

ANTI-CORRUPTION HELPDESK

PROVIDING ON-DEMAND RESEARCH TO HELP FIGHT CORRUPTION

BEST PRACTICES ON PREVENTING THE ABUSE OF PUBLIC RESOURCES

QUERY

We are looking for best practices regarding the prevention of abuse of public resources for political gain, particularly during election periods.

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SUMMARY

The abuse of state resources should be understood broadly, and can encompass any use of publicly-owned resources that affects the operation of political parties or electoral campaigns in a way that favours one party or candidate at the expense of other contestants. As such, the abuse of state resources ranges from the use of government-owned infrastructure for electoral advantage to the manipulation of state-owned media and electoral laws. Although such practices are generally more visible during election campaigns and are typically an attempt to obtain an electoral advantage, the abuse of state resources can take place during non-election periods as well.

It is a challenging and difficult task to draw a firm line between legitimate functions and activities of public officials and illegitimate actions constituting the abuse of state resources. There are also considerable difficulties associated with identification, verification and substantiation of abuses.

Since the issue of abuse of state resources goes beyond elections, it is important to note that election laws and/or campaign finance regulations alone will not be enough to effectively prevent the abuse of state resources for political gain. There needs to be a comprehensive approach to the issue through the creation of a robust overall legal framework that sets rules for the general conduct of public officials, effective management of public finances and an impartial public sector. Rules and laws need to be supported with strong oversight exercised by state institutions, media and civil society.

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1 BACKGROUND

Alongside vote buying and election rigging, the abuse of state resources is one of the three fundamental ways in which electoral integrity can be undermined (Birch 2011). Covertly channelling public resources into party political activities, such as electoral campaigns, endangers democratic practice, typically by tilting political contests in favour of the incumbent. If election outcomes are perceived to be the outcome of government manipulation rather than free and fair competition, public faith in the legitimacy of political representation will also be damaged (Speck and Fontana 2011).

Virtually all countries are at risk; Global Integrity's Money, Politics and Transparency survey found that, despite the widespread existence of laws banning the use of non-financial state resources (vehicles, buildings and staff) during election campaigns,¹ in practice such resources are abused in 94 per cent of the countries analysed (Global Integrity 2014a). Moreover, while 65 per cent of the sample have legislation providing political parties with subsidised access to advertising during election campaigns, fewer than 30 per cent of surveyed countries distribute advertising slots in a transparent and equitable manner (Global Integrity 2014a).

This is increasingly recognised as a serious threat to the integrity of democratic processes. A 2016 joint report by the Venice Commission and the OSCE's Office for Democratic Institutions and Human Rights referred to the abuse of administrative resources during elections as "one of the most important and recurrent challenges [to democracy] observed in Europe and beyond" (Venice Commission and OSCE 2016). Likewise, the Group of States Against Corruption (GRECO), International IDEA and the Sunlight Foundation have noted this phenomenon to be of major concern in Europe, Africa and South Asia (International Institute for Democracy and Electoral Assistance 2014: 54; Ahmed 2015; GRECO 2016). Meanwhile, at the national level, journalists, election management bodies and civil society players are becoming increasingly outspoken about the abuse of state resources for electoral advantage (Ritchie and Shein 2017).

¹ Of the 180 countries in the [International IDEA database on political finance regulations](#), only Namibia, South Africa and Swaziland appear not to ban abuse of state resources in any form.

Attempts to rein in the abuse of state resources need to consider both the demand side (politicians abusing these assets) and the supply side (the public administration system that supplies such resources) (Speck and Fontana 2011). On the demand side, this may require reforming the electoral system, strengthening political parties and regulating campaign finance. On the supply side, reducing opportunities for the abuse of public resources could necessitate civil service reform, the establishment of robust oversight mechanisms and improved transparency to facilitate media and civil society monitoring (Speck and Fontana 2011).

Typology of state resources liable to abuse

While the abuse of state resources in the run-up to an election period is generally taken to be "pork-barrel" politics, in which incumbent politicians hand out sops, such as pension increases or tax breaks to their constituents, resources should be understood more comprehensively (Ohman 2016).² Ohman (2011) presents a typology of state resources liable to abuse by public officials for electoral advantage:

Financial resources	Monetary assets (normally through the budget of various levels of government as well as publicly owned and/or managed institutions)
Institutional resources	Non-monetary material and personnel resources available to the state, such as infrastructure, vehicles and staff
Regulatory resources	The mandate to pass laws and regulations that control allowed and prohibited behaviour in the polity. This regulatory prerogative covers anything from the criminal code to gerrymandering, candidate eligibility criteria or the order in which candidates appear on the ballot paper
Enforcement/coercive resources	The use of security and law enforcement institutions to implement laws and rules set up using regulatory resources. Examples of abuse for electoral advantage could include withdrawal of permits for opposition campaign rallies, or unexpected tax inspections of rival parties.

² For more on types of abuse of state resources, including a list of "100 ways to abuse state resources", see also (Ohman 2013).

In some countries in which media outlets are financed from public budgets, it may also be appropriate to include media resources as these can give preferential treatment to certain parties or candidates (Transparency International Georgia 2013a).

2 APPROACHES TO TACKLING THE ABUSE OF STATE RESOURCES

As a first step to tackling the problem, Speck and Fontana (2011) propose diagnosing the ways in which state resources are abused in specific country contexts, assessing the related costs and prioritising the integrity risks. The following section refers to a number of standards, indicators and assessment methodologies which may prove useful in this regard.

Of particular interest is the comprehensive methodology developed by Transparency International Georgia for tracking the abuse of state resources during elections in the country. In a coordinated effort, TI Georgia works with regional observers, journalists and concerned citizens (via a free hotline) to monitor media coverage of the election, the activities of state institutions and the behaviour of political parties and activists (TI Georgia 2014). It then investigates instances of suspected abuse related to the misuse of all four types of resources described by Ohman (financial, institutional, legislative and coercive), and makes recommendations in a final post-mortem report after each election (TI Georgia 2013b; TI Georgia 2016).

While the way state resources are abused will vary extensively by country, TI Georgia (2010) considered a number of indicators related to the abuse of state resources, including:

- Regulatory resources
 - whether amendments were made to electoral legislation in the run-up to the elections
 - whether the election date was announced in a timely fashion
 - whether the list of people prohibited from participating in electoral activities (notably civil servants) was comprehensive
 - whether tariffs and allotted timeslots for political broadcasts were consistent for all parties

- Institutional resources
 - whether public officials took leave from their work to participate in electoral activities, particularly if this involved using public resources
 - whether the military participated in campaign events
- Financial resources
 - whether campaign events were funded using local state budgets
 - whether there were spikes in public spending in the build-up to elections
- Enforcement resources
 - whether opposition candidates encountered obstacles when registering their candidacy
 - whether opposition activists were harassed by state bodies
 - whether investigations into violations were timely and appropriate sanctions were imposed

It is also worth noting that an on-going International Foundation for Electoral Systems (IFES) programme intends to develop a mode of analysis to assess relevant regulations and their effectiveness in deterring or mitigating the misuse of state resources, focusing on institutional and financial resources (IFES 2017). A recent IFES study lays out three key considerations when tackling the abuse of state resources: the regulatory framework, effective independent oversight and appropriate sanctions mechanisms (Ritchie and Shein 2017). These are briefly considered below.

International standards

Regulations to prevent abuse of state resources or limit politicisation of the public service are not new. The 1939 Hatch Act in the United States, for instance, was passed to restrict the partisan political activity of any individual employed by the state. More recently, regional and international norms have emerged concerning the abuse of state resources, both during and outside of electoral periods.

Several international legal documents lay out general principles for creating equal opportunities for all political parties and candidates, while some directly address the abuse of state resources, whether committed through undue influence and manipulation of the vote or direct embezzlement of public funds.

CIS, Convention on the Standards of Democratic Election, Electoral Rights and Freedoms in the Commonwealth of Independent States	Article 3(6) “The candidates do not have the right to take advantage of their official position or advantages of office with the aim of being elected. The list of breaches of the principle of equal suffrage, and measures of responsibility for such breaches are determined by laws.”
SADC Parliamentary Forum, Norms and Standards	Paragraph 3.i “The electoral law should prohibit the Government to aid or to abet any party gaining unfair advantage.”
“Copenhagen Document” Document on the Copenhagen Meeting of the Conference on the Human Dimension of the OSCE	Article 3 The participating states “...recognise the importance of pluralism with regard to political organisations”. Article 5.4 “[A] clear separation between the State and political parties; in particular, political parties will not be merged with the State.” Article 7.6 The States will provide “...political parties and organisations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and the authorities”.
Venice Commission, Good Practice in the Field of Political Parties	Paragraph 1.2.3.iii “Equality of opportunity must be guaranteed for parties and candidates alike. This entails a neutral attitude by state authorities, in particular with regard to...public funding of parties and campaign...” Paragraph 41 “Apart from different forms of funding provided for by law, any party must refrain from receiving assistance, financial or in kind, from any public authorities, particularly those directed by its members.” Paragraph 42 “No party may receive clandestine or fraudulently obtained financial aid.”
Council of Europe, Committee of Minister, Recommendation (2003)4 on corruption	Paragraph 1 “Objective, fair and reasonable criteria should be applied regarding the distribution of state support.” Paragraph 5(c) “States should prohibit legal entities under the control of the state or of other public authorities from making donations to political parties.”
The Carter Center, Statement of the Council of Presidents and Prime Ministers of the Americas – Financing Democracy: Political Parties, Campaigns, and Elections	P 2 “Unfair incumbency advantages should be addressed and the use of state resources that are not made available to all candidates in the electoral campaign should be prohibited.”
OSCE/ODIHR, Legal Framework, OSCE/ODIHR, <i>Observation Handbook (Fifth Edition)</i>	P 21-22 “...the legal framework should ensure that state resources are not misused for campaign purposes and that they are used only with strict adherence to the applicable legal provisions.” P 18, 47 “Regulations on campaign financing should not favour or discriminate against any party or candidate... Government office space, vehicles, and telecommunications equipment should not be used for partisan purpose unless equal access is provided to all contestants.”
United Nations Convention against Corruption (UNCAC)	Article 19 “Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally, the embezzlement, misappropriation or other diversion by a public official for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position.”

Source: Magnus Ohman. 2013. *Political Finance Oversight Handbook*. IFES, Washington DC. p 136
<http://www.ifes.org/publications/tide-political-finance-oversight-handbook>

Most recently, the 2016 Venice Commission (2016) laid out guidelines to prevent the abuse of state resources. These standards recommend that governments:

- prohibit political candidates from holding official public events (including charitable events) for electoral campaigning purposes, especially events which imply a use of public funds and/or institutional resources
- provide equitable access to public buildings and facilities
- refrain from making major governmental announcements designed to create a favourable perception towards a given party
- abstain from non-essential appointments to public bodies during electoral campaigns
- set clear definitions of what constitutes “campaign activities” and forbid civil servants from engaging in this in their official capacity
- provide a clear distinction between “campaign” and “information” activity by public media
- establish a functionally independent and suitably resourced state body responsible for auditing political parties’ use of administrative resources
- require political parties to report on the origin and purpose of campaign finance transactions, stipulating that permissible usage of administrative resources should be treated as a campaign finance contribution and reported accordingly.

Regulatory means to prevent the abuse of state resources

Beyond these international instruments, national level regulation aimed at preventing abuse of state resources is important to establish acceptable behaviour for political parties and candidates and stop them from taking unfair advantage of their positions to influence the outcome of elections.

To this end, Ritchie and Shein (2017) argue that it is essential for states to pass legislation clearly defining the permissible uses of state resources as well as what constitutes an abuse. Such provisions should clearly apply to both incumbent and opposition political forces. These formal rules act as guidelines and reference points for regulatory bodies to detect and act upon their violations.

Ohman (2013) presents 16 different ways to tackle the abuse of state resources through regulation, each of which falls under one of five types of regulation:

- requiring public entities to be neutral and treat all actors equally
- banning public entities from favouring or disfavouring any political actor
- banning political actors from receiving favour from public entities
- banning public entities and entities with a public connection from certain types of behaviour regardless of whether there is an intent or effect to favour or disfavour any political actor – at all times or during particular periods, such as election campaigns
- other regulations that indirectly counteract the abuse of state resources, such as insulating the public administration from political interference, and general political finance oversight provisions

Ninau (2012) makes several other recommendations related to the regulatory framework which could help reduce abuse of state resources, including:

- explicit ban on the use of state resources for electioneering activities. Election law should explicitly state that state resources may not be used for the purposes of election campaigns. The relevant provision should clearly define what constitutes the usage of state resources and what the sanctions for the violation of the rule are.
- define the role of public servants in the election campaign and mandate their political neutrality. To draw a clear line between party-related and public activities, certain categories of public servants could be banned from participating in election campaigns.

Oversight bodies

Regulatory regimes are likely to be meaningless without independent and transparent institutions tasked with auditing and monitoring the use of state resources by political candidates. The regulatory framework should provide oversight bodies with a clear mandate and understanding about how compliance with the rules will be assessed. In addition, these institutions must be equipped with the requisite authority and adequate human and financial resources to carry out this mandate free from political interference (Ritchie and Shein 2017).

Such functions are usually assigned to the Election Management Body (EMB). However, experience shows that EMBs are mostly concerned with actual administration of the elections and often lack political backing or resources to conduct proper supervision.

In such cases, activities of the EMBs can be complemented and aided by the expertise and resources of independent supervisory bodies, such as supreme audit institutions and/or anti-corruption agencies (Ninau 2012).

Sanctions

As well as clear legal restrictions on the use of state resources, countries also need mechanisms to address any violations or instances of non-compliance. The Venice Commission and OSCE Guidelines (2016) state that “public employees who misuse administrative resources during electoral processes should be subject to sanction, including criminal and disciplinary sanctions, up to the dismissal from office,” and “political parties and candidates who deliberately benefit from a misuse of administrative resources should be subject to a range of sanctions proportionate to the offence committed”. These can range from formal warnings, fixed monetary penalties, reduction in public funding to political parties, referral for criminal prosecution and even the cancellation of electoral results where irregularities may have affected the outcome. The guidelines recommend that electoral management bodies should be the first instance appeal body in electoral matters, but that further appeal to a competent, independent and impartial court should also be possible.

The process for addressing violations should be transparent and accessible, with clear provisions outlined in the law, including which body has jurisdiction to handle the case and how it is appointed, and who has standing to register complaints or press charges. Vickery and Ellena (2016) identify six core elements of an effective remedial system:

- it ensures that the intent of the law is realised in practice
- remedies are provided in a timely manner
- sanctions are proportional to the violation or irregularity in question
- penalties are enforceable
- penalties lead to deterrence or the change in behaviour intended
- the system reinforces the perception of fairness.

For diagnostic purposes, questions 24 to 29 of GRECO’s questionnaire on the transparency of political party financing may be insightful. These questions concern sanctions related to the

“infringement of rules concerning the funding of political parties and electoral campaigns”, ranging from a description of the administrative, civil and criminal liabilities foreseen for such violations, to issues about which body has the authority to impose sanctions, who is subject to this regime as well as the nature of any immunities public officials may enjoy (GRECO 2006).

3 COMPARATIVE ASSESSMENTS

Several studies have assessed countries’ performance in terms of tackling the misuse of state resources, in both law and practice.

Venice Commission

In 2012, the Venice Commission prepared [a comparative table of the electoral laws of countries in the Council of Europe](#) to assess the extent to which they address the abuse of state resources and mass media (Venice Commission 2012). [A follow-up report](#) analysed the different domestic approaches on prevention and sanction regimes and established several categories (Venice Commission 2013):

- legislation which does not distinguish between material and human resources (Albania, Georgia, Turkey, Ukraine, Russian Federation)
- legislation which emphasises particular types of resources (Armenia, Georgia, Kazakhstan [misuse of public real estate], Republic of Moldova, Montenegro)
- legislation which prohibits any kind of intervention by public servants in favour of a candidate (Greece, Ireland, Kyrgyz Republic, Portugal, Spain)
- legislation which refers to temporary circumstances where public servants cannot campaign while in office or only during workdays (Albania, Armenia, Kyrgyz Republic, Ukraine)
- legislation which focuses on the preservation of free suffrage against possible influence of public servants through gifts, donations or promises (Belgium, France, Luxembourg, Monaco)
- legislation which includes media coverage as a possible misuse of public funds (Armenia, Georgia)
- and states without any explicit provisions on the misuse of administrative resources during electoral processes but only implicit rules which may be intended to deal with this issue

EUROPAM

Another comparative assessment of legislative frameworks is the [EUROPAM](#) (European Public Accountability Mechanism) portal. One of the five EUROPAM Pillars deals with political financing, and several of the questions are relevant to the abuse of state resources.

- Question 51 assess the allocation criteria for free or subsidised access to media for political parties in terms of equality, number of candidates, share of seats and vote share. The large majority of countries assessed have such criteria.
- Question 58 investigates provisions for other forms of indirect public funding, asking specifically about premises for campaign meetings, space for campaign materials, tax relief, free or subsidised transportation and postage costs. Only Finland and Poland have no such provisions, while the majority of countries assessed provide for one or two. The most comprehensive coverage is found in the following three countries:
 - Irish regulation covers premises for campaign meetings, tax relief and free postage
 - Latvia regulates premises for campaign meetings, space for campaign materials and tax relief
 - Spain regulates premises for campaign meetings, space for campaign materials, tax relief and free postage costs
- Question 69 appraises whether bans on state resources are used in favour of or against a political party or candidate. Of the countries surveyed, 43 per cent score full marks (Armenia, Bulgaria, Georgia, Greece, Hungary, Italy, Latvia, Poland, Romania and the UK).

Overall, [Ireland is awarded the highest mark](#) in terms of public funding (direct and indirect), indicating that Ireland has the most comprehensive approach to regulating public funding and access to media.

Money, politics and transparency indicators

Going beyond an assessment of the legal framework to also evaluate implementation and compliance,

Global Integrity's Money, Politics and Transparency assessment covers 54 countries, and includes indicators related to the abuse of administrative resources.

Question 5 assesses the prohibition of the use of state resources in favour or against political parties and candidates in law, while question 6 evaluates whether state resources are misused in practice. While 31 countries are found to have an explicit ban on the misuse of state resources in law, evidence suggests that in practice only [Austria](#), [Sweden](#) and the [United Kingdom](#) saw no abuses of non-financial state resources during the last election. Intriguingly, none of these countries have laws that explicitly ban such activity (Global Integrity 2014b).

In addition, questions 7 and 8 relate to law and practice on equitable access to free or subsidised airtime. [Thirteen countries](#) are awarded full marks as, in practice, (a) free or subsidised access to media advertising is always provided in a transparent and equitable way, and (b) the defined eligibility criteria are applied consistently.

Taken collectively, [Chile](#), [Colombia](#) and [Germany](#) are the top three scoring countries in the area of "indirect public funding", which aggregates scores for questions 5, 6, 7 and 8.

The assessment provides in-depth analysis of law and practice on a country-by-country basis for each question.

For instance, Chile, the top performer, has a comprehensive legal setup which is largely complied with in practice (Global Integrity 2014c). Chilean law explicitly prohibits parties and candidates from receiving direct or indirect funding from state institutions, state-owned enterprises or institutions in which the state or state-owned enterprises have a stake. Moreover, it is forbidden to use any public funds, public goods or fiscal properties for political purposes.

This system is monitored by the supreme audit institution which, in addition to overseeing the use of public infrastructure and funds, has published a manual detailing how public officials are to behave during political campaigns (Contraloría General De La República 2013). Starting from the principle that the state administration must be politically neutral,

this manual stipulates that public officials must act in accordance with the strictest impartiality. For example, state authorities charged with organising official events must ensure equality of treatment for political parties and candidates.

The manual interprets Chilean law to mean that state employees cannot support political candidates in an official capacity, which would include promoting or participating in campaigns. This means that, during working hours, municipal officials cannot attend campaign meetings, they are forbidden from associating the activity of their state agency with a political campaign and they are prohibited from intimidating or coercing other employees for political purposes.

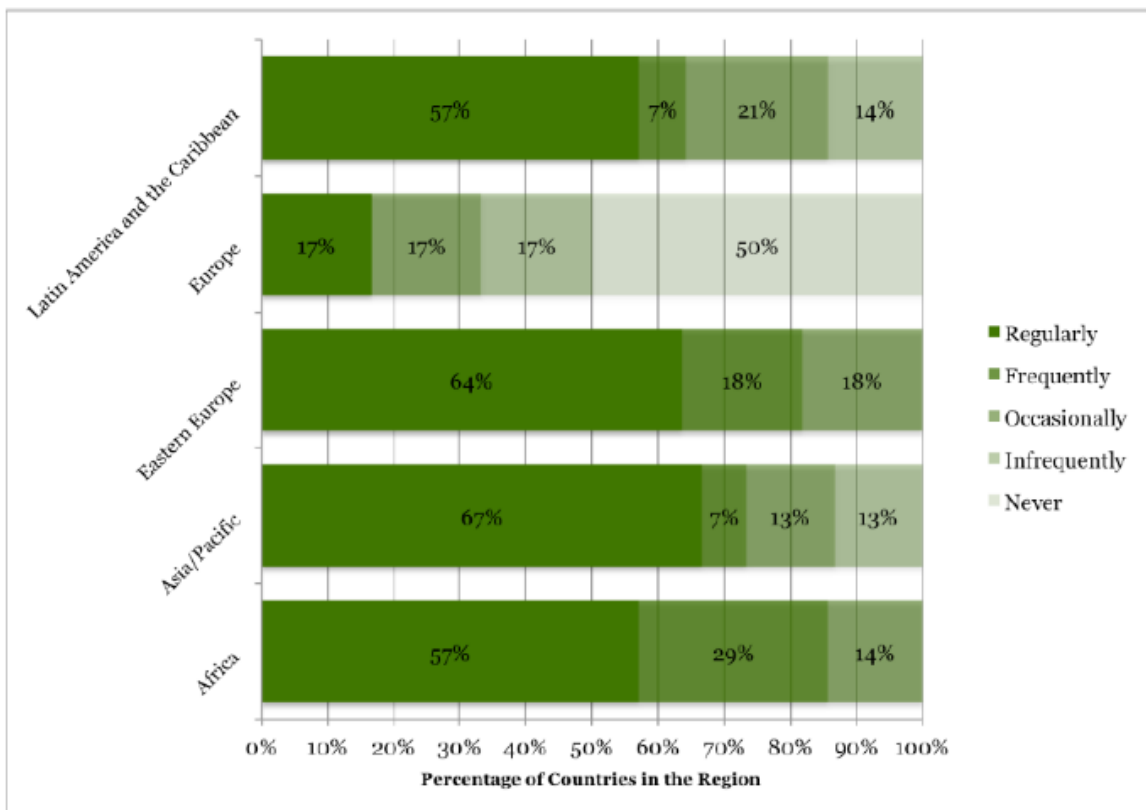
Finally, special rules govern the employment of staff in the electoral service. They are forbidden from membership of political parties or participation in

party political activities in favour of any candidate (campaign meetings, demonstrations, assemblies).

While anecdotal evidence implies that, in practice, state resources are occasionally employed in favour of certain political parties, documented evidence is rare. Where allegations do surface, the press is seen to be vigorous in publishing any accusations of electoral interventionism by public employees before and during electoral periods.

Finally, the supreme audit institution is considered a relatively effective oversight body, and circulates clear instructions on how state resources are to be used, as well as publishing legal opinions, audit results and the findings of investigations into alleged abuses (Global Integrity 2014c).

Percentage of countries per region in which non-financial state resources are abused



Source: Global Integrity. 2014. *The Money, Politics, and Transparency Campaign Finance Indicators*.

4 FURTHER READING

Ritchie, M and Shein, E. 2017. *Unfair Advantage: The Abuse of State Resources in Elections*. IFES, Washington DC.

<http://www.ifes.org/publications/unfair-advantage-abuse-state-resources-elections>

Essential reading on the topic of the abuse of state resources for electoral advantage, this authoritative, up-to-date study is based on a review of the legal and regulatory frameworks from a range of countries and an evaluation of relevant international standards.

Based on this assessment, the authors identify best practice legal restrictions in three specific areas: 1) state personnel; 2) official government communications to the public; and 3) the use of state funds and physical assets. As such, in terms of Ohman's typology, the paper limits itself to analysing abuses of the state's financial and institutional resources, rather than including regulatory and enforcement resources.

The study also covers suitable oversight institutions and sanctions for non-compliance with such restrictions, as well as the necessary elements of a legal framework drawn from international best practice and indicators of effectiveness of the integrity system to prevent abuse of state resources.

Crucially, this paper provides a wealth of examples from various countries³ where state interventions have achieved some success in preventing and/or addressing the abuse of state resources within their respective legal and regulatory frameworks.

This study constitutes the first part of a two-phase IFES project aimed at developing a globally comparative evaluation methodology of the laws and regulations that address the abuse of state resources and the effectiveness of these provisions in deterring or remedying these abuses. Ultimately, the objective is to produce specific recommendations for reforming or designing effective frameworks and enforcement mechanisms to prevent the abuse of state resources.

³ Including an in-depth analysis of Brazil, Georgia, and Sri Lanka; and illustrative examples from Ukraine, Mozambique, Nigeria, Kenya, Mongolia, Uganda and Belarus.

The Venice Commission and the OSCE Office for Democratic Institutions and Human Rights. 2016. *Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources During Electoral Processes*. Council of Europe, Strasbourg.

<http://www.osce.org/odihr/elections/227506?download=true>

These guidelines are aimed at assisting national lawmakers and other authorities in adopting laws and initiating concrete measures to prevent and act against the misuse of administrative resources during electoral processes. They are not intended as a set of hard rules. Some of the elements in the guidelines may require a formal constitutional or legislative basis in national orders, while other elements can be achieved through codes of ethics or public/civil service codes of practice and interpretation of national legislation by competent courts.

After a consideration of the applicable fundamental principles (rule of law, political freedoms, impartiality, neutrality and transparency), the guidelines then deal with the ways to prevent and sanction the misuse of administrative resources during electoral processes, first by suggesting improvements to the electoral or general legal framework, and then by suggesting concrete remedies and sanctions.

See also:

- Venice Commission, [Code of Good Practice in Electoral Matters](#)
- Venice Commission, [Code of Good Practice in the Field of Political Parties](#)
- OSCE, Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and Venice Commission, [Guidelines on Political Party Regulation](#)
- OSCE/ODIHR, [Handbook for the Observation of Campaign Finance](#)
- OSCE/ODIHR, [Review of Electoral Legislation and Practice in OSCE Participating States](#)

Ohman, M. 2016. *Regulating against Abuse of State Resources in Eastern Europe, Recent Innovative Approaches*. IFES, Washington DC.

<http://www.moneyinpolitics2016.sao.ge/files/Regulating-against-abuse.pdf>

This brief paper explores regulations against abuse of state resources, highlighting in particular some innovative approaches from Montenegro and FYR Macedonia, which have made legislative changes to their electoral law.

Helle, Svein-Erik and Rakner, Lise. 2014. "Grabbing" an Election: Abuse of State Resources in the 2011 Elections in Uganda, in Tina Søreide and Aled Williams (eds) *Corruption, Grabbing and Development: Real World Challenges*. Edward Elgar Publishing, Cheltenham and Northampton.

www.cmi.no/publications/file/5094-grabbing-an-election.pdf

This article discusses the use of public (state) resources in election campaigns for the ruling party, focusing on the 2011 elections in Uganda. The authors argue that the practice not only affected electoral accountability through tilting the electoral playing field in favour of the ruling party, but also that it affected financial stability and contributed to rising inflation and subsequent unrest. Their analysis of the role of money in Ugandan electoral politics suggests that this form of grabbing is detrimental to development because it creates an uneven electoral playing field, distorts the true reflection of the people's will, and undermines the purpose of holding elections.

Ohman, M. 2013. *Political Finance Oversight Handbook*. IFES, Washington DC.

<http://www.ifes.org/publications/tide-political-finance-oversight-handbook>

IFES' Political Finance Oversight Handbook is the product of extensive research and fieldwork by leading political finance experts and practitioners and represents a comprehensive effort to consolidate the experience and knowledge currently available. This latest edition includes a new section about how to counteract the abuse of state (administrative) resources, referring to best practice examples from countries around the world.

Part three provides a useful background to the abuse of state resources, means of regulating such abuses cites examples from national legislation,⁴ and how to

overcome the "implementation gap" on provisions around the misuse of public resources. Finally, it includes a list of "100 ways to abuse state resources" across the four categories of state resources: institutional, financial, regulatory and enforcement.

European Commission for Democracy Through Law (Venice Commission). 2013. *Report on the Misuse of Administrative Resources During Electoral Processes*. Council of Europe, Strasbourg.

[www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2013\)033-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2013)033-e)

This report aims at answering two questions: 1) what are the inherent weaknesses in legislation and in practice in the member states that lead to misuse of administrative resources during electoral processes? 2) How to address this problem in law and in practice?

To answer these questions, part three of the report focuses on the legal environment and the practice in member states, making reference to other countries for the purpose of comparison. Part four then elaborates on the distinction between legitimate or illegitimate use of administrative resources during electoral processes. Finally, the fifth part of the report suggests recommendations to prevent the misuse of administrative resources and limit the phenomenon. These recommendations went on to be formally adopted in the [joint guidelines for preventing and responding to the misuse of administrative resources during electoral processes](#).

Speck, B and Fontana, A. 2011. *Milking the System: Fighting the Abuse of Public Resources for Re-Election*. U4 Issue (2011: 7). U4 Anti-Corruption Resource Centre, Bergen.

<http://www.u4.no/publications/milking-the-system-fighting-the-abuse-of-public-resources-for-re-election/>

This U4 issue proposes a framework that identifies how state resources are abused, assesses the costs associated with this abuse, and develops interventions based on identified priorities. The authors find that, while the financial implications might be low compared to other forms of political corruption, the abuse of state resources for elections

⁴ It covers Slovakia, Malawi, Poland, Cambodia, Czech Republic, Croatia, Slovenia, FYR Macedonia, Moldova, Kazakhstan,

Philippines, Afghanistan, Lebanon, Timor Leste, Uganda and Egypt.

can entail “serious, long-lasting impact on the fairness of democratic representation”.

The paper then proposes an integrated approach to tackling the issue, looking at both the demand side (politicians abusing these assets) and the supply side (the public administration system that supplies such resources). Proposals include restraining unilateral abuse of public resources, consolidating standards of political neutrality, regulating media access and government spending on communication, banning members of civil service from campaign finance, improving access to government services to fight vote buying, regulating corporate donations and balancing donor agendas.

Ohman, M. 2011. *Abuse of State Resources: A Brief Introduction to What It is, How to Regulate against It and How to Implement Such Resources*. IFES, Washington DC.

<http://www.ifes.org/publications/abuse-state-resources-brief-introduction-what-it-how-regulate-against-it-and-how>

This brief paper deals with three separate but closely related issues: how to understand state/administrative resources and the ways they can be abused; how to regulate the (ab)use of state resources in political and electoral affairs, and how to implement or enforce such regulations.

Ohman presents 14 ways to tackle the abuse of state resources through legislation, and discusses problems related to the implementation of these measures. Finally, he proposes ways to address these challenges, like building political will in election management bodies to fulfilling their mandate and asserting their political independence, the establishment of an electoral sanction regime distinct from the judiciary, and building public support for attempts to eradicate the abuse of state resources.

European Commission for Democracy Through Law (Venice Commission). 2011. *The Use of Administrative Resources During Electoral Campaigns Revised Comparative Table*. Council of Europe, Strasbourg.

[http://www.venice.coe.int/webforms/documents/?pdf=CDL-REF\(2012\)025rev-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2012)025rev-e)

This is a comparative table on the (mis)use of administrative resources during electoral campaigns,

analysing electoral laws in Council of Europe countries.

Open Society Institute. 2005. *Monitoring Election Campaign Finance: A Handbook for NGOs*. Central European University Press, Budapest.

<https://www.opensocietyfoundations.org/reports/monitoring-election-campaign-finance-handbook-ngos>

This handbook provides a collection of good practices and tools, organised in the form of practical guidelines and discussions of key concepts, to assist NGOs in designing and carrying out effective campaign finance monitoring and reform programmes tailored to the needs of their own countries.

Moving beyond earlier efforts in this field, which focus on campaign income and donations to parties and candidates, the handbook also addresses the use or abuse of public resources by governing parties in electoral campaigns. In particular, chapter 5 defines the abuse of administrative resources, assessing the financial impact and the risk of state capture involved. Chapter 6 then follows up with concrete suggestions about how to monitor the misuse of state resources. Chapter 7 concludes by discussing how to use these findings as a basis for advocacy activities.

Transparency International resources

Wheatland, B. 2015. *Best Practice for Electoral Campaigns*. Transparency International, Berlin.

https://www.transparency.org/whatwedo/answer/best_practice_for_electoral_campaigns

This Helpdesk answer provides an overview of corruption risks in terms of: (a) abuse of election mechanisms and (b) abuse of state resources. Five possible means of abusing state resources are discussed: using state services to buy votes, using government infrastructure, abusing the civil service, extorting the private sector and the manipulation of state media. It then surveys methods to tackle such risks such as the legal framework, election management bodies, codes of conduct, voter registration, election observation, equal access to the media and complaints mechanisms. Throughout, the query provides best practices from various countries.

Bosso, F, Martini, M and Albisu Ardigó, I. 2014. *Topic Guide on Political Corruption*, Transparency International, Berlin.

http://www.transparency.org/whatwedo/answer/political_corruption_topic_guide

This topic guide presents an overview of political corruption, looking in particular at political finance, elections and undue influence on decision making. The section on elections discusses best practices and relevant literature related to the abuse of state resources.

Martini, M. 2013. *Electoral Campaign Reporting Rules and The Role of Supervisory Bodies*. Transparency International, Berlin.

http://www.transparency.org/whatwedo/answer/electoral_campaign_reporting_rules_and_the_role_of_supervisory_bodies

Reporting and disclosure requirements are instrumental to ensure fairness and to avoid undue influence in the political process. Political parties and candidates should therefore regularly report on donations received and expenditures during electoral campaigns. To guarantee the effective implementation of the law, independent and well-resourced supervisory bodies with investigative powers should be established. These bodies should be able to proactively conduct investigations throughout and after the elections to ensure political parties and candidates follow campaign finance rules.

Ninua, T. 2012. *Abuse of State Resources for Political Gain*. Transparency International, Berlin. Available on request.

Ninua considers the various ways in which officials can misuse their power for electoral advantage and references international standards on how to prevent the abuse of state resources. The author also discusses the manipulation of media and communications channels through hidden advertising and indirect campaigning. In addition, she provides an overview of possible policy responses to the problem of abuse of state resources in a number of arenas (the electoral sphere, public administration, political parties, the media and civil society).

Martini, M. 2012. *Election Management Bodies and their Composition*. Transparency International, Berlin.

http://www.transparency.org/whatwedo/answer/election_management_bodies_and_their_composition

This paper discusses election management bodies and the various forms and characteristics that they can take. Election management bodies may be institutions which are fully independent from the executive government and composed of experts and/or partisan members, or governmental institutions which are part of the executive (for example, the Ministry of Interior). Election management bodies can also be a combination of the two systems.

It finds that the integrity and impartiality of these bodies does not rely heavily on the composition of the body but rather on how procedures are set and decisions are made. Irrespective of the model adopted, it is essential that electoral management bodies function according to the principles of transparency, accountability, professionalism and efficiency.

Martini, M. 2012. *Political Party Accountability: Intra-Party Democracy, Funding and Minimum Standards For Candidates*. Transparency International, Berlin.

http://www.transparency.org/whatwedo/answer/political_party_accountability_intra_party_democracy_funding_and_minimal_st

Intra-party democracy typically relates to how party candidates and leaders are selected, as well as how the party defines its programme and policy positions – with issues of inclusiveness, centralisation and institutionalisation at the core of the concerns. In many countries, such matters must conform to specific party laws. In others, parties decide upon their internal democracy without any influence from the state. Best practices have pointed to a certain degree of external regulation to ensure that political parties “practice what they preach”.

With regard to political party financing, although there is no single “best practice” model, there is a broad consensus that countries should seek to regulate public and private funding, establish a ceiling on expenditures, limit contributions, as well as ensure high levels of transparency. It is also key to have an

independent oversight institution to implement and enforce the legislation. In terms of minimum requirements for candidates, in addition to age, citizenship and a certain level of educational qualifications, which are often conditions for eligibility, countries should seek to exclude individuals convicted for corruption or other electoral crimes or contraventions from running for public office.

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