

POLITICAL PARTY FUNDING
AND BUSINESS CORRUPTION

Antonio Argandoña*

RESEARCH PAPER No 458
January, 2002

Published by the Chair of Economics and Ethics

* Professor of Economics, IESE

Research Division
IESE
University of Navarra
Av. Pearson, 21
08034 Barcelona - Spain

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Summary

The funding of political parties raises interesting economic, political, social and ethical problems. This paper seeks to address these problems with the intention of contributing to the general debate, but, above all, of understanding the issue from the company's viewpoint, since companies are directly implicated in political party finance, as donors, as supposed beneficiaries of political activity, or as the sufferers of the consequences of illegal party funding. The analysis shall be focused in economic, political and, above all, ethical terms, first on a general level and then from the company's viewpoint.

POLITICAL PARTY FUNDING AND BUSINESS CORRUPTION*

Introduction (1)

“Irregular funding of political parties has been a constant in modern democracies. The politicians who are accused or tried in irregular funding cases are legion and span the full parliamentary spectrum. In France: Emmanuelli, from the Socialist Party; Juppé, from the RPR; Méhaignerie, from the UDF; Hue, from the PCF; Leotard, from the PR. In Italy: Forlani, from the Christian Democrats; Craxi, from the PSI, and Berlusconi, from Forza Italia. In Germany, it was first the Christian Democrat Späth, then Johannes Rau, from the SPD, and (...) in the midst of an enormous scandal, Helmut Kohl and Schäuble. In Belgium, the ex NATO secretary, Willy Claes; and in Spain, the Filesa case for the PSOE, the Naseiro and Cañellas cases for the PP, or the slot machine concessions for the PNV or *Convergència i Unió*.” (2)

The funding of political parties raises interesting economic, political, social and ethical problems. This paper seeks to address these problems with the intention of contributing to the general debate, but, above all, of understanding the issue from companies' viewpoint (3), since they are directly implicated in political party finance, as donors, as supposed beneficiaries of political activity, and as the sufferers of a complex mesh of consequences arising from illegal and immoral party funding.

The analysis shall be focused above all in ethical terms, although without forgetting the economic and political aspects, because it is not possible to understand one dimension of the problem without considering the others. We will first analyze the nature of the party funding problem and then discuss the specific arguments related with public and private

* Paper prepared for the EBEN Research Conference, Konstanz, 18-19 May 2001.

- (1) This paper forms part of a research project on business corruption developed as part of the tasks of the IESE Economics and Ethics Chair. I would like to thank the José y Ana Royo Foundation for their generous financial contribution to the preparation of this paper and Xavier Peralta for his assistance in the literature searches. I also thank the participants at the EBEN Research Conference, Konstanz, May 2001, and at the IX Conference on “*Ética, Economía y Dirección*” (EBEN-Spain), Bilbao, June 2001, for their comments. The usual disclaimers apply.
- (2) Villoria (2000, 77). For country-specific studies: Alemann (2000) for Germany; Blechinger (2000) for Japan; della Porta and Vanucci (2000) for Italy; and Pujas (2000) for France.
- (3) Political corruption has been extensively discussed in the literature. See, for example, della Porta and Mény (1995), Heidenheimer et al. (1989), Heywood (1997) and the papers presented at Transparency International's International Anti-Corruption Conferences (IACC). For the funding of political parties from a political viewpoint, see Centro de Estudios Constitucionales (1994), Del Castillo (1985), González-Varas (1995) and Katz (1996). The illegal financing of political parties is addressed specifically by the Council of Europe (2000). There are also numerous comparative studies on the legislation regulating party funding, such as Alexander (1989), Gunlicks (1993) and Torres (2001).

financing, the general characteristics of the legislation regulating this financing, and, lastly, the problem viewed from the company's perspective, closing with the conclusions.

Political parties and their funding

In democratic countries, political parties are an important part of the political machinery. Their functions include (4):

- 1) Aggregating the interests of different groups in society and articulating their demands.
- 2) Contributing to peace and political stability by enabling the various groups to take part in the political process in an orderly, predictable manner.
- 3) Playing a significant role in the selection, grooming and advancement of politicians.
- 4) Acting as a bridge between the political decision process and the public.
- 5) Providing an orderly system for the legitimate transfer of power.
- 6) Acting as an instrument for the socialization, mobilization, support, and integration of a pacific, participative political culture.

Although they are not the only means of organizing citizens' political representation, they are the most prevalent and, for the moment, it does not seem viable to implement an appropriate alternative.

Political parties are not State organs but "entities that arise from society, that are created freely by society, and which must zealously preserve their independence from the State" (Torres 2001, 109).

Political parties serve the common good, not so much because they have a unique knowledge of what that good is and a vocation to serve it selflessly, but, probably, because they are able to identify certain segments of that common good or, at least, the interests and ideas of a particular part of society, and strive to defend and advance them. What we hope from a party-based democratic regime is that the free play between parties and the rules governing political functioning will ultimately further the common good of society (or, at least, an equilibrium between the interests and ideologies of the various social groups, which also forms part of that common good).

Therefore, a democratic regime must allow (and even encourage) the creation and growth of parties that are representative of different political conceptions and interests (with certain restrictions with respect to their means and ends). And this requires that society settle the problems raised by their funding, both for their day-to-day operations and for the high level of expense which the parties –or the individual candidates– must incur during election campaigns (and, sometimes, also to promote legislative initiatives, inform or influence public opinion) (5).

(4) Cf. Pope (1996), chap. 5.

(5) From this point onwards, I will not always distinguish between funding a party's day-to-day activities and the exceptional expenses incurred by the party or by its candidates in election campaigns. This distinction is important from the legal and political viewpoint, but not so much for companies. In any case, it is not always easy to draw a dividing line between funding for ordinary and extraordinary operations.

Like all human organizations, political parties need financial resources. In principle, as parties are the outcome of their members' wish to come together under a common organization, it seems logical that these member should also be responsible for contributing the necessary financial resources. However, the funds contributed by a party's members will probably be insufficient (among other reasons, because the number of citizens who are party members has decreased throughout the world). Consequently, the party and its candidates must seek other sources of finance, probably from individuals or organizations that sympathize with their ideas and are prepared to support them with their money. What may these increasingly important sources of funds be? What conditions must they meet? The problem we face can be viewed along a number of dimensions:

From the viewpoint of parties and candidates

1. The funds' sufficiency, so that parties, candidates, their supporters, and all citizens in general can freely express their political opinions and proposals, using the diffusion and communication media that are available (equal opportunities), and can form an informed opinion of the problems and their proposed solutions.
2. The adequate distribution of funds between parties and candidates, or, better still, the creation of conditions that enable all of them to gain access to the funds they need, so that all voices that legitimately have something to say have the opportunity to be heard, competition is promoted, voters and the general public are able to form informed opinions, and all candidates are offered the possibility of aspiring to political office, regardless of their personal financial resources.
3. The exercise of the parties' and candidates' accountability for the use given to the funds received.

From the viewpoint of individuals, companies and organizations

1. The exercise of their right to take part in politics, not only as voters and candidates, but also as members of a party, supporters or advocates of a cause, a policy or an interest, with the legitimate means available to them, including their financial resources.
2. The creation of a "level field of play", so that the economic power or resources held by some will not be to the unfair detriment of others.

From the viewpoint of society as a whole

1. The support and defense of democratic values and processes, the exercise of free speech, political harmony, and observance of the rules of the political game. (6)
2. The assurance of correct use of the public or private resources provided by society to political organizations.

(6) Cf. Shugarman (1997).

The problems arising from party funding

From the economic viewpoint, political activity has certain special features. In principle, political activities are voluntary activities which should be financed by those who take part in them (members, sympathizers, etc.).

However, in one way or another, everyone benefits from the existence of parties, candidates and manifestos, from an election procedure which enables people in political office to be periodically replaced, from information about politics and politicians, etc. (7). However, as it benefits all citizens, we expect the rest to pay for it, with the result that, in the end, nobody pays for it: the existence of political parties and of political organizations in general is a public good (8). And, according to economics, public goods should be funded from resources obtained coercively (taxes). A first conclusion one could draw, therefore, is that there are reasons why parties should be financed from public funds, in addition to private funds.

However, this is only part of the problem, as politicians' actions create unequal costs and benefits for different groups of citizens. Thus, some citizens may have a personal interest (which may be altruistic but is more likely not to be) in the successful implementation of certain programs or proposals and would be prepared to pay because they expect to obtain specific benefits from a certain political action (9).

In the following pages, I will briefly discuss the main problems created by the public and private funding of parties.

Public funding

The use of State resources (or those of other governments: supranational, national, regional, local, etc.) to fund political parties' day-to-day activities and the extraordinary expenses generated by election campaigns basically gives rise to three problems:

The amount of the funds

If this is insufficient, it may impede the exercise of political rights, above all free speech, and may be inefficient from the economic viewpoint (10).

However, it is more likely that the funding will be excessive (from the social viewpoint) because, ultimately, the decision on these funds' amount is made by their beneficiaries (parties, candidates, etc.) through the legislators and leaders voted at the elections. And this too may be inefficient.

(7) This is true insofar as there are decisions that must be made by collective action procedures.

(8) A public good is "a commodity whose benefits may be provided to all people (in a nation or town) at no more cost than that required to provide it for one person. The benefits of the good are indivisible, and people cannot be excluded from using it" (Samuelson and Norhaus 1989, 980-981).

(9) This could take us back to the problem of public goods, as even those directly benefited by a political program may not have an interest in funding it, unless the benefits are very concentrated and the costs are low.

(10) Because, for example, although the marginal social return on the funds used to inform about a political project is greater than that of other alternative uses, that use is not carried out due to a "political market failure".

However, although they may be excessive from the social viewpoint, it is likely that the funds available will not be sufficient for parties and their candidates. This is mainly due to two reasons:

- a) The growth of party and, particularly, election campaign expenses (staff, polls, marketing, advertising, electoral analysis, image, technical studies, etc.) (11). This may be because of the frequency with which elections take place at different levels of government; because of the growing costs of the new communication and information media; because of the change in the nature of political competition (with the spotlight on the leaders, and therefore, with more expensive campaigns), and because of the creation of large-scale, professionalized bureaucratic structures in the parties, among other reasons (12).
- b) The return on the expenditure made is strongly decreasing in absolute terms (the return on the last euro spent on an advertising campaign will decrease in proportion to the total number of euros spent) (13), and also in relative terms (the success of a candidate's campaign is always relative to the success of his rivals' campaigns).

Thus, the more funds a candidate or party spends, the more funds must be spent by the rest (and vice-versa), without this leading to any increasing private (because of the decreasing returns mentioned above) or social benefits (because of the external effects caused: exclusion of private advertising by public advertising, visual and acoustic contamination, etc.) (14). And, in a clear case of "discoordination", although all the candidates may wish to limit this spending, none of them is inclined to be the first to do so –and all of them will want to spend above the limit if the others accept it.

All of the above may justify limiting the amount of the funds that a party or candidate may allocate to day-to-day operations and, particularly, to the extraordinary

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- (11) "These days, to run as a senator even from a small state like (...) Arizona requires raising \$10,000 every week for six years. In California, you need to raise something like \$50,000, week in week out" ("Stopping Soft Money", *The Economist*, 17 March 2001, 58). The US 2000 presidential elections cost about 3 billion dollars, one third more than in 1996 (2.2 billion) ("Who's Paying For This Election?", *Center for Responsive Politics*, October 2000; "Hard Money in the 2000 Elections", *Public Campaign*, October 2000). In Spain, "since 1987, the figures corresponding to [public] subsidies for political parties stand at about 10 billion pesetas/year for spending required for their ordinary activities, to which a further 3 or 3.5 billion pesetas should be added in general election years, 1.2 billion for each of the European elections and 1.4 billion for local elections. On top of this, there are the grants paid to the parliamentary groups –that is, to the parties– from the upper and lower Houses' budgets (...) for these groups' functioning; and, lastly, the myriad of grants and subsidies that they award themselves –no problem in reaching a consensus here– through foundations, education groups, summer schools and other similar activities performed by party-related organizations (...). When all this is added together, albeit only approximately, one can estimate an average annual figure for [non-private] funding of about 15 billion [pesetas], with the trend moving upwards. [In addition], according to the *El Mundo* newspaper (14 November 1994), the Bank of Spain has estimated at 50 billion pesetas the total debt accepted by the banks" (Ariño 1997, 39).
 - (12) Likewise, the contribution by voluntary workers to party activities is increasingly less and, also, less efficient, from both the organizational and operational viewpoints. There may also be other factors, such as the cutback in funds from other countries that financed political parties in Italy (the Christian Democrats from the United States and the Communist Party from the Soviet Union) in the Cold War years.
 - (13) The reference to advertising spending is not fortuitous, as it is one of the main items contributing to increased spending by political parties, particularly during election campaigns.
 - (14) It is likely that this process will end up generating revenues for other stakeholders involved in the process: advertising agencies, election campaign organizers, etc. And the existence of such revenues will also generate conducts specifically aimed at creating and exploiting them.

expenses of an election campaign. However, the answer cannot be simplistic: newcomers often need to have large quantities of funds to overcome the advantage enjoyed by incumbents (and by the communication media, which occupy a privileged position) (15).

The search for additional funds

If public funds are insufficient (from the viewpoint of the parties and candidates), incentives will be created to increase them either by means of new public funds (which highlights their economic inefficiency and creates conflicts with other uses of these funds), legal private resources (which we will discuss further on), or by illegal means (for example, by creating private companies whose profits are channeled to financing the party). Therefore, the insufficiency of funds raises the possibility of illegal and immoral conducts.

The distribution of the funds

Here too, objective criteria that ensure economic efficiency in the distribution of the funds among different political formations are lacking. In practice, the funds are usually distributed in proportion to the votes obtained, the number of representatives in Parliament, etc. Thus, the aim is to offer politicians and candidates the possibility of making their voice heard insofar as they have a certain minimum degree of support among the voting public.

Private funding

Private funding can take on many different forms, from fixed dues paid to a party by its members to donations (of variable amount and frequency) made by private individuals and companies to the party, to a candidate or to a campaign, work done free (apart from the regular time given by voluntary workers) or income obtained from the sale of goods and services, whether legitimate (celebrations, tombolas, raffles, merchandising, etc.) or otherwise (such as creating companies whose profits are channeled to financing the party, often through the sale of goods or services which in actual fact are masked donations: reports, consulting assignments, etc.). The problems raised by private funding are also complex:

The amount of the funds obtained

As we have already pointed out, the activities performed by political organizations are identified as a public good. Consequently, it is likely that the amount obtained by private voluntary funding (members and sympathizers) will be insufficient. However, if the demand for funds by political formations exceeds supply, it will become “profitable” to devise new forms of fundraising, legal or otherwise. However, if a party is to be successful in attracting more private funds, it must offer an adequate “remuneration” in return (or resort to more or less coercive forms of financing).

(15) Cf. Crane (1999).

The expected or promised reward for private funding

In principle, the normal dues paid by a party's members (for example, because they perceive it as a civic duty or because they wish to support the policies proposed by the party) (16) or voluntary donations of small amounts do not seem to raise any specific problems. However, problems are raised in other types of payment.

The problem lies in the possible unfair exchange of favors or benefits, which implicates, first, the donor (as promoter or beneficiary of that exchange) (17); second, the candidate to office as ruler or legislator (who is expected to grant those favors or benefits); third, the party, that is, its leaders and officials (as instigators or beneficiaries of the unfair exchange), including, if appropriate, the organizations that act as intermediaries for the party (foundations, youth clubs, education centers, etc.), whether legally or otherwise; and lastly, any other persons or groups that may be affected by the operation (for example, the donor's competitors, who will not have access to the contracts or services that will be appropriated by the donor or those who will pay higher taxes as a consequence of the operation).

This unfair exchange can take many forms. For example, the donor may try to (explicitly or implicitly) condition the party's or candidate's policies or the (present or future) government's acts, or obtain other types of favors for its or other parties' benefit. And the means by which this is done may be legal or illegal, ethically correct or incorrect (for example, to the detriment of the common good or causing harm to other people, appropriating something to which the donor is not entitled, evading certain obligations, etc.), or, simply, the donor may hope to have the opportunity to obtain some future and as yet unspecified advantage (which is also debatable from the legal and moral viewpoints) or, to quote that curious phrase from the Flick case in Germany, to "cultivate the political landscape" (18).

Therefore, private funding of parties, candidates and campaigns raises the risk of subservience to the lobbies that finance them. However, this risk –which exists– must be qualified. Up to a point, the political market operates very much like the market for goods. If high-income consumers wish to buy more luxury goods, they will, but this does not mean that the production of ordinary goods disappears, because the economic incentives of the producers will soon concentrate in favor of the latter. In the same way, the fact that, for example, the members of a lobby finance a particular party does not mean that they will get their way every time: 1) because the market is open to competition from other parties (19); 2) because the final verdict always lies with the voters; and 3) because other lobbies will also finance that party, competing for a limited volume of legislative and regulatory actions, spending and taxes.

It should also be pointed out that the mere existence of a benefit for the donor does not make the donation immoral. Corruption exists, from the viewpoint of the party,

(16) Other economic, political or ethical problems may be raised here, such as collusion with evil (if, for example, the party is performing immoral acts, such as advocating terrorism or racial hatred).

(17) If the donor is a company, the funding activity implicates the company's managers and employees (for example, the accountant who must fake the entries) and other people outside of the company (legal counsel, financial institutions, intermediaries, etc.).

(18) Cf. Alemann (2000). Bernhard von Brauchitsch, a senior executive of the Flick company, paid more than 25 million marks to various parties represented at the Bundestag (German Parliament), normally by giving envelopes containing money. The case came to light because the company's accountant kept a full list of the recipients of these envelopes and the list was found in a search at the accountant's home.

(19) The lobby will obviously prefer to work with only one party in order to reduce its costs. However, if that party does not win the elections, its efforts will have been in vain.

government, official or candidate, when an office vested with influence or discretionary power is used incorrectly (in a manner contrary to or mismatched with its purpose) either at the wish of the other party (bribery) or on the individual's own initiative (extortion) (20) and, from the donor's viewpoint, when the donor colludes in such incorrect use, either for his own benefit or that of a third party, to obtain a benefit or avoid a detriment.

In any case, the fact that the funding is received by a political party or a candidate instead of a politician or official in office does not change the nature of the corrupt act (21), although public opinion tends to view these cases more leniently than when the purpose is purely personal enrichment (22).

It can often be difficult to draw the line between lobbying and corruption. In principle, there is nothing against a company, trade or professional association, NGO, etc. seeking political actions that are favorable to it, provided that the means used are licit (funding a party, in our case) and the ends pursued are also licit, that is, they cause no harm to the common good or to other agents (23).

The use of extortion to obtain private funding

Some examples of this type of action are demanding "commissions" for awarding contracts, construction projects, public services and supplies, or rezoning land, etc., or the mere promise of preferential treatment to donors (or the threat of the opposite to those who refuse to cooperate in funding the party or candidate).

Summary of the arguments

In summary, private funding of parties, candidates and campaigns basically raises three types of problem:

1. Political problems, involving free speech and right to information arguments versus equal treatment and equal opportunities arguments.
2. Economic problems, related with the inefficiencies created by funding problems and overspending, and
3. Social and ethical problems, on two levels: first, that of the possibility of immoral conduct on the part of the donors, arising from the opportunity of obtaining unfair benefits in return for providing finance to the parties, and second, because it may give rise to situations of corruption: extortion, bribery, favoritism, nepotism, backscratching, misuse of insider information, conflicting interests, money laundering, etc., both by the donors and by the parties and candidates (24).

(20) Cf. Argandoña (2001a).

(21) However, the difference may be important from a legal viewpoint: for example, when interpreting whether the payment made to a party in its capacity as an intermediary with respect to a (present or prospective) government or official is or is not an offense, pursuant to the OECD Convention to combat bribery of foreign government officials in international transactions.

(22) Cf. Heidenheimer (1989).

(23) Cf. Carney (1998), section 3d.

(24) I have developed the definitions, forms, causes and effects of corruption, mainly from the company's viewpoint, in Argandoña (1999, 2000a, 2001a).

More specifically, when the funding is provided by the State:

- 1) It is easier to put a limit on the funds' total amount.
- 2) However, in practice, this limit may not be respected, because those deciding the amount are also those who receive the funding, failing any effective control by public opinion or specialized agencies.
- 3) Access to public funds may provide an incentive to increase party and campaign spending.
- 4) When public funding is insufficient, incentives may be created to obtain illicit sources of funds.
- 5) It enables these funds to be distributed in accordance with criteria that are objective.
- 6) But not necessarily efficient, from the economic viewpoint.
- 7) Nor necessarily fair, insofar as, for example, they only consider past performance (percentage vote or number of members of Parliament), which benefits those who are already in power (25).
- 8) It favors collusion between parties to maximize the State revenues of large political organizations or of those forming the ruling coalition to the detriment of minority or newly formed parties.
- 9) It reduces parties' independence by making them dependent upon public funds, turning them into part of the State machinery.
- 10) It raises the risk of turning parties into bureaucracies that seek above all their own continuity, giving rise to a growing encroachment by party members on public institutions and administrations (26).
- 11) Parties may become increasingly distant from citizens, among other reasons because they do not need private funding for their activities.
- 12) And, therefore, they may become less transparent as they are no longer answerable for their management to their members and donors (27).

(25) These people also benefit from other practices, such as the use of the government machinery and its officials to carry out surveys, campaigns in favor of their parties, etc., or control of public communication media. Hence the reason why different countries' legislations contain rules to limit these abuses.

(26) This encroachment appears, for example, in the large-scale occupation of managerial positions in publicly-run companies, institutions and organizations by parties and politicians, particularly when they retire from political office. Cf. *Círculo de Economía* (1999, 5).

(27) The existence of public control mechanisms may not be sufficient if these mechanisms ultimately depend on the parties, through the government or through Parliament.

With respect to private funding,

- 1) It is more difficult to set a limit on its amount, as there is no limit on competitive spending (the social incentive to reduce this expenditure is opposed by each party's interest in increasing it) (28).
- 2) It is more difficult to establish a "level" field of play, in which all citizens can exercise equally their right to be informed and heard, and in which all parties may have access to the necessary resources.
- 3) But it may also be easier to eliminate the advantage held by those who are already in positions of power, by the large political machineries and the communication media, albeit only for those who have sufficient resources to do this.
- 4) It may increase the financial dependence of parties and politicians on pressure groups.
- 5) And incite the search for funds by means of illegal and immoral procedures (29).
- 6) However, the competition between donors decreases the effectiveness of their lobbying because a) the more pressure groups seek a party's support, the larger the contributions will have to be; b) the more interests are represented, the less efficient the contributions will be; c) contributions will often have a defensive purpose (to avoid unfavorable treatment if no contribution has been made to the campaign of the party or candidate who won the elections); and d) the competition between parties means that opposing pressure groups will probably support different political formations.
- 7) It may entrap companies as prisoners of the system, insofar as the exercise of their rights may be made conditional upon their cooperation in party funding (30).
- 8) It does not prevent parties from becoming bureaucratized or losing contact with their citizens (31), nor does it prevent their growing lack of transparency or encroachment upon public activity (nos. 10 to 12 in the previous section). However, it is possible that these shortcomings may be less acute when private funding predominates, first, because the parties' political machinery will be more sensitive to donors' requests (although these need not necessarily be aligned with those of citizens in general), and second, because of the pressures from donors for increased efficiency in political organizations' functioning (although the results achieved by such pressures may be meager, since a party's management is a task for specialists, and because donors will seek efficiency in terms of

(28) In the United States, the ruling on the *Buckley vs. Valeo* case declared any limitation on the level of spending to be unconstitutional, invoking the free speech principle.

(29) Including the creation and exploitation of opportunities for personal enrichment that are associated with the illegal funding of parties. Some of the factors facilitating this are the operations' opacity, increasing decentralization (the opportunities are now available at many levels of their organization), increased government involvement with private companies (joint ventures, outsourcing, etc.), etc.

(30) But it does not seem logical to argue that this situation will be applicable to all or many of the large corporations.

(31) A large part of these bureaucracies' work is devoted precisely to fundraising.

furthering their interests and not necessarily in terms of the party's improved functioning) (32).

Lastly, the mixed solutions, combining public and private funding, may overcome some of these shortcomings, but it is more likely that they will suffer from the shortcomings of both alternatives, to a greater or lesser extent. And both may ultimately generate incentives to seek funds using illegal and immoral procedures, creating an atmosphere of corruption in parties, encouraging candidates, party leaders, employees, or intermediaries attracted by the opportunity to earn easy money to seek their own personal enrichment, tarnishing their reputations, also creating an atmosphere of corruption among donors (with similar enrichment processes, appearance of intermediaries, etc.) and, in short, exerting damaging effects on democracy and its values.

Basically, the debates on whether funding should be public or private, on limiting the size of donations and restricting political spending (especially during elections) are a debate between models: that of the primacy of free speech versus the primacy of equal opportunities. The former defends the donors' freedom, trusting that the competition between them will ensure equal opportunities. The second prefers direct regulation to ensure this equality, although this may create imbalances in other areas.

Furthermore, as the advantages and disadvantages of either system become apparent, the legislation on the subject undergoes frequent modifications, sharing a large number of common elements together with a not insignificant number of national idiosyncrasies.

The regulatory framework

Certainly, different countries have adopted different approaches in their regulation of the funding of parties, candidates and campaigns, applying a series of criteria that can be summarized as follows (33):

- 1) Respect and furtherance of free speech and of democratic values and processes in general (34).
- 2) Mutual respect and equal treatment (35).
- 3) The existence of strong, well-organized, transparent political parties (so that, for example, their decision to back certain policies is not unduly influenced by pressure or coercion from the pressure groups that finance them).
- 4) An open framework for the dissemination of information and opinions (ease of entry and exit, transparency, etc.) (36).

(32) It is also possible that donors may end up becoming more involved in direct political action, through their financial contributions, and the search for funds may lead to increased decentralization of the party's management structure and, consequently, to more internal democracy. However, all these effects will probably be marginal.

(33) Cf. Shugarman (1997).

(34) Preventing deception, lies, incitement to hatred or violence, etc.

(35) Equality does not mean that the quantities received by the different parties are equal but that the funding opportunities are the same, at least before voters have stated their preferences among the different options available.

(36) Transparency in political information means that it is known who says what, avoiding the presence of front agencies, false or misleading advertising, etc.

- 5) A “level” field of play for everyone (right to hear and be heard, without unfair advantages) (37).
- 6) Allow, empower and encourage citizens to exercise their right to be informed and their right to vote.
- 7) Eradication of corrupt, immoral and illegal conducts (transparency).
- 8) Economic efficiency.

Although these principles are compatible with each other, they cause conflicts when they are implemented. Hence the fact that the solutions proposed in different countries are also very different, depending on the different values’ relative position in the hierarchy (for example, equal opportunities versus free speech) (38), the experience gained over the course of history, the existing political forces, etc.

When these principles are put into practice, they give rise to a series of features that are present, in one way or another, in virtually all the national legislations on political parties (39):

- 1) Spending limits imposed on the party, candidate or campaign (for fairness and economic efficiency reasons).
- 2) Public funding (to guarantee a minimum level of equal opportunities and party independence from pressure groups). This funding usually covers day-to-day expenses and also the extraordinary expenses incurred in election campaigns, and its amount is usually proportionate to the party’s acceptance among the population (number of seats, percentage of votes, etc.). The amount of the public funding is often related (positively) with private funding, with the result that the latter is encouraged. This funding includes free services, such as air-time on public and private radio and TV channels, free advertisements in the communication media, free distribution of election correspondence, etc.
- 3) Private funding (to defend free speech, citizen involvement and their right to support whatever political movements they wish) with some type of limit for fairness and efficiency reasons. Frequently, private involvement is encouraged by (limited) tax allowances, whose amount decreases proportionately to the amount of the donation. Certain forms of funding are usually prohibited, because they could lead to discrimination or constitute blatant acts of buying favors (for example, by state-owned companies, or companies which receive State funds, or which work under contract to public agencies, or by foreigners, etc.) (40).

(37) It is not the scope of this paper to enter the debate between Social Democrats (liberals in the Anglo-Saxon sense of the term) and liberals (in the European sense, or libertarians) about the need for this “level” ground for exercising one’s democratic right to free speech. See, for example, Fiss (1996), Sunstein (1993, 1997). In any case, any legal restrictions imposed must meet certain requirements: they must not refer to contents, they must not impose any unnecessary burden on any group, and they must ensure that the right to free speech is not exercised at the cost of other basic freedoms.

(38) Note that we are not saying that the values are different, but that they have different levels of importance, they are understood differently and are conditioned by different facts. Cf. Argandoña (2000b, 2001b).

(39) Cf. Moral (1999). Table 1 summarizes the main traits of the legislation of several countries.

(40) In Western countries, private funding was the norm, at least until the Second World War. Cf. Heidenheimer (1970). The idea of public funding started to gain ground in the 1950s.

- 4) Transparency, public reporting and control of party, candidate and campaign accounts (for fairness and efficiency reasons): prohibition to make anonymous donations (unless they are small), precise accounting requirements, monitoring by public and/or private auditors, publication of results, etc.

Companies, corruption and political party funding

Funding political parties is important for companies, not so much for the amount nor, very often, for the results, but because it brings into play important economic, social and ethical issues that range from the right of people and organizations to take part in politics to their right to defend their interests and protect the company (and its managers and employees) from political actions that may be harmful to it (41).

Companies have (at least in abstract) the right to support –financially, too– political parties’ ideas and initiatives, as part of their right to free expression (42). It is true that this right is applicable to people, but corporations too can exercise it, particularly when the purpose is to defend their interests.

In the exercise of this right, the company will have to take certain ethical precautions: a) the decision must be made by a person or body who exercises the right to represent the company (because it commits the company as a whole); b) the total freedom of the company’s owners, managers and employees to support another party, if they so wish, must be made clear (the company’s decision only concerns the company); c) the decision must not sacrifice the company’s goals to those of the political activity (the company cannot become the party’s financial arm), etc.

In addition, when defending its interests, the company must abide by general ethical standards: correct ends (for example, not seeking to harm a competitor), correct means, observance of the law, etc. The criteria applicable in this area are similar to those applicable to corruption:

- 1) It is not licit to offer a bribe. Therefore, a company cannot offer a donation to a party with the purpose or hope that the party’s leaders, legislators or officials will carry out actions that entail an incorrect performance of their office to provide a benefit to the company or prevent it from suffering a situation adverse to its interests (43).

This would be the situation in most of the cases where it is the company that takes the initiative to make a donation to a party, with the purpose of changing legislation that is detrimental to its interests, reducing the amount of a tax, obtaining a grant, improving the treatment received in a regulation, etc.: the end must be ethically correct (not a privilege or something that is contrary to the common good or that discriminates unfairly against a competitor, etc.) and the means must be ethically correct, too (excluding, in our case, bribery).

(41) Some of the ideas discussed in this section are a continuation or expansion of those developed in Argandoña (2001a).

(42) Although legislation may not recognize or may limit this right.

(43) The fact that the funds are offered to the party and not to an official or politician for his/her personal enrichment does not change the nature of the bribe (or extortion, when the proposal is made by the official or politician).

- 2) As a general rule, one cannot yield to extortion. Therefore, a company should turn down any request for funding made by a party or a candidate in return for something that will imply incorrect performance of their office by that party's legislators, rulers or officials, in return for an advantage (obtaining a benefit or avoiding harm) for the company.

However, in certain cases, one can accept an extortion (suffer injustice, not cause it) in order to obtain something that one is entitled to. In other words, a company may yield to the request to fund a party in order to obtain something that is morally correct and which it is entitled to, even though the resulting action of the party's leaders, legislators or officials will entail an incorrect performance of the duties of their offices (which, in turn, raises the issue of the company's collusion in the other party's immoral act).

In cases such as these, companies must follow the ethical rules on extortion (44): a) adequately study all the options available, to see whether the problem can be solved without resorting to corruption (or causing another, more serious problem); b) the extortion must be explicit or, at least, sufficiently open (that is, a bribe must not be disguised as if it was in response to an extortion); c) act with the intention of obtaining a right; d) try to avoid causing harm to third parties; e) there are objective and sufficiently important reasons that are proportionate to the harm suffered; f) avoid the scandal and bad example that the act may set (for example, to the company's employees); and g) take steps to prevent any recurrence in the future of similar situations of collusion with corruption.

This section includes almost all the cases in which the company is requested (explicitly or implicitly) to cooperate in funding a party or a candidate; for example, the requirement to pay a commission (to the party) in order to obtain a contract, license, permit, construction project or public service (even when the company is fully entitled to it) (45), or to rezone a plot of land, grant building permits or authorization for other development activities. Or the threat (explicit or otherwise) of discrimination if the company has not contributed to funding the party, if the party wins the elections (46).

The offer of a bribe or acceptance of an extortion (in our case, in the form of payments to a party or candidate) brings with it a multitude of other problems, which the donor must consider. For example,

- 1) The creation of an environment of corruption in the party, or in the government or public office which has originated the illegal payment (47). For example, it is not uncommon for party employees or leaders to also ask for funds for themselves or appropriate some of the funds received by the party. This means

(44) Cf. Argandoña (2001a).

(45) In Spain, this has been common in the construction industry (among others). See, for example, in *Expansión* (13/14 May 1994) the alleged statements by two politicians, and in *ABC* (19 May 1994) the statements by an industrial engineer working in the same industry. For the eradication of such practices, see the declarations made by another business owner in *Diario de Navarra* (8 January 2000).

(46) Obviously, with such threats, there is also the possibility of retaliations by the other parties which have not received any donation from the company.

(47) Political corruption problems are usually complex. In the case of France, for example, Pujas (2000) points out the importance of factors such as cohabitation (the coexistence of government and president representing opposing ideologies), political factors (membership of the same elite, including having studied in the same *Écoles Nationales*), the indulgent cooperation of the communication media, etc. For their part, della Porta and Vanucci (2000, 2) state that corruption and backscratching "have transformed not only party financing but also party life" in Italy.

that the demands for illicit payments will probably increase in the future: corruption becomes endogenous and more complex: “protection contracts”, mafias, use of violence, etc. (48).

- 2) Furthermore, it is difficult to eradicate illegal and immoral conducts in party financing, because many of them will have carried out similar practices and prefer to protect each other rather than expose such conducts (49), and the advent of new parties or candidates usually offers no improvement, since they too are often willing to join the illegal financing network. This means that “fresh start laws” are unlikely to solve these problems and provide effective means for truly eradicating corruption (50).
- 3) The company is engaging in a criminal conduct, with the resulting risk for itself and its managers and employees. For example, it will have to issue fake invoices (perhaps with the cooperation of other companies), “cook the books”, etc. (51). And its reputation may be seriously damaged.
- 4) It also creates an atmosphere of corruption or, at least, of laxity within the company, because the company’s managers or owners need the cooperation of other people, both within the company (accountants, staff, etc.) and outside of the company (intermediaries, financial institutions), which spreads the cloud of corruption. This may dispirit the more honest employees, encouraging them to behave immorally, and dilute their sense of ethical responsibility: in short, it destroys the sense of unity within the company (52). The consequences may manifest in such varied aspects as employee absenteeism, petty theft and cheating in the company, etc.
- 5) The more people are involved in such conducts, the easier it is for blackmail to occur or for the company to receive pressures from corrupt employees, intermediaries, etc. (53).
- 6) Above all, a company which hopes to obtain competitive advantages through the (more or less illegal) funding of political parties is developing an inadequate strategy, because this advantage is easy to imitate, it is perishable and may cause the company to neglect what should be its true long-term advantages (quality, innovation, customer service, costs, etc.).
- 7) The more serious corruption problems arise when the initiative comes from managers or employees who opt for making illegal payments to parties or politicians, even when it is supposed to be for the benefit of the company (and,

(48) Cf. della Porta and Vanucci (2000), Vanucci (1997), for the case of Italy. See Fiorentini and Peltzman (1995) on these issues.

(49) When one party is accused of corruption, it is likely that other similar cases will be revealed, giving citizens the impression that corruption is rife in politics. This also has harmful effects on business confidence, as well as tarnishing the good name of democracy.

(50) The exposure of “scandals” in the media may be positive, but it is usually not effective, at least in the short term, because politicians do not use the media to expose the truth but as a political weapon against their opponents.

(51) These costs are likely to increase over time, particularly if society finally reacts against political corruption and demands an exemplary punishment for the culprits.

(52) See Pérez-López (1993, 1998) on unity in the company.

(53) One cannot help but be alarmed when one sees the creation of figures such as funding “facilitators” in some political parties.

of course, they are much more serious when the benefit is for the managers or employees), because they reveal the existence of major management shortcomings.

In any case, corruption is not a solution to the problem of political party funding, neither for companies nor for the parties themselves. If agents learn from their own and other people's conduct, illegal and immoral funding generates a body of conducts and learning that eventually leads to the deterioration of the entire organization. A company whose survival depends on favors obtained by bribing politicians does not have a sustainable strategy, even though it may survive for a time, and even make a lot of money in the short term. In the same way, a party that needs illegitimate funds to finance its activities does not have a sustainable strategy either. Furthermore, the dynamic itself of obtaining these funds (granting benefits in exchange, competition from other companies and other parties, involvement of party leaders, etc.) will lead to increased spending: "corruption produces inflationary trends" (54). The argument of "just this once" is false, also from the economic viewpoint.

Conclusions

Financing political parties is not a form of corruption but, sadly, it has become a common cause of corruption, mainly in two areas:

- 1) By donors who try to use their contributions to obtain illegal and immoral advantages, whether explicitly or otherwise, from rulers, legislators and officials, through the parties they finance or the candidates whose campaigns they contribute to (bribery).
- 2) By parties and candidates who may pressure donors to contribute to their (ordinary or campaign) expenses under the threat of causing them harm or the promise of providing them a benefit (extortion).

However, as we have seen, the problem is much more complex. In some countries, political party funding has become a source of economic, political, social and ethical problems. We have approached these problems primarily from the company's viewpoint and we have seen that they can be very serious.

When it comes to looking for solutions to party finance problems, the list of recommendations is very lengthy: placing limits on the spending allowed for campaigns, placing limits on the amount and source of the donations, control and transparency mechanisms, encouraging small private donations (for example, by means of decreasing tax allowances), penalties for those who infringe these rules, shortening the duration of campaigns, etc. For our part, we can offer a number of recommendations to companies (55):

- 1) The best policy is probably to not make any donation or gift to parties, politicians, government officials, etc., even if they are legal. This may sometimes require adapting the strategy, to avoid suffering the disadvantages of this decision and enjoy its advantages.

(54) Della Porta and Vanucci (2000, 7).

(55) Cf. Argandoña (1999).

- 2) Incorporate the resolution to not make payments to political parties in a public statement (repeated at regular intervals), or in a creed or code that is made known to the company's managers, employees and stakeholders.
- 3) If the company's owners or management decide to make political contributions, the best option is to publicly communicate this decision and its reasons, particularly to its managers and employees (56).
- 4) Always respect the freedom of the company's managers, employees, customers, suppliers, etc., not involving them unnecessarily in the donations.
- 5) Scrupulously abide by the laws and require that the party also abide by them (for example, concerning transparency, receipts, etc.).
- 6) Categorically reject any illegal request from parties or politicians (including gifts for their personal enrichment).
- 7) Clearly document all the operations, entering them in the accounts and explaining them to the company's auditors.
- 8) Political funding decisions must always be made at the company's highest level of governance. Any anomalies that may arise (for example, requests for payment from government officials or politicians) should also be taken to this level.
- 9) Adequately weigh any decision to finance parties or candidates, applying the rules stated above: licit ends and means, consideration of alternatives, effects on the organization and its environment, etc. The same is applicable to non-cash donations, such as discounts on the company's products or services, publicity in favor of the party, use of the company's premises, etc.
- 10) Maintain a proactive attitude, not only avoiding illegal conducts but also making a positive effort to eradicate corrupt behavior in the industry or the national economy.
- 11) It is often the case that a company cannot successfully overcome these problems alone. Consequently, it should look for allies (other companies, trade unions, communication media, non-government organizations, etc.) or take the issue to higher levels (for example, trade or industry associations).
- 12) Self-regulate the company's (or industry's) interactions with the authorities, including representation and lobbying activities.
- 13) Insert the company's political honesty policies within an ethical conduct that encompasses all its activities and all the people who work in it or have relations with it, starting with the senior management, and declaring a clear, explicit commitment to behave at all times in a legal and morally correct manner.

(56) The main difference between a political donation and an act of corruption is that the former can be made public and the latter can not.

- 14) Acknowledge all mistakes made, without seeking to hide them; be willing to correct them, compensate for the damage caused by such errors, and take whatever steps may be necessary to prevent them from recurring.
- 15) Inform managers and employees of the dangers related with political funding, and give them the necessary theoretical and practical criteria so that they are able to face such dangers.
- 16) Cooperate, whenever possible, with judges, control agencies, non-government organizations, etc., in combating political corruption.

Obviously, none of this guarantees that companies will not have to face the problems caused by corruption in political party financing, but it may do a lot to help them. In such cases, taking the stance of admitting the seriousness of the problem but not being prepared to do anything about it is not the right attitude: the best defense is a proactive attitude of strict compliance with legal and ethical rules.

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