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Regulating Campaign Finance in the Philippines: Limits and Challenges

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This article addresses the tension between a constraining governance environment and the reforms that have to be put in place for the success of anticorruption drives in the campaign finance system. Windows of opportunity for changes occasionally open up though significant breakthroughs are limited to a certain point. It is important to acknowledge that the institutional weaknesses of the state, the concentration of vested interests, and the extent of what the institutional economics literature describes as "state capture," will work as powerful brakes on various government initiatives, eroding their effectiveness and sustainability. Government programs thus should be crafted around realistic "litmus tests" that recognize the qualifying factors in such environments.

Introduction

Most Philippine government anti-corruption initiatives, regardless of source, fail to endure and lose ground more often than not. The culprit is a troubled enabling environment (the means through which authority is exercised in the management of the resources of the state). It is not easy to go beyond one's governance perimeters. Scattered reforms, left to run their own course, have run aground, because of the limits imposed by weakened institutions and a not-so-level playing field.

On most counts of governance, the Philippines has received fair marks, suggesting that the country is reasonably managed (although serious challenges remain). But it is also regarded as a "soft state," in clear reference to the absence of a disciplined and capable bureaucratic culture. A cogent societal fabric and strong political will are vital to overcome such weaknesses. Apparently, Philippine institutions, set of roles, rules, decisionmaking procedures, and programs that serve to define campaign finance are inefficient.

The challenge is to overstep the confines, to create synergies that can lead to a "creative destruction" of fair governance. In terms of game theory, when one agency such as the Commission on Elections (COMELEC) breaks

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out of its own institutional boundaries, others such as the Philippine Congress ought to typically ask themselves how they must react to come up with a least bad outcome. That is, if they have an incentive to fear being left behind by successful moves. So the first agency must motivate at least a few others to copy its actions, and hopefully create a virtuous circle of reforms.

How Public Institutions Are Stifled

In the Philippines, the steadfast advance of the capacity of the state and the strength of its public administration are easily repressed by powerful vested interests.

Historically, economic elites have long secured positions of dominance in the government as a way of preserving economic and political power. It is no accident that it has been difficult to enforce campaign finance reform under a liberal democratic regime, particularly one in which political life is dominated by elite parties.

The power center is a centralized bureaucracy that orchestrates the execution of policy and allocation of spoils. Such concentration of power at the top blends with the decentralized power of families and clans, within the context of a "neo-patrimonial" political system (Azfar *et al.* 2000). The flow of power is from regional elites to central state authorities (Franco 2000). The main political formations such as the Lapian ng Masang Pilipino (LAMP), Nationalist People's Coalition (NPC), Laban, Lakas, and National Democratic Front (NDF) are unstable political coalitions, implying no genuine party loyalty exists. The national electoral system is nominally competitive.[1] It is a curious set of first-past-the-post contests, and mainly yields the president, senators and local-council (*sanggunian*) representatives who are elected at large, as well as Congress members elected from geographic constituencies, along with a small number elected from party lists. The need to share the spoils of political victory often incites a scramble by politicians across parties to join the winning Presidential candidate's party (Azfar et al. 2000).

Because the president has discretion over disbursement and big-ticket government contracts, licensing authority, and fiscal management powers, a pattern appropriated from the American presidential system, politicians have to ally themselves with the chief executive to ensure funding for key projects and a major share in the patronage resources of the government. In turn, in the absence of effective political parties, the president has to count on local elites for electoral support and mobilization. As a result, local elites can leverage local power effectively during elections and, in-between, ask for major concessions, through the Congress, from the central government (Rocamora 1995). The leverage that the chief executive has on local politicians is matched by the leverage that local politicians have in their ability to collect votes from their local bases of power (Igaya 1999).

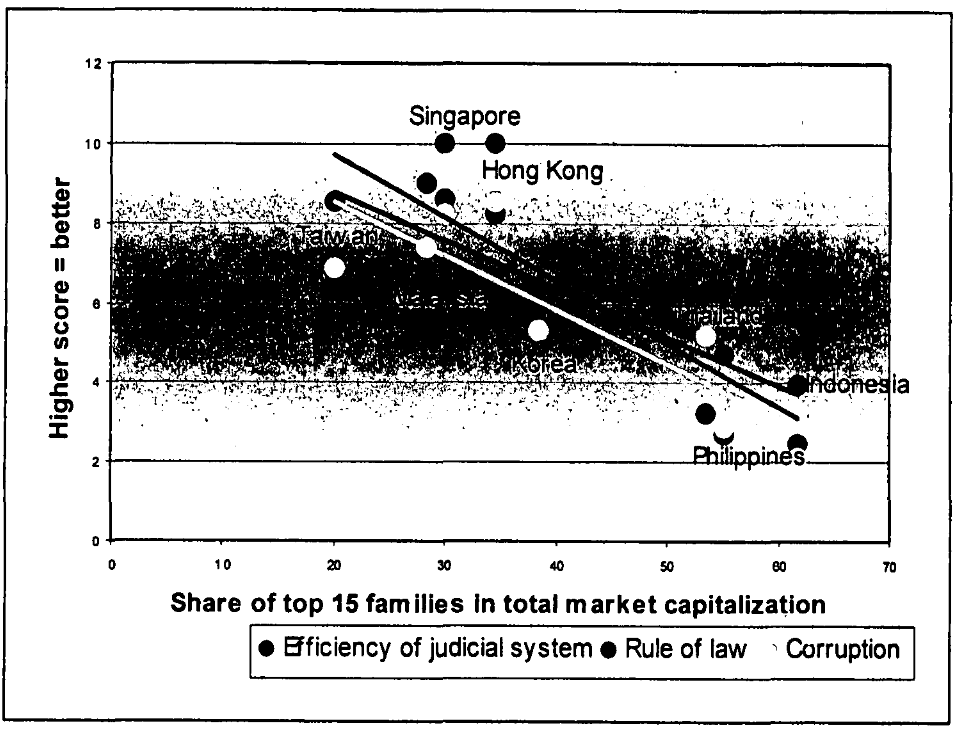
This local-central symmetry is perpetuated when Congress members routinely engage in party switching to bolster the ranks of the ruling party in successive elections, a practice which in turn stiffens the lack of any real programmatic or ideological separation among Philippine political parties (Franco 2000). One result of this system is that the Philippine legislature by and large does not mediate differing interests; its policies, laws and resource priorities are seen widely as directly favoring powerful constituencies (Gonzalez and Mendoza 2002). Minorities also have little voice (other than as local majorities), especially in national politics (Azfar et al. 2000). As suggested by De Dios and Ferrer (2001) as well as Mendoza (2001), these political contests for control of resources are quite intense since the state disburses a significant amount of resources and has wide powers of discretion.

It is at the central level where concentration of vested interests takes a life of its own and generates incentives that induce grand corruption. The Marcos regime left a legacy of tightly knit relationships between central government and big business. Political and economic exchanges were and, still are often based more on informal and personal relationships than on market transactions. It is further stimulated by a presidential system wherein the power of decisionmaking is in the hands of a small political elite. The close tie-up between big business and government can be seen as one of the chief causes of corruption in the Philippines. Rules have not been able to adequately sort out the coupling of private and public interests.

It is crucial to understand this in the context of a political economy distinguished by relatively weak institutions. The formal channels of interest intermediation can offer circuitry for state capture—the actions of individuals, groups, or firms both in the public and private sectors to influence the underlying rules of the game (i.e., legislation, laws, rules, and decrees). State capture also suggests purchase of laws and policies to get both the legal framework and the policymaking process out of shape in a systematic striving for concentrated rents (World Bank 2000a). Captor firms seek to shop for privileges *a la carte* directly from the state, such as individualized protection of their initially weaker property rights, in an environment where government undersupplies the public goods necessary for effective entry and competition (Blechinger 2000). The reality of Philippine politics is that, access to and application of government policy, are for sale.

State capture is evinced by a relatively small number of families having a strong effect on the economic policy of governments. In the Philippines, a single family like the Ayalas, has ultimate control over 17.1 percent of the total market capitalization (Claessens, Djankov and Lang 1999). Such wealth concentration, and the interlocking links between owners and government officials, cast doubt on the independence of legal institutions in the country. It raises the prospects, according to Claessens, Djankov and Lang (1999) that the legal system may be endogenous to the variety and strength of control over the corporate sector. In a situation of state capture, legal institutions are subverted and less likely to evolve in a manner that promotes transparent and market-based activities. In Figure 1, the higher the share of the top 15 families, the lower the level of efficiency of the judiciary, the weaker the rule of law and/or the higher the judicial corruption. Thailand, Indonesia and the Philippines seem to have the lowest level of legal institutional growth because of heavy ownership concentration in the corporate sector (Gonzalez and Mendoza 2002). Under such conditions, alliances with the upper class are easy to make and painful to break. Independence in decisionmaking is hard to maintain.

Figure 1. Are Asian Judicial Systems Endogenous?



Source: Claessens, Djankov and Lang 1999.

Corruption has had a significant impact on this process, encoding advantages in new rules and institutions for narrow vested interests. Public officials appear to have created a private market for the provision of normally public goods (contract rights, sale of public assets). Bribes are offered and accepted to ensure the capture of these resources; in turn these bribes transfer monopoly rents to private interests. Such substantial gains for private parties unfortunately generate negative externalities for the rest of the economy and society at large.

Rose-Ackerman (1999) defines the problem of grand corruption in the public sphere as a substantial expenditure of funds with a major impact on government budget and growth prospects. It is a typical outcome arising from the character of government interventions. Transactions within the government always involve some asymmetry of information between two or more parties. Government intervenes precisely in situations of market failure, when provisioning through the market is not a viable option. In this context, corruption ensues spontaneously as a result of the existence of rents and monitoring failures (Broadman and Recanatini 2000).

Ultimately, the political superstructure—the political system, balance of powers, electoral competitiveness, and so on—establishes the incentives for those in office to be either honest or dishonest. The specific features of the political structure determine the degree of accountability in the system. The degree of competition in the political system, institutional choices made by government and the check and balance mechanisms, and the transparency of the system, are the important ones. Eventually, these conditioned the political actors' responses to corruption, and, thus, set its equilibrium level (World Bank 2000).

The Role of Political Competition and Political Parties

Political competition determines the efficiency of political outcomes. Rose-Ackerman (1999) suggests, for example, that elections, if freely, regularly and fairly conducted, can ensure that politicians can be held accountable for their action while in public office. Elections are straightforward competition mechanism. Theoretically, it is both a reward and punishment device that can control politicians' conduct. In practice, perverse incentives allow politicians to transform elections into a platform for rent-seeking.

The key, according to the World Bank (2000), is to establish rules (or institutions) that stretch politicians' time horizons to improve the efficacy of elections as a reward mechanism. That means redirecting the system so that politicians assume a longer range of vision. The longer the term goals, the higher are the politicians' incentives to adhere to good governance. For example, political systems that make political parties relatively stronger vis-à-vis candidates should have fewer self-interested politicians. Close lists are good examples. In legislative elections, they create incentives for individual politicians to worry about the reputation of the party as a whole; thus producing a corruption reducing effect (Rose-Ackerman 1999).

When political parties vie for the provision of the same public service in a competitive environment by way of an election, they tend to reduce the extraction of rents and distribute political rewards more evenly (World Bank 2000). Because the elected official has a social coalition behind his position, the official will be less susceptible to powerful elite forces out to bend the state to their will (Igaya 1999). The party is often put in a contradictory position of pleasing every constituency, but if it is unable to carve its own role, goals and policies, it weakens its position vis-à-vis other stakeholders and makes it susceptible to pressure by dominant interest groups.

The institutional weakness of the Philippine state is in a way a reflection of the Philippine political parties' instability. Political parties in the Philippines are not based on class or ideological differences. While political parties continue to be the main instrument of social mobility, they do not carry a development paradigm (Igaya 1999). Drawing from various observations, Romero (2002) characterizes political parties as makeshift coalitions built around specific electoral contests—essentially instruments used by the elite in personal-political competitions. They are held together only by dyadic patron-client relationships. Necessarily, they are financially and organizationally weak. Romero points out that as a result, the political system cannot establish a competitive, level-playing field. Ruling parties have distinct advantages in campaign fund raising, and because they are considered as elite parties, the system becomes inhospitable to parties representing the majority of workers and peasants. The lack of mass membership[2] suggests that the current system obstructs the institutionalization of mass political parties, because there is a constant need for regrouping. The real mobilizing organizations are the candidate's electoral machinery and network of relatives, friends, political associates, and allies (Gonzalez 2002).

The lack of stable membership base of Philippine political parties results in the absence of a steady organizational life, discernible structures by which to engage the energies of party stalwarts to project their presence and regular activities. They are only visible and active during elections (David 1997).

Without broad-based support, political parties do not have party funds to collect or account for. Party expenses are paid for directly from the pocket of whoever is aspiring to be the standard bearer in a given electoral season (David 1997). Political parties are more dependent on powerful firms and financial interests for sources of financing and on electoral tactics such as vote-buying, vote-rigging, and intimidation. On the other hand, there are virtually no funds for other, non-election activities such as strategic planning and platform formulation, recruitment of party members, voter education, among others (Romero 2002).

Moreover, in a context of widespread corruption and lack of confidence in the impartiality and efficiency of government, Philippine political parties (or rather, politicians comprising their influential echelon) easily transform public offices into opportunities for personal profit. Della Porta, et al. (2000) did an excellent study of Italian political parties' shady dealings, may just as well be describing the Philippine context: the more costly the political campaign, the larger the incentives to draw money from the occupation of public positions. At the same time, the richer the opportunities for illegitimate profit in public roles, the easier (and more advantageous) it is to invest huge sums in electoral campaigns. Worse, potential corruptors can modify public decisions in a way favorable to them. Corrupted party leaders and functionaries can directly influence the action of public administrators, who are the final executors and providers of specific favors (Della Porta, et al. 2000).

From the perspective of principal-agent relations, the agents (in this case, the politicians and bureaucrats) are able to abuse the advantages offered by such discretionary political power in the wake of the incoherent interests of the principal (in this case, the electorate or the public at large). This incoherence of public interest, according to De Dios and Ferrer (2001), stems partly from social divisions (resulting from ethnic-linguistic dimensions, religion and urban-rural distinctions) and the gap between rich and poor. Moreover, large segments of Philippine society do not necessarily regard institutions of government as representing values that are superior to those of smaller groups, such as clan or family, thus contributing to a split-level set of acceptable public behaviors. In this context, De Dios and Ferrer aver that, where the notion of what constitutes public interest is either vague or disputed, reward and penalty mechanisms are unlikely to function smoothly. It is not easy to align politicians' preferences with those of the electorate without a clearly articulated public interest; consequently, it would be hard to punish politicians who adopt "bad policies."

Linkages Between Campaign Money and Policy Outcomes

In the Philippines, it is not difficult to purchase major influence over government through campaign contributions. Although there is separation of powers, which disperses power and influence widely, and while they also multiply veto points as well as points of political access, legitimate and otherwise, those who can be said to have such power (the President, arguably, and a few major legislators) are the focus of demands (and receive contributions) from a very broad range of firms and individuals seeking influence over public policy.

The Philippine pattern of free-standing, self-financed campaigns[3] do not necessarily represent a dispersal of political influence. That is because winning candidates at all levels, who must organize and find funds for their own campaigns, become in any case beholden to the victorious presidential candidate and his or her political entourage for bureaucratic largesse. While overall large sums are spent on campaigns, demands are focused on only a few high-level offices—a weakness that obstructs meaningful electoral finance reform. "Agents" (e.g., politicians and bureaucrats in these high-level offices) are better informed about prospective policy changes that offer new rent opportunities (e.g., privatization initiatives during liberalization episodes) (Mendoza 2001).

Ironically, weak parties that help define the Philippine political landscape make for equally weak rules and regulations, and thus easier access to influence. There exists no party disciplining mechanism that will provide some measure of accountability for winning candidates. Neither is the party responsible for applying government sanctions, which in any case are not enforced strongly. Most of the campaign donors' recipients, even party leaders, could credibly guarantee major favors in exchange for funds. As with every scarce and valuable commodity, political guarantees can then be demanded and supplied in exchange for a price. Examples of policies that can be "guaranteed" are industrial priorities, fiscal policies, regulatory rules, judicial decisions, and electoral rules, among others (De Dios and Ferrer 2001). Changes in regime or policy environment can provide opportunities to secure illicit gains from "policies for sale." Not surprisingly, this factor increases the clout of any big contributor.

Despite this, causal links between electoral contributions and policy outcomes can be exceptionally hard to prove, whether analytical or legal standards of proof are employed. In any campaign finance situation, the "money trail" can involve diverse players, with ultimate sources being difficult to trace (Johnston 2000). It may be easy enough to detect or legislate against politicians using public office for personal gain. But it is much harder to ascertain even if there are strong suspicions, whether these politicians are becoming overly indebted to the groups or individuals who fund their campaign.

To begin with, politicians spend three times: one, to become candidates, two, to be voted upon; and three, to get the votes counted in their favor. It takes money to pay a campaign staff and buy materials. It takes money for a campaign to be taken seriously by the press. It even takes money to raise more money. In the Philippines, a presidential candidate needs billions of pesos to finance a nationwide campaign. In 1998, one estimate put the total cost of presidential campaign at ₱3 billion: ₱1 billion for organizing a nationwide machinery; ₱1 billion for media and propaganda; and ₱1 billion for election and post-election day expenses, including the recruitment of poll watchers. Airplanes and helicopters, which are musts in campaigning in an archipelago and in traffic-choked cities, are also among the big ticket items in campaign expenses. They also include slick public relations practitioners (advertising can swing races), poll watchers, and the ubiquitous semisecret kitty to buy votes (De Castro 1998). Yet, ensuring that the campaign kitty is used only for ethical campaigning purposes by the party, and is not eventually channeled to policymakers, is a regulator's nightmare.

There is a melange of political financing—some are legitimate but most are tainted. The most known ones are donations, commissions, bribes given to public officials in exchange for contracts, concessions, and so on. Voter support is also won through the use of pork barrel for funding "visible" public works projects. Diversion of government funds, that is, money that comes from the Treasury or government corporations for election purposes occurs matter-of-factly every election season. Deft strategizing by government lawyers may have helped the practice escape being considered illegal (De Castro 1998).

All these make the paper trail very difficult, and even aggressive. Nongovernment organizations (NGOs) like the Philippine Center for Investigative Journalism (PCIJ), which is noted for uncovering several campaign finance irregularities, have to chart courses not trodden to establish proof of wrongdoing.

In addition, COMELEC, the electoral oversight body, does not make a clear distinction among campaign expenditures, which are largely unregulated, even if there are firm limits on paper. In the United States, political parties are allowed to spend money on both "party building activities," such as "get-out-the-vote" efforts and generic advertising, such as "issue" ads (soft money) and on more conventional campaign spending (hard money). Good accounting can help establish the connection among policy outcomes, recipients of political contributions, and donors, but Philippine regulators often look the other way.

Wholesale political influence through electoral finance may be hard to uncover in the Philippine system, but that does not mean there are no corruption perils. Also, access to pork barrel funds by legislators may be justified by some as constituent service, but strikes most people as safeguarding electoral bases. Innocuous riders in bills, which are often inserted in the course of bicameral sessions, are unlikely to attract much public or press attention, but can be of major benefit to a particular donor. Looked at another way, politicians and bureaucrats may practice a form of "political money-laundering," converting resources that cannot be transformed directly into influence by other means. At local levels, campaign finance purchases benefits that may be individually too small to be visible to be minded by the public, but collectively add up to a corrupting influence upon Philippine politics.

Institutional Choices: Mostly Weak Links and a Few Bright Spots

The Philippine experience in campaign finance to date has produced largely harmful results. To a large extent, this failure in governance has been occasioned by choices made by the country about institutional structures, which in turn, set in motion transition paths that favor particular growth patterns and shape incentives for slow changes. These institutional choices represent a binding constraint on further progress in campaign finance reform.

Current laws leave little way of knowing what the scope of the problem might be. Major corrupt practices via campaign contributions do not seem to precipitate any kind of crisis in the Philippine political system. But it is also hard to see how existing laws would systematically reveal such problems, or prevent efforts at influence-buying by sufficiently determined and skillful agents. Some of the major questions, such as, what constitutes knowing involvement in raising funds, what is or is not an illegal contribution, are well-removed from the actual exercise of corrupt influence, and from rent-seeking behavior by agents, that is, politicians and bureaucrats. It is difficult to make a case that political contributions, either foreign or domestic, have captured the Philippine political process. But it is quite clear that campaign finance in the Philippines may pose emerging corruption risks demanding new safeguards.

In the Philippine electoral system, success is equivalent to the total number of votes a candidate is able to garner. Candidates to political offices, from President down to the *barangay* chairman, are elected in this "first past the post" system. This system is simple, straightforward, and much easier for ordinary voters to understand compared to "block voting," for example. It sets off; however, a parallel system of competition for electoral funding from various vested sources. All those with name-recognition who emerge as top choices in preelection surveys get the contributors' nod, to the disadvantage of less known, but probably better qualified newcomers. The election victories of movie personalities in the Philippines, the most known of whom was Joseph Estrada, were in part the result of a scramble for campaign money that favored popularity over competence.

The situation would not be so bad if election spending were closely monitored, and opportunities to practice extortion are carefully watched. Like political money, running for office is not a bad thing in itself, but like political money, it creates the political equivalent of moral hazard.

In the Philippines, transparency in campaign finance is reflected in rules on party financing. The country's election code sets guidelines and limits on financial contributions to political parties. But these rules (e.g., low ceiling on election expenses) are too unrealistic that they tend to provide incentives to hide rather than declare fund sources. COMELEC, which is mandated to oversee these matters, lacks the capacity to scrutinize political donations. Even worse is the fact that, when violations occur, the COMELEC rarely enforces sanctions (Rocamora 1998).

The government of Corazon Aquino tried to reduce election spending by banning political advertisements. But this effort failed to halt the explosion of campaign budgets. Candidates made use of legal gaps that allowed them to spend huge sums to buy votes or gain the loyalty of local officials, and engage in other traditional ways of winning public office (De Castro 1998). Politicians have seized even this small part of good governance agenda, with Congress lifting the ban on political advertisements. Essentially, it is not hard to blow holes through whatever reforms are introduced. With COMELEC not being able to scrutinize party records, if they exist at all, the campaigns no longer adhere to contribution or spending limits. Paradoxically, as a public body with a clear constitutional mandate, which means it cannot be abolished by legislation, COMELEC has vast powers to scrutinize, and enforce limits on, election donations and spending. It is nominally independent of the Chief Executive and Congress. COMELEC has fallen prey to politicians' manipulations due to absence of clear sense of purpose, coherent strategy, short attention span, and fast action for improvement.

State subsidies are still a fact of the future. To be sure, COMELEC allocates free radio and television time equally and impartially among parties and candidates, and this can be considered a form of indirect subsidy; other than this, state assistance to political parties has not been introduced (Gonzalez 2002). For better or worse, Philippine policy on domestic political finance has come to rely much more upon vigilance by the press, especially the PCIJ, individual voters, and civil society—than upon limits or restrictions. Revelations of illegal campaign donations and various corruption charges against politicians, including ex-President Joseph Estrada, were results of efforts of the PCIJ. Still, the scant data disclosed in an election year make it difficult to unearth abuses until well after the "paper trail" has led to concrete evidence and the public has maintained its vigil.

In the end, the variation in institutional outcomes reflected poor choice of institutional structures. The country's political managers opted for institutions such as unstable political formations, first-past-the-post elections, weak COMELEC interventions which did not demonstrate much accountability. This suggests the critical importance of policy innovation and strategic vision in altering the course of development of electoral finance in the Philippines.

So what else could the Philippines be possibly doing right? The one important thing going for the Philippines is its romance with civil society. Civil society is much more developed in the Philippines than in any other Southeast Asian country. When civil society is franchised, collective action blossoms, and institutional restraints within the state are let loose, allowing the country generally to successfully confront internal pressures for reform. When civil society is repressed, ambitious reform campaigns flounder at the implementation stage.

Precisely because they have close relationship with communities, and owing to their non-bureaucratic character, NGOs are obvious wellsprings of innovation. The existence of campaign finance watchdogs, PCIJ in particular, can turn the tide against corruption in the use of campaign funds. Yet all is not well with many civil society organizations. A principal drawback is that accountability structures among NGOs have been slow to emerge. In contrast to government agencies which have long life spans, civil society groups, at least many of them, have brief shelf lives. The price of organizational flexibility is sometimes an unsure, fly-by-night existence. Some NGOs assisting in electoral reform had been known to disappear as soon as grants from donors dry up. Others, like National Citizens Movement for Free Elections (NAMFREL), are too focused on election reform. NGOs are here to stay despite fragile structures, and the key to it is to strengthen their culpability, so that they are made answerable for good governance initiatives, such as campaign finance reform.

These early choices about the structure of institutions affected the trajectory of campaign finance. The institutional context is strong on some "fundamentals"—a fairly developed nationwide election infrastructure, the presence of an independent and authoritative constitutional body, the COMELEC which could be responsible for the integrity of all issues regarding party finance and electoral rules, civil society watchdogs—but is as yet not strong enough to deliver the minimum necessary underpinnings for long-lasting reforms.

The challenge is bound to grow, as the risk of maintaining the status quo, and backstepping even in limited reforms, rise. The astuteness of powerful economic interests to hold legal, legislative, and regulatory initiatives at bay could outpace even the constraints imposed by competing interest groups and the pressure points set up by civil society. Yet the country can also lock itself in a virtuous circle. The key is making the right policy choices that are mutually reinforcing, and have a demonstrable impact in reducing weak campaign finance initiatives. Some measures are distressing, but not irreversible. Decisive leadership can push the necessary reforms as new gains give the reform program a new credibility.

Crossing the Threshold

Two immediate things make change a likelier outcome than stasis. One is that pressures to deliver have given the government a continuing motive for reform, while persuading most other stakeholders, whatever their snarls of criticism or resentment, not to stand in its way. The second is that the actions implied by that motive are likely to draw the government into new acts and new types of engagement, whether it likes it or not.

Since the big challenge is how to dilute the high concentration of power by vested interests, the repertoire of reform must gradually expand to include broader structural interdependence among core state institutions. "Give and take" between the state and civil society is a must. The key focus of good governance should be on enhancing political accountability and taking maximum advantage of a strong legacy of public management. The priorities should include creating new accountable structures, such as mass political parties, increasing formal channels of access to decisionmaking, deconcentrating political and economic power through deeper decentralization, and enhancing oversight through participatory strategies.

Political accountability is perhaps the most crucial factor which organizations and constituencies with power to enforce sanctions on them, can use to restrain the behavior of politicians and public officials. The key is to increase the cost of making decisions that benefit narrow interests at the expense of the broader public interest. An important step is to increase the transparency of electoral funding decisions made by elected officials, followed by the strengthening of institutions (for example the courts) having the power to apply credible sanctions to them. In favorable contexts, such mechanisms can also be created within government bureaucracies by establishing ethics codes and disciplinary committees, and in the case of COMELEC, better regulations on disclosure of electoral contributions and expenditures. Civil society groups can also express their collective demands for transparency and accountability.

The answer to enforcing effective sanctions on politicians is a meaningful degree of political competition in the electoral process, channeled through organizations that provide broad constituencies with vehicles, such as mass-based political parties, to express their collective demands to political leaders. Exposés of cases of poor performance associated with high levels of corruption are an effective deterrent to corrupt behavior (World Bank 2000). Philippine political parties need to build mass membership to encourage a healthily widespread political participation. The more the electorate is induced to affiliate with political parties, the better for aggregating and systematizing the interests of the people (Romero 2002).

Apart from dues-paying members, parties can form around affiliated organizations, labor unions, guilds, NGOs, among others that contribute funds to the party (Romero 2002). In some countries such as Germany, parties require elected officials to give a proportion of their salaries to party funds. If the levy on professional politicians is compulsory and uniform, their contribution does not give them greater influence on policy than they already enjoy through their position in the party (*The Economist* 1999).

But dues and membership fees obviously would fall short of parties' total needs. If membership fees are set too high, they will discourage potential members. Parties will likewise be reluctant to bleed their own affiliates and officials too hard. Like it or not, parties would try to pass the hat around more widely, raising the question of how far they can go.

In the Philippines, prohibitions on financial contributions to political parties make it almost impossible for any political party to accept anything. Under the country's election code, political parties are barred from accepting donations from the following: foreigners and foreign corporations; public or private financial institutions; public utility firms; those engaged in exploiting any natural resources of the nation; those who hold contracts or subcontracts to supply the government with goods or services or to perform construction or other works; those who have been granted franchises, incentives, exemptions, allocations or similar privileges or concessions by the government; those with government loans in excess of ₱100,000; educational institutions with public grants exceeding ₱100,000; and officials or employees in the Civil Service, or members of the Armed Forces of the Philippines.

Experience worldwide suggests that regulation of party funding can be effective if well-designed, backed by effective sanctions, and accompanied by a parallel diffusion of appropriate ethics and norms. There is no single prescription for success, but a selection of the following litmus tests, suggested in World Bank (2000), might prove to be helpful:

Leave a Paper Trail. Ensure that all donations and other sources of party revenue are made public, that donors and the amounts of their donations are identified in the public record, and that candidates disclose links to lobbyists, as well as sources, types, and amounts of support, both before and after elections. Expenditures and their purposes should be similarly published and available for audit.

Party financing in the Philippines is one of the more contentious issues with regard to the regulation of political parties. A new transparent system for reporting political donations, if introduced in the country, should allow parties and candidates to hand out receipts for political donations which are issued by the COMELEC. This measure can provide ruling and opposition parties with equal chances for political fundraising. To put it in operation, setting up an acceptable administrative structure will be required of parties to ensure that political donations are properly used and that accounts are kept. At the same time, the new anti-money laundering law passed by Congress can ensure more transparency in political finance by putting under scrutiny donations exceeding ₱500,000. As *The Economist* (1999) argues, although such measure may not stop would-be influence-peddlers, it ensures that parties will have to justify any decisions that are in the interests of their donors.

Because transparency depends crucially on freedom of press so that right- and wrongdoings on the part of the government can be publicized, a freedom of information law ought to be enacted by Congress. The public can demand the disclosure of information regarding campaign finance by invoking such law. That will reduce the informational problem between principals (citizens) and agents (politicians and bureaucrats), thus improving accountability and, particularly, reducing corruption in electoral funding (World Bank 2001). To be fully effective, however, a freedom of information law needs an oversight body. In the Philippine case, the COMELEC, given its management role in campaign finance, is in a good position to give life to freedom of information, recognized in the Philippine Constitution but still needing legislation.

Ban the Use of State Resources for Political Purposes. Parties in government should not use state funds, postal services, cars, computers, or other assets for political purposes or in election campaigns.

The administration party, because of its access to far greater resources than opposition political parties, is often accused of tapping government resources, and using the government machinery to support its candidates (Gonzalez 2002). Yet ruling parties need to be guided by distinct funding rules. Regulation should draw a line between proper governmental spending and the use of public money to keep the ruling party in power. For example, the administration has a right to spend public money to implement party programs, or to test whether policies are working. But it should be barred from spending designed to test voters' attitudes to public policies, or to persuade the electorate to vote in a particular way (*The Economist* 1999). For example, the ruling Lakas-National Union of Christian Democrats (NUCD) party decides to support a shift to a parliamentary system. It should not, under normative rules, be allowed to circulate its stand in the referendum using public money.

Limit "Soft Money" Donations. The donor restrictions imposed by COMELEC refer only to elections, thereby excluding those not related directly to elections. In practice, individuals or corporations wishing to influence an election could chip in thousands of pesos even on election themes, such as "issue" advertising targeting or supporting a specific candidate. In fact, in a non-election year, candidates can produce TV plug-ins that promote government programs that they sponsor—an obvious way of skirting campaign advertising rules. In either case, politicians can often evade this donor restriction with just a reprimand from COMELEC.

In theory, donors can strengthen political parties if they direct donations at party-building measures, such as funding for political research or for get-out-the-voter drives. But since "soft money" is not yet formally recognized as a political good in the Philippines, the country can learn from lessons abroad. In America, both Republican and Democratic Parties have been using soft money as a route around existing curbs on "hard money." Spending on advertisements, for example, ostensibly is about issues rather than candidates. The collapse of Enron, the energy trading giant which showered money on politicians and political parties late last year undoubtedly helped tip the balance in favor of a new campaign finance law. The new law would impose limits on this kind of spending by banning soft-money donations from companies, unions and non-profit lobby groups for such advertisements within 60 days of a general election and 30 days of a primary election (*The Economist* 2002).

Limit Expenditures. Make party politics as inexpensive as possible. Usually, the demand exceeds the supply of funds, leading to a search for funding that may breach legitimate frontiers. There is a lot to be said for reversing this relationship by imposing legal limits on spending, with actual expenditures subject to audit and to effective sanctions in the case of breaches of the limits.

Money can reap political dividends only if it is spent. As *The Economist* (1999) suggests, by limiting the ways in which parties can spend money, they will lose their appetite for raising it in the first place. It cites the case of Britain which bans paid television and radio advertisements, the idea being to limit the need to raise funds and to level the playing field. France does so too, but goes further: it outlaws press advertising, posters, and free phone lines (Pujas 2000). The Philippines used to be in this league, banning political advertisements as elections drew near.

In some cases, restricting the amount may yield better results than restricting the type of spending. In the Philippines, an election reform bill now pending in the Senate puts limits on voluntary contribution: ₱100,000 for individuals and ₱500,000 for corporations. But this approach of putting a cap is wrought with practical difficulties. A crucial test is timing: what period should be covered by the spending limit? *The Economist* (1999) outlines the dilemma:

> Often, the earliest spending is the most effective. Money spent years before an election on party infrastructure or computerized databases may pay greater political dividends than a last-minute advertising splurge. But cumulative limits set several years in advance would prevent early-spending parties from adjusting their tactics towards the close of a campaign. In France, all spending in the year before an election counts towards the limit. In Britain, where the date of an election is set by the prime minister, often only weeks in advance, the limits apply only to spending after the official start of a campaign (1999: 48).

Spending limits in the Philippines are ridiculously low. There is no question that Philippine political parties cannot observe the ceilings. The primary difficulty is neither timing nor purpose, but denying the parties the incentive to set up an accounting scheme that will not detect overspending.

In addition, the limits clearly should apply to parties and candidates. But disbursements by outside organizations can dwarf the direct spending of parties and candidates. Political candidates make it a routine to attribute to third parties the source of funding for campaign materials. Thus, election posters are "donated by the friends" of the candidate. Establishing an overall ceiling for third-party spending then allotting the money among different groups will be a hassle for any regulator. But restricting organizations to a fixed amount will simply give interest groups the incentive to subdivide so as to qualify for several spending allowances under various guises (*The Economist* 1999).

In the end, it makes no sense to have limits if disregarded. No winning candidate in the Philippines has ever been disqualified on grounds of overspending. At any rate, disqualification is not a practical option, especially since the spending ceilings are unacceptably low. Rather than put a squeeze on how, and how much, parties and candidates can disburse, a more feasible alternative is to raise the limits, and simultaneously, raise the penalties. Making it easier for politicians to comply with the new limits would also make it easier for them to accept the sanctions.

Consider Public Funding. Many countries have established partial public funding, recognizing that political parties play a public interest role: they make an essential contribution to political contestability and the decentralized expression of diverse values and interests. Public funding reduces the scope for private interests to "buy influence" and can also help reinforce limits on spending, because of the electorate's resistance to excessive public expenditure.

Public financing can be done through direct financial assistance or through indirect means like tax relief and credits (Gonzalez 2002). The basic idea is that, it is worth spending tax money to replace a system that encourages the unchecked (and therefore corruption-prone) solicitation of private money. If the Philippines were to subscribe to state finance, one way is to get it directly from taxpayers. Individuals need not pay any additional tax, but simply allow the government, as collection agent, to collect a tax check-off, a small amount of their existing tax, which goes to a government pool to finance political parties. Or the government can set up matching funds, where the government matches private donations, usually up to a low limit, with taxpayers' funds. This can be offered in exchange for parties agreeing to limit their spending or not accepting, beyond a ceiling, any further private donations.

In a more complicated setup, such as that in Germany, state help is made proportional not to parties' fund-raising success but instead, to their electoral support, usually using a formula based on the number of votes and seats. Here, though, any formula based on current political representation will tend to reward the parties and candidates voters chose in the past, rather than the ones they may wish to support in future. As in private funding, state funding is fraught with difficulties (*The Economist* 1999).

Public funding of political parties in the Philippines is gaining momentum but still has a long way to go. A proposal brought up by House Speaker Jose de Venecia in a Congressional planning workshop last July 2001 called for a government allocation of ₱3.5 billion annually for political party activities. This amount is the equivalent of one-half of one percent of what is supposedly lost to graft and corruption[4] (Romero 2002). A new campaign finance bill filed in the Senate, Senate Bill No. 2442, entitled "An Act Strengthening Political Party System Appropriating Funds" proposes to create a state subsidy fund to "augment campaign expenditures and program operations of accredited national political parties." It proposes a set of eligibility criteria that seem to follow the German model where the subsidy is released to each party proportional to the number of seats obtained in most recent elections, and leaves it to the COMELEC to define the details. The ground rules will be based on the following:

- number of seats gained in the national legislature in most recent national elections (political representation)

- number of political chapters, organizations nationwide and number of active and permanent members of the party (organizational strength and mobilization capacity)

- number of years of existence of the party; ability to field complete slate of candidates in the past three national elections (performance and track record)

- number of projects and programs related to voters education, information campaigns on national issues, training and other constituency-building activities (capability to implement developmental programs for their constituents).

It is apparent that these qualifying standards would favor dominant parties and put handicaps to fledgling coalitions. The state subsidy, moreover, mixes "hard" and "soft" election activities, which could give rise to accounting nightmares. Allowable "party development" spending covers party administration, recruitment and civic education; research and policy development; education and training of members; institution building and constituent outreach program; and other reasonable logistical and operational expenses that are essential in strengthening the party. Allowable campaign expenditures include operating expenses (staffing, setting-up of headquarters); travel expenses of candidates and campaign personnel; information dissemination and advocacy; production and distribution of electoral paraphernalia.

There are several mechanisms that help bring transparency and accountability to the new system. The schedule of release for party development activities during non-election year and for campaign subsidy during election year, could somewhat ease the expenditure tracking problem. The post-audit to be done by the Commission on Audit offers additional safeguards. The bill also requires public disclosure of all contributions and expenditures. These should give strong guarantees against fund manipulation by political parties. But it is not foolproof.

Public financing has some disadvantages. First, it entails high cost to taxpayers. Second, it is not a guarantee that the subsidy will tame the appetite of political parties for private funds. Third, difficulties can arise on how to introduce "fair" allocation of money among parties (Gonzalez 2002). There is also the risk that the greater the taxpayer subsidy, the greater the likelihood that parties will become institutions of the state rather than voluntary associations of their members (*The Economist* 1999).

There is little doubt that antidotes against potential inequities and corruption risks linked to political money are difficult to write into law, making reform much more challenging. Nevertheless, if the bill becomes a law, it will be a breakthrough in campaign finance reform, in the sense that public accountability also implies matching reform efforts with resources and capacity.

This far-reaching legislation could have a powerful impact. But its enforcement would require strong powers for verification and audit. Further judicial training and reform are areas worthy of consideration in their own right. Successful oversight would need a combination of reliable judges, electoral authorities and an active investigative press. A credible reform program should be designed to make political parties answerable to a wider range of constituencies. Strong sources of advocacy and analysis from NGOs and academic institutions are imperative for building and empowering constituencies that generate sustained demand for electoral reform. Initiatives of this sort are powerful impetus for developing performance benchmarks for political parties, and providing a breeding ground of change from a rent-seeking-oriented framework to one of service delivery and accountability.

If public financing does not automatically reduce corruption, it is also not responsible for corruption. For all its faults, it is a necessary institution that can prevent social inequalities from being reflected in an unequal access to politics. Ideally, political financing has to maintain a delicate balance between the principle of equality (limiting the influence of the richest) and the principle of freedom of choice (supporting one's preferred party), between the goal of providing the parties with enough money to carry out their responsibilities and that of avoiding misuse of funds (Della Porta, et al. 2000).

In principle, devolution of powers from the central to subnational levels could also contribute to institutional restraints, that is, centrally-driven, regulatory approach to managing elections combined with the resource-strapped monitoring capacity of local governments. A parallel trend, that of a centrally-driven patronage system that creates incentives for local politicians to break away from their political parties to join the administration's bandwagon, further compromises local enforcement capability. But the potential for changes is still there. The key is to parlay the LGUs' own advantage into a fairly developed system of public administration and trained public officials, to promote transparency and accountability in campaign finance within their domain.

Civil society can increase accountability pressures as part of the good governance agenda. The Philippines has a strong tradition of collective action as part of the political process. Thus, exogenous pressures and opportunities will have a powerful impact in reducing state capture and making steady progress in campaign finance reform. Civil society groups can act as intermediaries for communication between the populace and the institutions of state. They can provide the critical tools of public monitoring and accountability that are essential for placing constraints on politicians and political parties.

Finally, it may be worthwhile considering a shift to a parliamentary system. In the country's presidential form of government, the appointing powers of the President and control over the disbursement of government finances create a powerful incentive for politicians to make sure they belong to the ruling party, thus diminishing chances for a true multiparty system. Political parties in presidential systems engage in a zero-sum game that polarizes competition. Thus, US parties are not parties but "political machines" as they are understood in parliamentary systems. Political science literature offers the hypothesis that presidential systems produce looser parties and programs than do parliamentary systems. Parliamentary systems produce more consolidated parties and programs (Romero 2002).

The Philippine presidential system also creates a situation of multiple, separately-financed campaigns contesting each of 250 House seats, 24 Senate races and of course, the presidency. In a parliamentary system, campaigns radiate from the parties' leadership. Unifying the executive and legislative branches through a parliamentary structure will force political parties to take a better and healthier role.

Creating Virtuous Circles

Taken together, the building blocks of electoral finance reform appear overwhelming, as they entail significant changes in the nexus of relationships within government and among government, the private sector and civil society, and in the current policy practices of government. The lock opener is not a singular capacity to pursue reforms all at once. The choice and sequencing of reforms must be in harmony with both the limits and the possibilities of fair governance in the country.

A serious campaign finance reform program cannot be commanded from the outside, it needs committed leadership from within, specifically from the topmost levels of the state. While pressure for reform can come from below, indeed, this can effectively supply a broad social consensus—any effective program must be supported from the top. Yet, any strategy that relies only on high-level leadership will be vulnerable to the many uncertainties of the political process. Marshalling credible commitment should cover key state institutions and organizations within civil society. Leadership makes the difference in devising means for sustaining ends. Broadening the number of stakeholders in various sectors and encouraging their participation in decisionmaking can end policy biases, while ensuring that the decisions are made aboveboard and open to public scrutiny.

In campaign finance, leadership can come from a determined COMELEC with the clout and resources to launch reforms in its area of responsibility. Of course, its reform efforts will require the combined energies of national, local and civil society key players. Certainly, any leadership will produce mistakes. The point however is without it, worse things can happen. Leadership is needed where others cannot be expected to step in so readily and directly. Paradoxically, even limited reforms also set the stage for state capture, enabling narrow interests to shape policies to their liking and in the end undermining public trust and weakening the impetus for further reform. The lack of bold campaign finance initiatives, in the context of weak leadership, illustrates the difficulty of emerging from a vicious cycle once it has taken hold.

Developing dialogues with institutions of government and civil society are critical for gaining knowledge beyond the narrow limits of the governance typology employed in this article. Dialogues are also important in building constituencies. In campaign finance, it is imperative to incorporate confidence-building efforts among voters, whose frustrations about elections are widespread, and how workable specific reform instruments are closely linked to the way in which people have trust in their institutions and in each other. Trust is an important ingredient of social capital among the public.

Whether an enabling or constraining environment is created, along with incentives and disincentives for change, would be decisive in the choice and stepwise implementation of reform initiatives. This requires assessing political culture, as it relates to the way authority is exercised, and the extent to which power is deployed across different institutions. Pinpointing where the discretion is would be a significant step in breaking the links between money and influence, and reversing state capture. Political finance goes to the heart of the country's political culture. The high spending abilities of politicians and the weak powers of parties affect the way political culture progresses. The culture of governance is also linked to accountability: the goal is to destroy patron-client structures, especially in political parties, and replace them with explicit rules.

In sequencing, the early picking of "low-hanging fruits" has the potential to achieve a considerable impact. Modestly, highly visible gains can provide levers to sway public opinion and pave the way for more significant results at a high level. Early disqualification of candidates known to have violated campaign finance rules[5] would boost public confidence in the electoral system. A running public disclosure of candidates' expenses, rather than an after-the-fact publication, would have a similar salutary effect. Civil society groups can also alert the public on whether Congress is giving favors (e.g., tax breaks) to interest groups that contribute heavily to parties and campaigns.

Sustainability has been defined as *the resilience to risk of net benefit flows over time*. As demonstrated earlier, stand-alone efforts are likely to be vulnerable to state capture. Isolated islands of reform can provide valuable demonstration effect but may only survive a brief period before being swamped by inefficiencies at other levels. Initial reforms ought to grow into more comprehensive programs. These include strengthening COMELEC's monitoring capability (a core of strong, credible, and independent professionals could reverse its fortunes), putting more realistic limits on contributions and spending, assuring the passage of a state financing law, and generating more accountability in the ranks of civil society organizations involved in watching over campaign finance. Despite attempts to limit government's role to enabler and facilitator, it remains the biggest player, in terms of its own public management stakes.

Sustainability also means digging deeper into the underlying sources of institutional weaknesses and strengthening institutions that can resist them. One key measure is to build public service neutrality: ensure that it is politically neutral and that public servants are neither allowed nor required to make contributions to political campaigns as a way of obtaining public sector employment. This will contribute to a meritocratic public service that will resist party bias and will encourage decisionmaking in the public interest. Another is to strengthen the lower courts so that campaign finance cases are decided fairly and with dispatch. As it is, cases drag on and it is no accident that key decisions on political finance have found their way to the Supreme Court. Likewise, there is a strong need to strengthen corporate governance. Restraining business misbehavior obviously will limit the range of public policies that are potentially "for sale," thus constraining illegal receipt of political donations.

All systems of political finance involve trade-offs. Parties and candidates have a legitimate need for money, but risk becoming too beholden to either individual donors or the state. Even if it were possible to devise a perfect scheme, implementing it would be difficult. The rules on political finance can be changed only with the authority of governments consisting of elected politicians. Politicians will want to change rules only if it is in their interest. Sustaining often complicated reforms requires resources and ingenuity that can see them through to completion over long haul. Changing incentives by stretching the election cycle making it possible for incumbents to stay longer and avoid early campaigning, and by shifting to a parliamentary system could deliver credible fresh outcomes.

While valuable windows of opportunity may arise in specific occasions, it is necessary to manage expectations and emphasize the long-term character of reform, such as the mainstreaming of state subsidy, while still taking swift, decisive actions, such as devising a "catch-up" plan, meant to raise capability levels in COMELEC. Government must assign budget resources as well as capable managers to a campaign finance reform program. Civil society can only give so much of its own. Business associations and NGOs can help in identifying priorities and monitoring results, but they cannot deploy the political will and resources of the state that eventually are needed to create transparent and accountable institutions of campaign finance. The challenge ahead is highly regarded but the task will not be easy.

Endnotes

[1] Incumbency does not assure reelection (Franco 2000).

[2] What can be found are "cadre" members (candidates and their retainers), not "mass" members.

[3] For most, and particularly for challengers, party support is often limited or nonexistent.

[4] Equivalent to 20 percent of the national budget then estimated at ₱700 billion

[5] The current practice is to give the candidate the benefit of the doubt and make decisions ex-post.

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