The panchayat system as an early form of conflict resolution in trinidad essay sa...

Conflict is a natural element of the human psyche1. In every country, every religion, every culture and every society of the world, there is conflict. Human beings possess the ability to cause harm and create discord wherever they exist. However, they also have the ability to soothe offended parties, correct injustices and penalize the troublemakers. All civilizations have formulated diverse methods of conflict resolution by incorporating factors such as environment, religious and cultural beliefs, history and mode of ethics into their organizations.

For instance, when the indigenous peoples of North America were faced with a problem, such as a shortage of food, the members of a tribe would gather around a fire and discuss it. They might offer prayers to their Gods or perform rituals. Such a meeting was called a ' powwow'. Most tribes chose a person of great experience or wisdom to be their leader. Some tribes had several leaders or chose different leaders for different problems. 2

Another such system of dispute resolution devised by man is the Panchayat system. The Panchayat system has existed for almost two thousand years in India. It was reconstituted in Trinidad because of the introduction and subsequent settlement of the East Indian immigrants. This paper will attempt to investigate the factors influencing the growth, the decline and the mechanics of the Panchayat system in Trinidad.

Normally, the people of the Diaspora may revive and reconstitute particular aspects of their cultural and ancestral heritage3. The revival of cultural traditions by the diasporic community depended on a number of factors.

1) The conditions under which their ancestors left the homeland.

2) The distance in which the diasporic community is now located in relation to the homeland.

3) The duration of settlement in the host country

4) The economic and political conditions in the host country4.

Colonial reconstitution has undoubtedly had a profound impact on the socio-cultural organization of overseas Indians. To be sure, as people moved from the East to the West, out of necessity they became more innovative in their response to their new environment and personal needs. One such institution that has undergone fundamental change from its original structure is the Panchayat system. As Professor J. C Jha noted: " From the land of their origin, the Indians brought the concept of a self-sufficient village Panchayat to decide their disputes."

By tracing the development of the various Panchayat systems which existed in India to their subsequent establishment in Trinidadian society, it would become clear that the (original Indian) Panchayat system underwent significant transformations as a result of changed social, cultural, environmental and economic factors. Although one cannot deny that the Indo-Trinidadian Panchayat system has retained some elements of the ancient structure, it has nonetheless, undergone important changes that depart radically from its early form.

The word Panchayat also spelled Panchayet, Panchite or Punchayet or Hindi Pancayat, literally translated means a group or council of five6. The name Panchayat derived from the Sanskrit idiom panca, which translates into the

meaning five. Traditionally, the Panchayat was regarded as a council of five elders mediating on issues that affect the life of the people in a village. As an institution, it required the existence of other support structures, especially that of religion and the existence of a village community which the Panchayat would have the power of arbitration to settle differences or administer punishment. The Panchayat as a legal and judicial body may have been present on the early plantation Diaspora (1845-1860) although the contemporary body evidence refutes its existence. Anthropologist Morton Klass observed that:

" No provision was made for the behaviour patterns appropriate to the indentured immigrants society of origin, and by the very nature of barrack life there was minimal opportunity for exercising traditional customs and practices." 7

As colonial records would indicate, most indentureds arrived in Trinidad as individuals or as ruptured families devoid of society and kinship ties. Whereas lasting friendships akin to familial relations (Jahajibhais and Jahajibahins8) were formed on the boat, a society could not be constituted due to the rigours and parameters of the Indentureship system. The Indians barely had time to go through the motions of existence. In addition to rigorous working conditions, laws were established which regulated movement such as penalties for vagrancy, drunkenness and desertion.

It was quite common for indentured servants to be whipped on plantations to force them to produce an extra ton of sugar. 9 On the plantation, the Indians had no voice in the direction of their lives, they were " putty" in the hands of

the planters. Therefore, a body such as that of the Panchayat, which required a certain degree of independence in order to carry out its functions properly would have not been able to exist in such a repressive environment.

In fact, many historians argue that the Panchayat emerged only during the period of the establishment of the East Indian villages. According to Patricia Mohammed, " In establishing the village community in Trinidad, the Panchayat was one of the institutions reconstituted." 10 One can safely say then, that the movement from the plantation Diaspora to that of village settlement not only facilitated the re-emergence and growth of the Panchayat but also the resurgence of others facets of Indian culture.

As early as 1860, the free Indian population had spilled over to areas outside established plantations. This early movement was due to a scheme of land grants begun by Governor Sir Arthur H Gordon in 1869, in lieu of return passage to India11. By 1900, over fifty-six thousand (56 000) acres of Crown lands in Trinidad had been attained by Indians rising over to seventy-five thousand (75 000) by 1914 and over ninety-five thousand (95 000) by 1921. 12 The earliest Indian settlements were isolated homesteads. Eventually, contiguous or nucleated villages were founded beginning in 1870 with Calcutta Coolie Town in Montserrat Ward.

By 1900, most Indians withdrew from the estates into villages and scattered settlements and were rapidly transforming themselves into peasant proprietors. 14 Indians, simply moving onto plots closest to estates where they had served their indenture did not form settlements. Often many immigrants pooled their savings and brought a parcel of land to subdivide

among themselves15. Fictive kin ties based on the Jahajhi relationships often played a role in determining post indenture settlement patterns. As more free Indians took advantage of Crown land, more Indian communities were formed and new kinds of festivals and traditions, in keeping with village life as differentiated from estate residence, reappeared16.

The settlements of the Indians were largely based in isolated areas often a few miles away from the nearest town. As indicated by Nevadomsky the resettlement of post indenture Indians in rural villages is said to have effectively isolated them from mainstream culture and to have imposed strong continuing restraints on the processes of penetration, acculturation and incorporation. 17 By 1894, the Port-of-Spain Gazette noted that "' villages or settlements' exclusively of coolies have been formed all over the island and as their indentures expire, the numbers of coolies from the estates flock to join their countrymen.

They congregate by themselves avoiding as much as possible the society of all mankind but their own country men." 18 In 1871, thirty-two percent (32%) of Indians, in Trinidad resided in villages and settlements. By 1901, seventy eight percent (78%) of Indians were thus settled in their own rural communities. 19 The establishment of homogenous villages in Trinidad represented a significant step towards forging Indian social and cultural solidarity.

Agricultural ties to the land was said to have contributed to the persistence of such institutions as the extended/joint family system, caste endogamy and the arranged marriage. Under rural farming conditions, the social

structure of the Indo Trinidadian was remarkably similar to that of his village counterpart in India and it supposedly exhibited the same kind of functional integration, for example in the relationship between caste and marriage, agriculture and family organization, inheritance patterns and paternal authority. 20 As all these factors were combined, they provided the perfect " womb" for the reconstitution of the Panchayat system in Trinidad.

The original Indian family has been described as a ' patrilocal' joint family in which a line of brothers, their wives and children live in a common household compound with the men's father as the patriarch21. The joint or extended family was usually composed of three or more generations, living together in the same house, cooking from the same kitchen, owning property in common and pooling their incomes for common spending. 22 The father was more or less the household head but it was the brothers who ran the affairs of the family property. The birth of male children was celebrated with pomp and glory not only because of the fact that the sons would carry the father's name but because the son would remain in the father's household and take care of him.

There was a saying among the old East Indian people that daughters were like flowers, (phool) beautiful to watch and grow but only there to be picked by another man and placed in his garden. 23 Parental selection of mates, the transmission of property to male members within the family, the rarity of divorce and the subjugation of women characterized the extended family structure. The indentured Indians, from their initial entry into Trinidad (1845) up until the 1880's and 1890's grew up with a different set of family relationships from which their parents had experienced. On the plantation,

family life in the true extended family pattern was not possible. There were problems of space, lack of females, discipline and lack of freedom. However, between the 1890's and the 1940's, the extended family was more or less the norm in villages and among peasant Indians, including the majority of landowning Trinidadian families. 24

Since men greatly outnumbered women throughout the Indentureship period, the joint family system could not be maintained and began to fade. Indian culture was one in which age meant experience and experience meant wisdom. The community regarded elders as pillars of strength and knowledge. This regard was a direct result of the pervading culture of the Indians. The religions, Hinduism and Islam stressed utter respect and regard for the wishes of elders in the society. This respect for elders was manifested in the form of the extended family system. The father was at the helm of the household and would be so until his death.

As indicated by J. C Jha, the Indian immigrants in Trinidad revived the Panchayat system in their new village settlements from around 1870. 25 The Panchayat resurfaced not only because other facets of the culture were emerging but because of basic need. The shift of the Indian in terms of economic status was paralleled by a shift in social status, the appearance and adoption of their social institutions, an awakening of consciousness in themselves and a redefinition of their role in society. Indians emerged as an identifiable community in the last three decades of the nineteenth century. They had established themselves in villages far removed from any colonial administrative or civil body.

Hence, they had to resurrect their own methods of dispute resolution and community organization. It was the great myth of Crown Colony Government that governors and officials were impartial administrators and at the same time special protectors of the poor. 26 The poor had no access to the policy makers, while propertied interests could lobby effectively27. During the ' 1917- 1940' period, colonial authorities had nothing tangible in place to ensure the proper care and well- being of poor Indian rural folk. If any institutions did exist, the Indians displayed a certain degree of suspicion as the colonial institutions often proved disadvantageous to them. The East Indian villagers were said to have been very cautious about the courthouse and its trappings so they implemented their familiar, speedy court of the Panchayat28.

The Panchayat in Trinidad was more a process than a single event. It was a series of meetings or consultations with different members, with different degrees of privacy and different leadership29. In the Trinidadian Panchayat, justice was described as fulfilling ones duty to others as defined by man. Through the speech of the elders, the ideals of East Indian men were stated as " customary law", which defined appropriate behaviour, powers in marriage and divorce, control over children, property ownership and inheritance. The term Panchayat should not be thought of in the context of some ancient democratic or egalitarian tradition.

It probably originated in that format and later developed into a forum controlled by the village elite, the wealthy, the educated and the powerful30 The meetings, discussions, groupings and re-groupings did not only include heavy issues such as dispute resolution but also the sharing of tea, stories,

jokes, light banter and prayers. 31 Via the Panchayat, the values of the community were presented, confirmed, rejected or remodelled to fit the particular circumstances. There were no written rules to follow and only rarely was there a written document to evidence a settlement. This was an oral tradition.

The Panchayat was usually initiated when an aggrieved party garnered the attention of some concerned elders32. The elders were usually related to the aggrieved or were approached by someone whom they held in high regard. If the disputants were from the same village, the elders immediately gathered in an agreed spot. Usually many Panchayats had fixed residences where they carried on their meetings. For example, in the Fyzabad Panchayat, for as long as anyone could remember the members met in the Avocat Kutya33 which is today known as the Avocat Mandir. In the Phoenix Park Panchayat, the members often met under a ' Lazinette' tree34. For the National Panchayat of 1899, an old government school building was used35. If the disputants were from different villages, one party would send a message36 setting the time and place for a Panchayat. The Panchayat would have met in the village of anyone of the parties. Invitations were sent any time before the meeting, from a full week to only a few hours ahead.

The meetings were held after work, in the late afternoons often moving into the night. There was no formal process for assuring everyone's attendance; the witness, the accused or the elder. If someone's presence was essential to the Panchayat, the villagers may have exerted pressure through social boycott, or the aggrieved party may threaten to file a state court case37.

Most often the disputants did not speak for himself or herself but chose an

influential or better spoken relative to voice their complaints. It was not necessary for the speaker to take a formal oath before he spoke. There was a village saying that ' if you lie to the Panchayat, you are a fool, and if you do not lie to the state court you are a fool'38. This may have either stemmed from respect for the traditional forum and or paralleled contempt for state institutions39. Alternatively, it may have been the result of local familiarity with the courts and cases and the general unfair representation and treatment in which the persons received.

The justice of the Panchayat, however, was a justice of male ideology codified as village law. When the ' man' spoke it was the voice of the Panchayat. The Panchayat could be harsh on an offending woman or equally harsh on an offending man. When women spoke there was no institutional tradition to sanctify and unify their words like that of the Panchayat. For instance, if a woman was involved in a dispute, a close male relative represented her if her father was dead. Rarely, were women even allowed to appear before the Panchayat, rather, the nearest male relative represented them. There were some instances where women sat on the Panchayat but this was very unusual and women had to really earn their place. For example, there was one case in the 1940's where a woman sat on the Panchayat in the Avocat Village, she was seventy years old, a retired schoolmistress and she had three sons40. The Panchayat delineated the proper social responsibilities of parents, spouses and siblings. These norms were not debated but quickly assimilated into village life.

Most villagers were usually privy to or were quickly familiarized with the reasons for calling the Panchayat41. It was up to the aggrieved parties to

investigate and to present the case. Villagers with information were ideally expected to come to the elders in private. The purpose of the Panchayat was usually not to elicit new information but to design a solution that would satisfy the parties and the community. Parties were first given the opportunity to work out their own solutions42. When this proved unsuccessful, a decision would be made for them. The Elders acted as mediators, helping the disputing parties to reach their own decisions and sometimes as arbitrators, providing a binding decision.