

Did you know?

- According to legislation in Chad, abuse of state resources can lead to three years in prison.
- The identity of anyone donating more than \$10 dollars must be reported by candidates during elections in Liberia.
- “My vote counts” is a new campaign in South Africa aimed at forcing a change in South African legislation requiring political parties to submit reports on received donations and spending. Currently, political parties only have to report on public funding that they have received. The initiative follows a failed court case brought by IDASA almost ten years ago to force parties to disclose their sources of income. For more information, see <http://www.myvotecounts.org.za/>



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Transformation Ambassadors and the Politics of Third Party Campaigns

By Victor Emejuiwe

Any passionate citizen of Nigeria who has a genuine interest in the growth of the country should be disappointed at the political melodrama going on across the nation.

The various groups that organized rallies across the nation in favour of candidates seeking elective offices and their benefactors do not have the interest of the nation at heart. INEC had fixed 16th and 30th of November as the commencement date for campaign activities for presidential and gubernatorial elections respectively; yet political parties allowed groups of persons to campaign on behalf of the parties and their candidates ahead of time and in violation of the law. One of such prominent groups is the Transformation Ambassadors of Nigeria (TAN).

For the past five months the TAN have been involved in aggressive campaigns on TV, followed by a nationwide mobilization of citizens across the geopolitical zones of the Federation on behalf of the current presi-



dent of Nigeria. For several reasons, Nigerians should be concerned about the negative conduct of the group and as a result we need to ponder on the implication of their actions.

For the past five months the TAN have been involved in aggressive campaigns on TV, followed by a nationwide mobilization of citizens across the geopolitical zones of the Federation on behalf of the current president...

We need to ponder and ask questions on the source of funding for this group; it is very obvious that billions of Naira must have been spent to organize such large rallies we saw on TV in the various geopolitical zones. The question every right thinking Nigerian should be asking is; where are these funds

coming from? So many believed that the sponsors of the group were the indicted subsidy thieves who are using stolen subsidy funds to campaign for the president. Others believed that

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IFES discussion on party finance

IFES Nigeria has organised a Yahoo Group on party finance open to all who want to know more and to discuss political party and campaign finance in Nigeria.

Go to;
[http://groups.yahoo.com/
group/partyfinance/](http://groups.yahoo.com/group/partyfinance/)



Different views on spending and donation limits

By Magnus Ohman

Most countries in the world do not use limits on the amounts that can be donated to or spent by political parties and candidates. However, a sizeable portion of countries do; 31% use donation limits to parties and 29% to candidates (45% of countries use a limit for donations to at least one of these), while 29% of countries limit the amount that parties can spend and 44% limit the amount candidates can spend.

Donation and spending limits are notoriously difficult to enforce, and IFES spends a lot of time assisting public institutions with a legal mandate to oversee political finance regulations. In this article I however want to address the issue from a different angle, namely how the view in different parts of the world whether donation and spending limits respectively are seen as democratically acceptable and justified.

Starting at a global level, the only UN Convention that mentions political finance is

the UN Convention Against Corruption, but that only calls for transparency in political finance, it does not mention anything about fairness in the financing of politics, nor about limits.

However, the UN Office of

the disproportionate expenditure on behalf of any candidate or party". It makes no mention of donation limits however.

In a European context, both donation and spending limits are seen as acceptable, although most countries do not use them.

The Council of Europe Committee of Ministers recommends that member states consider introducing both types of limits (Articles 3 and 9 of Recommendation 2003(4)). The main focus has sometimes been on spending limits however. The Venice Commission "Code of Good Practice in Electoral Matters" mentions spending limits, but not limits on donations.

Spending limits have also been tested and found acceptable by the European Court of Human Rights. In the Bowman vs the United Kingdom case from 1998, while the Court held that the spending limit that UK law then put on individuals

spending money relating to election campaigns was too low, it accepted the notion of spending limits.

The situation is very different in the US. There, limits in donations have been in place for a long time in various contexts, and the overall notion remains accepted, even though the total limit that individuals could donate to all candi-

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the Commissioner for Human Rights has stated in its official comment to Article 25 about political participation in the Covenant on Civil and Political Rights that "Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by

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Nigerian political parties and illegal nomination fees

By Jide Ojo

In a well-researched and scholarly article on the back page of Thisday newspaper of November 4, 2014, human rights lawyer and a Senior Advocate of Nigeria, Femi Falana, dissected the illegality of the action of Nigerian political parties in charging political aspirants Expression of Interest and Nomination Fees. The exorbitant amount which is in millions of Naira is prohibitive, discriminatory and exclusionary. It must be stated that this is a major way by which political parties in Nigeria fund their operations. For instance, as at November 4, 2014, Peoples Democratic Party is reported to have raked in over N3 billion from this exercise. (See The PUNCH of November 5, 2014.)

Barrister Falana's sound legal argument against collection of nomination fees is as follows: "To ensure some degree of popular participation in the electoral process political associations which intend to transform into political parties are not required to meet stringent conditions. In the same vein, candidates contesting elections are not obligated to pay nomination fees to political parties. Once they meet the conditions outlined in the Constitution they cannot be disqualified for failure to pay outrageous nomination fees imposed on them by political parties."

The legal luminary went further to state

that "Since the conditions stipulated in the Constitution do not include payment of nomination fees and production of tax clearance certificates (by political contestants) Therefore, the collection of nomination fees from candidates by political parties, which is an additional qualification, is illegal and unconstitutional as political parties have no power to add to or subtract from the constitutional prerequisites which candidates must possess to qualify to contest elections in Nigeria."

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guaranteed in the African Charter without distinction of any kind such as fortune or social status."

He did not stop at that, the legal icon cited a case from the United States of America to buttress his point. According to him, "In *Bullock v Carter* 405 U.S 134 (1972) the appellants who sought to become candidates for local office in

Falana further submitted that "Since the right of every citizen to participate in government of their country, either directly or through freely chosen representatives is guaranteed by Article 13 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (Cap A9) Laws of the Federation of Nigeria, 2004, the guideline of a political party for payment of skyrocketing nomination fees which is capable of excluding indigent candidates from the political process is illegal. More so, that every citizen is entitled to the enjoyment of the rights and freedoms recognized and

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Transformation Ambassadors and the Politics.....*Cont'd from page 1*

public funds have been drawn from government coffers to facilitate the campaigns of this group. Whatever the case may be, the fact remains that these groups have spent huge sums of money on campaigns and there is need for accountability. Section 93 of the Electoral Act provides for disclosure of sources of campaign funds by the political parties. The section states amongst others that; a political party shall keep an account and asset book into which records of all monetary and other forms of contribution received by the party are kept. It also mandates parties to record the names and addresses of any persons or entities that contribute any money or assets which exceed N1, 000,000.00; this is also consistent with the provision of Section 91(9) of the Act which sets limits for individual contribution, which must not exceed N1, 000,000.00. Based on these provisions, a smart way of avoiding the liabilities attached to breaking the electoral laws is by adopting the strategy of third party campaigns which is exactly what the Transformation Ambassador of Nigeria (TAN) is.

How else can we explain the daily advertorials aired on T.V and the messages listing the achievements of President Goodluck Jonathan, and at the same time soliciting for public support and asking him to run for 2015 elections, if not campaigns? No matter the guise used to portray this, such activities are campaigns and the expenses need to be accounted for by the political party because the group is indirectly undertaking responsibilities known to be given to political parties.

While we are pondering over the violation of the electoral laws by TAN, it is necessary for Nigerians to understand that in our present society, organizers of third party campaigns embark on this based on their own self-serving interests. Make no mistake, it is not because they love the president so much, or that the performance of Mr. President is extraordinarily good that they spend billions of their personal resources campaigning for him or asking him to come back to office, rather, they do this in view of the benefits they are deriving from the government or intend to derive from the government. The electorates

need to be wise and not become carried away by the stipends given to them by third party campaigners; they are simply making an investment which they would definitely reap at the expense of the masses if their candidate becomes elected. Monies that should be used to provide basic amenities, create jobs and improve the lives of the general populace would be used to compensate this group either through contracts which are bound to fail or by any other indirect means.

The concern which this article intends to address is the impunity by our leaders and politicians; they have put aside the laws for their own selfish ambitions. It is so unfortunate that the soul of Nigeria is tied to politicking rather than to progress. There are no politics of ideas, visionary leadership is lacking and development has taken the back seat. As a result, the 2014 budget implementation report for second and third quarters are not released, we are in the fourth quarter yet nobody cares. MDAs were not able to implement the N152bn released to them for capital projects as at the first quarter of 2014 rather Ministers were busy pursuing political ambitions for the next general elections. Capitalists have turned into politicians and are using their resources to mislead vulnerable citizens to join them in pursuing their political interests. Citizens' focus are now drawn into politics rather than in engaging the leaders to demand for meeting the developmental needs which would affect the overall wellbeing of the nation.

In conclusion, INEC should call for the disclosure of sponsors and sources of expenditure of the Transformation Ambassadors of Nigeria. As we go to the polls, the electorate should make no mistake by voting because of money otherwise, they shall end up being at the receiving end by living in perpetual poverty and retrogression. Whoever emerges as leaders in 2015 must earn it based on their ideas and track records and not based on how much money they throw around.

Victor is Program Officer at Centre for Social Justice, Abuja

The Need for Money in Politics

By Carl W. Dundas

Introduction

A growing number of election commentators on political campaign finance believe that reforming political finance rules in the United States of America will not be successful. In emerging democracies however, the issue may not be reform, but whether or not it is possible to formulate a political campaign finance regulatory framework that works.

Election campaigns need money, plenty of it; and as electoral competitive campaigns develop, more funds will be needed for advertisements and other forms of publicising the political message of each party or candidate. How much money is enough for a political party's campaign? Legitimate campaign needs may include payment to party workers, advertisement of a party's and candidate's campaign message to voters, and transport and means of communications for party workers and supporters.

Unfortunately, often much of the monies raised under the guise of campaign funds may be slush fund used for unlawful purposes as paying bribes to voters, and to party organisers for use in questionable campaign activities. In order to restrain excessive campaign expenditures and unlawful campaign deals, it is necessary to regulate campaign finance. There are three main tools to be used to reign in campaign expenditures, namely, disclosure, contribution limits and public financing of campaigns. These restraining tools are used in many countries, including the USA and many emerging democracies, in varying degrees.

Disclosure

Disclosure is perhaps the most widely used tool to restrain election campaign expenditures in mature and emerging democracies. The level of disclosure may vary, but the law often requires the amount of contributions and expenditure to be publicly disclosed. The

detail of disclosure may vary, as well as the frequency. Disclosure reports may include information on all contributions and expenditures, and contributions above a stipulated amount may require the name and address of the contributor to be disclosed and the recipient of the contribution, the amount and the date of the transaction. In some countries, the filing of the foregoing information may be done electronically on the internet.

In the USA, the emergence of the independent expenditure disclosure has boosted campaign expenditure, although it has come with certain constraints. Independent expenditure disclosure applies to political communications, such as television or radio advertisements expressly advocating the election or defeat of a candidate. These advertisements are not coordinated with a candidate's campaign and are held by the courts not to pose a corruptive threat and so cannot be limited like contributions to candidates and campaign-related expenditures, irrespective of who is making the independent expenditure. Notwithstanding the general position of the courts, laws require persons or groups to disclose independent expenditures on the basis that disclosure offers valuable electoral information to the public.

Contribution limits

Limiting the amount and source of campaign contributions is a well-known way of regulating money in politics. The limits will of necessity vary according to national circumstances.

Spending limits

In the USA, spending limits are viewed with suspicion as risking a breach of the First Amendment to the Constitution, which protects free speech. The courts have permitted spending limits to be introduced only if there is an option offered to the candidate and so several States

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Different views on spending and donation*Cont'd from page 2*

dates was struck down by a Supreme Court decision in 2013.

The situation is very different regarding spending limits. Already in the *Valeo vs Buckley* case in 1976, the Supreme Court found that the spending limits that had been introduced for federal elections violated the First Amendment to the US Constitution, which guarantees free speech. This was only two years after these limits had been introduced as amendments of the Federal Election Campaign Act. Importantly, the Court however upheld the donation limits that were included in the same law. Another blow to spending limits in the US context came through the 2010 ruling in the *Citizens United* case, which struck down limits on the independent spending for political purposes by corporations and labour unions in candidate elections.

The only spending limit in US federal politics that has escaped being struck down by the Supreme Court is the spending limits for presidential candidates. The reason the Court has not touched this is arguably that the limit is voluntary – presidential candidates are only compelled to obey the spending limit if they accept public funding. Barack Obama chose as the first candidate not to accept the public funding in the 2008 elections, and nei-

ther of the main candidates did so in 2012. As a result, this public funding system, with the connected spending limit, is now considered defunct.

Finally, in Africa there are no regional provisions regarding neither donation nor spending limits. The African Union Convention on Combatting Corruption calls for transparency in political finance and for member states to “Proscribe the use of funds acquired through illegal and corrupt practices to finance political parties” (Article 10), but it does not mention any other restrictions on the financial activities by political parties or candidates.

The conclusion must therefore be that the view of donation and spending limits, and whether they are democratically acceptable (or even required) varies around the world. The US rejection of spending limits as a restriction of free speech is however not universally accepted.

Magnus is IFES Senior Advisor on Political Finance

The Need for Money in... ... *Cont'd from page 5*

have provided optional spending limits whereby state funds are offered for campaigns, provided that the recipient candidates abide by the spending limits in place.

Public funding of campaigns

Political contestants in the USA can participate in public funding as an optional measure, but if they opt to participate, two conditions are attached to their participation in the public funding program, namely, that they agree to abide by spending limits and limit or cease to raise private contributions.

Conclusion

The independent expenditure disclosure approach of the USA will undoubtedly make more funds flow towards election promotion, but it is not yet clear whether or not it will rid elections of the unwelcome side of money politics. Similarly, the Indian Electoral Trusts Scheme of 2013, (discussed in an earlier contribution to this Newsletter), and which aimed to enable corporate firms to better fund elections, may assist political parties, but whether these approaches will help in producing “cleaner” elections will have to be determined in the future.

Carl is an Electoral Consultant based in the UK

the Democratic primary election challenged in the District Court the validity of the nomination fees up to \$8, 999. It was held that the fees contravened the Equal Protection Clause of the 14th Amendment. It was the view that "By requiring candidates to shoulder the costs of conducting primary election through filing fee by providing no reasonable alternative means of access to the ballot, the State of Texas has erected a system that utilizes the criterion of ability to pay as a condition to being on the ballot, thus excluding some candidates otherwise qualified and denying an undetermined number of voters the opportunity to vote candidates of their choice."

The above argument by Femi Falana is logical and faultless. In fact, Political Party Finance Handbook (2011) published by INEC on page 7 stipulated five ways through which political parties may obtain funds for their operations. These are: Membership fees; Income generated by property owned by political party; Profit from the income of the enterprises owned by political party;

Public funding i.e. grant from the state; and Contributions from legal entities and natural persons.

Let's examine each of these sources. First, party members hardly pay their membership dues. Oftentimes, they only

parties don't own property or any other investments for that matter. Most of the party offices are in rented apartments, some of which are donated by wealthy party members. Thus, with little or no investments, no income is coming in from that angle.

...with all legitimate means of funding for political parties yielding little or no income, how appropriate is the criminalization of the collection of expression of interest and nomination fees by the Nigerian Constitution? Well, Falana believes "In the circumstance, political parties may only be permitted by law to charge administrative fees." Maybe political parties should thus rename the EoI and nomination fees as administrative charges in order not to run afoul of the law.

pay when they are contesting for elective offices on the platform of the party. At other times, aspirants vying for elective offices pay the membership fees arrears of their supporters in order to enable them vote during party primaries. Two, there is no more public funding for political parties since 2010 when the current electoral act came into force. Three, many political

Four, Nigeria's Company and Allied Matters Act in Section 38 (2) forbids companies from contributing funds to political parties. It states: "A company shall not have or exercise power either directly or indirectly to make a donation or gift of any of its property or funds to a political party or political association, or for any political purpose..."

Therefore, with all legitimate means of funding for political parties yielding little or no income, how appropriate is the criminalization of the collection of expression of interest and nomination fees by the Nigerian Constitution? Well, Falana believes "In the circumstance, political parties may only be permitted by law to charge administrative fees." Maybe political parties should thus rename the EoI and nomination fees as administrative charges in order not to run afoul of the law.

Jide is Executive Director of OJA Development Consult, Abuja.

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IFES promotes democratic stability by providing technical assistance and applying field-based research to the electoral cycle worldwide to enhance citizen participation and strengthen civil societies, governance and transparency.

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News clips on political finance in Nigeria

Illegal Payment of Nomination Fees

BY FEMI FALANA, NOVEMBER 4, 2014

In line with democratic principles the political space in Nigeria has been liberalised by the Constitution. To ensure some degree of popular participation in the electoral process political associations which intend to transform into political parties are not required to meet stringent conditions. In the same vein, candidates contesting elections are not obligated to pay nomination fees to political parties. Once they meet the conditions outlined in the Constitution they cannot be disqualified for failure to pay outrageous nomination fees imposed on them by political parties. To discourage the monetisation of the political system the Electoral Act has fixed the maximum amount of election expenses to be incurred by each candidate.

Since the restoration of civil rule in 1999, many political parties have extorted billions of naira from candidates for the purchase of expression of interest or nomination forms. Although the PDP fixed a nomination of N20 million per presidential aspirants, two aspirants who alleged that they paid the fees were told that the Peoples Democratic Party (PDP) had printed only one nomination for President Goodluck Jonathan, a co-aspirant. So far the N40 million allegedly paid by the ...

<http://www.thisdaylive.com/articles/illegal-payment-of-nomination-fees/193118/>

Obasanjo blasts Jonathan again

BY FRIDAY OLOKOR, NOVEMBER 27, 2014

CORRUPTION as a recurring factor in Nigeria again came under focus on Wednesday with former President Olusegun Obasanjo rapping the President Goodluck Jonathan administration and the National Assembly for promoting corruption and poor governance. "For quite some time, the covered and hushed-up corruption has had its toll on the economy," Obasanjo said.

He said the increasing corruption under Jonathan had damaged the economy, warning that "in the future, we will have a budget that cannot be funded."

"We may have to borrow to pay salaries and allowances. Revenue allocation to states and local governments has already drastically reduced. Capital projects at all levels may have to be drastically cut or stopped," he added.

The ex-President spoke in Abuja at the presentation of books by a former Chairman of the Independent Corrupt Practices and Other Related Offences Commission, retired Justice Mustapha Akanbi. Obasanjo was the chairman of the occasion.

He said, "Nigeria cannot continue to indulge in disdain of truth, elevation of corruption and incompetence, reinforcement of failure, condonation of heinous crimes and celebration of mediocrity, tribal bigotry, fomenting violence and anti-democratic practices in states and National Assembly.

<http://www.punchng.com/news/obasanjo-blasts-jonathan-again/>

The rise of Silicon Valley as a financial political force, in charts and graphics

BY JON WARD, NOVEMBER 18, 2014

Silicon Valley has become a major source of political donations in recent years, as tech companies and the men and women made rich by them have grown more interested in politics.

But when exactly did political giving from the Valley really start to take off? Yahoo News reached out to Crowdpac, a for-profit company that analyzes political giving, to try to help us answer that question. And Crowdpac came back with a map — not just of the Bay Area, but of the entire United States — that tracks giving by presidential year from every county in the country going back to 1980.

Crowdpac got the numbers from a database compiled by co-founder Adam Bonica, an assistant professor of political science at Stanford University. Bonica's database is a collection of over 100 million political contributions made between 1979 and 2012 in local, state and federal elections.

You can zoom in on the map with your mouse. When you do that in the Bay Area, you can see that there were two big jumps in the three counties that are home to much of the Silicon Valley elite: Santa Clara, San Mateo and San Francisco. The first jump came during the 2000 election cycle, on the heels of the first tech bubble, and was ...

<http://news.yahoo.com/see-which-counties-give-the-most-to-political-campaigns-over-three-decades-183929038.html>