

CARICOM'S 'Original Sin'

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I want to be somewhat provocative; and to suggest that we treat this gathering as political meeting. Not of the kind to seek votes for election to office; but for political consensus-building, strategising, and networking among civil society organisations; on how best to impact regional and national political decision-making.

In particular, may I suggest that our aim should be no less than to restore a sense of direction, and of vitality, to the regional integration moment.

The multiple crises of CARICOM

It is well known, and a subject of frequent public commentary, that the Caribbean Community is suffering from a major crisis, or more accurately, a multiple crisis—a crisis of implementation, of credibility and--dare I say--of legitimacy.

To all intents and purposes there has been no progress in implementing the CSME since the Single Market was inaugurated with much fanfare in 2006. What is more, the governments have backed off, or are backing off, commitments that they made with regard to implementation in key areas ; such as freedom of movement; and the scheduled completion of the Single Economy.

The President of the Caribbean Employer's Confederation, Mr Marcel Meyer, has recently warned that continuing delays in implementation of a seamless economic space in CARICOM is harming the private sector's ability to contribute to the implementation of the 'Global Jobs Pact'. As a

result, he says, we are in danger of losing investment and jobs to other countries¹.

Several member states are pursuing external association. Two are in UNSASUR, the Union of South American States; and three others are in ALBA—the Bolivarian Alliance of the People of Our America. In neither case was there consideration of making a CARICOM-wide collective agreement with these configurations.

All 14 CARICOM member states have signed on to the Economic Partnership Agreement with the European Union. But they did so individually, not as a Community. Each member state will, therefore, be in the position of competing with every other for whatever benefits the Agreement may have to bring.

Believe it or not, CARICOM as juridical entity has no legal standing in the governance and implementation of the EPA—although the powers of the EPA organs, on which the European Commission sits, as well as the Dominican Republic, in some respects have more force than the powers of the organs of the Community.

In two of the Community's leading member states, there is talk of setting up final national courts of appeal. This, in spite of the fact that the governments of these states, solemnly and deliberately and over the course of several years, and at considerable expense, participated in the setting up of the Caribbean Court of Justice.

The eminent Caribbean elder statesman, Sir Shridath Ramphal, has pointed to the 'grave and present danger' of demise of the Caribbean Court of Justice and with it, of further consolidation of the regional movement and of a West Indian identity².

Indeed if the CCJ goes down, it carries with it the entire edifice of the Revised Treaty of Chaguaramas, of which it is a central plank.

Danger of disintegration

¹ "The Global Jobs Pact is being hampered by non-implementation of the CSME", Marcel Meyer, available at <http://www.normangirvan.info/eyer-global-jobs-and-csme/>

² "Is the West Indies West Indian?", Sir Shridath Ramphal, available at <http://www.normangirvan.info/ramphal-is-the-west-indies-west-indian/>.

It is my view that the dangers facing the regional integration movement should not be under-estimated. I lived through the Jamaica Referendum and the break-up of the West Indies Federation. One seemingly small pronouncement in one country—in 1960 it was Bustamante’s decision that his Party would not contest a Federal by-election—triggered a series of events that brought the whole house down.

The reason was that the warning signs were already there, but everyone was busily pursuing his own insular agenda, and no one cared enough about the bigger project to save it.

Practicing politicians sometimes make political statements that are clearly meant for a domestic audience; but which have all kinds of negative repercussions in the wider region.

We need to resist the temptation to use CARICOM as a kind of whipping boy. We need to cherish it as a project deserving of consistent, sustained commitment because it is central to our sense of ourselves as a people; and to our ability to make our way in the world.

CARICOM’s ‘Original Sin’

According to the doctrine of Original Sin, mankind was condemned by a single act of folly committed shortly after the act of creation.

I want to suggest that CARICOM is, in a certain sense, damned by an Original Sin of its own making; one that inheres in the architecture of governance that was embedded in the Community from the outset.

It is actually a two-headed sin (if that is possible!). One head is the absence of supranationality, or collective sovereignty, in the execution of decisions. This is the underlying source of the implementation deficit of the Community.

The second, that is of particular relevance to this exercise, is what may be called a ‘participation deficit’.

I am referring to the absence of effective mechanisms for popular involvement—people involvement—in the taking of decisions, in the implementation of decisions; and indeed in the construction of an authentic Caribbean community.

The Assembly of Caribbean Community Parliamentarians

We did have something called The Assembly of Caribbean Community Parliamentarians. But that assembly never really served the purpose of promoting popular participation in the affairs of the Community.

It was composed of representatives of governing and opposition parties in each member state. An understandable concession, perhaps, to the established political parties; but one which may have had the unintended consequence of taking into the regional space, the parochial preoccupations of national polities.

In addition, the ACCP had no decision-making powers. It was not one of the legally constituted organs of governance of the Community. It lacked an independent source of finance.

The ACCP appears nowhere in the Revised Treaty of Chaguaramas.

Given all of these shortcomings, it is hardly surprising that it died for lack of interest. It was able to convene only three meetings after its creation in 1994. It is eleven years since the last meeting was held.

There is in some quarters an idea that a regional parliament means a bring-back of Federation. It is true that the EU Parliament is part of a political union; but regional parliaments are not necessarily tied to political union. There is a Latin American parliament and a Central American Parliament. The Andean Community had one; and Mercosur is setting one up. None of these regional parliaments is part of a federation or a political union³.

It is time for us in the Caribbean to lay to rest the ghost of Federation.

The CARICOM Charter of Civil Society.

Another instrument, that was meant to promote the participation of civil society, is the CARICOM Charter of Civil Society.

As everyone here knows, the fate of the Charter is not dissimilar to that of the ACCP. Adopted 14 years ago, it has yet to be given legal effect.

³ More information on this subject is provided at "The ACCP and Latin American Parliaments: Information Note", by Quinnelle-Marie Kangalee, at <http://www.normangirvan.info/kangalee-accp-latin-american-parliaments/>

And most of the actions it calls for have not been executed—notably Article XXV obligations for the preparation of national reports on measures adopted and progress achieved; the establishment of national committees; and annual submissions by the Secretary General .

The retired General Secretary of the Caribbean Congress of Labour, Mr George De Peana, is reported as having said last July, “that part from there being no legal framework to which civil society could seek redress by way of the charter, the Heads of Government did not carry through with the recommendation to take account of civil society’s views in a more structured way” (Trinidad Express July 20, 2010).

The Liliendaal Declaration was adopted with great expectation in 2002. It calls for establishment of a Task Force to prepare a comprehensive regional framework on strengthening the relationship between governments and civil society. The fact that nine years have passed, and we are just now finalising the framework, suggests a certain lack of urgency.

We have to ask, what reason is there to believe that the Regional Strategic Framework that is produced by this meeting, stands a better chance of being implemented than the CARICOM Charter and the Liliendaal Declaration. What has changed?

I do not wish to belittle the work that has been done in producing the Draft Framework, or the value of this exercise. But I do wish to suggest that we direct our attention to where the problem really lies, so that we can begin to dialogue about the appropriate solution.

Constitutions and culture

The usual recourse is to blame the governments. I am not here to defend them, but I want to argue that behind the indifference of the governments there lies a deeper problem; one that is rooted in the nature of our constitutional arrangements and of our political culture.

Simply put, the national constitutional arrangements that we have in most, if not all, CARICOM states assign no role to civil society in governance.

Citizen participation in governance citizens is restricted, constitutionally, to voting in a five-yearly electoral cycle.

This is not to say that civil society organisations of various kinds do not engage in lobbying; and do not act as pressure groups to influence government policies. But these activities are informal, often non-transparent, and susceptible to the corrosive influence of money.

They are granted by governments as a favour, not exercised by citizens as a right.

The other problem, which is related, is a political culture that is dominated by the 'Winner Take All' system and the cult of the Maximum Leader.

Neither Winner Take All nor Maximum Leader is conducive to the practice of consultation, participation and consensus-building that is the bedrock of a governance system in which there is active, sustained citizen involvement in affairs of state.

It is true that in several regional countries, governments have established consultative mechanisms with social partners. They have been used for economic management, for development strategising, and for national policy-making in areas such as health, security and education.

Furthermore, constitutional reform is on the political agenda in several countries.

Regionally, the Revised Treaty of Chaguaramas also provides (in Article 26) for the Secretary-General to establish and maintain an efficient system of consultations at the national and regional levels, so as to make 'relevant inputs' to the deliberations of Community organs.

But exactly who is to be consulted, by what means, and on what matters, is not spelt out⁴. The vagueness largely vitiates the force of the provision.

A Regional Economic Conference was held involving the social partners, way, way back in the 1990s. It left everyone with a good feeling. But it has not been repeated since.

⁴ provides for the Secretary-General to establish and maintain an efficient system of consultations at the national and regional levels. Article 26(2), states that the structure for consultations shall be such "Article 26 of the Revised Treaty of Chaguaramas speaks to the consultative process to enhance decision making in the Community. Article 26(1) provides for the Secretary-General to establish and maintain an efficient system of consultations at the national and regional levels. Article 26(2), states that the structure for consultations shall be such that the determinations of the Community Organs and the Legal Affairs Committee are adequately informed by relevant inputs and are reinforced by consultations undertaken at the successively lower levels of the decision making process" (from Extract from TOR for study, p. 2).

The record shows that the promises are all too frequently not matched by performance. But it suggests a growing awareness that something is radically wrong in our system of governance; that got has to be fixed. Surely this creates windows of opportunity and pressure points that can be used with concerted citizen's action.

What can we do?

Let us look again at the CARICOM Charter of Civil Society. I was not there when the Charter was being negotiated, but knowing a little about how these things are done, I would guess that the content and wording represent a series of painstakingly negotiated compromises between what civil society representatives wanted and what governments were prepared to give. So its a good place to start.

It is notable that Article XVII is devoted entirely to 'Good Governance'. Article XVII.3 of states

3. The States, recognising that integral to the concept of good governance are the complementary roles of government, the social partners and the citizenry, shall ensure that the rights and responsibilities of all are clearly established and that the appropriate environment for their exercise and discharge, as the case may be, is fostered.

Article XVII.7 further states:

7. The States in order to further the participation of the people in the democratic process shall establish effective systems of ongoing consultations between the Government and the people."

To my mind the meaning and intention are quite clear. What is proposed is a significant change in the political practice and the political culture of our countries; a change in which "social partners and the citizenry" have 'clearly established rights and responsibilities'; and there are established 'effective systems of ongoing consultations between the Government and the people' in order to 'further the participation of the people in the democratic process'.

This underlines why it is of the utmost importance to have the Charter of Civil Society transformed into a legally binding instrument; with

recognition under the Revised Treaty of Chaguaramas and subject to the jurisdiction of the Caribbean Court of Justice.

It would be a somewhat revolutionary step, wouldn't it, if civil society organisations and individual citizens had ultimate recourse to the Caribbean Court of Justice, after all national avenues have been exhausted, in pressing to have their rights and responsibilities 'clearly established' as well as 'effective systems of ongoing consultations 'in order to 'further their participation of the people in the democratic process'?"

The same would apply to the parts of the Charter designating the rights of vulnerable groups including Indigenous Peoples, Women, Children, Disabled Persons; and of the Family and of Workers; all of which are the subject of separate Articles.

Surely this would be significant step taken towards advancing the goal of "Safeguarding the interests of the vulnerable in A Community for All".

The effect of this is that the Charter could serve as a means of leveraging reform of *national* governance within member states; as well as of enhancing the rights of citizens. It would give substantive meaning to the status of "Citizen of the Caribbean Community".

A CARICOM Popular Assembly

Finally, let me return to the matter of the Assembly of Caribbean Community Parliamentarians; and suggest that an opportunity has been opened by the fact of its demise.

Why not put in its place a new institution, one that speaks directly to the 'democratic deficit' and the 'participation deficit' in the integration process?

We are talking here of some kind of CARICOM popular assembly that is composed of directly elected representatives of the people of member states; while also reserving a quota of its seats for representatives of social partners and civil society.

It would need to have specific functions and powers. It could for example, have the right to approve the budgets of regional institutions, to review their annual reports, and to mandate action/work on certain initiatives.

I am reliably informed that these all of these were originally envisaged for the ACCP, but did come to pass.

Another important power of a CARICOM popular assembly could be the right of assent to decisions by the CARICOM Conference of Heads of Government; in order for these decisions to have legal force within member states. This would confer popular legitimacy to the legal force of these decisions; and help to address the 'implementation deficit'.

And it would need to be financially independent.

These are two specific demands around which civil society could organise, mobilise and pressurise. To press vigorously for the legal entrenchment of the Charter of Civil Society; and for establishment of a directly elected CARICOM popular assembly in which civil society also has representation.

The cynics will say that it is a hopeless task. The same political resistance to change that has operated in the past will continue in the future. But my answer to that would be: can we afford the luxury of complacency, of despair, or of inaction? No.

All of over the CARICOM Caribbean, there is a sense that the old ways of doing things no longer serve us well. Our political leaders, too are casting around for answers.

There is a real—and rare—opportunity at this consultation for regional civil society organisations to make their voices heard; and to network for on-going advocacy within the member states, and regionally, after the consultation, around a mission to save CARICOM.

We cannot allow a repetition of the debacle of half a century ago.

Let me end with a timely reminder from Sir Shridath Ramphal:

"A civilization cannot survive save on a curve that goes upward, whatever the blips in between; to go downward, whatever the occasional glimpses of glory, is to end ingloriously. Caribbean civilization is not an exception".

(ends).