Mediation and Conflict Resolution in Civil Society: A Look at the Developing Society of Trinidad and Tobago

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In the recent Developmental History of Trinidad and Tobago there has been the passing of the Mediation Act of 2004 (Act Number 8), and considerable cabinet talk on the development of a Civil Society Board under the purview of the Ministry of National Diversity and Social Integration. These realities beg us to consider whether or not our beloved country needs Mediation in the form adopted above and for that matter any other method of Conflict Resolution, and furthermore whether or not we classify as a civil society. This paper therefore will seek to explore and discuss, from a global and contextual point, these fundamental questions, and whether contemporary Trinidad and Tobago is in fact in need of Conflict Resolution. It must be noted that this paper takes its exodus from the reality that within the context of Trinidad and Tobago the prime formalised method of conflict resolution is litigation and as such, the exploration focuses on Alternative Dispute Resolution method as opposed to the courts.

Key words: Trinidad and Tobago, mediation/conflict resolution, civil society, social class

Introduction

To deny the existence of conflict is to deny the mass media's publications and reports of murders, protests, civil wars, technological wars, religious upheavals and the like. From the reports of the proverbial 'watchdogs of peace' – the United Nations and their failure in the civil war of Sri Lanka; the perpetual and age old territorial conflicts between Israel and Palestine; the technological war currently being waged in court systems across the globe between Apple Inc. and Samsung Electronics; and the local banter between environmentalist Wayne Kublalsingh against the government's planned highway development, there is no chance of denying conflict as a reality in society. In fact in Sociology the study of Conflict has taken on a depth of theoretical perspectives, based on incompatible goals between persons, groups, and nations (Byrne & Senehi 2009). But without going further we must confess the real existence of Conflict, and as such not deny its presence.

As we have accepted the basic premise of the inevitability of conflict, which we shall explore in relation to how it arises in a later section of the paper, we must consider the reality of our desire to deal with conflict. Yes we know that human conflicts have often found its ending through war and violence, but the inherent nature of humanity is to survive in a peaceable manner (or a civil manner), it is therefore no wonder to search myth, religion and history and find what today we call Alternative Dispute Resolution methodologies. Albert Fiagot (2004) sites many authors who argue that from the genesis of human society, parents became arbiters, religious and mythological principles express the need for third party intervention, and the society as a whole whether in Asia, Africa, Europe and in the early America's developed their cultures and civil community upon peaceful means of resolution. I find it interesting though that he states and I quote that "*the introduction of the court system, as part of the modern state, was an indication of the loss of society's homogeneity through the growth of internal fecundity or external admixtures. In that kind of a mix, old sanctions tended to become inadequate to the new needs of maintaining law and order*" (Fiagot 2004). In other words there seemed to be a movement from communal living to individual living, in a sense away from civility, so then are we a civil society?

The Theoretical Base

While every discussion of peaceable resolutions of conflict is rooted within the civil society, it begs us to wonder as to whether or not with the current resurgence of murders and criminal behaviour if we, as a civil society, are ready to bring into being alternative methods of dispute resolution as opposed

to litigation. Are we truly then a civil society or are we using the term without understanding?

When we hears the phrase 'civil society' we tend to get an automatic response grounded on whether or not our behaviour reflects being "civilized" or not seemingly associated with Aristotle's postulation of the ideals of society (Edwards 2005). When we think currently we may consider CSO's (Civil Society Organisations) and NGO's (Non-Governmental Organisations) and their presence as somehow reflective of a civil society; when we think theoretically two positional definitions come to mind, that is Civil society as "*fundamentally reducing the role of politics in society by expanding free markets and individual liberty", or it means the opposite - "the single most viable alternative to the authoritarian state and the tyrannical market*" (Edwards 2005). As such we can agree with the Social Development Department of the World Bank which say that the "*concept of civil society remains elusive, complex and contested.*"(World Bank 2006). Yet we must grasp the foundational elements of 'Civil Society' if we have any intention to understand its relevance to who we are as a society today.

The Aristotelian ideals expected within a civil society would be a good place to start, for civility is expressed in tolerance, cooperation, politeness, and the like. Every society has "*distinctive rules of etiquette and standards of behaviour that render the behaviour of individuals more or less predictable and set the tone for public life*" (Pye 1999). Within society the vehicles of teaching or inculcating these standards are very much spread across varied avenues. Civil Society Organisations and Non- Governmental Organisations both form a part within the development of these values based behaviour, but the family unit, the educational sphere, religious teachings and even the political nature of varied societies inculcate these civic minded values as well. Lucian Pye argues though that "*Civility is not to be confused with gentility or virtue; even a band of thieves and rogues has its stated and unstated rules of conduct. When civility totally breaks down, society ceases to exist. When civility is strong and widely upheld, the society will be integrated and coherent*" (Pye 1999). In other words the bedrock of Civil Society is that of the individual's ethical imperative as reflected in the desire to uphold society, ideally then individual civility pushes us to see the proverbial 'Good Society'(Edwards 2005) where political dominance and the privileged parts of society are continuously challenged by their personal values to see the whole and not just part of the whole.

Yet these ideals are just the base from which to operate, for in many cases there are positive and negative civic attitudes that can facilitate or impede the accumulation of social capital, which is another building block within Civil Society. Francis Fukuyama says "*social capital is an instantiated informal norm that promotes cooperation between two or more individuals*" (Fukuyuma 1999). The ability of the civic minded individual to unite, integrate and find solidarity with one another on the bases of collective trust and commonality of purpose, allows society to mobilize for or against any political and or societal deficiency that does not have collective growth as its focus, and this is the strength of social capital. Pye says that *the "amount of social capital amassed by a society sets the stage for the emergence of a healthy civil society, which in its turn provides the dynamics for democratic politics*" (Pye 1999). He says so using Asian countries as his example, where the collective knowledge- that it is better to stand together, guides the progress of Civil Society as a whole in its economic, political and social spheres. While Social Capital is not easily quantifiable, it can be seen in the collective nature of various Non-Governmental Organisations such as religious institutions, voluntary foundations, and the wider society at national sporting, religious and cultural events, yet it can be quantified when translated into the drive for economic growth. These collections of civic minded individuals then can pick back up or rebuild a society that has faced some form of tragedy, not because of self interest but because of collective interest; a positive social capital has the potential to drive the society to the achievement of united idealistic goals (gender equality, transparency, equal opportunity, and other fundamental standards of societal behaviour). Social Capital then would agree with the individual as only good when joined to others.

The Social Development Department of the World Bank postulate another facet of Civil Society by saying it is an "*arena of un-coerced collective action around shared interests, purposes and values*" where "*citizens and voluntary organizations freely engage*" (World Bank 2006). This engagement arena is so elusive that it cannot be defined by geography, politics, work, family life and religious affiliation, but it connects and intertwines with all of the above in a public space of interaction and discussion. There is therefore the freedom of public expression. The public space is one of shared interest, discussion, negotiation and development that inevitably aids and pushes effective-governance and gives meaning and expression to democracy. In fact the United Nations says that "*the rise of civil society is indeed one of the landmark events of our times. Global governance is no longer the sole domain of Governments. The growing participation and influence of non-State actors is enhancing democracy and reshaping*

multilateralism" (United Nation 2004). As such if various viewpoints are silenced, suppressed or ignored the democratic nature of society and the civility of society are brought into question, because their freedom in the public space is challenged. Yet this space has increasingly become global in nature, because bodies like the United Nations and other regional associations, tend to propose universal civil standards from which societies can develop and judge their own their own Civility.

The Trinidad and Tobago Reality

With these three fundamental areas of civil society proposed, we must now ask whether or not Trinidad and Tobago can see itself as a Civil Society: do we possess distinctive rules and values for the greater good, do we socially engage others for the greater good, and do we have a free space to discuss and argue ideals for the greater good? These questions are not easily answered yet without empirical data one can argue on observational and deductive points that we are a Civil Society, but in comparison to other well defined societies we are still in a developmental stage.

Ironically of the three fundamentals outlined above the one that rings true most is that of our idea of a free space for discussion and open debate. Historically I believe that Trinidad and Tobago has had a great level of civic minded movements, which were primarily rooted in the trade union movements of the 1930's and continued through independence, even expressing itself through the Black Power Movement of the 1970's which in fact was a off shoot of the American version of the same. And even after these events the media became the bedrock of open discussion. Amazingly even today the concept of an open arena seems to still exist with the numerous NGO's and CSO's within our country. And because we are so intrinsically linked to the global sphere through our westernised avenues, our global space is very much active.

Questions can be asked though on whether or not our civility (norms and values) have propagated or desensitised our Social Capital. In one Newsday article Lennox Bernard says that *"not too long ago social capital was reflected more intensely in our activities and behaviours such as story-telling, neighbourhood gatherings, trust and respect for the aged, the infirm, teachers and the police and in spaces such as the barrack yards, village streets and community centres"* (Bernard, 2008), but now there seems to be a focus on individuality rather than collectively, even though the majority of our society comprises of a blend of ethnicities that are historically collectivistic in nature .

Economic growth and development has been evident in our country, and this can be sited as one of the prime reasons for our loss of Social Capital. The draft Document of the OTF group on Trinidad and Tobago, says that "*Trinidad and Tobago is "over-blessed" with subsoil assets, location and sunshine, and has underinvested in the more complex forms of capital such as human skills and capabilities, institutional capital, such as laws that promote innovations and efficient government departments that sponsor the development of the private sector, and firms outside of the energy sector that maximize value for their shareholders and compensate their workers accordingly*" (OTF Group Inc 2004). This position then is that our focus is still on oil and gas (physical capital) and the social capital development of the country is placed as second rate. Yet amid this truth is the fact that there is a drive for more Civil Society Groups and while it could be better managed and expressed, there still is some level of residual Social Capital that has lingered from Bernard's 'older days'. Later within the paper we will clearly see how a negative Social Capital is a precursor for interpersonal conflict.

To sum up then the question of whether or not Trinidad and Tobago is a Civil Society, can be safely answered by re-iterate a previously proposed reality- that we are a civil society in development, that is, we have some foundational realities, but others are still in the womb of society waiting to be born. Ironically from a Global Capitalist point of view we are more Civil than we think, only because of our standards as compared to other nations.

Conflict within Civil Society

We have accepted the reality of our civility as still in development, and that conflict is inevitable, yet to fully appreciate the Trinidad and Tobago context we shall delve into how conflicts emerge in our nation state. In so doing we shall look at the socio-economic frame of our Capitalist Society and how its inner workings breathe conflict into existence; and we shall look at the group dynamics involved in our multicultural twin island state, which also facilitate conflicting interactions.

The Socio- Economic Dynamic

"Some are born poor, some achieve poverty and otters have poverty thrust upon them. This is the story of the independent nations of the Caribbean" "*from Guyana in the south, through Trinidad to Jamaica in*

the north, it is an undulating state of poverty, with highly conspicuous peaks of prosperity surrounded by pockets of poverty, a configuration which is masked by measures of gross domestic product and per capita income. For these states, the problem is not only of poverty per se but also the socio economic inequality and the tensions which arise from such conditions" (Deosaran 2000). When Deosaran (2000) makes these statements he hits at the heart of the socio- economic reality of the Caribbean, where when we place ourselves in the capitalist scheme, rampant stratification and classism emerges. When the Caribbean was the agrarian pushers of raw material for the pre-industrial masters of Europe, we inextricably were stratified based on power and privilege, but once Emancipation came we tended automatically to be placed on the spectrum of Marx's production forces within the industrial mind, where slave labour and indentured labour were quickly generalized as a corruption of 'the working class' or 'peasantry' (based on forced labour). But the symptomatic psycho social problem that the Caribbean was and still is dealing with goes beyond just Marxian Capitalist forces and Social existence.

Talcott Parsons social stratification theory, though based on Marxist conception that stratification is in fact a part of society, deviates from solely economic base lines and thus brings us in the Caribbean and more so Trinidad and Tobago into a much clearer view. He postulates that the inevitability of conflicts finds its root in a hierarchical structure, that alongside the economic base, "Kinship" and "the Instrumental Complex" influence the placement of actors within this pyramid of society (Parsons 1949).

Kinship in Parsons Concept is the individual's social mobility as largely based on the family from which he or she comes from. The individual then shares the family income, opportunities and norms. In this context actors (individuals) are born poor, born rich or born into privilege, yet wherever the family moves through the hierarchical system so to all members of the family would do the same.

The Instrumental complex is a sort of westernized individualism, where within the society the person's individuality allows for specialization in their occupation and role which determines social mobility (moving from Class to Class). In this context they achieve wealth or poverty based on their speciality and property, be it physical property or intellectual property. The exchange of these properties brings into play how the society would view him or her and place them within the hierarchy of stratification.

These elements of classism bring into the minds of individuals from varied classifications of either rich or poor a dilemma of Perceived relative deprivation. This concept is based on a psychological feeling that one is deprived of some level of opportunity, property, and lifestyle, and because of the individual's ability to compare, there tends to emerge a perception of deprivation. Deosaran argues that there is a subversion of civil society based on deviance that rises due to Perceived Relative Deprivation- "*The problem arises when and where such relative deprivation and discontent are not properly met with legitimate opportunities for social mobility or material acquisition*" (Deosaran 2000). This mixture of discontent and deprivation "*can be a catalyst for incivility*" (Deosaran 2000). Further arguments can be postulated where poverty or lower class positioning can lead to deviant behaviour, but it is not simply based on whether one is poor or rich, it is associated with proximity of the rich to the poor, media presentations based on the upper class lifestyle and the loss of opportunity for social mobility.

Ronald C. Chester makes a bold statement of reality when he summarizes J.B. Mays by saying "*Mays concludes that increasing the general wealth of the population will not reduce crime*" because the heart of the matter is that "*crime is intimately bound up with the social structure*" (Chester 1976). His argument lies in the belly of the beast that is the Capitalist socio- economic reality of which we in Trinidad and Tobago are apart, for there will always be the rich and the poor in society and regardless of the level of actual poverty, there will always exist a perceived deprivation when comparing one to the other. Thus, just as criminal behaviour is intimately bound to the capitalist social structure, so too is conflicts of perceived economic power over the powerless.

The Group /Cultural Dynamic

A class as defined by Parsons is grounded on the above realities, but within the Caribbean sphere we must ask the question; are these realities the only facets of socio-economic stratification? Are these the only markers for the rampant rich and poor divide we see in Caribbean society? Smith (1984) would say no, for race, colour, and culture within their group realities do stratify and polarize society.

Before we venture into Smith's (1984) postulation of Race and Class, we should veer our eyes to the group as a major player in the causality of conflict which in fact includes Smith (1984) position. It is very much evident that groups are formed on the basis of geographic, religious, political, ethnic, and positional affiliation. Yet multiple groups in one society tends to bring with it facets beyond coexistence, and Simmel (1898) points us to the

dynamic of "*superiority and inferiority, the erection of hierarchies, competition, division of labour, imitation, representation, and countless other types of human socialization*" (Simmel 1898) that can persist within a society. Group dynamics then do give conflict a face, whether it be racial, political, or otherwise separated, and that face polarizes one against another, in a proverbial 'face- off'.

"*The salience of race and colour*" according to Smith emerges as a major player in stratification even before economic wealth and property. He even quotes Lloyd Braithwaite's summation of Trinidad and Tobago "*as a society in which the dominant values have been those of racial origin and skin colour*" And while the onlooker may argue differently, because of the historical baggage of slavery and indentureship, the Caribbean and more so Trinidad and Tobago finds that though Family, Social Mobility and Economic realities do give individuals places of Status, colour or appropriately called ethnic variances still has an underpinning reality in our nation, which does create conflict.

Both Kirk Meighoo (2008) and Ralph R. Premdass (1999) position the ethnic group perspective as connected to the political realm, yet both their positions are somewhat different in its analysis. They both agree on the political nature of Trinidad and Tobago has been popularized in media and theory as the Afro- Trinbagonian Peoples National Movement, and the Indo- Trinbagonian United National Congress, and though the Peoples Partnership is currently in power, we can safely say that both these authors and most would agree that it is simply another formation of the United National Congress. Yet when Premdass (1999) looks at the political sphere he first begins with the ethnic historical variant of Indians and Africans in the country. He says that "*the emancipated Africans developed contempt for Indians who had willingly submitted themselves to the degrading regime of the plantation. Indians in turn regarded the Africans as 'outcasts' who had readily acculturated to the ways of the oppressor. Herein then, would the first seeds of Indian- African antipathy germinate*" (Premdass 1999). He further says that "*conflict is generated by the disparities in the success of certain cultural segments in different spheres of endeavour, reflected in unequal distribution of jobs and wealth*." (Premdass 1999). It can be inferred by his article then that the ethno political divide brings in the issue of who controls the resources, it is no fallacy that there is a belief that whichever political force is in power would favour their own ethnic or political supporters. In this line we can clearly see that his position would be to redefine the distribution of resources in an attempt to alleviate conflict.

Meighoo (2008) on the other hand outlines quite vividly how "*ethnic politics in its truest sense does not exist in Trinidad and Tobago*" yet he postulates that though demands of one ethnicity over another is not overtly expressed, ethnic mobilization does occur within the political frame (Meighoo 2008). While there does seem to be some salient points within his argument, we can see that the ethnic polarization is still evident if not in a visible manner, the behaviour then is to still hinge to one's ethnic group even if it means through political affiliation. This conception then is grounds to see the ethnic variance as not politically based but more aligned to the solidarity to one's own ethnic group.

This mobilization may be responsible for other supposed ethnic privileges or solidarities. Brathwaite (1975) postulates in his paper regarding occupational mobility that there is "*evidence which suggest that in some areas, we may find that the East Indians have a better, and greater opportunities than the Africans. For example Camejo in a study of the business elite presented findings which show that in terms of its composition the business elite offers greater opportunities to East Indians (9%) than to Africans (4%)*" While this seems farfetched it is a subtle reality or perceived reality within society, and as such does create a sense of deprivation, and or a superiority/inferiority dilemma.

Yet thus far we have only identified two ethnic groups within our country, when in fact these groups are just the major elements within the society but there are far more groupings, that can create conflict, residing in our relatively small twin island state. While we wait on the current census we can infer from the 2000 census that even though East Indians (40%) and Africans (37.5%) make up the largest proportion of the Trinidad and Tobago population, there are many other ethnic bodies residing in Trinidad inclusive of the Chinese, Syrian/ Lebanese, White/ Caucasian, and Mixed. Further to this is the reality that quite a lot of multinationals live within our country but are not of our nationality (CSO 2000). The groupings go even further when we factor in the religious affiliations, spread across various Christian denominational bodies, Islam, and Hinduism (CSO 2000). All these variables tend to create a web of connectivity that if not traversed carefully can create much more antagonistic feelings and opportunities for disagreement than is normally necessary. The group interaction is not necessarily the prime conflict source, since it is the interpersonal communication that tends to be pinpointed as the source of disparities. While there is no finite evidence, it can be widely accepted that one area of contention that usually occurs within our country is in the relational aspect of life, that is, the mixed

religious and ethnic marriage. This usually brings families and ethnicities into some level of discomfort, in other words there is still a discomfort for parents when children marry or are in relationships with members of another ethnicity and or religion.

The Global Dynamic

As previously mentioned Trinidad and Tobago is intrinsically linked to the global civil society context, and as Fiagot (2004) puts it "*the world is essentially a village, firing on the cylinders of free and fair trade*", as such there is no doubt that what happens in the village will somehow filter into our parts, and the global traumas and crisis will ultimately be reflected in the local context. The prime global issue that is affecting the word over is the Financial Crisis that is constantly being spoken off in the hope of finding solutions and restoring stability.

The Global Financial Crisis may not seem as associated with the local sphere of civil society, but once the global society is threatened the trickledown effect will ultimately lead to reactions, contractions and even violent disputes in the local arena. When the global financial recession began in the second quarter of Two Thousand and Seven (2007), stock markets across the world fell and large financial institutions collapsed or had to be bailed out, and governments in even the wealthiest nations had to come up with rescue packages and austerity measures to ease the tense financial strain on their respective nations. From Greece to Spain, to the Arab revolutions we can see how the financial distress displayed itself through protests, revolts and even political upheavals. In our local context we can see that the fall of Colonial Life Insurance Company (CLICO) and the Hindu Credit Union did in fact lead to government bailouts and more so distress on the part of members of these financial houses, yet our country is yet to feel to mass burden that some other countries are already experiencing.

In a unique article written by Chossudovsky (2008) entitled 'The Global Crisis: Food, Water and Fuel. Three Fundamental Necessities of Life in Jeopardy', he argues that the Financial Crises has put the world at a serious economic and social dilemma, since the debt crisis is beginning to have its effects massively shown among the global poor. He says that *"There are many complex features underlying the global economic crisis pertaining to financial markets, the decline in production, the collapse of State institutions and the rapid development of a profit-driven war economy. What is rarely mentioned in this analysis, is how this global economic restructuring forcibly impinges on three fundamental necessities of life: food, water and fuel. The provision of food, water and fuel is a precondition of civilized society: they are necessary factors for the survival of the human species. In recent years, the prices of these three variables has increased dramatically at the global level, with devastating economic and social consequences"* (Chossudovsky 2008). There is no question then that countries like Haiti, Guatemala, India and the Sub Saharan Region are feeling the brunt of these effects, but more so if we turn our eyes to the 'global poor' which includes the local poor, we can see how the crisis is indeed a burden not because of stocks and bonds but because of the lack of basic civil society commodities, for the statement 'the rich are getting richer and the poor are getting poorer' is indeed becoming evident. Obviously then the limited world resources being controlled by a fast growing few is indeed widening the income gap and availability of resources for a large mass under and on the cusp of poverty, more and more these issues will come to for through conflict and violence and thus there is need for something to be done.

Defined Conflict Resolution: do we need it?

In seeing the web of opportunities for disputes, conflicts and escalating violence in our country it begs us to wonder whether the existing system is good enough to sustain civil society from the incivility brewing in each of us. The System we speak of within the Caribbean context primarily is identified as the legal arm of the state. But is litigation the only arm available within society to deal with disputes and conflict?

Litigation is indeed one of the many forms of Conflict Resolution, which by its very word composition can be regarded as any process that resolves, brings to peace or ends conflict and or disputes via methods of any means. While this seems a bit harsh, it does give image to what it stands for, and Liebmann (2000) puts forward a dynamic that does allude to conflict resolution as on a linear spectrum moving from least interventionist to most interventionist. Conflict resolution then is not just a non-violent process that manages conflict through compromise, or through the assistance of a third party who either facilitates or imposes a settlement or resolution. It is a resolution that begins first with Avoidance, and moves through Negotiation, Mediation, Arbitration, Litigation and climaxes with adversarial Aggression.

While some will not agree with placing Litigation and Aggression within this spectrum, these areas cannot be ignored, but as noted above they

should not be looked at as the only means of Conflict resolution. In fact Avoidance coupled with Litigation and Aggression only resolve conflicts for a short period of time, and may not be lasting in the Utopian ideal of peace. Yet the key then to most conflict resolution styles is to generate agreements and improve relationships, and as Barrett and Barrett says, "*while humans have always had the tendency to solve their differences by fighting, they also have recognized the benefits of settling matters peacefully by flipping a coin or some other way. This search for alternatives to violence gave birth to the precursors of alternative dispute resolution (ADR)*" (Barrett et al 2004). As such the focus then would be on the alternatives to Aggression and Litigation.

Historical Reality

Before we move into understanding the various methods of conflict resolution I think it only fair to sensitive ourselves to the fact that conflict resolution is in no way a new dynamic, for it has existed throughout various societies and eras. Most if not all the historical background can be found in 'A History of Alternative Dispute Resolution' written by Barrett and Barrett, but we look primarily at three sited histories before turning our attention to the local historical reality.

The Bushmen of the Kalahari, the Chinese, and the Indian historical traditions are three areas of interest when we look at the Alternative means of Dispute Resolution other than violence. In the first instance the Kalahari peoples have often been described as "a traditional people whose sophisticated system for resolving disputes in many ways puts modern society to shame". They would literally talk until the dispute was over for days upon days, quite similar to consensus building and negotiation. On the other hand Chinese tradition takes its base from Confucius who taught that "natural harmony should not be disrupted, and adversarial proceedings were the antithesis of harmony" (Barrett et al 2004) marking any means other than war as the means for this Asian community to be guided upon but primary based on mediatory means of resolution. In the South Asian Indian context a style of Arbitration developed and in some instances still exists, and that style is the Panchayat. Matters would be brought to these elders of the community who's "decision was irreversible" (Barrett et al 2004). These three examples show us that Negotiation, Mediation, and Arbitration were indeed apart of traditional societal norms, and even though we may argue that our societies did not have such points of reference to Dispute Resolution I beg us to look again.

The Trinidadian and Tobagonian context was born from European rule, but the society was not entirely European, for the heritage of African and Indian traditions came with the slaves and indentured workers to form part of the society. In fact Fiagot (2004) in contextualizing his argument sites a paper written by Helen Alves of Trinidad and Tobago , where she says "*The Hindu villages of India which had traditionally engaged the panchayat justice system (and which system, in traditional times, was also used in Trinidad and Tobago as a means of dispute resolution).*" And she points us to the African respected noble who "*were often called to mediate disputes*" (Fiagot 2004) within communities. But it is no question to us that in our society the village council, and or religious leader did play a major role in dispute resolution, which inadvertently lessened the load on the court systems back then. Unfortunately there is a direct relation to the disappearance of these systems and the current excessive load on the court system today. History then is pointing us back to methods of non- violent means of dispute resolution.

Methodology

Because of the inductive nature of this paper, the author depended on secondary data from a variety of sources, namely, the Main library of the University of the West Indies at St Augustine, reviewing of archival and contemporary historical data. The jurisdiction of the Family Court's library, also the use of unstructured interviews with members of the Court. International Journals on Peace-building, mediation and conflict resolution and the use of Oral tradition, a narrative methodology using unstructured interviews.

Litigation

While aggression is a form of dispute resolution it is not the desired method to be used in many situations, coupled with this reality is that the legal system of courts and litigation is considered just as adversarial in nature as aggression. On the spectrum of Dispute Resolution then litigation would closely follow Aggression from a top down look at interventionist positions. Fiagot (2004) states that "*The common law is very much an adversarial system of jurisprudence. The Notion of a plaintiff versus a defendant, appellant versus respondent, the legal principles established through judicial precedents, the rules of court, the rules of admissibility, hearsay etc. Are all manifestations of this adversarial approach to dispute resolution.*" He goes even further to describe

the inefficiencies of the court system, in relation to time, expenses, delays, emotional costs, and the likelihood of the conflict still having residual seeds after the decision is hands down. Even Blake et al (2011) in their joint book on Alternative Dispute Resolution, points favourably to the courts but confessing its shortcomings, when they say "*A sound and just court system is undoubtedly a primary choice for dispute resolution*" but "*no system can be perfect*". They position though that litigation should not simply be rejected for the sake of other means of dispute resolution, for it does have its place in criminal cases and the setting up of moral precedence, but it is better to for litigation to remain as one of the options within dispute resolution, but not the sole option. Within the Caribbean context and more so the Trinidadian reality i believe there position is right, no one means of dispute resolution should be used, for all situations are different, and many civil cases can be dealt with efficiently outside of the court.

Arbitration

Arbitration is in a sense a bridge between Litigation and the less interventionist methods, which brings into play a bit more self determination. In a strict definition mode we can say that "Arbitration is an adjudicative dispute resolution process. It is based on an agreement between the parties to refer a dispute or difference between them to impartial arbitrators for a decision" (Blake et al 2011). In the Caribbean context Fiagot (2004), once more allows us to see that Arbitration is indeed relevant to our commercial disputes both internationally and locally, and due to the global civil society organ known as the United Nations, we are advised to promote peace and security by seeking arbitration as a means of disputes (Article 33 of the UN Charter). In fact in Two Thousand and Six the maritime dispute between Barbados and Trinidad and Tobago over border lines was ruled upon by the Permanent Court of Arbitration and both countries found favour with the decision. There is at times then the need for a blended decision making scheme as Arbitration for it is consensual, but decisions are legally binding.

Negotiation

As we move down the spectrum we find ourselves in a methodology that is known as Negotiation. In its informal stance Fisher and Ury (2011) identify negotiation as the most used form of dispute resolution because of its vast applicability within the home and community. They postulate that "*negotiation is a basic means of getting what you want from others. It is a back and forth communication designed to reach an agreement*" (Fisher and Ury 2011). Negotiation is primarily used in the trade union discussions with the governmental representatives, these forms of negotiation tends to bring options to the table and can defuse antagonisms of one to the other. Yet whether you come to the table with a positional attitude which is competitive in nature or an co-operative attitude which is more willing to compromise, the beauty of negotiation is the freedom to discuss matters one with another. Even though negotiations can be time consuming and mentally taxing, they are usually most fruitful in the end, for there is the likelihood of a win- win situation, where both parties leave the table with something better than what they came with.

Mediation

The final methodology to be discussed deserves much more attention largely because of its relevance to the focus of this paper. And as we have been seeing thus far there is the need for alternative means of dealing with conflict other than aggression, in our context these areas of alternative dispute resolution are only now coming to be formalized within civil society. Yet their clear importance lies within how they can defuse and restore a level of peace within our nation state. Mediation as such, even though it forms a part of guided negotiation, deserves a deeper look.

Christopher W. Moore (2003) defines Mediation "*as the intervention in a negotiation or a conflict of an acceptable third party who has limited or no authoritative decision- making power, who assists the involved parties to voluntarily reach a mutually acceptable settlement of the issue in dispute*" (Moore 2003) Mediation finds its strengths through its privacy and confidentiality mode of operation, its voluntary and consensual obligations, its flexibility with rules and regulations, and its focus on interests and needs of the parties rather than the personalities behind the issues, and this form of Conflict resolution I believe will aid our society in moving away from stereotypes and incivility based on the non recognition of others. As such across the globe, many governments and institutions including the United Nations have recognised that the costs of dealing with disputes within businesses, between individuals, in the family, and even internationally, using purely legal remedies only, are simply too high. Financial costs, emotional costs, and relational costs push the global perspective and the local variance of the same to see mediation as a major player within societal development.

There are three types of Mediatory methods proposed by Zumeta (2000) that seem practical for consideration, and Liebmann (2000) pinpoints these forms of mediation as being able to transform various situations of conflict within various arms of the United Kingdom Society. From conflicts based on Industrial, Familial, Schools based, Community, Commercial, Medical, and Environmental arena's these methods of mediation according to Liebmann (2000) can bring aid.

The first arm of mediation is the most common which is- Facilitative. In facilitative mediation, the mediator structures a process to assist the parties in reaching a mutually agreeable resolution. The mediator uses questions to bring out the parties points of view; searches for interests underneath the positions taken by parties; and assists the parties in finding and analyzing options for resolution. The facilitative mediator does not make recommendations to the parties; give his or her own advice or opinion as to the outcome of the case. The mediator is in charge of the process, while the parties are in charge of the outcome.

Zumeta's (2000) second type of mediation is the Evaluative mediation process which is usually modelled on settlement conferences held by judges. An evaluative mediator assists the parties in reaching resolution by pointing out the weaknesses of their cases, and predicting the legal likely result. In this style recommendations to the parties can be made, yet the decision is still in the hands of the individuals. Evaluative mediators are concerned with the legal rights of the parties rather than needs and interests, and evaluate based on legal concepts of fairness. Evaluative mediators are primarily versed in law and tend to meet with the parties and their respective attorneys to guide legal positions. This form of mediation is usually court oriented.

The third postulation of Zumeta (2000) is that of Transformative mediation which is the newest of the three. Transformative mediation is based on the values of "empowerment" of each of the parties as much as possible, and "recognition" by each of the parties of the other parties' needs, interests, values and points of view. The potential for transformative mediation is that any or all parties or their relationships may be transformed during the mediation. The parties structure both the process and the outcome, and the mediator is there to follow their lead. This slant of mediation is usually adapted for community and groups because of its ability to foster values and respect without being dictatorial and allows the community to build itself.

The three slants to mediation can be useful in many instances, and as Liebmann postulates they can be translated into various sectors to transform and to relieve the strain of conflicts caused by economic and cultural differences. I believe that Trinidad and Tobago in developing a civil society can include mediation as a form of dispute and conflict resolution, for interpersonal, group and national conflicts can find some civil form of resolution other than the court room or the burning tyres and blocking roads, by simply sitting around a table and discussing our points of view, always mindful that a third party is guiding the process.

Conclusion

In summation of the discussion above, we can clearly see that due to the inevitable conflicts in the world sphere, and the multiple precursors to each conflict, there must be some form of resolution if we desire to live in a civil state under peaceful means. Yes though we are celebrating fifty years of independence, we can with confidence say that we are a civil society when contrasted to other societies that are our age, but we can agree that there is still some areas to development- like or social capital and community orientation and our ethical and moral standards.

But to say that we are a civil society is not grounds to simply conclude that we will not have conflict or we can deal with conflict on our own, in fact civil society should have within its walls mechanisms for conflict resolution that can occur, other than the legal system. In no way am I proposing that we should abandon the litigation process for it does help in building standards and in criminal cases, but I do submit that we should develop systems around litigation to support its drive for morally right decisions, and offer options to the public who may not want to undergo the rigors of litigation.

Together with the court then, the forms of alternative dispute resolution can build our society into a cohesive unit. Mediation can build relationships and understandings apart from personality differences; Arbitration can do the same but can be focused on holding the ethics of commerce and business in check; Negotiation can move beyond the responsibility of the trade unions and can become a real community action involving groups within each community including the church, temple, mosque and mandir. But under no circumstance should we as a society built out of the ashes of colonialism, slavery, and indentureship, allow ourselves to degenerate into aggression and violence, for we would simply be accepting that we have not come out of the colonial mentality. Rather though we may differ in race, class, ethnicity, religious affiliation and even nationality, we should strive to build up each other by holding on to the ideals of

relationship and community cohesion that we all have within our heritage as African, Indian, ad Asian. Just maybe we can weather the storm of the global crises, but we should never become complacent in the face of everyday real (not perceived) conflict.

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