

On My Mind
12/05/03

With the mess in the Senate still unresolved, and with the so-called new majority's continuing insistence on "punishing" the former majority giving rise to more and more radical proposals for changing the composition of the Senate, it would not seem inappropriate to offer a different approach. While threats have been made to take one or more of the related issues back to court, there is little likelihood for solution in that corner, since the court has already decided, in two recent decisions, that bickering within the Senate is not a subject for judicial review.

What would seem called for, then, is something called alternative dispute resolution - as has been previously suggested in this column. So that not only members of the Legislature, but also the general public may acquire an understanding of what that means, herewith some information gleaned from a brief search on the web. The organization from whose pages this was taken is the Association for Conflict Resolution, a professional organization dedicated to enhancing the practice and public understanding of conflict resolution. Its web site is: <www.acresolution.org/>.

<i>Negotiation</i> is a discussion among two or more people with the goal of reaching an agreement.

Mediation is a voluntary and confidential process in which a neutral third-party facilitator helps people discuss difficult issues and negotiate an agreement. Basic steps in the process include gathering information, framing the issues, developing options, negotiating, and formalizing agreements. Parties in mediation create their own solutions and the mediator does not have any decision-making power over the outcome.

Arbitration is a process in which a third-party neutral, after reviewing evidence and listening to arguments from both sides, issues a decision to settle the case. Arbitration is often used in commercial and labor/management disputes.

Mediation-Arbitration is a hybrid that combines both of the above processes. Prior to the session, the disputing parties agree to try mediation first, but give the neutral third party the authority to make a decision if mediation is not successful.

How Much Does a Typical Mediation Cost?

Solving conflicts through mediation or other ADR processes usually takes less time and costs less money than litigation. Costs vary widely, depending on the complexity of the case and the experience and training of the mediator. Mediators come from a variety of professions, including law, social work, human resources, psychology, education, ministry, and others. Their hourly rate usually reflects their training and years of experience. For example, some mediators may work with low-income clients on a volunteer basis, while others are highly paid lawyers who include ADR part of their practice.

What Are the Benefits of Mediation?

Mediation allows parties to maintain greater control of their lives and make their own decisions. The process fosters understanding, cooperation, and agreements that work for both parties. It usually costs less money and takes less time than litigation, and compliance with agreements is often higher than with court-imposed judgments. Another primary benefit is privacy. The process is confidential, allowing parties to avoid public disclosure of sensitive information in the courts.</I>

As noted above, if the CNMI's two senate factions were to seek alternative dispute/conflict resolution, they would be able to solve their dilemma for less money than they would spend in yet more useless court litigation, and within a much shorter time frame. Two firms are listed in the phone book that provide such a service: Joy Paralegal Services and Judicial Services Plus. There are no doubt others on island willing to serve as mediator and/or arbitrator.

Though there may be a problem in bringing Manglona and his cronies to the bargaining table, taking this approach would have the added advantage of softening the adversarial positions now being taken.

Need more be said?

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Bob Underwood, Guam's former delegate to Washington, D.C. did a nice piece on Thanksgiving in the <I>Pacific Sunday News</I> last week. He said he'd always had trouble identifying with the Pilgrims, and with Thanksgiving as the "combination of commercialized images of turkeys and solemn portraits of multicultural encounters between European immigrants and indigenous peoples" that it has become.

According to Underwood, there are only about 100 people left of the tribe represented by those New England Indians. But the turkeys, he wrote, seem to be doing quite well. In fact, he suggests that the turkey, being a true original native of North America, might be a better national symbol for the U.S. than the eagle, which he quotes Benjamin Franklin as describing as a bird of bad moral character which lived by "sharpening and robbing."

Whether we identify with the Pilgrims or the Indians, or never even heard of the individuals involved (Bradford and Squanto, respectively), "it is important that we take the time to literally count our blessings," he concludes. As should we all.

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The Thanksgiving article by the Villegas' in Thursday's <I>Tribune</I> is also worth noting. In observance of Thanksgiving Rik and Janet Villegas enumerate the many advantages and benefits of living in the CNMI. Quite a thought-provoking list, especially in light of the all-too-frequent litanies of what's wrong with this place so often found in the pages of our newspapers.

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Opponents of the sale of Verizon, CNMI's local telephone company, have done a poor job of informing the community of the issues involved, and consequently, an equally poor job of enlisting the support of the local community.

While I admittedly did not read every last detail of the stories about the sale that have been in the papers, I assumed - in all my ignorance - that if there was something wrong with the sale, the Federal Communications Commission would not approve it, and if the FCC did approve the sale, there could be no remaining issues.

I learned, only this past week, that that is not the case. The FCC rules on the basis of its own (federal) scope of concerns as reflected in its regulations. It does not necessarily concern itself with local issues and concerns, such as the adequacy and reasonableness of local service and local rates.

Unfortunately, it is now too late. The deadline established by the CNMI's Commonwealth Telecommunications Commission for commenting on the terms of the sale is November 30, 2003. We can only hope that those responsible for deciding whether to allow the sale to go through have the interests of the people, and not the principals, at heart.

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Twice in the past few weeks, comments I have made in personal e-mails to private individuals have been published in the newspaper without my permission, once in the <I>Tribune</I> and once in the <I>Variety</I>. In the case of the <I>Tribune</I>, at least the source was identified; in the other paper my comments appeared as though said in an interview. However, in neither case was I asked for permission to use what I had written, and I protest. These are violations of my privacy. Moreover, they border on unethical journalism - comments made in personal e-mails to private individuals are NOT legitimate newspaper fodder - unless permission has been obtained from the writer. And in this case, it was not. At least the excerpts published in the paper were benign.....

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The coconut wireless has it that our governor did not go to California to check up on the status of the Rose Bowl parade float, but to spend time with his latest girlfriend, who recently moved there.

Goes to show how naive I was!