

# CHAPTER 5

## TRACKING AND REPORTING POLITICAL FINANCE IN NIGERIA

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### 1 Introduction

There has been an ongoing debate on the effects of unregulated use of money in politics. Reports of studies generally agree that the role of money in politics is incontrovertible, but there has to be effective regulations.<sup>1</sup> Many democratic activities that lead to the formation of governments would not occur without the deployment of money. Party registration, building or hiring of party secretariat and such other spaces, their conduct of congresses, conventions, and primaries, expression of interest and nomination fees, mobilising party agents for elections and funding other activities of political parties and their candidates are among the important exercises for which money is deployed. Several others are not this open, and in Nigeria's 20 year-old Fourth Republic there are common phrases and slogans such as *jeun s'oke*, a euphemistic description of high-level bribery for voting; 'see and buy'; 'snap and show'; 'share the money'; *d'ibo k'osebe* – 'vote for a pot of soup'; and 'godfatherism', among others, that portray political decadence and vote purchasing.

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1 See eg B Onuoha 'Transition democracy and the debate on funding of political parties in Nigeria' in B Onuoha & MM Fadakinte (eds) *Transition politics in Nigeria, 1970-1999* (2002) 135; VAO Adetula 'Introduction' in VAO Adetula (ed) *Money and politics in Nigeria* (2008) 138; OI Eme & N Anyadike 'Political financing in Africa – A comparative study of Kenya and Nigeria: Proposal for reform' (2014) 5 *Mediterranean Journal of Social Sciences* 22; PI Ukase 'Political parties and election/campaign financing in Nigeria: Interrogating the 2015 general elections' 2015, <http://www.inecnigeria.org/wp-content/uploads/2015/07/Conference-Paper-by-Patrick-Ukase.pdf> (accessed 18 October 2018); USAID/UKAID 'Still above the ceiling' Washington DC, Centre for Social Justice 2015, World Bank 'Anticorruption in transition: A contribution to the debate' Washington, DC: The World Bank (2000).

The role of money in politics is strong, but it is disturbing that money politics shrink the political space as it becomes ‘a key variable in determining who participates in electoral politics and how’.<sup>2</sup> Presidential hopefuls, for example, had more than 26 years ago, in 1992, spent over one billion naira during primary elections in Nigeria, while the other not-so-rich contenders had about 120 million naira as budget for primaries. These amounts were not only huge, but they far exceeded spending limits.<sup>3</sup> The extensive role of money particularly reduces women’s participation in politics who are generally known to be less financially endowed when compared to their male counterparts.<sup>4</sup>

The practice has over the years increased in the country and in the ongoing Fourth Republic, money drowns votes and voices as ‘political entrepreneurs’, moneybags and godfathers take charge. What are the consequences of the unregulated use of money in politics? What efforts are being made in terms of tracking and reporting political finance in Nigeria? How effective has this been? What are the constraining factors and how can the system improve? These are the questions guiding the main objectives of this chapter in its attempts to contribute to the discourse on the importance of money in politics and its regulation in Nigeria. As stated in the abstract, data for this chapter was generated from a combination of secondary and primary sources. As a way of providing more information, the secondary source consists of materials from extant literature including books and journal articles, while the primary is made up of special reports and documented interviews that are analysed in the chapter. These include reports from domestic and international institutions as well as agencies such as the Central Bank of Nigeria (CBN), the United States Agency for International Development (USAID), the United Kingdom Agency for International Development (UKAID), and the International Republican Institute (IRI). The rest of the chapter is divided into five main parts. These are definitional, conceptual and theoretical issues; political finance regulations and the role of the Independent National Electoral Commission (INEC); challenges of monitoring, tracking and reporting political finance; international best practices in regulating political finance and; and the conclusion.

## 2 Definitional, conceptual and theoretical issues

Political finance can simply be defined as all funds raised and spent for political purposes. Such purposes include all political contests for voting by citizens, especially the election campaigns for various public offices

2 Adetula (n 1) xxviii.

3 Adetula (n 1) xxvii-xxxiv; B Sule, MS Azizuddin & B Mat ‘Independent national electoral commission and campaign financing monitoring in Nigeria: The 2015 general elections’ (2017) 13 *Journal of International Studies* 15; International Foundation for Electoral Systems (IFES) *A Nigerian perspective on the 2007 presidential and parliamentary elections: Results from pre- and post-election surveys* (2007).

4 AT Okoosi-Simbine ‘Women, money and politics in Nigeria’ Proceedings of IFES/DFID Seminar on Money, Politics and Corruption in Nigeria (2006).

by parties and candidates. This definition is clear but narrow because of its emphasis on ‘campaign and party funding’<sup>5</sup> which is only one aspect of political finance. A broader definition will take into consideration the activities of extra-party actors who are involved in political policy agenda, influencing legislation or electoral debates and outcomes for business interests and other objectives. For INEC, Nigeria’s major electoral body, political party finance is defined officially as ‘monies and assets generated and owned by political parties which are used in running their day-to-day activities and other expenditures such as election campaigns’.<sup>6</sup> These include finances that are utilised in the general operations, management and maintenance of the entire party structures.

Several important studies from different regions of the world have noted many aspects of political finance which official definitions often do not cover.<sup>7</sup> For example, surveys conducted in Nigeria by IFES in 2007 revealed public perceptions on ‘corruption in the realms of politics’ in the country. The survey report revealed that majority of the citizens thought it is wrong for an ordinary person to sell a vote in return for goods or money, but more than a third of the sampled population thought it was understandable to do so.<sup>8</sup> A quarter of the respondents admitted that someone had tried to offer them a reward or gift to vote for certain candidates in the 2007 general elections.

Vote purchasing was real in the 2007 general elections when it was possible to even write fictitious results, going by the many reports on the performance of INEC and the upturn of many of the results declared by INEC at the election petitions tribunals and appellate courts. Evidence in the reports by the Centre for Democracy and Development (CDD) and Youth Initiative for Advocacy, Growth and Advancement (YIAGA Africa), two of the prominent election observers and monitoring groups, clearly indicates that the practice of vote buying has probably come to stay in Nigeria. For example, as civil society organisations (CSOs) directly involved in the 2018 Ekiti and Osun States governorship elections, CDD and YIAGA reported open purchasing of votes for between the equivalent of \$12 and \$15 per vote.<sup>9</sup> Similar reports had been written by both CSOs on the Ekiti State exercise held earlier in the same year. Serious allegations of vote purchasing also characterised primaries and conventions where

5 M Walecki ‘Political money and corruption: Limiting corruption in political finance’ in VAO Adetula (ed) *Money and politics in Nigeria* (2011).

6 INEC *Political Finance Manual* (2017) 20.

7 IFES (n 3); Organisation of American States *Politics, money and power: A dilemma for democracy* (2011); T Sacchet ‘Political parties and the (under) representation of women in legislative spheres: A study of electoral recruitment and campaign finance’ paper presented at the IPSA-ECPR Joint Conference, Universidade de Sao Paulo, Brazil, 16-19 February 2011; JF Londono & G Zovatto ‘Latin America’ in EJS Falguera & M Ohman (eds) *Funding of political parties and election campaign: A handbook of political finance*, Stockholm (2014) 129.

8 Adetula (n 2).

9 E Onyeji ‘Analysis: How vote buying may make or mar Osun polls’ 20 September 2018, <https://www.premiumtimesng.com/news/headlines/284519-analysis-how-vote-buying-may-make-or-mar-osun-polls.html> (accessed 15 June 2018).

candidates for the 2019 general elections were selected.

In this light, conceptualising political finance by adopting the typology developed in 1935 by Vilfredo Pareto is apt. Activities that are related to political finance are listed as (i) election campaign funds; (ii) political party funds; (iii) grants to elected officials; (iv) political organisation funds; (v) pressure and interest group funds; (vi) political lobbying funds; (vii) litigation funds in politically-relevant cases; (viii) partisan mass media funds; (ix) corrupt political funds; (x) unofficial payments to elected officials; (xi) unofficial payments to civil servants; (xii) unofficial payments to the mass media; and (xiii) payments intended to alter or improve the electoral process as a whole. This can be found wholly or partially in several prominent studies from around the world.<sup>10</sup>

Theoretically, Pareto classified these political funds into three broad groups in terms of their probable motives.<sup>11</sup> These are *idealistic or ideological*; *social* – aiming at social honours or access; and *financial*– striving for material benefits. Sociological discourse on structural functionalism since the mid-twentieth century is useful for the understanding of the relationship between these probable motives and the operations of structures and functions in a political system. Broad explanations on the applicability of the theory offer detailed illustrations.<sup>12</sup> The chapter returns to the relevance of the structural-functional theory in a subsequent part on the challenges of monitoring and reporting political finance.

The funding of political parties in Nigeria has remained a keenly-debated issue since the country's Second Republic, 1979-1983, when it became quite noticeable in the political landscape. The concern is traceable to the significance of the method of party funding and its consequences on the independence of political parties, and their contribution to the realisation of genuine democratic participation. For example, there is a common fear that if the funding of political parties is not properly organised and regulated, moneybags and others with enough resources to overwhelmingly and discriminatorily sponsor or fund the political parties may hijack them and, therefore, may vitiate the very purpose and function of political parties in a democracy. In other words, if such unregulated control takes place, 'democratic participation may no longer be free'.<sup>13</sup>

There is an apprehension that if individuals are allowed to endlessly contribute or sponsor political activities, they may increasingly see their contributions as investment and the parties as their estate. If this is not forestalled, democracy will be impaired and dictatorship encouraged.

10 E Falguera, S Jones & M Ohman (eds) *Funding of political parties and election campaigns: A handbook on political finance* (2014).

11 Walecki (n 5).

12 See T Parsons *The social system* (1951); RK Merton *Social theory and social in* GA Almond & JS Coleman *The politics of developing areas* (1960); FW Riggs *The ecology of public administration* (1961).

13 B Onuoha 'Transition democracy and the debate on funding of political parties in Nigeria' in B Onuoha & MM Fadakinte (eds) *Transition politics in Nigeria, 1970-1999* (2002) 135.

It is implied that regulating political finance will reduce corruption, intimidation, expropriation as well as exploitation and, by extension, it will reduce the cost of running democracy and democratic government. This aside, almost every probe panel or enquiry in democratic dispensations, since the 1956 Foster Sutton Tribunal of Enquiry and the 1962 Coker Commission of Inquiry in the then eastern and western regional governments respectively, has had to do with abuse of political finance and unregulated use of money in politics. This obviously has negative consequences for democracy and democratic rule.

Prominent efforts in the debate on the funding of political parties in Nigeria include the 1990 workshop organised by the Centre for Democratic Studies (CDS), Abuja; the International Conference organised in 1995 by Friedrich Ebert Foundation and National Electoral Commission of Ghana, in Accra; the 1 June 2006 IFES-Nigeria Money, Politics and Corruption in Nigeria Seminar held at the University of Ibadan Conference Centre in collaboration with DFID; and the Nigeria Election Support 2007 programme in March 2008, in which IFES-Nigeria received generous support from the United Kingdom Department for International Development (DFID). Similar efforts that have been made by INEC include the August 2017 workshop which the Commission organised on the conduct of congresses and primaries for selected national party officials and for which UNDP provided support. Also in April 2018, INEC organised, for its staff in the political party monitoring unit, cascade workshops on tracking and reporting political finance.

In all of these meetings, three main options of funding political parties and their activities featured prominently. These are:

- government funding of political parties;
- funding by corporate bodies; and
- funding by individual members of the parties.

Each position has its own arguments. With regard to government funding of political parties, it is postulated that political parties are involved in training and educating the electorate. Thus, they assist government in realising a national objective of civic responsibility. The parties need financial support from government to adequately play such national or civic roles. This aside, political parties are potentially to manage state affairs and in assisting them to build firm and viable structures, government is indirectly contributing to public good. This type of state or public funding will contribute immensely 'towards the autonomy of the political parties, particularly under severe economic crisis' when 'moneybags' would otherwise hijack and privatise the parties through their financial contributions, 'and end up dictating what would go on in the parties'.<sup>14</sup> It needs to be noted that state or public funding can be dangerous for the political process. For example, it could lead to commandeering by the state, wherein the government of the day controls the internal stakes

14 Onuoha (n 13).

of political parties. It is, indeed, a potential threat to the much-talked about party autonomy because so far, money largely determines electoral outcomes in Nigeria. Such fears are also pointed out by Londono and Zovatto, in their work on some Latin American countries where, in the case of Uruguay for example, direct public financing had been introduced as early as 1928.<sup>15</sup>

For proponents of state funding of political parties, this need not be restricted to election periods only and could, actually, involve more of material contributions. These are the building and maintenance of party offices; and the purchase of equipment such as vehicles and communication equipment that would enhance the functionality of political parties. It could also be by way of access to government-owned or controlled media and such other public services. The argument goes further in advocating that clear rules on state funding, agreed upon by all the parties, must be embodied as part of the electoral laws, while disbursement should be by an independent institution, preferably the Electoral Commission.<sup>16</sup> Still on the argument for state funding, it is said that a floodgate of political parties wanting to have a share of the 'cake' can be discouraged by the deployment of political party electoral performance as a criterion for the allocation of public funds and material benefits.

It is also argued that the examination of the books and accounts of political parties by the Electoral Commission would be easier having been part of the funding of these same political parties. But how exactly huge can public funding be so as to aid the examination of party accounts and books of finance by the Commission or its appointed agents? Evidence from many countries, and even Nigeria, where state funding have been practised, shows that such support is often negligible and, therefore, not sufficient as a single factor for the purpose of examining the books and accounts. In Nigeria, these arguments for state funding formed the nucleus of the reasons for the establishment of National Republican Convention (NRC) and Social Democratic Party (SDP) by the Babangida military regime, 1985-1993. In the transition programme of 1989-1993, the unusual idea of helping to establish a political party by an outsider, and in which every member was an 'equal joiner and equal owner', was confronted by serious criticism.<sup>17</sup> The arrangement also did not fully address the issue of unbridled use of money in politics as this political dispensation was the same one in which reference was made to the spending of over one billion naira by certain presidential hopefuls.

The argument for funding by corporate bodies that are present in the

15 JF Londono & G Zovatto 'Latin America' in EJS Falguera & M Ohman (eds) *Funding of political parties and election campaign: A handbook of political finance* (2014) 129.

16 Accra Report 'Report of International Conference on Political Parties and Democracy: The role of financial rules and regulations for the success of multi-party democracy' 1995 May 22-23 Accra Ghana (Elbert Foundation and National Electoral Commission, Ghana).

17 L Diamond, A Kirk-Greene & O Oyeleye *Politics and civil society under Babangida* (1997) xv-i.

Accra Report of 1995 as well as in many relevant documents on this subject matter are largely based on roles of political stability and economic growth, which should be played by corporate bodies, businesses and industrial organisations as well as foreign bodies under certain conditions.<sup>18</sup> The argument in this line of thought is that these corporate bodies have very heavy investments in their host communities, therefore they will benefit from political stability and economic growth if they support in growing political parties and democracy.

Studies have cautioned against the consequences of funding from businesses and industrial organisations, especially multinationals that can unduly interfere in a country's political arrangement. In Nigeria, the Companies and Allied Matters (CAMA) Act prohibits corporate bodies meddling with politics and, indeed, such bodies risk being proscribed if found contributing to political events. This is clearly stated in the clause on the objectives of a company, industrial organisation or trading outfit. This is partly because of possible conflicts of interest. However, it is also espoused by proponents that a central fund could be established for an equitable distribution of donations by corporate bodies to the political parties. As a result, if a corporate body contributes to the activities of a political party of its choice, such body is obliged to give equal amount to the central body for distribution to other political parties. The argument for a board of trustees, whose membership must cut across party lines and representatives of the electoral body, is also advocated by the proponents.

In the area of foreign 'democracy assistance' and international funding, technical assistance has over the years become so important and central. Various organisations and countries disburse, in form of cooperation and technical assistance, through groups, associations, foundations or organisations such as German party foundations, IRI and IDEA that are devoted to supporting political parties or party systems.<sup>19</sup> The argument for individual members' contributions to political parties is also robust and needs some explanation. For example, so as not to allow an individual or group of individuals hijack the party, it is argued that there should be a limit on contributions by individual members. The argument goes further to say that the ceiling on individual contributions should be flexible. Party dues and their regular payment should be regarded by members as party responsibilities that must be promptly discharged.

Funding by individual members was quite popular in Nigeria's First and Second Republics but lost its appeal partly because the government established political parties in the short-lived Third Republic were largely funded by the government. Second, the new class of stupendously wealthy young politicians whose wealth and political relevance coincided with the country's long encounter with military rule gave little or no space for

18 Falguera, Jones & Ohman (n 10).

19 Londono & Zovatto (n 15).

small contributors who dominated the scene in the previous republics.<sup>20</sup> Payment of registration fees was also popular during the First and Second Republics. For example, registration fees in the then National Council of Nigerian Citizens (NCNC), between 1951 and 1958, and indeed up to 1966, ranged from '21 shillings for affiliate membership to one shilling for individual membership'.<sup>21</sup> Studies indicate that variation in fees also existed between the urban and rural centres.<sup>22</sup> While payments at the rural areas were largely uniform, the urban took the occupation of the members into consideration. Registration fees in the five political parties which participated in the Second Republic ranged between 'one and five naira'.<sup>23</sup>

Another important source during this time was monthly or annual dues which members paid to their local branches or wards. Post reported that according to the constitutions of most of the political parties in the First Republic, about one-third of annual dues were to be remitted to the party's national headquarters.<sup>24</sup> However, considering the cost of party organisation and, in particular, campaign expenses in Nigeria where road networks are still poor wherever they are available, registration and monthly or annual dues are, in real terms, negligible in the finances of political parties. Records of the First Republic show that such contributions made up less than ten per cent of party funding and no evidence supported a significant improvement in the subsequent political dispensations.<sup>25</sup> The arrangement for registration fees and annual dues was still in existence between 1990 and 1993, but was largely ignored by the two parties, the NRC and the SDP, principally because of government substantial contribution to their funding.

Donations, levies and other special contributions by individuals and corporate bodies have always been the most prominent sources of funding for political parties. The amount of such donations and contributions determines the financial strength and, of course, the overall strength of the party in its formative stage and before it becomes a ruling party if it wins elections at any governmental level. These donations and contributions differ in terms of methods of collection, purposes and the circumstances in which they are needed. The first type among these contributions is voluntary donation which most of the time comes from very wealthy members and supporters of the party. Voluntary donations are the major sources of funding during electoral campaign periods and they can come in cash or kind. Financial donations ranged between hundreds, thousands and millions of naira in the First, Second and Third Republics, but reached

20 M Iwu 'The April 2007 elections in Nigeria: What went right?' Distinguished Personality Lecture, Department of Political Science, University of Ibadan, Nigeria (15 April 2008) 6-15.

21 Onuoha (n 13).

22 KWJ Post *The Nigerian federal election of 1959* (1963) 150-156, RL Sklar 'The ordeal of Awolowo' in MG Carter (ed) *Politics in Africa: 7 cases* (1996) 388 and BJ Dudley *Parties and politics in Northern Nigeria* (1968) 149.

23 Onuoha (n 13).

24 Post (n 22).

25 Dudley (n 22).

the billion naira mark in the ongoing Fourth Republic. For donations in kind, a party member or supporter can bear the cost of a party rally or any other party activity as a form of assistance to the party. Such member or supporter can donate vehicles, hire buses, provide motorbikes, out-boat engines in case of riverine areas, or communication equipment to enhance the party's electoral campaign exercise. This support can also take the form of providing office accommodation for the party secretariat or assisting in the payment of secretariat personnel salaries.<sup>26</sup>

Levies can also be imposed to generate funding for party activities. From the First Republic up to the ongoing Fourth Republic, specific levies have been imposed on nominees for electoral contests. In addition, political appointees such as ministers, commissioners, members of government boards, and even party executive members can be asked to pay certain percentage of their monthly or annual allowances or salaries into the party coffers. Individual members could also be asked to pay for their election campaign expenses if they want to be part of the party campaign entourage. According to Onuoha, the then NRC charged each party member 'who wanted to be part of the presidential entourage a sum of ₦100 000 in 1993', for such a member to be entitled to accommodation, and participation in party meetings during the campaign for each zone.<sup>27</sup> The organisation of congresses and conventions by political parties in preparation for general elections also cost so much.

For example, in preparation for Nigeria 2019 general elections, the ruling All Progressives Congress (APC) had its national convention at the Eagle Square, Abuja from 23 to 24 June 2018. As reported in the live telecast of the event and, subsequently, in all leading newspapers, there were over 7 000 delegates at the convention. These individuals were obviously fed and accommodated. This aside, funding for the rented venue, public address systems, live coverage for two days, entertainers, security and logistics in general must come from a source or different sources that could be individuals or group of individuals. The Peoples Democratic Party (PDP) had its own convention in Port-Harcourt, Rivers State, from 6 to 7 October 2018, just as other political parties should do at least 90 days ahead of the commencement of the general elections in February 2019 (events monitored by authors on national television and other electronic media).

Also, political parties engage in economic activities to generate funds for their activities. These include special fund raisers, sales of party emblems, souvenirs and party publications. Between 1951 and 1966 the establishment of banks and securities run by the regional governments was a very strong source of finance for political parties.<sup>28</sup> The African Continental Bank (ACB) and Eastern Nigerian Development Corporation were under the NCNC-led eastern region government, while the National

26 Onuoha (n 13).

27 As above.

28 Adetula (n 2).

Bank and Western Nigeria Development Corporation were run by the western region government controlled by the Action Group (AG) at least before the regional crisis of 1962. The Bank of the North and Northern Nigeria Development Corporation were run by the Northern People's Congress (NPC) which controlled the government of the northern region. The political parties, through the governments under their control, also established and sustained newspaper businesses, property investments and other profit-making enterprises.

This aside, loans were also made available to the parties by the financial institutions they controlled. However, there were insider dealings that led to the 1956 Foster Sutton Tribunal of Enquiry and, in 1962, the Coker Commission of Inquiry. In the first one, allegations of impropriety in the conduct of some politicians from NCNC with business interests in the ACB were investigated and many, including Dr Nnamidi Azikiwe, then leader of the party, were pronounced guilty. In the second case, the Commission looked into the affairs of six Western Nigerian public corporations allegedly involved in corruption with the leadership of the AG. At the end of the enquiry, Chief Obafemi Awolowo, leader of the AG, and many others were pronounced guilty of the allegations.<sup>29</sup>

Political parties in the Second Republic were generally not so much involved in economic activities, but some of them such as the Nigeria People's Party (NPP) were still able to set up financial institutions, especially banks. For example, NPP had Progress Bank in Imo State. The nature of party formation in the Third Republic, as cited in a preceding section, did not provide the parties opportunity to participate in significant economic activities. Also, as mentioned earlier, the commencement of the Fourth Republic coincided with the 'emergence of a class of super rich citizens under the prolonged reign of military dictatorship, and with such people as members of political parties, personal financial contributions became preferable so as to hijack the control of such parties'.<sup>30</sup> None of the prominent political parties in the Fourth Republic has so far been involved in any major economic activity such as establishment or operating a bank, newspaper or any other similar venture for commercial purposes.

There are critical issues that should be noted concerning the thresholds for individual donations and whether there should be taxation mechanisms for political parties that engage in profit making businesses. Total spending limits for individual candidates range, according to Nigeria's amended 2010 Electoral Act that is in operation, from ₦1 billion (about \$3 million) to ₦1 million (about \$3 000) for presidential and local government (LG) councillorship candidates respectively. This, it is argued, is to discourage money politics and prevent hijack of political parties by few wealthy individuals as well as to prevent possible money laundering and other infiltrations such as illicit funding from drug merchants. Dangers

29 As above.  
30 Iwu (n 20).

associated with this include donors of dirty or illicit money developing a 'creditor' relationship with the recipient, in which the party or candidate becomes 'owned' by the donor in a sense. A widely-quoted example of this is that of Pablo Escobar of Columbia who formed his own political party so as to enter the political arena.<sup>31</sup>

### 3 Political finance regulations in Nigeria and the role of INEC

Laws and regulations on political finance became a serious matter for the first time in Nigeria during the Second Republic, 1979-1983. The conflict that surrounded party politics during the First Republic and, in particular, the corrupt method of party funding especially during elections, must have informed the strict political finance regulations introduced in the country's 1979 Constitution. There have been amendments since then but the main focus has remained monitoring and checking unrestricted use of money in politics. This is with a view to reducing political corruption to the barest as well as to prevent a few rich individuals from hijacking political parties for their personal interests and, thus, causing instability within the political system.

The 1999 Constitution and the 2010 Electoral Act (as amended) are the major documents guiding political finance in the ongoing Fourth Republic. For example, the 1999 Constitution (Third Schedule, Part 1, section 15) details the functions of INEC, and empowers the Commission, among others, to:

- (a) organise, undertake and supervise all elections to the offices of the President and Vice-President, the governor and deputy governor of a state and to the membership of the Senate, the House of Representatives, and the House of Assembly of each state of the federation;
- (b) register political parties in accordance with the provisions of the Constitution and an Act of the National Assembly;
- (c) monitor the organisation and operation of the political parties, *including their finances*;
- (d) arrange for the annual examination and auditing of the funds and accounts of political parties and publish a report on such examination and audit for public information;
- (e) monitor political campaigns and provide rules and regulations, which govern the activities of the political parties.

These constitutional provisions clearly define the functions of the Commission, while also underscoring the relationship between INEC and political parties. Electoral Acts, particularly starting with the 2002 document in which the power of authorisation to provide and disburse grants to political parties was challenged in court, up to the 2010 Act that so far remains the most current, have similarly guided political finance.

31 Londono & Zovatto (n 15).

For example, sections 88 to 93 of the 2010 Electoral Act clearly address the following: offences in relation to finances of a political party; the period to be covered by political parties' annual statements; the power to limit contributions to a political party; the limitation on election expenses; disclosure by political parties; and penalties for violations or non-compliance. In addition, INEC relies on sections 100(1) and 153 of the Electoral Act to perform its monitoring function on political parties. This is summarised in the Commission's *Political finance manual* published in 2017 to cover candidates and disclosure; books of accounts; anonymous contribution(s); and audited returns.<sup>32</sup> Specific information on spending limits and sanctions, according to the 2010 Electoral Act (as amended), is provided below:

### Spending limits for candidates in 2010 Electoral Act (as amended)

Position	Spending Limit
Presidential candidate	₦1 billion (approx. \$3.18million)
Governorship candidate	₦200 million (approx. \$636,700)
Senatorial candidate	₦40 million (approx. \$127,300)
Member, House of Representatives (MHR)	₦20 million (approx. \$63,700)
Member, State Assembly	₦10 million (approx. \$31,800)
LG chairmanship candidate	₦10 million (approx. \$31,800)
LG councillorship	₦1 million (approx. \$3,180)

Source:<sup>33</sup> Electoral Act 2010

### Sanctions for spending above limits

Position	Sanction
Presidential candidate	Fine of ₦1 million (approx. \$2,747 or 12 months imprisonment or both)
Governorship candidate	Fine of ₦800,000 (approx. \$2,197 or 9 months imprisonment or both)

32 INEC *Political finance manual* (2017) 25-26.

33 Figures arrived at based on the provisions of Nigeria's 2010 Electoral Act (as amended). The US dollar conversion rate is based on the prevailing exchange rate of N360: \$1 rate, between 2015 and 2018.

Senatorial candidate	Fine of ₦600,000 (approx. \$1,647 or 6 months imprisonment or both)
Member, House of Representatives (MHR)	Fine of ₦500,000 (approx. \$1,373 or 5 months imprisonment or both)
Member, State Assembly	Fine of ₦300,000 (approx. \$824 or 3 months imprisonment or both)
LG chairmanship candidate	Fine of ₦300,000 (approx. \$824 or 3 months imprisonment or both)
LG councillorship	Fine of ₦100,000 (approx. \$274 or 1 month imprisonment or both)

Source:<sup>34</sup> Electoral Act 2010

In terms of coverage, regulations guiding political finance in today's Nigeria can be described as adequate, while the sanctions, if effectively implemented, can also be described as adequate. However, there are limitations that need to be pointed out. For example, the spending limits for different categories of candidates may after all not be realistic in view of some peculiarities in the country. All the candidates are, for instance, required to take their campaigns to the electorate by way of physical appearances, posters, bill boards and/or media coverage. Difficulties that come with this can be enormous, especially in the case of presidential candidates who have the entire country to cover.

Indeed, a study by USAID and UKAID in 2015 reported that the campaign expenses of PDP and APC on media advertisement alone exceeded the maximum spending limit for each of their presidential candidates. As against the maximum spending limit of ₦1 billion (approximately \$3,18 million) for a presidential candidate, as provided in the 2010 Electoral Act, PDP's and APC's presidential candidates spent '₦8 749 685 296 and ₦2 915 846 737' respectively. This implies that PDP's presidential candidate in the 2015 election exceeded the maximum limit by about 800 per cent, while his APC counterpart exceeded by almost 200 per cent. Exceeding the entire spending limit, on media advertisements alone, by such huge margins tells all about possible happenings in political expenses of leading Nigerian political parties, in particular.

#### **4 Challenges of monitoring, tracking and reporting political finance**

A defining character of political finance regulations in Nigeria and many other parts of the less developed world is the lack of capability for effective implementation of these laws. Studies have clearly documented the

34 As above.

shortcomings in implementing relevant electoral laws, particularly with regard to political finance.<sup>35</sup> Similarly, at a 12 June 2018 public lecture titled ‘Constitutional foundations of political corruption in Nigeria, and a reform strategy, Suberu pointed out the failure to match constitutional design with political practices in Nigeria.<sup>36</sup> Corruption, especially in view of its bold and ravenous character in Nigeria, is widely regarded the single most important obstacle to development in the country. Available evidence shows that it is also the major obstacle hindering implementation of political finance regulations as well as public policies in general. These include the socioeconomic and political dimensions of the phenomenon of corruption.

Serious allegations have been made but not effectively investigated, while many confessions have also been left without follow up. For example, General TY Danjuma was reported by *The Guardian* newspaper in 2008 to have said that ‘I helped to finance his [President Olusegun Obasanjo] first term election. I raised \$7million. Slightly more than half of it came from my business associates.’ General Danjuma added: ‘Not once did he (Obasanjo) find out where the money came from. Was it from me, from my business associates, whether I stole it or whatever, he didn’t ask me!’<sup>37</sup> The source of Danjuma’s financial support notwithstanding, the fact that his confession was not publicly retracted is a sufficient ground for police invitation, interrogation and, if necessary, prosecution. Obviously, the huge donation of \$7million is a violation of political finance regulations, particularly on spending limits as well as individual and corporate contribution limits. Yet, more than a decade after, no concrete public action has been taken.

Apart from violations by individuals, political parties have also been involved at different points. For example, at the end of its 2014 presidential fundraiser, the People’s Democratic Party (PDP) announced it generated a ‘whopping sum of ₦21,27 billion’.<sup>38</sup> This announcement satisfied a section of the regulations on disclosure but there are other serious issues around and about the whole exercise. For instance, many government agencies and parastatals from the construction, real estate, power, food and agriculture sectors of the economy that were announced as donors do not have any constitutional backing for such. Even if they did, principles of equity require similar donations to other political parties, and this they never did. This aside, the donations of ‘₦450 million and ₦250 million by the National Automotive Association and Shelter Development Limited’ respectively contravened section 38(2) of CAMA Act which expressly

35 See also AT Okoosi-Simbine ‘Political vagrancy and democratic consolidation in Nigeria’ in G Onu & A Momoh (eds) *Elections and democratic consolidation in Nigeria* (2005); O Ibeanu & BU Nwosu ‘Electoral reforms in Nigeria: A discussion paper’ in SO Akande & AT Simbine (eds) *Electoral reforms in Nigeria* (2008).

36 RT Suberu ‘Strategies for advancing anticorruption reform in Nigeria’ (2018) 147 *Daedus: The Journal of the American Academy of Arts and Sciences* 1.

37 Adetula (n 2).

38 *The Punch* ‘₦21.27 billion raised at PDP’s fundraiser’ 23 December 2014 1 26.

forbids companies from funding or donating gifts, property or money directly to political parties.<sup>39</sup>

Yet, in another dimension, none of the major political parties has fully complied with regulations on total disclosure of revenue generation, expenses and purposes for which expenditures were made. What are the plausible explanations for the challenges in tracking and reporting political finance in Nigeria? In discussing the general lack of capacity to enforce regulations in Nigeria, using INEC and political finance tracking and reporting as case study, two theoretical perspectives provide useful insights. These are structural and institutional theories. The structural theory focuses on the nature of the state and the character of the ruling class in explaining the electoral body's incapacity. According to Adejumbi, the nature of the state in Nigeria is, based on a historical narrative, 'seen as the fulcrum of political disharmony and electoral imperfections'.<sup>40</sup> As observed by Agbaje, the evolution of the state, its nature and character makes it a lingering contested terrain, which he likened to 'an unfinished state of uncertainty, a state of aspirations unmatched by reality'.<sup>41</sup> The state lacks autonomy and is largely dysfunctional because of contending political forces among different factions of the ruling class who seek to 'capture' it for narrow political and sectional interests.<sup>42</sup>

'State capture', according to the World Bank, refers to the actions of individuals, groups, or firms both in the public and private sectors 'to influence formation of laws, regulations, decrees, and government policies to their own advantage'.<sup>43</sup> In this context, the customs for governmentality are not firm as the state becomes a veritable site for largely unregulated struggles for power and resources. Rules and procedures are weak, poorly adhered to, or easily subverted, 'mostly by ruling class forces that establish those rules'.<sup>44</sup> As part of the system, particularly in view of its strategic position in the struggle for the control of state powers and resources in a democratic dispensation, the electoral body is also a potential victim of the 'capture'.

The institutional theory, with inferences from studies emphasising the factor of underdevelopment in terms of lack of institutional capacity of the electoral body and other related agencies in managing the electoral process

39 DA Yagboyaju 'Nigeria's Fourth Republic (1999-2015) and electoral outcomes: How long can patronage and politics of the belly last?' (2015) 14 *Journal of African Elections* 162.

40 S Adejumbi 'INEC and the electoral process' in S Adejumbi (ed) *Governance and politics in post-military Nigeria: Changes and challenges* (2010) 115.

41 A Agbaje 'Nigeria: Prospects for the Fourth Republic' in E Gyimah-Boadi (ed) *Democratic reform in Africa: The quality of progress* (2004) 203.

42 AT Simbine & A Oladeji 'Overview, challenges and prospects of governance and political development' in SO Akande & AJ Kumuyi (eds) *Nigeria at 50 – Accomplishments, challenges and prospects* (2010) 807.

43 World Bank *Anticorruption in transition: A contribution to the debate* (2000) xv.

44 Adejumbi (n 40).

and, in particular, monitoring political finance.<sup>45</sup> Electoral management, but in particular political finance tracking, is construed as a very technical, skilled and intricate process, which requires high-level competence, continuous training, logistics material and human resources in general. For example, poor institutional capacity was at the core of the findings of the Justice BO Babalakin Commission that looked into the activities of the Federal Electoral Commission (FEDECO), after the collapse of the Second Republic. FEDECO was indeed blamed for 'management lapses, especially its inability to resolve its own internal conflicts'.<sup>46</sup>

Electoral administration is quite complex, involving the delimitation of electoral districts or constituencies; compilation of voters' register, recruitment, training of electoral officials, establishment of polling stations and booths; registration of political parties and monitoring their activities; logistics in terms of the procurement, security, storage, distribution, and retrieval of electoral materials; ensuring a hitch-free voting process and handling election disputes as well as post-election litigations. According to Adejumobi, the problems of underdevelopment, which include 'poor institutional capacity, financial shortages, and poor availability of skilled electoral manpower constrain the effective management of elections'.<sup>47</sup> These internal institutional factors are even more at the core of the challenges of political finance monitoring and tracking than other aspects of election and party management.

Electoral and political finance management is treated, in the context of the structural theory as a political process, while the institutional theory views both as a technical exercise. These theoretical viewpoints are like two sides of a coin. The nature as well as character of the state and the institutional capacity of INEC interacts to determine the efficacy of electoral laws and political finance regulations.

## 5 International best practices in regulating political finance

The focus of this chapter remains political finance management, but it must be noted that the probability of compliance is higher in a political system with an overall high capability for enforcement of laws and regulations in general. It is implied that the problems about the unbridled use of money in politics in Nigeria stem not essentially from lack of regulations but from the inability to enforce those regulations. As a result, while a functional system such as the United States of America finds it relatively easy to enforce regulations in every facet of life in the country, it is unlikely to be the same for Nigeria that is characterised by a poor record

45 E Awa 'Electoral administration in the early transition' in L Diamond, A Kirk-Greene & O Oyediran (eds) *Transition without end: Nigerian politics and civil society under Babangida* (1997) 127.

46 As above.

47 Adejumobi (n 40).

of rule of law. Many of the examples of best practices cited here are drawn from outside Nigeria, but it must be noted that Nigeria also began as a country of great promise. Deterioration, in terms of governmental capacity became increasingly noticeable during the long encounter with military rule between the mid-1980s and late 1990s.

Twenty years of democratisation, after the 1999 commencement of the Fourth Republic, have come with pockets of effective compliance. Evidences can be found in agencies such as the National Agency for Food and Drug Administration and Control (NAFDAC), the Economic and Financial Crimes Commission (EFCC), the Independent Corrupt Practices and Allied Matters Commission (ICPC) and INEC under different headships. Despite INEC's limitations, some of which have been analysed here, the Commission has shown tremendous improvement especially from 2011 when electoral outcomes began to attract less controversy and infamy. Deployment of technology for voters' biometrics capture, card reading machines (CRMs) and the adoption of the permanent voter's card (PVC) accounted for the noticeable improvement in the conduct and outcome of the 2015 general elections as well as subsequently in some off-course electoral exercises. Strong leadership is 'a central factor that needs to be highlighted in these agencies which are likened to 'oases in the desert of ineffective governance'.<sup>48</sup>

Sharing several similarities with Africa, particularly in terms of long encounters with military juntas and the overall return of civil rule since the 1990s, Latin America holds examples of best practices from which its African peers can draw. For example, evidence was cited in the report of a 2011 study by OAS as well as on the increasing attention given to the issue of unregulated use of money in politics.<sup>49</sup> The issue, according to these reports, ranks high on the agenda of several civil society organisations, and the efforts are yielding results. In Brazil, for example, the climate of freedom enabled by reforms has helped citizens in taking their discontent with corrupt politicians to the streets at different times.

The much talked-about case of Nicolas Sarkozy, France's former President, is also a relevant example. In 2018, charges were pressed against Sarkozy in connection to allegations over money received from Libyans, especially the then President Muammar Gaddafi, during the 2007 elections in France. In a feature titled *Sarkozy's downfall: Gaddafi's and Libya's revenge* by John Wright, a critical issue raised and which is central to the analysis here is that no matter how long and whoever is involved, a functional system like France has a way of exposing and bringing offenders to book.<sup>50</sup> From India, the world's largest democracy, reference can be made to the relatively high effectiveness of the Right to Information (RTI) Act and the

48 Yagboyaju (n 35).

49 Londono & Zovatto (n 15).

50 Onyeji (n 9); J Wight 'Sarkozy's downfall: Gaddafi's and Libya's revenge' 30 March 2018, <https://sputniknews.com/columnists/201803301063069599-sarkozy-downfall-gaddafi-revenge/> (accessed 23 April 2018).

Central Vigilance Control (CVC). Devash Kapur and Milan Vaishnav in their 2018 edited work, *Costs of democracy: Political finance in India*, provide specific examples of best practices.

Other relevant examples from around the world include:

- (1) The Fujimori-Montesinos case in Peru: in mid-September 2000, when a videotape was released that showed Vladimiro Montesinos, the head of Peru's national Intelligence Service, apparently engaging in vote buying by handing some \$15 000 to opposition congressman Luis Alberto Kuri to switch sides and give government a majority in parliament;
- (2) In Germany, in July 2002, Rudolf Scharping, the country's defence minister, was replaced after the magazine *Stern* reported that he had taken DM 140 000 from Moritz Hunzinger, a PR consultant with links to the arms industry. It must be noted that German cabinet members are prohibited from earning anything other than their salaries. Scharping admitted that he collected the money, but said most of the money had been used for 'political work'.<sup>51</sup>

## 6 Conclusion

It is necessary to return to the four study questions at the beginning of this chapter so as to know the extent to which they have been addressed. These questions concern the consequences of unregulated use of money in politics, the efforts being made on it, the effectiveness of such efforts, constraints and challenges, and what could be done to improve the system.

Rules and regulations guiding political finance in Nigeria's 20 year-old Fourth Republic have been largely ineffective. Observable limitations especially in terms of unrealistic spending limits notwithstanding, these regulations are adequate but primarily confronted by the problem of lack of capacity for enforcement. What operates as multiparty democracy in the country revolves largely around the ruling class, which in turn subordinates and subverts the Nigerian state. Accordingly, the party in government often captures the state, while employing every instrument to enforce factional interests. These include winning elections by all means, controlling the economy and using state resources to strengthen itself and cajole or frighten the opposition as well as making critical appointments in the judiciary, the police, the armed forces and other regulatory agencies. One major implication in all of this is that the state can no longer effectively enforce laws for the good of all.

It is not necessarily whether there are political finance regulations, but that the ruling class and, indeed, political elites from across the system, struggle to dominate and use all the advantages they have to consolidate supremacy over all political resources. Democracy, in any society, is work in progress and never static, as it can either advance or contract. The way

51 M Walecki 'Political money and corruption: Limiting corruption in political finance' in VAO Adetula (ed) *Money and politics in Nigeria* (2011).

it goes in a particular society is a function of how effectively regulations can be enforced. There are needs for reforms so as to prevent democratic reversals in Nigeria. These reforms need to be addressed prudently, bearing in mind that it is likely for parties and candidates to use murky and questionable methods in raising and deploying funds when legal means are too difficult. As to the specific issue of taxation on businesses by political parties, it is being posited that all profit-making enterprises must fulfil basic requirements on taxation in their host environments.

However, it must be emphasised that the involvement of political parties in major commercial activities such as banking and industrial printing is not known in Nigeria's Fourth Republic as it was during the First and Second Republics. Also, in view of the recent brazen phenomenon of Election Day vote buying in Ekiti and Osun States 2018 governorship elections and before then, in Edo and Anambra States, there is real need for concern about the rising culture of money politics in Nigeria. The first important step to take is the restoration of the autonomy and functionality of the state or, to use the buzzword, building of strong institutions. Obviously, drawing from experiences of best practices cited here and around the world, such institutions do not just emerge out of the blues.

Often, they initially revolve around the personality of strong individuals who can exert the required political will to act appropriately. Such individuals, directional or transformational leaders who possess the *political will* to formulate and implement policies, can either emerge or be discovered.<sup>52</sup> This leads to the second important step, and this draws from the enormous relevance of followers and electorate in a democratic setting. There are critical roles for CSOs in this area. By their acts of volunteerism and general involvement in public affairs, they are in vantage positions to push for improvements in the legal framework to provide for actionable sanctions as may be applicable. Reports from CDD and YIAGA Africa, and others cited in this chapter, clearly show that the activities of some CSOs can also give impetus to the effectiveness of the whistle blowing policy in Nigeria. Impunity will reduce when violators are aware that probability of being caught and, importantly, sanctioned is high. Finally, the improvement in electoral outcomes in 2011 and 2015 as well as in subsequent exercises at different levels is an indication that effective deployment of technology would enhance INEC's capacity to track and report political finance. For example, Bank Verification Number (BVN) is a product of technology that has helped Central Bank of Nigeria (CBN) and commercial banks in the country in reducing the movement of illicit funds, and can assist in tracking, reporting and prosecuting political finance related offences.