doi:10.5477/cis/reis.167.3

Income-Preserving Political Finance Reforms: Evidence from Three Spanish Reforms

Reformas de la financiación política para preservar los ingresos de los partidos: evidencia de tres reformas españolas

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Key words

Rent Seeking
• Business Donations
• Spain
• Party Funding
• Political Finance Reforms

Abstract

Political parties face a dilemma in the regulation of political money. Evidence from different sources shows that some parties demand contributions for public works contracts and special advantages that they grant to the private sector. Yet in the political finance reforms enacted in the aftermath of funding scandals, parties impose strict limits on corporate donations to please voters. A way to unravel this apparent contradiction while protecting the ability to monetize political power is to insert in the party funding reforms a number of loopholes and exceptions to legally donate to parties by circumventing the restrictions set on political money. This paper examines three successive reforms of the Spanish party funding regime and finds that the three reform acts contain provisions consistent with this income-preserving logic.

Palabras clave

Búsqueda de rentas
• Donaciones políticas
• España
• Financiación de los partidos
• Reformas de la financiación política

Resumen

Los partidos políticos se enfrentan a un dilema en la regulación del dinero político. Diversas pruebas indican que algunos partidos exigen contribuciones por los contratos y las ventajas especiales que conceden al sector privado. Sin embargo, en las reformas de la financiación política que aprueban tras los escándalos de financiación irregular, establecen límites estrictos a las donaciones políticas de las empresas para agradar a los votantes. Un modo de resolver esta aparente contradicción sin renunciar a su capacidad de monetizar el poder político es insertar en las leyes de reforma escapatorias y excepciones para eludir las restricciones formales impuestas a las donaciones a los partidos. Este artículo examina tres reformas sucesivas de la financiación política en España y encuentra en ellas disposiciones compatibles con esta lógica de preservación de ingresos.

Citation

García-Viñuela, Enrique (2019). "Income-Preserving Political Finance Reforms: Evidence from Three Spanish Reforms". *Revista Española de Investigaciones Sociológicas,* 167: 3-18. (http://dx.doi.org/10.5477/cis/reis.167.3)

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Introducción[1]

The regulation of political finance based on the public interest justifies government intervention in order to achieve some goals that are valuable for society, but might not be reached in a *laissez faire* regime. One of such goals is safeguarding fairness in elections by levelling the opportunities of political parties to persuade voters, either by setting a ceiling on campaign spending or by providing public subsidies to the parties that compete in the election (Casas Zamora, 2005). Another motive for subsidizing parties is to solve the collective action problem resulting from the propensity of citizens to free ride in the voluntary funding of the public goods delivered by parties (Hopkin, 2004), such as the representation of political preferences and the provision of government services.

Instead of the public interest, the regulation might be pursued by a social group to serve the private interest of its members, as in the Chicago's political economy tradition (Stigler, 1971; Posner, 1975). The area of political finance is particularly exposed to this self-serving motive because of its manifest impact on the funding and spending practices of the regulators, who are the political parties themselves (von Arnim, 1993; Nassmacher, 2003). Furthermore, in this case, political parties can pass "any relevant secondary legislation" that suits them (Group of States against Corruption, GRECO, 2009: 26).

According to Scarrow (2004), the interest of political parties when they legislate about their funding may be either (i) to maximize their overall income ("revenue maximizing reforms") or (ii) to provide the incumbent party with a competitive advantage ("electoral economy reforms"). Legal reforms of the first kind are driven by a common desire by parties to enlarge their income, as when parties approve public subsidies to pay for their expenses, whereas in the "electoral economy reforms" each party is concerned with the effects of the reform on its own standing in the struggle for power *vis-à-vis* other parties. This paper posits a variant of the revenue maximizing motive that has received scant scholar attention: parties can take advantage of political finance reforms to protect their ability to profit from the political power they acquire in elections by selling favours to special interests.

Scarrow's view that there are two main ways to define parties' self interest in political finance reforms (i.e., "revenue maximizing" and "electoral economy") might be deemed reductionist as parties also have used political finance legislation for other purposes. For instance, to reduce the informality surrounding campaign funding in some countries, to enable political inclusion of underrepresented minorities, or as an incentive for complying with gender parity laws. Besides, when analyzing political finance reforms, we should consider the difficulties that parties' elites face when they try to change previous practices (Casal Bértoa *et al.,* 2014 a). Additionally, political parties are not the only agents of political finance reforms. There are countries in which the judiciary use to change the legal reforms passed by parties, as has occurred in Germany (Saafeld, 2000), Canada (Young 1998) and the United States (Sorauf, 1994; Smith, 2001). However, all in all, Scarrow's dichotomy is helpful in clarifying why certain norms related to parties' income are discussed and adopted when the legal framework of political finance is revised and this might explain its frequent use by the literature.

Money from businesses and trade associations is the most controversial source of parties' income. Business donations to parties might be intended to endorse general policies (policy induced donations), like the ones documented by Sorauf (1992: 29-59)

[1] I thank my colleagues Joaquín Artés, Carmen González de Aguilar and Gustavo Nombela, as well as the REIS' reviewers, for their comments on a previous version of this paper.

and Fisher (1994) or they might be prompted by the unique advantages expected from the recipient (rent seeking donations). Political office enables parties to create political rents (i.e., extra-normal profits arising from political decisions) and award them to special interests. To pay for these rents those benefited might make contributions to parties or election campaigns (Stratmann, 1998; Lott, 2000; Samuels, 2001; Mac Chesney, 2002). Donations of the rent seeking type pursue public works contracts, exemptions from taxes, building licenses, tariffs, subsidies and other benefits derived from the regulatory power of the public sector.

As the return on lobbying when successful exceeds the normal level of profit, firms have incentives to invest in rent seeking activities (Tullock, 1967; Krueger, 1974). On the other hand, corporate money allows parties and candidates to increase their campaign spending or the private wealth of party officials. So, we expect that a market for government favours will develop (Abrams and Settle, 2004) as both parties/candidates and businesses will be interested in maintaining political donations.

Yet, rent seeking donations are upsetting for efficiency and equity reasons as well as the trustworthiness of the democratic process. First, they divert resources from productive to redistributive activities, undermining economic growth and generating deadweight losses since they are not mere transfers of income from one part of society to another but generate net losses to society as a whole (Mauro, 1995; Lambsdorff, 2003). Secondly, besides distorting the economy, rent seeking donations might also bias the democratic process, increasing the influence of large donors in political outcomes at the expense of the unorganized and poorly educated members of society (Alexander, 1984; Verba *et al.*, 1995: 358-361; Ewing, 2007). Thirdly, other equity concerns result from the advantage that large firms have in rent seeking activities as they can absorb more easily the sunk costs of influencing political decision making (Tollison, 1982; Sitkoff, 2002; Werner, 2011). Fourthly, *quid pro quo* corruption related to rent seeking donations breeds voters' mistrust of parties and political disaffection (Pujas and Rhodes, 1999; Torcal, 2016).

A way to control the economic and political costs associated to rent seeking donations is banning businesses from financing parties. This course of action is particularly pressing after the disclosure of fundraising scandals that attract strong critical media attention. Rent seeking donations are, though, not easy to restraint. Even in the most robust legal system, determined agents will devise ways to avoid the regulation if it is rewarding to do so. Moreover, political finance laws seldom affect the ability of incumbents to create and distribute rents. Such ability depends on the role that the political constitution gives the public sector as a market regulator, while the aim of political finance laws is to control the expenses and revenues of parties (i.e., who provides money to them and under what conditions). Thus, political finance reforms rarely (if ever) remove the incentives of businesses to seek political influence.

Consequently, after the banning of business donations we still expect companies to give money to parties by alternative means (Koole, 2000; Casal Bértoa *et al.*, 2014a). Indeed, as the regulation of political money becomes more restrictive, it will be less obeyed. That is, illegal donations will become more frequent, undermining respect for the rule of law and increasing the inefficiencies associated to the use of indirect means to conceal the money transferred to parties. As it is known, rent seeking deals between parties and corporations can also be cut in the black market; and although these agreements are opaque, the literature on political corruption provides a wealth of information about them obtained from judicial procedures (Johnston, 2001; Rose-Ackerman and Palifka, 2016: Part III; for the Span-

ish case, see Villoria and Jiménez, 2012; Fundación Alternativas, 2014: 165-187).

Another means for the rent-seeking money to continue to reach the parties after business donations had been banned is to increase the complexity of the regulatory regime. The more convoluted a regulation becomes, the easier it will be to add loopholes that can be used by corporate actors to funnel funds to parties for the advantages granted by the public sector. This paper aims to contribute to the literature on political finance reforms by highlighting the insertion by parties of loopholes in the regulation as a way to preserve their ability to obtain income from the rents that they create by their decisions. The evidence offered here to show this mechanism is based on the legal provisions contained in the three most recent reforms of the Spanish party funding regime.

The rest of the paper is organized as follows. Section two describes how the regulation of private donations to parties in Spain has evolved. Section three examines in detail the loopholes created by the successive reforms of the political finance system established in the late 1980s. Section four discusses the information requirements that protect the activity of rent seekers. Finally, section five summarizes the paper's findings and its significance to the broader problem posed by rent seeking and the public financing of parties in democratic politics.

The spanish party funding regulatory regime

After Spain restored democratic government in the second half of the 1970s, the expenses of parties rose rapidly due to the cost of campaigning in the many elections held at the state, regional and local levels as well as the opening of party headquarters nationwide (del Castillo, 1994; Heywood, 1996). As it is usual in emerging democracies, the newly formed parties had a narrow grassroots' support[2] and an insufficient capacity to raise income from private sources (van Biezen, 2000; de Sousa, 2014). Hence parties soon found themselves struggling with severe financial problems that they tried to bring under control by enacting the 1987 political finance law[3]. Under this law, public money became the largest source of income to pay for the daily operations of parties (i.e., the maintenance of offices and permanent staffs). The central government subsidy for the ordinary expenses of parties created by the 1987 law is distributed among parliamentary parties in accordance with the number of votes (with a weight of two thirds) and the number of seats (with a weight of one third) attained by each party in the most recent election to the lower chamber of parliament[4].

Therefore, Spanish parties chose a funding system similar to the one adopted by a number of long-established European democracies, where direct state support was embraced as a pragmatic response to the decline in the number of affiliates; a system that requires inter-party consensus, as the literature has pointed out (Katz and Mair, 1995; Koβ, 2011). Besides, since political finance regimes mirror countries' cultural traditions (Burnell, 1998; Cliff and Fisher, 2004), opting for public subsidies to pay for parties' organizations suited well the tradition of Spanish elites to turn to the state assistance in times of financial trouble. Nowadays, 80 % of the annual income of the Spanish parties

[2] According to Mair and Van Biezen (2001: 16), in the late 70s party affiliation, measured as electorate's percentage, was much less in Spain (1,2%) than the average for Western European countries (8,5%).

[3] Organic Law 3/1987, *Boletín Oficial del Estado*, 3 July 1987.

[4] The Spanish parliament (*Cortes Generales*) is composed of two chambers: the lower chamber (*Congreso de los Diputados*) and the upper chamber (*Senado*). Both chambers are elected by universal suffrage every four years. Congress seats are allocated by a proportional system based on the d'Hondt formula, while for the distribution of Senate's seats a majoritarian system is used.

represented in parliament comes from public sources (Tribunal de Cuentas, 2015: 21-23)[5], a percentage that is about € 7.5 per eligible voter per year.

The dominance of state money in parties' income did not inhibit the emergence of corrupt rent seeking habits associated to the financing of parties and campaign elections. On the contrary, the Achilles' heel of the new political finance regime and the main obstacle when its reform was proposed was revenue from private sources, either in the form of corporate donations or as bank loans that were sooner or later condoned. The regulatory changes introduced by the subsequent reforms of the party financing regime focused, on both types of private contributions.

The 1987 law allowed individuals and businesses to make anonymous donations to parties and set no limits to the condoning of bank loans. The reforms of 2007, 2012 and 2015 altered this regulation. The reform of 2007[6] banned anonymous donations to parties and parties' foundations. The reform of 2012[7] extended the requirements for donations to the condoning of banking debts. Finally, the reform of 2015[8] banned both corporate donations and the condoning of bank debts to parties. It is revealing, however, that at the same time that the three reforms closed some legal loopholes they created new ones that are discussed in detail in the next section.

Some scholars (Scarrow, 2007; van Biezen and Kopecky, 2007) argue that the central aim in regulating political finance should be preventing parties' dependence on contributions that offer corporate money an opportunity to capture political decision-making. In this vein, Spanish party elites defended public subsidies as a means to isolate parties from rent seeking money. It is doubtful, however, that this objective has been achieved if we bear in mind that the generous subsidies for parties introduced in 1987 did not avoid all the parties in the system from being involved in high-profile scandals of irregular private funding. The most significant were the affairs of Filesa, Naseiro, Casinos, Palau, Gürtel, Púnica and Bárcenas, among others (Heywood, 1995; Castillo Prats, 2013; Ekaizer, 2013; Jiménez, 2016)[9].

On the other hand, Spanish parties have publicly shown gratitude to party officials who raised irregular funds for their organizations, while whistle-blowers that denounced such methods were removed from their jobs (Maroto, 2015: chapter 1). More importantly, when examining the content of the last three political finance reforms we find in their provisions new routes by which corporations can continue to transfer money to parties. This is something that should not be observed if the reforms were consistent with the purpose of preventing the dependence of parties on the rent seeking donations of businesses.

Spain seems a suitable case to study political finance reforms passed by parties con-

[5] This figure might exaggerate the share of public money in parties' income if parties do not report all their private donations, as implied by the party funding scandals mentioned below.

[6] Organic Law 8/2007, *Boletín Oficial del Estado*, 5 July 2007.

[7] Organic Law 5/2012, *Boletín Oficial del Estado*, 22 October 2012.

[8] Organic Law 3/2015, *Boletín Oficial del Estado*, 31 March 2015.

[9] Filesa was a corporation ran by two elected representatives of the Partido Socialista (PSOE) that charged banks and industrial firms for fictitious technical advice to fund election campaigns. The Naseiro, Gürtel, Púnica and Bárcenas affairs were about the payment of commissions to Partido Popular (PP) officials in return for government contracts and construction projects, mainly in the regions of Madrid and Valencia. In both regions, local construction firms also paid campaign expenses for the Partido Popular outside the legal framework for election campaigns. The Palau affair consisted of kickbacks by public works contractors to individuals connected with Convergencia Democrática de Cataluña (CDC), which governed the Catalonian region for almost three decades.

fronted with a hostile public opinion due to fundraising scandals. And since a number of similar experiences have been reported over the past decades in both consolidated and transition democracies (Pujas and Rhodes, 1999; Della Porta, 2000; de Sousa, 2001; Clift and Fisher, 2004; Wilson, 2007), the evidence from Spain might have a more general interest. That is, by showing how the Spanish parties protected their ability to obtain income from the private sector in those circumstances, this paper highlights one of the factors that may contribute to explain the content of party funding reforms in other countries.

Solving parties' dilemma by creating loopholes

Political parties face a dilemma in the regulation of political money. Evidence from judicial enquiries (Ekaizer, 2013; Fundación Alternativas, 2014: 165-187; Maroto, 2015: 21-109) shows that some parties demand contributions for the allocation of public works and special advantages that they deliver to businesses. Yet, these parties also pass legislation placing strict limits on corporate money. A way to disentangle this apparent contradiction is by inserting enough loopholes and exceptions in the party-funding laws to permit donors to evade the limits imposed on contributions, either by amount or by source of funds.

Some political finance researchers (i.e., Issacharoff and Karlan, 1999; Koole, 2000; Pinto-Duschinsky, 2002) find that changes in the regulation of political contributions affect the volume of funds transferred to parties/candidates much less than the routes through which those funds are conveyed. As a matter of fact, parties facilitate this substitution effect among the means used to channel political money when they draft and approve changes in the financing laws. For instance, the three reforms examined by this paper of the Spanish party funding regime established in 1987 allow us to show an active creation of loopholes that makes it easier for agents operating in the market for political influence to adjust their behaviour to shifts in the regulatory framework.

The 1987 law allowed anonymous donations for the running expenses of parties. The amount of such donations was limited to € 60,000 per year for both individuals and firms. Donations to parties had to be deposited in a special bank account and the donor must be fully identified. Publicly owned companies and public works contractors could not contribute to parties. However, since anonymous donations were permitted, it was not possible to verify compliance with these restrictions (see Tribunal de Cuentas, 2000: 137, 150) facilitating corrupt *quid pro quos*.

Despite the permissiveness of these private funding rules and the substantial amount of public funds allocated to parties since 1987, in the following years emerged a number of cases of irregular financing by rent extraction in which the main parliamentary parties were involved. The 1987 law did not discourage irregular practices in any way because it did not include effective instruments to deter non-compliance with the regulation (del Castillo, 1989). However, since irregular financing entailed a reputational cost[10], parties responded by creating a parliamentary commission to reform the current funding law.

The legal changes recommended by the parliamentary commission were deadlocked due to the left-right divide about the regulation of business contributions. And the resulting political impasse was not set until ten years later, when PSOE and the Izquierda Unida (IU) allowed company donations as a legal source of income to parties and PP and the centre–right nationalists' parties from Catalonia (CiU)

[10] The role of reputational costs in political finance reforms is emphasized by Martinez Cousinou (2013).

and the Basque Country (PNV) accepted to ban anonymous donations. This agreement cleared the way for the reform of 2007.

Besides banning anonymous donations, the reform of 2007 set the upper limit for the routine expenses of parties at € 100,000 per year, which was inflation-adjustable (i.e., changed annually according to the price level as measured by the Consumer Price Index). This ceiling was raised to € 150,000 when the recipient was a foundation linked to a political party. Parties and foundations were required to fully identify their donors and to deposit their contributions in a special bank account. The 2007 law permitted the tax deduction of donations from individuals and corporations, required that the latter be ratified by the board of directors and imposed on the receiving party the obligation to report on all donations received. The National Audit Office (*Tribunal de Cuentas*) was entrusted with monitoring compliance with these rules.

Yet, the National Audit Office has not been a credible enforcer of the party-funding rules so far. First, because its auditing capacity is restricted by the shortage of specialized staff (GRECO, 2009: 20). Secondly, because its annual audit of parties' accounts is of a strictly formal character[11]. Third, because their councillors lack independence from the major parliamentary parties, which choose them based on their political affinities through a qualified majority vote (i.e., three fifths) in both chambers of parliament. Finally, because the 1987 law did not grant the National Audit Office enforcement capabilities to sanction parties that infringed the financing rules; possibly because this suited the interests of the parties represented in parliament, both big and small. In actual practice, compliance with regulation relied to a great extent on the willingness of the parties themselves (García-Viñuela and González de Aguilar, 2011).

While the reform of 2007 set an upper limit to donations, it created several exceptions. For instance, the limit of € 100,000 indexed for inflation did not apply to in-kind donations in the form of real estate, bank loans at below market interest rates and debt cancellations by banks. Moreover, firms bidding for public contracts were allowed to donate to foundations linked to parties. Likewise, as the limit on donations for ordinary expenses was twelve times larger than the non-indexed limit of € 10,000 for election campaigns, the reform of 2007 opened a way to bypass the severe restriction imposed by the electoral law on campaign donations.

The policy on banking debts divided the two major parties, PP and PSOE. When the 2007 reform bill was drafted, most of the private income of the ruling PSOE was in the form of debt cancellations, while PP received a similar amount as business donations (García-Viñuela and González de Aguilar, 2011: 9). In the parliamentary procedure of the reform bill, PP rejected the provision that granted PSOE a free rein to negotiate the repayment of the Socialists' voluminous debt with banks. So, PP proposed a legislative amendment to ensure that the cancellation of bank loans to parties were subject to the same limits as corporate donations (Congreso de los Diputados, 2006: 111), but this amendment was voted down.

The 2007 reform was supported by PSOE and the nationalist parties. PP voted against not sharing the special treatment of debt cancellations, the ceiling established for the amounts donated to party-affiliated foundations and the new control over these donations, which was entrusted to the National Audit Office (see Congreso de los Diputados, 2007: 12747-12749). However, given that the

[11] Parties have to submit annually a balance of income and expenditure as well as of assets and liabilities to the National Audit Office, which cannot check independently the information provided by parties. The reports on parties' compliance with accounting procedures and political financing rules are normally published with three years of delay.

2007 reform was “revenue maximizing” (Casal Bértoa *et al.*, 2014 b), PP like other parliamentary parties benefited from the scale up of public subsidies to pay for the daily expenses of parties brought about by the reform. So, voting against the reform was costless for PP since its votes were not enough to prevent the passage of the bill.

After its landslide victory in the general election of 2011, PP reformed the party funding law to impose on the condoning of bank debts to parties the same ceiling applied to individuals and business donations (i.e., € 100,000 at the 2007 price level). Besides, the reform act passed in 2012 inserted two new important exceptions regarding the limits on contributions to the running expenses of parties. The first one was to allow unlimited donations from individuals and companies (including companies bidding for public contracts) to party-linked foundations. Remarkably, no party representative defended why a source of revenue that was deemed undesirable for parties was nonetheless acceptable for their foundations (Rodríguez Teruel and Casal Bértoa, 2016: 174).

The second exception was to allow companies to transfer resources to parties so that party foundations could develop joint projects with companies. According to the 2012 reform, the assets contributed to pay for these projects are not formally donations and, therefore, they are exempt from the limits on normal donations to parties. Clearly, however, both exceptions offer businesses alternatives to convey funds to parties. And both alternatives are less noticeable to voters than regular donations and attract less negative publicity.

Political contributions within the legal framework offer an incomplete picture of the role of corporate money in party financing[12]. The amounts raised by illegal donations are the most upsetting because since they are often associated with the attempt to influence political outcomes and the illicit enrichment of party officials, they breed distrust in parties. In the hearings before the parliamentary commission created in the mid 1990s, party officials recognized that the main Spanish parties raised funds outside the legal framework (Comisión parlamentaria sobre la financiación de los partidos políticos 1994, 1995). Twenty years later, a new scandal of irregular financing, the Bárcenas affair, led to the 2015 reform[13].

Since the National Audit Office audits party accounts, it has detected not a single case of illegal party financing, in contrast to the many cases uncovered by the media[14]. The judicature also plays a relevant role in the fight against illegal financing, despite the influence wielded by the major parties over top judicial positions[15] and the slowness of judi-

[12] The importance of reported donations varies considerably across Spanish parties. Data from the National Audit Office shows that the share of party income from reported donations typically was smaller than 10 % for PP, PSOE, IU and Esquerra Republicana de Cataluña (ERC). However, for the centre-right nationalists parties, the average share of donations over party income was 43% for the Catalonian CiU and 61% for the Basque PNV (Tribunal de Cuentas, various years).

[13] Mr. Bárcenas was in charge of PP finances from 1990 to 2009. In 2013 he revealed that during that time PP officials had accepted donations from public contractors (who could not donate). The donations were handed in cash (which was forbidden) by the firms’ CEOs at PP’s national headquarters in Madrid. When the donation exceeded the legal limit, it was divided. A share of the money was deposited in the bank account for legal contributions, while the remaining was maintained in party coffers and used to pay for campaigns and organizational expenses such as the renewal of party headquarters’ and the payment of bonus to top party leaders. According to Mr. Bárcenas, PP kept an illegal double accounting system for the unreported donations and expenses.

[14] The function of the written press in Spain has been crucial in bringing fundraising scandals to the public attention since the early 1990.

[15] Such as the appointment of magistrates to the Constitutional Court, the Supreme Court and the General Council of the Judiciary, which is the governing body of the judicature. Public prosecutors also depend organically on the Attorney General, who is appointed by the executive.

cial probes in big corruption cases, which linger for 10 years on average (Fundación Alternativas, 2014: 166).

After 2008, the international financial turmoil and the bursting of the housing bubble depressed economic growth and the employment level in Spain. Against this gloomy economic background, the details reported by the media of the Bárcenas affair undermined public trust in party politics endangering the re-election chances of the incumbent party. Survey data from the period show that Spanish citizens ranked political parties as the most distrusted institution. The confidence of survey respondents in Spanish parties scored 1.9 in the sixth wave of the European Social Survey (2014) and 2.2 in the CIS's April 2015 barometer of public opinion, a poll carried out by the Spanish Sociological Research Centre (CIS, 2015)[16]. Since something had to be done to address the political cost of the Bárcenas affair, the Prime Minister submited a new bill to parliament to clamp down on business donations to parties. Thus, for the third time in less than a decade the rules governing the private financing of parties were going to be rewritten.

It is customary that fundraising scandals elicit political finance reforms (Clift and Fisher, 2004; Scarrow, 2007). The stated reason for the 2015 Spanish reform was to prevent cases like the Bárcenas affair from occurring again (see Consejo de Ministros, 2014). Yet this rationale is unconvincing. The 2015 reform does not make illegal donations by public works contractors, the core of the Bárcenas affair, less likely than they were before as such donations had been banned in 1987. Moreover, to turn down contributions that might be deemed inappropriate because of its source, size or method of payment, a party does not need to be bound by law. The approval of an internal rule (i.e., self-restraint) is enough for that purpose.

The then Prime Minister and PP leader had appointed Mr. Bárcenas as party treasurer and had supported him secretly while he was being investigated for his illicit enrichment. So, the Bárcenas case threatened the political survival of the Prime Minister as the opposition parties' pressure him to resign from office. Compared to such a high personal price for the leader of the ruling party, submitting a new bill of party financing entailed a much smaller cost. Moreover, in Spain as it happens in other democracies, proposals to reform political finance usually get support from the media and the electorate (Primo, 2002). Hence, in this case at least reforming the political finance legislation in the wake of a party funding scandal can be portrayed as a cost-minimizing response by the governing party.

The 2015 reform banned contributions from corporations as well as the condoning of bank loans to parties, and lowered the limit for donations by individuals from € 100,000 to € 50,000 per year. At the same time, however, the reform created two new complex loopholes for company donations. The first one affects party foundations. The National Audit Office is entrusted to audit all the income of party foundations, but only those expenses that were paid with public subsidies. In practical terms, this provision allows foundations to hand over to the parties to which they are linked the funds they receive from private sources, which since the 2012 reform are not subject to any limit. The second loophole enables parties to keep illegal donations (i.e., contributions from a forbidden source) for a maximum period of 15 months[17]. During this time the recipient party can dispose of the money donated illegally

[16] Both surveys use a 0-10 scale, where 10 represents the most favorable opinion of parties and 0 the most unfavorable opinion.

[17] After this period of time, the illegal donation has to be either reimbursed to the donor or passed it over to the state treasury.

as if it were, for instance, an interest free loan. It is ironic that a provision like this is incorporated in a law that wanted to put an end to the unpopular legal vacuum that allowed parties to benefit from banking loans at interest rates below the market rate (see Congreso de los Diputados, 2015: 76).

To sum it up, although the three reform acts set limits and bans on the transfer of funds from the corporate sector to parties, simultaneously they provided alternative ways to bypass the restrictions imposed.

Lack of information about rent seeking lobbies

The party funding laws passed in democratic Spain did not allow voters to know who donates to the parties that run for election. The information requirements about donors in the 1987 law were redundant because anonymous donations were legal. The 2007 reform mandated parties to attach a list of their donors to the financial statements they annually submit to the National Audit Office. However, parties that failed to comply with this ruling were not sanctioned (see, for instance, Tribunal de Cuentas 2014: 201, 242). The reform acts of 2012 and 2015 upheld the obligation to identify donors, but again no sanction was applied to uncompliant parties. The 2015 Act also commanded parties to publish in their websites the list of donors who contributed more than € 25,000 per year. Yet, inconsistently it also regarded all information concerning party donors as "specially protected", meaning that it cannot be publicly disclosed without the permission of the donor.

The reason stated against the disclosure of party donors is the protection of their privacy. Such privacy, however, should not be guaranteed to rent seekers that try to gain privileges from regulators and politicians. According to the literature quoted above, rent seeking activities do not serve the public interest. On the contrary, the political rents granted to special interests distort markets creating artificial barriers that stifle competition, deter product innovation and lower national income. Furthermore, the gains achieved by rent seekers redistribute income to them from consumers, who have to pay higher prices or more taxes, and companies that might go out of business because of the special advantages conceded to successful lobbies. So, by refusing to disclose who their donors are, parties conceal to voters the rent seeking undertakings that thwart the potential of the economy and raise prices. The result of this policy is to prevent those who bear the burden of the special advantages created by the public sector from knowing who benefits from them.

Conclusions

This paper studies a variant of Scarrow's "revenue maximizing reforms" by which political parties attempt to enlarge their income[18]. It examines three successive reforms of the political finance regime enacted in Spain in the late 1980s and finds that the insertion of loopholes that enable corporate actors to channel funds to political parties has been a constant feature of the three reforms, even if their alleged purpose was to clamp down on business financing of parties. By highlighting this behavior, this paper hopes to contribute to the literature on the factors that drive the reforms of the political finance framework.

A distinguishing feature of the reforms examined here is that they added complexity

[18] We expect that "revenue maximizing reforms" will be enacted by agreement. Yet, such agreement may be implicit when parties share a common interest in allowing firms to donate to parties' organizations and campaigns. Four political finance laws were passed in democratic Spain. The first two (those of 1987 and 2007) were proposed by PSOE, while the last two (passed in 2012 and 2015) were proposed by PP. The four laws contain loopholes that allow companies to bypass the limits imposed on contributions to parties.

to the existing party funding regulation. It is noteworthy that in order to prevent the undue influence of money from special interests in policymaking, which was the stated goal of the reforms, two more promising measures were discarded: the full disclosure of all donations to parties and the creation of an independent agency with broad powers to enforce the rules of party finance. Although no remedies have been proven to solve all the problems resulting from rent seeking money, these measures are endorsed by the comparative literature as the most effective ones (Hughes, 2001). Hence, the failure to implement them needs to be explained.

A possible explanation rests on the poor information/foresight of the lawmakers or their lack of control over the reforming process. This rationale seems implausible. First, it seems reasonable to expect that political parties have a privileged knowledge concerning the issue of their own funding. Secondly, in Spain all the stages of the political finance legislation are under the exclusive control of political parties, from the drafting of the bills to the implementation of the financing procedures. So, as the parties themselves choose their financing rules, the rules chosen can be regarded as "indicators of their own priorities and objectives" (Piccio, 2014: 138). Additionally, as was shown above, the loopholes inserted in the legislation to circumvent the restrictions imposed on political money are complicated enough to rule out the idea that they were due to chance or unplanned.

To recapitulate, this paper does not argue that the income-preserving motive was the central purpose of the reforms examined here. Instead, its thesis is that whatever its main goals were Spanish parties used the reforms of the funding regime also to protect their ability to extract rents from the private sector. An instrument to achieve this objective was to insert in the new legislation provisions allowing companies to legally transfer money to parties, typically by means that are more cumbersome and less transparent to voters. A shortcoming of this procedure is the lack of coherence between the declared purpose of the reforms and some of its provisions, added to circumvent the limits imposed on corporate donations by the reform acts themselves.

Despite the limitation derived from being a case study, the interest of this paper goes beyond the particular country studied. The paper posits that political finance reforms are used by parties to protect their ability to extract rents from lobbies that pursue special advantages from the public sector. Although the behaviour of the parties described here is based on evidence from one country, it does not have to be idiosyncratic. Rather, what can be expected is that under similar institutional incentives (i.e., the effective control by parties over the process of their funding reforms), an analogous behaviour should be observed elsewhere, although each country will typically show peculiarities in the type of loopholes inserted in the legislation. However, this is an empirical question that can only be solved examining the reforms passed in other countries.

Finally, the study of the Spanish case hints at the presence of another more general problem: a corruption incentive built inside the system of public subsidies to pay for the expenses of parties. In a public funding system, money from the private sector should matter much less as a source of party income. Yet, a perverse effect of this system is that a share of the rent seeking contributions created by political decisions can be diverted from the party to the public official who made the decisions, mainly at the regional and local levels. Even party funding reforms that are nominally enacted to curb investment in political influence often have little effect on the individual incentive of elected officials to monetize their political power through corrupt *quid pro quo*s. Also, in this case, more research is needed to find out if that perverse effect is detected in other countries where the public financing of parties prevails.

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RECEPTION: May 10, 2018
REVIEW: October 26, 2018
ACCEPTANCE: March 1, 2019