

EXAMINING THE LEVEL OF ACCOUNTABILITY AND TRANSPARENCY WITH RESPECT TO POLITICAL PARTY FINANCING IN TIMOR-LESTE

Celso da Fonseca¹ and Joel Mark Baysa-Barredo²

Abstract

The democratization process in Timor-Leste as a post-conflict country, developing economy and fragile state requires good governance, accountability, and transparency. In this light, political actors, such as parties, are expected to play an essential role in this achievement. However, accountability and transparency of the political parties' funding and financial execution remain questionable in this tiny, young nation. There are a number of legal safeguards to ensure political party accountability and transparency concerning fund acquisition and use. However, it can be argued that monitoring financial status of political parties has been challenging, as sources have never been fully publicly revealed nor scrutinized. This has serious implications on the level of accountability and transparency amongst political actors, as well as, on the democratic process in Timor-Leste, as a whole. There is, indeed, a need for systemic reform, particularly in the area of publishing and auditing financial activities of political parties. Judicial and investigative functions of relevant State agencies have to be either developed or fortified. On a more philosophical sense, Timor Leste's political actors are expected more aware about and fully committed to their roles and responsibilities towards the country's democratization and the attainment of a well-informed and empowered society.

Key Words: *Timor-Leste, Transparency, Accountability, Political Funding, Political Parties*

1. INTRODUCTION

Before gaining independence in 2002, Timor-Leste underwent bitter experiences, such as colonization, human rights abuses and an authoritarian regime under the Indonesian occupation. In pursuit of self-governance, democracy and human rights principles were adopted as the core engines to design social, economic and political fabrics of the country. The preamble of the Constitution clearly emphasizes the role of democratic culture in building Timor-Leste's society. The constitution of Timor-Leste was built based on the rule of law. More clearly, a multi-party democracy is adopted to form a state institution. Furthermore, elected institutions that lead sovereign organ are selected and appointed through democratic and citizen-driven participation. Despite such strides, this young and emerging nation still faces various challenges due to its fragile democratic situation.

For the newly established countries, it requires some periodic stabilization or transitional phases to enable democratic institutions and values to flourish. Linz and Stepan asserted that the "pre-transition regime and the nature of the transition have direct consequences for nature

1 Celso da Fonseca is a student of Asia Pacific MA Human Rights and Democratisation, Global Campus of Human Rights Asia Pacific Institute of Human Rights and Peace Studies, Mahidol University. He is interested in working on national organizations as well as private institutions that are related to human rights and development issues. Mr. Da Fonseca has also been involved in working with various organizations in grassroots development areas, including vulnerable people, focus on women, children with disabilities. Currently, he is joining the National University of Timor-Leste-Human Rights Center and teaching at the National University as a part-time lecturer, at the international relations department.

2 Joel Mark Baysa-Barredo considers himself as a Southeast Asian queer-feminist academic-activist. He pursued an International Master's Degree in Human Rights at the Institute of Human Rights and Peace Studies, Mahidol University (Thailand). He is currently the Programme Director of the SHAPE-SEA Programme. He has also been working with the ASEAN Youth Forum (AYF) as regional think tank member. Mr. Barredo actively takes part in several international and regional advocacy and academic exercises with the aim of helping realize sexuality-embracing, youth-driven, rights-centred societies. In his spare time, he indulges in solo travelling in pursuit of witnessing and understanding the complex lived realities of humans in the global south.

and durability”³. This is As a post-conflict nation, the process of democratization in Timor-Leste is still fragile. For it to progress, a constant commitment to good governance, accountability and transparency within the political system is required.

UNESCAP⁴ emphasized eight pillars of governance characteristics: “participatory, consensus-oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law”. This is reinforced by the, UN OHCHR, which identified five key characteristics of good governance such as transparency, responsibility, accountability, participation, responsiveness.⁵ The issues of accountability and participation by citizens in a democratic system are crucial to controlling and, eventually, eliminating power abuses leading to systemic corruption, impunity and inequalities.

All of these ideal requirements could not be achieved, if the political participation of the people is weak, especially if citizens cannot fully control nor access any information about political processes and any decisions and actions made by their government. Furthermore, for democratic societies, the ambience of “political participation and rule of law in the election process is crucial”⁶. It endeavors “to choose and control government activities and monitor government, meaning political parties, elections, electoral rules, political leadership, interparty alliances, and legislature”.

The political system in Timor-Leste adopts a semi-presidential style, wherein both parliament members and president are elected through popular vote every five years. Parliamentary elections in Timor-Leste have already been held 5 times (2001, 2007, 2012, 2017, and 2018), most of which have been viewed as peaceful and well-conducted. The International Republican Institute-IRI reported that the last election in 2017 was “well-administered, peaceful, open and transparent”⁷. Similarly, the watchdog institution Lao Hamutuk report that the process of election was “peaceful and democratic”⁸. However, accountability and transparency of the political parties funding remains a public debate.

Despite a vibrant exercise of democratic elections in Timor-Leste, there is little research done on how political parties function and are governed in Timor-Leste. Moreover, literature has yet to be developed about the level of transparency and accountability in governance, specifically when it comes to funding access, usage, and monitoring by political actors and parties. These two democratic principles are crucial, at least “to protect electoral integrity to make institutional structures and their actions or decisions widely accessible and better understood and it is the best way to make the system accountable and transparent publicly to involve public control around the issues of electoral abuse and corruption involvement”⁹.

Political parties have played a vital role in Timor-Leste’s public policy, especially elite politicians who have long governed the country. As per current legal frameworks, elections are expected to be participated by multiple political parties. As per Political Parties Laws No 3/2004 and No. 2/2016, government construction is based on the participation of citizen’s decision making through political parties.

This article aims to examine the accountability and transparency in relation to political party

3 Linz, Juan J., and Stepan, Alfred. C. (1996). *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe*. Baltimore and London-UK, The Johns Hopkins University Press.

4 The United Nations Economic and Social Commission for Asia and the Pacific

5 UNOHCHR (2020) “About good governance”. <https://www.ohchr.org/EN/Issues/Development/GoodGovernance/Pages/AboutGoodGovernance.aspx>

6 Op cit

7 IRIS (2017) “Timor-Leste Parliamentary Elections”.

8 Lao Hamutuk (2018) “Early Parliamentary Election”.

9 ACE Project (2020). ” Electoral Integrity”. <https://aceproject.org/ace-en/topics/ei/onePage>. Accessed 18 October 2020.

funding in Timor-Leste. Hence, it builds on the following critical questions:

- What is the level of accountability and transparency of political parties, specifically when it comes to their funds/resources?
- What are the implications of the current level of accountability and transparency of political parties in Timor-Leste?

A mixed-method approach with semi-structured interviews with key informant and examination of secondary data was used for this study. Furthermore, secondary data include academic journals, existing policies and laws related to political parties.

The scope and limitations of this study were heavily influenced by the lack of adequate literature on this matter, and by the COVID-19 pandemic. Moreover, while the initial plan for data collection was to involve the three main political parties in Timor-Leste, only one political party was interviewed due to restrictions brought about by the state of emergency policy imposed throughout the country. Moreover, difficulties of accessing information *may* prove the hypothesis that the level of willingness and openness of political parties to declare their status—despite emergency condition, has yet to be achieved in Timor-Leste.

2. LEGAL SOURCES FOR POLITICAL PARTIES AND FUNDING IN TIMOR-LESTE

The source of law for political parties, including funding in Timor-Leste, is finds its basis from national constitution, which guarantees fundamental rights and freedoms, and equality.¹⁰ It is apparent that the constitution is founded based on democratic culture and principles. Moreover, democracy has become the core foundation for all political parties to compete and express themselves based on the people's will and obey the laws and regulations.

The Law No. 3/2004 (Political Party Law), which was amended via Law No.2 / 2016, was developed and passed to provide legal bases for political party definition and functions¹¹. These national laws further regulate political party scope, its legality in forming the government, its rights, and obligations. More importantly, This law also regulates the role of political parties in the general election process, including the acquisition and disposal of financial support. Article 2 expresses general principles on financing political parties and election campaigns the following general principles:

- Legality;
- Transparency regarding the origin and application of financing; and
- Presentation, inspection and publicity of the accounts.

This law also emphasizes that all political parties are obliged to openly pursue their political goals and programs, it is very important to uphold the principle of transparency including the “use of funds and public activities at the national and international levels” as regulated in Article 7. it clearly highlights that all political parties must be transparent in term of providing information related to political party's activities and financial report.

The Political Party Law guarantees that all political parties can access state financial support, including the subsidies for political campaign. Under Governmental decree law no. 18/2017 (Regulation For The Electoral Campaign) Article 2 emphasizes that all political parties including their

¹⁰ The Constitution of The republic of Timor-Leste < http://timor-leste.gov.tl/wp-content/uploads/2010/03/Constitution_RDTL_ENG.pdf>

¹¹ Jornal da Republika Timor-Leste, Law, no. 2/2016“ Sobre Partidos Políticos (Political Party's Law)

coalitions have the right to access applicable fees based on equality principle and the information must be provided by the media to The National Election Commission-CNE¹² before the electoral campaign commences. Moreover, this regulation provides that the financial source for political party comes from loan from any private institution, bank, or microcredit, and a donation. Although the law allows political parties to obtain from private loans and internal contribution from political members, the question is where all the money comes from if the political parties access private micro-credit loans and individual contributions. Moreover, political parties decree-law, 6/2008 on Financing of Political Parties mentions that “Political parties must execute their financial fiscal based on the three principles with legality and transparent.”.

Existing legal instruments provide a fundamental basis for political party existence and its function. Moreover, the national law and government regulation law regulate specific issues like political party function and state funding. Although the law and supporting regulations have strongly regulated political parties, their compliance and commitment are a totally different story. Similarly, the lack of institutions that control political parties can negatively affect the principles of “legality, transparency, and accountability,” which are highly respected in national laws and regulations.

3. STATE SUBSIDIES FOR POLITICAL PARTIES

As previously discussed, the State can legally provide financial support for political parties. Those who are voted even receive annual subsidies from the state budget. Political parties have various forms of financing models, which includes the provision of public funds to political parties. Falguera et al.,¹³ highlight that subsidies for political parties is a way to promote democracy, and enable fair and equal representation in elections. The Electoral Knowledge Network stated that in some countries, the state constructs a legal model that provides financial assistance to political parties. This helps them, through campaign subsidies, to carry out the functions as the public representatives. However, sources of funding for political parties “might be different across the world based on culture, precedent and legal standards”¹⁴.

Timor-Leste is a new democracy that promotes multi-party participation that encourages every citizen’s political life participation. Although the state provides a subsidy to political parties, some critics have argued that it is inadequate to provide all political parties. Political parties have enjoyed financial support from the state budget since Independence’s restoration. State support for parties seek to help these entities to sustain their electoral campaign needs, as well as, provide incentives for work aiming to impact the lives of their respective constituencies (e.g. regular subsidy aims for citizens’ education based on the constitution and political party’s law.) Political parties in Timor-Leste are privileged to access subsidies as amplified through the Legal Regime for the financing of political party’s law, no. 6/2008.¹⁵

Most key informants argued that in a tiny nation like Timor-Leste, state subsidies could influence an increase in the number of many new political parties. However, this may affect the party’s long-term sustainability. One shared that new political parties that may not survive, because they exist only to access political funding. In fact, State funds, he even mentioned, are “big enough” to alleviate poor peoples’ situation. He added that government subsidies are extremely attractive, and everyone would attempt to get a piece of such generous pie.¹⁶

12 Komisaun Nasional de Eleicoes

13 Falguera et al., (2014) “Funding of Political Parties and Election Campaigns”. Stockholm

14 The Electoral Knowledge Network- (2020) Public Funding of political parties <https://aceproject.org/ace-en/focus/core/crb/crb05>. Accessed 18 October 2020.

15 Jornal da Republika Timor-Leste, Law, no. 6/2008 “Regime jurídico do financiamento dos partidos politicos. Series I, no. 14

16 Anonymous, Personal Interview, December 7, 2020

A key informant from The National Election Commission (CNE) said that in 2017, after the parliamentary elections, all of the political parties applied for reimbursements amounting to 4\$ per vote¹⁷. Receipts are submitted to the financial department of CNE. After verifying expenses, accounted subsidies are then transferred to their bank account. However, the rigor of the auditing and accounting process was not fully disclosed.

Apart from subsidies for political campaigns, the annual subsidies that accessed by elected members of parliament. For example in the 2017 national parliamentary election, there were four political parties, CNRT¹⁸, FRETILIN¹⁹, PD²⁰ and FRENTE MUDANÇA²¹, were able to receive financial support from the state amounting to 6,000,000 USD. The allocation of the subsidies is based on per seat of the political parties' quota in the parliament, around 92,000 USD-per one seat are allocated. The five political parties are CNRT winning, 30 seats in the parliament received 2,769,230.77 USD, FRETILIN with 25 seats in the parliament received 2, 307, 692.31 USD democratic party PD with 8 seats, received \$738,461.54, and FRENTE-MUDANÇA with 2 seats received \$184,615.38.²²

4. COMPLIANCE IN THE NAME OF ACCOUNTABILITY AND TRANSPARENCY

All political parties are expected to submit annual financial reports to the National Commission of Election (CNE), as per Law no. 6/2008. The CNE is mandated to oversee and manage national elections, announce its result at the local and national levels. Moreover, this institution also controls the execution of the subsidies that political parties accessed and used.

The Director of the Department of Democracy and Political Parties at CNE said that all political parties in Timor-Leste are able to comply with this requirement, within the prescribed time frame of 45 days. However, the lack of human resources at CNE to audit these report has proven to be a challenge to fully ensure full accountability and transparency. Hence, financial reports and attached receipts could not be fully examined within one month²³.

In reality, the CNE has then failed to submit its audited reports on time. Furthermore, although a financial report is required to pass external audits, still, some irregularities are found in the end. To address this issue, Journal da Republica (2017) asserted that expenses should be submitted on a trimestral basis. Another concern is that political parties do not have a structured plan nor mechanism to monitor and/or audit how funding is spent within their ranks. While this has already been brought up in a CNE report, compliance is still bleak.²⁴

Based on what has been discussed, parties, especially those voted into parliament, seem to lack the efficiency and willingness to be transparent, especially when it comes to reporting expenses using public funds. Mr. Camillo Ximenes, Dean of the Faculty of Political and Social Science of the National University of Timor Lorosa'e (UNTL) highlighted transparency and accountability have yet to be ingrained in both policy and practice of political parties in Timor-Leste. Most political parties have no structured mechanism to publicly report their financial activities to the citizens. Furthermore, the people are not fully aware about how state subsidies are actually spent by these political actors. He particularly mentioned about the state of political and civic education in rural areas, which could

17 The National Commission of Election (CNE), personal interview. December 9, 2020

18 Congresso Nacional de Reconstrução de Timor-Leste (National Congress for Timorese Reconstruction)

19 Frente Revolucionária do Timor-Leste Independente (Revolutionary Front for an Independent Timor)

20 Partido Democrático (Democratic Party)

21 Frente de Reconstrução Nacional de Timor-Leste Mudança (Timor-Leste National Reconstruction Front Change)

22 Deliberaçãun CNE 23/Ix/2018, Journal Da Republica, Publicaçãon Oficial da República Democrática de Timor - Leste Série I, N.º 38

23 CNE, Loc cit

24 CNE, Loc cit

have been conducted through these state-sanctioned resources²⁵.

According to Secretary of the Democratic Party (PD),²⁶ one of the issues that needs to be considered is the transparency, or the lack of, of political parties in reporting their financial status. He boasted that PD is, as of this writing, the only political party that has a formal website that features all the relevant information about its activities. However, based on further assessment, the party has yet to put up its financial report. The respondent addressed this by saying that this could be done next year.²⁷

This then raises the issue on how the funds are actually disposed by political parties. Resources could have benefited constituents, specifically in the realm of citizenship and political education. Furthermore, technologies could help facilitate this. However, this has not been the case. At this point, transparency and accountability seem to be promoted, but not truly experienced by the public.²⁸

5. TRANSPARENCY AND ACCOUNTABILITY AS LIP SERVICE

The fundamental pillar for political parties has to be the principles of legality, transparency and accountability, especially with respect to the acquisition and disposal of funds. This also covers the efficient delivery of financial reports, which should be made open for public review and scrutiny. This, in the end, could directly affect the good governance, specifically addressing money politics and corruption involvement.

Political observers have raised concerns over political party throughout electoral proceeding. The dean of the Faculty of Political Science-UNTL Camilo Ximenes asserted that all politicians have respective lobby groups and private supporters. It is therefore required to declare these connections, as well as assets obtained from supporters.²⁹ Moreover, he added that amassing support from these interest groups may derail the agenda of good governance in the country. These “dubious” relationships may result in money politics and corruption. This is why a regulatory and monitoring regime is crucial in preventing and eliminating such criminal acts.

In this spirit, a respondent working for the National Ombudsman (PDHJ)³⁰ highlighted a grave lack of transparency amongst political parties in the practice of receiving government subsidies. Political parties are expected to set the standard for good governance in the country. It starts with full public knowledge on how funds are distributed, used and reported. This has not been the case so far.³¹ The National Ombudsman, which is responsible for human rights and good governance, is mandated to monitor financial activities by political parties. However, a glaring gap in reporting expenses hinders any means to achieve individual and/or organizational accountability.

The Political Party and Democratic Affairs Division of CNE is responsible for monitoring state subsidies for political parties. Its director expressed that all political parties lack the will and mechanism to provide information about its financial situation to the people. He mentioned, *“when our team the National Commission of Election-CNE conducted socialization about political party funding, including all the expenses. I was asked about the issues of transparency and accountability by the participants, there had been difficulties accessing information from the*

25 Ximenes, Camilo, Personal Interview, December 10, 2020.

26 Democratic Party (*Partido Democrático*), the biggest third large party was founded in 2001, based on democratic principles and human rights. As of this article being written, this party serves their position as the opposition in the national parliament of Timor-Leste.

27 Secretary general of Democratic Party-PD, Personal Interview, December 12, 2020

28 Ximenes, Op cit.

29 Ximenes, Loc cit

30 Provedór Direitos Humanos no Justisa-PDHJ

31 Ibid

*parties. They started to know at that moment when the information was provided by our team.*³²

Such dilemma was validated by a policy analysis staff working with Lao Hamutuk, a local non-government organization (NGO). It was pointed out that information about political party subsidies are not publicly accessible. The government, neither, is able to share such data. It is therefore the responsibility of the State and political parties to fully commit to transparency and accountability.³³

6. CONCLUDING ANALYSIS

The principles of transparency and accountability of political parties are ingrained in Timor-Leste's legal system, particularly in Law No. 6/2008, and government decree law No. 18/2017 (the allocation of state subsidies). However, the operationalization of these principles seem to only happen in the capital city of Timor-Leste. In rural areas, citizens find themselves in the dark, and are excluded from benefiting from these public resources. Moreover, most political parties have not reported any information about their financial status, despite the existence of online platforms.

With respect to private donations, political parties seem to hide any kind of information from the public. Asset and property declaration is not a common practice, while money laundering seem to be an issue that has yet to be brought to public knowledge and scrutiny. However, there are steps being made by CNE to collaborate with the Central Bank of Timor-Leste to address this problem. This current situation poses serious implications on democratic process and public trust.

There is still so much to be done to make political parties more attuned to the principles of transparency and accountability. Technology can be maximized to make information more accessible to the public, especially those living in remote areas. In a young democratic country with a small population, it is crucial for the government, especially for political parties, to be more transparent and accountable, which can be done through intense socialization, public participation, and systemic reforms.

7. RECOMMENDATIONS FOR REFORM

In Timor-Leste, the State has provided financial subsidies to political actors under existing political parties' auspices. Moreover, the state acts to ensure that every political party can enjoy the freedom to participate in political life under the mandate of the Constitution and and relevant national legal instruments.

To guarantee the democratic stability that gives life to the principles of a multi-party system, Timor-Leste provides two forms of subsidies. The first is an annual subsidy for political parties who are elected and have representatives in parliament. Apart from annual subsidies, there are also parliamentary election campaign subsidies; these subsidies are used to support political parties' activities during the campaign period. Financial assistance for political parties is regulated in national law. In this case, Law No.3 / 2004 and Law No.2 / 2016 and the Functions of Political Parties and laws are regulated in law (no 6/2008) as well as government regulations, no. 18/2017 Regulation for The Electoral Campaign.

These legal instruments clearly guarantee that the right to get subsidies has been regulated in such a way. however, the obligation of political parties with respect to financial execution is fundamental to ensure accountability and transparency in the use of state funding.

³² CNE Op cit

³³ Anonymous. Personal Interview, October 14, 2020

Although the state provides subsidies to political parties that are legally guaranteed. All political parties that use state finances have, at this point, failed to comply with the principles of transparency and accountability. This can be seen from the lack of commitment of political parties to provide information through multiple sources such as political party websites or other media that the public can access. Although CNE uses the *Journal da Republika* Website to publish every audit result, many rural communities still do not have access to this online platform. This is proven by the fact that some community members in rural areas argued that they never get any information from their elected political representatives. In fact, such information is only known through reports from media and online platforms.

Apart from transparency issues, the lack of human resources at CNE to audit financial reports and monitor political party activities has proven to be challenging. In light of political parties' frequent failure to regularly conduct their financial audits, the CNE's function to ensure full accountability and transparency needs to be improved. Therefore, the submission of financial reports within a short period of time, or even non-submission, could greatly undermine the process of accountability related to financial execution of political parties.

This article, therefore, asserts the need for systemic and efficient management and monitoring of political party financing in Timor-Leste.

- Political parties must be obliged to fully disclose their finance situation publicly, via reports or their online platforms. This will enable the public to review their work, and scrutinise irregularities. All annual activities plans should be submitted to CNE and published through the Republic Journal. These documents ensure that political parties are using the state budget for their internal activities in an efficient and impactful manner.
- The current political party law should therefore be amended to regulate sources of funding, and efficiently provide robust legitimacy to CNE. Furthermore, related regulations and laws on anti-money laundering and financial procedures, should be strengthened by including control mechanisms, as well as punitive sanction for those who are unable to comply or abide by standards.
- Cooperation between institutions is seen as a means to achieve durable solutions. Therefore, the National Ombudsman (PDHJ), Anti-Corruption Commission (CAC), and CNE and academic institutions must work together to ensure political parties can be controlled and held accountable.
- Strict guidelines have to be set on how funds, specifically those given by the State, are used. Political parties must be aware that these resources should fully benefit the development of their respective constituencies.
- The CNE, too, has to be reformed by providing more human resources and capacity to audit and reprimand political parties at fault.
- Law enforcers and the judiciary must be socialized about this rather crucial political and social issue. Individual and organization accountability must be upheld at all times.

This article sheds light on a critical issue that has yet to be fully discussed by the State, civil society and the general public in Timor-Leste. Further research on this matter is crucial to help policy makers come up with ways to ensure that political parties are aligned with the vision of attaining a democratic Timor-Leste, which is free from inequality, corruption, and impunity.

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