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Political Party Funding in South Africa

by

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ELLRIC001

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This work has not been previously submitted in whole, or in part, for the award of any degree. It is my own work. Each significant contribution to, and quotation in, this dissertation from the work, or works, of other people has been attributed, and has been cited and referenced.

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Abstract

This dissertation discusses the problems surrounding party political finance in South Africa. Its principal objective is to address the question of the most appropriate state policies regarding the funding of political parties. It seeks to illustrate the current position in South Africa, to understand the areas of contention, and to make recommendations vis-à-vis means of achieving change. Although my methodology is largely grounded in a rational choice approach, my research draws upon current, historical and comparative analyses as well as more general democratic and Marxist theories.

It is established early in the dissertation that while the rational choice approach provides a useful underpinning for the assessment of an optimal regulatory framework, it is limited in its ability to render a conclusive recommendation. The subsequent analysis of the conceptual issues at play illustrates a complex series of trade-offs for each policy available to a state, and also between policies. That no definitive solution is derived, either conceptually or for South Africa specifically, is supported by the diversity of approaches used globally. The suggestion is that local issues are important in determining the optimal policy.

Important factors particular to South Africa include the perception of corruption and the incumbency benefits that perhaps give the ANC strength beyond its enormous popularity. Political equality is an important democratic right, and one supported by the constitution. Although it may entail a proliferation of parties, the role of opposition parties is important in South Africa, as it is generally. Policy recommendations that take these matters into consideration will not remove all problems associated with political party finance, and debate on the issue will continue. But improvements can be made, even if power structures may

make them difficult to realise. Wider debate will help bring these potential changes to the attention of the public, which, with the help of civil society, will increase the chances of change.

University of Cape Town

Contents

1	Introduction	6
2	The Rational Choice Approach and its Problems	9
3	Conceptual Analysis of the Issues Surrounding Political Party Funding	13
3.1	Motivations of Donors	13
3.2	Objectives of State Policies	17
3.3	Context	19
3.4	Tools Available to the State	20
3.4.1	State Funding	21
3.4.2	Expenditure Limitations	25
3.4.3	Donation Restrictions	27
3.4.4	Public Disclosure Requirements (“Transparency”)	28
3.4.5	Summary of Tool Trade-Offs	31
4	South Africa Specifics	32
4.1	South African Context	32
4.2	Source of Donations	33
4.3	Expenditure	35
4.4	Problems That Have Arisen	37
4.5	Policies Implemented	39
5	Comparative Evidence	44
5.1	Diversity of Approach	44
5.2	The SADC Region	46
6	Democratic Theory	48
6.1	Political Equality	48

6.2 Role of Parties	49
7 Conclusion	52
Appendix 1: IEC Fund allocations made to political parties 1998-2000	56
Appendix 2: The Benefits of Indirect Funding	57
Bibliography	59

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1. Introduction

In recent years the funding of political parties and electoral candidates has received vast attention from academics and the media. Many countries from around the globe have been hit by political scandal following the exposure of misused private donations by senior politicians or their failure to properly abide by disclosure laws. Most recent examples include the uncovering of Helmut Kohl's use of secret slush funds,¹ the allegations of state contracts being offered to a Swiss building company by Boris Yeltsin in exchange for monetary donations,² and the likely investigation into illegal donations made by China to the Democratic party for Bill Clinton's re-election campaign in 1996.³ Domestic scandals are also rife, for example the denial by Nelson Mandela and Thabo Mbeki of separate donations made to them by casino magnate Sol Kerzner, and the allegations of subsequent changes in their behaviour.⁴ Indeed, repeated discussion and debate on the subject in most countries has eventuated in suggestions of improper conduct. Concerns are perhaps most extreme in the United States (US), where parties and leaders use it as a central component of their election manifestos.

This dissertation focuses on political party funding with particular reference to South Africa. Firstly, the problems arising from this subject matter should be differentiated from those ensuing from other areas of "money and politics". For example, many similar issues arise in the funding of candidates for their election campaigns, such as for the position of president. However, political parties also require funding for their ongoing running costs, symptomatic

¹ For a discussion of Helmut Kohl's use of secret slush funds to keep a strong grip on the Christian Democratic Union refer to "Germany Corrupt," *Economist* 11 Dec. 1999.

² For a discussion of spreading financial scandals in Russia, in particular the Swiss building company case, refer to "Russia's Political Battle Looms," *Economist* 4 Sept. 1999.

³ For a discussion of suggested campaign finance illegalities by the President of the US and by the Democratic Party, in particular regarding Chinese donations and Chinese sales of nuclear technology to neighbouring states, refer to "Asia Gets Too Close For Comfort," *Economist* 23 May 1998.

⁴ See Roger Southall and Geoffrey Wood, "Political Party Funding in Southern Africa," *Funding Democratization*, ed. Peter Burnell and Alan Ware (Manchester: Manchester University Press, 1998) 214.

of their broader role in a democracy. Further, the problems emerging from both of these areas should be distinguished from a wider notion of corruption, in which politicians attain personal gains from selling state assets of some form. The “cash for questions” scandal in the United Kingdom (UK) following Mohamed al Fayed’s allegations against Neil Hamilton is a pertinent example of this.⁵ More widespread, and perhaps more relevant to South Africa, however, is the sale of state contracts or use of state equipment in return for cash. In such an instance the benefits go directly to the politician.⁶

The principal objective of this dissertation is to address the following rational choice question: what are the most appropriate state policies regarding the funding of political parties in South Africa? My research seeks to illustrate the current position in South Africa, to understand the areas of contention, and to make recommendations vis-à-vis means of achieving change. In order to do this the rational choice approach will be used as a platform for empirical study, including current, historical and comparative analyses. However, in order to provide a full exploration of the subject, I will also be drawing upon democratic and Marxist theories. I will start by outlining the basics of the rational choice approach, and identify its principal flaws. Using this approach as a base I will then move on to discuss the conceptual issues at play, before applying specifics of the South African situation. I will then conduct comparative analyses to provide context for the South African situation and to assess what lessons can be learned. I will discuss the most relevant issues of democratic theory in a

⁵ For a discussion of Queen’s Council cross-examination of Neil Hamilton refer to *Daily Telegraph* (London) 30 Aug. 2000, 4.

⁶ For a broader understanding of the concept of corruption see the distinct definitions put forward by Le Vine: “the unsanctioned, unscheduled use of public political resources and/or goods for private, that is, non-public ends”; and Gambetta: “a three-party relationship, which constitutes the elementary type of corruption. A trustor (T) has a clear set of rules which a trustee / potential corruptee (A) should abide by. A corrupter (C) has interests which are contravened by the rules set by T. For a corrupt exchange to take place, A will transfer some resources to C, not permitted by the rules set by T, resulting in a situation where both A and C are not worse off.” Victor Le Vine, “Political Corruption: An Outline of a Model,” *Political Corruption: the Ghana Case* (Stanford: Hoover Institute Press); Diego Gambetta, “Corruption: An Analytical Map,” Shelby Cullum Davis Centre / Open Society Institute Workshop, 21-22 Mar. 1999.

separate section before drawing my conclusions.

Over the course of this research it will become apparent that there are certain key questions that need to be addressed to help resolve the central one. Of a theoretical nature, it is important to understand the meaning and importance of political equality, and also what the role of political parties is, both in general, and with particular regard to South Africa. Of a practical nature, many questions emerge, but a few are particularly contestable, but important. Firstly, it is important to address how much of the financial burden should be carried by the state, and how much it is capable of carrying. Secondly, it is important to consider the likely effects of public disclosure requirements on the volume and distribution of private donations.

2. The Rational Choice Approach and its Problems

The rational choice approach originated in the field of microeconomics and is now one of its cornerstones. It stems in part from the highly technical and mathematical writings of von Neumann and Morgenstern dating back to the Second World War.⁷ Put simply, when applied to economics the theory states that people act as utility maximisers. The theory is based on a series of axioms about individual behaviour. Its purpose is not to prove these axioms – which would entail proving that individuals show consistency and coherence in the ordering of their preferences. Rather, it assumes them, and uses them to build models regarding human behaviour. If proof of the assumptions is sought, it is perhaps to be found in the usefulness of the models of behaviour derived from them. As such, therefore, rational choice theory is not so much a body of accepted proved theory but, rather, part of an intellectual tradition.

Based on the postulate of methodological individualism, rational choice theory is applicable to a one player situation. For example, if it is raining and I am in possession of an umbrella, rational choice theory will predict that I will use my umbrella rather than carry it by my side. Its axioms can also be used when more people are introduced. Game theory applies them to the study of “the strategic interaction of two or more players”. An often cited example is the Prisoner’s Dilemma game. Public choice is the body of literature that applies the principles of the rational choice approach to the state level.⁸

As is often the case in the social sciences where concepts developed in one field have been applied to others, rational choice and game theory have been incorporated into the field of politics. In contrast, public choice theory deals specifically with issues of politics. However,

⁷ J. Von Neumann and O. Morgenstern, *Theory of Games and Economic Behaviour* (Princeton: Princeton University Press, 1944).

these theories have historical intellectual roots. For example, contract theory, as discussed by Thomas Hobbes in *Leviathan* (1651) and John Locke in *Second Treatise of Civil Government* (1690), is in many respects a precursor of game theory and is underpinned by the concept of rational individualism.

The rational choice approach provides a useful base for empirical analysis. It allows the issues at play to be laid out and the key decisions that need to be made to be identified. In this respect, it adds an understanding of what the main problems associated with political party funding are and what tools are available to combat them. However, there are a number of problems with the approach. Firstly, there are problems with the notion of rationality. Limits and asymmetries of information mean that perception is not homogeneous. "Objectivity" is an unattainable ideal beyond the realms of our subjective capabilities. Further, there is a problem with interests and beliefs. Rational choice presumes that an individual's interests form his beliefs, but it is clear that beliefs very often define what an individual perceives his interests to be.

Secondly, there is an absence of meta-ethical consensus regarding the ethical underpinning of the rationally optimal solution for a group of people. Rational choice is built upon the conception of utility, which itself is not clearly defined. But it is also unclear how utility should be distributed - Benthamite utilitarianism is one of the many alternatives. Further, the concept of utility does not sit well with modern support for rights theory ethics.

Thirdly, states and governments do not operate as unitary actors. Thinking of them in this way undermines the complexity of the democratic process at play. Instead, they operate as

⁸ For a further discussion of the definition and history of public choice theory refer to Dennis Mueller, "Public

complicated bureaucracies dependent on individual initiative and organisational rules. As discussion of the manner in which state funding is distributed illustrates, there is little guarantee that the institutional infrastructure would allow an outcome that even closely resembles the optimal solution, even if that end was known. Larger parties that benefit from a proportional distribution are likely to be the ones that have power to change the distribution. This forms part of wider “Marxist” fears of capital-creating power structures that protect its interests. While I support the validity of this concern, it should also be noted that understanding rational choice outcomes could be helpful because there are structures, such as civil society, that help to counter the Marxist fears.

Fourthly, public choice faces a fundamental difficulty in its attempts to provide utilitarian-based rationally optimal solutions for groups of people on the basis of individual preference aggregation. Kenneth Arrow was the first to demonstrate that there is no procedure that allows for the aggregation of individuals’ preference orderings into a social ordering.⁹ It is not possible for states to produce coherent and consistent preference orderings in the same way that individuals can. Amartya Sen provides generalised proof of Arrow’s result, including for when the assumption of independence from irrelevant alternatives is relaxed.¹⁰

In the face of these problems, the rational choice approach can only take a theorist so far. As Iain McLean eloquently expresses:

“I believe they (i.e. rational choice theorists) should say: ‘This bus brought you so far down the road. It has taken you past some cul-de-sacs

Choice in Perspective,” *Perspectives on Public Choice*, ed. Dennis Mueller (Cambridge: Cambridge University Press, 1997) 1-17.

⁹ Kenneth Arrow, *Social Choice and Individual Values*, 1951, 2nd ed. (New Haven: Yale University Press, 1963).

and, on the whole, travelled in the right direction you wanted to go. But it stops here. To go further, you must get on the connecting bus run by the psychologist, anthropologist, or historian ... over there'."¹¹

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¹⁰ Amartya Sen, *Collective Choice and Social Welfare* (San Francisco: Holden-Day, 1970).

¹¹ Iain McLean, "Rational Choice and Politics," *Political Studies* 39 (1991): 511.

3. Conceptual Analysis of the Issues Surrounding Political Party Funding

In this section I will discuss the problems that can arise from private donations made to political parties. A useful starting point for this will be to consider the motivations of donors. I will continue by discussing the state's objectives, and outlining the range of policies available to it. Further detail will be given on the likely effect of these tools, the new problems that may arise, and the possible trade-offs between tools. In short, by eluding to the extent of each problem, progress will be made in determining the best policy mix out of the four tools.

3.1 Motivations of Donors

When a private individual or business makes a donation to a political party it would be fair to assume that this is undertaken with expectation of a return of some form. In this respect five different motivations are identified: to establish effective and stable multiparty democracy (particularly by means of donations to opposition parties to enable healthy debate); to maintain a general government ideology; to purchase influence over politicians and/or parties; to "buy" state contracts; or to gain entry into "the club". Of these only the former can be considered to be of positive social value, while the others, to a greater or lesser extent, can be seen to be damaging.

Establishing effective and stable multiparty democracy is a motivation often stated by private donors, particularly in the case of democracies in their infancy, such as South Africa, where concerns about political instability are high, and the benefits of multiparty democracy are seen to be significant. Any donation towards this end is therefore deemed to be legitimate, with the costs of a shortage of donations being potentially high. Without political stability business and investor confidence may falter; without multiparty democracy there may be

unrest amongst the population. Thus, there is a fine line to be drawn between donations motivated by the end of political stability and those by the end of maintaining liberal democratic and economic values – not to mention those donations that use such a motivation to mask a hidden agenda. As for the motivation of multiparty democracy, its meaning is contestable in detail, and the role of parties in democracy ambiguous. Certain aspects of this contest will emerge shortly, while the remainder will be dealt with more thoroughly in the political theory section.

Many donations may be motivated by a desire to further a particular ideology or policy. On the largely defensible assumption that larger party budgets increase chances of election, businesses may wish to donate to increase chances of low taxes, trade unionists to improve labour power, or anti-abortionists to influence pro-life legislation.¹² The problem that arises here is that money is not distributed equally amongst citizens: the concept of *political equality* that underpins representative democracy is undermined. That each citizen is accorded a single vote ceases to imply equal political status, and what results is a “contest of wealth” rather than a “contest of ideas”. Martin Linton, who describes this problem using the analogy of an “unlevel playing field”, emphasises the need for political equality to exist so that economic inequality can be counterbalanced, at least in part.¹³ The implication of power generated by money is that certain ideologies and policies have greater chance of success. In particular, policies that encourage liberal economic processes are seen to prevail for this reason.

¹² As will be illustrated later, increasing amounts of money are needed for running parties and conducting election campaigns. Statistical analysis demonstrates that having more financial resources increases chances of success. In the words of political commentator Hugh Robertson, “The fact of the matter, which is dawning with ever-growing urgency on all parties ... is that fighting an election in any society is an expensive business, and that no matter what enthusiasm there might be for a particular cause, elections in large measure are won or lost in general proportion to the funds available for fighting them.” *Argus* (Cape Town) 25 Feb. 1993.

Some might argue that money provides a means of weighting preferences in a system that otherwise ranks preferences on an ordinal basis, within and across individual preference bundles. Money can be donated by individuals who hold strong preferences in order to represent this intensity – in effect introducing cardinality. This said, the unequal distribution of wealth potentially undermines political equality. In any case there may be more effective ways of incorporating intensity of preferences by changing the secondary rules, for example by a system of point voting.¹⁴ It would seem that money can explain a great deal in political decision-making.

As I have already suggested, donors may wish to purchase influence over politicians and/or parties. Anti-abortionists or gun groups, such as the National Rifle Association (NRA) in the US, may choose to donate to the party most likely to promote their cause. Besides the implications already mentioned, this is particularly poignant when the donation is observed to have been made at the same time as a change in policy. A striking example of this is the £1m donation made by Bernie Ecclestone to the Labour Party in 1997 and the subsequent “u-turn” in policy towards tobacco advertising in Formula One motor racing. Following this the British government commissioned a fifth report by the Committee on Standards in Public Life looking at the funding of political parties in the UK.¹⁵ The so-called Neill Committee, without suggesting any causality in that particular instance, concluded that this category of motivation was a particular problem in Britain, and made recommendations accordingly. Allegations of this nature are widespread: another prime example is the long term donations of Carl Lindner to both political parties in the US, and the perceived connections with US

¹³ Martin Linton, *Money and Votes* (London: IPPR Publication, 1994) 4.

¹⁴ Terminology used in H.L.A. Hart, *The Concept of Law* (Oxford: Clarendon Press, 1961).

¹⁵ Great Britain, *Standards in Public Life: the Funding of Political Parties in the United Kingdom*, Fifth Report of the Committee on Standards in Public Life (London: the Stationary Office, 1998) 1.

trade policy in the “banana war” with Europe.¹⁶ In South Africa, as in other countries, there has been great concern regarding the influence of foreign donations.

Related to the purchase of influence over politicians regarding policy is the “buying” of state contracts. This is a problem in that the associated “rent seeking” is wasteful, often resulting in less competitive firms winning contracts.¹⁷ This is more likely to occur in emerging rather than mature democracies: in the latter the media is experienced at scrutinising such behaviour. The distinction drawn in the Introduction between state contracts being awarded in return for party donations, and a broader sense of corruption where they are awarded in return for donations given directly to politicians, should be borne in mind. It is likely that influence would be easier to achieve if donations were to go directly to politicians, fitting in with the broader notion of corruption. The complicated bureaucracy of a large political party, and the distance between the central finance department and the adjudicating politician, may make influence from donations to parties hard to achieve in practice. There is an indirect argument, however. Politicians who can attract donations may forward them to party coffers, and accordingly do well in job allocations, hence putting them in decision making positions.¹⁸

The motivation of gaining entry into “the club” exists in all countries, but appears to be most germane to the US. The amount donated to a political party probably correlates to the amount of access obtained to important people – the number of functions and at what level. From this access there is both kudos and the possibility of making future business deals. Many memoirs have been written supporting this concern. Networking of this nature may generate certain efficiency gains, but it is likely to preserve the current elitist balance. In this latter respect, it

¹⁶ For a discussion of the “Banana War” see *Time Magazine*, 7 February 2000: 38-47.

¹⁷ “Rent seeking” refers to the socially costly pursuit of wealth transfers. For a fuller discussion of the subtleties of its definition see Robert Tollison, “Rent Seeking,” *Perspectives on Public Choice*, ed. Dennis Mueller (Cambridge: Cambridge University Press, 1997) 506-525.

provides a further example of where political equality can be undermined by economic power.

3.2 Objectives of State Policies

According to the rational choice approach, the state must decide what the best policies are regarding the funding of political parties. It acts according to the following objectives: to minimise the problems outlined above; and to ensure that the system is democratic, both in terms of its values and institutions. These objectives require further explication apropos methodological and definitional difficulties. The methodological difficulties with the former objective will become apparent shortly, but have also been discussed in the earlier section focusing on the problems with the rational choice approach. The definitional difficulties associated with the latter objective are vast and well documented, and will be discussed more thoroughly in the political theory section.

Presently, however, it is necessary to consider the interrelationship between these objectives. Each of the negative motivations discussed can be viewed as non-democratic, for example my earlier references to the undermining of the democratic ideal of political equality. The Neill Committee prescribes seven principles of democratic public life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. However, each of these can be easily compromised by the involvement of private money in politics. “Selflessness” requires holders of public office to take decisions in terms of the public interest rather than personal financial gain. Some of the difficulties involved in defining public interest have already been eluded to, but it is clear that the pursuit of personal interests by politicians is not going to help its achievement. “Integrity” requires them to avoid placing themselves under financial

¹⁸ Thanks to Don Ross, University of Cape Town, for his useful comments on this matter.

obligation to outside individuals or organisations. “Objectivity” requires public business, such as making appointments or awarding contracts, to be conducted on merit.

“Accountability” requires holders of public office to be held to account by the public for their decisions, and to submit themselves to scrutiny where appropriate. “Openness” requires them to be as open as possible about all decisions they take, while “honesty” requires them to declare any private interests relating to their public duties. Finally, “leadership” requires them to promote and support these principles by leadership and example.

The term democracy is understood to have implications for institutions as well as ideals, though the two are highly inter-connected. A further problem arising from private donations, which is associated with institutions, relates to the role of parties in a democracy. This is a controversial area, reflected by existing debate in the democratic theory literature that addresses the questions of how responsive to, or representative of, their constituents they should be, what responsibility they have for policy formulation, and how they should inform the public of their ideas. Political parties are often accused of wasting time fund raising, rather than focusing on their democratic roles. Michael Walzer and Joanne Barkan offer two different perspectives on this, both with particular reference to the US. Although they disagree about the severity of this problem they concur that state financing of political campaigns would be the best way to prevent inequality of income undermining political equality.¹⁹ Walzer, on the one hand, perceives state funding as a potential problem in so much as it stands to reduce the grass root participation currently involved in fund raising (this is probably the case in Israel). Barkan, on the other hand, argues that people would be free to dedicate their energies to analysing and publicising policy instead. I will consider the role of political parties further in the political theory section.

¹⁹ Michael Walzer and Joanne Barkan, “Campaign Financing: Four Views,” *Dissent* (1997) 5-7.

3.3 Context

An understanding of the general context surrounding the issue addressed here is fundamental. When minimising the problems associated with the motivations driving private donations, and consequently ensuring a system that has both democratic ideals and institutions, the ever-increasing cost of politics should also be considered. Significant advances in technology and management techniques are such that running and election costs are increasing. Television advertising, as well as the possibilities offered by various new media (such as the Internet and cable television) increase the reach of party propaganda, while inflating the potential costs. The widespread use of opinion polls and databases also provides parties with opportunities to adopt more strategic approaches. Although some of these costs may be deemed socially desirable in that they could improve party responsiveness and representation, there is also a risk of wealth gaining undue influence. A prisoner's dilemma game emerges where it is necessary for these costs to be incurred in order to maintain "competitive advantage", which to some extent is socially desirable. But, with unequal access to funds, it means that wealthier parties have greater chance of success. In effect "barriers to entry" come into play.

With rising costs of participation, parties become increasingly dependent on private sources. Party membership in many countries is waning, and consequently membership fees provide an insufficient revenue to meet the needs of the party. In South Africa members are largely unable to afford these fees. The R12 annual membership fee of the African National Congress (ANC) is mostly unpaid.²⁰ State resources, on the other hand, have many calls upon them, making it difficult to justify allocating them to political parties. As Tom Lodge argues, strong parties are required for free and fair elections. However, in South African Development Community (SADC) countries, and the rest of the world alike, legitimate public

expenditure is predominantly concentrated on electoral bureaucracies, with parties being expected to fend for themselves.²¹

Alan Ware discusses this context for both mature and newer democracies, arguing that the problems arising are even greater for the latter.²² Until comparatively recently competition between parties in mature liberal democracies was based upon building up and maintaining an organisation by recruiting members who could perform tasks efficiently. Volunteer labour has become less important, however, with the development of media and management techniques – despite the benefits of increased party reach and greater cost efficiency. This trend was exacerbated by lifestyle changes that decreased the role of political parties in the social sphere. Instead, the new focus of parties has become fund raising. In developing countries matters are made worse by the shortage of available funds, particularly given the trend of party proliferation. Thus, building links with the electorate becomes more difficult. Further, available volunteer labour is ill suited to the new tasks required of it, such as designing television broadcasts or constructing opinion polls. The greater scale of business organisations means that funding from interest groups is likely to be skewed and not broad-based.

3.4 Tools Available to the State

There are a number of tools available to states when pursuing their objectives with respect to political party funding. The four principal ones are: state donations; expenditure limitations; donor restrictions; and public disclosure requirements (“transparency”). They can be used individually or together with varying degrees of efficacy, though trade-offs can arise between

²⁰ Tom Lodge, *How Political Parties Finance Electoral Campaigning in Southern Africa* (Namibia: Electoral Institute of Southern Africa, 2000) 6.

²¹ Lodge 1.

them and with other values. New problems can also arise when implementing any particular mix. The following sub-sections will discuss each tool in turn, assessing their likely effect, the new problems that can arise, and the trade-offs involved, placing particular emphasis on areas of contention.

3.4.1 State Funding

People of “left” politics are often attracted to the utopian results that state funding promises. When used as the only source of finance for parties, state funding can deal with each of the problems mentioned associated with private donations. Accordingly, it allows electoral institutions to be more democratic, and helps democratic values, such as political equality, to prevail. True equality of opportunity (equal access to health care, education, health and jobs etc.) becomes all the more realistic a possibility.

This interpretation has been received with scepticism by some analysts, who instead foreground the difficulties in raising sufficient resources from the state, the wealth generated power that make such changes difficult to bring about, and the difficulties involved with deciding the means of distribution between parties. As has already been suggested, in the context of rising electoral and running costs, there is a certain reticence to states funding parties. Where funding is provided it is often only as a supplement to private donations, hence significantly reducing its efficacy. The reasons for this may be either pragmatic or cynical. When only a certain amount of taxes can be raised without destroying domestic business incentive mechanisms, or leaving a country uncompetitive in the international arena, tough decisions must be made vis-à-vis the distribution of the state budget. People of “left” politics may be cynical about the extent to which politicians are tied in terms of what they

²² Alan Ware, “Conclusion,” *Funding Democratisation*, ed. Peter Burnell and Alan Ware (Manchester:

can do to taxes. Instead, they may argue that it is in the interests of power holders to maintain structures and policies that are undemocratic and perpetuate large inequalities.

In practice, then, state funding can be deployed in a number of ways. It can be used as the sole source of finance (as with complete donor restrictions) or in conjunction with expenditure limitations or disclosure requirements, or on its own (as is currently the case in South Africa). If public funding operates alongside private funding, the adverse effects of the latter may not be driven out at all. Germany, the first European country to introduce public funding, provides a case in point. However, such a situation does not prevent public funds from being directed towards democratic ideals for parties, such as improving representation or responsiveness, forming policies or communicating with the electorate. In the UK, for example, the Neill Committee recommended allocating £2m annually to a Policy Development Fund, a system designed to enable parties to engage more fully in policy development.

Establishing greater representation, however, is not so easy to realise. This problem is at the heart of one of the biggest debates about state funding. Once it has been decided how much money can be raised, the state must decide how to distribute these funds between parties. This is hotly contested, not just in outcome, but also in terms of how the rules for deciding are themselves decided. South Africa, as will be illustrated later, provides a particularly good case study for these issues: which parties are included; how the funds should be distributed between them; and upon what basis these decisions are made. Political equality suggests that anyone has the right to form a party, but it is not clear whether they should also be entitled to receive state funds. A population-wide entitlement to these funds could eventuate in party

proliferation and dilution of funds, with the parties most likely to be at the forefront not gaining the support they need. Thresholds are typically put in place, but the level that is chosen and the basis against which popularity is judged is often contested. In Israel thresholds are at less than 1% of the vote compared with 15% in Canada. Popularity expressed in terms of the previous election, which can be as long ago as five years, may not be the best measure. Opinion polls are favoured by some on the basis that they are more current, while others point out that they are more open to bias.

Therefore, deciding how widely to distribute state funds brings into question the role of political parties. Representation of as many groups of people as possible may be desirable in order to give voice to all ranges of preferences, and to encourage parliamentary debate of policies. At the same time, the efficiency of parliament may need to be considered, especially given that coalition of preferences, whether pre- or post- voting, must occur at some point. However, it should be noted that party funding is only one of the factors that determines the number of political parties. The most notable other factor is the electoral system. The role of parties is also brought into question when considering the means of distribution between them. Dominant parties may prefer a proportional distribution while smaller parties may prefer an equitable distribution. Some countries operate essentially a two party system, concentrating the distribution proportionally to the incumbent and the leading opposition. Others place greater emphasis on the role of smaller parties, and accordingly distribute state funds more equitably. The optimal choice is unclear, but depends in part on the maturity of the system, and the chances of smaller parties gaining sufficient support to become credible opposition in the future. There is, of course, a role for smaller parties even if they do not have growth potential. Parliamentary debate from opposition parties is beneficial in that it introduces different policy issues and perspectives.

How the thresholds and distribution are decided can be a cause for concern. Parties with the greatest support are the ones most likely to have influence on such decisions, and so are likely to perpetuate systems that benefit them. South Africa is a good example of this where the distribution of funds is on a 90:10 (proportional:equitable) basis. Given that there are 13 represented parties entitled to state funds, only those with less than 8% of the vote would receive more funds from increasing the equitable basis. With the decision about distribution being made in parliament rather than by an independent body, the chances of change are low. The extent of this problem can be seen when the benefits of incumbency are considered. Public resources intended for state use may be appropriated by the governing party. By way of example, publicly funded media may be used for advertising or biased news, government transport may be used for canvassing without being paid for, party propaganda may be published and distributed by state communication agencies, and state re-distributive programmes may be politicised prior to election.

In summary, tax payers may object to being required to fund parties, in particular those that have little public support, and politicians may find it difficult to justify diverting funds from other worthy causes. Larger parties may wish for more state funds, but are in a better position to attract private donations or enjoy incumbency benefits. They may also object to the reduction of their income in favour of less popular parties. But smaller parties may emphasise the actual and potential role that they play, and the factors that go against them gaining more support, such as strategic voting. They may point out the problems of deciding how to distribute funds, and suggest that large parties are involved in the cynical removal of smaller ones.

The requirement of the state to choose how much it can afford to give to parties, which ones

qualify, and with what distribution, has already been discussed. But, the state must also decide in what form it is going to make this contribution. There are various indirect funding possibilities that can be more cost effective and socially beneficial. When a state provides a service, from a business that it owns, which has low marginal costs of provision, which will generate increased use of the service (induction), and where social benefits are derived from this increased usage, indirect funding is worthwhile. A good example is the free provision of postage in the UK. The postal service is state-owned, additional letters are sent, there are low marginal costs of sending these, and the electorate benefits from the greater information provided. Other possibilities include transport, advertising and the provision of seminar rooms. Refer to Appendix 2 for a further discussion.

3.4.2 Expenditure Limitations

Expenditure limitations are designed to limit the dependency on private donations, and, perhaps, the drain on public funds. By reducing this dependency, each of the problems associated with private donations should decrease, as should the amount of time spent fund raising. Limitations can be deployed on certain expenditure types and/or total volume. The usual expenditure type that would be limited is advertising time, because this is the major contributor to spiralling costs. If an absolute limit is applied then it could be implemented over an entire election cycle or year by year, and for all costs or just election costs. An independent electoral commission would typically monitor behaviour.

However, a number of problems emerge with expenditure limitations. Firstly, it is difficult to define which costs are for election purposes and which are merely running costs. An advertisement or television broadcast a year before an election could be considered as the running cost of keeping the population informed of policy proposals, but may also affect

voting behaviour. If limitations attempt to distinguish between the two, the independent electoral commission would need to find a simple, but effective, means of overcoming this. Secondly, it may be difficult to enforce the limitations, particularly for the incumbent. Declaration of expenditure entails a degree of honesty that is tempting for parties to avoid. The electoral commission could find it difficult to observe how much is being spent overall or on specific activities, especially if it is not clear whether the resources are from the state or the party, and whether they are for public or party purposes. For example, a television advertisement explaining new, improved tax procedures may be paid for by the state, but may have a positive impact on incumbent party support. A paradox exists in that the more important the election the harder it is to enforce limits. Bill Clinton, for example, escaped with a rebuke from the Federal Election Commission when he spent way above his limit in 1996.²³

A further issue, and one particularly important in the US, is the trade-off with freedom of speech and association. The 1973 Supreme Court ruling in the “Buckley vs Valeo” case displayed a clear defence of the latter. This is one of the reasons why campaign costs in the US are so much higher than anywhere else in the world. Also related to restrictions on advertising is the concern that limitations would prevent parties from being able to communicate effectively with the public. Television and other media are undoubtedly very powerful tools for sharing information with a wide cross-section of the population. People of “left” politics, however, might suggest that parties would be forced to increase grass-root participation. This would have the benefit of allowing a “conversation” between party and people, rather than relying on opinion polls and mass advertising. People of “right” politics might argue that lifestyle changes make this unlikely in any case as people become less

²³ Refer to *Economist* 6 Aug. 1999: 31-2.

inclined to give up leisure time.

It should be remembered that while reducing some problems and bringing other new ones, limitations on expenditure do not provide a total solution to the party funding dilemma. They fail to deal with the shortage of funds experienced by opposition parties, for example. Unless there is an established two party system, where both parties have chance of power and attract private donations, then state funds would also be required.

3.4.3 Donation Restrictions

Donor restrictions attack the problems of private donations more directly than expenditure limitations. They can be applied according to donor identity or volume for those that are most likely to generate problems. These might typically be foreign donors, large-scale corporate donors, anonymous donors, or donors that receive special subsidies from the government. The first two types are most likely to generate an “unlevel playing field” due to their size, or to wield most influence over individual policies. Anonymous donors may be restricted to remove any degree of ambiguity regarding motivation, in the same vain as public disclosure requirements. Companies that receive special subsidies from the government may be tempted to make donations to maintain this state of affairs. Although this won’t remove all opportunities to “buy” contracts (in fact companies without current contracts are more likely to attempt to do so) it should reduce the overall risk of it occurring. The effect on time spent fund raising is ambiguous. Less effort would be made courting big business or foreign institutions, but more time may be needed to attract more smaller donors.

People of “left” politics may find this solution attractive because the increased importance of small donors suggests a broader reach of political parties. Further it makes it less likely that

power structures based on wealth will prevail. Certain problems do exist, however. It may not be possible to raise sufficient funds if large scale or foreign donors are prevented. The state is ill positioned to provide all the funds, and the result is that parties can become weaker and less capable of performing their democratic roles. Not only would excessive advertising budgets be restricted, but parties could also be limited in how representative and/or responsive they can be, how well they can formulate policies, and how well these can be communicated with the public.

A further difficulty is that it is not clear whether it is ethical and constitutional to ban donations. Nonetheless many states ban foreign donations in particular. This helps smaller and poorer nations from being influenced by wealthier nations, and so is in accordance with Article 2(4) of the UN Charter, which enjoins states to “refrain in their international relations from the threat or use of force against the ... political independence of other states”. More practical difficulties also exist such as definitional and enforcement problems. In the case of foreign donations, for example, it may be decided that “foreign aid” is permitted. But if this is allowed then all donations could try to pass in this guise.

3.4.4 Public Disclosure Requirements (“Transparency”)

Public disclosure requirements are based on the democratic values of openness and accountability. To combat the problems of political party funding they entail disclosure of all monetary receipts and the outlays of each party, which will be left open to scrutiny by the media and the general public. Ultimately, through the ballot box, parties and politicians are then held accountable for their actions. Individual politicians and businessmen may also be influenced by the risk of public shame. They attack the problems of private donations by deterring donations with unsuitable intent or effect.

As a tool, public disclosure requirements are used quite widely, but the level at which disclosure is required varies considerably. Evidence suggests that even where disclosure is required scandals still occur – the recent uncoverings in Germany are illustrative of this.²⁴ As a result there is uncertainty regarding the effect they are likely to have. Some people are concerned that they will not be effective. The reasons for their failure to prevent scandal are unclear, but there are a number of possible explanations. Once again enforcement difficulties may arise, particularly as resourceful parties find means of evasion, for example through the donation of “soft money”, or the independent spending of “non-parties”.²⁵ Secondly, while the identities of donors may be disclosed, the use to which the donation was put is not always clear, nor whether or not the donor is seeking, or holds, a state contract. Thirdly, details of donations are only made available until after the election, at which point incumbency has been secured and penalties run the risk of being insignificant or severe, but non-credible.

If these problems can be overcome, and effective public disclosure requirements can be installed, one further major concern remains. It is unclear how much of a disincentive effect “transparency” would have and for whom. In an earlier sub-section I suggested that most motivations of donors are negative, and so private funding could be strongly deterred. In line with this analysis, Patricia de Lille, MP for the Pan African Congress (PAC), suggested in interview that public disclosure requirements would stop all private donations to any party.²⁶ In practice, it is unlikely that the requirements could be so tight, or have such a severe effect. But this does introduce the question of who is able to get around the requirements and thereby avoid public scrutiny. It is difficult to obtain information on the empirical effect that they have had, partly because such computations would require information about donations

²⁴ See “Politicians For Rent,” *Economist* 8 Feb 2000.

²⁵ “Soft money” refers to the legitimate and undisclosed money spent on grass root “party building”. In practice it is feared that these funds are used for campaigning.

²⁶ Patricia de Lille, MP for the PAC, personal interview, 25 April 2000.

prior to when disclosure was required. *The Economist* has reported that the Conservative Party in Canada noticed a decline in corporate donations after 1974 when disclosure was introduced.²⁷

As well as the question of the overall volume of donations that would be deterred, the question of balance is also of concern. The usual defence of non-disclosure (typically one made by smaller parties) is that businesses that donate across the board would undermine their relationships with the ruling party: they may “buy” state contracts or influence individual policies, and would not want to jeopardise these by displaying support for other parties. Further, some people might be deterred from making a donation to an opposition party if there is a perceived threat from the incumbent party, or its supporters. In the case of South Africa, Douglas Gibson, Chairman of the Federal Council of the DP, has questioned the human rights and democracy record of the ANC.²⁸ Nonetheless, he has said that the DP would be willing to abide by disclosure requirements if the ANC did likewise. Ebrahim Rasool, ANC Director of the Western Province, has suggested two further reasons for why disclosure is not yet appropriate for South Africa, and for why the ANC does not currently support it.²⁹ There may be a need for internal cohesiveness within a company, at all levels and especially amongst the board. If donations are made to an individual party then this may cause disruption in what is still a politically emotive culture. Sometimes the government is required to make decisions between different groups on the basis of merit, such as the distribution of fishing quotas between big business and small subsistence operators. With public disclosure there is a danger that the decision may be misconstrued as being motivated by the receipt of party donations.

²⁷ “Politicians for Rent” *Economist* 8 Feb. 2000.

Once again the reduction of private donations, as would be caused by public disclosure requirements, generates concerns about parties losing valuable sources of funds. Many of the details discussed in the previous sub-section also apply here. Individuals holding these concerns often suggest that their “rights to privacy” are being contravened, and parties similarly point out their “rights to internal autonomy.” Although such values now seem old-fashioned in an emerging culture of openness, they have not lost respect everywhere. In Sweden, for example, disclosure is not required because it is believed that reporting “constitutes a potential violation of the voters’ right to privacy, secrecy of the ballot, and the parties’ rights to internal autonomy and freedom from interference.”³⁰

3.4.5 Summary of Tool Trade-Offs

Each tool generates a series of problems, and determining their appropriate form entails trade-offs with other tools and values. In short, state funding should be provided without allowing party proliferation or imposing hefty tax bills. What money can be spent on should be controlled without infringing freedom of speech. The level and source of donations should be restricted without removing valuable sources of income. “Transparency” should be required without discouraging all donations or overly compromising political freedom. A further issue which applies here, as with any other legislation, is that of enforceability. Defining election costs, monitoring donation levels and ensuring open declaration, may not be easy tasks.

²⁸ *Sunday Independent* (Cape Town) Jan. 2000.

²⁹ Ebrahim Rasool, ANC Director of the Western Province, personal interview, 29 May 2000.

³⁰ United States, *Report for Congress: Campaign Financing of National Elections in Selected Foreign Countries* (Washington: Law Library of Congress, 1997) 10.

4. South Africa Specifics

In this section I will develop my discussion thus far with more specific reference to South Africa. Firstly, I will provide a general context for the South African situation. Following this I will move on to consider where money currently comes from, how it is spent, where problems are perceived to have arisen, and what policies have been chosen so far. Where possible, suggestions will be made for possible policy changes.

4.1 South African Context

South Africa is a pluralist country on ethnic, cultural and economic grounds. It experienced severe trauma during the apartheid era, and anti-apartheid and democratisation movements are still fighting its legacy. While some of the previous constraints have been removed, others still exist. Economic disparities are enormous, with poverty severe, and a historical lack of openness in government and society is still evident. State budgets are limited, and fears and scope for corruption are great. This means that external, big business and mass labour pressures on government are strong.

The ruling party, the ANC, is extremely popular and powerful. There is little possibility of it being voted out of office, at least in the short term. Opposition parties, accordingly, are unclear as to whether their role is anything more than a lobby group providing voice against the hegemony. However, they are quick to point out the various impediments to their future success. It is perceived that there are enormous benefits of incumbency, including the potential use of state budgets for party purposes, the possible influence over the media, and the chances for “cronism.”³¹ It is feared that corrupt party donations seeking to “buy” contracts or influence policies are prevalent. The strong culture of loyalty that scorns dissent

³¹ This was suggested by Mr Kent Durr, Chief Whip, ACDP, personal interview, 23 May 2000.

towards the party associated with liberation, at all levels of society, is sometimes criticised. The potential use of power to prevent strengthening of other parties, for example over the distribution of state funds, is often alluded to. Nonetheless, there remains a commitment to multiparty democracy by almost all: such commitment is also recorded in the constitution. Although no opposition parties attract enormous support, thirteen were able to gain representation in parliament in the 1999 election.

However, it is also feared that money strongly influences politics, which clearly prevents the pursuit of democratic policies. It is not clear whether the current slant towards liberal economic policies is in the public interest, nor is it clear how much freedom the government has to alter their policies. Academic debate rages over these issues. Nonetheless, many people of a more radical politics argue that a populist outcome would be significantly different. They fear that the interests of the political elite, and the investments made by foreigners and big business to political parties, ensure that radical policies will not be pursued.

4.2 Source of Donations

As I have already suggested, it is difficult to obtain accurate information about the origin or spending of parties' finances. The culture of secrecy, backed by the absence of disclosure requirements, means that there is no convenient and comprehensive source of information. Rather, a picture can be cobbled together from interviews with politicians, media articles, and the occasional essay written on the subject. A few general themes emerge from this research. Firstly, that foreign donations have typically been greater in aggregate than domestic ones, for South Africa as well as the SADC region, and accordingly there has been a historic dependence on foreign sources of finance. Secondly, that while the majority of funds are donated to the ruling party, South Africa is the exception amongst SADC countries (aside

from Namibia) in that local businesses also make sizeable donations to opposition parties.

Thirdly, domestic and international big business have a vested interest in South Africa given its relatively strong commercial base.

The ANC raises most of its funds from foreign donations and local big businesses. It is also suspected of utilising state resources following the effective merger of some party and state structures.³² The R12 annual membership fee is mostly unpaid, and organised labour contributions are relatively small. In 1999 COSATU, the major trade union, and ANC ally, donated R1m, a sum that was of more symbolic importance than real value.³³ The make-up of foreign donations has changed, and there are suggestions that they are decreasing in aggregate volume. Prior to 1994, many foreign donations were motivated by anti-apartheid sentiment. While the successes from this struggle, as well as the personal efforts of Nelson Mandela, are still widely heralded, there is a degree of fashion in international politics that reduces the attention it receives. Now donations are far more likely to be motivated by private interests, usually of a commercial nature; or, by other countries' national interests. In some respects this is also in the interests of South Africa: political stability is desirable for donors and citizens.

In the past the Democratic Party (DP) received about 80% of donations from individual standing orders, but now it competes with the NNP for Afrikaner business money. It is reputed that a major donor is the Naumann Trust, a German political foundation which also supports the Helen Suzman Foundation. More recently the DP has been involved in innovative direct fund-raising techniques, reportedly raising up to R1m per day. The New National Party (NNP) traditionally relied upon the backing of Afrikaner business. It also

³² Southall and Wood 203.

supports itself with trust funds set up early in the century – 1999 was the first time that some of the principal had to be used. Donations to the Inkhata have typically come from groups with interests in the Kwa-Zulu Natal region, thus mirroring its support base. Since 1994 it has received money from British businessmen, including John Aspinall and James Goldsmith, most likely not disinterested generosity given that both were interested in regional casino licence bids. There has also been a tradition of sponsorship from Natal sugar groups and illegal casino operators.³⁴ Most of the other smaller parties are less fortunate than these and are forced to depend on state funds and the goodwill of their employees. Interviews with MPs from a number of them suggested that they had to operate on minimal budgets. The UDM, for example, claims to have conducted the 1999 on a largely debt-financed budget of R2m.³⁵

Other funds are available in the form of constituency allowances of approximately R4,300 per month for each MP. These cover little more than basic office costs. Consequently, party funds often have to be used to cross-subsidise MP costs.

4.3 Expenditure

Assessing how parties spend their money requires informed speculation rather than precise accounting. The budgets available to each party vary considerably for both election and running costs. Three data points on election expenditure provide a feel for this range. As I mentioned in the previous sub-section, the UDM conducted its 1999 campaign on a budget of R2m, none of which came from state funds because it was un-represented at the time. According to James Selfe, chairman of the Democratic Party's federal council, the 1999 election had cost his party between R10m and R20m. That financial year, the DP received

³⁵ Lodge 1.

R5.62m from state funds. Estimates for ANC election expenditure in 1999 vary, but it is most likely between R100m and R150m. Its allocation of state funds that year was R33.5m, while membership fees bought in around R4.3m.³⁶

The fact that these budgets vary so considerably has an enormous effect on how parties can run themselves and conduct election campaigns. Understanding the costs of different types of expenditure will illustrate this point. Radio commercials, on the one hand, are fairly expensive. The larger parties were able to invest in them, including the DP which spent R4m. Press advertising, on the other hand, is extremely expensive. A full page of a Sunday newspaper can cost up to R250,000, a sum which not only indicates the dangers of the type of mass advertising campaigns conducted in the US, but is also way beyond the reach of most parties.³⁷ Fortunately for them, most of the population does not read the main broad-sheet papers, implying that communication needs to be more varied and disparate. Direct communication and the use of posters and flyers are more likely to reach a wider audience, but even these are quite costly. Daryll Swanepoel, Deputy Executive General, NNP, suggested that the Gauteng would need at least 80,000 posters and flyers, each costing R8 (totaling R640,000) before the cost of postage or putting them on billboards.³⁸

Ideally, if all information could be accessed, it would be useful to undertake “bottom-up” cost analyses of parties in order to ascertain how their money is spent. With the data available, including that mentioned above, and the suggestions made by MPs, it is possible to draw

³⁴ Southall and Wood 210-223.

³⁵ Analyse van Wyk, MP and Secretary General of the UDM, personal interview, 19 April 2000.

³⁶ “IEC Wants Parties to Disclose Their Private Donors,” *Sunday Times* (Cape Town) 14 May 2000: 2.

³⁷ Lodge 6.

³⁸ Daryll Swanepoel, Deputy Executive General, NNP, personal interview, 23 May 2000.

some rough conclusions about how much is needed to run parties and conduct elections.³⁹

Nevertheless, this is a hazardous task for a number of reasons other than shortage of information. Firstly, as I suggested earlier, the distinction between these two types of cost is not always clear. Secondly, asserting the minimum cost requirements is inevitably a subjective task. Further, costs start to increase as the number of MPs increases and the quality of policy research and communication improves. Nonetheless, it is a worthwhile exercise to provide a quantitative background to the theoretical discussion so far. For example, the NNP suggested that a small party needs R5m per year as running costs and R10-15m for an election; and the UDM suggested minimum figures of R1.5m and R15-20m respectively.

Still a useful thought experiment can be conducted by comparing these costs and the funds made available by the state. The following assumptions can be made: constituency allowances roughly cover MP costs, leaving state contributions to cover party costs; there are no private donations; and each party operates on the minimum budgets of R3m per year for running costs and R15m for an election. Currently there are thirteen represented parties and elections are conducted every five years. This implies that over the five year cycle total costs would be $(13*5*3)+(13*15) = R390m$, which equates to R78m per year. This figure is not vastly dissimilar from the current state distribution of R57.88m for 1 April 2000 to 31 March 2001.

4.4 Problems That Have Arisen

Assessing the extent to which problems have arisen inevitably involves a degree of conjecture. Assertions are often made, but in the absence of legislation on public disclosure,

³⁹ Running costs include: wages for the secretary general, a national organiser, 9 provincial administrators, various support staff, office space, computers, communications equipment, transport, meeting costs, research etc. Election costs include: newspaper advertisements, radio commercials, printed advertising, transport, manifesto, research etc.

expenditure limitations and donor restrictions it is not possible to identify the kind of cases that would result in prosecution in other countries. A rough feel for the significance of the issue can be ascertained by taking each problem already discussed in turn. It should be remembered, however, that not all donations are cynically motivated.

ANC incumbency and the extent of its popularity means that the focus must rest on donations to that party. The case of the “level playing field” is most difficult to assess. A frequently analysed situation is the shift in policy from RDP to GEAR during the mid 1990s. Some point to the combination of domestic business donations (“the President’s 1,000 club”) and foreign donations to explain the transition. The causal analysis is far more sophisticated than this, however, and others are quick to point to the constraints of global economic forces and the pressures applied by international institutions, such as the World Bank. Though constraints on time and space preclude its discussion here, extensive literature dealing with this issue has been produced.

Influence over individual policies is most feared in the case of foreign donations. A donation of R10m to the ANC and the granting of tax concessions to Taiwanese firms investing in RSA in 1994 can be correlated to Mandela’s operation of a “two Chinas” policy for a number of years following the election. Similarly, after Indonesia donated R20m to the ANC in 1994, despite offering a statement that these monies were given as a gesture of friendship, relations were strained over the problems in East Timor. More recently, in 1999, the then President, Mandela, disclosed that he had received donations of US\$10m each from King Fahd of Saudi Arabia and from Shaikh Zaid bin Sultan Al-Nahayan of the United Arab Emirates. When asked for a similar donation Malaysian Prime Minister Mahatir Mohamad gave US\$50m.⁴⁰ It

⁴⁰ *Sunday Times* (Cape Town), 21 May 2000: 20.

has been suggested that these donations have influenced decisions over oil contracts.

The purchasing of state contracts through donations to the incumbent party is also difficult to assess. As suggested earlier the absence of disclosure requirements means it is difficult to trace the relationship between donations and contracts awarded or maintained. Nonetheless, the perceived culture of corruption makes this a frequently cited concern for South Africa.

While the buying of contracts is probably more likely in South Africa than the purchasing of policy, it is not clear how much of it would arise from donations to parties. Bearing in mind my earlier discussion, there is an important distinction to be made between state contracts being awarded in return for party donations, and a broader sense of corruption where contracts are awarded in return for donations given directly to politicians. It is likely that influence would be easier to achieve if the donations were to go directly to politicians, fitting in with the broader notion of corruption.

“Buying entry into the club” appears to be a phenomenon most prevalent in the US. Elite circles certainly exist in South Africa, but competition to gain access to this group is likely to be less intense. Nonetheless, it remains a valuable lesson of what to avoid. Similarly, lessons can be learnt from the US about the dangers of spiralling election costs. Without limitations on expenditure, the majority of party funds can end up being directed towards media costs, while the majority of member effort is focused upon fund raising, with significant implications for the role of parties.

4.5 Policies Implemented

In comparison with most Western countries legislation on political party funding in South Africa is fairly limited. One journalist has observed: “In Germany, Kohl and his party broke

the party funding rules. In South Africa, the rules won't be broken because, quite simply, there are none." As of now there are no limitations on expenditure, aside from a ban on television advertising, and no restrictions on donors.⁴¹ Lobbying for adoption of these tools is restrained by concerns over shortage of funds. Nonetheless, antipathy towards foreign donations has led the DP to announce that it is unwilling to accept them, and Tom Lodge, Professor of Politics at Wits University, to denounce them. The ANC, typically, makes little comment about them, suggesting that they are still a major source of income.

In keeping with the culture of secrecy, there are no public disclosure requirements for party funding yet. There are many voices calling for change though, and the way is paved by the constitution. Section 1d of the South African Constitution requires that, "The Republic of South Africa is one, sovereign, democratic state founded on the following values .. Universal adult suffrage, a national common voters roll, regular elections and a multiparty system of democratic government, to ensure accountability, responsiveness and openness."⁴² Hugh Corda, Professor of Public Law at UCT, pointed to the precedent set by the Code of Ethics introduced after the ANC was first elected.⁴³ He identified the implications this had for, and the importance of, openness in regard to the funding of political parties. He warned of the dangers of time delays in precluding certain avenues.

Similarly, Peter Burnell asserts that emerging democracies are free to make choices that are not available to their more mature counterparts.⁴⁴ Once made, decisions on many issues - such as whether to adopt a parliamentary or a presidential model of democracy, or on the overall shape of the party system - can be difficult to erase once bedded down. He suggests

⁴¹ Lodge 7.

⁴² The Constitution of the Republic of South Africa, Act 108, 1996.

⁴³ Professor Hugh Corda, Professor of Public Law, UCT, personal interview, 19 April 2000.

that political stabilisation may be precluded in the short run, but that longer democratic prospects could be advanced by allowing society leeway to establish political alignments most appropriate to the balance and spread of political representation. He is particularly wary of a partisan or politically contentious approach to determining legal frameworks for political finance. Richard Calland of Idasa in Cape Town also supports South Africa taking part in international trends of openness and accountability, pointing to the history of authoritarian rule, and the perceived extent of corruption to emphasise the acute need of change in the country.⁴⁵

The Promotion of Access to Information Bill passed in January 2000 was the first indication that these voices were being heard. Consistent with section 1d of the constitution, it gives effect to section 32, giving right of access to state or private information. There are a number of exceptions caveated, and as yet it is unclear whether it will have a direct bearing on party funding issues. More recently, Geraldine Chaplog-Louw, head of the political party funding section of the Independent Electoral Commission (IEC), and Frene Ginwala, Speaker of the National Assembly have called for public disclosure rules.⁴⁶

As I have already discussed, in spite of these pressures for change, plenty of concerns regarding their effectiveness remain. A reduction of private donations could prove damaging to all parties, but especially to smaller ones for which incremental changes could have disproportional effect. Smaller parties are least likely to receive problem causing donations, but “transparency” could still generate disincentives. One solution is to install thresholds

⁴⁴ Peter Burnell, “Money and Politics in Emerging Democracies,” *Funding Democratisation*, ed. Peter Burnell and Alan Ware (Manchester: Manchester University Press, 1998) 7.

⁴⁵ Richard Calland, “State Ethics and Executive Accountability,” *Passages in Democracy Building*, ed. W. James and M. Levy (Cape Town: Pulse, 1998) 23-32.

⁴⁶ Thami Ngidi, “Ginwala Throws Down the Gauntlet on Party Funding,” *Sunday Independent* (Cape Town) Jan. 2000.

above which disclosure must be made. Smaller donations to smaller parties would not be deterred, but larger donations which create an “unlevel playing field”, attempt to influence policy or are used to “buy” state contracts would most likely stop. However, this entails enforcement problems owing to the fact that larger donations could be broken up into smaller ones so as to avoid disclosure.

Section 236 of the constitution requires that in order to “enhance multiparty democracy, national legislation must provide for the funding of political parties participating in national and provincial legislatures on an equitable and proportional basis.”⁴⁷ The Public Funding of Represented Political Parties Act (1997) brought this to life by establishing an annual budget to be distributed by the Independent Electoral Commission (IEC) between parties with seats won at the previous election. The distribution decided upon was 90:10 proportional:equitable, thus strongly favouring the ANC. For the year beginning 1st April 2000 until 31 March 2001 the budget is R57.88m.

Proponents of state funding as the only source of funds for parties face the practical difficulty of diverting scarce resources away from other projects. Changing the distribution would appear easier to justify given the benefits of incumbency, the ability of the ANC to attract private donations, and the shortage of funds for smaller parties. However, achieving this is a different matter given that the decision is made in parliament where the ANC holds a majority. Small parties bemoan the fact that they receive so little, especially those that do not qualify for funding at all. Analyse van Wyk reported that she favoured allocation on the basis of opinion polls even now that the UDM has established presence in parliament. On the other hand, others argue that the threshold is not high enough, and that a minimum percentage of

⁴⁷ *The Constitution of the Republic of South Africa, Act 108, 1996.*

the vote should be needed in order to receive funds (in Canada, for example, the threshold is 15% of the national vote). The role of political parties is brought into question by these considerations: any decision, at least implicitly, takes a stance on the issue of what the role and mix of parties should be in a country with such disparities of wealth, ethnicity, language and living standards. Thresholds must be put in place somewhere. Although political equality suggests that all should be entitled to funds, a lack of regulation could result in party proliferation. Given that some parties will need resources to perform executive roles, distribution of funds should reflect electoral support. However, it should also take into account the factors that facilitate the development of larger parties and hinder the progress of smaller ones.

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5. Comparative Evidence

Although it would be possible to conduct a lengthy comparative survey of all democracies to illustrate the range of policies used by states, my objectives in this section are more modest.⁴⁸

I will begin by demonstrating the diversity of approaches adopted with regard to the political party funding dilemma: key failures of other regimes, and the lessons to be learned from these, will be identified. Secondly, I will focus on countries in similar situations to South Africa, in particular in the SADC region.

5.1 Diversity of Approach

The size of state budgets, and their capacity to provide funds for political parties, varies. As long as there is political will, many Western states are capable of being sole providers.

However, this is not a realistic alternative for the majority of developing states. Nonetheless, there is still great diversity in the amount of state funds provided in the West: in Israel 85% of funds come from the public purse; in the US most comes from private sources;⁴⁹ in Germany the state provides approximately half of funds through a process of matching private donations. Most states provide direct or indirect funding of some sort. Indirect funding typically takes the form of: free transportation; free mailing; producing posters and establishing official signboards on which to display them; placing newspaper advertisements; free broadcasting; arranging public meeting places for candidates; and tax benefits for political contributions and contributors. Most countries require a minimum threshold of votes as a condition for receipt of funds, rather than opinion polls, which vary from less than 1% in Israel to 15% in Canada. Some states contribute towards the running costs of parties, while

⁴⁸ Broader comparative studies have been undertaken by the US Library of Congress and the National Democratic Institute of South Africa.

⁴⁹ *The Public Funding of Political Parties* (South Africa: National Democratic Institute for International Affairs, 1998) 6.

others only contribute to election costs.⁵⁰

Expenditure limitations and donor restrictions are typically used when state funds contribute a lower proportion of total funds. The majority of Western states apply some form of expenditure limitation, but more often on candidates than on parties. Korea and New Zealand not only place limits on party expenditures, but also on independent groups attempting to spend money on election expenses on their behalf. In Australia, Germany, Sweden and the US there are no expenditure limitations, the latter of these justifying this decision on the basis of freedom of speech. In the UK, where there have been no limitations to date, the Neill Committee recently recommended a ceiling of £20m on general elections for parties contesting more than 600 seats.

Some, but not all, western states apply restrictions upon the types of individual donors or the size of donations permitted: in these cases, however, detail and focus is varied. For example, Australia, Germany, the US and Israel prohibit anonymous donations; Germany, Israel and the US apply some limitations upon corporate donations; in Canada, Israel, India and the US some restrictions on foreign donors are applied; and Japan bans candidates from receiving contributions from within their own electoral district. Similarly, other states place limitations on companies receiving special subsidies from government. Still, where restrictions are applied new ways of making donations are often found. In the US there is particular concern over two issues: "soft money" and parliamentary action committees (PACs). The former refers to funds which are permitted on the grounds that they are used for grass-roots party building, but in practice may be used for campaigning. The latter refers to the bundling of smaller donations so as to increase their weight. Now constituting over 1/3 of all campaign

⁵⁰ Vicky da Silva "Funding of Political Parties," Namibian Conference on Political Party Funding, May 2000.

donations it is feared that PACs are able to gain undue influence on government.

Requirements concerning the disclosure of private donations are a common feature of most political party funding systems.⁵¹ Along with Sweden and Zimbabwe, South Africa is one of the few countries without such requirements. The threshold above which disclosure is required varies considerably, however. For example, in Israel the threshold is zero, in Canada it is approximately US\$80, and in Germany it is US\$11.000.

5.2 The SADC Region

Southall and Wood identify three stages of party funding in post-colonial Sub-Saharan Africa.⁵² Firstly there was a post-war nationalist phase in which mass-based political parties were funded in considerable part by members, and elite parties relied more on contributions from local patrons. Nonetheless, external financial support for nationalist movements was common from external agencies or governments interested in the outcome of decolonisation. Secondly, the boundaries between ruling party and state structures became unclear. Accordingly ruling parties became more dependent on state resources. Thirdly, there was a trend towards the return of multipartyism in the 1990s. Those parties that had avoided removal by the military continued to depend on state resources. In contrast, pro-democracy challengers to authoritarian and military regimes returned in part to grass-roots financing, as well as drawing on the support of non-governmental organisations (NGOs) and foreign donors. Each of the countries in Southern Africa has now passed through these stages.

A common quality of each South African country is a culture of corruption and huge concentrations of wealth from big business. Further, the benefits of incumbency are great,

⁵¹ Disclosure normally entails an annual listing of the names and addresses of the contributors.

private donations are focused on one or maybe two parties, and state budgets are small.

Accordingly, Lodge has suggested that: “efficiently and expensively administered elections in which at most only one party can afford the costs of an effective and sophisticated campaign represent a very partial fulfilment of democratisation, yet such contests are normal in the [SADC] region”.⁵³

There are some similarities in the ways in which states have approached the political party funding problem. Limits on campaign expenditure and public disclosure requirements are rare and donor restrictions are non-existent. Although state budgets are restricted and can only finance basic party costs, they vary in terms of the total funds available to parties. In Zimbabwe Z\$32m was provided for the 1995 campaign, of which the proportion allocated to the ruling Zanu-PF is believed to be five times that raised from private sources. In Namibia state funding represents a major source of income, at least for the more established opposition parties. In Mozambique state allocations are important but are matched, at least in the case of the ruling Frelimo party, by private donations. There is also variability in terms of the distribution of state funds: for example, in Zimbabwe and Namibia there is a proportional slant, while in Mozambique and Tanzania there is an equitable slant.

⁵² Southall and Wood 202-3.

⁵³ Lodge 1.

6. Democratic Theory

The purpose of this section is not to review the extensive literature defining democracy. Such an enormous task would, among other things, involve “debates that compare procedural with more substantive accounts of democracy, for example, contrasting representative with highly participatory forms” and “mark out electoral democracy from liberal democracy.”⁵⁴ It suffices to say that democracy “conforms to certain fundamental and well known procedural criteria that include competitive elections to high public office on a regular basis and which are more or less free and fair, universal adult suffrage and certain freedoms including most notably the freedoms of expression, assembly and association.”⁵⁵ Instead, my study will attempt to augment the discussion so far by developing the two key theoretical questions that underpin my analysis: the meaning, origins, and importance of political equality; and the role of parties.

6.1 Political Equality

The term democracy is derived from the Greek words “demos”, meaning people, and “kratos”, meaning rule. Owing to its theoretical underpinning that the people rule, it is distinct from monarchic and dictatorial government. One of its principal tenets is political equality: equal franchise for citizens; equal rights to form parties or to participate, or stand for election, within a party. The origins of political equality can be traced through the history of political thought. Post-Enlightenment modern liberal and liberal democratic theories have sought to extend the debates around the relationship of society and state that occupied theorists during and since the Athenian direct democracy city-states of the 5th Century BC. Such theories have focused on the balance of right and wrong, power and law, and duties and rights. The state needs a monopoly on power to provide secure bases for trade, commerce and

⁵⁴ Burnell 1.

family life. At the same time, it is capable of using this power to deprive its citizens of political and social freedom. Representative democracy was seen as a means of surmounting these dilemmas. The liberal concern with reason, law, and freedom of choice could only be met properly by recognising the political equality of mature individuals.⁵⁶ In addition to enabling a secure social environment in which all would be free to pursue their private activities and interests, such equality would also ensure that the state would do what was best in the utilitarian conception of general and public interest.

6.2 Role of Political Parties

As Burnell argues, “the party system that evolves in a country will ultimately be structured by a number of forces ranging from ideological and social cleavages to choice of the electoral system.”⁵⁷ While there is divergence of opinion with regard to the precise role that political parties should play, many academics believe that they are fundamental to democracy. For example, Burnell comments: “for all the uncertainties surrounding the meaning of democracy and its conditions and prerequisites, and despite a prevailing ignorance about the processes involved in democratisation, a safe assumption is that a central role is played by political competition between parties and individual politicians.” He adds that the Stockholm-based International Institute for Democracy and Electoral Assistance considers political parties to be “the nerve centre of a democracy.”⁵⁸ Isodor Pomper similarly concurs, prescribing the strengthening of political parties in order to improve the practice of democracy.⁵⁹

⁵⁵ Burnell 1.

⁵⁶ It should be noted, however, that the concept of political equality is ill defined. Within historical and geographical frameworks, debate exists over equal political participation by marginalised social groups, such as ethnic minorities, women, and the lower classes.

⁵⁷ Burnell 3.

⁵⁸ Burnell 3.

⁵⁹ Cited in Isodor Pomper, *Voters, Elections and Parties* (New Jersey: New Brunswick University Press, 1988) 1-22.

This said, there are concerns about political parties' continued importance. Developments since the 1960s have raised questions about how we should view them and how durable they are. There has been a continued trend of eroded party identifications and the role played by other political organisations (e.g. PACs and civil society) has increased in importance. In other words, parties have been losing many of their traditional roles; their changing role has already been discussed in Section 3. Voters are becoming increasingly independent; the media is playing a greater role in defining issues; and single issue groups and factions dominate recruitment. As such, electorates are frequently becoming more volatile. The emergence of new parties in all types of systems (but not in all states) represents a variety of interests.

In global terms, the role played by political parties varies enormously. However, they function largely in two principal capacities: as a responsive or a representative body. In the US, for example, there is a tendency towards responsiveness. Parties operate as preference assessment organisations concerned with offering policies based on these preferences in order to attract as many voters as possible, and thus maximise chances of election. In other countries, on the other hand, parties might tend towards a more representative role functioning as participatory organisations for discussion, interrogation and learning. Given that it is a "new" democracy learning about relevant issues and the location of the cleavages that define its political parties, I would suggest that the latter model should provide a blueprint for South Africa.

Parties can also play a vital role in providing stability. During the transitional years in South Africa it has been important that marginalised social groups have been able to find a voice via a political party. The social unrest generated by non-official organisations, such as People

Against Gangsters and Drugs (Pagad), reflects the potential problems that can emerge if frustrations are vented without party representation. During a personal interview, Ebrahim Rasool suggested that the existence of numerous parties has built a broad consensus supporting parliamentary democracy.⁶⁰ In the medium term a process of consolidation can take place as new coalitions are built. In the meantime, parliamentary debate is allowing the circulation of ideas, thereby forcing concessions to be made, and generating consensus over issues. For example, Rasool suggested that consensus has been built across the political spectrum on the need for immediate action against poverty, even by parties that previously saw it as less important.

The ideal of political equality is therefore consistent with the need for political parties, in terms of responding to people's demands, exploring policy ideas, and generating political stability. What is of concern, however, is whether opposition parties can be of adequate strength to fulfil their roles. Not only can the incumbent protect its position of power and so reduce financial support for other parties, but there is a danger of party proliferation, which would force resources to be spread too thinly. The benefits of political equality and its implications for party proliferation must also be contrasted with the need for parliamentary efficiency. On this matter Rasool has suggested that a cumbersome parliament is a small price to pay for the benefits discussed above. It is better not to have a debate restricted to the ANC and the DP. He gave the example of land reform, where the PAC argued that the process has not been quick enough, and this has stimulated wider political debate.

⁶⁰ Ebrahim Rasool, Director of the Western Province, ANC, personal interview, 29 May 2000.

7. Conclusion

The rational choice approach to the problem of party political finance provides a useful underpinning for the assessment of an optimal regulatory framework. However, fundamental difficulties with the approach render a conclusive recommendation a difficult task. This would appear to be a long-standing symptom of such an analysis, as is reflected by the diversity of approaches adopted over all policies in both “mature” and “new” democracies. As Burnell points out: “the definitive formula for optimising the funding of political competition eludes even the longest lived and prestigious of democracies.”⁶¹ However, to walk away from the analysis of policy trade-offs with no conclusions would be to accept defeat too easily.

Although differences in personal ethics and perspective are such that disagreement on this matter will inevitably persist, in order to help make progress towards finding an optimal solution for South Africa (as for any country) it is necessary to focus on local issues. This entails an assessment of: the most prevalent problems; the cultural factors that must be taken into account and those that must be overcome; and the new problems that would emerge from taking into account these cultural factors (as with the spiralling election costs that result from the protection of “free speech”). In the case of South Africa, I would suggest that the most prevalent problems include a perception of corruption and the incumbency benefits that give the ANC strength beyond its popularity (though it is undeniably still exceptional). There is a cultural commitment to multiparty democracy that is rooted in the struggle that was fundamental to its achievement. Accordingly, smaller parties should be given additional support while national ideological cleavages become more clear-cut and party allegiances are formed. A culture of secrecy also needs to be overcome if a healthier democracy is to be

⁶¹ Burnell 2.

achieved.

Complete funding of parties by the state initially appears to be an attractive option. It would be the most effective way of overcoming the problems associated with private donations. However, significant new problems would emerge. The most important of these is that complicated decisions would have to be made about how to allocate the funds, which in practice would involve fraught political negotiations if it was ever allowed to happen. Further, and more significantly, it is an unrealistic ideal owing to the shortage of available state funds. While I would recommend an increase in the annual IEC budget, I recognise that even this may not be possible in practice. More realistic, and of great value, would be a change in the distribution formula in favour of smaller parties (i.e. an increase in the equitable basis of distribution). To enhance the chance of this coming about it would be necessary for civil society to lobby for an independent body, perhaps the IEC, to adjudicate on this matter, rather than relying on a parliamentary vote. Given the already large number of parties involved in parliament, and the scarcity of funds, I would not recommend a reduction of the qualification threshold.

Concerns about disclosure requirements are particularly high in South Africa. It is not clear how much of this reticence for change owes to risks specific to the country, and how much owes to the entrenched culture of secrecy. Without belittling the significance of the risks, I would still recommend that disclosure of some form be introduced soon. It would be worthwhile introducing a threshold that allows smaller donations to be undisclosed: this would encourage donations from a wider cross-section of society and would protect donations to smaller parties which otherwise might be deterred. This is important because, even if there is no immediate chance of their election to government, opposition parties play

an important role in South Africa. In order to determine the level of the threshold further research would be needed to obtain a clearer profile of current donations. However, as I have experienced myself, the current lack of disclosure about donations to political parties imposes constraints upon the depth and detail of such research.

Expenditure limitations do not appear to be a high priority. Nonetheless, there are reasons for acting early so as to prevent foreseeable problems in the future. Care must be taken to avoid a situation similar to that in the US where expenditure, particularly on advertising, is extremely high. Establishing limitations on advertising now would help to avoid the trend in this direction, and would also limit the strong advantage that the ANC has by virtue of its greater wealth. Communication with the public is important, however, and there may be a solution via the state provision of advertising time on South African Broadcasting Company (SABC) television.

Given the dependence of political parties upon private donations, restrictions on private donors should be minimised. I would recommend the introduction of three restrictions in order to target those donors most perceived to cause problems: an outright ban, or cap, on foreign donations to help reduce the susceptibility of South African policies to influence by international interests; a cap on the largest domestic donations to limit the predominance of commercial over popular interests on policy making; a ban on donations from businesses with state contracts to reduce the risk of corrupt donations to parties.

Although they should not be viewed as offering a wholesale solution to the problems of party political finance, the possible changes recommended in this dissertation could be of great benefit to the existing system in South Africa: both in terms of improving democracy and

reducing the problems associated with private donations. It should, however, be noted that the funding of political parties is just one of many factors that affects the size and mix of parties in South Africa. Although its institutions and ideals are becoming increasingly democratic, change to the political environment in South Africa will be neither quick nor radical. As the numerous difficulties and conflicts of interest illustrated here suggest, the question of party political finance is an ongoing issue that will require further analysis and negotiation.

University of Cape Town

Appendix 1: IEC Fund allocations made to political parties 1998-2000

	Rand	Percentage of total allocation
<u>1998-99</u>		
ACDP	661,168	1.3
ANC	30,897,681	59.3
DP	1,689,346	3.2
FF	2,151,086	4.1
IFP	5,142,284	9.9
MF	194,428	0.4
NNP	10,481,069	20.1
PAC	887,938	1.7
<u>1999-00</u>		
ACDP	972,806	1.8
AEB	44,499	0.1
ANC	33,545,305	61.3
AZAPO	44,439	0.1
DP	4,431,770	8.1
FA	220,582	0.4
FF	1,271,139	2.3
IFP	4,705,410	8.6
MF	293,078	0.5
NNP	6,426,108	11.7
PAC	653,767	1.2
UCDP	329,980	0.6
UDM	1,777,736	3.2

Source: IEC

Appendix 2: The Benefits of Indirect Funding

Many countries fund political parties indirectly. Careful analysis can explain why this might be so, and why it could be beneficial for South Africa. It seems that state funding can be both cost-effective and socially beneficial when the state provides a service, that it owns, that has low marginal costs of provision, that will generate induction (i.e. increased use), and where social benefits are derived from the increased use. Consider, for example, the provision of free postage in the UK: all candidates at parliamentary elections are entitled to free postage for one election communication to every elector in the constituency.

The following model should help to clarify this argument. Before free provision 1 million letters are sent at a price of £1, implying a post office revenue of £1m. After free provision, 2 million letters are sent at a price of £0, implying £0 revenue. If we assume that marginal costs are low, or zero for ease of exposition, then the additional postage incurs no additional costs for the state. The only impact is the lost revenue of £1m. The benefit is that 1 million extra letters have been sent out. If the original 1 million letters (i.e. before free postage) were financed by the state, indirectly or from its overall donation, then it would have cost the state £1m to pay for the letters – the same as the opportunity cost to the state coffers from free provision. Reducing the total donation by £1m and allowing free postage means that 1 million extra letters are sent and there is a social benefit from the policy. Only if the original letters had been paid for from private donations would this creativity not have been worthwhile.

If the state is willing to provide funding, or already does so, then the benefits can be gained through a “matching” process up to the amount that the state would be willing to provide.

Note that the above example is consistent with the requirements suggested above (i.e. it is a

state owned service, with low MCs, where induction would arise from cheap or free provision, and where there are social benefits from this induction). Closer examination of how South African parties spend their money will reveal where such benefits can be made. It seems feasible that assistance could be made in terms of transport, advertising, post, seminar rooms, to mention but a few. It should be emphasised, however, that these benefits only arise where there are low marginal costs of production and/or use. For example, in the case of transport: it would be useful for idle cars to be made available to parties; but, the argument does not extend to the purchase of an entire fleet of new cars as this would entail the same cost to the state as the party.

University of Cape Town

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University of Cape Town