Southern African Catholic Bishops' Conference
PARLIAMENTARY LIAISON OFFICE

Submission

to the

Ad Hoc Committee on the Funding of Political Parties

on the

Draft Political Party Funding Bill 2017

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Introduction

The Catholic Parliamentary Liaison Office (CPLO) is an office of the Southern African Catholic Bishops' Conference, tasked with liaising between the Church and Parliament/Government, commenting on issues of public policy, and making submissions on legislation. The CPLO welcomes the opportunity to comment on this matter, which has important implications for our multi-party democratic system.

In broad terms, we support the Draft Bill. It accommodates many of the suggestions made by civil society organisations in the earlier round of hearings conducted by this Committee. We are satisfied that the provisions of the Bill will go a long way to ensuring transparency and openness in the matter of political party funding, which in turn will allow voters to make better-informed choices.

We make the following comments.

1. *Clauses 2 – 7: The Represented Political Party Fund and the Multi-Party Democracy Fund*

We support the establishment of the Funds, but with some reservations.

1.1. The Need for Two Funds

Together, the two new Funds effectively replicate the existing Represented Political Parties' Fund provided for under Act 103 of 1997. The only difference between the two new Funds seems to be that the Represented Political Party Fund will receive public money, appropriated to it by Parliament; while the Multi-Party Democracy Fund will receive money from private, non-government sources.

In both cases:

- the Funds will be administered by the Electoral Commission (clause 5);
- funding will be distributed only to parties that have at least one seat in a provincial or national legislature (clause 6(1));

- the same prescribed formula for ‘equitable’ and ‘proportional’ distribution of funding will apply to both Funds (clause 6 (2)&(3));
- parties will be allowed to spend their allocation on the same set of purposes, and prohibited from spending them on a second, identical set of purposes (clause 7).

Given these similarities, it is not clear why there need to be two funds, with the associated duplications of administration and banking costs, reporting requirements, auditing, etc. If the only difference between the Funds is the source of their income, then a single fund, as exists at present, would suffice.

1.2. Distinguishing Purposes

We submit, however, that the two Funds should have slightly different purposes. Specifically, that the Multi-Party Democracy Fund should allocate its funding in such a way as to promote the concept of multi-party democracy, and not merely or mainly to support represented parties. This could be accomplished in two ways:

i. The prescribed formula for allocations from the Multi-Party Democracy Fund should be skewed in favour of equity. We suggest that at least 50% of its income should be allocated in equal amounts to all represented political parties.

ii. This Fund should also be empowered to allocate funding to parties which have not won representation in a legislature, but which have demonstrated a satisfactory track-record, for example by having contested a number of successive national/provincial elections, or by having met a minimum threshold of votes. Such a threshold could be set at say 66% or 75% of the number of votes needed to win a provincial or national seat.

It should be borne in mind that the income of this Fund will derive from donors who wish to support not a particular party or group of parties, but multi-party democracy itself. No existing party, therefore, has a moral claim on the income of this Fund; and neither is there any reason why its allocations should be restricted to parties that have already won seats.

1.3. Donations from Foreign Governments

Clause 3(4)(b) provides that the Multi-Party Democracy Fund may not accept money from foreign governments or foreign government agencies. It is understandable that there should be some control over, or a prohibition of, direct funding by foreign governments of local political parties. However, if a foreign government or one of its agencies wishes to support multi-party democracy as a whole, and has no control over how its donation is allocated between parties (such control lying with the Electoral Commission exclusively) then it is difficult to see why such foreign government funding should not be acceptable.

1.4. The Prescribed Formula for Allocations

We have already suggested that the formula to be employed for allocations from the Multi-Party Democracy Fund should be skewed in favour of equity. We submit, further, that the envisaged Represented Political Party Fund should split its allocations so that at most 70% is awarded proportionately, and at least 30% equitably. (We understand that at present the Represented Political Parties' Fund allocates 90% of its funding proportionately, and only 10% equitably.)

The larger, well-established parties have a much greater capacity to attract private donations and to raise funds through membership fees; they are therefore less reliant on public funding.

Clause 6 should therefore specify that the 'prescribed formula' should not exceed the 70/30 proportional/equitable ratio.

2. *Clauses 8 - 11: Direct Funding of Parties*

2.1. Definitional points

i. For clarity, point (a) of '**donation**' should read 'includes a donation in money or in kind…'

ii. Clause 11(1) prohibits donations made to members of political parties, except for party political purposes. However, point (a) of '**donation**' mentions 'a donation made to a member of a political party'. This appears to be inconsistent.

iii. Point (b) of '**donation in kind**' refers to 'personal services provided on an [*sic*] voluntary basis'. It may be more accurate to refer to 'individual services', since what is contemplated here seems to be services – whether of a personal nature or not – offered by individuals on an unpaid basis.

iv. For consistency, the reference to 'foreign entity' in clause 9(3) should be to 'foreign person', since 'foreign entity' is included in the definition of 'foreign person'.

2.2 Disclosure of Donations

We strongly support the disclosure requirement set out in clause 10. It is important that both individual, once-off donations above the threshold, as well as smaller donations from a single donor which cumulatively exceed the threshold, are reported. This could be achieved by inserting the following after 10(1):

"10(2) For purposes of subsection (1), 'donations' includes amounts received from the same donor in a financial year which, while individually below the threshold, cumulatively exceed it."

2.3. The Threshold

We note that the threshold is not stipulated in the Bill, but is left to be prescribed by the President, acting on a resolution of the National Assembly. We would like to see a maximum threshold set out in the statute itself, and we submit that it should be no higher than R10 000.00. If the National Assembly chooses to set a lower threshold, well and good. However, if it is left entirely in the hands of the NA, there is a danger that parties will agree to set it at an unreasonably high figure, which would effectively defeat the object of the disclosure provisions.

In addition, there is no provision for public consultation or input where NA resolutions are concerned. Consequently, the threshold could be significantly raised or lowered without the public having an opportunity to comment. This would not be the case if an upward change in the threshold required a legislative amendment.

2.4. Capping of Donations

We note that there is no provision for 'capping' of private donations to political parties. We agree that there should be no limit on private donations, as long as there is full disclosure.

2.5. Publication by the Commission

We support the provisions regarding publication by the Commission, as set out in clause 10(2)&(3).

2.6. Prohibition on Donations to Members of Parties

We respectfully submit that the wording of clause 11 is confusing. It is not clear whether the proviso "except on behalf of the party" applies only to members who receive donations, or also to persons who make the donations. If the latter, then it is not clear why donations for party purposes should not be made to individual members.

3. Clause 23: Regulations

We have noted our suggestions concerning the regulations pertaining to clauses 6(2) [the allocation formula] and 10(1) [the threshold]

We also note that clause 23 provides that the President may make regulations in respect of "matters contemplated in section 7(2)(e)…" There is no 7(2)(e); it appears that this reference should be to 7(2)(d).

4. Investment Entities Owned by Political Parties

We submit that transparency in this area is as important as it is regarding private donations to parties. The public must be in a position to judge whether a party's investment interests are influencing its policies or decisions. For example, if a party in government nationally or provincially happens, through its investment arm, to own shares in certain companies, and such companies are consistently favoured in the awarding tenders, legitimate suspicions might arise.

Since those parties that own investment entities do so for purposes of providing themselves with funding (it is hard to think of any other reason for a party setting up an investment arm), it is appropriate that this matter should be dealt with in the Bill now under discussion.

We submit that political parties should be required to submit full details of their investments, and any investment entities they may control, annually to the Electoral Commission. When the Commission reports to Parliament in terms of clause 21, it should also table a report providing full disclosure of the parties' investment interests.

5. Measures to Encourage Donations to Political Parties

The existing Represented Political Parties' Fund is empowered by section 2 of Act 103 of 1997 to receive moneys appropriated to it by Parliament, as well as "contributions and donations to the Fund originating from any sources…" The 2016 Annual Report of the Fund shows that the only income it received was from the parliamentary allocation and interest. No private donations were received. The same was true in 2015, 2014, 2013, and for many previous years. This suggests that there is little if any awareness or interest among the public and corporate entities when it comes to supporting multi-party democracy by making financial donations. There is no reason to assume that this will change simply because the new Bill intends to create two Funds in place of the previous single Fund.

We therefore suggest that Parliament should consider ways of encouraging the private sector to contribute to the Fund, possibly by making such donations partially or wholly tax deductible. Companies and wealthy individuals, in particular, should be more conscious of the need to contribute to political stability and the consolidation of democracy by supporting our multi-party system.

6. Conclusion

We wish the Committee well in its deliberations, and we would appreciate the opportunity to make an oral presentation.

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