Constitution Review: The Experience of St Vincent and the Grenadines

by

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Good morning to you sisters and brothers. It is a pleasant experience to be with you, especially on such an important matter as constitutional reform. Now that Professor McIntosh has been able to give us an overview and provide the sort of stimulation, which enabled people to be discussing so much during the short break we had, I think we are well placed to begin to take a view, from my perspective from the trenches. I have been in the trenches for too long as far as I am concerned – more than thirty years. And it is significant to me that over those three decades, again and again as the various political crises in the country manifested themselves, each time this question of a re-examination of the constitution and constitutional reform has come up.

I want to give a very brief background in terms of the Constitution Review Commission in St Vincent and the Grenadines – multi-island state. That is why I was particularly interested when I heard Mr Rollock talking about Tobago; we also have issues, we had an experience with talk of secession and so on. So the question of constitutional reform is important, not only from the perspective of the colonial experience, but even internally, in terms of our own governance. How do we deal with it? So I want to look at what has happened … what forces gave rise to this Constitution Review Commission. I want to focus particularly on civil society involvement in it and, in that, I want not only to look at what is happening now, but to go back to pre-independence. Because we had a very interesting experience in St Vincent and the Grenadines. And also, naturally, to look at the activities of the CRC in St Vincent; how have we been going about this process, etc., etc.

I want to begin by reading a little paragraph (I’m not going to say who it’s coming from until I’ve finished). Quoting: “The process of a root and branch review of the constitution of St Vincent and the Grenadines commences in earnest today with the formal launch of the Constitutional Review Commission. The reform exercise which has
brought us to this point thus far in constitution re-making, is the most remarkable to have ever taken place anywhere in the English-speaking Caribbean. The region has seen similar exercises but this one is profoundly different for the better” – not my words. These are the words of our Prime Minister in launching the Constitutional Review Commission in February last year. I want to come back to it at the end of the process so that we can see whether our practical experience lives up to this glowing description of our process.

The Origins of the CRC

The Constitution Review Commission in St Vincent and the Grenadines was established after the 2001 general elections – and I’ll give you a little backdrop to that shortly. A joint select committee of Parliament met on October 21st 2001 to begin to fulfil a resolution passed in Parliament to proceed with constitutional reform. It was a resolution unanimously supported by the House. It is one of the few occasions that we have had in our history where both Government and Opposition have agreed. There are those of us who see October 21st as a very significant day. I don’t know if the people in Parliament looked at it that way, but it is also the date of what we call the beginning of the modern struggle for democracy in St Vincent and the Grenadines. In 1935 – you had your 1937 uprising and St Kitts had in 1935 – well St Vincent exploded on October 21st 1935. So whether Parliament was conscious of it or not, we found it a very significant date. And out of this, the joint select committee presented to Parliament the terms of reference of the Constitutional Review Commission (CRC), which was formally launched on 10th February 2003.

First of all, how did this come about? What forces gave rise to this Constitution Review Commission? On the surface one would simply say in the 2001 general elections three political parties contested. All of them had in their manifestos constitutional review - so I’ve found a similarity with your process here – but it started in fact long before that. I heard you talking about a similar situation in Trinidad and Tobago and Professor McIntosh raised it in the general wider context of the Commonwealth Caribbean … that we went into independence without any preparation - certainly in St Vincent and the Grenadines – of our people for what independence means. In fact my own hurtful
memory of independence night is seeing them … midnight they were supposed to raise this new independence flag … and seeing the military parade setting off with US, British and Venezuelan troops leading them down to the back. I’ll never forget that as an experience in independence making.

**Constitution Making After Independence**

So that we had this Duke of Something-or-the-other who came down and supposedly gave us this new independence constitution. But, for more than a year before that, we had had a very interesting experiment. When the Government of the time – there was a Labour Party government at the time – had announced (I think it was in 1977) that it was going to proceed towards independence. There were no concrete plans discussed. However, what was significant in our society was that some twenty-one organizations – civil society organizations: all the trade unions, youth council, you name it – came together and set up a national independence committee under the leadership of a well respected barrister, who later served as Acting Governor-General, to go about organizing discussions in all the communities about what people would like to see in the new constitution.

Unfortunately the official process was the same one I heard you describing in Trinidad and Tobago in terms of giving some six weeks or eight weeks for the submission of proposals. And the government of the day, in fact, dismissed this national independence committee; this broad based committee - rather than welcome an attempt like this of citizens trying to get involved. They dismissed us as a bunch of nincompoops, and proceeded to get some submissions, maybe from the Bar Association or one or two other people and tinkered a little with the constitution. Their concern in these constitutional conferences in Marlborough House was not the fundamentals of governance, but what little power they could get. They were interested in such things as whether the prime minister would control the Public Service Commission, whether it would be appointed on the advice of the prime minister. Issues like those were the issues that they were concerned about and not the issues of the people.
Fundamentally our 1979 constitution is really the pre-independence constitution with some minor changes. We changed to prime minister instead of premier, etc. etc. We have found that, whenever there are political crises in St Vincent and the Grenadines, the constitution doesn’t seem to be able to provide us with a solution. There seems to be some fundamental flaw. And I just want to raise a couple of them very quickly.

**Weaknesses in the Constitution**

In 1966 we only had nine seats in the legislature. So we had a 5/4 result. One party won five seats and the other one won four. The crucial seat was won by four votes. The person who won that seat by four votes proceeded, right after the elections; to join the governing five, to accept the overtures of business people who were supporting the other side and, right after being elected by people on one side, we had the floor crossing and he went to the other side, which precipitated another election in 1967.

In 1972 we had an election tie but this time we had thirteen seats. Two parties won six seats each and there was an independent – in the Grenadines significantly, just like you have your Tobago experiment. So we had great luck: six here, six there, and the independent in the middle. And we began an important experiment in revising mathematics because, in the long run when they formed the government, it turned out that one turned out to be more than six or twelve. The person with one seat emerged as Premier after the bargaining between politicians. So we began to revise that.

In 1974 - two years after that – we had another election, because the government did not last long: it collapsed. You in Trinidad would know that the Mighty Sparrow has his *Ten to One is Murder*, we call it the Ten to One Elections. One party won ten, the opposition won two, there was this same independent, so there was ten to one. The leader of the opposition party became a member of the government and his wife, who had the second seat for the opposition, became the leader of the opposition. They amended the constitution to give her that post.

So again … people like to talk about us and this stable parliamentary democracy, but, as a young man it began to raise questions in my mind about what type of political system are we operating. And then we had other examples. Right after 1979 the people
in the Grenadines felt that they were not represented in the House and immediately after the 1979 elections, there was an uprising in the Grenadines, in Union Island. We had a state of emergency being declared with Barbadian troops being brought in. But, most importantly, that state of emergency lasted for more than six months although nothing was happening in the rest of the country. It was a small, localised rebellion by a group of youths who were really giving expression to their frustrations. In fact, it was used to manoeuvre around the constitution to deny the person representing the Grenadines, Sir James Mitchell, former Prime Minister of St Vincent, his rightful place as opposition leader.

There are several other examples. In the ’94 elections, the ruling party this time, with Mr Mitchell as head, won all fifteen seats. Big constitutional discussions about whether there should be an opposition in the House and so on. There was none. Again, looking to the constitution for answers and there were none. In the 1998 elections the party with the majority of the popular vote lost the elections. So you had a minority government but with a majority of seats: perfectly legitimate under the constitution.

I raise all of this to give you a background that over and over and over again, we keep coming back to this thing that something must be wrong in our system of governance and there was this constant clamour for doing something about it.

The 1998 election led to a lot of political unrest in the country between 1998 and 2001. As most political parties you know in the Caribbean are likely to do, the opposition at the time (which incidentally is now the government) even though they knew perfectly well that the constitution allowed for the minority government which had the majority of seats, continued to say that the government had no mandate to rule. This started a whole series of political unrest: manifested in their demonstrations and so on. Yet, the country continued to go along because there was a general feeling that, even though something was wrong with the system, as long as we accepted that as the constitution of the country, the government was entitled to govern.
Mobilisation of Civil Society

Side by side with those protests, which were going on in '98, '99 and so on, there was a growing sense of civil society dissatisfaction, as manifested by the trade unions and their relationships with the government. There was considerable dissatisfaction with acts on the part of the government. For instance, while denying public servants, teachers, policemen and nurses increases of pay, they were increasing the pay of parliamentarians in the House. While they were changing the retirement and pension benefits of public sector employees, they were increasing them for parliamentarians and their spouses. So here was the opposition, already on the streets and, with these additional protests, there was a growing sense of civil society beginning to challenge the status quo. All of that led to the founding of what was called the Organization in Defence of Democracy - a broad-based organization. I think there were some twenty-something organizations representing just about all the major popular organizations and peoples’ organizations in the country: trade unions, farmers’ organizations, etc. (at the time I was chairman of the ODD) and one of the ways we sought to solve this continuing political impasse we had was to talk about the need for serious constitutional reform and for the need for all the political parties to come on board.

History has a way, depending on who writes it and how you get it across to people, of sometimes distorting the actual story. Therefore it was that ODD process, which led, in the first instance, to massive street protests in St Vincent. Your own Prime Minister at the time, Mr Panday, came to intervene on behalf of CARICOM. Both sides met with Mr Panday, only for our side to be told that, when a government is elected, we have no right to do this and we have no right to do that, and so on. So the intervention never solved the problem. There was a complete island-wide shutdown, which eventually led to what you might know of as the Grand Anse Beach Accord, signed in Grenada between the government, representatives of the ODD at the time, and the opposition. Based on that accord, the government agreed to abort its five-year term and call new elections. These were called in March 2001 with the opposition winning.

I give all of this so that you get a background to where we are. In those elections, all sides – there were three parties – all of them said ‘Yes, constitutional reform’,
therefore we had this Constitutional Review Commission. The composition of the Constitutional Review Commission is interesting. This morning we were talking about the usual government process. In fact I think in 1985, our government at the time had set up a constitutional review committee, headed by a lawyer naturally. The learned people who met, submitted a report – I suppose it’s on some shelf somewhere – but nothing ever came out of it.

**Constitutional Review Commission**

This time though, because of that civil society involvement, which led to the calling of the general elections, led to the political parties having to take up that agenda, the Constitution Review Commission is now made up of twenty-five persons, fourteen of whom are from civil society organizations. So, for instance, we have the four trade unions – we have four trade unions in St Vincent - , the Medical Association Employers’ Federation, Christian Council, Credit Union League, Chamber of Industry and Commerce, Bar Association, sporting organizations, cultural organizations, farmers’ organizations, National Council of Women, National Youth Council … so that the majority of the people on the Commission have come from civil society organizations. They are also reflecting the ongoing political thinking of the political parties. The Government of course, being in the majority in Parliament, decided to take five places for itself on the Commission and the opposition has two places. That is how the Commission was established.

It was established with a broad mandate in terms of reference. The first one I have found very significant – and this is Parliament giving the terms of reference: “To do all and every act necessary to review the existing constitution of St Vincent and the Grenadines and to submit recommendations in the reports of the House of Assembly regarding reforms of and/or changes in the existing constitution”. And then it went on to give it a mandate to organize and manage public consultations, arrange meetings, etc. and significantly, Parliament also made sure that it voted resources for the support of the Commission. So the Commission is supported by Parliamentary support: “Such sum or sums of money as the House of Assembly may deem appropriate for the performance of the duties of the Commission shall be a charge on the Consolidated Fund”. The activities
of the Commission are in fact funded from the Consolidated Fund. We have also had some support from the OAS.

But, again significantly for us, the Commission is not a creation of the Government; it is a creation of Parliament. So our first report, which we presented to Parliament, is a report to the Parliament of St Vincent and the Grenadines, not to the Government. Previously, as I indicated, you submitted a report to the Government, only for the government to put it on a shelf. But our report is a public document and, if the Government does not feel like proceeding, it is the basis for debate, whether in Parliament, in public, etc.

The Work of the CRC

Concerning the work of the CRC, we thought that, because the Commission was not made up of the wise, legal brains in the society, the first thing to do was to spend some time acquainting the members of the Commission with the existing constitution. So we met weekly, four or five hours every Tuesday afternoon, and we spent our time inviting people like the Justice of the Eastern Caribbean Court, Justice Adams. Prime Minister Anthony himself from St Lucia came across to give lectures. We invited different people to come in and give lectures and, among the members of the Commission, we began this discussing the existing constitution. The idea was not to just sit down among ourselves and draw up something, but to go to people and, if you are going to people for discussions, you’re going to face questions and therefore it is important that you understand where you are coming from. So that was our first task; we did it internally.

Secondly, we began organizing a series of consultations in every constituency, including in the Grenadines. In the Grenadines we did these consultations in Bequia, in Union Island, and on Mustique, which is known as the land of the privileged. But there are also a number of workers in Mustique as well … local workers; we had a discussion for them as well. So that, in going into these rural communities for the first time, the first round of consultations was not to solicit views on what you’d like to see for the constitution, but first of all to sensitize people, because this constitution was not
something that people had seen before. The constitution was there, it was printed, it was at the printery – if you wanted to go and buy a copy which, I am sure, some people in the society (amounting to nought point something percent of the population) would have done.

We requested from the Government resources to print 10,000 copies of the constitution – the existing constitution – and had them distributed. They were sold at $1.00 each in the case of schools and $2.00 for individuals. This did not cover the cost but there were two reasons for doing this: first of all, that people shouldn’t get things for free unless they really deserve it (so it is not that, if you really want a constitution you’re going to be denied it, but make a contribution to it); and, secondly to ensure that it gets out.

We held these 19 consultations in all the communities but, very significantly, we took another step where we requested and got some support from the OAS to go and meet with Vincentians in the diaspora. I went with a team to the UK. We had six meetings with Vincentians in different cities in the UK. There was a team which went to Canada, one which went to the United States, one which went to the British Virgin Islands (because there are a number of Vincentians there), and one which went to Barbados. There was also one which came to Trinidad and Tobago but it did it in the context of some other consultations we did, which are those with schools – secondary schools and tertiary institutions. We did consultations on all three campuses of UWI; we did consultations with students that we have in Cuba; we have nearly 200 Vincentian students in Cuba - we went there as well to discuss with them. And the idea was not to leave people out there because certainly remittances from Vincentians abroad are an important part of our economy and, if they’re playing such an important part, they should be allowed to have a say.

The whole idea has always been to get people involved in the process. It is interesting to note some of the issues which came up and I will refer to some of them very quickly. But, besides these, we’ve also had other activities. Last year independence – October – we had a calypso competition on constitutional reform. Calypsonians were invited to sing one song on constitutional reform, another one of their own choice.
Again, we were trying to get the cultural people involved in that expression because they are an important medium.

We had competitions for the logo of the CRC, which we have, again getting artists involved in designing and so on. I said we had the constitution itself and we also did these booklets, which is a simplified form of the constitution. Because, one of the things that all of us know about our constitutions, they are not very easy to read for ordinary people - there must have been a reason for it. So we are trying to simplify them, particularly in relation to secondary schools, where we distributed them, so that secondary school students could begin to look at these issues and get familiar with them. These are some of the activities we have been doing.

**Issues arising from the consultations**

Interestingly, in the consultations the discussions were not restricted to constitutional reform. Even though you said it was constitutional reform, issues of governance generally kept coming up and we found some interesting examples recurring over and over: accountability. Dennis was talking this morning about the funding of political parties. I am sure it is so in Trinidad and Tobago. I have seen it in the rest of the Caribbean, including our own … even in Santo Domingo. There was one time when they were having elections and the similarity struck me the similarity … I was seeing these huge motorcades and lots of beer and music and everything else. Our elections at home have degenerated from a debate on issues to who have high tech things and who can bring Buju Banton from Jamaica. All of that happens in the context of the elections. So it is difficult, when you have a general election campaign, to know what mandate you have. There are manifestos, of course but, if you were to ask people coming out the polling booth, the manifests had no bearing on how they voted. It is one of the things I find most repugnant because it is contempt for young people. There is an attempt to feel that young people only want music and nice time and so on and therefore, increasingly, you’re getting that kind of thing. So that you bring in these popular artistes and that is supposed to be an election campaign. That came up as an interesting thing again and again in the consultations.
The matter of floor crossing, matters of the powers of the prime minister (again I think it came out in the presentation this morning) were also raised. Interestingly we have a prime minister who himself is fond of saying that the prime minister has too much power. The interesting part would be when you begin to take away … which powers he’d be willing to give up. I find it interesting that one of the examples he uses all the time is the prerogative of mercy, which states that the prime minister ultimately (or somebody who he gives that power to) has the last say in whether the death penalty should be exercised. And you know there are big debates over the death penalty. That is an issue … yes, but there are many other important issues in terms of the power of the prime minister. For example, the issues of limiting the term of the prime minister; the question of the electoral system, which again came up this morning – proportional representation or first-past-the-post. The electoral crises I referred to earlier were examples of how first-past-the-post was not able to solve our problems all the time.

We have had some practical problems, for instance with attorneys general over the years – not so very nice experiences … doesn’t say very much for lawyers and so on. In some of the discussions, there have been issues of whether, in the constitution, the office of the attorney general ought to be a public office enshrined in the constitution or political appointee - we have had practical experiences of this. The question of the legislature: whether you have a unicameral or a bicameral house. Interestingly, coming out of that – I heard you talking in Trinidad … the CRF talking about the maco senate – that has come up.

People are not only talking about civil society involvement in some senate or house or whatever you call it, where they talk and put forward proposals. People are also asking why, after you have an election, why you can’t have your cabinet drawn from among all the members of the House, irrespective of party. The reason is that, fundamentally, except for matters of style and so on, in content there are not real major differences between our political parties in the Caribbean - certainly not when they’re in office. Maybe when they are out of office you could see the difference. So, if you have 36, 21, 15 people in the House, why you not draw the cabinet from all of them? Another question they are asking is, what is wrong with drawing the minister of labour from the trade union movement? That person doesn’t have to be an active trade unionist.
All of these kinds of issues are beginning to be raised by people. How you appoint people to the senate, is another issue being raised. As it is, we have a unicameral house and in the House, after elections, there are provisions for six senators. The government appoints four, the opposition appoints two. Ninety-nine times out of a hundred, four or five of the six people are people who have just contested the elections and lost – on both sides. You simply do it. Renwick Rose contested and he was expected to win. He lost. You must find a job for the boy; appoint him a senator. Very often you not only appoint him a senator, he becomes a minister as well. It’s happening all the time. It has happened. That has come up.

We have had heated discussions on issues like the death penalty. It’s a very, very heated issue in the context of all the crime in the Caribbean. Naturally the issue of the CCJ (and I was pleased when Professor McIntosh was raising the CCJ in the context of regional integration) because that is another aspect that we attempted to tackle. As it is, our present constitutions assume that we are a nation state and, if we are going to move towards a Caribbean nation, we will have to go and have a referendum on it. If we are talking constitutional review, should we not make provision in the constitution now for the idea of a Caribbean nation?

There have been a number of issues raised in terms of rights; enshrining specific rights in the constitution – rights of the elderly, the disabled and children. Issues like those have come up and these are issues emanating from the people. People are raising them in all the consultations. The question of legal aid: should we have it in the constitution, in terms of access of citizens to legal aid or should it be dealt with elsewhere?

In a nutshell, even at this early stage, people are beginning to raise fundamental issues facing the country. We are in the process of the first round of consultations. We want to move into a second round (our carnival is going to be June-July and so, most likely, it is going to be after then). In the second round we will be trying to shape some of these issues in a question form to provoke further discussion among people, and then to ask for submissions.
The process of constitutional review

Our own perspective is that the constitutional review process should not be a hurried one. While it is important to get a new constitution, it makes no sense to rush and, five years or ten years from now, have some politician come and say ‘I don’t accept the last … and then re-do the process again and again. We are thinking that the constitutional process must even go beyond our next election, which is constitutionally due 2006. There is also another reason for extending it beyond 2006. It is important that it doesn’t become a political football, that is, it doesn’t become an issue in the elections with one side taking up one position, and the other side another. Take an issue like the death penalty, for example. All it takes is for one political party to make a stand on it and the other one takes a contrary stand – whether or not that is its considered opinion. It’s what they call politics – and you play politics with it. And, if you believe the majority of people are not in favour of what the other side is saying, you can take the opposing view and you can very well win an election, even though you may hold a different view when you’re in office.

So, we think it is important to continue this process and use it, not only for constitutional reform, but use it also in terms of educating and uplifting the level of understanding of our people of governance issues. We also want to use it to strengthen and fortify them since they have a role to play in making decisions on governance matters. Because (I’m sure it is also so in Trinidad and Tobago) we have this thing in the Caribbean where everything is ‘they’. Anything you want: “Why ‘they’ don’t fix that?” “Why ‘they’ don’t build a park there?” It’s never ‘we’ because we have been outside of that process all the time. And I think it is important that we get across to people that it is not … ‘they’ ain’t going fix anything, ‘they’ ain’t going to put anything right for us. It is we going to have to do it. If they are charged with implementing or administrating, we must make sure that they do it. But we can’t sit down and say ‘Why they don’t do this?’ or ‘They should do that’. That empowerment of people we feel is an important part of our work.
Finally, just a few brief observations. Although the process has been going fairly smoothly up to now, it is my considered view that we haven’t reached the crunch point yet. When the Commission and people begin to make serious proposals on party financing and the issue of recall and accountability of parliamentarians, the supposed willingness of the parties in the House to go along with the process is going to be severely tested. I am not sure (and this is a personal view) to what degree that, even though Parliament has approved this process, the politicians themselves are prepared for fundamental changes, which make them accountable to people. Everything seems to be working fairly fine now, but I don’t believe we have reached that point. The apple cart eh look like it going to be upset up to now, so there is no need for worry.

Secondly, I think one of the key questions is going to come as well. In any new dispensation, what powers are going to be apportioned to civil society, that is, civil society as distinct from political parties? Let me give you an example: in some of the consultations, people have been questioning whether you need political parties at all. Now, you also have politicians attending the consultations. There are some very big politicians in those parties who are not in Parliament and they come to some of the consultations. They are some of the people who react most violently to that: violently in terms of words. From the time you start to question political parties, they react. But a process is a process and people are entitled to raise their own views and clearly you’re seeing that.

Lessons learnt

I think that these are the sort of challenges that we would have to look out for and I think it also important that we learn a couple things from the process. The first is tolerance and respect for the views of others. It is something that political parties have not taught us … because you are either for or against. We try to emphasize to people it is not a matter of for or against: let us ventilate the views. You come here tonight: I make a proposal, you mightn’t agree with it. Go home and think it over. You might still disagree next month but maybe the points of disagreement you started with, you would
shift those and you would begin to see why I was saying that – even if you still don’t agree with me. And, maybe strangely, when you start to exchange, you would begin to find that I am beginning to agree with some of your perspectives. So we’re beginning to narrow the gap. This is why it is important to have a time period on it. That question of tolerance and respect for the views of others; to me it is fundamental to the success of the process.

So, in a nutshell, this is what our experience has been, both before the process and as we go through. To us it is vitally important that we share those experiences: find out what’s happening here. From a St Vincent and the Grenadines experience, I’ll be glad to find out more about how you handled the Tobago issue. When this matter of the Grenadines and secession comes up, there are people who feel that clearly it must be in the constitution that the Grenadines have no right to break off or to ask … it is part of St Vincent. And I ask, among islands, who decides which island owns another one? Who decides it? Is it because you are bigger or smaller? If you are bigger than an island that is near to you, it’s yours? Because, if that is so, we have some people to the north of us who are very much bigger than us and therefore …

These are all the kinds of perspectives that we must bring to bear in the process and share with each other, learn from the other processes taking place in St Kitts, or Grenada and so on, so that we can strengthen each other. If our goal is Caribbean integration – one Caribbean as we keep talking about – maybe the constitutional review process and sharing our experiences will help to advance us along that goal. Thank you for listening.