

Constitution Reform Forum

From protests to more meaningful participation *by Ehab Ali*

Energy prices have dropped and troubles have increased, or so it seems. Among these troubles are an increase protest action taken by various groups. Protests have been distributed throughout the country: in La Brea and Cap de Ville, Port of Spain and Tarouba to name few.

Some of the protests are isolated in nature and have limited impact. However the protesters who block roads have a major impact since they deliberately target road arteries. Employees and students are forced to sit in standstill traffic, breathing nothing but noxious air much like blood stuck in an artery.

But why would the Constitution Reform Forum (CRF) be interested in such fleeting problems like protests? What does the Constitution have to do with these protests and how might such *reform* help to address it? Constitutional issues are surely grander than day to day protests!

The Constitution of Trinidad and Tobago contains the basic rules of the land. All other rules or laws must be consistent with it. Among these rules is that this country must be run as a democracy. This is a simple enough concept; but let us consider its roots and understand how it is related to our protest problem.

Demos is an Ancient Greek term meaning 'people' and kratia (the root of cracy) means rule or authority. Taken together democracy literally means *rule by the people*. That interpretation of democracy features in the preamble of the current constitution, which states,

[T]he people of [Trinidad and Tobago] have asserted their belief in a democratic society in which all persons may, to the extent of their capacity, play some part in the institutions of the national life and thus develop and maintain due respect for lawfully constituted authority.'

Unfortunately, direct rule is impossible because we cannot all (the 1.3 million of us) get together to make decisions. We are constrained by the fact that there is no venue that could hold us all, nor enough time to allow for most to have a say and reach an agreement. That's why we appoint representatives, our members of parliament and councillors, who are *supposed to* speak on our behalf. Now that the link has been made between our constitutional group advocating for a better democracy and the issue of **participation**, what does participation mean and what does that have to do with people burning tires in the road?'

The Oxford Dictionary defines 'participate' as 'taking *part* in some activity of event'. How might participation help in reducing the wave of protest action in communities all over the country?

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For example, could the protests by the Queens Park Savannah vendors have been avoided if the Port of Spain City Corporation provided channels for them to express their needs? Many small entrepreneurs need low cost options to operate their business. The city in turn would benefit from a lively environment while bringing in revenue from charging rent for the stalls while the vendors obtain a source of income without seeking handouts from the government. This example illustrates how it might be possible to avoid protest by giving people opportunity to participate in the decisions that affect them.

In the case of the La Brea protests, the reports are that residents were angered by the condition of their roads and by promises of employment in a new plant which never materialised. The fact that promises were made for employment means that, presumably, some sort of meeting took place. However, attending a meeting does not necessarily add up to participation.

Sherry Arnstein (1969), gives a range of levels of participation ranging from downright manipulation to the highest possible level of participation conceivable - citizen control.

There is not sufficient time to go through the meaning of each of the levels but we could consider which level is applicable to our La Brea case. As an outsider to this case, without all the facts to make a conclusive statement it would be irresponsible to say definitely that the residents were placed at the bottom of the ladder of participation and merely manipulated. However, it is tempting to think that the residents were manipulated into thinking they had a real input but, in fact, merely manipulated to give their support for the project.



Arnstein's ladder of participation: www.lymedisease.org

In the future, the current administration and lower level authorities should try to learn the lessons from these protest actions. Participation is the foundation of democracy and voting once every five years does not qualify. Renewed talks of setting up the Tripartite Commission are a good idea for enhancing participation. It offers hope that labour and business organisations would have a say in future government policies. Looking to the future, one can only hope that the participation is genuine and leads to better decisions which are respected by all parties.



“From maximum leader to maximum participation”

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Local government reform: Ragoonath weighs in

Adapted from presentation made on Nov. 21, 2015

2016 is the year of local government reform. That was the clear message in the 2015 election campaign that is still very much on the agenda of the new government. The line Minister has said repeatedly that the reform will precede the local government elections that will definitely be taking place in October this year.

At the second of the CRF's seminars on the theme, "*Bringing local government closer to the people*", Dr. Bishnu Ragoonath of UWI, St. Augustine weighed in on three government proposals in the reform agenda.

Adopting the THA model

The UWI senior lecturer expressed concern about the proposal to reform local government in Trinidad using the Tobago House of Assembly (THA). At the core of his argument was Section 25, Clause 1 of the THA Act which states as follows:

Without prejudice to Section 75:1 of the Constitution, the Assembly shall, in relation to Tobago, be responsible for the formulation and implementation of policy in respect to matters set out in the fifth schedule.

Section 75:1 highlights the responsibility of the Cabinet of Trinidad and Tobago in providing "the general direction and control of the government of T&T" and their joint responsibility to Parliament. Ragoonath sees the phrase "**without prejudice to 75:1 of the Constitution**", as a sticking point for the THA. Even though the THA Act gives that body the right to make policy, constitutionally Parliament can, at any time, if it so desires, override the decisions of the Assembly. In his words, it's a case of "you give with one hand, but take back with the other". When government extends that provision to local government bodies in Trinidad, it is clear that the same potential for conflict will also apply.

For Ragoonath, there is an even more direct and immediate problem with adopting the THA model in Trinidad. The Act gives the Assembly the power to exercise executive authority through its executive council. So he asks the question, "Is that a formula that could really work in Trinidad?" He cautions about the possibility of increased conflict between the MP and the councillor, with a more empowered council wanting to flex its muscle.

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Removing the obstacles to devolution of power

In spite of these stumbling blocks, Ragoonath was strong in his belief that there should be greater devolution of power to local government authorities. As a result, he sees a great need for public discussion on the issues involved so that “nobody will feel that (anyone) is trying to throw them out or take them over”.

Enshrining local government in the Constitution

Enshrining local government in the Constitution was another issue that Ragoonath emphasized. Noting that the THA Act (Act 4 of 1996) was constitutionally enshrined, he bemoaned the fact that local government legislation was not. In fact, under the Municipal Corporations Act of 1990 (and subsequent amendments), if central government was so inclined, all that it needed to get rid of local government was a simple majority vote in Parliament. He was clear that the local government reform agenda had to change that.

The way forward

The CRF is convinced of the need for people involvement in the discussions on the government proposals for local government reform. Moreover, rather than simply handing down prescriptions, government must be open to meaningful exchange to remove the obstacles to real local government reform.

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