disadvantaging smaller emerging parties



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CONCLUSION

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- In SA, the larger political parties that are represented in Parliament & provincial legislatures tend to have access to both regulated public funding & private funding, which may be used for election campaigning
- Smaller, & especially un-represented, political parties appear not to have sustainable access to funding
- Regulated public funding to represented parties is an important source of campaign funding. However, the formula (90% allocated proportionately & 10% equitably) favors incumbents at the expense of smaller parties



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CONCLUSION

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- SA requires represented political parties that receive public funding to publicly account for funding received
- However, SA is at odds with global best practice with respect to private funding of political parties in that there is no legal framework for the private funding of political parties
- Public disclosure by parties of funding from private sources is discretionary & there are no limits or constraints to private funding of parties in SA



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VOTING ABROAD – PRESENT

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- Voters may not register to vote from outside of RSA
- Government officials who are registered to vote are eligible for national & provincial ballots
- Other RSA citizens (non-government officials) only eligible for national ballot when voting abroad
- Voting abroad occurs at RSA foreign missions abroad



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VOTING ABROAD – PROPOSED

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ELECTORAL COMMISSION

- RSA citizens should be allowed to register to vote from outside of RSA
- All registered voters be eligible for national ballot only (and not provincial ballot) when voting abroad (thus, no differentiation between government officials & others)
- Voting abroad to occur at RSA foreign missions abroad



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