



Money and Politics: the Latin American experience

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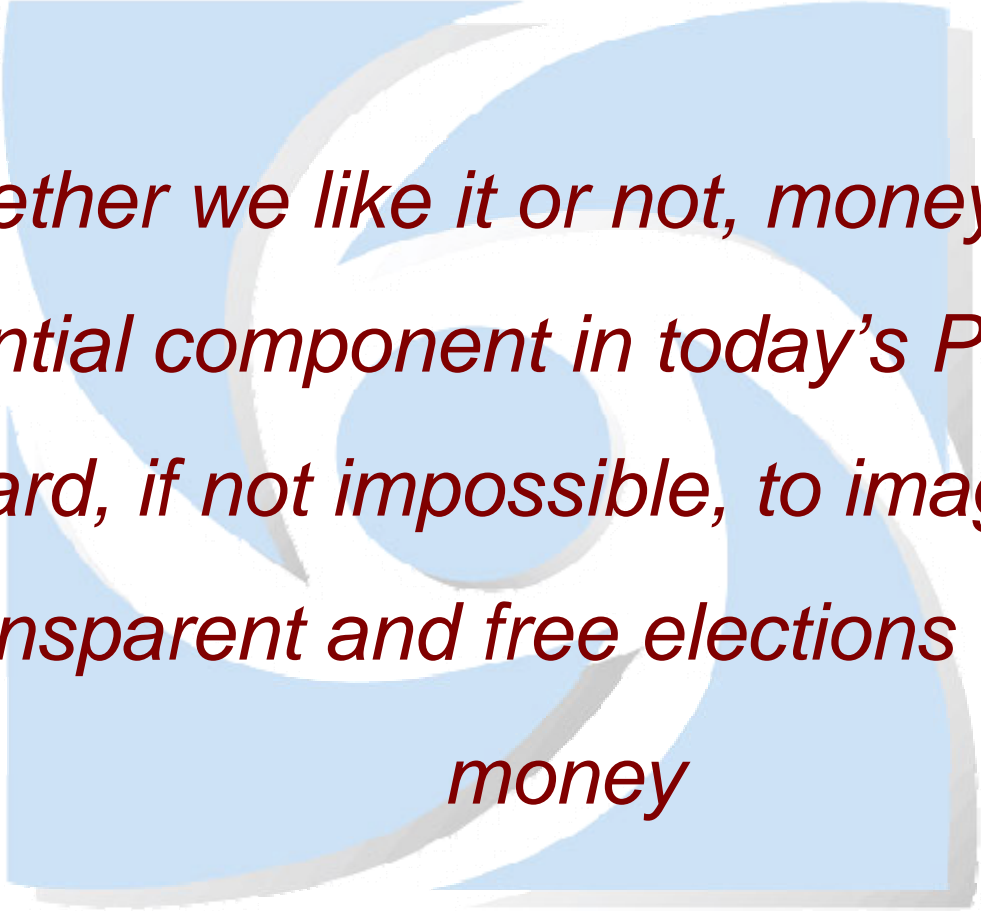
Money on the front page when it comes to Politics in Latin America

- Nicaragua (Alemán/Bolaños cases)
- Mexico (millionaire sanctions to PRI and PAN set a precedent)
- Costa Rica (investigations involving former Presidente Pacheco reveal limited effectiveness)

But not only in Latin America...

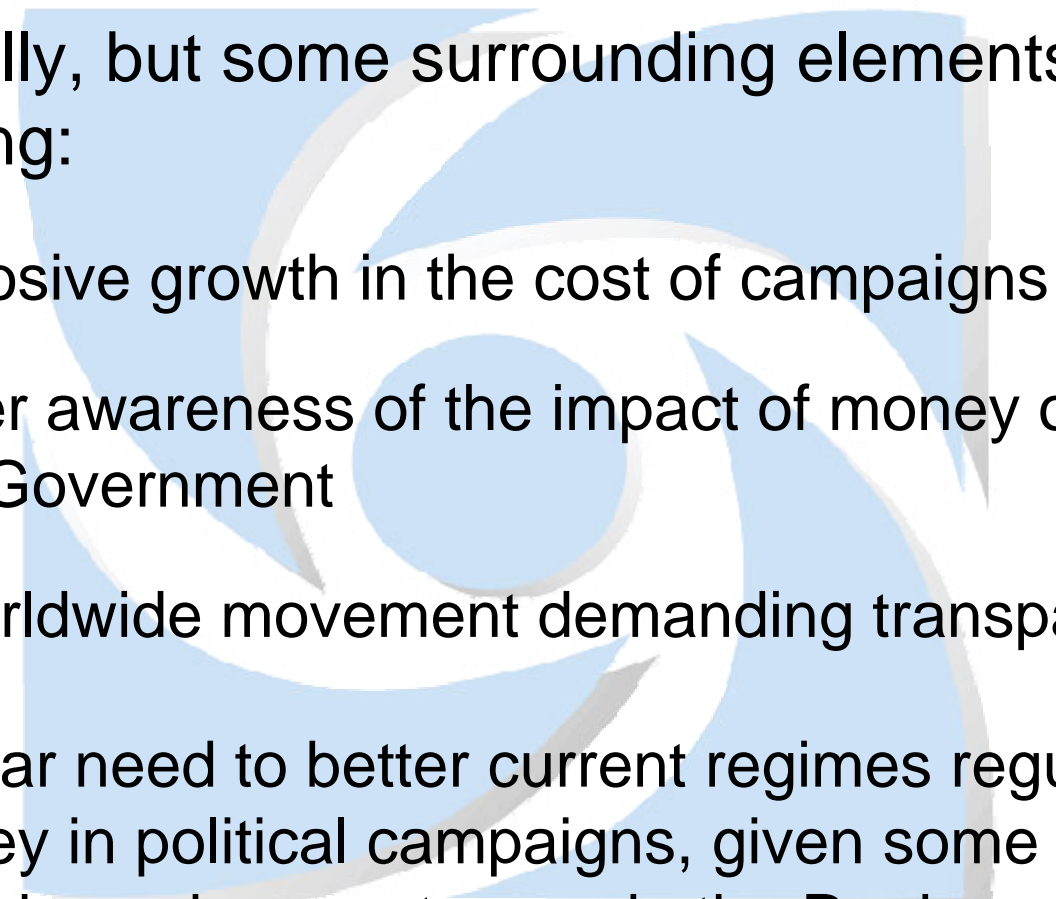
- Recurrent debates on how to regulate “Soft money” in the United States
- Repercussions of the Kohl case in Germany

The premise



Whether we like it or not, money is an essential component in today's Politics. It is hard, if not impossible, to imagine fair, transparent and free elections without money

A new issue?

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- ❧ Not really, but some surrounding elements are changing:
 - ❧ Explosive growth in the cost of campaigns
 - ❧ Better awareness of the impact of money on Politics and Government
 - ❧ A worldwide movement demanding transparency
 - ❧ A clear need to better current regimes regulating money in political campaigns, given some negative experience in recent years in the Region

A fundamental issue: the objective of any regulation on Money and Politics

In our view, there is a matter of equity involved: if unregulated, the power of money may distort or even destroy the fundamental principle of one man, one vote.

But often, there are very different (sometimes contradictory) objectives involved in this kind of regulation, serving different interests

Regulating money in Politics is an expanding issue in the Region

Changes in Latin America from 1997 to 2007

1997		2007	
<i>Restrictions to private funding</i>	<i>Countries</i>	<i>Restrictions to private funding</i>	
Yes	Argentina, Bolivia, Brazil, Colombia, Costa Rica, Ecuador, Honduras, Mexico, Nicaragua, Paraguay, Peru, Dominican Republic, Uruguay and Venezuela	Yes	Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic and Venezuela
No	Chile, El Salvador, Guatemala and Panama	No	El Salvador and Uruguay

1997		2007	
<i>Limitations to campaign expenditures</i>	<i>Countries</i>	<i>Limitations to campaign expenditures</i>	<i>Countries</i>
Yes	Brazil, Colombia, Costa Rica, Mexico, Uruguay and Venezuela	Yes	Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Mexico, Panama, Paraguay, Peru and Dominican Republic
No	Argentina, Bolivia, Chile, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Paraguay, Peru and Dominican Republic	No	Bolivia, Honduras, Nicaragua, Uruguay and Venezuela

4 major issues in regulating political financing

- ☒ Sources allowed
- ☒ Restrictions to expenditures
- ☒ Mechanisms for accountability of Parties and candidates
- ☒ Sanctions in case of infringement

Each of these implies a clear definition of many aspects: implementation, etc.

Sources allowed

- Is this a matter for public financing? Are privately originated monies allowed? Should there be a proportion between these two categories? Are specific sources prohibited?
- A variety of regimes
- Trend in Latin America: a regime allowing public and private financing with restrictions in each category
- Issues to be addressed when applying this regulations

Public funding for Politics

Category	Countries
Public funding is legally established	17 countries
Requisites (minimal electoral support)	16 countries
Allocation period	<p>17 countries:</p> <ul style="list-style-type: none"> 2 countries prior to campaign 5 countries reimbursement 7 countries mixed 1 country monthly 1 country annually 1 country monthly basis for reimbursement
Indirect public funding	17 countries

Private funding

Category	Countries
Specific sources not allowed	16 countries
Restrictions to the use of private funding	15 countries

Limitations to campaign expenditures

- Main issue: Regardless of the source for those monies, is it possible to spend freely?
- A clear trend in Latin America: restrictions prevail:
 - Time-related: Duration of campaigns
 - Specific restrictions: debate on electoral advertisement on the media
- Problems arise with each regulation: objective, control mechanisms, institution in charge

Limitations on campaign expenditures

Category	Countries
Maximum allowed	8 countries
Time-related	10 countries
Prohibitions	9 countries

Accountability and transparency

- Key issue: are Parties/candidates/representatives to be held accountable for, reception, handling and administration of monies to finance their campaign?
- Problems arising:
 - Who is accountable? What procedures to follow? Implications
- Current trends in Latin America: innovations, the Chilean case.
- A field open to many sectors:
 - Parties
 - Public institutions: electoral, other
 - Media, NGOs, citizens
 - The possibilities opened by Internet

Accountability

Category	Countries
Accountable liable	<ul style="list-style-type: none">16 countries: political organizations5 countries: Candidates2 countries: Donors5 countries: others
Control institution	<ul style="list-style-type: none">16 countries: electoral bodies2 countries: Comptroller office2 countries: others

Sanctions

- *Key issue:* To determine whether a criminal electoral law is required. Variety of sanctions: public financing reduced, Party registration cancelled, election of particular officials annulled, fines, prison
- *In Latin America, comparative analyses show* that some sanctions are extremely severe, while in some other realities the same infringement brings about light consequences
- *Numerous problems in this area:* determination of criminal liability, institution to apply sanctions, incorporation of due process principles.

Sanctions

Category	Countries
Sanctions in case of infringement	<p>16 countries:</p> <ul style="list-style-type: none">15 countries: fines9 countries: administrative (suspension, cancellation of legal representation)6 countries: criminal (prison, others)7 countries: political (inability to run for office)

Some lessons learned.

Issues unresolved.

- More and more Latin-American countries are passing legislation to regulate the relationship between money and Politics. On-going debate on the effectiveness of the systems
- A clear trend: NGOs increasingly interested and active in the field: corruption cases uncovered by a combination of efforts: the media, civil society, public institutions
- On the other hand, many regulations or specific control mechanisms that have led to nothing but frustration
- Clear notion of the crucial importance of the relationship: objectives, mechanisms, possible sanctions

Some lessons learned.

Issues unresolved

- Any regulation in this area must, at least:
 - Prohibit the use of monies related to criminal or illegal activities and establish mechanisms to identify sources of financing
 - In case there is use of public funding, establish accountability procedures which are clear in their usage and the consequences in case of infringement
 - If criminal/administrative sanctions are to be applied, clearly determine their implementation
 - Finally, bear in mind the fundamental principle of equity that underlies in modern Electoral Law

Some lessons learned.

Issues unresolved

More than anything, regulations in this area must be realistic. Money is an essential element of contemporary campaigns and its regulation is a sign of the times, but still in probation. Many more mistakes will come along the way before we succeed in bettering the systems. In the meantime, the variety of regimes and the experiences learned are a rich source for creativeness and exchange.