



# Campaign Finance Transparency in Iran

**Nabz Nameh - February 2017**

Money in politics is a double-edged sword that can lead to corruption and other problems if it is spent or received without being accounted for. Political candidates and parties need financial resources in order to move their campaigns forward and publicize their platforms. Therefore, the ins and outs of how money is acquired and distributed fairly in political contests highlight the need for transparency in campaign finance. If campaign finance is not transparent, civil society, supervisory bodies, and electoral rivals will not be able to identify and pursue electoral violations. A lack of transparency opens the way for money to influence the course of political decisions and elections, which should instead be settled at the ballot box. A transparent process makes for clearer links between the stances that candidates take and their financial supporters, as well as for fairer elections. Campaign finance transparency also increases voter confidence in the soundness of an election and the honesty of the candidates.

## Source of campaign finance

Depending on the type of election, the population of the electoral district, support from political parties, and the laws and regulations in place, electoral campaigns can draw on various resources. In general, funding streams for campaigns can be divided into two types: public and private. Public funds include resources from any level of government and all state institutions that draw from the public budget. Some countries allow political parties and candidates, under certain circumstances, to use financial resources from the government. For example, campaigns may receive financial support or have the ability to use government resources at no cost or at a special discount. In Iran, use of any kind of government resources to benefit a campaign is considered a violation, apart from exceptional cases as specified by the country's [electoral laws](#).

In any electoral system, it should be clear how and to what extent a candidate or party can benefit from government services. At the same time, candidates and parties may make use of private resources. Donors, including private individuals and corporations, provide assistance to

campaigns by giving direct financial support, paying off loans, or offering goods and services at discounted rates. Individuals might even spend their own funds on campaigns, or receive support from political parties and civil society organizations. Campaign finance transparency includes information such as lists of donors, how much they have contributed, or the ceiling on campaign donations. This kind of information helps citizens recognize potential conflicts of interest for the candidates or parties receiving the contributions. Information about private contributions to other candidates also allows citizens and state supervisory authorities to track the flow of money in electoral campaigns.

### **The different aspects of campaign finance transparency**

Campaign finance transparency involves a variety of factors. Electoral laws must be clear and set out in exact terms, with no room for alternative interpretations or ambiguity. These laws must also specify the legal (and illegal) sources of campaign donations, the ceiling for contributions (set in proportion to the population of electoral districts, inflation rate, etc.), and the variety of financial means of support, whether cash or in kind. Candidates and their rivals must know exactly what the limits on financial contributions are. Such transparency helps candidates and parties move forward with running and collecting contributions for their campaigns while being confident that they are adhering to laws and regulations. Clarifying the rules of competition therefore allows supervisory authorities and citizens to track instances of campaign finance violations.

In addition to legal limitations, the processes of oversight, addressing complaints, and ensuring that the law is enforced must be made explicitly clear and accessible to the public. The financial operations of candidates and political parties must be transparent (while respecting the right to privacy of individuals). This means determining the assets of the beneficiaries (i.e., candidates and other officials in charge of campaigns) before the campaign, the extent of financial contributions (including from which sources) received over the course of the campaign, and how these donations have been spent. The performance of executive and supervisory agencies of the government must likewise be transparent so as not to compromise the fairness of elections.

### **Instances of campaign finance fraud**

Electoral campaigns are short-term events during which relatively large sums of money are collected and spent. Although such funds are expected to be used for advertising in order to draw public attention and to convey the messages of candidates and parties, at times this reality presents an inroad for money to influence politics, leading to political corruption. Enticement of voters, quid pro quo deals, financial wheeling and dealing by candidates, illicit or unfair use of public resources, payment of bribes to electoral officials, and vote buying are among the main types of campaign finance violations.

## Enticement

In [Iranian law](#), enticement is defined as baiting someone and inducing him or her into doing something. “Enticement is a particular kind of persuasion, with the distinction that in the case of enticement, the motivation that causes an individual to perpetuate a crime is solely financial and material.” In the context of elections, enticement leads to a criminal act that affects the outcome of an election, such as by enticing individuals or groups to falsify their votes or enticing supervisory officials and election organizers.

Defining the term [enticement](#) has itself been an area of disagreement among contemporary Iranian legislators. Some see enticement as a vague term without a clear application and have called for its removal from the legal code. In its [report](#) on the 2009 election though, the Committee for the Protection of Votes included enticement as one type of violation.

## Quid pro quo

The most common campaign finance violation is assistance from the private sector in exchange for special favors from elected officials. The private sector provides financial support to campaigns with the aim of influencing policy decisions in a particular direction. The nature of the influence, however, is what matters. It is not always so simple to draw a boundary between financial support for the benefit of the public interest versus for private interests. There are a variety of ways in which a campaign donor’s interests can be furthered. It is quite possible that the donor and the politician have mutual interests. If the actions of the politician ultimately benefit the public interest, this cannot be considered a quid pro quo deal, even if the donor happens to benefit from it as well. Only impartial and rigorous monitoring of campaign finance by civil society can determine whether quid pro quo has taken place or not. ([source](#))

In his article “[Defining Political Corruption](#)”, the British legal scholar and corruption expert Mark Philp sums up quid pro quo and political corruption under the following cases:

An official (A) acts in his private interests;

Acts against administrative principles;

Harms the public interest;

Acts in the interests of a person (B) who remunerates (A) for realizing those interests, which (B) would otherwise be unable to achieve.

## Misuse of public resources

Misuse of public resources means using assets, properties, or human resources that pertain to governmental institutions or to any entity that draws from the public budget for the benefit of a particular electoral campaign. Using state resources to finance a candidate’s campaign ranks among the common forms of electoral fraud in Iran. This type of violation includes employment of civilian and military personnel in a particular candidate’s campaign, use of public resources

and facilities for advertising, as well as intervention by mosques, offices of Friday prayer imams, or any affiliated enterprises. Such interventions have been so pronounced at times that even [the president](#) has warned these entities about their involvement in elections. These entities are capable of abusing their legal powers, which is likewise another type of violation in this category. This includes, for example, arbitrary arrests of campaign staffers, as well as interference from institutions such as the Islamic Republic of Iran Broadcasting (IRIB) corporation, the Basij, and the Revolutionary Guards (IRGC). Misuse of state resources offers a means for ruling parties or candidates to deny their rivals the chance for fair competition in elections. This kind of electoral fraud is one of the most significant dangers to free and fair elections and to the overall democratic process in Iran.

### **Gray areas**

The process of privatizing state-owned enterprises in Iran, in the majority of cases and particularly with the larger or more important enterprises, was carried out in such a way that the administration of the enterprises was transferred from the state to influential individuals or to the former directors of governmental entities, in particular the IRGC. Iranian President Hassan Rouhani has described these corporations as hybrids, being simultaneously private and state-owned. These corporations' support for candidates has been a matter of controversy over the last few elections, since these kinds of companies are able to bypass the law under the guise of private ownership, even though they are heavily influenced by the state and security apparatus. The Basij is another one of these gray areas with respect to electoral campaigns. Although the Islamic Republic designates the Basij as a civilian, non-governmental entity, the commanders of the Basij openly make use of IRGC resources, while its senior leadership is selected directly by the Supreme Leader. The Supreme Leader repeatedly [emphasizes](#) the role of the Basij in elections.

Other gray areas in elections include religious offices and institutions that have independent budgets and act for the public good. By collecting payments of religious dues, some of these institutions possess enormous financial assets. According to [fatwas](#) issued by religious authorities, however, use of these finances for electoral campaigns is not permitted. It has nevertheless been [reported](#) that some of these institutions and clerics use such funds for commercial activities, and it is likely that money generated from these activities finds its way into electoral campaigns as well.

### **Buying and selling votes**

Buying and selling votes means payment of money or goods in exchange for a vote for a particular candidate. This practice is a clear example of financial corruption in elections and is the type of violation that shakes the democratic foundation of elections. Whether due to financial needs or lacking knowledge of citizens' rights, voters might sell their votes and their judgments

in exchange for meager sums of money, resulting in victories for politicians who do not have these voters' best interests at heart.

Iranian [electoral law](#) explicitly [criminalizes](#) the buying and selling of votes, and considers such votes [void](#). Nevertheless, many [elections](#) in Iran have been accompanied by [reports](#) of [vote buying](#), which is [a matter of concern](#) for officials at the highest levels of government in the Islamic Republic. For example, Guardian Council Chairman Ahmad Jannati stated that the practice of vote buying in Iran is “[common](#).” In Iran, the Guardian Council is in charge of [overseeing](#) the sound conduct of elections.

Election observers see vote buying as electoral fraud, a matter to be pursued after an election. Doing so allows observers to follow up on cases of voided votes after an election and to report on them. On the other hand, law enforcement, judicial, and security officials view vote buying as a pre-election crime. As such, most reports of electoral fraud involving arrests of individuals engaged in buying and selling votes are seen before or on the day of elections. The use of falsified identity documents is a common way of vote buying in Iran.

### **Bribery of electoral officials**

Any kind of payment, cash or otherwise, made to electoral authorities or to officials in a position to influence electoral results, in order to favor a particular candidate or party, constitutes bribery. In the context of elections, bribery can take many forms. At any stage of an election, officials receiving bribes might abuse their position or influence to advantage a candidate or party. A number of different state institutions are involved in conducting elections, from the various stages of voter registration and planning for organizing, monitoring, and carrying out the actual elections. Any of these stages could potentially be tainted by fraud or bribery. There have even been reports of cases where candidates were approached for bribes during the Guardian Council's [approbatory supervision phase](#).<sup>\*</sup> It is also conceivable that bribes are given in exchange for using illegal resources for advertising, or for turning a blind eye to electoral violations.

<sup>\*</sup>This refers to the Guardian Council's authority to vet candidates for presidential, parliamentary, and Assembly of Experts elections.

## **Campaign finance transparency in Iranian law**

### **Legal background**

In the [electoral laws](#) of the National Assembly (Majles) published in 1906, the first such regulations in Iran, only individuals of sufficient financial standing were eligible to stand as

candidates. According to the first article of the regulations, “One of the conditions for landowners and farmers is ownership of property worth more than 1,000 tomans; for merchants, ownership of a distinct business; and craftsmen must belong to a particular craft and guild and possess a shop with rent corresponding to the average local rate.” Although the aim of this clause was to deny peasants the right to be elected, in a sense it actually ensured financial transparency in elections by leaving no doubt as to how candidates financed their campaigns. Back then, however, campaign advertising did not exist in the sense we think of it today. The [Second Majles](#) completely removed ownership of property as a condition for standing in elections. In Article 47 of the new legislation (ratified in 1911), “[enticement](#)” was listed as an [electoral violation](#), proof of which would invalidate an election.

The electoral law did not change significantly from the Constitutional era to the Islamic Republic and did not include any recommendations or restrictions on the financial resources of candidates. In [the first revision](#) of the electoral law, in the year 1984, conditions for campaign advertising were established for the first time. Although it did not refer to any limit on how much candidates can spend on advertising, this legislation did specify restrictions on the use of public financial resources by candidates. For example, candidates and their supporters are not allowed to use government or public offices for promotional activities, and these offices are similarly forbidden from leveraging their resources for or against any candidate. This legislation also explicitly banned vote buying for the first time and specified that bought and sold votes are considered void.

Since the founding of the Islamic Republic, the variety in elections has increased in Iran. Currently, elections for the presidency, the Majles, the Assembly of Experts, and city and village councils are each conducted separately and administered under separate laws. The country’s various electoral laws differ in the ways in which they permit the use of government resources.

### **Law on Assets of Authorities, Officials, and Brokers of the Islamic Republic of Iran**

The Ninth Majles passed the “[Law on Assets of Authorities](#), Officials, and Brokers of the Islamic Republic of Iran,” which obliges all [appointed and elected officials](#) in Iran to declare their personal assets, before and after public service, to the head of the judiciary. Although this law does not consider periods of time before and after the start of electoral campaigns, to an extent it can still serve as a reference for tracking potential political quid pro quo.

### **Campaign finance from a legal perspective**

Electoral law in Iran does not permit the use of government resources for campaigning, with the exception of the law on presidential elections, which allows candidates to make use of certain government resources, such as limited access to radio and television broadcasting, in order to convey their messages to the public. Presidential candidates in Iran can also use public spaces,

such as stadiums and other venues, for campaign advertising.

As such, campaigns in Iran are restricted to private sources of funding, apart from the cases mentioned above. These sources include private assets, financial support from fans and backers, other private entities, and loans. For example, a donor could provide a campaign with space for its headquarters at no cost or at a great discount.

### **Legal restrictions on receiving and spending private funds**

The existing electoral laws in Iran do not specify a ceiling on private financial support to campaigns, nor do they say anything about the source of private funds. This issue has brought about a gray area that could be used to the advantage or disadvantage of a particular candidate. Such cases include support from hybrid public-private corporations and companies affiliated with religious institutions that draw directly from the public budget.

The table below compares the permissible and impermissible types of spending in the four types of elections in Iran.

Permissible and impermissible types of spending in Iranian elections				
	<u>Presidential</u>	<u>Parliamentary (Majles)</u>	<u>Assembly of Experts</u>	<u>City and Village Councils</u>
<b>IRIB</b>	Permissible, with restrictions	Impermissible	Permissible, with restrictions	Impermissible
<u>State media</u>	Impermissible	Impermissible	Impermissible	Permissible as an advertisement and upon payment
<b>Non-state media</b>	Permissible	Permissible	Permissible	Permissible
<b>Printing posters</b>	Permissible	Impermissible	Permissible	Permissible
<b>Installing banners</b>	Permissible only at campaign headquarters	Permissible only at campaign headquarters	Permissible	Permissible only at campaign headquarters
<b>Using public facilities for communicating with electorate</b>	Impermissible	Impermissible	Impermissible	Contingent on issuance of permit and payment of expenses

## Observing and investigating financial violations

During elections, a variety of agencies are on the lookout for financial violations. Iran's electoral laws place the primary responsibility for observing the conduct of elections on the government, but they do not specify much of a role for civil society or non-governmental observer groups. However, candidates are allowed to place agents at polling stations in order to be able to keep an eye on things through them.

### Observation

The police are in charge of maintaining order and security for elections in Iran. Therefore when financial violations are detected on election day, the police take legal action against the violators, either directly or at the behest of the Electoral Executive and Supervisory Boards or the judiciary. In recent years, there have been numerous reports of police arresting individuals for the crime of vote buying.

In order to supervise the conduct of elections, the Interior Ministry sets up a Central Inspection

Commission at the Election Office and the provincial governors set up Inspection Commissions in their respective provinces. By inspecting and supervising polling places, these commissions report electoral fraud, including financial violations, to the Election Board at the national or provincial level.

Candidates' agents at polling stations and at the Election Office can likewise report observed financial violations to the Electoral Administration and Observation Committees.

During elections print media, news agencies, and activists all publish reports on the conduct of the election and violations that have taken place, even though the press and independent observers are faced with many restrictions. Lack of transparency in campaign finance has hampered the ability of civil society to adequately supervise the conduct of campaigns.

### **Investigation**

The judiciary is in charge of investigating financial violations in elections, and according to electoral law, it dedicates a special branch to this end. This branch is required to conduct priority investigation of cases of electoral fraud, and the judiciary addresses the criminal aspect of these cases by prosecuting the violators.

The Supervisory Board of the Guardian Council observes the overall conduct of elections, from the start of the initial administrative process to the confirmation of election results. As the Guardian Council is supposed to safeguard votes, it voids votes in all cases where there is proof of financial violations. However, a [lack of transparency](#) in the workings of the Guardian Council itself has resulted in decreased public trust in the Council. Examples of this lack of transparency include the processes of vetting candidates, investigating electoral violations, and confirming election results.

### **Enforcement of laws**

Laws are effective only when their application is properly enforced. Lawmakers need to consider the practical aspects of enacting a law and how it is to be implemented, as well as providing a clear reference for how the law is handled in practice. Iran's electoral laws contain a variety of ambiguous instances. Some of the practical aspects of enforcing the application of laws include:

- Gray areas

It is difficult to enforce laws for observing and investigating violations that may arise from entities that operate in the gray areas as the law does not provide a clear and transparent method to prevent these entities from intervening in elections. The Basij, for example, sometimes works to the benefit of particular candidates; as a paramilitary organization, it can make use of its promotional capacities in mosques, universities, and financial institutions. It has also been

observed that the heads of certain quasi-governmental (hybrid public-private) organizations are also members of state supervisory bodies, which through these special relationships, results in turning a blind eye to many of these violations.

- The role of state supervisory bodies

The Electoral Executive and Supervisory Boards and the Interior Ministry's inspectors supervise the electoral process. On election day, representatives of the farmandars (county administrators) and of the candidates are also present at polling stations. Investigations and decisions about violation reports, however, are the prerogative of the Guardian Council.

- Civil society and media

By observing and participating in elections and by monitoring campaigns and the electoral process, civil society and free, independent media can act as potential catalysts for the enforcement of the law and compliance with electoral regulations. Civil society observer groups can play a role by clarifying the legal framework for conducting elections; educating voters; providing information on violations and ways to record and investigate them; monitoring campaign budgets; and observing different stages of an election, including the voting and counting processes. The lack of legal support for an effective role for civil society in the electoral process, however, limits the extent to which independent citizens can make an impact.

### **The campaign finance transparency bill**

In November 2016, the Rouhani administration presented a bill to the Majles called "[Transparency in Electoral Finances](#) and Expenditures for Candidates in Presidential, Parliamentary, and City and Village Council Elections." The goal of the bill is to set up a legal mechanism for matters such as campaign finance, restrictions on sources of finance and spending, and bringing about financial transparency by auditing campaigns. This bill compels candidates and parties to submit all of their assets and expenditures to audit bureaus, making them available for investigation by the Electoral Executive Boards.

According to the bill, permissible sources of finance include:

1. A candidate's personal assets.
2. Direct [financial] support from political parties and organizations with a valid permit [in Iran].
3. Support from individuals with Iranian citizenship.
4. Public resources and facilities that candidates are permitted to use by law.

As such, the draft bill does not consider taking out loans or receiving support from corporations and private institutions as permissible, and it explicitly bans the following sources:

1. Any kind of support from a foreign government, individual, or legal entity.
2. Use of any illicit means, such as organized crime, drug smuggling, and money laundering.
3. Use of resources belonging to the state, public non-governmental institutions, or

organizations or companies that draw in any way from national or municipal budgets, except for specific cases as permitted by electoral law.

This bill also clearly delineates the permitted campaign expenditures, which can be divided into four general categories:

1. Logistical costs for setting up a campaign.
2. Expenses for organizing campaign rallies.
3. Expenses from permitted advertising.
4. Campaign staff wages.

The financial transparency bill lacks an adequate enforcement mechanism. For example, supervisory authorities are only able to observe cash flows in campaigns, and the issues of non-cash resources and the limits of campaign contributions remain unclear. On the other hand, the large number of candidates in parliamentary and city and village council elections makes it a challenge to conduct financial audits of campaigns, especially since campaigns are not obligated to present financial statements.

After the Supreme Leader issued the general electoral policies, the Interior Ministry prepared another bill called the “Comprehensive Electoral Bill” and sent it to the cabinet. The [interior minister](#), however, said that this [bill](#) may not reach the Majles until the end of the Iranian calendar year (March 2017). The new draft bill also takes into account financial transparency in elections. One member of the Majles stated that the bill’s approach to financial transparency corresponds to the principles of the general electoral policies issued by the Supreme Leader. The text of this bill is not yet publicly available at the time of writing.

## **The role of political parties in fostering campaign finance transparency**

Although Iran’s electoral laws do not specify a role for political parties, campaign expenditures are partly covered by political parties and coalitions, at least in big cities and presidential elections. Since parties are required by law to deliver annual financial reports to the Political Parties Commission, there is a certain level of financial transparency in their operations.

Although parties are also capable of financial fraud and collusion, they are less likely to be able to keep that hidden than are campaigns of individual candidates, since it is easier to track and supervise organizational finances than to audit an innumerable quantity of independent candidates. As such, the existence of organizations and structures can be seen as a factor in reducing financial fraud in elections.

## **Financial transparency in elections and women's political participation**

Financial transparency in elections can be a factor in boosting women's political participation by means of elections. In Iran's patriarchal society, financial collusion has created unfair advantages for men in securing campaign funds, posing an obstacle for women trying to enter politics. Campaign finance transparency would lead to more equitable conditions for securing campaign funding, perhaps allowing women a firmer foothold in political contests.

## **The role of civil society in electoral transparency in Iran**

Participation in elections is not limited merely to voting. Citizens, with the help of civil society organizations, can ensure that elections are conducted soundly and fairly. Campaign finance transparency is one of the most important aspects of a sound election and something that civil society can potentially help realize.

By advocating for transparency and reforms in the legal framework governing elections, NGOs active in the legal field can point out weaknesses in existing laws to legislators. They can also describe the various financial laws to ordinary citizens and explain cases of violations in plain language.

Activists can also improve voters' awareness of their electoral rights, the importance and value of a vote, and the harmful effects of vote buying. Citizens are familiar with the negative consequences of financial fraud within the government, but the roots of this corruption and the ways of combating it should also be illustrated for them. Although elections represent just one area of financial fraud in Iran, more transparently conducted elections may encourage transparency in other areas of government as well, and ultimately serve as a way to control corruption.

Supervision by a free and independent media and observation and monitoring efforts by activists are not just for encouraging transparency, as they could also be potential tools for preventing campaign finance fraud, vote buying, and bribing of officials.

Training election observers allows candidates to leverage potent forces, such as their own appointed representatives at polling stations, in order to identify and report potential violations. According to Iranian law, a candidate has the right to place representatives at each ballot box within his or her electoral district and have them be present through the entirety of voting and the counting of votes. When these observers carry out their responsibilities correctly, it results in the better protection of votes.

Finally, citizens and activists can use modern communication tools and social networks, which are free of the restrictions placed on official media, in order to report and publish any violations.