

## Chapter Six

### The Fundamentals of True Democracy and The Rule of Law

The independence constitution provides a written foundation for St. Kitts and Nevis to be a true democracy. But laws and words alone do not make, preserve or improve a democracy. As important is the human element and the mentality of the leaders and people in the application of and respect for those laws and words. St. Kitts and Nevis has to its credit remained a democracy over the 40 years of independence but not without stumbles and pitfalls which have clearly exposed the vulnerabilities and deficiencies in our system. That is to be expected as a young nation grows. What is also expected of a democratic nation is that its people will acknowledge the need for changes and improvements based on their experiences. After 40 years we should be undertaking that exercise with wide consultation across the society and careful study of other democracies. As I have said and will repeat as often as I can political tribalism has been the biggest obstacle.

True democracy can be a very complex and challenging concept. There is no one size fits all in democracy. Democracy is not ‘*automatic*’ said President Obama. Never take it for granted. It runs counter in many respects to human nature which is one of its biggest challenges. Its values run contrary to the personality of so many who are attracted to lead. It was interestingly described by Sir Winston Churchill in this way (after he had lost an election) - ‘*Democracy is the worst form of government - except for all the others that have been tried.*’

President Lincoln famously described the democracy he hoped to establish in The United States of America as Government of the people by the people for the people. That has been a widely used slogan for democracy particularly by people seeking power. But nowhere has it been

truly applied because for the most part politicians (even where they come from the people and are given power by the people) always have been and are primarily for themselves. The notable exceptions like Nelson Mandela stand out a mile. We have had regular examples of that reality since independence. A very glaring fact of our short history of independence is that every government has fallen apart because of disputes and fragmentation within the governing party and in every case between the Prime Minister and the Deputy Prime Minister. Simmonds fell out with Powell, Douglas fell out with Condor and others, Harris fell out with Richards and others. In fact that began even before independence when Lee Moore fell out with Southwell. In each of the four cases the governing party or parties lost the next election.

Government by the will of the people is another description of how democracy should work. That may take account of the fact that the people have a chance to elect a government in elections but it does not truly describe what happens in between to ascertain the will of the people. The true answer in our case is not very much. A mature democracy requires that while day to day running of the country is entrusted to an elected government the will of the people should be sought and reflected directly on critical issues.

Despite progress in many other areas of human life democracy remains volatile. Advances in science and technology have far outpaced improvements in human mindset, mentality and character. Power attracts some of the worst characters. That is the major destabilizing factor on democracy.

For the same reason while advances in science and technology have enabled humans to travel and communicate and help each other, there is more misunderstanding and aggression and war between peoples than ever before. And while humans can now travel to other planets they

are destroying their own by abuse of the earth's resources. And while advances in science and technology have facilitated vast improvement in the quality of life they have also been used to produce nuclear and other weapons which could destroy the world at the press of a button.

The separation of powers and other checks and balances in our system are clearly inadequate to restrain governments from acting in the interest of those who wield the power. We need to consider adopting the referendum on important decisions affecting the country. That will also help to transfer the debate from personalities to issues. I will expand on this later.

The laws and rules by which democracy is practiced vary from country to country but the essential components of true democracy include:

- the rule of law
- a freely elected government
- separation of powers
- an accountable government with adequate checks and balances
- guaranteed freedoms including freedom of expression
- respect for and adherence to the principles of true democracy
- active participation by the people
- free and fair elections

### The Rule of Law

The basic principle of the rule of law is that no man or woman is above the law.

Democracy does not work well without the rule of law.

From time immemorial there has been a distinction between the rule of law and the rule of man in the governance of nations. The rule of law applies where there is a democratic system

for the making of laws, checks and balances on those who are elected or otherwise exercise power, an independent judicial system, accountability and transparency in public affairs, equality before the law and where no man is above the law. The rule of man applies where a man who is above the law governs and can make the law and/or apply it or control its application as he decides without effective recourse by the governed. In ancient days the rule of man was the prevailing system with nations governed or controlled absolutely by kings, chiefs, emperors, dictators, demagogues or despots. But even in those days the rule of law applied in some forms. Three centuries before Christ the famous Greek philosopher Aristotle expressed a preference for the rule of law in these words '*the rule of law ...is preferable to that of any individual*' and '*For in democracies where the laws are not supreme demagogues spring up*'. A century before Christ the famous Roman statesman Cicero did likewise saying '*We are all servants of the law that we may be free*'.

In modern days the rule of law is widely regarded as the norm although it is under growing threat in many democratic countries. It is described as the bedrock of democracy. The United Nations expounds in great measure on the rule of law and expects it from member states. But that is not always the case as many countries, while holding themselves out as constitutional democracies or while having the infrastructure for the rule of law, still (as Aristotle contemplated 2300 years ago) suffer from the rule of man.

Why is this? I preface my theory by saying that all men have good and bad qualities. My opinion is that despite the improvement in the human physical condition caused by advances in science and technology and education and despite greater political and social consciousness, retrograde human mentality is still too prevalent. Despite the intervention of Christ man is still

too often motivated by love of power, greed, hatred, arrogance, egotism and jealousy as opposed to the values which Christ preached of love, tolerance, forgiveness and humility. Their negative traits often override their good qualities and drive men in a quest for absolute power and dominance over their own people. And we know what Abraham Lincoln said on the subject: *'Nearly all men can stand adversity, but if you want to test a man's character, give him power'*.

History is replete with examples of countries which have, due to the dominant traits of the leader, descended from the rule of law to the rule of man. And in many of those cases persons within the country, driven by the same negative traits, have for personal gain supported the resulting tyranny.

It is instructive to look at South Africa under Mandela and Zimbabwe under Mugabe. Mandela and Mugabe were both freedom fighters for just causes, both endured lengthy imprisonment for their causes, both triumphed over their oppressors and both were elected to the highest office of their country on a platform of reconciliation and equality. But there the similarities end. Mandela applied his beliefs by forming a government of national unity with one of his former oppressors as his senior vice president. He established a Truth and Reconciliation Commission to promote forgiveness and healing. He began the fight to redress the economic imbalance created by the evil apartheid system. He sought no major personal gain, he readily admitted his own imperfections and was the epitome of humility. He served only one term as President and flatly refused a second.

On the other hand shortly after taking power Mugabe turned on his own black people as well as the former white oppressors. He fleeced the economy and created extraordinary wealth for himself, his family and elite hangers-on while the vast majority of his people suffer untold

hardship. Having begun as the freedom fighter he became the oppressor. He held absolute power for 47 years until the age of 93.

President Obama hit the nail on the head at the memorial service for Mandela when he said.....

*There are too many leaders who claim solidarity with Madiba's struggle for freedom, but do not tolerate dissent from their own people. And there are too many of us who stand on the sidelines, comfortable in complacency or cynicism when our voices must be heard.*

Does the rule of law apply here?

This country has to its great credit managed over its 40 years of independence to thwart those who had pretensions to endless rule. We have a constitution which protects fundamental rights, we have an independent and accessible court system, we have an elected legislature and some, albeit insufficient, checks and balances on the use of executive power. These are some essential features of the rule of law. Three of the main shortcomings are the woeful inadequacy of the checks and balances on executive power, our porous electoral laws and the lack of campaign finance legislation. By international standards we can on balance claim to have the rule of law. But this cannot be taken for granted. A constitution and laws do not alone guarantee the maintenance of the rule of law. As important are the attitudes of those in leadership and of the people to the constitution and laws and to each other. A people who do not respect the constitution and laws invite descent into the rule of man. A people who do not guard and exercise their rights stand vulnerable to lose them. It is up to all of us citizens to determine whether we will maintain and improve the rule of law.

