



Summary Report

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Panel Theme: Electoral Integrity: Political financing

Key Issues in Electoral Integrity/Political Financing

In this report, I will focus on financial contributions to candidates and registered political parties.

A key objective for election law is to enhance public confidence in the integrity of the electoral process. Public confidence is enhanced when citizens perceive that political donors cannot exercise ‘undue influence’ on elected officials.¹ “Undue influence” can take a variety of forms. At its most direct, it can involve a ‘*quid pro quo*’ in which political contributions are rewarded with direct benefits, in the form of appointments to government jobs, awarding of contracts, or policy decisions of direct benefit to the donor. Another, less direct, form of undue influence can occur when a donor or class of donors is able to influence public policy outcomes in their preferred direction, exercising greater general political influence than non-donors.

Thinking about “undue influence” in the context of foreign interference, we could imagine that foreign interests might try to channel funds to parties or candidates either to achieve a direct benefit for their interest (a *quid pro quo*) or to influence policy in a favoured direction. Foreign interests might hope that their financial support of a candidate translates into loyalty from this elected official at some point in the future. All of this of course assumes that foreign money can find its way to Canadian parties or candidates.

Assessment:

The three policy tools that are intended to lessen the likelihood of undue influence are:

1. **Transparency** (a requirement that parties and candidates disclose the name of donors and the amounts they donate). Between 1974 and 2003, the political finance regime relied almost entirely on transparency to prevent undue influence.
2. **Limits on the source of donations**. Since 1993, the *Canada Elections Act* has prohibited contributions from foreign sources. Since 2003, it has prohibited contributions from corporations, unions, and other organizations, so only citizens and permanent residents are able to contribute.
3. **Limits on the amount** that can be contributed. Lower contribution limits are intended to lessen the likelihood that a donor can expect a benefit in exchange for their contribution.

¹ Royal Commission on Electoral Reform and Party Financing, *Report* (Ottawa: Queen’s Printer, 1991), pp. 421-454. Available at: <https://epe.lac-bac.gc.ca/100/200/301/pco-bcp/commissions-ef/lortie1991-eng/lortie1991-eng.htm>

Currently, the maximum contribution amount is \$1725 to a registered party, and the same amount again to an electoral district association or candidate.

When we look at the federal rules in comparative perspective, two things stand out. First, Canada has some of the more comprehensive rules governing contributions to political parties and candidates. The broad legislative regime covers contributions from nomination contests through elections and includes leadership contests. In contrast to this, according to data collected by International IDEA, three-quarters of democracies do not have limits on size or source of contributions.²

Second, the levels at which Canada's contribution limits are set are relatively low. The federal limits are substantially lower than the limits found in many Canadian provinces, as well as limits in many other democracies. That said, the rules in the province of Quebec offer a very different approach, setting the maximum contribution at only \$100 and offering generous public funding for parties between elections.

Even with Canada's robust regulatory framework, it remains possible that a determined interest – foreign or domestic – could orchestrate a campaign of donations intended to influence the recipient. One mechanism for evasion of contribution limits is the bundling of donations, which allows the organizer to deliver a “bundle” of cheques to a candidate or party, and thereby take credit for the fundraising effort. This is an established practice in many systems that have contribution limits. A second mechanism – which could be used in conjunction with bundling – is to channel funds via intermediaries who are legal donors. This could take the form of ‘bonuses’ to executives with an understanding that they would attend fundraisers, or money passed on to citizens/permanent residents with directions that they make a donation. Channelling funds via intermediaries is illegal under the *Canada Elections Act* but difficult to detect.

Thinking about citizens/permanent residents who might serve as conduits to transfer funds from foreign entities to Canadian parties/candidates, we must keep in mind that they may or may not be aware that their actions contravene the Canada Elections Act, and that they may be willing participants, or they may be coerced. Measures designed to discourage this practice would vary depending on the conduits' awareness of the law and willingness to participate:

- For those individuals who are unaware that their actions contravene the CEA, actions to increase awareness might be effective. These could include advertising campaigns and a requirement that parties/candidates remind donors of the legal requirement that they not pass on funds on behalf of others at the time of contribution.
- For those who are aware but are being coerced, some means of confidentially reporting the coercion might be helpful.
- For those who are both aware and willing, perhaps harsher penalties for offences under the *Canada Elections Act* would be effective.

² Based on data from the International IDEA Political Finance Database, accessed Oct 18, 2024.
<https://www.idea.int/data-tools/data/political-finance-database>

Beyond these measures, it is possible to mandate the Commissioner of Elections Canada to undertake more proactive enforcement, such as by conducting audits that would identify suspicious clusters of contributions.

The mechanism that is the most likely to be effective, regardless of conduits' awareness and willingness, is to lower the allowable amount of a donation. If a foreign entity seeks to channel \$50,000 to a candidate via legal donors, it would need to find 29 conduits under current contribution amounts. If the maximum contribution were set to \$100, the foreign entity would have to organize 500 conduits. This would pose a formidable logistical challenge and significantly increase the likelihood of detection.

Recommendations:

The approach that most directly targets the ability of foreign entities to channel contributions to candidates or political parties would be a reduction in the size of an allowable contribution, for the reasons set out above. Such an approach would almost certainly need to be accompanied by an increase in public funding for registered political parties during the period between elections – essentially a return to something like the per-vote subsidy that was provided between 2004 and 2015. With a lower contribution limit, parties would struggle to raise the funds they need and so replacing some of their lost income with public funding would address this concern.

It is important to stress that adopting more generous public funding would not, in and of itself, lessen the parties' desire to raise money from individual contributions. When the per-vote subsidy was in place, some parties were content to rely primarily on public funds, but the larger parties turned to fundraising from individuals in an effort to provide themselves with a competitive electoral advantage.³

Although I have identified reducing the maximum allowable contribution as the most effective means of reducing the likelihood of foreign funds entering the system via conduits, I do not go so far as to recommend this. All policy changes involve trade-offs. Moving to a political finance regime similar to Quebec's would have significant impacts on the source of funding for Canadian political parties and candidates. There are certainly arguments to be made for such a shift, as it would lessen the influence of more affluent donors. There are, however, also arguments to be made that parties that rely predominantly on public funds are less responsive to the electorate. Embarking on such a reform would require a consideration of these competing considerations.

Is the threat of foreign money finding its way into Canadian political parties sufficient to warrant such a significant change? This is a question I cannot answer. Like other Canadians, I have no idea whether there is evidence that foreign entities are trying to channel money into Canadian electoral politics via conduits. If such evidence exists, then a recommendation to reduce the maximum size of a contribution would be warranted. Given the importance of public confidence

³ For an analysis of the impact of the 2003 changes to party behaviour, see Lisa Young and Harold Jansen (eds), *Money, Politics and Democracy: Canada's Party Finance Reforms* (Vancouver: UBC Press, 2011).

in the integrity of the electoral process, if there is evidence that many Canadians believe that such activities are occurring, then action might also be warranted.

A second set of legislative changes would target prevention. These could include:

1. Requiring that parties and candidates require donors to confirm their eligibility to donate at the time of donation.
2. Increasing penalties for contravening the *Act* (currently fines of \$1500 for individuals and \$5K for entities)
3. Mandating a more proactive approach to enforcement by the Commissioner of Canada Elections, including the power to undertake investigations and audits.
4. Mandating Elections Canada to undertake advertising warning that channelling funds is illegal.

More proactive enforcement and public warnings might, if targeted to particular communities, be effective. But such measures risk stigmatizing legitimate political activity in diaspora communities. As such, they would likely erode the democratic rights of some Canadians. This is a trade-off that the Commission must weigh heavily in recommending any such measures.

Concluding Note:

Public confidence in the integrity of the electoral process is a foundational value for the regulation of money in Canadian politics. Over the past fifty years, amendments to the *Canada Elections Act* have taken important steps to ensure transparency and to limit the potential for corporations, unions, and individuals to exercise undue influence over elected officials by offering campaign contributions. Canada's legislative regime is comprehensive, covering all aspects of party organization, from nomination and leadership campaigns to local and national party organizations.

Although public confidence in the integrity of the electoral process is an important value, there are other, competing considerations that must be taken into account when deciding whether legislative changes should be made to limit the possibility of foreign entities channelling funds to parties and candidates. Great care must be taken to avoid actions that would stigmatize the legitimate and legal involvement of members of diaspora communities in Canadian democracy.

