



# MASKING

DISCUSSION PAPER ON THE INTEGRITY OF POLITICAL PARTIES







# UNIMASKING POLITICAL HYPOCRISY IN KOSOVO

DISCUSSION PAPER ON THE INTEGRITY OF POLITICAL PARTIES

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#### **ABSTRACT**

In Kosovo, political parties are criticized for lacking integrity – not holding themselves to consistent moral standards and failing to represent public interest. In practice, parties are inclined to act on their own best interest, often contrary to those of the public. They are perceived as agents of creating certain privileges for their close-knit supporters. How self-centered are political parties is perhaps the source of all integrity problems in the country. So long as citizens have no information and cannot ensure otherwise that parties are

acting on their behalf! This paper tries to explain how political parties are impenetrable and irresponsible institutions and how they ought to reform. It does so based on literature review and a number of research sources – the last one being the Global Corruption Barometer (GCB) survey launched by Transparency International (TI) in November 2016.

**Key words:** accountability, competition, funding, integrity, political parties, resources, transparency



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#### INTRODUCTION

The current debate on corruption and how best to fight it calls on political parties to join the cause. It makes no sense for political parties to demand and promise anti-corruption reform without first improving their own. When it comes to integrity ranking, parties do worse than the executive, legislative and judiciary institutions, a finding stated in the study of the National Integrity System (NIS) published in October 2015. It concludes by stating that political parties are not transparent and accountable towards the public and other institutions.

Political corruption in Kosovo continues to hurt the integrity of political parties and thus it is distorting electoral representation. Parties are seen as power agents who extort bribes, influence the justice system, and misuse public resources at the cost of public interest. But the questions is how willing are political parties to change course? Can they initiate serious reform and champion anti-corruption efforts? If yes, from where does it start? This paper argues that it must start with political parties.

Now is the time to unveil the political hypocrisy. Elections are coming and a number of political parties have already changed their leaders. This is where reform can be initiated by holding politicians accountable to their word. Integrity Pledge is an important document that will serve the reform agenda (Appendix 2). It tries to encompass all integrity issues by turning them into solutions and promises. It puts attention on practices of internal democracy, financial transparency and institutional governance, all of which constitute the structure of this paper.

It is certain that demand for political reform is not an easy task. It is a long-term goal that will require greater involvement of civil society to demand that political parties are turned into resourceful, transparent and accountable agents. Integrity Pledge is a symbolic tool that will be used to frame integrity as a priority on the political map yet provide civil society with a strong weapon against those which are perceived to have breached the pledge. It will ideally add positive pressure and trigger competition between political parties.

Political reform will ultimately require both legal and social-behavioral change, some of which gets addressed in the paper. The current legislation is too broad in regulating many of the integrity gaps pertaining to intra-party democracy and auditing of political parties. But laws are not of great importance if parties do not put their act together and reform within. Current laws and rules are disregarded, if not breached in practice. Hence, it is as important to concentrate on attitudinal and behavioral side of change – for political parties to embrace internal reform to their long-term benefit.

#### **POLITICAL IMPORTANCE**

Kosovo's entry into the EU¹ highly depends on the political criteria, and thus, the integrity of political parties and their initiative to reform. Take for instance Greece, Portugal and Spain in the 1980s. It was not the "economies but the polities of the Member States" which determined their entry into EU. There, as in many other post-communist countries, political parties have proven to be the main agents for political and institutional reform.² Kosovo will soon follow suit and the conditions to how and when it will join EU will largely depend on the internal developments of political parties.

#### **TI'S INTEREST**

Transparency International (TI) is of the idea that by regulating and exposing flows of money in and out of political parties, citizens can expect fairer, a more transparent and accountable political system. TI helps its Chapter Partners in Western Balkans to carryout targeted advocacy, with the aim of reforming regulations and improving the enforcement of the legal framework. Through these reforms, TI hopes to see the political classes become more transparent and accountable, strengthening the legitimacy and credibility of the democratic institutions in the region.

<sup>1</sup> Gaffney, John. Editor. Political Parties and the European Union. Routledge. 1996, p. 1.

<sup>2</sup> Lewis, Paul G. Political Parties in Post-Communist Eastern Europe. Routledge. 2000, p. xi.

#### RESEARCH METHOD

KDI's research method is comprised of (i) a research baseline put together in the last four years in 2012-2016, and (ii) follow-up research activities through interviews with experts and officials in the field with the aim of validating and understanding more closely integrity problems and solutions to those problems.

resembles a metaphorical domino logic, which says that if political parties lack integrity, institutions which they govern (i.e. executive) and try to influence (i.e. judicial) will follow suit.

tions. That is a trait which they propagate in three branches

of power (legislative, executive, and judicial). This linkage

#### **RESEARCH BASELINE**

#### **Political Party Financing (2013)**

KDI has published a study on political party financing in June 2013. It is an overview of financial activities of political parties spent during elections in 2010. KDI has conducted a thorough review of legislation pertaining to transparency of political parties and to what extent has been followed in practice. Information gathered during the research have been used to create a Transparency Index on Financing of Political Parties.

Its findings indicate that there is a large gap been between what the laws say and what is enforced in practice. Main problems or deficiencies indexed in the study include: (a) lack of transparency in terms of political parties making public their financial information, and (b) reports of political parties submitted to CEC are not trusted and are perceived as not being accurate. It has been three years since KDI could not do a similar study on political party financing. It is due to lack of access to financial information of political parties.

#### **National Integrity System (2015)**

KDI has already conducted a short analysis of political parties as part of a broader research study of the National Integrity System (NIS) published in late 2015. NIS findings indicate that political parties are the root cause to all integrity problems in Kosovo. From the NIS point of view, political parties are not competent, transparent, and accountable in representing public interest.

KDI takes a step further in this paper to justify in greater depth why the NIS hypothesis holds true. It argues that political parties to a great extent are dishonest and undemocratic instituIn addition to qualitative data obtained from interviews, KDI has also initiated a number of field tests to measure the transparency of public institutions. CEC has been ranked the lowest in terms of transparency. This institution is highly politicized for having members in the decision board who are appointed directly by political parties. Finally, according to the logical premise of NIS, if parties have their hands on any institution, it is less likely that those institutions will perform well and become more transparent and accountable.

#### **FOLLOW-UP RESEARCH**

#### **Interviews and Sources**

This paper heavily relies on input derived from a number of interviews with experts and officials and data obtained from local and international sources framed according to the questionnaire designed by Transparency International (TI). For the purposes of referring to more evidence-based sources, KDI consulted a narrow number of experts and officials involved in election work and party development. For purposes of objectivity, no officials from political parties were interviewed. Interviews were framed in a particular format with the aim of why there is a rise of public discontent with public institutions and how that fits in with political parties.

This year around, KDI tried to understand in greater depth the main issues concerning the integrity of political parties. Main questions asked during the course of the research were the following: (1) how much political parties depend on private and public funding, (2) why political parties are not open in terms of their financial and administrative activities, and (3) why political parties are not accountable to their members and constituents. The approach to how these questions and follow-up sub-questions have been asked consisted of a legal analysis of the current legislation and in-depth evaluation to what extent the laws are implemented in practice.

#### **Corruption Barometer**

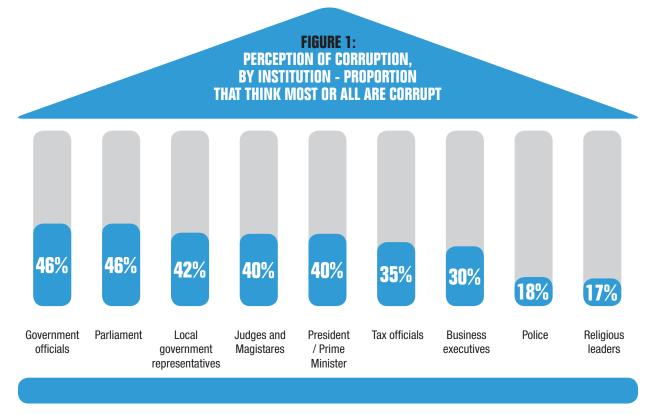
Transparency International (TI) has launched a survey the Global Corruption Barometer. TI spoke to nearly 60,000 citizens across 42 countries in Europe and Central Asia on the current state of public sector. The survey has been conducted face to face using a computer-assisted personal interviewing (CAP) approach from December 2015 to March 2016. The sample was distributed across the regions of the country proportionate to the size of population. Respondents were selected at random from all adult members of their household. The sample is weighted to be nationally representative. Every effort has been made to provide accurate information.

In Kosovo, the sample size was 1,500 respondents of age 18 years old and older covering urban and rural areas. Kosovo scores the highest when it comes to thinking that corruption is as one of the top problems facing the country. Spain and Moldova falls under the same category in rating corruption as one of the three biggest problems in their country from a list of other issues, ranging from the economy, unemployment, and crime to immigration, health and education. To that effect,

two thirds of citizens in those countries think that corruption should be a priority for the government to address (from 65 to 67 percent out of 100 percent).

But how willing is the government to treat corruption as a priority is farfetched. GCB also points to the corruption perception by institution. Accordingly, the perception of corruption is the lowest for government and parliament institutions. The figure below shows that the proportion of respondents who think most or all government officials and members of the parliament are corrupt reaches 46 percent. High levels of mistrust can be linked to the increasingly negative influence of political parties on institutions which they represent.

Lack of integrity in political parties breeds corruption and it can adversely impact trust in public institutions. The GCB data cannot certainly justify this link since it is focused more on public institutions, and political parties are not part of the survey. But through the use of this data as evidence in a coherent argument of the paper's position, KDI will give its work the best possible chances of having an impact in the policy debate. GCB shall be viewed more as a parameter for political parties to publically recognize and endorse reform.



Base. All responders

#### **LEGAL FRAMEWORK**

The current legislation is broad in terms of regulating the functioning of political parties. The constitution and electoral laws give a general discretion for the implementation of the rules and regulations. The constitution guarantees the right to establish an association (Article 44) and the right of every citizen who has reached age 18 to elect and to be elected (Article 45).

Main laws which regulate political parties are the Law on General and Local Elections and the Law on Financing Political Parties. However, in these laws, certain provisions are missing in regulating internal governance and financial transparency which could potentially be tackled through a comprehensive legal reform. For more details on which specific provisions to be changed, refer to text in the following subsections.

The Law on General Elections sets the responsibilities and functioning of the Central Election Commission. CEC holds responsible the Office of Political Party Registration and Certification ("the Office") for maintaining the registry of political parties, campaign spending limits, and financial disclosure. The Law on Financing Political Parties regulates the manner, conditions of funding, administration and observation, incoming report of political party and also foresees gained transparency and reporting expenditure.



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<sup>3</sup> Official Gazzette. Law No. 03/L-73 on General Elections in the Republic of Kosovo. June 15, 2008. Article 1, p. 1.

<sup>4</sup> Official Gazzette. Law No. 03/L-73 on General Elections in the Republic of Kosovo. June 15, 2008. Article 11, p. 9

<sup>5</sup> Official Gazzette. Law No. 03/L-174 on Financing Political Parties. October 21, 2010. Article 1, p. 1.

#### INTERNAL DEMOCRACY

Internal functioning of political parties is not well regulated by the Law. In particular, the legislation is broad in regulating internal election procedures of selecting party candidates and leaders. It defines basic requirements which parties have to meet, and it gives them a lot of discretion to decide their own internal regulations and statutes which set the tone of the importance of internal democracy. But overall they do not include voluntary quotas at all levels to ensure equal opportunities for women and youth.

Internal procedure modalities vary among different political parties in terms of statutes. In particular, they refer to intra-party democratic procedures for selecting leaders and some organizational elements. However, it is not the purpose of this paper to present the differences and similarities between them. It is safe to conclude in general that political parties in the country are very exclusive for a number of reasons: (i) they offer little space for members to contribute in decision-making, and (ii) they promote limited internal competition.

In Kosovo, parties are relatively more focused on electoral success rather than internal procedures. That is why they do not operate as permanent and professional institutions. They are dormant except during election season. Self-Determination Movement is an exception since it is relatively more proactive in opposition to the current government, and it has a dense network of local groups that are highly active.

It hurts political parties if they concentrate only on electoral outcomes while ignoring internal democratic developments. Take internal conflicts resolutions and how ineffective they have been in punishing and expelling party members who have damaged the image of the party. There are a number of current and former mayors who have been indicted for corruption and other criminal charges and yet they have not been punished or expelled from the membership of political parties.

International organizations have tried to help bolster reform but it was difficult to sustain it since political parties did not feel a sense of ownership and buy-in. National Democratic Institute (NDI) and the Organization for Security and Cooperation in Europe (OSCE) have been key players in this process. NDI has helped political parties with organizational development, enhancing competition in elections, and supporting them participate in policymaking. Other organizations which have

helped political parties develop include Konrad Adenauer Stiftung (KAS) and Friedrich Ebert Stiftung (FES).

#### **MEMBERSHIP BASE**

Parties fall short in giving members opportunities to help shape and develop programs. It is not a system designed based on models of checks and balances. Members are rarely involved in decision-making. For instance, electoral platforms come more as served from experts without consulting with members who feel that they are being trumped. They do not organize frequent membership meetings and outreach activities to try to integrate new members. Political conventions are recognized as more important and high-stake meetings where parties get to nominate their candidates to run for elections.

From a legal perspective, it is a procedural rule which requires that registered parties present a date of their last convention to the Election Commission. But to what extent is membership involved is more of a rhetorical question. Beyond a legal requirement, parties do not see any benefit to reaching out to their members, in particular local structures which are closer to constituents. Senior leaders from the upper party hierarchy rarely participate in local community meetings. This happens because senior party leaders are engaged in numerous activities as members of government institutions.

It has been a typical approach, usually prior to elections, for political parties to recruit civil society and media activists who are publically recognized, more for visibility purposes and attracting public attention. How reforming and refreshing have these transformations been is still questionable. But many critics think that party leadership offers little room for contribution from outside. In addition, bringing new members to the club and giving them more attention threatens the old members who think that they are being unfairly treated.

<sup>6</sup> Gjeli, Drita. Independent Expert. Interview. August, 24, 2016.

<sup>7</sup> Central Election Commission (CEC). Conventions of Political Parties. [Accessed on November 15, 2016].

#### **LIMITED COMPETITION**

The transition from a post-socialist and single-party system did not lead to a "genuine democratic and pluralist political life.8" Main characteristic of a single-party system as defined by Hofmeister and Grabow is "oppression of political competition and democratic freedom."9 In Kosovo, it has been a challenge for political parties in the last fifteen years to recognize and approve of practices of intra-party competition and democracy. Kosovar Institute for Public and Research Development sums the main reason behind, that leaders have not shown any desire for reform.<sup>10</sup>

In general, political parties are over centralized. The executive committee is the ultimate authorities to make decisions which are usually accepted at all levels of the party. Committees are very close to the party leaders since party leaders get to appoint the members of the Committee. This makes it impos-

8 Kosovar Institute for Policy Research and Development (KIPRED). Electoral and Party System in Kosovo. 2015, p. 29

sible to remove strong leaders or have new leaders compete for that matter. There have been changes in leadership in the past four years. But these changes seem marginal and short-term and do not result to concrete reforms.

The process of electing leaders is usually conducted through acclamation, an election process administered through an open expression of approval for a particular candidate. This form of election practiced in many modern democracies. But how and in which context is acclamation used makes a difference. In the case of Kosovo, this process is undemocratic - more so amongst governing political parties. Both coalition parties acclaim their only one leader without having any other choice. Primaries are not organized which would have potentially narrowed the field of candidates be-

Basic legal provisions exist but more can be changed in requiring from political parties to abide by the internal democratic procedures. The current impediments to internal democracy stem from dominant leadership and unhealthy competition. Political parties should concentrate both on the election outcomes and internal transformation which ultimately requires that their decision-making is much more inclusive in giving increased opportunities for selecting new leaders.



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<sup>9</sup> Hofmeister, Wilhelm & Karsten Grabow. Political Parties. Konrad Adenauer

<sup>10</sup> Kosovar Institute for Policy Research and Development (KIPRED). Electoral and Party System in Kosovo. 2015, p. 37.

#### FINANCIAL RESOURCES

The autonomy of political parties from the state and corporate entities is an important measure of institutional strength. The growing dependence on state support shows how fragile political parties are in practice. The presence of corporate community that acts as a 'sponsor' to the party is also a negative indicator especially if not transparent. It is difficult to draw a reliable analysis of the difference between the state funding and other contributions because not everything gets reported, in particular when it comes to in-kind contributions and private funding.

The question whether state versus individual contributions is better or worse is a topic for different discussion paper. CEC plays an important role in prohibiting interferences in such circumstances. But there is an important setback in this regard. CEC is by law a political institution comprised of members representing political parties. In addition, it lacks human and financial resources to ensure financial compliance of political parties. It makes it easy for parties to gain a significant and non-democratic grip of public power, "acting as agencies of the state and degenerating into self-perpetual oligarchies." 11

The Law on Financing Political Parties regulates the manner, conditions of funding, administration and observation, incoming report of political party and also foresees gained transparency and reporting expenditure. <sup>12</sup> Financial and material resources of political parties are subject to state financial support, membership fees and individual contributions. <sup>13</sup>

#### **MEMBERSHIP FEES**

The membership base and its strength in forming internal decision-making is an important element in party development. However, parties in Kosovo do not have a large and loyal membership. Elitism and top-down structuring of political parties sets the limits to broadening the membership. It is the political elite who set the reins on political parties. Unimportant role of the

membership combined with dominant influence exerted by party leaders undermine the strength of political parties and hurt the electorate base. <sup>15</sup>

If analyzing the financial reports of 2011 and 2012, membership fees comprise of not more than one percentage of the total budget per each reporting year. <sup>16</sup> These are financial reports filed to the Election Commission and are accessible online. It seems that membership is not perceived as an important dynamic in the country. Dues are not always paid, for instance, and failure to do so does not necessarily lead to a removal of a member from the party. This has also been typical in many post-communist countries in Eastern Europe. <sup>17</sup>

KDI has tried to obtain data on membership from four leading political parties. However, it did not receive any response. According to a local election expert from the International Foundation for Electoral Systems (IFES), YII Buleshkaj, parties do not pay attention to their membership database of who is a registered member and who has interest to become a member. <sup>18</sup> The database would serve as powerful tool for fundraising and election campaigning purposes. In fact, it is something that is required by the Election Commission in creating and maintaining a membership registry.

#### **STATE SUPPORT**

It is important to analyze relations of political parties with the state and their growing dependence on state resources for survival. The state funding quota has doubled since 2012. Previously, it was required that the state spends not more than 0.17 percent of its budget in funding political entities. <sup>19</sup> Today that quota has reached 0.34 percent of the state budget. <sup>20</sup> Funding is allocated according to the number of seats in the Assembly. It is used for financing pre-election and election activities, working groups of

<sup>11</sup> Pope, Jeremy. Confronting Corruption: The Elements of a National Integrity System. Tl. 2000, p. 50.

<sup>12</sup> Official Gazzette. Law No. 03/L-174 on Financing Political Parties. October 21, 2010. Article 1, p. 1.

<sup>13</sup> Official Gazzette. Law No. 03/L-174 on Financing Political Parties. October 21, 2010. Article 4, p. 2.

<sup>14</sup> Lewis, Paul G. Political Parties in Post-Communist Eastern Europe. Routledge. 2000, p. 95

<sup>15</sup> Lewis, Paul G. Political Parties in Post-Communist Eastern Europe. Routledge. 2000, p. 95

<sup>16</sup> Central Election Commission. Financial and Audited Reports. [Accessed on October 30, 2016].

<sup>17</sup> Lewis, Paul G. Political Parties in Post-Communist Eastern Europe. Routledge. 2000, p.

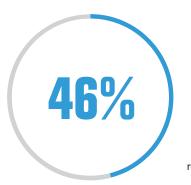
<sup>18</sup> Buleshkaj, YII. IFES. Interview. October 14, 2016.

<sup>19</sup> Official Gazzette. Law No. 03/L-174 on Financing Political Parties. October 21, 2010. Article 7, p. 3

<sup>20</sup> Official Gazzette. Law No. 04/L-058 on Amending and Supplementing the Law No. 03/L-174 on Financing Political Parties. January 2012. Article 2, p. 1.

the Assembly and regular activities of political entities. <sup>21</sup> In 2015, the state funded political parties with the amount of 4,200,000 Euros in total. <sup>22</sup> As far as campaign spending, the state is required to allocate not more than 0.05 percent of the public budget for both regular and extraordinary elections. <sup>23</sup> CEC defines "the maximum campaign expenditures based on the total number of voters registered in the voters list at the time of the last update of the voters list available to the CEC." <sup>24</sup> The funding limit set by CEC, in line with the Law on General and Local Elections and Regulation Nr. 12/2013, comes to 50 cents per voter in municipalities. The total campaign funding from the state for the local elections in 2013 came to 886,860 Euros. <sup>25</sup> For the national elections in 2014, the total amount was 893,463 Euros. <sup>26</sup>

#### FIGURE 2: PROPOTIONAL WHO AGREES THA "FINANCIAL SUPPORT BY COMPANIES TO POLITICAL PARTIES AND CANDIDATES SHOULD BE BANNED COMPLETELY".



Base. All responders

#### **INDIVIDUAL CONTRIBUTIONS**

Political parties are also subject to individual contributions. Limits to annual contributions are set through two channels (i) for natural persons of the amount not exceeding 2,000 Euros, and (ii) for legal entities of the amount not exceeding 10,000 Euros.<sup>27</sup> It is required by Law that these sources are verified by a competent authority. If the source origin cannot be verified, the amount will remain in the state budget.<sup>28</sup> Non-profit organizations are strictly prohibited to support political parties according to the Law on Freedom of Association in Non-governmental Organizations (NGOs).<sup>29</sup>

The most controversial source of funding of political parties are individual contributions (donations) for either exceeding their limitations or not being illegally financed. According to the Global Corruption Barometer (GCB), 46 percent of respondents agreed that financial support by companies to political parties and candidates should be banned. See Figure 2 below.

Parties receive a lot of funding that does not get reported and this is very risky since specific interest groups can exert influence on political parties in contradiction with the basic principles of democracy. That is why extra bans on financial assistance have been applied to the new Law on Financing Political Parties. They include companies who are in contractual relations with public institutions or have been for the last three years, NGOs, charitable organizations, religious organizations, trade unions, and so forth.

Corruption in political financing not only undermines a country's democratic processes and its economy, but those of the entire European Union (EU).

#### **Transparency International (TI)**

In fragile democracies political parties tend to thrive on illicit funding. Inadequate political financing laws can lead to severe corruption risks. There is no institution in charge of verifying the sources and holding parties accountable. CEC is not authorized to verify the accuracy of expenses which parties incur during and after elections. Therefore, there are weak controls in regulating funding and lobbying activities of parties since the Office lacks legal and human resources to do its job.

The audit reports of 2011-2012 show that political parties violate the laws while fines imposed by the Election Commission are not high. Besnik Boletini from COHU refers to funding coming from abroad, 30 in which case parties are required to return those contributions to the donors. Hence, corruption in party financing distorts the behavior of politicians anywhere in the region. Restrictions have increased in many European countries by setting low. Not only that limits have abated, in many countries corporate donations have entirely banned.31

<sup>21</sup> Official Gazzette. Law No. 03/L-174 on Financing Political Parties. October 21, 2010. Article 10, p. 3

<sup>22</sup> Central Election Commission (CEC). Information Request. November 2, 2016.

<sup>23</sup> Official Gazzette. Law No. 03/L-174 on Financing Political Parties. October

<sup>21, 2010.</sup> Article 10,

<sup>24</sup> Official Gazzette. Law No. 03/L-73 on General Elections in the Republic of Kosovo. June 15, 2008. Article 39, p. 21.

<sup>25</sup> Central Election Commission (CEC). Information Request. November 2, 2016

<sup>26</sup> Central Election Commission (CEC). Information Request. November 2, 2016

<sup>27</sup> Official Gazzette. Law No. 03/L-174 on Financing Political Parties. October 21, 2010. Article 5,

<sup>28</sup> Official Gazzette. Law No. 03/L-174 on Financing Political Parties. October 21, 2010. Article 5, p. 2.

<sup>29</sup> Official Gazzette. Law No. 04/L-057 on Freedom of Association in Non-Governmental Organizations. September 9, 2011. Article 15, p. 7.

<sup>30</sup> Boletini, Besnik. COHUI Interview. August 26, 2016. October 14, 2016.

<sup>31</sup> Transparency International (TI). Money, Politics, Power: Corruption Risks in Europe. Regional Policy Paper #2. 2012, p. 3.

#### INTERNAL GOVERNANCE

The institutional governance of political parties is regulated according to the Law on Elections and the Law on Financing of Political Parties. Current legislation does not cover many legal provision, and it consists of specific loopholes pertaining to transparency and accountability of political parties. More importantly, there is not a unified and specific Law on Political Parties which could address legal inconsistencies. It is left in the discretion of the Central Election Commission (CEC) to set the rules in terms of internal governance.

**PUBLIC TRANSPARENCY** 

Financial statements of political parties are required to be audited annually in accordance with provisions set in the legislation. Parties must submit to the Commission the annual financial reports for the preceding year at the latest by March 1,32 following which the Commission is required to publish them along with the audited reports in its website.33 CEC was in charge of auditing the financial reports until 2013 when that responsibility has shifted to the Public Oversight Committee of the Kosovo Assembly.34 Since then, no audits have been conducted, and to date, no financial reports of political parties have been made available to the public (with the exception of Self-Determination Movement).

The new provisions in the Law on Financing Political Parties requires the Public Oversight Committee to elect independent auditors to conduct an audit of financial and campaign disclosure reports submitted by political parties to CEC.<sup>35</sup> Despite the fact that all reports for the last three years have been submitted, the Committee failed to initiate the auditing of political parties. The European Commission (EC) in its last Progress Report (2015) has called for an audit of political parties.<sup>36</sup> However, parties seem not concerned about this matter for uncertain

reason despite the fact this makes them not reliable and trustworthy towards the public.

Nothing in the Law prevents political parties from publishing their financial reports in their website. In fact, the current legislation requires that they publish and make public their annual financial report and campaign contribution disclosure report in their website. There will be fined with ten percent of the basic amount realized by the state fund in the previous year and a daily fine of 0.01 percent of the amount of the basic fine until the report is presented. Thus far, no penalties have been issued against parties for not making public financial reports in their website.

Nor it prevents the Commission to make them publically available. Its reasoning that financial reports must be initially audited prior to being published is not legitimate. It lacks legal certainty since the laws and regulations do not specifically indicate that reports must be audit stamped in order to be published. Legislation only says that CEC should publish both financial and audit reports of political parties in its official website no later than June 30.<sup>39</sup> KDI did not get a clear response from the Commission to why financial reports of political parties are still kept under a lock and not being shared with the public.

Meanwhile, the public is kept in the dark without any access to the financial information, in particular to the Public Information File (PIF). The File is comprised of key documents, including donor registry and campaign financial reports, 40 which according to legislation, must be available by CEC during regular working hours or through the website. 41 How much funding political parties receive and from whom is an important information for civil society to obtain at any time. The last File published in the website is of the year 2010. 42

<sup>32</sup> Official Gazzette. Law No. 03/L-174 on Financing Political Parties. October 21, 2010. Article 15, p. 4.

<sup>33</sup> Official Gazzette. Law No. 03/L-174 on Financing Political Parties. October 21, 2010. Article 16, p. 5.

<sup>34</sup> Official Gazzette. Law No. 03/L-174 on Financing Political Parties. October 21, 2010. Article 19, p. 6.

<sup>35</sup> Official Gazzette. Law No. 04/L-212 on Amending and Supplementing the Law No. 03/L-174 on Financing Political Parties, Amended and Supplemented by Law L04/L-058. August 2013. Article 19, p. 4.

<sup>36</sup> European Commission (EC). Commission Staff Working Document. Kosovo 2015 Report. Brussels. November 2015, p. 6.

<sup>37</sup> Official Gazzette. Law No. 04/L-212 on Amending and Supplementing the Law No. 03/L-174 on Financing Political Parties, Amended and Supplemented by Law L04/L-058. August 2013. Article 8, p. 3.

<sup>38</sup> Official Gazzette. Law No. 04/L-212 on Amending and Supplementing the Law No. 03/L-174 on Financing Political Parties, Amended and Supplemented by Law L04/L-058. August 2013. Article 21, p. 5.

Official Gazzette. Law No. 04/L-212 on Amending and Supplementing the Law No. 03/L-174 on Financing Political Parties, Amended and Supplemented by Law No. 04/L-058. January 2012. Article 19, p. 5.

<sup>40</sup> Official Gazzette. Law No. 03/L-73 on General Elections in the Republic of Kosovo. June 15, 2008. Article 43, p. 23.

<sup>41</sup> Official Gazzette. Law No. 03/L-73 on General Elections in the Republic of Kosovo. June 15, 2008. Article 43, p. 23.

<sup>42</sup> Central Election Commission. Public Information File. [Accessed on November 5, 2016].

Lack of access to financial information becomes a more serious problem when it comes to campaign expenditure. The use of an external auditor or campaign auditor for auditing financial campaign financial reports is subject to the decision of the CEC, Office of Political Party Registration and Certification ("the Office"). Unfortunately, the Office lacks human and financial resources to conduct investigative audits during campaign season. Many expenditure inconsistencies are revealed by civil society which the Office could not report. They refer to discrepancies between what gets reported by political parties and what gets spent.

The public merits to have full and up-to date access to all financial information of political parties despite the legal inconsistencies in interpretation. It is not likely that financial reports already submitted to the Commission will differ from the final audited reports which get published. Also, it is not that auditors inspect and report in great detail the financial accounts of political parties. External audit reports are too broad and consist of a general opinion of an independent auditor on whether the party's financial statements are free of material misstatements.

This legal inconsistency to whether financial reports must undergo an audit in order to be published must be addressed. KDI is of the opinion that the two reports do not relate with each other when it comes to making financial information of political parties transparent to the public. Meanwhile, the extent to how the auditing process has been delayed is of grave concern and is something that cannot recur in the future. EC in this year's Progress Report (2016) has called for political parties to involve in an institutional debate of how to increase transparency and accountably on party financing and campaign contributions.<sup>44</sup>

No legal provision in the legislation prevents public institutions to audit expenses of political parties. <sup>45</sup> Initiatives to charge the Office of the Auditor General (OAG) with that role have failed in the past. In April 2016, the Public Oversight Committee discussed the policy option of having OAG audit political parties as part of the new Law on OAG. It was ruled out by four votes (out of five) mainly based on legal grounds. <sup>46</sup> OAG according to the constitution can audit only economic activities of public or state institutions but not private entities. <sup>47</sup> This provision ruled out the right to audit political parties which are not state entities, and more importantly, receive private funding from their members/donors.

#### INSTITUTIONAL ACCOUNTABILITY

By law, political parties are held accountable for their actions and decisions by respective public institutions. Institutional accountability refers to reporting mechanisms of political parties to the government and electoral bodies. The Central Election Commission (CEC) is the main regulatory agency responsible for administering elections and controlling the compliance of political parties with the rules relating to party registration and funding. CEC also reports to the Assembly on financial expenses of political parties paid by the state.<sup>48</sup> But it did not do so for the last three years.

CEC holds accountable the Office of Political Party Registration and Certification or the Office to administer the registry of political parties, campaign spending limits and financial disclosures. <sup>49</sup> Main registry requirements include: application form, a code of conduct statement, recent financial reports, dates of the most recent party convention, and names and addresses of at least 500 party members residing in Kosovo. <sup>50</sup> By man critics, these are only rules on paper and of little importance. Breaching them does not result in severe sanctions imposed by the electoral bodies.

The Elections Complaints and Appeals Panel (ECAP) is an independent institution in charge of adjudicating complaints and appeals concerning the electoral process. <sup>51</sup> All electoral violations may be referred to ECAP and political parties must take the responsibility. <sup>52</sup> But the fines which are imposed by ECAP are relatively soft taking into account that they can go up to 50,000 Euros. For the elections in 2014, ECAP has issued fines of the total amount of 86,700 Euros. <sup>53</sup> In this case, it is important to impose firmer sanctions in order to strengthen accountability.

<sup>43</sup> Official Gazzette. Law No. 03/L-73 on General Elections in the Republic of Kosovo. June 15, 2008. Article 41, p. 22.

<sup>44</sup> European Commission (EC). Commission Staff Working Document. Kosovo 2016 Report. Brussels. November 2016, p. 5.

<sup>45</sup> Official Gazzette. Law No. 03/L-73 on General Elections in the Republic of Kosovo. June 15, 2008. Article 41, p. 23.

<sup>46</sup> KDI. Monitoring Report. Oversight Committee on Public Finances. Regular Meeting. April 12, 2016.

<sup>47</sup> The Constitution of the Republic of Kosovo. Article 137, p. 52.

<sup>48</sup> Official Gazzette. Law No. 04/L-058 on Amending and Supplementing the Law No. 03/L-174 on Financing Political Parties. January 2012. Article 6, p. 2.

<sup>49</sup> Official Gazzette. Law No. 03/L-73 on General Elections in the Republic of Kosovo. June 15, 2008. Article 11, p. 9.

<sup>50</sup> Official Gazzette. Law No. 03/L-73 on General Elections in the Republic of Kosovo. June 15, 2008. Article 12, p. 10.

<sup>51</sup> Official Gazzette. Law No. 03/L-256 on Amending and Supplementing the Law No. 03/L-073 on General Elections in the Republic of Kosovo. November 16, 2010. Article 1, p.1

<sup>52</sup> Official Gazzette. Law No. 03/L-73 on General Elections in the Republic of Kosovo. June 15, 2008. Article 46, p. 24.

<sup>53</sup> Election Complaints and Appeals Panel (ECAP). Regulation Nr. 01/2012. Article 2, p. 1.

#### INTEREST REPRESENTATION

Parties tend to disregard their members in the process of designing platforms which shows that political parties are not interested to tackle real problems and do not think in long-term goals. The committees do not reach out to social groups to hear their concerns and promise them that they will be taken care of and represented. These social groups can range from youth and women to unions and specific interest groups. In particular, social groups can strengthen and broaden the membership base.

#### **IDEOLOGICAL LABELS**

Political parties are inclined to layout over-ambitious platforms and make unrealistic promises to their electorate. Their platforms are not based on ideologies and long-term goals. They focus on immediate priorities such as economic growth and employment, <sup>54</sup> usually during election season, which do not result into concrete measures. Platforms of different political parties are too generic, sounding almost identical, as if parties do not dedicate energy and resources in developing them.

Political parties have started to display some ideological labels although they are not of particular relevance to the party positions. The Democratic League has been a member of the center-right European People's Party (EPP) for many years; the Self-Determination Movements is a leftist party but holds nationalistic positions; while it is difficult to tell the positions of other parties. How effectively political parties communicate ideologies and platform priorities to their members is another concern. Drita Gjeli, an independent consultant, strongly believes that political parties do not put enough effort to reach out to their members. <sup>55</sup>

Democracy for Development (D4D) in its study *Kosovo's Political Compass* explains how leaders of political parties care less to label an ideology for a specific policy.<sup>56</sup> It is difficult to initiate reform in this direction since, in principle, ideologies oppose sporadic policies which are more convenient to suit

the interests of the top.<sup>57</sup> It is not a surprise why political parties do not harbor well-defined ideologies. Parties to a great extent rely on the loyalty of their electorate determined by a number of dynamics besides personal benefits, which include: geographic location, friendship and family.<sup>58</sup>

But even inside political parties, ideas and perceptions are so diverse and contradictory, making it difficult to be framed into ideology categories. D4D sums its findings as in the following: 2/3 of party officials are leftist and conservative while 1/3<sup>rd</sup> of party officials are open minded in social and personal values.<sup>59</sup> The Self-Determination Movements is leftist with regards to the economy, conservative on questions of identity, and liberal in terms of personal freedoms. D4D argues that policies do not determine the party orientation, and that political parties are as diverse inside.<sup>60</sup>

#### **POLITICAL PATRONAGE**

In Kosovo, political parties have emerged in response to the needs and struggles of forming an independent state. However, those needs have turned into a strong desire for personal gains and interests, and thus, transforming parties into power machines at the cost of public interest. <sup>61</sup> As a result, political parties have distanced themselves from the general electorate, hence justifying why there is lack of enthusiasm to support or vote for political parties – a common trait which exists in many countries in Eastern Europe. <sup>62</sup>

Why citizens are so turned-off can be elaborated by using the principle-agent dilemma, according to which a political party acts (the agent) contrary to the interests of its electorate (the principal). Instead of representing their constituents, po-

<sup>54</sup> Kosovar Institute for Policy Research and Development (KIPRED). Electoral and Party System in Kosovo. 2015, p. 10.

<sup>55</sup> Gjeli, Drita. Independent Expert. Interview. October 24, 2016.

<sup>56</sup> Malazogu, Leon & Brenna Gautam. Democracy for Development (D4D). Kosovo's Political Compass. 2014, p. 11.

<sup>57</sup> Malazogu, Leon & Brenna Gautam. Democracy for Development (D4D). Kosovo's Political Compass. 2014, p. 10.

<sup>58</sup> Malazogu, Leon & Brenna Gautam. Democracy for Development (D4D). Kosovo's Political Compass. 2014, p. 9.

<sup>59</sup> Malazogu, Leon & Brenna Gautam. Democracy for Development (D4D). Kosovo's Political Compass. p. 5.

<sup>60</sup> Malazogu, Leon & Brenna Gautam. Democracy for Development (D4D). Kosovo's Political Compass. 2014, p. 5.

<sup>61</sup> Malazogu, Leon & Brenna Gautam. Democracy for Development (D4D). Kosovo's Political Compass. 2014, p. 8.

<sup>62</sup> Lewis, Paul G. Political Parties in Post-Communist Eastern Europe. Routledge. 2000, p. Xi.

litical parties go after interest groups and militants on whom they depend for support. In this case, it is difficult to draw a distinction between political parties and interest groups, the latter being inclined to shape the political agenda given their increased access to financial and human resources.

Political parties are inclined to represent the interests of the few, their supporters and militants, from whom they seek benefits in return. Hence, parties are not the best agents, who help turn ideas into laws and policies on behalf of public interest. To that effect, constituents are unrepresented, if not exploited, unless they choose to enter into any agreement with a political party for purposes of gaining some material benefit – a suboptimal outcome which threatens the general public welfare.

In this case, the agent has a lot of discretionary power and high incentive to exploit it in order to maximize its own private interest. Deviation from the principal's interest leads to agency costs through means of rent and profit seeking. Political parties engage in rent-seeking to control public institutions to hold political power which will benefit leaders or the party in terms of votes in the next elections. Profit-seeking is used by parties more for purposes of creating wealth by granting contracts to companies who finance the party.

It is clear by now that constituents support certain political parties mainly for purposes of gaining personal benefits rather than political convictions. Incentives are high given that the public sector is the largest employer in the country with almost 90,000 officials working in public institutions. It offers opportunities for political parties to rein its political control through influencing decisions in terms of employment. <sup>64</sup> Preportr, the center for investigative journalism, asserts that political parties for any support they get, they reward their supporters or *patrons* with employment benefits, a finding buttressed by other studies on political patronage including the one conducted by D4D.

Political parties engage in clientalistic activities of exchanging goods and services in order to gain political support. The principle of a principle-agent dilemma lies at the heart of a corrupt

political system in which clients are defined as interest groups or companies who get rewards from political parties in forms of procurement contracts. Not only that the transactions in between are shadowy and not reported but often they are met with constant violations of the Law on Financing Political Parties. Preportr by examining more closely the audit reports commissioned by CEC identified a list of donations ruled illegal for exceeding the annual threshold of 10,000 Euros. <sup>65</sup>

Reportedly, leading members of political parties and/or their relatives are shareholders in many companies which have been subcontracted by the government. This is something that Preportr has reported in an investigative study performed in 2012 of analyzing funding sources of political parties in charge of the government. From official documents received in the field, Preportr has identified 43 local companies who have financed the Democratic Party of Kosovo elections in 2009 and 2010 who have been rewarded with procurement contracts of 100 million Euros. <sup>66</sup>

Interest representation is a long-term challenge and goal which political parties shall treat as a priority in terms of making it more inclusive and representative of the general public interest. This would require a different mindset framed towards a broader electorate base and certain ideologies rather than a narrow group of supporters and self-interest. Reform in this regard is far-fetched for now since current situation is so unfavorable. Parties run improvised political platforms and are highly self-centered.

<sup>63</sup> Hamilton, Alexander. Small is Beautiful, at Least in High-Income Democracies. World Bank. January 2013, p. 2.

<sup>64</sup> Boletini, Besnik. Employment Party. http://preportr.cohu.org/en/investigations/65 [Accessed on October 17, 2016].

<sup>65</sup> Besa, Kalaja. Give and Take. http://preportr.cohu.org/en/investigations/158 [Accessed on September 9, 2016].

<sup>66</sup> Duriqi, Visar & Qëndrim Bunjaku. 100 milion. http://preportr.cohu.org/en/investigations/53 [Accessed on October 19, 2016].

### SOLUTIONS TO THE PROBLEMS

This paper closes by concluding that political parties fall short in terms of institutional integrity and governance. In a nutshell, they are (i) not competent and willing enough to represent their constituents, (ii) not independent from outside financial support, and (iii) not publically accountable and transparent institutions. How to improve and overcome identified problems, requires a tailored framework of solutions and long-term efforts for their application.

The fundamental idea is to turn political parties from opportunists into voluntarists in order for them to respond to the demands of their constituents in an appropriate manner. By all means, this is not something that can be achieved by this paper, which shall be treated more as a source for designing pro-integrity strategies and programs in the political sphere. Without the initiative of political parties to improve, anti-corruption reform will be almost impossible.

There are at least two forms of promoting integrity in political parties. One is through changes in legislation, and the other through advocacy by sharing changes in practice.

#### **CHANGES IN LAW**

Party reform should be made a priority along which a specific Law on Political Parties shall be adapted to address intra-party democratic procedures. Some of other provisions which should be considered include the following:

- The new law or additional legal changes shall define the status of political parties and set mechanisms of accountability and healthier competition.
- Financial restrictions should not only be imposed on contributions but rather on the amount of expenses and on what can money be spent on (beyond election campaign).

- Election Commission should be restricted by making it a-political in having judges run its membership and give it a more investigative role on financial party oversight.
- Central Election Commission (CEC) or any other competent Independent Institution should be given the authority to audit political parties.

#### **CHANGE IN PRACTICE**

There are no single and discrete set of best practices for intra-party governance. Leaders of each political party ought to consider practical effects of internal democracy.

- Parties shall strengthen their internal democratic procedures in electing candidates and involving more often the members in decision-making.
- The Office of CEC should exercise a more proactive and investigative role in auditing the financial activities of political parties.
- Leaders of political parties shall agree to an Integrity Pledge to commit to taking serious party reforms by first making their financial reports publically available.
- Kosovo Assembly through Public Oversight Committee (POC) must take immediate measures to initiate the auditing process of political parties.

#### **APPENDICES**

#### **APPENDIX 1: LITERATURE REVIEW**

This paper brings together studies from a range of local and international sources in order to gain a broader perspective on the subject matter. With its multi-disciplinary approach, it intends to contribute to the field of integrity and political parties. Short-listed literature sources used to examine integrity matters and draw best practices are presented in the following sub-sections.

#### **Local Sources**

The research paper has been shaped by many studies conducted by local organizations. D4D, in a local context, has extensive research experience on party ideology and interest representation. COHU is an active civil society organization which does advocacy and investigative work related to financial activities of political parties. KIPRED as a think-tank institute is more concerned about the theoretical and practical aspects of the integrity of the electoral system and political parties.

#### Duriqi, Visar & Qëndrim Bunjaku. COHU. 100 milion. April 2012.

Duriqi and Bunjaku report on clientalistic relations between the Democratic Party of Kosovo (PDK) and the business community. Simple math drawn from the official audit reports of local and national election campaigns (2009-2010) shows how 43 local companies who have funded PDK with approximately 280,000 Euros. In return, they have been rewarded with a 100 million of tender money. Other political parties are put on a spotlight by Preportr in few other articles, including the one on *Give and Take* authored by Besa Kalaja and published in April same year.

#### Boletini, Besnik. COHU. Employment Party. December 2014.

Preportr has conducted a research study to evaluate the extent of *political patronage* in the public institutions. This empirical research covers official data obtained from the field in a time period between 2010 and 2014. The data analyzed

indicates that employment in the public sector is to a large extent interlinked with political parties. Preportr has identified 249 senior officials of high-rank to be affiliated with certain political parties for the respective time period.

#### Malazogu, Leon & Brenna Gautam. (D4D). Kosovo's Political Compass. 2014

D4D has published a research study on party ideology in Kosovo. It maps party ideologies through 40 questions asked to 160 party officials to try to measure the extent to which political parties lean to the left or right. KDI has consulted the paper to get a better understanding if political parties are idealistic. Findings of the paper would help this paper put into question its hypothesis, that political parties are parochial for lacking ideology and thinking only in terms of their interests instead of the interests of their constituents.

#### Pula, Erza. GLPS. <u>Standards on Party</u> Financing. June 2014.

GLPS in this policy report gives an overview of the standards pertaining to funding of political parties in Kosovo. Party financing is important for democracies in transition. Ms. Pula, as the lead researcher at GLPS and author of the paper, argues for set of standards which are important to ensure increased transparency on party financing. They are important in Kosovo where party financing has become a major concern in the last three years.

#### KIPRED. Electoral and Party System in Kosovo. 2015.

In 2015, the Kosovar Institute for Policy Research and Development (KIPRED) has completed a research analysis of the electoral and party system in Kosovo. For purposes of this research, KDI has reviewed Chapter II and IV which focus more on the party system and internal democracy. Chapter II gives an overview of the development and functioning of political parties in pluralism since the fall of communism. Chapter IV discusses the internal organizational structures and the decision-making process of political parties.

#### KIPRED. Political Parties on Policymaking and Decision-Making. 2015.

This short study examines both the policymaking and decision-making process of political parties of representing the interests of women, youth and ethnic minorities at the parliament level. Its main findings are based on desk-research of the party statutes and programs and a number of interviews with party leaders. Accordingly, how representative and inclusive are political parties towards these groups ultimately depends on the authority of the leaders.

#### **International Sources**

Numerous international sources have helped understand the integrity of political parties, which is still a new research topic being explored in academia. In essence, they are more academic and theoretical. In particular, they have helped shape the structure and content of the discussion paper in trying to make it more appealing to a wider readership audience, and not necessarily only the political parties and leaders.

#### Pope, Jeremy. The Elements of a National Integrity System. 2000.

NIS is designed as a research methodology by Jeremy Pope, the former Director of Transparency International (TI). By many, it is considered a standard book/source for integrity matters from the aspects of all institutions. The NIS model has helped the paper put emphasis on good governance measures and attitudinal change required for anti-corruption reform. KDI has put special focus on the links between political parties and other institutions to get a better sense of their role in political life. In fact, the logical framework of the paper has been scripted according to the NIS model.

#### Sagar, D.J. Edited. Political Parties of the World. JHP. 7th Edition. 2009.

This book written in form of encyclopedia offers resourceful and reliable information on party developments across the globe. Although it is an old edition, it has still helped the paper map a general historical outline on political parties and cross-compare with current information. It makes it always interesting to analyze how international sources depict the political stakeholders and situations in a local context.

#### Hofmeister, Wilhelm & Karsten Grabow. Political Parties. KAS. 2011.

This book gives an overview of how political parties function in modern democracies by looking into the main characteristics, elements and problems of internal functioning of parties. It has achieved its purpose for this paper in raising the interest and contribution in the field of party development. Finally, Hofmeister and Grabow provide a great source on party reform which any researcher should look into.

#### Hooghe, Marc & Anna Kern. What is so special about Party Membership? 2003.

Hooghe & Kern examine the linkages between constituents and political parties. The main findings of this research paper indicates that there is no reason to attribute membership level to political trust. Feeling close to a political party is a much stronger attribution when it comes to political trust rather than membership. This paper suggests that parties should reach out more to constituents or new members and not only focus in their circle of members.

#### **Uberoi, Elise. Political Party Funding: Sources and Regulations. HCL. 2016.**

This is a briefing paper which introduces the main sources of funding political parties and rules which are applied for their use in the United Kingdom. It discusses how rules apply for political parties and candidates, and for spending and funding of third parties during election campaigns.

#### **APPENDIX 2: INTEGRITY PLEDGE**

This integrity pledge adopted from the <u>Integrity Initiate</u> is a formal and concrete expression of commitment by political parties to abide by ethical rules and support anti-corruption efforts. The pledge should be signed only by leaders of political parties. By signing an integrity pledge, political parties will enjoy both the public and their membership recognition.

I believe that corruption is one of the biggest impediment to growth and prosperity in Kosovo. As a leader of a political party, I acknowledge my responsibility to lead by example in the fight against corruption. This fight cannot succeed without our commitment to level the playing field and to build integrity in political parties.

In view of the foregoing, I pledge the following:

- Design a more inclusive decision-making process in which all members have an equal say in order for policies to reflect the demands of the electorate.
- Maintain and enforce the code of conduct to guide members to ethical and accountable behavior at all time.
- Conduct capacity-building programs to promote integrity and accountability in the exercise of their duties and responsibilities.
- Implement appropriate controls to prevent unethical conduct by our members, and ensure good governance.
- Ensure that our financial reports are accurate, up to date and published in our web-site for public information purposes.

In order to ensure collective action to foster anti-corruption reform in the country, I commit to:

- o Support initiatives and strategies in the fight against corruption.
- o Engage in electoral reform to create a more comprehensive legal framework.
- o Participate in discussions, meetings and forums to identify integrity issues.
- Share best integrity practices and concepts intended to help integrity initiatives.
- Engage in setting key measures and control activities intended to ensure integrity.

Name of Signatory	
Date Signed	Position
 Signature	 Political Party

