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JUST NOT ENOUGH – OAS Official Wants More Sweeping Libel Reform for Jamaica

Catalina Botero, Special Rapporteur on Freedom of Expression with the Organization of American States (OAS), is backing calls by the local media for Jamaica's libel laws to be relaxed much more than now proposed by political representatives.

According to Botero, under the American Convention on Human Rights which many members states of the OAS, including Jamaica, have ratified, criminal libel is prohibited and public officials must show actual malice to prove defamation.

In Jamaica, criminal libel is accepted and the requirement for proof of malice is rejected.

"The OAS standards are high standards, but they are realistic and they reflect a high level of democratic development", Botero told The Gleaner yesterday.

The House of Representatives recently completed its debate on the proposed changes and sent them for Cabinet approval and drafting without accepting several recommendations put forward by the local media.

Among the changes rejected was a proposal to make it more difficult for public officials to sue for libel without proving that the story was malicious.

This would be in keeping with what has come to be dubbed the "Sullivan principle", which is based on a celebrated case out of the United States.

The 'actual malice' standard requires that the plaintiff in a defamation or libel case prove that the publisher of the statement knew that it was false or acted in reckless disregard of the truth.

But, in Parliament recently, politicians on both sides of the House of Representatives shot down this proposal and agreed to maintain the status quo.

Botero, who is on a four-day visit to the island, yesterday argued that Jamaica was out of step with several other countries in the region and operating its defamation laws below the standards set by the OAS.

She argued that public officials need to be held to a higher standard.

According to Botero: "In some countries, they have abolished criminal libel in keeping with a decision of the Inter-American Court on Human Rights, while in others, public officials have to prove actual malice."

"When you become a public official, you have to know that you will be under very hard scrutiny because you have important responsibilities. You are not like everyone else, and the increased scrutiny is good for democracy," said Botero.

"The public officials also have more chance to respond."

Botero, who is currently on an exploratory mission in Jamaica, met with the executive of the Media Association Jamaica Limited yesterday and will visit the University of the West Indies today before speaking with the executive of the Press of Jamaica tomorrow.