

Third General Meeting
Association of Caribbean Electoral Organizations (ACEO)
Kingston, Jamaica
November 6 to 8, 2008

Panel Presentation – Professor Trevor Munroe

May I first of all express appreciation to the organizers of this meeting – the EOJ, the IFES and the OAS

The work of each has been consistent and commendable in contributing to the debate on political party and campaign financing and to the discussion of the role of electoral management bodies in this critical area of democratic governance.

This debate has been taking place in Jamaica, on and off, for the last ten years and has indeed in the last two years borne some fruit in institutional developments relating to political party funding and campaign financing.

Recall:

- Debate in the Legislature – in the Senate, May 2002, October 2006
- Discussion in the media – October 2006
- Declarations from private sector bodies, civil society organizations – October 2006
- Consideration in the Political Parties 2007
- Town-hall meetings – 2008
- Engagement in regional and hemispheric conferences and consultations – at the Carter Centre in 2003, in Montego Bay in 2008

In this regard, the current Prime Minister of Jamaica, Hon Bruce Golding has been consistently involved – as a researcher, along with myself, on the Jamaica section of the OAS comparative hemispheric study; as a delegate, along with myself, Oliver Clarke, Earl Jarrett, Peter Phillips to the Carter Center Conference in March 2003 on "Financing Democracy in the Americas". Most recently in the pledge set out in the JLP Manifesto 2007 to **"enact in consultation with the Electoral Commission, Legislation to regulate the financial operations of political parties"**

Debate, and even more so, progress on political party and campaign financing has been nevertheless **episodic** rather than **consistent**, **"stop and go"** rather than **sustained**, largely because of public apathy and much hesitancy among sections of the leadership of both major political parties..

There has however been some progress. Financial disclosure laws pertaining to public officials have been broadened beyond Parliamentarians to embrace top public servants. Commissions responsible for monitoring compliance, namely the Parliamentary Integrity Commission and the Commission for the Prevention of Corruption, may now report non-compliance directly to the DPP for prosecution.

Nevertheless no prosecutions have taken place, though admittedly non-compliance with reporting regulations has fallen off amongst Parliamentarians within recent years.

Undoubtedly the **significant step forward has been the most recent parliamentary debate concerning the Bill to establish the Electoral Commission of Jamaica and the actual appointment of the body itself.**

In that debate in the Senate in October 2006, I emphasized the need for implementation of one of the key conclusions of the Caribbean Meeting of Inter-American Forum on Political Parties held in Montego Bay in April 2005:

“Governments should adopt and parties must obey stricter and more strictly observed legislation on party and campaign financing. This should mandate the production of detailed accurate, and regular accounts, which will be independently audited, that disclose income, major funding sources, amounts spent, and what the money is spent on. Limits on individual donations, donations from overseas sources, and campaign spending limits should be actively considered. Enforcement needs to be vigorously pursued, and penalties sufficient to ensure compliance”.

The Act setting up the Commission does in fact lay out functions sufficiently broad as to advance this conclusion:

Section 6 (1):

- (g) approve political parties eligible to receive state funding with respect to any or all aspects of the electoral process;**

- (h) **administer electoral funding and financial disclosure requirements;**
- (i) **monitor election expenditure by candidates or their official agents;**

In fulfillment of these functions, the Commission has concluded consultations and is now about to place proposals before Parliament providing for the registration of political parties and the criteria to be met; a regime for disclosure of sources of campaign financing and provision of some public funding for political parties.

As it stands, however, the law, the Electoral Commission Interim Act (2006) limits the role of the ECJ to that of **approval, administration and monitoring.**

To discharge even these limited functions successfully, **the ECJ shall need to have at its disposal both significantly increased budgetary allocations and appropriately qualified and experienced technical staff.** Recall that the EOJ has over the years adequately monitored minimal candidate expenditure reporting requirements but failed to penalize massive non-compliance. For example, after the 2002 general elections, 55% of candidates were found to be in non-compliance; of these 25 were (PNP); 30 (JLP), 25 (NDM/NJA); 6 (UPP).

Not one was prosecuted. Yet this constituted an illegal practice for which the law provides for a fine on conviction of between \$20 thousand and \$80 thousand; or imprisonment of between 3 and 5 years; and disqualification from being an elector or candidate for seven years.

This confirms a main conclusion of the OAS/IDEA study edited by Steven Griner and Daniel Zovatto that in the Caribbean “enforcement of campaign financing legislation is practically non-existent rendering the risk of penalty for violators close to zero” (**from Grassroots to the Airwaves, Paying for Political Parties and Campaign in the Caribbean, pg. 73**)

Hence for the new political party and campaign financing regime to be successful:

- **incentives for compliance need to be real**
- **offences under the law need to be clearly defined and penalties, whether administrative or criminal, for non-compliance need to be significant**
- **the DPP needs to be the enforcement body in respect of offences attracting criminal penalties and there needs to be both a will to comply and a will to enforce.**
- **The independence and credibility of both the monitoring and enforcement agencies need to be assiduously safeguarded and sustained.**

Currently both the track record and the appointment provisions for both the ECJ and the DPP encourage confidence and credibility

But levels of confidence cannot be taken for granted and have to be reinforced by deeds and not just words.

The Jamaican environment, not unlike the rest of the Caribbean and further afield is one in which:

- **The people regard political parties and political leaders as self-seeking, even corrupt rather than public-spirited;**
- **The people do not trust the authorities to enforce the law against the ‘big fish’ but only against the ‘small man’;**
- **Private money, commercial and criminal, is threatening to undermine the voice of the people and the very foundations of democratic governance.**
- **The effectiveness of governmental institutions is low**

It is therefore crucial to the enhancement of the system of democratic governance and the protection of the social order itself from further decline that the regime for political party and campaign financing be transparent, effective and instituted and enforced with urgency.