

NIA

National Integrity Action

“THE ROLE OF NGOS & CIVIL SOCIETIES IN THE FIGHT AGAINST CORRUPTION”

OFFICE OF THE CONTRACTOR GENERAL’S INAUGURAL ANTI-CORRUPTION CONFERENCE –
“CONFRONTING CORRUPTION: EMPOWERING A GENERATION, TRANSFORMING A NATION”

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May I begin this presentation by first expressing very special congratulations to Dirk, to the Office of the Contractor General and to the OCG staff for conceiving, planning and executing this inaugural anti-corruption conference and in particular the focus on empowering the new generation. Needless to say myself and National Integrity Action responded enthusiastically and positively when the OCG approached us to be part sponsors of this conference and so here we are today.

I have been asked to present to you on “*The Role of NGO’s and Civil Society Organisation in the Fight against Corruption*”. It is appropriate to begin by understanding what an NGO and a CSO is and by implication what they are not. We provide you with three definitions: the first from the London School of Economics Centre for Civil Society – civil society is “**the arena of uncoerced collective action around shared interests, purposes and values. In theory its institutional forms are distinct from those of the state, family and market, though in practice the boundaries between state, civil society, family and market are often complex,**

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blurred and negotiated ...” The second definition comes from CIVICUS the global organization of civil society bodies, **“the arena outside of the family, the state and the market where people associate to advance common interest”** (Heinrich, 2004: 13; *Assessing and strengthening civil society worldwide*). The third definition is from the International Monetary Fund (IMF) in their factsheet *The IMF and Civil Society Organisation* **“the IMF uses the terms civil society organization to refer to the wide range of citizens association that exist virtually all member countries to provide benefits, services or political influence to specific groups within society. CSO’s include business forums, faith based associations, labour unions, local community groups, non-governmental organisations (NGOs), philanthropic foundations and think tanks. Branches of governments (government agencies and legislators), individual businesses, political parties, and the media are usually excluded”**.

From these definitions we can infer that NGOs/Civil Society Organisations are characterized by four features: (1) independence from government (2) not for profit, (3) non-criminal (4) not an opposition party, nor a party seeking elected office. By definition, a CSO/NGO cannot be a contestant in any government elections, local or national. NIA, in fitting these characteristics, is one example of a CSO/NGO in Jamaica

CSOs/NGOs in effect are the legitimate expressions of citizens, in our country and around the world, exercise of two fundamental human rights embodied in both the **United Nations Declaration of Human Rights** and **Jamaica’s Charter of Fundamental Rights and Freedoms**; that is the right to **freedom of association** (*UN Declaration Article 20, Jamaican Charter s10*) and the right to **freedom of expression** (*UN Declaration Article 19, Jamaican*

Charter s9). Undue regulation or restriction of CSOs therefore violates these fundamental rights.

It is important to note for purposes of our discussion that CSOs and NGOs have experienced rapid growth in most states in the international community over the last twenty five years. The number NGOs in the United States is estimated at 1.5 million; India about 2 million in 2009, just over 1 NGO per 600 Indians, Russia two hundred and seventy thousand. In Jamaica, *An Assessment of Jamaica Civil Society (2006)* quoting a 2003 Inter-American Development Bank (IDB) Study “estimated that in Jamaica there are over 5700 community based organisations (CBOs), over 200 non-governmental organisations (NGOs) and approximately 30 umbrella organisations”. Of course in Jamaica and across the global community CSOs and NGOs are focused on the widest range of issues, such as, environmental (JET), human rights (JFJ) and anti-corruption (NIA).

In passing we should note some of the main reasons for this rapid growth over the last twenty five years:

- Declining confidence in political parties and organisations leading to a steady fall off in party membership across most countries
- A growing opinion that governments serve powerful private, special interests more than the public interest
- Increasing citizen concern to advance specific causes as distinct from trying to impact public policy in general
- A spirit of volunteerism

Given the reasons for their growth and the fundamental rights which they express it is easy to understand the functions which CSOs/NGOs fulfill:

- Advocacy
- Service provision
- Awareness building
- Public engagement and mobilization

The importance of CSOs/NGOs, the diversity of their interest and the significance of their functions means that the widest range of multi-lateral institutions, international organisations and international development partners- the IMF, The World Bank, the Inter-American Development Bank etc_ formally engage CSOs in countries across the world. In this context we can now turn specifically to the role of these important institutions in the fight against corruption.

We begin by noting that corruption, the abuse of position _in whatever sphere, public, private or market_ for ‘illicit gain’ is acknowledged as a cancer eating away at society and its institutions nationally, regionally and internationally. Equally, it is acknowledged that the poor and the vulnerable are the earliest and most immediate victims of this cancer. Hence, for example **Jamaica’s New National Security Policy** identifies corruption as **the number one threat to national security and economic development**. Similarly, the **Inter-American Convention against Corruption** to which Jamaica is a signatory declares “that ... corruption undermines the legitimacy of public institutions and strikes at society, moral order and justice, as well as at the comprehensive development of peoples”. The forward by then UN Secretary General, Kofi Anan to the **United Nations Convention against Corruption** describes corruption as “an

insidious plague...that undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organized crime, terrorism and other threats to human security to flourish”. Kofi Anan continued with an observation particularly relevant to Jamaica at the present time **“corruption hurts the poor disproportionately by diverting funds intended for development, undermining a government’s ability to provide basic services, feeding inequality and injustice and discouraging foreign aid and investment”**.

Given the insidious nature of this plague and its destructive impact on society, on economy and on governance, there is consensus that while Government must act decisively against corruption **BUT** Governmental authorities alone cannot deal effectively with corruption; the private sector as well as CSOs/NGOs have a critical role in the fight against corruption. In fact the involvement of CSOs/NGOs is not just an option- it is an obligation. *Article 3 of the Inter American Convention* requires state parties to the convention, including Jamaica, “to create, maintain and strengthen...mechanisms to encourage participation by civil society and non-governmental organisations in efforts to prevent corruption. Similarly, *Article 13 of the United Nations Convention against Corruption* , now ratified by 174 countries, indicates “each state party shall take appropriate measures...to promote the active participation of ...civil society, non-governmental organisations and community based organisations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption”.

The key role of CSOs/NGOs is therefore a matter of regional and global consensus and so is the obligation of governments to support and to facilitate that role in the fight against corruption.

Not surprisingly in many countries, for example recently in India and in Brazil, anti-corruption NGOs mobilise hundreds of thousands to challenge the impunity of the corrupt and to strengthen anti-corruption legislation. In others, (eg in Russia, Jordan, Kenya) , Governments are restricting CSOs in breach of their obligations under UNCAC and in violation of fundamental rights to freedom of association, of assembly and of speech. This trend must be resisted and not be allowed to take root in Jamaica or the Caribbean. Equally, CSOs and their funders have an obligation to practise what they preach, to be transparent, accountable and to respect the law and cultural norms of the countries in which they operate; as well as to develop their domestic, national base of support to complement support from international partners.

In Jamaica, National Integrity Action, launched publicly in December 2011 and formally registered under the Charities Act in 2013 is the civil society organisation engaged in the fight against corruption. The organisation seeks to live up to the requirements of the UNCAC and to strengthen the fight against corruption in a number of ways:

- Raising “public awareness regarding the existence causes and gravity of and the threat posed by corruption”. This activity has been pursued through full length documentaries (*Cost of Corruption: Jamaica’s Barrier to Prosperity, Building Integrity – A Work in Progress*), media/commercial ads, bill boards (**Less Corruption = More Investment = More Jobs**) town hall meetings, presentations to private and public sector organisations and civil society groups etc. I share with you 2 of these ads
- **INSERT ‘ IT HAFI STOP’ AND ‘ CFR ‘ ADS AT THIS POINT**
- Advocacy of anti-corruption legislation, for example, to establish special arrangements for the investigation and prosecution of the corrupt. Towards this end, in keeping with

the UNCAC, government and public authorities and NIA have partnered in anti-corruption activity, eg. In town-hall meetings, in training seminars for public officers, and in developing policy papers for new legislation

This activity has contributed to the passage of important anti-corruption legislation and heightened awareness of the negative role of corruption and the need for greater integrity:

- A decline in bribery victimisation, that is, the incidence of persons paying a bribe for a service, whether a passport, driver's license etc, from 36% in 2006 – well above the global average to 12% in 2014, well below the global average of 27%;(**Latin American Public Opinion Project; Global corruption Barometer, 2013**)
- The recognition by the Jamaica people that corruption is a major cause of the continuing hardship of the majority. A *TVJ/RJR December 2014 National Survey* found that the Jamaican people identified corruption as a main reason for hardship, ahead of mismanagement by present and past governments and ahead of the International Monetary Fund.
- The positive response to the visit and to the call of the South African businessman, Dr Graham Power. In less than a week, over 500 Jamaicans signed on to the UNASHAMEDLY ETHICAL commitment, including ‘ to refuse to elicit, accept or pay any bribes and to encourage others to do the same’

However, there remains a major continuing area of the fight against corruption in Jamaica. This relates to the closure of legislative loopholes dealing with money in politics, loopholes which facilitate corrupt influence on governance. In that context, the *United Nations Convention*

against Corruption in Article 7 requires each state party “to enhance transparency in the funding of candidatures for elected public office and ... **the funding of political parties**”. The absence of legislation requiring transparency in the funding of political parties has constituted and continues to constitute a major deficiency in Jamaica’s system of democratic governance and a huge facilitator for corrupt influence to be exercised on the legislature and the executive. Hence, in the fight against corruption in Jamaica, the fight for legislation to enhance transparency as well as to regulate party funding and campaign finance has been a major area of advocacy of NIA. Recently a major step forward was made in this regard with the amendment to the Representation of the People Act; passed by the legislature in September 2014, requiring parties to be registered and giving effect to recommendations from the Electoral Commission of Jamaica approved by Parliament in November 2010. However, the critical outstanding issue of Campaign Finance Reform and Regulation of political party funding remains outstanding, long pending and urgent.

Why? With local government elections and national elections due in 2015 and 2016, despite repeated promises from successive governments and recommendations from the ECJ :

- There is no law prohibiting criminal and illegal organisations from giving money to Jamaica’s political parties; this law is urgently needed
- There is no law limiting the amount that any individual donor may give in order to buy influence for private purposes without regard to the public interest over political parties; this law is urgently needed
- There is no law against foreign entities, whether business or government, giving money to Jamaican parties to meet their interest as against Jamaica’s public interest

- There is no law requiring disclosure of the contributions to political parties by large government contractors to mitigate against the risk of contract awards or other illicit advantage in return for party funding
- There is no law requiring political parties to disclose who contributes big money to their campaigns as exist in 85% of democracies around the world

There continues to be an absence of legislation, despite many speeches and numerous words that Campaign Finance Legislation has to be passed in order to rectify these deficiencies. The Electoral Commission of Jamaica, on which both parliamentary parties are represented, placed before Parliament reports and recommendations to regulate campaign finance, reports and recommendations approved by Parliament in November 2010, in April 2012, and in August 2013- **yet still no law**. In February 2013 Minister Philip Paulwell, Leader of Government Business in the House, responsible for piloting this legislation indicated in a letter to me as NIA's Executive Director "I expect that Campaign Finance Reform would be promulgated by the end of the first half of 2013"-**yet still no law**. In the most recent debate in the House of Representatives, which approved the ECJ's recommendations Minister Paulwell stated "free and fair elections can be affected by campaign financing ...because sometimes it is who pays the piper that calls the tune ...we have been debating, debating, this matter for far too long" (**Hansard, 24th September, 2013 debate in the House of Representatives**).

I agree 100%.

In the fight against corruption in Jamaica it is a matter of the greatest urgency to end the debating, to move the talk to a final stage, to place the Bill before Parliament to regulate

campaign financing, to enhance transparency in party funding (in accordance with the requirements of Jamaica's obligations under the UNCAC) and to outlaw criminal money getting into our politics. Minister Paulwell , on behalf of the Government, asked for support to enable the drafting of the Campaign Finance Bill ' as quickly as possible so that we can get it long before any new campaign period commences ' Hansard, House of Representatives, September 24, 2013. Are we not near the commencement of a ' new campaign period'? I and NIA repeat support for the urgent tabling of the Campaign Finance Reform Bill giving effect to the recommendations of the ECJ and call on the Government to ensure expeditious passage of the legislation. We make this call to strengthen Jamaica's integrity regime and in fulfilment of our role as a CSO in the fight against corruption in Jamaica.

Despite the reality that much remains to be done, Jamaica has made gains in the fight against corruption. There is now a momentum, reflected and carried forward in the recent visit of Graham Power to Jamaica, in this OCG conference, and in next week Monday's UTECH-NIA anti-corruption Conference at which the Head of Transparency International, visiting Jamaica at our invitation, shall be keynote speaker. We need to sustain and complement this momentum with more decisive action-particularly in breaking the impunity enjoyed by too many of the corrupt- particularly in high places.