Transparency and Disclosure in the Japanese Political Reform: A Starting Point, Not A Goal

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INTRODUCTION

Japanese politics is notorious for the huge cost in expenses of electoral and political activities and for incessant political corruption. It does not mean that the government has not done anything to cope with this problem. On the contrary, the cyclical exposure of major political scandals has been a powerful stimulus in amending the legislation for regulating party funding and election finance, along with the strong anger and distrust of the public. However, any attempts to curb political and electoral expenses and thereby to prevent political corruption have failed so far. It is time to examine not only solutions but also the process through which these solutions are chosen and implemented. Structural factors may prevent taking more appropriate and effective measures.

The latest example is the political reform of 1994 triggered by the Recruit Scandal in 1988. The degree of disgust with existing politics and desire for change was so enormous among the public and even politicians themselves that the Liberal Democratic Party (hereinafter LDP) lost power for the first time in four decades. In 1993 a coalition government of opposition parties was established and it undertook political reform. This complete reform not only adopted severer regulations (tightening upper limits on donations, prohibiting certain types of donations and requiring more transparency and disclosure) but also introduced direct public funding to political parties for the first time in Japanese political history. Moreover, the reform succeeded in including changes in the electoral system by arguing that a change in the electoral system may contribute to transforming politician-centred politics to the party-centred politics. However, it is doubtful that the reform was successful in curbing the expenses of politicians and political parties and thereby, lessening the possibility of political corruption since new problems are now emerging. It is still too early to say that Japanese politics is party-and policy-centred.

The main purpose of this article is to analyse and evaluate the Political Reform of 1994 in order to consider the advantages and limitations of legal regulations and structural reforms for the control of political funding. Moreover, the effect of public funding is examined by looking at the results of the newly introduced direct public funding on political parties in Japan. In this article the author utilizes the classification of the reform models: the regulation model, the self-regulation model and the structural

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1 Professor, Women's College, Meiji University
2 Jean-Marie Bouissou, Gifts, Networks and Clientele: Corruption in Japan as a Redistributive System, in Donatella Della Porta and Yves Meny, Democracy and Corruption in Europe (Pinter, 1997).
reform model. The first section explains the history of legal control of political funding. Particularly, major political corruptions that triggered the legislation are referred to in order to evaluate how effective the regulation model is. The second section examines the present system (after the 1994 Political Reform) in order to clarify the fundamental problem of the Japanese system. For five decades Japan has continued to incorporate various kinds of measures that comprise all the factors of the above three models. Therefore, it is useful to classify all the measures the Japanese government took according to the said three models. Thereby, each characteristic of these measures will be analysed and clearly understood. The third section proposes a possible alternative that would be helpful in improving the present situation, taking into account current problems, amendments and nascent awareness among the public.

1. THE HISTORY OF LEGAL CONTROL OF POLITICAL FUNDING AND ELECTION FINANCE IN JAPAN

1.1. Overview: Various solutions

Presently the legal control of the political funding and election finance comprises three major pieces of legislation. First is the Political Fund Control Law (PFCL)\(^4\) that regulates the income and expenses of political activities of politicians, political parties and political organisations. Secondly the Public Offices Election Law (POEL)\(^5\) regulates income and expenses concerning elections. Lastly, the Political Party Subsidies Law (PPSL)\(^6\) introduces state funding and requires political parties to submit a report on how the subsidies are used.

Those legal measures were not set up at once. They have been changed and added to over five decades, mostly triggered by the outbreak of political scandals. They can be classified into three categories.\(^7\) The first category is the legal regulation model. It directly aims to curb the income and expenses of politicians and political parties by limiting donations and electoral expenses, restraining some political activities that are likely to entail bribery and setting penalties for the violations of regulations. It is the most direct measure in terms of restraining political finance but there is also the danger of restricting political freedom more than is necessary. Furthermore, an effective and efficient mechanism of enforcing the law is a necessary condition in order for this model to function. The several experiences of some countries\(^8\) have proved that it is difficult to implement such a model and even if it is possible to implement it, there are often loopholes which get around regulations when there is a real need to collect money.

\(^4\) Seiji Shikin Kisei Ho (in Japanese)
\(^5\) Koshoku Senkyo Ho (in Japanese)
\(^6\) Seito Josei Ho (in Japanese)
\(^7\) This part derives from Akiko Ejima, supra note 3.
\(^8\) Japan is certainly one of the appropriate examples as explained later.
Under stricter regulations financial activities to gather political funds tend to take place behind the scenes where corruption is likely to occur and where it is more difficult to discover. In order to cope with these more secretive activities, stricter laws and more resources for administration are required. Besides, severer regulations make the general public feel that political activities are dubious and immoral. Moreover, there is a danger of the law itself becoming a mockery by showing that it is useless. Loopholes in, and violations of, regulations encourage politicians to feel that avoidance is not a serious crime and that everybody does it if there is a chance.

The second is the self-regulation model that requires transparency and disclosure of political finance. The PFCL, POEL and PPSL require political parties, political organisations and politicians to submit reports to the government. Theoretically under the supervision and criticism of the public who are well informed by the reports, the parties and politician have to self-regulate themselves in order to get public trust and support. Its merit is that it can avoid direct interference by the state so that the fundamental freedoms, such as the freedom of expression, are maintained. Moreover if politicians can regulate themselves, their regulations should reflect reality and administrative costs might thus be saved. However, in reality, most people in Japan are not interested in such reports, neither is it easy to become interested in them.

The third and last is the structural reform model. It focuses on the structural element of the problem of political finance and political corruption. Therefore, changing the electoral system itself and introducing a public funding system could be considered as helpful in establishing a more frugal and corrupt-free political system. Japan adopted both measures in 1994 for the first time.

It is noteworthy that original legal controls in Japan started from adopting the second model and then included the first one, i.e. more direct regulations. However, this did not work and the third one was introduced in the 1990s. It can be argued that because the reform was triggered by political corruption scandals, the solutions tended to focus on harsher regulation which was backed by the public opinion until 1990s. Its ineffectiveness was proved by the end of 1980s and the argument for structural reform became more persuasive and plausible. However, one should examine whether structural reform is effective in controlling political finance. Therefore, it is time to examine the present system, namely the amalgam of regulations from the viewpoint of controlling political finance.9

1.2. Origin: Enactment of the Political Fund Control Law 1948

It should be noted that the origin of the Japanese system came from the United States Federal Corrupt Practices Act of 1925, as it was the outcome of cooperation between the US occupations authorities (GHQ) and the Japanese government during the occupation period after World War II. Therefore, the main part of the system put focus on transparency and disclosure in the first place rather than on direct restrictions of the

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income and expenses. The basic principle is that politicians and political parties should self-regulate themselves under public supervision that is equipped with the necessary information (self-regulation model). However, incessant emergence of political corruption proved that it is not enough nor is it effective in coping with the reality of political finance, as will be explained later.

After the World War II Japan returned to parliamentary democracy under the supervision and with the support of GHQ for whom the democratisation and liberalisation of Japan had priority over everything else. General MacArthur of GHQ required the reform of the Japanese government as follow: women’s suffrage, promotion of the establishment of unions, liberalisation of school education, democratisation of the economic system by banning monopolies and the protection of the freedom of the individual by abolishing the abusive and arbitrary policing system. With GHQ’s support in promoting liberalisation and democratisation, numerous political parties were established. Many of them could hardly be described as political parties as they were just groups of several individuals or they operated only locally.

The great confusion of party politics in the post-war situation of social and political upheaval brought about an outstanding result in the first post-war election for the House of Representatives (hereinafter HR) in April 1946. The age limit was lowered to 20 and women’s suffrage was admitted for the first time. Moreover a multi-seat large-sized constituency system for the HR (*Daisenkyoku Seigen Renkisei*) was introduced and it facilitated the participation of small parties in the election. There were 1,364 candidates for 466 seats and 267 parties joined in the election. 377 new MPs (81 % of total seats) occupied these seats since the GHQ had purged many former MPs of the pre-war parties. Seventy-nine female candidates ran in the election and thirty-nine women (8.4 % of total MPs for the HR) won. None of the parties could form a majority: There were 140 seats for the Liberal Party (*Jiyu-to*), 94 for the Progressive Party (*Shinpo-to*), 97 for the Japan Socialist Party (*JSP, Shakai-to*), 14 for the Cooperative Party (*Kyodo-to*), 5 for the Japanese Communist Party (*JCP, Kyosan-to*), 38 for other parties and 81 for independents. Consequently, the mergers and re-grouping of political parties were repeated and there was a suspicion that money had been used in order to form a majority

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10 *Shugiin* (the Lower House of the Diet)
11 Each *Todohuken* (Tokyo, Hokkaido, Kyoto, Osaka and other prefectures) forms a constituency and each voter has two votes. It was used only once and replaced by the medium-sized constituency system in 1947. The conservative parties had initially supported the single-seat constituency system. Therefore, the adoption of the medium-sized constituency system is the product of compromise between the conservative parties such as the Liberal Party and GHQ.
13 It was the highest record up to now. Presently there are 36 female MPs (7.5 %) in the HR (February 2002). There are 18 female MPs (15 %) in the House of Councilors (February 2002).
in the Diet by unifying several political parties artificially. Therefore, the control of political parties and the prevention of corrupt practices were top of the political agenda. The Home Ministry (Naimu-sho) undertook this task with help of GHQ. October 1946, GHQ and the Home Ministry had a preparatory meeting to discuss the drafting of legislation for political parties in order to cope with the rapid increase in fringe political parties and to prevent political corruption.

After some futile attempts to draft a Political Party Bill, GHQ suggested that it would be better to concentrate on the issue of preventing political corruption first. In 1948 the Political Fund Control Law passed through the Diet. Because of the significant role of GHQ in this reform, the Federal Corrupt Practices Act of 1925 was considered to be a model. Thus, the concept of transparency and disclosure played a vital role in the PFCL. The law itself did not ban particular donations but the public could know who received how much money from whom and the public could judge whether it was appropriate to receive such donations. The political parties and political organisations were required to submit an obligatory report of income and expenditure. However this idea did not work well. Japanese politics had been tainted by corruption without any serious effort to cope with it until one of the biggest scandals blew up in 1966. Incessant political corruption and many violations of electoral law persuaded the government to establish the First Electoral System Council (Dai 1-ji Senkyo Seido Shingikai). The Council’s report suggested that company donations should be banned. However, it also suggested that an immediate ban was not appropriate and the timing for the ban had to be considered carefully.

Simultaneously, the courts considered the illegality and constitutionality of company donations as well. In Yahata Seitetsu case, the Tokyo District Court held that company donations made by its director violated the statutes of the company. In the court’s view a company is an organisation whose purpose is to make profits and its non-profit activities other than social philanthropy are violations of the statutes of the company. Donations to political parties and religious organisations could not be considered as philanthropic activities. This decision was criticised by the people who claimed broader activities and rights for companies but it was supported by people who argued for the cleanup of politics. The Third Electoral System Council (Dai 3-ji Senkyo Seido Shingikai) also discussed the prohibition of company donations and one of the members of the Council even proposed such a ban within five years. However, the Supreme Court supported the decision of the Tokyo High Court that turned down the judgement of the Tokyo District Court. The Supreme Court held that political parties were indispensable elements of parliamentary democracy and it was acceptable for companies to make political donations in its socially acceptable role of supporting the

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14 A few minor efforts such as the 1950 Amendment and the 1962 Amendment were made.
15 The judgment of 5 April 1963, 14-4 Kaminshu 657.
healthy development of parliamentary democracy. It should be pointed out that the Court interestingly allowed company donations as one of the political freedoms protected by the Constitution of Japan.18 This had the effect of reinforcing the argument that companies have freedom to carry out political activities including political donations.

1.3. The 1975 Amendment of the Political Fund Control Law: Restriction on Donations

The Black Fog (Kuroi-kiri) Scandal in 1966 accompanied by the dissolution of the HR necessitated a complete reform of the PFCL. The Fifth Electoral System Council (Dai 5-ji Senkyo Seido Shingikai) urgently set up a special committee in order to discuss the problem of political finance. In 1967 it submitted a report proposing restraint on donations and a further increase of transparency and disclosure accompanied by severer penalties. Thus, at this stage, the necessity for more direct regulations was clearly recognised because of the realities of money politics. Interestingly the report admitted that political funding should be limited to individual donations and membership fees of political parties. However, it also argued that it was not realistic to ban company donations as most political parties depended heavily on them and if they were banned, their financial difficulties would lead to political disorder. It added that company donations could be banned after the modernisation and restructuring of political parties. After this political parties would be able to survive on individual donations and membership fees.

The Sato government immediately undertook to draft an amendment based on the report. It was submitted to the 55th Diet in June 1967 in vain. Several similar attempts by the government failed in 1968, 1969 and 1972.19 Then the 10th election of the House of Councilors (hereinafter HC) took place. It was symbolic in reflecting the reality of political finance: its electoral expenses were surprisingly high and it was called the Money-Tainted Election (Kinken Senkyo). In December 1974 The Miki government was formed after the Tanaka government resigned as a result of the criticism of said election and Tanaka’s money scandals. Prime Minister Miki himself argued for the prohibition of company donations but the LDP was strongly opposed to it. Finally the government submitted the amended PFCL in 1975. This was made possible by postponing a review of company donations to a future date. After passing the HR, the Bill passed the HC 117-117 votes with the supporting vote of the Speaker of the HC.

The major amendment was introduction of a limit on donations. The principle of the control focused on transparency and disclosure, or self-regulations had to be critically reconsidered and more direct regulations were introduced. However, it must be noted that the limit was concerned with the total amount only. The total amount of donations that a company can give yearly depends on its capital. This means that the biggest companies in Japan can donate a maxm of 100 million yen (approximately $909,090) to parties and political organisations (fund raising organisations for

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18 The view of the Supreme Court has been heavily criticised by constitutional law experts.
19 Opposition parties also submitted their own Bills to the Diet.
20 Sangiin (the Upper House of the Diet)
In addition there were improvements in disclosure and tax deductions for individual donations. The definitions of political parties and political organisations as recipients of donations were clarified in the PFCL for the first time.

1.4. The 1980 Amendment of the Political Fund Control Law

The exposure of the Lockheed scandal in 1976 required further reform of political finance. This scandal greatly shocked and angered the public, and there were aggressive debates in the Diet and the former Prime Minister Tanaka and the former Minister for Transport were arrested. Tanaka received bribes from Lockheed for his influence in establishing a contract between Lockheed and Japanese airline companies. Therefore, the reform focused on transparency and disclosure of the individual politician's finances. However, neither the Miki government nor the Hukuda government could enact specific measures for the prevention of political corruption. Then the Securities and Exchange Commission of the US disclosed another suspicious payment by MacDonnell & Douglass and Grumman concerning the purchase of airplanes. This convinced the public that factors of corruption were structural and inherent in Japanese politics and it was necessary to take more fundamental measures to improve the situation and to prevent corruption. Succeeding Hukuda, the Ohira government considered that the establishment of political ethics was one of the most important items on the political agenda of his government. Ohira set up a private consultative body for this purpose. It submitted a proposal emphasising that the cleanup of politics had to be achieved by the efforts of politicians themselves. Particularly it put emphasis on following four points. First, it is necessary to shift from politician-centred politics to party-centred politics that will lead to less-expensive elections. Secondly, a distinction had to be made between the income and expenses of the political activities of politicians and the income and expenses of politicians as private individuals and for this purpose more transparency and a reporting system is necessary. Thirdly, an ethics committee in the Diet and an ethical code of conduct should be established. Fourthly and finally, in order to promote better political ethics, public awareness should be heightened. On receiving the proposal, government and the LDP discussed specific measures and an amendment Bill was submitted to the Diet in April 1980 but it did not succeed. The Suzuki government also made efforts to establish ethical politics and submitted a similar Bill in the same year which finally passed the Diet. The main point of the amendment was that it required an individual politician to submit a report of income and expenditure. For this purpose individual politicians have to specify one of their supporting organisations (koenkai) as a specified organisations that can receive political donations on behalf of the politician and submit a median

21 US $1 is approximately equal to 133 yen in 1st March 2002.

22 Only the amendment of penalty for the crime of bribery was submitted to the Diet in 1977 and passed in 1980 after carrying over for several sessions of the Diet.

23 Those corruptions were described as a structural corruption (Kozo-Oshoku). The thorough research on Tanaka done by a journalist, Takashi Tachibana had a strong impact. See, Tachibana, Tanaka Kakuei Kenkyu (Koudansha, 1976).
report on income and expenditure. Further, the Diet Act was amended in order to add a new chapter to political ethics. Each House set up principles of political ethics and a code of practice according to this chapter and established a review committee for political ethics. However, these amendments proved to be useless in curbing political expenses24 and in preventing political corruption. There were incessant political corruption scandals including the Recruit Scandal in 1988.

1.5. The Political Reform of 1994 and After

The Recruit Scandal in 1988 and other successive political corruption scandals25 shocked and enraged the public. These scandals had modern and unique features compared with the older political and corruption scandals that could be described as individual crimes. Contrastingly, the Recruit company distributed bribes not only to influential and senior LDP members of both Houses, ministers and high public officials related to Recruit's business (traditional recipients of bribes) but also to less influential or much younger LDP members and opposition members, the journalists and even to some academics.26 The bribe itself was symbolic of the period of the 'Bubble' boom economy. Recruit offered recipients an opportunity to purchase new shares in Recruit that were not yet being sold on the share market but which were strongly expected to sell at a premium in the economic boom of that period. The fact that many recipients actually gained a huge profit from selling them after purchase without feeling any shame or the slightest hesitation disgusted the public. The public trust in politics and politicians plummeted. The approval rate of the LDP Takeshita government was only 15 % (March 1989) falling from 41 % (October 1988) and the disapproval rating was 68 %, increasing from 31 %. In 1989 the LDP lost its majority in the HC in the Election for the HC. Then the Takeshita government resigned. The recovery of public trust was a high priority. It was thought that the previous method, i.e. adding or reinforcing regulations concerning political finance couldn't solve the problem fundamentally. The emphasis was put on the structural aspect of politics. Therefore, not only more restrictions on donations and more transparency but also electoral reform and public funding were proposed.

Succeeding Takeshita, the Uno government established the Eighth Electoral System Council. The Council pointed out fundamental principles of the reform in its reports. In order to achieve party and policy-centred politics, it suggested not only additional political finance regulations, but also structural reform of the electoral system and the introduction of public funding. Uno's resignation triggered by a scandal of his own making, the Kaifu government submitted Political Reform Bills in vain. The Miyazawa government, succeeding Kaifu, only succeeded in adding minor amendments to the PFCL (Emergency Political Reform) in 1992. After the LDP government's successive failure to carry out political reforms, a coalition government of opposition parties was

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24 See infra Figure 6.
26 About seventy people in total allegedly received bribes.
established following the 1993 General Election. The LDP lost its majority in the HR for the first time in almost four decades.

This Hosokawa coalition government gave priority to political reform and submitted political reform Bills. They passed the Diet in 1994 after many twists and turns: the 1994 Amendment of the Political Fund Control Law, the 1994 Amendment of the Public Offices Election Law, The Political Parties Subsides Law of 1994 and the Constituency Boundary Council Law of 1994. The previous regulation system of the Political Fund Control Law was heavily criticised as ineffective because of its many loopholes (it was described as a "strainer" law because it could not stop illegal money going in and out of politicians' pocket). Therefore, the 1994 Reform had to be the one that can deal with loopholes effectively. The 1994 amendment increased transparency of income and expenditure and reinforced penalties (tightening the guilt-by association system). One of the important features of the 1994 Reform is that it forbade companies and other bodies (such as trade unions) from making donations directly to members of either House and also to politicians. Donations could not be made other than to political parties, political fund organisations (PFOs)\(^{27}\) and fund raising organisations (FROs).\(^{28}\) In both cases the party or the politician must file a report concerning their political organisation to the Home Affair Minister\(^{29}\) or the relevant Election Administration Committee. Although total prohibition of company donations was strongly argued for during the legislative debate, it did not happen. Yet it was agreed that donations by companies and trade unions to fund raising organisations would be banned five years after the date when the reform went into force and that donations by companies and trade unions to political fund organisations would be reconsidered at the same time. This agreement was incorporated in the 1994 amendment (sections 9 and 10 of the appendix).

Just a few months before January 2000 - the deadline for this reconsideration - the prime minister announced a ban on donations by companies and trade unions to FROs. However, a clause stipulating a future reconsideration of donations by companies and trade unions to PFOs was eliminated without serious reconsideration. This means that the total ban on corporate donations that had been initially aimed at was not accomplished. This is in contrast with the views of many companies, which hoped that political finance would be provided by public funding and individual donations.\(^{30}\)

As far as structural reform is concerned, the 1994 Reform took steps to incorporate two epoch-making measures to encourage the transition from politician-centred politics to party and policy-centred politics. First, the previous multi-seat medium-sized

\(^{27}\) A political party can specify only one political organisation as its political fund organisation (Seiji Shikin Dantai) whose purpose is to offer financial support to the political party and receive donations for the party from individuals, corporations and other political organisations.

\(^{28}\) A politician can specify only one political organisation as his or her fund raising organisation (Shikin Kanri Dantai) whose purpose is to receive political funding for the politician.

\(^{29}\) The General Affairs Minister replaced the Home Affairs Minister in 2001. The Ministry of Public Management, Home Affairs, Posts and Telecommunications replaced the Ministry of Home Affairs when the governmental system was overhauled and restructured in 2001.

\(^{30}\) Asahi Shimbun, 17 November 1999.
constituency system of the HR, which had lasted for almost four decades, was replaced by combination of the single-seat constituency system (first-past-the-post system) and the proportional representative system (1994 Amendment of Public Offices Election Law). Secondly, the Political Party Subsidies Law of 1994 adopted a comprehensive public funding system for the first time.

It is important to keep in mind that successive governments appeared to be eager for reform but in reality they hesitated to introduce effective measures to prevent political corruption because money is a matter of life and death for political parties and politicians. This always resulted in a compromise among influential political parties and politicians. Therefore, the real aim of reform was always perverted by the real politics of power. Many similar examples have appeared since then and the 1994 Reform was no exception.

2. THE CURRENT REGULATORY SYSTEM OF POLITICAL FINANCE: AN EVALUATION OF THE POLITICAL REFORM OF 1994

2.1. Legal Status of Political Parties

Before explaining the current regulatory system, it is helpful to describe the post-war development of political parties in Japan. The Japanese Constitution does not stipulate that political parties should exist. However, it is understood that the Constitution admits their existence as the post powerful medium for stimulating political awareness among the people and for allowing the smooth development of parliamentary democracy.31 There is no particular independent statute dedicated to political parties although there was an attempt to establish one just after the war as has already been explained. However, several laws exist to regulate political parties, such as the PFCL and the PPSL. Moreover, the introduction of the PPSL accompanied the Political Party’s Legal Person Status Law of 1994 (PPLPSL, Seitou Houjinkaku Huyo Ho) that granted legal entity status to political parties to receive public subsidy. Thus, when political parties wish to accept the subsidy, they have to apply for legal entity status. A political party, defined by the PFCL is a political organisation which (a) has more than five members of the HR or the HC or (b) has obtained more than 2% of the total votes of the previous election for the HR or the HC. The PPSL and LPSPPL adopt the same definition of a political party.

In 1955 the LDP was established by integrating a group of conservative parties after their intense power struggles. Since then the one-party-predominant system had lasted until 1993. This fact should be borne in mind when the reasons of failure of political reform are examined. The LDP has received most corporate contributions of all political parties and at the same time the LDP as the ruling party has been required to cut its main source of revenue, namely corporate donations. Therefore, it is too optimistic to believe that the LDP would take effective measures in order to cut its own sources of money. Outside pressure was necessary. However, none of the opposition parties nor

opposition coalitions have ever succeeded in displacing the LDP. The major post-war opposition parties were the Japan Socialist Party (JSP, *Shakai-to*), the Democratic Socialist Party (DSP, *Minsha-to*), the Komei Party (KP, *Komei-to*) and the Japanese Communist Party (JCP, *Nihon Kyosan-to*).

The biggest political upheaval took place in the early 1990s—triggered by successive political scandals and public distrust and anger. During the process of political reforms, internal power struggles within the LDP occurred and led to the birth of several new political parties. Finally, the LDP lost its majority in the 1993 General Election and a coalition government was established consisting of: the JSP, KP, DSP, the United Social Democratic Party (*Shaminren*), the Shinsei Party (*Shinsei-to*), the Japan New Party (*Nihon Shinto*), and the New Party Sakigake (*NPS, Shinto Sakigake*). The fact that the LDP became the opposition party was recognised as a landmark in the history of Japanese politics and it was described as the end of the 1955 System\(^1\). However, the LDP came back as the ruling party by forming a coalition government with the JSP and NPS.\(^3\) This movement brought about the further creation, division and integration of political parties and the political scene changed completely.

Presently (February 2002), the LDP, New Komei Party (NKP, *Koumei-to*)\(^4\) and the New Conservative Party (NCP, *Hoshu-to*) have been the coalition government since October 1999. The current opposition parties (February 2002)\(^3\) are the Democratic Party of Japan (DPJ, *Minshu-to*), The Liberal Party (LP, *Jiyu-to*), the Social Democratic Party (SDP, *Shakai Minshu-to*), the JCP and the Association of Independents (AI, *Mushozokunokai*). The fact that none of the opposition parties other than the JCP existed before 1993 eloquently states how dramatically the political scene has changed.

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\(^1\) 1955 was the year when the LDP was established and since then it had occupied the status of the ruling party.

\(^3\) The JSP had to make many compromises to remain in the coalition government, including recognition of the constitutionality of the Self-Defense Force. The JSP had previously argued for the abolition of the SDF by claiming that it was against the Article 9 of the Japanese Constitution. These compromises lessened the JSP’s identity and hence its supports.

\(^4\) Majority of the KP was incorporated into the New Frontier Party (NFP, *Shinshin-to*) in December 1994. However, in November 1998 the NKP was established after the dissolution of the NFP.

\(^5\) The allocation of seats in the HR (7 February 2002) were: 242 (10) seats for the LDP, 31 (3) for the NKP, 13 (1) for the NCP, 125 (6) for the DPJ, 22 (1) for the LP, 20 (4) for the JCP, 19 (10) for the SDP and 13 (1) for the AI. The allocation of the seats in the HC (22 February 2002) were: 116 (11) for the LDP, 24 (4) for the NKP, 60 (8) for the DPJ, 20 (9) for the JCP, 15 (2) for the LP, 7 (4) for the SDP and 4 independents. The number in the parenthesis shows the number of female MPs.

\(^6\) The DPJ became the biggest opposition party by absorbing several newly created parties, which appeared after the dissolution of the NFP.

\(^7\) The JSP numbers dwindled as some members seceded from it in order to join other new parties. It finally changed its name to the SDP.
2.2. Present Legal Control of Political Funding and Election Finance and Attendant Problems

The current regulatory system is mostly based on the system established by the 1994 Political Reform. Through an evaluation of the 1994 Reform, this section tries to describe how well the present system is working, what kinds of problems still remain and what kinds of new problems are emerging. The targets of the PFCL are political organisations and politicians. Political organisations include political parties, political fund organisations and other political organisations.38

2.2.1. Transparency and Disclosure

Three kinds of reports can provide information to help understand the finances of political parties. First, the Political Fund Control Law requires a political organisation, including political parties, to submit a report disclosing all the income and expenditure of the organisation to the General Affairs Minister39 or the relevant Election Administration Committee.40 Secondly, the Public Offices Election Law requires an electoral candidate to keep an account book and submit a report of all income, including donations,41 and expenditure on electoral campaign activities to the relevant Election Administration Committee. Thirdly, the Political Party Subsidies Law requires a political party to submit a report detailing how public subsidies are used to the General Affairs Minister. Particularly, when a certain expense from the subsidy exceeds more than 50,000 yen ($455), the name of the recipient, the amount, the date and the purpose of this expense shall be detailed in the report.

The General Affairs Minister or the relevant Election Administration Committee shall make a public summary of all the reports in the official daily gazette or the public bulletin. The original report is available for public inspection at the Ministry of Public Management, Home Affairs, Posts and Telecommunications or the relevant Election Administration Committee for three years after the submission of the report. As far as the report on political funding is concerned, 82.8 % of the political organisations (4325 / 5221 organisations) submitted annual reports to the relevant authorities in the year 2000.

38 See infra Figure 1.
39 The General Affairs Minister took over the work of the Home Affairs Minister after the reform of the governmental system in 2001. See supra note 27.
40 There are various Election Administration Committees according to the type of election: the Central Election Administration Committees for the general election of the HR based on the proportional representative system and the election of the EC based on the proportional representative system; the Election Administration Committees of Prefectures for the election of the HR based on the single-seat constituency system (first-past-the-post system), the election of the HC based on the multi-seat prefectural constituency, the election of the prefectural and metropolitan (Tokyo) assemblies and the election of the head of the local government; the Election Administration Committee of Municipalities for the election of the municipal assemblies and the election of the head of municipalities.
41 The name, address and employment description of the donor, and the amount and the date of the donation should be reported.
All the major political organisations have submitted reports regularly. The 1994 amendment of the Political Fund Control Law promoted transparency of political finances by requiring recipients to disclose the names of donors and the amount when the donor gave more than 50,000 yen ($454) or spent more than 200,000 yen ($1,818) on fund raising party tickets. This tightened the previous standard (which was 1 million yen ($9,091) in the case of donations to political organisations other than political parties and political fund organisations and 1 million yen in the case of party tickets but 10,000 yen ($91) in the case of the donations to political parties and political fund organisations42). This made reports more transparent. In the 1995 report which was the first report after the amendments each donor’s name and the amount donated can be traced for 82.2% of all donations. 43 In the previous year only 3.8% of names of donors and amounts of all donations were identifiable. 44 Moreover, it can be argued that disclosure of the names discouraged many companies from making donations. In 1995 corporate donations were 16.5 billion yen ($15 million), an immense drop of 39% from the previous year. However, it is too early to judge whether the increase of disclosure contributes to the curbing of corporate donations. There are two reasons for caution. First, it is true that companies hesitated to make donations just after notorious political scandals for a while. They even stopped gathering donations through the Federation of Economic Organizations (Keidanren): these donations were collected by a quota system according to the size of the capital of each company. However, they resumed using this method. Corporate donations increased again to 17.8 billion yen ($162 million) in 1996. 45 Since then it slightly declined (16.1 billion yen in 1997, 15.3 billion yen in 1998, 14.6 billion yen in 1999) until 2000 when company donations to political organisations other than political parties and their political fund organisations was prohibited by the amendment. 46

Secondly, it is possible for companies to make donations through different ways such as purchasing party fund raising party tickets and making donations to local branches of the political parties (many of which are in reality the offices of politicians). The income from fund raising party tickets was 9.1 billion yen ($83 million) in 1995, an increase of nearly 50%. Moreover, it continued to increase year by year: 10.1 billion yen in 1996, 12.2 billion yen in 1997, 12 billion yen in 1998, 13.4 billion yen in 1999 and 13.1 billion yen in 2000. 47 This occurred because of the differences in disclosure limits between donations (50,000 yen) and fund raising party ticket fees (200,000 yen). This is

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42 In this point it was eased to encourage donations to political parties by the 1994 Reform.

43 This increase of transparency made it possible for the first time to obtain meaningful data and thus enabled research concerning members of the Lower House by a group of researchers and journalists funded by the Ministry of Education (Monbusho). See, Sasaki Tsuyoshi et al, Daigishi to Kane (MPs and Money: The Report of National Survey of Political Finance) (Asahi Shimbun-sha, 1999).

44 Asahi Shimbun, 13 September 1996.

45 The 1996 general election also helped to push up corporate donations.

46 During January, February and March 2000 companies were still allowed to make donations to fund raising organizations and company donations amounted to 5.4 billion. It was reported that some MPs urged companies to give larger donations during this period to cover yearly donations.

— 13 —
a good example of how politicians can effectively find a loophole in the system.

Although disclosure is supposed to be a key factor in regulating political finance and it is described in the regulatory system as such, there are difficult problems concerning the disclosure of party finances from the viewpoint of effective self-regulation. Firstly, to what extent do the reports reflect reality? Who can check the reports effectively and efficiently? In the Japanese system there is no inspection body44 that has the authority to check whether the figures in the reports show the truth or not. False reports were sometimes discovered by accident. A symbolic case was the Kanemaru Scandal. The fact that the Sagawa Co. donated 500 million yen to Kanemaru, the then vice leader of the LDP, was disclosed through the investigation of another political scandal, the Sagawa Scandal. According to the PFCL, it is illegal for politicians to receive donations of more than 1.5 million yen ($13,636) from the same organisation in any one year. Therefore, the prosecution filed an information against Kanemaru that he violated the PFCL and Kanemaru received a summary penalty of 200,000 yen ($1,818). This showed that not only politicians but also the regulatory body of the government did not take the accuracy of the report seriously. It can be argued that there must be many reports which are false but are not known about. Furthermore, the penalty for violation of the PFCL is so trivial that politicians do not mind violating it. Hence, it is very doubtful whether all income and expenditure are properly and fully reported.46 Several prosecutions of MPs for false reporting, just after the Reform, revealed how problematic the real situation was.49

2.2.2. Restrictions on Donations

The PFCL comprises various kinds of restrictions on donations (see Figure 1). First, the PFCL prohibits political parties from receiving donations from certain persons or organisations as follows: a company subsidised by or invested in by the government or local government, a company who has had an operating deficit for three years, a foreigner or a foreign corporation or a corporation whose major members are foreigners. Moreover, political parties must not accept a pseudonymous or anonymous donation. Secondly, the PFCL caps the total amount of donations on the side of both the donor and the receiver. Thirdly, the PFCL prohibits companies and other bodies such as trade unions from making donations to MPs and politicians (since 1995) and then to fund raising organisations (since 2000).

48 In the case of reports of electoral income and expenditure, the Election Administration Committee can require the candidate to report or submit related materials to investigate the report.
49 It is argued that the income and expenditure disclosed by reports (particularly the LDP) are just the tip of the iceberg. It is a well-known saying among LDP candidates that the winner of the general election spent 500 million yen, while the loser spent 400 million yen (gotou shiraku).
50 The most resent case was indictment of Yamamoto, a former Democratic Party MP. Asahi Shimbun, 23 September 2000.
Figure 1: The Flow of Political Funds under the Political Fund Control Law

- Individual Donor
  - Yearly Total Limit: 20 million yen
  - Yearly Total Limit: 10 million yen
- Corporate Donor
  - Yearly Total Limit: from 7.5 million to 100 million yen

*1 There is no upper limit of donations to political parties or its local branches unless this exceeds the upper limit for the total donations from the same donor.

*2 The upper limit of donations to the same organization is 1.5 million yen ($13,636).

↑: The arrows show the flow of political funds. There are no limits on circulation of money among political parties, political fund organizations and political organisations.
The PFCL adopts two kinds of upper limits on donations: a total limit and an individual limit (see Figure 1). In the case of individual donations, a person cannot donate annually more than 20 million yen ($181,818) in total to political parties and political fund organisations and 10 million yen in total to other bodies (fund raising organisations and other political organisations). Moreover, an individual contributor cannot donate more than 1.5 million yen ($13,636) a year to the same fund raising organisation or political organisation. In the case of donations by a company or trade union, its upper limit depends respectively on the capital of the company or the number of members of the trade union. The upper limits of the total donations to political parties and political fund organisations vary from 7.5 million yen ($68,181) to 100 million yen ($909,909). 100 million yen is the maximum. The upper limits of total donations to fund raising organisations also vary from 3.75 million yen ($34,091) to 50 million yen. 50 million yen ($454,455) is the maximum. A company or a trade union was able to donate under 500,000 yen a year to the same fund raising organisation but this was banned by the 2000 Amendment to the PFCL. Furthermore, an organiser of a political fund raising party cannot receive more than 1.5 million yen in ticket fees for fund raising parties from the same person or organisation.

It should not be underestimated that the 1994 Amendment forbade the companies and other bodies such as trade unions from making donations to members of both Houses and also to politicians directly and the 2000 Amendment forbade them from making donations to fund raising organisations. Thereby, companies can donate only to political parties (headquarters and local branches) through the political fund organisations. The problem of the 1994 system, however, is that it cannot avoid loopholes, such as the abuse of the local branches as a receiver of company donations and the purchase of fund raising party tickets. This makes the regulations meaningless. One of the serious loopholes of this reform is that local branches of political parties have been used as another way of funding candidates. It is often the case that a local branch of a political party is in fact a particular MP’s office. A politician’s fund raising organisation (FRO) cannot receive more than 500,000 yen from the same company whereas there is no such limit on the donations to a political party. There is significant evidence that political funding of local branches of political parties tripled in 1995 and doubled in 1996. Moreover it was reported there was a practice that politicians asked companies which donated more than 500,000 yen to donate this to a local branch of the political party, not to a politician’s FRO. Then the local branch transfers this to the politician’s FRO. In 2000, 122 MP’s fund raising organisations received donations from the local branches of their parties. This amounted to about 1.8 billion yen ($16 million) in total. In the previous year only 53 fund raising organisations received 630 million yen ($5.7 million). Therefore, it is obvious that this loophole is being utilised more and more.

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*51 This will be discussed later.*

*52 Asahi Shimbun, 28 November 1997.*

*53 Asahi Shimbun, 11 September 1998. This kind of donation is banned under the 2000 Amendment.*

*54 Asahi Shimbun, 21 December 2001.*
of the political party. The average income of these MPs is made up of the income from the local branch of the political party and the income from the FRO of the MP. From Figure 2, LDP MPs are clearly much better off than MPs from other parties because the companies mainly donate money to the LDP.

![Figure 2: Average Income of MPs from Party Local Branches and from FROs in 2000](source: Asahi Shimbun, 21 December 2001)

Apart from the above direct restrictions on donations, the Public Offices Election Law provides several indirect regulations, such as an upper limit on electoral expense for each candidate. This depends on the numbers of the electorate in the relevant constituency. For example, in the case of a single-seat constituency of the House of Representatives, the upper limit is obtained by multiplying the numbers of the electorate by 15 yen (US$0.14) and adding a fixed amount (19,010,000 yen =US$172,818). This comes to between 23 million yen (US$209,091) and 28 million yen (US$254,545). Moreover, the law imposes very severe restrictions on electoral campaigns: a total ban on canvassing, a restriction on the number and size of posters and leaflets, a total ban on electoral campaign broadcasts except free public electoral campaign broadcasts, a restriction on the period of the campaign and a total ban on campaign activities by public officials. On the whole, the regulation of political finance in Japan is quite strict. However, politicians often get round the upper limit of electoral expenditure by counting electoral expenses as part of political activity expenses. Moreover, many candidates begin their
campaigns before the start of the legal period for the electoral campaign.\(^6\) It is illegal to campaign before this period but it is very difficult to distinguish in practice between electoral campaign activity and political activity.

2.2.3. Public Funding

Although this was the first time that the comprehensive direct public funding had been adopted in the political history of Japan, it should be recalled that before the introduction of political party subsidies, other various forms of state aid to political parties (through candidates) had already existed under the guise of “official elections” (Kouei Senkyo). Many measures relating to electoral campaigns are provided for by the government: free electoral campaign broadcasts on behalf of political parties,\(^7\) free mailing, free posters, free poster advertising, free press advertising, free meeting rooms for campaign speeches, official bulletins concerning campaign pledges, free public transportation, free use of campaign cars etc. These subsidies were based on the idea that severe restrictions on electoral activities and highly government-subsidised elections could diminish the possibilities of political corruption. However, taking into account incessant political scandals, most of the above measures do not seem to have curbed political corruption or prevented electoral offences. Therefore, it is doubtful that more general public funding like the one the 1994 Reform adopted can curb political and electoral expenses and prevent political corruption. The re-examination of the existing quasi-state subsidy must have been done before adopting more general state subsidy.

The total amount of political party subsidies is about 30 billion yen ($272 million); that is the population of Japan (125 million) multiplied by 250 yen ($2.27). This figure is based on the argument that state subsidy must cover one third of the total expenses of political activities by political parties. From the past political expenses total expenses have been estimated as 90 billion yen ($818 million). There are questions upon the appropriateness of the amount of the present state subsidy. First, the past political expenses had been reproached as too high and the curtailment of the political expenses was priority of the reform. Therefore, it is not appropriate to decide the necessary amount of state subsidy by using the past figure. Secondly, why state subsidy has to cover one third of the total political expenses is not clear.\(^8\)

Political parties eligible to receive subsidy are defined as follows: (i) a political party which has more than five members of the HR or the HC, or (ii) a political party which has more than one member in the HR or the HC and has obtained more than two

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\(^5\) Sarufutsu case, judgement of the Supreme Court, 6 November 1974, Keishu 28-9-393. It was held that the prohibition of allocating and advertising of the posters of a candidate of the HR by a lower-level post office official does not violate of article 21 of the Constitution (freedom of expression).

\(^6\) E.g., 12 days for the election of the House of Representatives

\(^7\) Broadcasts by individual candidates of HR elections for single-seat constituencies were prohibited by the 1994 amendment.

\(^8\) During the deliberation in the Diet it was suggested that the price of a cup of coffee would be acceptable for the public.
percent of the valid votes in the election for the HR or the HC.\textsuperscript{9} State subsidy is allocated according to numbers of the members of each House (50%) and the number of the votes cast in elections (50%). There is no upper limit. Originally an upper limit (two thirds of total income) had been discussed. Although it was assumed that an upper limit might encourage political parties to raise more donations in order to receive more subsidies, this regulation was abolished before being enforced because of strong opposition by all parties. Nevertheless, considering the present situation, it can be argued that by abolishing the upper limit increases the dependency of parties on subsidy (see Figures 9 and 10). Political parties or its regional branch is obliged to keep accounts, have them audited and submit an annual report with an audit report to the Home Affairs Minister or the relevant Election Administration Committee. The summary of the report is published in the official daily gazette. If a political party does not submit a report, the subsidy grant shall be suspended.

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{figure3.png}
\caption{2000 Public Subsidies for Major Political Parties}
\end{figure}

In 2000 the LDP received 46 % (14.5 billion yen ($132 million)) of total public subsidies. When the balance carried forward from the year 1999 is added to the 2000 subsidy, the LDP’s financial predominance is strikingly clear (see Figure 3). It is not surprising if one takes into account that the present electoral system selects 300 MPs (among total 480 MPs for the HR) by first-past-the-post system that is advantageous to a bigger, nationwide party like the LDP. Moreover, Figures 4 and 5 show that many parties retained public subsidies without using them.

The present law does not regulate the way of using public state subsidy. How the subsidies are used is totally up to the political parties. The only regulation is that when a particular expense from the subsidy exceeds more than 50,000 yen, the name of the recipient, the amount, the date and the purpose of this expense shall be particularised in

\textsuperscript{9} It has been argued that it is inappropriate to qualify political parties according to past results of elections and that the above qualifications are too severe for minor parties and new parties.
the report. In practice major items are running costs, political activity costs (mainly printing costs) and the reserve fund for elections (see Figure 4). In 1995 the LDP formed an internal code of practice for subsidies and specified in admissible items (e.g., a ban on food expenses). This is a good example of self-regulation. By contrast other parties did not set up any policy and therefore various items can be allowed such as donations to candidates and Koenkai, food, hairdressing costs, alumni association fees and the purchase of a building for the headquarters of the party. Moreover, it is noteworthy that many parties reserve a certain amount of the subsidy for their electoral fund. For example, the New Frontier Party (NFP, Shinshin-to)\(^{60}\) reserved half of the subsidy for its electoral fund in 1995. Several cases of misuse of subsidies were reported. One of the most striking cases is about Nakajima, a former MP. He misused public subsidy for his private expenses and submitted false reports to disguise his misconduct. He was sentenced to two years and nine months in prison (without a suspended sentence) for this act and other criminal acts such as bribery.

Despite the fact that some expenses do not seem to be appropriate to be paid by public subsidy, legal regulation of such usage could be considered an infringement of political freedom by the state. It is more desirable to leave the parties to make their own rules under public supervision. Thus disclosure and accessibility of the necessary financial information are crucial. Additionally if the subsidy is paid by the public taxes it is proposed that the party should spend more money on making policy, for research activities and for better communication between the party and the electors. Figure 5 shows that few parties spent subsidies on research activities. On the contrary, some opposition parties, such as the DJP and LP used the subsidies for electoral expenses. It should be remembered that this political reform of 1994 was replaced by electoral reform. Public funding to political parties and politicians was the bait for those hesitated to accept severer regulations for their financial problems.

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\(^{60}\) The NFP came out of the integration of the Shinsei Party, the KP, the Japan New Party and the DSP and then it was dissolved in December 1997 and split into seven new parties.
Figure 4: Expenditures of Public Subsidies

*PAO: Organisational Political Activities

Donations
Research
Business
Elections
PAO
Running Expenses
Local Branch

Source: The 2000 Report of Public Subsidies

Figure 5: Expenditures of Public Subsidies (%)

Donations
Research
Business
Elections
PAO
Running Expenses
Local Branch

Source: The 2000 Report of Public Subsidies

---21---
2.3. Evaluation of the 1994 System: Present Situation of Political Funding

Now it is time to question whether the 1994 system succeeded in curbing the income and expenses. According to the 2000 Report of the Political Fund, political parties, political fund organisations, fund raising organisations and other political groups raised 156.9 billion yen ($1.43 billion) in political funds in 2000, an increase of 3.4% from the previous year. Although the political fund plummeted to 148.5 billion yen (the lowest since 1978) in 1994, it has fluctuated since then. 1998 marked the highest level of political funding (186.5 billion yen) because of the 1998 general election for the HR. Therefore, it is difficult to say that the 1994 Amendment contributed to the restraint of political funding (see Figure 6).

![Figure 6: Total Income of the Political Fund](image)

In 2000 Political parties and political fund organisations (including local branches of the political parties) raised 110.4 billion yen ($909 million), an increase of 12.4% from the previous year and making up 70.4% of all political funds. On the other hand, other political organisations raised 46.5 billion yen (29.6%), a decrease of 14.2% from the previous year. The major sources of income were commercial income, public subsidies and donations. The details of income are as follows: commercial income 55.3 billion yen (35%, mainly for issues of the political bulletin), others include 37.4 billion yen (24%, mostly public subsidies), donations 35.5 billion yen (23%), membership fees 14.3 billion yen (9%), loans 9.7 billion yen (6%) and internal grants 4.6 billion yen (3%).

So far as donations are concerned, they are obviously declining (see Figure 7). Moreover, the 2000 Amendment had the effect of curbing corporate donations by prohibiting companies from giving donations to the FRO. On the other hand individual donations have been slightly increasing. However, the effect of the 2000 Amendment remains to be seen since organisational donations are increasing and the function of local branches as loopholes is revealed. Therefore, it is difficult to say that the 1994 system is encouraging individuals to take part in politics. Furthermore, the increase of individual donations cannot cover the decrease of corporate donations. It is still too early to say that party-centred politics is achieved.
Total political party income reported in 2000 is as follows: the JCP 32.8 billion yen ($298 million), the LDP 27.1 billion yen, the NKP 15.9 billion yen, the DPJ 11 billion yen, the SDP 4.4 billion yen, the LP 3.8 billion yen, the Liberal Association 2.8 billion yen, NCP 0.7 billion yen, the Independents 0.3 billion yen, the Sakigake 0.3 billion yen and the Dai-niin Club 0.1 billion yen. Figure 8 shows that well organised parties such as the JCP and NKP manage to balance income and expenditure. The JCP’s main income is the commercial profit (86% of its total income in 2000) made by the issue of the party bulletin. The JCP refuses to accept public subsidy by arguing that it is against the Constitution. On the other hand the income and expenditure of the LDP fluctuated dramatically because of the financial requirements of general elections which make it difficult to keep a balanced budget.
Figure 9: 2000 Income of Major Political Parties

Figure 10: 2000 Income of Major Political Parties (%)

Source: The 2000 Report of Political Fund
It is clear that political parties are now hugely dependent on public subsidies. Figure 10 shows that more than half of the income of the major parties including the LDP (53%), DPJ (70%) and LP (65%) comes from the public subsidy. Most of the income of the small parties is in the form of public subsidies: Dai-niin (99%), Sakigake (76%) and the Independents (75%). The significance of membership or affiliation fee among major parties is low: JCP 1.3 billion yen (4.5% of its total income), LDP 1.8 billion yen (6.8%), NKP 1.1 billion yen (7%), LP 3 million yen (0.1%), SDP 0.4 billion yen (8.6%). Smaller new parties did not gain membership fee income.

The 2000 Report declared that the expenditure of the parties and other political groups during 2000 totalled 174.5 billion yen, an increase of 24% from the previous year. The political parties spent 112.2 billion yen in total. The itemised expenses of the party are as follow: 16 billion yen (14% of the total expense) for the running expenses, 12.6 billion yen (11%) for political activity expenses, 12 billion yen (10%) for electoral expenses, 36 billion yen (32%) for publishing (business), 27 billion yen (24%) for donations and 6.9 billion yen (6%) for others. The average expenditure of LDP members is 72 million yen while the DPJ’s 43 million yen.61 It is interesting that many parties not only receive donations but also give donations (See Figure 11). It can be argued that parties began to play a role to receive donations for politicians and afterwards redistribute to them because corporate donations to politicians was prohibited in 1995 and corporate donations to politician’s fund raising organisations also prohibited in 2000. More organised parties such as the CJP and NKP spent their funds on business expenses (mainly the issue of the party bulletin). On the other hand the newly established parties such as the DPJ, LP, SDP and NCP spent quite a proportion of their funds on elections (See Figure 12).

These results lead to the conclusion that the 1994 System has not succeeded in curbing income and expenditure and in preventing political corruption. Conversely, several problems such as loopholes in the system and the dependency of political parties on public subsidies have been highlighted.

Figure 11: 2000 Expense of the Major Political Parties

Source: The 2000 Report of the Political Fund

Figure 12: 2000 Expense of the Major Political Parties (%)

Source: The 2000 Report of the Political Fund
3. CONCLUSIONS: REVISIT OF TRANSPARENCY AND DISCLOSURE

So far as one aspect of the regulation model in the 1994 Reform is concerned, it is difficult to say that the 1994 Reform played a fundamental role in changing the structure of political funding. Clear evidence of this is the current abuse of the local branches of the political parties. Although company donations to FROs (politician’s fund raising organisations) were prohibited in 2000, it is revealed that this prohibition becomes ineffective since politicians can receive company donations through the local branch of their political party. In 2000 local branches of the LDP received company donations six times as large as the previous year’s.62 It can be argued that the exchange of political funding among FROs, local branches of their parties (in substance politicians’ offices) and their supporting organisations (koenkai) can get round the legal limits on donations. This circulation of money among the three organisations functions as money laundering.63 Politicians skilfully juggle these three purses according to the nature and amount of the donations. Therefore, in order to cope with this loophole, the restriction on the number of local branches would be effective. The DPJ limits the number of local branches voluntarily and its branches currently numbers about 480. On the other hand the LDP has established 6931 branches up to now. It is said that the LDP accepted this reform because it had understood that local branches could be used instead of FROs.64

Even though it is effective to close loopholes by tightening regulations and introducing new regulations, it should be noted that there are already an enormous number of regulations in electoral and political regulation systems in Japan. Depending on the nature of the violations, the law imposes fines, imprisonment, suspension of the right to vote and stand for election and the invalidation of a politicians’ election. It is also true that the 1994 reform reduced electoral violations by tightening up the guilt-by-association-system, increasing fines and adopting the suspension of civil rights in cases of bribery. Nevertheless, several political scandals and corruption were reported even after the 1994 Reform.65 Current suspicions concerning the mediation of MP’s private secretaries for example led to a suggestion to amend the Law for Punishment of Public Officials’ Mediation,66 which would prohibit the mediation by the people in public office and MP’s public secretaries, so as to include private secretaries. The history of Japanese politics teaches us that stricter regulations either do not work or work only for a limited period. Severer regulations cannot change the mindset and customs of politicians and companies. On the contrary, if politicians need money, they will always find loopholes. Therefore, tightening regulations for political finance and adding restrictions on electoral

63 Sasaki, supra note 43, at 45.
64 Asahi Shimbun, 21 December 2001.
65 KSD Scandal (2001) involving leading LDP MPs, Koyama and Murakami. Currently a LDP MP, Suzuki is alleged to have been involved in rigging bids for government-funded projects, including the construction of a “House of Friendship” on Kunashiri Island, off the northeastern coast of Hokkaido, which is in Suzuki’s constituency.
66 It was established in 2000 because of corruption related to MPs’ secretaries.
campaign activities in Japan has a limit in curbing expenses and thereby preventing political corruption. Moreover, it has a negative effect upon the public because stricter regulations lead to more loopholes and this makes the public feel that political activities are more dubious and disgusting and this leads in turn to political apathy.

So far as structural reform is concerned, there is no evidence that electoral reform and public funding has realised the goal of party and policy-centred politics, namely the fundamental aim of the 1994 Reform. Contrastingly, some minor reforms that seemed to be inconsistent with the above aim of the 1994 Reform were added afterward. First, the reduction of seats for the HR was proposed and seats for the HR selected from the proportional representative system were curtailed from 200 to 180 but the seats selected from the single-seat constituency system (first-past-the-post system) were intact. Taking into account that the proportional representative system is supposed to encourage party-centred politics, this curtailment cannot be considered as favourable to the aim of the 1994 Reform. Secondly, the reform of proportional representative system in the election for the HC enables the electorate to write the name of a candidate in a ballot instead of the name of a political party to which the candidate belongs. This brought about an unusual electoral offence perpetuated by high-ranking public officials in the postal service.\textsuperscript{67} They asked the post office heads in official meetings to campaign for Koso, an LDP candidate who used to be a high official in the Ministry of Posts and Telecommunications. Koso was elected by a huge majority but resigned afterward because this offence was disclosed. This incident tells us that the reform encouraged a move toward politician-centred rather than party and policy-centred politics. It is doubtful that the ruling parties support the aims of the reform. They utilise it when it is useful (for example, the introduction of political funding) and ignore it when it is not advantageous to them. In fact, newly introduced public funding is not effective in curbing expenses but merely makes political parties dependent on it and they tend to take it for granted and make fewer efforts to appeal to the general public.

Thus, it is worth while returning to the initial principle of the system of control of political finance: transparency and disclosure. They are the keys to encourage political parties and politicians to self-regulate themselves under the public scrutiny. The 1994 Political Reform should not be dismissed from the perspective of transparency and disclosure although these aims have not been fully realised yet. The legacy of The 1994 Reform is the promotion of transparency. Recipients are required to disclose the name of the donor and the amount of donations when these are more than 50,000 yen (the previous threshold was 1 million yen).\textsuperscript{68} Thereby a more accurate and detailed statement of political finance has been revealed to the public for the first time. It means that the public can now evaluate the political activities of political parties and politicians more precisely and appropriately through the presentation of concrete figures\textsuperscript{69}, not by anecdotal or superficial evidence.

Yet, the more fundamental problem concerning transparency and disclosure is the

\textsuperscript{67} Judgment of Osaka District Court, 17 January 2002.

\textsuperscript{68} The current argument for relaxation of this threshold from the LDP shows their reluctance to transparency and disclosure.
gap between principle and practice. The present system of disclosure premises that the influence of donations and the propriety of the use of public subsidy are assessed by the electorate who are provided with the appropriate information from the annual reports through the official daily gazette or the press. In reality very few people read and understand the official gazette that enumerates only names and amounts of donations or expenses but does not show important details or useful information helpful for a full understanding. Most people do not know which political fund organisation is related to which political party and which fund raising organisation is related to which politician (the name of the organisation does not often suggest their relation). The press usually reports on the results of the annual report of political funding only when the report is published (i.e. once a year). People are surprised at the huge amount of money reported and deplore it. Yet it seems to be difficult to maintain their feelings until the next general election. Moreover, very few journalists or experts go to view the original reports at public offices. Furthermore, making copies of original reports is prohibited, one can only read them and take notes. The website of the Ministry of Public Management, Home Affairs, Posts and Telecommunications now shows the outline of the PFCL report and PPSL report (since 1998) and its more detailed summary (since 2000). It is a significant step, compared with previous practice. However, it is urgently proposed that the content of the reports must be sorted, analysed and published so as to enable ordinary people to easily understand them. The introduction of data processing and on-line searching through computers (particularly, easy access by internet) are desirable to attain this end. On this point, the US disclosure system of the Federal Election Commission is extremely suggestive. It provides not only the electronically filed reports but also the actual financial reports scanned on its website and the public can search the data by words. Moreover, voluntary efforts on the side of the political parties to disclose, at least the detailed use of the subsidy should be encouraged since the subsidy is paid through public taxes. It is time to establish an accessible and easy system to analyse a huge bulk of financial information. Otherwise, this information is just numbers on paper. Also, there is a new aggressive tendency on the part of the public. For example, recently

69 Sasaki, supra note 43. This is the first overall survey of political finance in Japan as a result of cooperation between academics and journalists. The improvement of transparency through the 1994 Reform enabled it to take place.

70 The Osaka Election Administration Committee has just started to allow the making of copies of reports in August 2000.


72 Therefore, current decision of the Ministry of Public Management, Home Affairs, Posts and Telecommunications not to upload the details of the reports on its website is retrogression.

73 <http://www.fec.gov/finance_reps.html>

74 The New Party Sakigake started to disclose its income and expenditure on its internet homepage five years ago. Now Niin Club has followed this example. See Asahi Shimbun, 8 September 2000.
72 policyholders sued the presidents of insurance companies to claim for the return of political donations of 170 million yen which were paid to the LDP by companies. The 1994 Reform is a starting point towards more meaningful and lasting reform.

75 18 July 2001, the Osaka District Court dismissed their claim and they are appealing to the Osaka High Court.