

OPENING REMARKS
TO COMMEMORATE
INTERNATIONAL CONFLICT RESOLUTION DAY

18 OCTOBER 2012

SUPREME COURT COMPLEX
BARBADOS

By Kumar Hathiramani

Protocol having been observed, Honourable Chief Justice, Honourable Members of the Judiciary, Distinguished and Respected Guests.

Today, being International Conflict Resolution Day 2012, I am highly honoured and deeply humbled to have the privilege of addressing such an august gathering on a topic that is dearest to my heart and spirit.

Following up on Mr. Jefferson Reeves welcome address, we in the Caribbean are known to be a friendly, warm and welcoming people.

However, as is the case with many other cultures throughout the world, our tendency is that We do not welcome change.

But the world has changed and continues to change exponentially.

Every aspect of life is becoming fast paced; our expectations are greater; even in the methods applied to resolving disputes, we seek instant remedies.

Beyond a shadow of a doubt, we see more and more Mediation Legislations passed and Mediation Centres opening up, being evidence of a conscious and seismic shift in the manner which conflicts are being resolved internationally.

From Argentina to Zimbabwe from the Kingdom of Nepal in the Himalayan mountains to the southern shores of South Africa, and for the past 25 years Mediation has become the most accepted form of Conflict Resolution either as the first method of resolving disputes or as in some jurisdictions - an Alternative to the gladiatorial style litigation where conflicts is waged between Attorneys in the arena of the Court to settle conflicts between their clients, with a Judge as their referee and the public their spectators.

Ten years ago, or thereabouts, in an effort to keep pace with globalization, the founding members of the ADR Association of Barbados Inc. recognized the need to bring about a radical and conscious change in the adversarial style of resolving conflict on this Island.

In the absence of a Regulatory Body and a Mediation Act; and after strategic planning and the drafting of a comprehensive and extensive Constitution and Bye Laws focused on establishing and preserving the highest standards of integrity, competence, honor and character among those engaged in ADR on a professional basis; and with the mission to provide national leadership, education, and accreditation in the development and promotion of dispute resolution services in Barbados; the ADR Association of Barbados Inc. was incorporated on 29 November 2004 as a non-political, non-profit organization. – its founders and incorporating Directors being the Hon Justice Errol DaCosta Chase (Retired Justice of Appeal), Mr. Joseph Edwards and myself.

Following are a few of our achievements to date:

The Association, in collaboration with The Department of Conflict Resolution of Kennesaw State University, Atlanta, USA using Barbadian disputes as simulations, extensively trained and certified 22 of our members as mediators in accordance with Internationally Accepted Standards.

Through a \$60'000 grant from the Office of the AG via the Justice Improvement Programme Secretariat the Association sensitized and held workshops for over 700 secondary school students, Parish Ambassadors, the Barbados Youth Service, members of the Barbados Sports Council.

Additionally, over the years the Association held press conferences, TV interviews, and sensitized numerous social organizations in Conflict Prevention techniques and Mediation. Our latest PR endeavor is the “Giggard and Crew” Mediation promotion that airs on CBC – TV from time to time.

Furthermore, and as a major stake-holder in the IADB ADR Program in 2009-2010, we facilitated, assisted and in certain instances advised the Consultants from Italy who were awarded the contract to implement a Mediation program in Barbados.

So, as you can see, since 2004, the ADR Association of Barbados has been pioneering change in the way conflict is resolved.

But change brings about apprehension by many persons – including lawyers. There is a strong belief generally in the Legal fraternity that ADR is the acronym for Astonishing Drop in Revenue.

However, Justice Adrian Saunders CCJ, in his address on ICR Day last year at the Cave Hill Faculty of Law showed that at worst lawyers who engaged in mediation, maintained the same level of annual revenue.

Lawyers, by enhancing their Conflict Resolution skills and utilizing their time efficiently and effectively, will be able to resolve disputes expeditiously and amicably thereby preserving valuable relationships between the disputants and gaining more satisfied clients and referrals.

The one time eminent lawyer, Mohandas K. Gandhi (Mahatma Gandhi) succinctly stated:

“I realized that the TRUE function of the Lawyer was to unite parties riven asunder. ...[A] large part of my time ... as Lawyer was occupied in bringing about private compromises of hundreds of cases. I lost nothing thereby – not even money, certainly not my Soul.”

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As you know, this was the man who became the Father of a Nation, and brought about seismic change resulting in the collapse of the Colonial Empire through the doctrine of “non-violence”.

Change is all-occurring, evident and necessary and at times we seek to import change extra-regionally.

But we have to be cautious.

There is an African proverb that states, “Let me help you or you will drown, ‘said the monkey, placing the fish safely up in the tree”.

This reveals that helping takes place within the cultural context and assumptions of the helper rather than the helped. While the intention is one of goodwill, the helper’s unexamined subjective needs and singled-minded myopia can result in the opposite of what the person being helped wants or needs.

In this context and in the not so distant past existing mediation models had typically originated from the formal, institutionalized Western jurisdictions and organizations imbued with Western values of individualism, narcissism and capitalism were increasingly being adopted in non-western cultures and small island communities such as ours.

In recent times however, there has been a shift away from using these models and instead there is an increasing effort at incorporating local values and traditions into a sustainable practice of mediation in a local context.

For instance, in the Western model, success in mediation is gauged by the number of mediation agreements signed , and perhaps even the revenue in take. However, in certain non-western model, success in mediation is determined by the number of relationships preserved.

The ADR Association of Barbados will continue to enlarge its footprints on the dispute resolution landscape locally and regionally. Always bearing in mind “The best way to win a conflict is to prevent one”, we shall continue to in our efforts to:

- intensify our partnership with the Barbados Chamber of Commerce and Industry;
- further encourage and inspire the Bar Association to use Mediation as the primary method to case settlement;
- educate students in primary and secondary schools in the Art and Science of conflict prevention and conflict resolution;
- sensitize social organizations including Justices of the Peace to mediation so that disputes and conflicts could be resolved within communities and encouraging creative solutions rather than having resolutions imposed on them by third parties.
- forge deeper alliances and stronger ties with our Caribbean colleagues such as the Dispute Resolution Foundation of Jamaica; Dispute Resolution Centre of Trinidad and Tobago; Mediation Institute of Guyana as well as other International Organizations

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And to the judiciary, we are genuinely appreciative of the efforts of the former Chief Justice, Sir David Simmons - an ardent supporter of mediation, and the present Chief Justice The Honourable Marston Gibson in initiating the court-annexed mediation program; as we look forward to strengthening our bonds with the Bench in this regard.

Honourable and distinguished guests, thank you for your interest in ADR and Mediation / and for taking the time and making the effort to be here this evening.

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