By Jide Ojo

“He may have done well with the provision of physical infrastructure. However, what about my own stomach infrastructure?” —Governor Kayode Fayemi of Ekiti State mimicking his detractors on TV

Many a time we heap all the blame of political corruption on the political class. We unfairly accuse them of underperformance in office. We castigate them for not providing palpable dividends of democracy. We tend to forget or choose to ignore where, we as electorates and civil populace, aid and abet political corruption. We demand for payment of school fees of our children, funds to help us pay our house rent, support towards the new bride we are about to take, assistance towards the funerals we need to organize and other mundane and self-seeking requests. This is what is

According to the accounts of many serving and out-of-office political office holders, every day of the week, from dawn to dusk, their political supporters, constituents and allies besiege their homes and offices for one support or the other. It is ironic that these people are not meeting their political representatives to advocate for bills to be passed or infrastructures their communities need, but for their own selfish needs. They demand for payment of school fees of their children, funds to help them pay their house rent, support towards the new bride they are about to take, assistance towards the funerals they need to organize and other mundane and self-seeking requests. This is what is

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Factors to consider when legislating on party finance

By Lisa Klein

Across the globe, many nations are either in the process of enacting, amending or discussing whether to enact or amend laws governing political finance. The legislative process can be time-consuming and highly politicised, which means we need to ensure that legislation, regardless of its scope or substantive content, is fit for purpose. If the legislative framework is defective, it will not enhance confidence in the integrity of the electoral process; indeed, poorly drafted laws undermine such confidence.

There are four key questions to consider when drafting legislation to ensure that it will be as effective as possible. The first is to ask what the legislation is trying to achieve, in other words, to define its key aims. This may sound extremely basic but the purpose of legislation is not always clearly spelled out.

Many experts have written about the reasons for regulating political finance. Although there are numerous formulations, the key objectives could be summarised as:

- Preventing corruption and/or undue influence
- Ending/preventing an arms race for cash
- Creating an even playing field for parties/candidates
- Encouraging trust and participation in the electoral process
- Ensuring political parties have adequate funding to fulfil their important role in democracy

The reason for expressly articulating the aims of the legislation is that without doing so, it is impossible to determine if they will be or have been met.

This leads us to the second key question – Does the legislation give life to the stated objectives? Answering this question can be difficult because the measures used to implement one objective often conflict with another key aim. Transparency, for example, is often used as means to guard against corruption and undue influence. However, requiring donors to be publicly identified to ensure transparency may deter some potential donors from donating. This, in turn, may make it more difficult for parties to raise money, which means the goal of ensuring parties are adequately funded may need to be addressed in some other way (i.e. through state funding).

The third question to ask is whether the legislation, as written, is enforceable. This is important because unenforceable political finance laws can impair the integrity of the electoral process and bring the system into disrepute.

There are two ways a law may fail the ‘enforceability’ test. Poor drafting may make it impossible to achieve the legislative objectives. For example, many countries impose limitations on how much donors may contribute. The efficacy of such provisions depends on what donations are included in the prescribed limit. If the limit only applies to donations made to candidates, then donors could easily circumvent it by donating to the party associated

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CSJ Recommendations For Political Finance Reform

By Eze Onyekpere

(Continued from April Edition)

(ii) To INEC on the Extant Law

In view of our candidate-centric system, the recent provision of the Guidelines and Regulations for Political Parties for candidates reporting on campaign finance is a good development from INEC. Detailed candidates reporting forms should be developed by INEC. The reports should include election contributions and election expenses. A pre-election report should come within three weeks to the election while a post election report should be demanded within three months of the conclusion of poll. Parties will still be under obligation to report their expenses used for general administration and in support of particular candidates.

The pre-election report should come with the declaration of assets of the candidate to enable the public form an opinion and reconcile the worth of the candidate with the resources he is expending for the election. Considering the provisions of section 153 of the Act, detailing rules and formats for candidates and political parties to report their use and management of state apparatus to the advantage or disadvantage of any political party or candidate at an election. Reporting rules, formats and guides for candidates and political parties should be developed by INEC or any other agency to be charged with monitoring the provisions.

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meant by stomach infrastructures. Interestingly, there are two notable Nigerians, both deceased, who are reputed to have used the weapon of feeding their loyalists to win votes. These two gentlemen were Alhaji Lamidi Adedibu and Dr. Abubakar Olusola Saraki. While Adedibu held sway in Oyo State and is popularly referred to as the strongman of Ibadan politics and promoter of ‘Amala’ politics; Saraki is regarded as the strongman of Kwara politics. These two musketeers were kingmakers in their own rights. They played key roles in the emergency of governors and other political office holders in their states of Oyo and Kwara respectively. By providing food for the hungry, they are able to buy their unflinching loyalty and use their influence to win elections for their protégés.

As pointed out by the incumbent governor of Ekiti State, Dr. Kayode Fayemi, in a Channels Television program, Sunrise on Saturday of January 11, 2014, while his political detractors will acknowledge his sterling performance while in office, they often ask, what about my stomach infrastructure? To them, they cared less about the physical infrastructures like the schools, hospitals, roads, electricity, water and other dividends of democracy the governor has been providing in fulfillment of his campaign promises, they will rather he shares the money to them to take care of selfish, personal needs.

It is also an open secret that even when politicians do not approach them, some electorates are in the habit of making monetary demands from political parties and their candidates before voting for them. A human rights activist, Mr. Bambidele Aturu contested for a senatorial election in Lagos in 2003 under the National Conscience Party. At one of the post election conferences, he shared his experience while campaigning. According to him, after he might have told the crowd about his programs and policies, the attendees at the rally will ask for ‘second page’ an euphemism for money. Some voters are also ever-ready to sell their voters card to any interested political party or candidates during the electioneering process. Any Nigerian politician who is unwilling to share money openly or secretly to buy support is regarded as a non-starter, a rookie in politics.

“This huge financial demand is part of why politicians are corrupt. The blame is not altogether that of the supporters or constituents...They possibly have heard of the humongous amount... these political office holders get as salaries and allowances while in office and decided to get a share of the largess.”

As pointed out by the incumbent governor of Ekiti State, Dr. Kayode Fayemi, in a Channels Television program, Sunrise on Saturday of January 11, 2014, while his political detractors will acknowledge his sterling performance while in office, they often ask, what about my stomach infrastructure?

Go to: http://groups.yahoo.com/group/partyfinance/

IFES discussion on party finance

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

Go to: http://groups.yahoo.com/group/partyfinance/

Jide is the Program Manager with IFES-Nigeria
Political Finance Legislative Design: Compliance and Enforcement

By Carl Dundas

The compliance and enforcement regimes of political finance legislative schemes are often treated as a single regime, but actually they are separate and are more effective if treated and implemented as such. The compliance obligations of a political finance legislative scheme should be carefully identified and the sanctions noted. A monitoring program should be formulated with respect to each obligation and dedicated and trained staffs should be assigned to ensure that political parties and or candidates are assisted to comply with each obligation.

It is important that those entities, to whom the obligations apply, be they political parties, party-sponsored candidates, or independent candidates or their agents and representatives are aware of and fully understand the nature and scope of each legal obligation. While the primary legal responsibility of meeting the stipulated obligations of the political finance legislation lies with the political parties and candidates, the quality of compliance can be enhanced if the electoral management bodies (EMBs), particularly in emerging democracies, assist with timely and vigorous awareness programmes. This means that the EMB’s unit or staff cadre overseeing the compliance regime should be well-trained, courteous and be helpful to those who are to comply with the political finance legislative requirements. Where it is possible, a party or candidate who is about to commit a breach of the requirements should be reminded of the obligation concerned and be allowed to rectify the likely breach before prosecution is set in motion.

“Where it is possible, a party or candidate who is about to commit a breach of the requirements should be reminded of the obligation concerned and be allowed to rectify the likely breach before prosecution is set in motion.”

It is possible to introduce third party inputs by way of sample inspection to see if the implementation of the law and regulations are being kept on track. Such random checking of how well or otherwise the law is being implemented can serve to improve standards and at the same time be a deterrence to collusion between staffs and parties or candidates.

Political finance legislation enforcement often suffers from deficits in many areas, including flawed or non-existent mechanisms in transmitting breaches by the EMB to the prosecuting authorities, over-loaded or corrupt prosecuting authorities, or poor preparation and presentation of the cases in court. In researching the issue of political finance in the Commonwealth for the Secretariat of that association almost a decade and a half ago, Michael Pinto-Duschinsky found that many Commonwealth countries from the Caribbean, west and east African regions, as well as Asia, lacked proper legal structures for the enforcement of breaches of political finance rules which were invariably deficient anyway. For many of the countries covered in that study, the situation has not changed significantly or at all. For example, Jamaica’s Electoral Commission recently okayed a political finance legislative scheme which was being debated in Parliament and many independent electoral commentators drew attention to the many shortcomings in the Electoral Commission’s recommendations.

One of the time-honoured difficulties with designing a po-

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Factors to consider when legislating on political finance........Cont’d from page 2

with that candidate, or vice versa. And, where only donations made during a specified period are limited, donors can circumvent the limit by giving prior to the regulated period. The legislative proposal must be tested robustly to identify potential loopholes - otherwise the law may prove meaningless.

The other type of unenforceability relates to violations of the law. The issue here is not whether breaches will occur but whether they are easy to detect and prove. For example, a donor who has given the maximum amount and still wants to fund a political party may be tempted to give money to friends, family and co-workers who will then make the donation on the donor’s behalf.

An ‘enforceable law’ will contain anti-circumvention measures. It will prohibit donations made through others and it will provide a means for detecting attempts to do so. For example, in the USA, a donor’s name, address, occupation and employer’s name must be reported. This significantly helps detect attempts at circumvention.

The fourth question to consider is the level of burden imposed on those regulated by the law. The goal should be to keep the burden as light as possible to achieve the purpose of the regulation.

By way of illustration, assume donation limits are included to avoid any one donor from exerting undue influence. If donation limits are set extremely low, there will be a heavier burden on recipients. Their recordkeeping and reporting obligations may be more extensive and they will have to find more funding sources. Is such a low limit truly needed to prevent undue influence so as to justify the level of burden imposed on those who are regulated?

These four key questions are important to consider when party funding laws are being enacted. They should also be reviewed on an on-going basis to ensure that the law is tested in practice. The UK Electoral Commission completed a review of party and election finance legislation last year, undertaken in consultation with political parties and other stakeholders. The final report highlighted 100 recommendations designed to either fill gaps or to lessen burdens on parties and candidates. In keeping with Commission practice, the report has been made public and can be found at http://www.electoralcommission.org.uk/__data/assets/pdf_file/0008/157499/PEF_Regulatory-Review-2013.pdf.

Lisa is an international consultant in political regulation

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litical finance legislative scheme, and particularly the enforcement mechanism, that is in line with best practices, is that the law will be applied to the very legislators who have to approve it. Thus members of the ruling and, often, also of the opposition parties are unlikely to approve provisions of a law that will be directed at them more than the general populace, if they are not comfortable with them. The first hurdle then is to get a tight enforcement regime of a political finance legislative scheme pass through the parliament concerned, and secondly to construct a credible and realistic mechanism taking account of all relevant local circumstances, including the securing of adequate financing on a timely basis.

While political finance enforcement mechanisms, like other electoral breaches, suffer grave deficits due to the culture of impunity with respect to prosecution for electoral breaches in emerging democracies, in some mature democracies disclosure regimes suffer from legal technicalities which are employed to circumvent reporting requirements. For example, secret trusts and loans in place of gifts/contributions.

Carl is a United Kingdom based Electoral Consultant.
Demand and ensure that candidates report their election expenses in accordance with the regulatory framework. In the event of a breach, INEC should activate or apply the necessary administrative and legal sanctions.

Collaborate with civil society and the legislature for the amendment of extant faulty legal provisions.

Make available for public inspection during office hours the returns of political parties and candidates at its national and state offices.

Conduct training and capacity building in collaboration with other stakeholders for political parties and candidates on respecting the campaign finance provisions of the Electoral Act.

**Being active participants in the political process, parties are expected to provide evidence and documentation to facilitate the work of INEC in campaign finance monitoring. Parties are in a position to provide information on their own candidates and the practices of other parties. With a first-hand experience of money and politics, parties are expected to collaborate with relevant stakeholders for the review of extant money and politics laws, policies and practices.**

Conduct in-depth studies and research on contributions to campaign finance at executive and legislative levels and their links to public procurement, privileges, patronage, legislation and corruption in governance.

Initiate dialogue, consultations and preparation of drafts for the amendment of existing legislation should occupy the attention of civil society organisations.

For the media, raising awareness, agenda setting, etc, is still needed because political finance is yet to occupy its place in the front burner of national discourse.

Undertake training and capacity building on campaign finance, in collaboration with INEC and other stakeholders for candidates and political parties. Monitor and report on candidates and political parties expenditure in the 2015 elections.

Eze is the Lead Director of Centre for Social Justice, Abuja

(iii) To Political Parties

Being active participants in the political process, parties are expected to provide evidence and documentation to facilitate the work of INEC in campaign finance monitoring. Parties are in a position to provide information on their own candidates and the practices of other parties.

Sensitise the rank and file on money and politics issues and build a movement for change among their membership.

(iv) To Civil Society Organisations and the Media

Reactivate the Political Finance Monitoring Group to ensure early preparations and mainstreaming of campaign finance issues in the 2015 political agenda.

Disclaimer Notice

All opinions expressed in this newsletter are those of the respective authors and do not necessarily represent the views of IFES and thus should not be quoted as such.
IFES promotes democratic stability by providing technical assistance and applying field-based research to the electoral cycle worldwide to enhance citizen participation and strengthen civil societies, governance and transparency.

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News clips on political finance in Nigeria

Osun: INEC allays Politicians’ fear over rigging
May 27, 2014 BY FEMI MAKINDE

The Independent National Electoral Commission has said that rigging the August 9 governorship election in Osun State will be impossible because of the arrangements put in place by the commission.

The Resident Electoral Commissioner in the state, Ambassador Rufus Akeju, said this in Osogbo on Monday at the opening of a two-day workshop organised by the Democracy Vanguard in collaboration with the Nigeria Union of Journalists, Osun State Council.

Akeju stated that the election would be monitored by observers from within and outside the state to ensure that the whole process was transparent.

He said, “We are assuring everybody that the forthcoming election will be credible. Politicians can only try to rig the election but I am sure they cannot succeed because we are well prepared for the poll.


Bribery allegations: Show evidence, Fayemi tell Fayose
APRIL 30,2014 BY 2014

The Kayode Fayemi Campaign Organisation has challenged the People’s Democratic Party candidate, Mr Ayodele Fayose to come forward with “incontrovertible evidence” over allegations that governor Dr Fayemi has bribed the Independent National Electoral Commission, INEC.

Spokesperson of the organisation, Mr Dimeji Daniels faulted the claims made by Mr. Fayose saying “we are tired of all this scare-mongering by the PDP candidate. Let him be a man of honour for once.” It, however, challenged him to come forward with the “so-called incontrovertible evidence that he has.” Arguing that Fayose is fond of screaming blue murder when in fact he is the one guilty of same offence.

On the allegation that the Fayemi and the APC orchestrated violence in the state, he said “Governor Kayode Fayemi’s convoy must have passed the route where Fayose’s campaign office is located over a hundred times over the past three and a half years and his convoy was never attacked for once until Ayo Fayose became the candidate of the PDP. The governor’s convoy had not been attacked anywhere in the entire state since.....

http://www.vanguardngr.com/2014/04/bribery-allegations-show-evidence-fayemi-tells-fayose/

Accord Party blames Ekiti’s woes on ‘imported politicians’
MAY 24, 2014 BY TUNDE AJALA

The Accord Party candidate for the June 21 governorship election in Ekiti State, Mr. Kole Ajayi, has blamed the problems confronting the state on those he called “imported politicians.”

While addressing the party supporters at Iluomoba -Ekiti in Gbonyin Local Government Area of the state, Ajayi said “unprecedented capital flight” and “overbearing economic godfatherism” were the major factors causing poverty in the state.

He said, “Tracing the political history of the state since 1999 till date, people coming to superintend over Ekiti people are those who do not understand the values of Ekiti land and they are people that had led the state to total economic decimation as a result of capital flight.

“The present administration has made things worse by its overbearing godfatherism. The only solution to the bad governance in Ekiti is to have a government that knows and understands the needs of the people, which would preserve the wealth of the state...”