

Stop the secret deals: why we need to tackle secret deals in local politics and government

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Discussion paper for the Right2Know Campaign¹

Introduction

Money buys politics; this is true in all democratic systems. Discussions of the lack of transparency in political party funding often focus on the potential for wealthy individuals, corporations or even foreign governments, to influence *national politics and government* at the expense of ordinary voters. But this paper will argue that more needs to be said about how this issue might impact local politics and local government, where state spending is at its highest, and accountability and oversight are at their lowest.

Possibly the most important way to understand the impact of money in politics is the corruptive influence it has over people's daily lives. This is also the least understood and researched aspect of corruption linked to the funding of political parties. This paper argues that the influence of money in politics is keenly felt at a local level, where corruption and tender irregularities have the most direct effects on people's lives. It drowns out the voices of ordinary voters and further entrenches political inequality in favour of the wealthy.

The Right2Know Campaign, on whose behalf this paper is authored, is a democratic organisation that seeks to root its in local struggles for openness and information. This paper reflects a frank evaluation that efforts to mobilise on party funding issues need to do more to connect with the lived experiences of democracy at a local level.

However, it is also clear that the secrecy that shrouds party funding prevents us from fully understanding how exactly party funding interacts with these problems. Secondly, and because of this, we should understand this financial secrecy as part of a broader political system that is measurably losing the faith of many citizens in South Africa. This manifests in reduced participation in elections, and distrust in elected officials, political parties and political institutions. Ultimately, secrecy in party funding is part of a broader secretive system of money in politics that risks undermining the legitimacy of South Africa's democratic project.

Understanding the scale of the problem

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In South Africa, outside of limited public funding, there is no legal requirement for political parties to disclose where they get their money. Yet the vast majority of political parties' funds come from private sources. In the lead-up to the 2009 elections, political parties were estimated to have spent about R550 million on campaigning, less than R93 million of which came from the IEC and other public funds.¹ At the same time, there are several signs that party spending (and thus fundraising) is on the rise. In the 2014 national and provincial elections, a leaked ANC report claimed the party alone spent R429 million on election campaigns², while receiving less than R73 million in public funds from the IEC that same year.³

At least some of these funds are donated in exchange for certain policies being pursued, tenders awarded or other benefits.

Refocusing on local government and local politics

The national story about corruption and party funding is often characterised by a focus on big scandals involving national figures. These play out in the pages of major media institutions, TV news bulletins and on talk radio panels.

But since many of these scandals include an element of procurement – whereby public tendering processes are manipulated to unfairly advantage one person, company or party – it is worth remembering that the vast majority of public procurement spending happens at a local and provincial level: national government account for only 18% of more than R500 billion spent in 2013/2014.⁴ In the first half of the 2014/2015 financial year, South African municipalities spent R142,6 billion, with R123 billion of that going to procurement for daily operations, rather than capital expenditure.⁵

This is in keeping with the responsibilities imbued to local government by the South African Constitution to provide basic services to communities, as well as social and economic development in those communities. Often, this requires that the municipality procure these goods and services from the private sector. Municipalities also have the power to grant development permits and make zoning decisions, which both affect the interests of the private sector.⁶

It is common cause that this procurement and decision-making is at risk to corruption. Corruption Watch alone reports that it received 465 *confirmed* cases of corruption related to procurement at a local level between 2012 and 2014.⁷ These complaints usually relate to the manipulation of tender processes (particularly around provision of infrastructure), and inappropriate relationships between municipal officials and business interests.⁸ In other words, patron-client relationships that ensure political support in exchange for tender benefits to individuals and businesses dominate local government.⁹ This is unsurprising, given that there are hundreds of billions of Rands of transactions up for grabs.

Party funding, secrecy and local corruption

Because private donations happen in secret, it is difficult to know for sure whether these corrupt transactions include benefits to political party coffers. And, where nationally there are a few investigative media outlets able to investigate and expose such relationships, local and community media have limited investigative capacity.¹⁰

However, despite limited investigations into these potential links, there are several strong reasons for believing that political parties benefit from localised corruption.

The first is that this is typical of the arrangements that have already been exposed at a national level. For example, it was long apparent that Chancellor House was used as a front company that channelled money to the ANC, based on tenders awarded to it by key state departments, especially the Department of Minerals and Energy.¹¹ This particular story re-emerged in September 2015, when the United States Securities and Exchange Commission (SEC) charged Hitachi with violating the Foreign Corrupt Practices Act (FCPA) for 'inaccurately recorded improper payments to the ANC in connection with contracts to build two multibillion dollar power plants' (Hitachi paid \$19 million to settle this case).¹²

Secondly, the Department of Cooperative Governance and Traditional Affairs (COGTA) conceded in 2009 that there was 'insufficient separation of powers between political parties and municipal councils'.¹³ This implies that political parties exercise significant control over municipal officials, and it seems reasonable to infer then that dubious deals struck between these officials and the private sector may include pay-offs to political parties as well. This likelihood is amplified by the nature of the electoral system, where political parties are responsible for assigning local officials to councils (the closed list PR system). This has led to the concern that that officials work to benefit the party, at the expense of their constituents.¹⁴ These concerns justify the suspicion that corruption in local tender deals may involve benefits that flow to both the official and the party.

It should also be added that, despite the secrecy that shrouds such relationships, a few telling cases have come to light that illustrate the ways in which money has corrupted South African politics at a non-national level.

At a provincial level, there is the case of Gaston Savoi, a Uruguayan businessman in charge of Intaka Holdings. A whistleblower in the KZN Department of Health testified in court that she had been pressured in 2007 to sign off on a tender awarded to Mr Savoi's company, allegedly because Savoi had promised to make a R1 million donation to the ANC. The KZN MEC for Health at the time, Peggy Nkonyeni, who is alleged to have urged the tender be pushed through, was also the ANC's provincial treasurer.¹⁵

At a local level, a recent amaBhungane investigation revealed allegations that the Cape Town city council has approved building plans that may contravene bylaws, in order to favour a political donor.¹⁶ This story does not relate to a particularly important decision by local government. However, it does speak to the potential use of local government power to satisfy donor interests. Given that the DA's response has been simply to reiterate that it does not disclose any of its donors (as well as to instigate a forensic investigation into the whistleblower), it also reflects that it is currently too easy for political parties to avoid scrutiny in this regard.¹⁷ The DA similarly refused to respond to the question of whether bidders (Mayor Patricia de Lille's 'social friends') for the R1 billion Clifton Scenic Reserve megaproject are DA donors.¹⁸ Whether or not those who stand to benefit substantially from what is largely a party decision also fund that party, is surely something that citizens have the right to know. These cases also underscore that party funding secrecy is a problem of all parties and particularly those holding political office.

Finally, it is important to note how the heightened importance of gaining access to political office (even at a local level) increases the need to obtain resources to fight political battles within parties. A series of case studies by the Mapungubwe Institute for Strategic Reflection consistently revealed complaints by residents that local councilors and officials used relationships with bigger businesses (at the expense of local cooperatives) in order to extract the rents necessary to challenge an incumbent or to ward off political rivals.¹⁹ A recent internal ANC investigation also revealed the problem of businesses buying bulk membership for the party in order to ensure the 'right' candidates were elected to benefit that business in the future, generally through the provision of tenders.²⁰ Thus, the issue of party funding does manifest at a local level as an issue of funding local individual or factional battles, and is intrinsically linked to corruption in local government.

Ultimately, the secrecy that prevails over party funding prevents us from fully understanding how these mechanisms work. As investigative journalism is the primary source of revelations about the sources of party funding in South Africa, the lack of media diversity in South Africa and lack of resources for investigative journalism at a community level mean that these local issues often get overlooked and under-investigated.²¹ This compromises people's ability to work out how private interests game the system, and thus acts to perpetuate these problems. Secrecy also means that it is far too easy for political parties to avoid difficult questions when it comes to private actors buying influence at a local level.

The human cost:

It is important to note that the behaviour of municipalities, and those private interests that buy into tenders and contracts with them, have a real impact on the lives of South Africans. In many cases, irregularities in these dealings may lead to essential services and infrastructure not being provided, or being withheld from certain people.²²

This is also why the link between local corruption and service delivery may be one contributing factor behind the high rate of protest in South African communities, with service delivery grievances being the second highest recorded motivation for protest action between 2009 and 2013.²³

When we see that the relationships between political parties and their funders can have real and far-reaching consequences for the public, it is clear that political parties cannot argue that they are private bodies with private financial relationships. They must be subject to proper public disclosure.²⁴ While it may not always be possible to establish a causal link between party funding secrecy and these issues, the continued secrecy of party funding forms part of the system of money in politics that corrupts and undermines local government and thus delivery to the people. It is for this reason that the call to end secrecy in party funding must take into account the effects it has on local government.

Secret funding and the loss of trust and legitimacy

Given the impact on communities, we must consider the likely ways in which secret party funding interacts with local government corruption, and the need to lift the veil of secrecy in the quest to address these concerns. At the same time, the failure to deliver

crucial services at a local level, along with the view that only certain people benefit from relationships with local officials, undermines trust among citizens, and in turn undermines the quality of democracy. Again, we should see secrecy in party funding as a part of this broader system that excludes people from democratic processes and erodes the legitimacy of democratic institutions.

There are several signs that this erosion is taking place. The first is the rapid decline in voter turnout at election time. The proportion of people in the voting age population that voted in the 2014 National Election was just 57%, down from 87% in 1994.²⁵ This is largely a result of young people's reluctance to even register: only 58% of eligible voters between 18 and 29 were registered prior to 2014.²⁶ Low turnout is even more conspicuous for local government elections, where only 57% of *registered* voters voted in 2011.²⁷ These trends coincide with low levels of trust expressed by the South African public. Just 12% of respondents to Afrobarometer's surveys claim to trust their local officials "a lot", and 56% of respondents say they trust their local officials "not at all" or "only somewhat".²⁸ In addition, recent data suggests that 51% of people believe that "all" or "most" local officials are involved in corruption, and a further 38% believe that at least some are.²⁹ These figures represent a decline in trust and an increase in perceptions of corruption since previous surveys. They suggest a citizenry that is increasingly distrustful of elected officials, political parties and other institutions, and a growing skepticism regarding how the democracy works for the people. This is not just a South African phenomenon. In a study of 50 countries, Krishnan concludes that although it is not the only relevant factor, effective regulation of political party financing is likely to increase citizen trust in political parties.³⁰

The value of openness

Again, secrecy in party funding is not the sole cause of these trends. However, it forms a part of an opaque system in which people already believe that dubious deals are being struck that disadvantage them. Any party funding scandal that shows a clear conflict of interests adds to this distrust of the political machinery. On the flip side, lifting the veil of secrecy around party funding would be an important part of the rebuilding of this trust. Having access to information about private party funding would empower citizens, civil society and the media to better monitor and challenge relationships that corrupt politics and compromise delivery of services. While a host of other formal initiatives are aimed at introducing transparency into the tender processes, among other things, failing to address party funding secrecy would allow those involved in dubious relationships to conceal one of the clearest paths by which those relationships are maintained. This applies at all levels of government, but given what we know about the extent of public procurement at a local level, it is particularly important for local government.

Conclusion – the right to know

The lack of regulation of the funding of political parties means that a shroud of secrecy is allowed to continue around how individuals buy influence with political parties. This paper has argued that this issue is likely a fundamental factor in the corruption and irregularities that plague *local government* in South Africa. It is crucial for us to turn our attention to the local dimensions of this issue, and to probe further into how exactly party funding intersects with other grievances about the quality of democracy at a local level. There is much we do not know in this regard, a result of both the secrecy that

shrouds money in politics but also the lack of attention that is paid to local government in these discussions.

This paper also suggests that secrecy in the lack of regulation of party funding is helping to erode public trust in officials, institutions and thus in South Africa's democracy. At the same time, removing secrecy in this area can and should be a crucial part of rebuilding this trust. The public has the right to know about these relationships, and knowing will empower it to hold elected officials and the private sector accountable for the deals struck that involve public resources.

What needs to happen?

There are two clear issues around which to organise action: greater transparency and oversight in local government procurement, and ending secrecy in political party funding.

In the first instance, it is necessary to have strong and independent local municipalities that are bound by strict transparency requirements when it comes to procurement and tenders. The recent movement towards a public e-tender platform and supplier database is progress. However, without transparency in political party funding, this public information cannot fully empower citizens and civil society to act as watchdogs against the capture of politics by private interests.

To move towards these goals, action is required both by political parties and civil society.

What must Political Parties do?

Political parties must enact transparency in party funding. The current response from many political parties that they cannot be expected to be transparent about funding without a similar commitment from other parties, has the potential for endless lethargy on this issue. In particular, citizens and party members must demand the following from political parties in the run-up to the 2016 elections:

- Ensure greater independence for local councillors from the national centre of the party.
- Strengthen internal party democracy and accountability to constituencies, and encourage responsiveness to local needs.
- Identify and remedy weaknesses in local government, especially a lack of transparency in procurement and tender processes.
- Require that all levels of the party disclose their sources of funding, and to make this information publicly available.

Civil Society

Civil society needs to play a central role in advocacy and research on these issues in the run-up to and after the 2016 elections:

- The issue of party funding must be put at the centre of existing advocacy against corruption, secrecy and unaccountable government.
- Advocates of party funding reform need to do more to make the link between secret party funding and people's daily concerns and challenges with local government and politics.

- As a part of this inclusion, we must develop our understanding of how exactly secret party funding interacts with other governance, transparency and corruption issues. This requires research and learning driven by local experiences.
- Civil society must develop a public conversation about tackling money in politics in the run-up to the 2016 local government elections. These must happen through a national information campaign that draws the conversation down to the ground.
- Take practical steps to expose the links between secret money and local governance, such as developing a special investigative media project on local financial interests, or developing a call for whistleblowers to expose financial interests in local politics.

Challenging the corrupt nature of political party funding secrecy is central to any effort that seeks to challenge the unjust power of a privileged few. Ultimately, there must be a collective effort to democratise information on how political decisions are made and which interests are at play in politics – lifting the veil of secrecy around power is the first step to democratising that power. It increases our ability to achieve greater accountability and responsiveness from our elected officials – it is central to improving the quality of democracy for ordinary South Africans.

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