



Organisation Undoing Tax Abuse

## Draft Funding for Political Parties Bill

Numerous concerns have been raised on this matter during public hearings that were held during 2017. Stakeholders ranging from political parties themselves to trade unions to civil action organisations attended and hotly debated during these hearings. The following departments/bodies or persons made submissions to the Ad Hoc Committee:

- National Treasury
- Independent Election Commission
- Southern African Catholics Bishops Conference
- African National Congress
- My Vote Counts
- COOL Youth Church
- Council for the Advancement of the South African Constitution
- Human Sciences Research Council
- South African History Archive
- Right2Know
- Corruption Watch
- Democracy Development Programme
- Public Affairs Research Institute
- Congress of South African Trade Unions

These inputs are acknowledged and OUTA beseeches the Ad Hoc Committee to take these concerns seriously, especially given the unstable and destructive political climate prevailing at this junction in South Africa's history.

The role of Parliament and its oversight functions are of paramount importance for the increasingly distant prospect of prosperity for all. Therefore, nuanced thinking and "reading between the lines" is necessary in close cooperation with civil society and the South African public at large.

The ongoing deliberations on the Draft Funding for Political Parties Bill is relevant to OUTA's mandate.

We strive for the frugal, ethical and effective expenditure of fiscal resources in all spheres of government. Considering this, we implore the Ad Hoc Committee to urgently contemplate our recommendations and comments. These are as follows:

1. The funding formula should revolve around an ideally 50/50 model – regardless of proportional electoral outcomes in favour of whichever party. As put forward by the Human Sciences Research Council and the Council for the Advancement of the South African Constitution, such a formula would resonate more closely with the principles of equality enshrined in the Constitution. Furthermore, this would bolster self-regulation and disciplined political activities that are not wasteful, unfair or monopolistic. Right2Know clearly stated that public consultation had indicated that an overly proportional allocation of funds would be unfair. This would defeat the purpose of a competitive multi-party democratic society.
2. OUTA supports fiduciary transparency at all levels of government – and, in agreement with the Public Affairs Research Institute, full disclosure and thorough auditing of political party funding must be ensured. In addition, OUTA supports Corruption Watch's suggestion that Parliament forms part of the oversight role in a maximally impartial and objective manner. This will ensure that the responsibility of managing the Multi-Party Democracy Fund is not concentrated in the executive of the IEC or the new Party Funding Business Unit. Such a concentration of authority can accommodate favouritism and new forms of corruption.
3. It cannot be overemphasized that the economic authority of the ruling party must be considered when establishing the regulatory framework of political party funding and disclosure of the same. While full disclosure and funding transparency is a necessary goal, the current and foreseeable will of ruling parties to hold on to power can undermine the virtue of transparency and can indeed be used to manipulate independent funding through unlawful/irregular preferential procurement practices. National Treasury has provided extensive information on the prevalence of deviations from normal procurement protocols by State Owned Institutions and government Departments (deviations that are not supported by National treasury or sufficiently justified according to National Treasury).
4. Given South Africa's current economic situation and the apparent quantitative inadequacy of the fiscus in fostering socioeconomic development – it is onerous to suggest that impoverished citizens must suffer further trade-offs for the sake of transparency. This reinforces the concern that transparency is suddenly being pushed onto the legislative agenda so that this information can be used to manipulate and economically intimidate detractors of a ruling party (now and in the future). Now, more than ever, it is essential that government

prioritizes fiscal frugality for the greatest benefit of the millions of impoverished and unemployed citizens of South Africa.

5. OUTA firmly agrees that SOEs (State Owned Enterprises) must be banned from financially participating in any form of party politics and/or electoral campaigning process. The current financial status of our SOEs is worrisome enough to warrant immovable focus and investment in the sustainability of their own business.
6. The prospect of designating the IEC as the manager of the Multi-Party Democracy Fund is problematic in that this can override and diminish its current mandate. Moreover, the fact that its executive leadership is nominated by the sitting President (leader of the ruling party at any given time) can accommodate nepotism, corruption and the abuse of authority. We implore Parliament to recognize and candidly remark the partisan bias that is typical in party politics, and the fact that ruling parties tend to focus on the preservation and enhancement of their party's privilege and power – rather than the preservation and enhancement of ordinary South African people's rights. To be sure, financial trade-offs must be carefully considered when deciding between scenarios 1 and 2 proposed by the IEC; in principle, OUTA supports scenario 1 where the existing electoral commission functions separately from the new Party Funding Business unit – rather than scenario 2 where the Chief Electoral Officer (who is appointed by the ruling party's leader) of the IEC simultaneously manages electoral operations, corporate services, outreach AND the new Party Funding Business Unit. Relating this to number 8 below – this new business unit should facilitate meaningful public participation as well as the involvement of civil society and business leaders, whilst being subjected to independent financial audits and/or Parliamentary monitoring and evaluation.
7. The current Electoral Code of Conduct is silent on prohibitions of state resources for political party purposes. It only prohibits "abuse of position of power, privilege or influence including parental, patriarchal, traditional or employment authority to influence the conduct or outcome of an election". The Electoral Act and Municipal Electoral Act also do not have specific provisions dealing with the prohibition of the use of state resources for electioneering and/or party-political purposes. OUTA, in agreement with the Electoral Commission, believes the regulatory framework governing this area requires urgent enhancement.
8. OUTA recommends greater inclusion of business and civil society leaders in the monitoring and evaluation of political party funding and expenditure. Such organisational innovation can be promoted and facilitated by Parliament – subject to its discretionary regulatory frameworks. This can simultaneously reduce the demand for fiscal resources (required to recruit and train competent monitoring and evaluation human resources) and foster

deepened public participation and transparency in democratic processes. This can also ameliorate the issue of government being the metaphorical player and referee of political discourse at the same time.

9. Echoing the challenges identified by the IEC, OUTA urges the Ad Hoc Committee to establish concrete mechanisms that will ensure full disclosure and compliance by donors and receiving parties – as well as punitive measures such as sanctions to rectify non-compliance. To appreciate relevant context, please refer to numbers 3 & 4 above. Also, more robust monitoring and evaluation of political party finances must be enforced to ensure that no monies are secretly received or laundered.
10. Consideration should be given to prohibiting the use of public funds for legal costs relating to party disputes, especially internal disputes. A clear distinction must be made between the professional and personal capacities of party delegates – this will ensure legal clarity with regards to the use of public funds for the legal costs of political parties. Perhaps the allowance of public funds for legal costs should be limited to less serious transgressions – as opposed to defence of individuals accused of criminal conduct such as corruption; where the boundary between professional and personal capacities are blurred by the very nature of the transgression.