



Bridging Constitutional Regulations and International Standards in Political Finance: Preventing Electoral Corruption from a Comparative Perspective

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Abstract

Electoral corruption triggered by opaque political financing systems poses a serious threat to democratic integrity in many countries. Although international legal instruments such as UNCAC and GRECO guidelines have established principles of transparency and accountability, many national constitutions have not effectively adopted these norms. This study analyzes the normative and institutional gaps between constitutional regulations and international standards in political financing in five jurisdictions: Indonesia, Germany, the United States, Brazil, and South Korea. Using a legal-normative approach and comparative law methods, it finds that the absence of constitutional recognition of political financing principles weakens the effectiveness of oversight and opens space for systemic electoral corruption. This article contributes to the global discourse by proposing a hybrid legal model that combines constitutional transparency mandates, the independence of oversight institutions, and public accountability mechanisms. This study encourages the harmonization of national political financing regimes with international anti-corruption frameworks to strengthen democratic legitimacy and governance.

Keywords: Political Financing; Electoral Corruption; Constitutional Law; UNCAC; International Legal Standards

Introduction

In recent decades, political financing practices have become a serious concern in the global democratic discourse (Bryan & Baer, 2005; Foreman, 2018; Mietzner, 2015; Satriawan & Angela, 2024). Data from Transparency International (2023) shows that more than 60% of people in developing countries believe that money politics and illegal campaign financing are the most damaging forms of corruption. In Latin America, for example, the Latinobarómetro report notes that public distrust of political parties has reached over 70%, largely due to campaign finance scandals. A similar phenomenon is occurring in Southeast Asia, including Indonesia, which has experienced a drastic increase in political costs without adequate transparency (Darmawan, 2024). This creates an environment that is fertile for abuse of power (Hodson et al., 2006; Vermeule, 2015), collusion between political elites and corporations (Johansson, 2018; Mietzner, 2024), and rampant electoral corruption (Handayani, 2019; Hidayat, 2024; Susdarwono & Surahmadi, 2025).

In this regard, political financing is not only a matter of electoral administration, but is closely related to the quality of democracy and the rule of law in a country (Aminah et al., 2020; Bakkar & Ögcem, 2020; O'Donnell, 2004; Primo & Milyo, 2006). When political financing regulations are lax or

not strictly enforced, the chances of electoral corruption increase sharply (Brooks, 2016), whether in the form of undue influence from large donors (Kadir et al., 2025; Mueller & Mueller, 2015), vote buying (de Sousa & Moriconi, 2013), or misuse of public funds for electoral purposes (Aslan Noor et al., 2024; Gunhar & Fakrulloh, 2025; Habibi, 2024; Riwanto et al., 2024). In this context, the urgency to review the regulatory framework for political funding becomes increasingly pressing. Without a legal system capable of comprehensively regulating and consistently enforcing rules, electoral democracy will lose its integrity.

On the other hand, constitutional regulations governing political financing in various countries show significant disparities. Some countries have adopted principles of transparency and accountability in their constitutions and electoral laws (Arif & Mamonto, 2024; Landau, 2010; Pradipta, 2025; Sule, 2021), while others still rely on limited technical regulations that are not constitutionally binding (Comella, 2004; Dixon & Landau, 2015; Ginsburg & Versteeg, 2014; Kumm, 2004; Makkulawuzar et al., 2018; Young, 2007). However, international standards such as those set out in the United Nations Convention against Corruption (UNCAC) and recommendations from institutions such as GRECO (Group of States against Corruption) emphasize the importance of a systemic and integrated approach to political funding management. Yet, there have been few academic studies that systematically compare the gaps between national constitutional regulations and these international standards.

In the existing literature, most studies only discuss the normative aspects of political financing in the context of a single country (Arif & Mamonto, 2024; Pinto-Duschinsky, 2002), or highlight specific cases without touching on institutional design more broadly. This is where the scientific gap lies: namely, the need for comparative mapping between constitutional legal structures and international standards in preventing electoral corruption. Additionally, studies linking this issue to the effectiveness of political oversight institutions and electoral policy design remain very limited, especially from a cross-legal system and cross-regional perspective.

Based on the above discussion, this article aims to critically examine how constitutional regulations on political financing in various countries interact with international standards in efforts to prevent electoral corruption. This study is expected to contribute theoretically to the development of globally oriented constitutional law studies and provide applicable policy recommendations for more transparent and accountable national electoral law reforms.

Research Objectives

This study is motivated by growing global concerns about electoral corruption practices that are closely linked to political financing systems. As procedural democracy develops, political financing mechanisms have become increasingly complex and vulnerable to abuse by political actors and large corporations with vested interests. In this context, constitutional regulations play a central role in determining the direction, limits, and basic principles of political financing. However, not all national legal systems place sufficient emphasis on this issue, especially when compared to international norms and standards that have been developed through instruments such as UNCAC and GRECO recommendations.

Taking these gaps into account, the main objective of this study is to critically examine the extent to which constitutional regulations in various countries are able to address the challenges of electoral corruption stemming from political financing systems. This study is specifically aimed at identifying normative gaps between national legal provisions and international standards, as well as analyzing how these differences impact the effectiveness of corruption prevention and enforcement in the context of elections.

In addition, this study aims to describe the best practices of several countries that have successfully established transparent and accountable political financing regulatory frameworks that are consistent with the principles of good governance. Through a comparative cross-country approach and legal-normative analysis, this study also seeks to provide conceptual contributions toward promoting harmonization between national laws and international standards, particularly in efforts to strengthen the integrity of electoral democratic systems globally.

Thus, the objectives of this study are not only descriptive and analytical, but also normative and recommendatory. This study is expected to provide a scientific basis for electoral law reform at the national level, while enriching the academic discourse on the role of the constitution in responding to the dynamics and risks of political financing systems in the era of modern democracy.

Research Methodology

This study uses a doctrinal legal research approach, which aims to analyze applicable legal norms (Bhagyamma G, 2023; Hamzani et al., 2023; Negara, 2023), both in the form of national constitutional regulations and relevant international standards, particularly in the context of political financing and the prevention of electoral corruption. This approach was chosen due to the normative nature of the issues and their direct relevance to written legal structures, constitutional principles, and the international legal regime.

Primary data in this study was obtained from national legal provisions sourced from the constitution, election laws, and regulations related to political party financing and campaigning in five countries with diverse legal and democratic backgrounds, namely: Indonesia, Germany, the United States, Brazil, and South Korea. The selection of these countries was based on variations in forms of government, legal systems (civil law and common law), and their status as signatories to international conventions such as the UNCAC. The analysis was conducted on written legal documents, court precedents, and official reports from election oversight bodies and anti-corruption agencies.

In addition, this study also uses secondary data obtained from scientific literature, reports from international institutions such as Transparency International, IDEA, and GRECO, as well as relevant previous research findings. Data collection techniques were carried out through literature studies and systematic reviews of international legal instruments and institutional documents.

In terms of analysis, this study applies content analysis and a comparative approach (comparative legal method) to compare the legal structure and effectiveness of political funding regulations between countries. The analysis focuses on identifying normative principles, clarity of legal substance, effectiveness of oversight mechanisms, and the degree of alignment with international standards.

The validity of data and research findings is ensured through triangulation between legal sources and contextual interpretation based on constitutional and international law doctrines. In addition, to enhance replicability, all legal documents analyzed are explicitly referenced, and the analysis process is developed systematically based on consistent normative categories.

With this methodology, the study is expected to not only produce a comprehensive picture of the configuration of political financing laws in various countries, but also provide a solid basis for analysis to formulate legal policy recommendations based on the principles of electoral justice and clean governance.

Result

Constitutional Regulations on Political Funding

A comparative analysis of the legal frameworks for political financing in five countries (Germany, Indonesia, the United States, Brazil, and South Korea) reveals significant fragmentation, particularly with regard to the recognition and enforcement of fundamental principles at the constitutional level.

These findings not only reflect differences in legal and political traditions, but also directly influence the effectiveness of political funding oversight and the resilience of democratic systems against corruption and political inequality. Critically, the presence or absence of a constitutional foundation for principles such as transparency, accountability, and equality of contestation appears to be a determining factor in shaping political funding regimes and their enforcement capacity.

Germany provides a paradigmatic example of the direct integration of good governance principles into constitutional structures (Bobic, 2017; Gerber, 1994; Jann, 2003; Szyszczak, 2006; von Bogdandy, 2009). Article 21(1) of the Grundgesetz (Basic Law) explicitly mandates that political parties must provide public reports on the origin and use of their funds. This constitutional recognition of the principle of transparency is not merely declaratory; it serves as a solid normative foundation for organic laws and the jurisprudence of the Federal Constitutional Court (Bundesverfassungsgericht).

Consequently, violations of transparency obligations can be raised as constitutional issues, strengthening the legitimacy and coercive power of oversight mechanisms. The German approach shows how the incorporation of good governance principles into the constitution can create an environment that is more resistant to political fund misuse through strong judicial oversight and clear standards.

In contrast, Indonesia illustrates the enormous challenges arising from the absence of an explicit constitutional basis for key principles of political financing (Arif & Mamonto, 2024; Kartian & Ibad, 2024; Kusdarini et al., 2022; Susanto, 2025). The 1945 Constitution makes no mention whatsoever of the principles of transparency or accountability in the context of political party financing or election campaigns. As a result, regulations are entirely dependent on sectoral laws, such as the Political Parties Law and the Election Law, which are more administrative-procedural in nature and lack constitutional weight.

This normative vacuum at the constitutional level creates two main problems: First, it greatly weakens the position of the Constitutional Court (MK) when reviewing political funding policies, as

the MK struggles to identify specific constitutional norms that have been violated beyond the very general principle of democracy. Second, the absence of constitutional status diminishes the significance of violations in the eyes of the public and politicians, and makes it difficult to enforce the law effectively and consistently, given that sanctions are only administrative or ordinary criminal in nature, without deep constitutional implications.

The United States faces a unique and controversial constitutional dilemma, in which an expansive interpretation of free speech (First Amendment) has paradoxically eroded the principles of electoral integrity and political equality (Kessler, J. K., & Pozen, 2018; Sultany, 2012). The Supreme Court's decision in *Citizens United v. FEC* (2010) marked a critical turning point, effectively equating unlimited campaign spending by corporations and labor unions with protected forms of political expression. The implications of this ruling are far-reaching: It has opened the floodgates for large-scale campaign funding from corporate entities (through Super PACs and other mechanisms) with minimal disclosure requirements, known as "dark money."

The fundamental conflict revealed here is the unresolved tension between the constitutionally guaranteed freedom of individual/collective expression on the one hand, and the urgent need to prevent the distortion of the democratic process by large capital forces and to ensure transparency as a prerequisite for accountability on the other. The US constitutional regime, in the context of current political financing, is seen by many as protecting the influence of wealth rather than guaranteeing the equality of citizens' voices.

Brazil's response to the systemic corruption scandal uncovered by Operation Car Wash demonstrates the potential role of the judiciary in filling constitutional gaps or weaknesses through progressive interpretation (Grangeia & Thijm, 2025; Martins Dias, 2025; Odilla, 2025). Although the Brazilian Federal Constitution does not explicitly prohibit corporate funding, the Federal Court (Supremo Tribunal Federal - STF), prompted by the scale of corruption involving the exchange of large corporate funds for contracts and political influence, took radical steps.

In 2015, the STF used its constitutional interpretation powers to declare corporate campaign financing unconstitutional, effectively banning the practice. This transformative judicial decision represents a significant regime shift, from a relatively liberal model that was vulnerable to corporate abuse, to a more protective model that seeks to prioritize individual-based funding and reduce market distortions in the political arena. The Brazilian case highlights how a severe crisis of legitimacy can trigger judicial intervention to reshape political financing governance even when the constitutional text is silent.

South Korea, although its Constitution does not explicitly regulate the details of political financing, offers an example of success where institutional strengthening and strict legislation at the statutory level can create an effective oversight regime even without an explicit constitutional mandate (Hahm, 2012; Kim, 2015; Lee, 2018). The key to its effectiveness lies in the establishment of the National Election Commission (NEC) as an independent and powerful electoral oversight body, as well as comprehensive election laws that set strict limits on contributions and expenditures, detailed reporting requirements, and rigorous audit mechanisms.

An important distinguishing factor here is the degree of political independence and technical resources possessed by the NEC, together with a relatively high culture of compliance and a credible

law enforcement system. Korean practices show that although an explicit constitutional foundation (as in Germany) ideally provides legitimacy and supreme authority, the effectiveness of political funding oversight depends heavily on careful institutional design, adequate oversight capacity, and sustained political commitment at the implementation level, even without specific mention in the constitution.

Overall, this comparison highlights the spectrum of constitutional approaches to political financing, ranging from explicit and direct recognition (Germany), the absence of recognition that creates vulnerability (Indonesia), constitutional interpretation that creates dilemmas (the US), context-based corrective judicial intervention (Brazil), to effectiveness achieved through strong sub-constitutional and institutional arrangements (South Korea).

This finding highlights that the existence and nature of constitutional arrangements are not the only determinants, but are critical factors that fundamentally shape the scope of legislation, the capacity of oversight institutions, the depth of jurisprudence, and ultimately, the level of integrity in a country's political financing system. The clarity and strength of constitutional norms provide essential tools for law enforcement agencies and courts to protect democratic processes from corruption and inequality driven by money.

Non-compliance with international standards

The legal framework for political financing at the national level often shows striking inconsistencies with evolving international standards, creating a gap between global normative commitments and domestic implementation practices (Abbott & Snidal, 2001; Meidinger, 2006; Slaughter & Burke-White, 2006). Key standards such as the United Nations Convention against Corruption (UNCAC), particularly Article 7(3), explicitly call on States Parties to adopt measures to ensure transparency and accountability in the financing of political parties and election campaigns.

Similarly, specialized bodies such as the Group of States against Corruption (GRECO) and the Office for Democratic Institutions and Human Rights (OSCE/ODIHR) have developed comprehensive technical guidelines covering substantive principles such as detailed and timely financial reporting requirements, strict restrictions on the sources and amounts of contributions, and independent and authoritative audit mechanisms. These standards collectively represent a global consensus on democratic and corruption-free political financing governance.

However, the findings of this study reveal that the internalization and implementation of these international standards are still very partial, ad hoc, and often merely symbolic in many countries. Global standards such as the GRECO guidelines or UNCAC provisions are often only normative references in policy documents or political statements, without being followed by concrete institutionalization through constitutional amendments, strengthening of organic laws, or the establishment of adequate enforcement mechanisms. For example, Indonesia has ratified UNCAC through Law No. 7 of 2006, but this ratification has not been translated into a constitutional obligation for political parties to publish their financial reports periodically in a format that is accessible and verifiable by the public.

Reporting obligations under the Political Parties Law and the Election Law still contain significant procedural weaknesses, such as loose reporting deadlines, ambiguous definitions of "contributions," and limited oversight capacity of the General Elections Commission (KPU). These

inadequacies directly contradict the spirit of Article 7(3) of the UNCAC and GRECO recommendations emphasizing active and proactive transparency. In Brazil, while the ban on corporate funding is a step forward, the reporting and audit regime for individual contributions and other sources does not fully meet GRECO's strict standards on accuracy and independent verification, indicating incomplete harmonization.

Furthermore, this study identifies deep and systematic political resistance to the adoption of international principles, which is a major obstacle to legal harmonization. This resistance is often manifested through narratives that claim that global standards are a form of external intervention in national legislative sovereignty or are incompatible with "local wisdom."

In many contexts, political elites who benefit from opaque funding regimes strategically exploit nationalist sentiment to reject internationally promoted reforms. These sovereignty arguments, while technically valid in international law, are often used instrumentally to maintain the status quo that protects personal interests and patronage networks, rather than reflecting authentic constitutional considerations (Cioffi & Höpner, 2006). In fact, in the contemporary international legal regime, the ratification of a treaty such as UNCAC does not merely entail symbolic obligations.

On the other hand, the modern perspective of international law, which is based on the fundamental principles of *pacta sunt servanda* (agreements must be kept) and the doctrine of *effet utile* (effectiveness of implementation), affirms that the parties have a binding legal obligation not only to ratify but also to take legislative, administrative, and other policy measures to bring their domestic legal framework into line with their international obligations.

This obligation includes the duty to implement and the duty to enforce. Failure to undertake substantial harmonization—as seen in the absence of a constitutional mandate for transparency or structural weaknesses in electoral laws—can be interpreted as a violation of a state's international obligations under UNCAC and other instruments. This lack of alignment is not merely a technical legislative issue; it reflects a real deficit of political commitment (political will) to combat political corruption at its core.

Fundamentally, the lack of alignment between national laws and international standards creates an environment that is permissive of unhealthy political financing practices. International standards are designed to close loopholes and build corruption-resistant systems. When countries fail to adequately incorporate these key standards into their domestic legal frameworks—particularly at the constitutional and high-level organic law levels—the overall effectiveness of political financing oversight regimes is weakened.

Vulnerability to misuse of funds, undue influence from special interests, and electoral corruption have also increased. Therefore, more ambitious and sincere harmonization efforts, going beyond formal ratification toward transformative legal and institutional reforms, are an absolute prerequisite for strengthening the integrity of democratic political processes.

Discussion

The effectiveness of political finance oversight is greatly influenced by the institutional design underlying a country's democratic system (Gerring & Thacker, 2004). Countries with independent election oversight bodies and strong law enforcement powers—such as Brazil and South Korea—demonstrate greater capacity to prevent and effectively address political finance violations.

Conversely, in countries where election oversight is administrative in nature or constrained by internal political interests, political funding regulations often serve merely as symbolic instruments with little substantive impact on the behavior of political parties and candidates.

In practice, the most effective oversight systems are those that combine several basic principles of democracy and financial accountability (Papadopoulos, 2010). First, public disclosure through online access to party financial reports enables the public to participate in the oversight process. Second, proportionate administrative and criminal sanctions that can be applied quickly create a real deterrent effect. Third, independent and regular audits by institutions free from legislative or executive influence strengthen the integrity of the system. Fourth, civil society participation in monitoring and reporting is an important element in promoting horizontal accountability from outside the state structure.

Through this approach, legal institutionalism theory offers a relevant analytical framework. This theory asserts that the effectiveness of a legal norm depends not only on the content of the rules, but also on the institutional configuration that supports them and the capacity of the actors who oversee them. Without strong authority and institutional independence, legal norms tend to lose their substantive coercive power and function merely as normative symbols.

Furthermore, the absence of transparent and accountable political financing mechanisms creates a gray area in the democratic system, which clearly opens opportunities for systemic electoral corruption. When political financing is uncontrolled, it can become a channel for money laundering, the expansion of oligarchic influence, and the hijacking of public policy by the narrow interests of donors. As a result, the quality of democracy is distorted by the power of money, which in the long term leads to state capture and narrows the space for equal political participation for all citizens.

This phenomenon clearly shows that the integrity of democracy cannot be separated from integrity in political finance management. When the political funding system fails to guarantee the principles of equality, transparency, and accountability, the political representative system loses its legitimacy—both morally and legally. Therefore, strengthening the legal and institutional framework for political funding oversight is an absolute prerequisite for the sustainability of a healthy and just democracy.

Scientific Novelty and Research Contribution

This study confirms that political financing systems play a crucial role in maintaining the integrity of democratic processes and preventing electoral corruption. However, there is a substantial gap between constitutional regulations in various countries and international standards developed by instruments such as UNCAC, GRECO, and OSCE/ODIHR. This discrepancy is not only normative in nature but also has a real impact on the effectiveness of oversight and accountability of political funds in electoral practices.

The main findings indicate that the success of political funding regulation is largely determined by the recognition of transparency and accountability principles as constitutional norms, rather than merely administrative rules. Countries that enshrine these principles in their constitutions and reinforce them with independent oversight institutions tend to have greater capacity to prevent systemic electoral corruption. Conversely, countries without a strong constitutional foundation for

regulating political finance face significant challenges in upholding electoral integrity and curbing the rise of financial oligarchy in politics.

From an academic perspective, this article emphasizes the importance of an interdisciplinary approach that combines constitutional law and international law to address contemporary issues in electoral democracy. The comparative analysis across countries presented contributes to the enrichment of scientific discourse on global constitutionalism and electoral governance.

Conclusion

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By closing the gap between constitutional norms and international standards, countries can more effectively prevent electoral corruption and build inclusive, responsive, and dignified democracies amid increasingly complex global challenges of money politics.

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