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Tamils' right to self-determination**

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The unwise decision of giving Douglas the social welfare ministry

E PDP leader, Minister Douglas Devananda has been allocated the portfolio of social services and social welfare by the new president, Mahinda Rajapakse. This ministry is solely in charge of specialised programmes providing government welfare for persons internally displaced by war. These programmes are quite different and specific from those set up for tsunami relief, or for the displaced from other natural disasters.

The functions now undertaken by the Ministry of Social Services and Social Welfare form a vital part of the few services the Sri Lankan state offers the people of the northeast. Under the last president, these services were rendered through the Triple-R ministry that came under the purview of President Chandrika Kumaratunga. When the UNP government was in power (2001-2004) the prime minister's office was in charge of it.

There was considerable heartburn in the past too when Devananda was minister of development, rehabilitation and reconstruction of the north. It was common for people to allege that it was mostly EPDP supporters in the north who were recipients of government reconstruction benefits. But even then welfare services to refugees and IDPs did not come under Devananda's purview.

Devananda's role in the government is not confined to holding office by virtue of the fact that he is an elected representative of the people of Jaffna. He is also the leader of a party that functions as a paramilitary arm of the army with the goal of militarily vanquishing the LTTE.

What we also know is Devananda's record of support over the years of the SLFP / PA / UPFA and the

elections, assault and intimidate his political foes, and whose colleagues in the EPDP are accused of murdering a journalist.

There is every possibility that Devananda and his cohorts (who will no doubt occupy influential positions in the ministry soon), would begin to use the distribution of welfare for IDPs and other programmes for resettlement and rehabilitation, as counterinsurgency weapons. The threat of withdrawing welfare could be a powerful method of bringing to heel the IDP population of Jaffna and making them support the government and the EPDP.

Such fear is all the more palpable because the recent elections saw the people of Jaffna boycotting polls. Though it is the boycott that kept the likes of Devananda in office, the fact remains the act was a strong endorsement that the writ of the LTTE runs in the government-controlled areas of Jaffna. There is every possibility therefore that Devananda could use his influence with the IDPs for the political end of undermining the Tigers in Jaffna.

The additional concern is the considerable presence of IDPs in the LTTE-controlled areas. Thus the state's relief effort has to be coordinated between both the government- and LTTE-controlled areas as well as with the NGOs. The minister could use his office to prevent releasing welfare to the Tiger-controlled areas, creating thereby confrontation and dissent.

It is therefore imperative that the president who began his tenure on an inauspicious note with the Tamils boycotting the elections does not stray deeper into the morass by distributing ministerial portfolios unwisely. It could be a very costly mistake.

WTO agreements undermine Tamils' right to self-determination

By Amal Amarasekara

There was a very interesting pamphlet distributed by an LTTE-friendly organisation on the eve of the presidential election. The main idea was to urge the Tamil people to refrain from voting because the Tamils could no longer trust any Sinhala leadership. It further said that if Mahinda Rajapakse was dangerous, Ranil Wickremesinghe was even more dangerous, because he would sell off the Tamil homeland to foreigners. It is true that slogans such as "selling-off our dear motherland" are not new in the world of politics, but the idea of 'Sinhala leaders' selling the 'Tamil homeland,' I believe, might add another dimension to the discourse on peace in the country.

At a time when the World Trade Organisation (WTO) agreements on goods, agriculture, intellectual property and services, are spreading across the globe, both by consent and by enforcement, the idea of "selling-off the Tamil homeland" can take new meaning. The upcoming undemocratic and battlefield-like Ministerial meeting of the WTO in Hong Kong, after two years, will provide the dash of flavor to enrich this idea.

We could take the Agreement on Services of the WTO as a case study for our argument. According to this agreement, a member country can challenge any rule, law, regulation, administrative decision or any other measure at any level of government – national, federal or provincial to the lowest structures – of another member country at the 'courts' of WTO. The only guiding principle taken into consideration by the court is the concept of 'free trade' as applicable to the country in question. The country will have to accept the decision. If it is a decision against the laws or regulations of the accused country, it has to withdraw or rescind such laws, or face serious economic sanctions.

Some of these rules on services are in operation from the day Sri Lanka obtained membership of WTO on the 1 January 1995. They are equally relevant to the south as they are to the north-east. Moreover, if we open our service sectors (e.g. financial service, water, health, transportation, education, power, tourism, garbage cleaning or any other service you can possibly imagine!!) in accordance with the agreement, we will have to work within many more rules. This too is equally relevant to the north-east.

Let us pay attention to three of the multiple possibilities under which the Tamil peoples' right to self-determination could be challenged by the WTO's Agreement on Services.



Rainbow Warrior sails into Doha, challenging the WTO to use the 4th Ministerial Conference to force the US to commit to the Kyoto Protocol

- 1) Market Access: This will decide the space offered to foreign trade after opening a service sector. Each individual country has the right to determine how much space is open. By 2003 Sri Lanka had, in her initial offers, already decided to open up the sectors of financial services, tourism and telecommunication, with certain obligations. In the long run it is likely that Sri Lanka will open up more sectors because of both the demand of other countries, as well as the pressure imposed by international monetary institutions. If the Sri Lankan government does not demand to exempt the north-east region at the time of opening, the north-east provincial government will not be able to impose the following measures of control: number of service providers, total value of service transactions and assets, the number of service operations, number of people employed and ownership of foreign investment as a percentage. Apart from the general demands to exempt certain interests (that are non-geographical) in the services already offered, to the best of my knowledge, no special demands for the north-east have been made. It is also less likely that such demands would be made by the southern government on behalf of the north-east with regard to the services to be opened in the future.

Contd. on page 6

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Redefining what ‘consensus’ means in the WTO

This is an open letter by trade unions and civil society organisations to WTO Director General Pascal Lamy on 1 November 2005. Seventy-one organisations signed the document, the names of which are not included for a want of space.

Dear Mr. Lamy,

The undersigned trade unions and civil society organisations from around the world are appalled by the highly undemocratic and deceptive process used to manufacture the draft services ministerial statement, which essentially brushes aside the concerns of the majority. This process also completely redefines the ‘consensus’ mode of decision making: rather than having a consensus before an item is included in a negotiating text, it now appears that, at least in the case of the Council for Trade in Services, the Chair can include items from demandeurs that he deems appropriate, even if there is no agreement amongst the membership, and these can only be removed if there is complete consensus amongst 148 Member states.

On 13 October, the Chair of the Council for Trade in Services (CTS), Mexican Ambassador Fernando de Mateo circulated a first “Note by the Chairman” on “Possible Elements for a Draft Ministerial Text on Services.” Under “Objectives” to the negotiations, Ambassador Mateo included:

- Modal or other specific multilateral objectives,
- Sectoral and modal objectives as individually expressed by Members...

and under “Approaches:”

- Plurilateral approaches, sectoral — and/or mode-specific
- Multilateral approaches (e.g. measure specific)
- Numerical targets and indicators.

These elements however do not have the support of the whole membership. In particular, benchmarks, modal specific approaches or numerical targets to speed up the GATS negotiations have been intensely rejected by a large number of developing countries including LDCs. The many statements made by countries and coalitions in the various CTS meetings prove this. In the CTS, many delegations therefore requested that these issues be removed or bracketed, given the lack of consensus. They also pointed out the double standard: that the section on ‘Rules,’ referring to the emergency safeguard mechanism (ESM) negotiations, was placed in brackets even though it was agreed to be negotiated. It was also repeatedly stated that a new paragraph on Principles should reinforce the current architecture of the GATS.

Despite these objections, the new proposals regarding new approaches again reappeared — un-bracketed — in Ambassador Mateo’s second draft elements dated 20 October, and have been further elaborated upon in the draft Ministerial Text on Services released on 26 October. A second draft of the text will be released by 3 November — the text the Chair aims to bring to Hong Kong. Whilst the Chair is putting into the text elements that clearly do not have consensus, elements to be taken out, according to him, require the complete consensus of members! At the same time, what has already been agreed

upon for negotiations, the ESM, a promise made since the Uruguay Round as reflected in Article X.1 of the GATS, but where the developed countries have been dragging their feet — was not elaborated upon by the Chair in the draft Ministerial text. The draft Ministerial text also failed to reinforce the current architecture of the GATS.

There are two issues here that are particularly worrying:

First, having multilateral approaches such as numerical targets and indicators — essentially compelling countries to open up a specified number of sectors — will contravene the built-in flexibilities of the GATS and put developing countries’ development objectives and policy space in jeopardy. Even plurilateral approaches are problematic since these negotiations will be driven by those with the biggest export capacity. Those who are party to the negotiations will determine critical issues such as ‘classification issues’ within the sector, as well as be the players drawing together the regulatory standards for what is acceptable within such plurilateral agreements. These standards will be those in harmony with the interests of the major corporations. Based on past experience with the financial services and telecoms agreements, there is no guarantee that Members will not be intensely pressured to join in these plurilateral agreements. Those who may want to join in later will find the rules of the sector already pre-determined, in line with certain corporate interests.

The second issue of concern is that of process. As we questioned the process in the run up to the Cancun WTO Ministerial Conference whereby the Chair of the General Council drafted the Ministerial Text on his “own responsibility” without the consensus of the Membership, we again question the similar process that is occurring today. This process clearly lacks inclusiveness and transparency. We must ask you, Mr. Lamy, if Ambassador Mateo’s approach represents a new way of defining and practicing consensus in the WTO? Can the Chair table draft elements that do not represent consensus and then require consensus for any amendments to the text?

As Chair of the Trade Negotiating Committee you have indicated that you might be tabling a draft Ministerial Text by mid-November based on the draft texts received from the Chairs of the various negotiating committees. Will you present a consolidated draft Ministerial Text based on submissions from negotiating committees that have been questionably crafted, as we have seen, for example, in the case of the Chair of the Council for Trade in Services?

We look forward to your clarification on this matter and to ensure that — as in previous years — a draft Ministerial Text will be presented to Ministers of WTO Members, which includes within brackets the positions of all Members on matters where consensus does not exist. Civil society organisations in WTO Member states will hold you accountable on your responsibility to ensure that the draft Ministerial Text delivered to Ministers before Hong Kong reflects the consensus interests and positions of WTO Members and, in particular, in this Doha Development Round, of developing countries. Failure to do so only makes a mockery of the ‘multilateral,’ ‘rules-based’ trading system.

Contd. from page 4

A major consequence of this will be at the time the Sri Lankan government reaches an agreement with the LTTE (if we assume that an agreement is a possibility) the space for self-determination would have already eroded as a result of WTO agreements signed.

- 2) National Treatment: This is one of the main rules that would determine the conditions under which the country would have to work once it opens a service sector. It is simply that every foreign service and a service provider should be treated equally as the local services and service providers.

This law can seriously influence the Tamil people's right to decide on the policies that best suits their area in the process of re-building the north-east. National Treatment commitment seriously challenges the space to strengthen a Tamil national economy. As far as I know, no exemption is requested under National Treatment for the north-east in the service sectors already offered.

- 3) Reversing the decision after opening up a service sector: If a member country of WTO is going to reverse the decision after opening a sector (e.g. if Sri Lanka has already opened its transportation sector without demanding special provisions for the north-east, and there

is a decision by the Tamil peoples' government to establish its own transport service), the country will have to pay compensation to the foreign service providing countries for the loss of profit they might encounter in the future. This should be paid to each service-providing member country in the WTO. If the country is unable to pay compensation, the tribunal of WTO is empowered to impose trade sanctions on the entire country that includes the north-east.

The Sri Lankan government's minister of trade is entrusted with the official task of negotiating the agreement at the WTO. The department of commerce at the ministry of trade advises the minister on this. It is every unlikely that the ministry of trade has consulted the LTTE or the Tamil MPs before offering sectors, an act that will affect community, every part of the country and also the future generations. There are reasons to believe this is the case. I am also not sure whether it will happen before the crucial ministerial meeting in December, but we could assume that it is unlikely.

Studying the impact of WTO agreements on the right to self-determination of the Tamil and the Muslim communities is a complex task, well beyond the scope of an individual. All we individuals could do is to give certain hints and clues of the possible implications.

Thevaraja Sarma case and bringing Jaffna disappearances before UNHR Committee

By K. Sivapalan

The Communication adopted by the United Nations Human Rights Committee under Article V paragraph 4 of the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) in respect of victim Thevaraja Sarma, submitted by S. Jegatheeswara Sarma of Anpuvalipuram, Trincomalee is a landmark addition to jurisprudence in the field of human rights. It is also a sign of hope for the relatives of the disappeared in this country, as this is the first case of this nature that has gone up to the United Nations Human Rights Committee.

The facts in the case of Thevaraja Sarma as submitted to the Human Rights Committee by the author of the Communication, Jegatheeswara Sarma, (the victim's father), are as follows:

"The author alleges that, on 23 June 1990, at about 8.30 a.m., during a military operation, his son, himself and three others were removed by members of the Army from their family residence in Anpuvalipuram, in the presence of the Author's wife and others. The group was then handed over to the other members of the military, including one Corporal Sarath, at another location (Ananda Stores Compound Army Camp). The Author's son was apparently suspected of being a member of the Liberation Tigers of Tamil Eelam and was beaten and tortured. He was thereafter taken into military custody at Kalaimagal School allegedly after transiting

through a number of other locations. There he was allegedly tortured, hooded and forced to identify other suspects.

"In the meantime, the Author and other persons arrested were also transferred to Kalaimagal School, where they were forced to parade before the Author's hooded son. Later that day, at about 12.45 p.m., the Author's son was taken to Plantain Point Army Camp, while the Author and others were released. The Author informed the Police, the International Committee of the Red Cross (ICRC) and human rights groups of what had happened.

"Arrangements were later made for relatives of the missing persons to meet, in groups of 50, with Brigadier Pieris, to learn about the situation of the missing ones. During one of these meetings, in May 1991, the Author's wife was told that her son was dead.

"The Author however claims that, on 9 October 1991 between 1.30 and 2.00 p.m., while he was working at City Medicals Pharmacy, a yellow military van with license plate No. 35 Sri 1919 stopped in front of the Pharmacy. An army officer entered and asked to make some photocopies. At this moment, the author saw his son in the van looking at him. As the author tried to talk to him, his son signaled with his head to prevent his father from approaching him.

"As the same army officer returned several times to the pharmacy, the Author identified him as star class officer

Amarasekara. In January 1993, as the Presidential Mobile Service was held in Trincomalee, the author met the then Prime Minister, Mr. D. B. Wijetunge and complained about the disappearance of his son.

"The Prime Minister ordered the release of the Author's son, wherever he was found. In March 1993, the military advised that the Author's son had never been taken into custody.

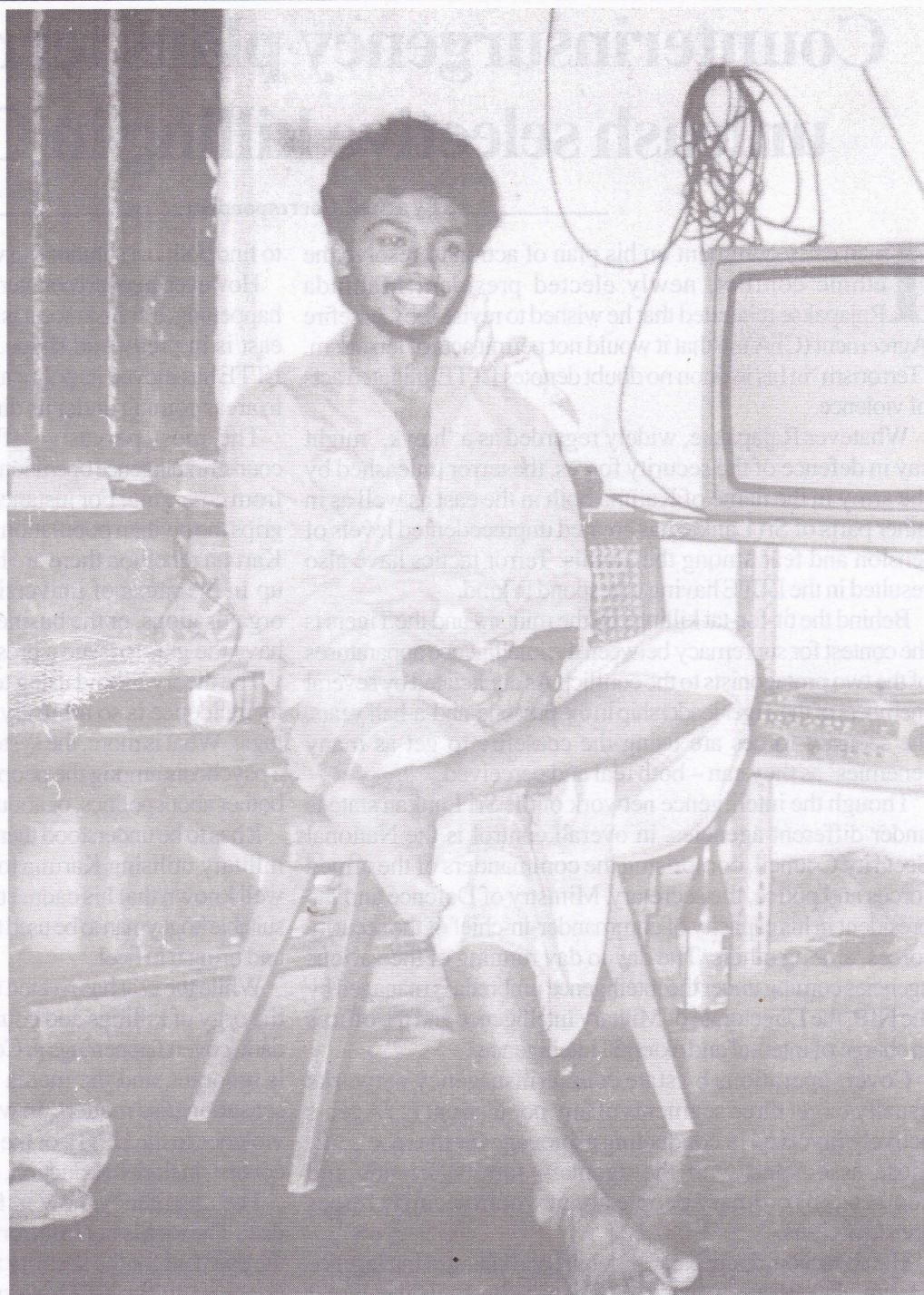
"In July 1995, the Author gave evidence before the Presidential Commission of Inquiry into Involuntary Removals and Disappearances in the Northern and Eastern Provinces (The Presidential Commission of Inquiry), without any result. In July 1998, the Author again wrote to the President, and was advised in February 1999, by the Army that no such person had been taken into military custody. In March 1999, the author petitioned to the President, seeking a full inquiry and the release of his son."

The complaint according to the author was that the above facts constitute violations by the state party (GOSL) of Articles 6,7,9, and 10 of the ICCPR.

The main objection of the state party was that the Optional Protocol does not apply to the alleged incident involving the involuntary removal of the author's son as it took place on 23 June 1990 and the subsequent disappearance in May 1991. The state party submitted these events had occurred before the entry into force of the Optional Protocol for Sri Lanka.

Having considered the above preliminary objection, the committee noted that "although the alleged removal and subsequent disappearance of the Author's son had taken place before the entry into force of the Optional Protocol for the state party, the alleged violation of the Covenant, if confirmed on the merit may have occurred or continued after the entry into force of Optional Protocol." Based on the above principle it declared the Communication (complaint) admissible on 14 March 2002.

Applying this opinion of the United Nations Human Rights Committee brings us to an interesting point. The involuntary removal or abduction, and subsequent disappearance, of over



Thevaraja Sarma

600 persons, many of them children under 18 years in Jaffna and in other places in the Northeast in the past due to military action could also be construed as a violation of the Optional Protocol of the ICCPR.

Before the Cease Fire Agreement was entered into by LTTE and GOSL on 22 February 2002, disappearance was a continuing offence constituting a major violation of the CFA. It would seem that this is a violation of a grave nature and should be declared as such by the SLMM.

K. Sivapalan is a well-known human rights lawyer practicing in the Trincomalee Courts. He also interests himself in public causes and the arts.

Counterinsurgency plans terrorise east, unleash selective killing in Colombo

By a Staff Correspondent

In an early comment on his plan of action to resolve the ethnic conflict, newly elected president Mahinda Rajapakse reiterated that he wished to revise the Ceasefire Agreement (CFA) so that it would not permit acts of terrorism. 'Terrorism' in his lexicon no doubt denotes LTTE-initiated acts of violence.

Whatever Rajapakse, widely regarded as a 'hawk,' might say in defence of the security forces, the terror unleashed by the army in the name of Karuna both in the east as well as in other parts of Sri Lanka, has created unprecedented levels of tension and fear among the Tamils. Terror tactics have also resulted in the LTTE having to respond in kind.

Behind the tit-for-tat killings by the military and the Tigers is the contest for supremacy between the intelligence apparatuses of the two protagonists to the conflict. As enunciated by several members of the Tiger leadership in the past one-and-a-half years, the security forces are using the ceasefire to get as many 'enemies' as they can – both real and perceived.

Though the intelligence network of the Sri Lankan state is under different agencies, in overall control is the National Security Council, comprising the commanders of the armed forces and police, the secretary, Ministry of Defence and the president in his capacity of commander-in-chief of the security forces, among others. The day to day running of the various agencies coming under the intelligence umbrella is managed by the NIB, the Directorate of Military Intelligence and the offices in charge of internal and external intelligence.

Covert operations by state counterinsurgency networks usually target three segments of any population: (1) Agents actively involved in conducting espionage for the rebels; (2) those associated with the agents – family, friends and contacts; (3) ordinary people about whom security forces are suspicious.

The abduction, disappearance, torture and killing of intelligence agents also create a massive fear psychosis in the target population. While in open warfare the enemy can be identified, and mutual elimination is the order of the day, the covert nature of the contest in times of so-called peace creates uncertainty and thereby heightens tension in the civilian population.

The east is a case in point. If the Karuna episode had not occurred, the civilian population and its political leadership would have participated much more vigorously in the peace process. After all, the 'peace process' is defined as such assuming there has been a war before, but the protagonists have agreed to step back from violent conflict to look at the contentious issues without resorting to arms – in other words

to find political solutions to what triggered the conflict.

However, a covert counterintelligence war prevents that from happening. For instance it is obvious the political process in the east is in pretty bad shape. It is in fact so bad that even the LTTE has moved its political offices in Batticaloa and Amparai to areas coming under its direct control.

The most pervasive effect of counterinsurgency and counterintelligence operations is that it blocks civilian leaderships from emerging. For instance in Batticaloa, fear and suspicion grips the civilian population so intensely that subsequent to the Karuna rebellion there are hardly any leaders that have come up in the ranks of university students, among civil society organisations, or the business community. They do not even have the guts to issue a press statement.

The theory behind using terror to subdue a population is that its incidence is so arbitrary, and so widespread that it defies logic. What is more, the systematic application of terror creates a psychosis among the people to the point that civilians do not bother about politics, or about anything else other than survival.

It has to be understood there is a purpose behind the Sri Lanka military utilising Karuna to create fear among civilians. It is well known that his cadre strength is not imposing, but he is a suitable bogeyman to be used to instil fear in the civilian population and bring it to heel.

While the east has riveted the attention of Sri Lankans due to the orgy of killings and counter-killings, there are number of dark, covert happenings in Colombo of which most of the public is ignorant, and the media silent – except when it wants to sensationalise matters, in which case it blithely attributes the violence to the LTTE, or the 'underworld.' This, more sinister contest, includes abduction, disappearances secret killings etc.

The emergency, now in force, assists this process a great deal. The idea is not to terrorise a population as is happening in the east, but for the security forces to pick out those it believes are close to the LTTE's espionage network so they can be disabled with the least fuss or bother. Some incidents that occurred in the past few months in Colombo are a case in point.

In October, four persons in a van were abducted at Dickman's Road, Bambalapitiya after they were chased from Armour Street, Kotahena. Because one of the persons managed to call on a mobile phone and told his family of his predicament, who in turn informed influential circles, the abducted persons were released. It transpired during inquiries that it was the Special Unit attached to the Dematagoda police, which took in the four. It is important to

What is more, the systematic application of terror creates a psychosis among the people to the point that civilians do not bother about politics but only about survival

note that though it was the Special Unit of the Dematagoda Police was involved, since the procedures adopted were contrary to the law, the act can only be described as abduction, and not an arrest.

Good fortune was instrumental in saving the four young men, but there have been a number of disappearances of Tamils in and around Colombo, while corpses have surfaced with gunshot injuries with their hands tied behind their back in classic assassination patterns.

For instance Sathis, from Pungudutheevu, Jaffna was abducted about four months ago. His body was discovered in an abandoned area in Dehiwala with gunshot wounds. He is innocent of connections with the LTTE, but his elder sister is known to have married into a family reputed to have Tiger connections. The bodies of two boys from Batticaloa were also discovered on a subsequent occasion in the same part of Dehiwala.

Two months ago an unidentified body was found near Kochchikade church in Kotahena. Later a Tamil youth was chased by a white van in the same area though he managed to escape from his pursuers successfully.

The military has been training Tamil-speaking personnel to carry out this type of counterintelligence work. For example the notorious Captain Munas is a Tamil-speaking Sinhalese from Negombo whose real name is Pieris Martin. He was 'given' a Muslim name before posted in the east. The deliberate naming of Martin, as 'Munas,' was to give the public the

impression he was a Muslim and use it to instigate Muslim-Tamil tensions in the volatile east. In the early 1990s Major Zacky, who was brigade commander was specially trained in intelligence gathering in Batticaloa, under whom Munas served.

Major Muthaliff and Lieutenant Colonel Rizli Meedin, both recently killed in Colombo fall into the same category. They were Tamil-speaking and used by the military for intelligence work. Meedin, for instance, was initially commissioned into 3rd Battalion Sri Lanka Light Infantry (SLLI). In 1989-1990 he was transferred to work in the intelligence unit under the Ministry of Defence. He followed a basic intelligence course in Pakistan and a course in counterinsurgency work in Bangladesh.

Paramilitary units such as the late PLOT Mohan's, the Razik group and cadres of the EPDP, are all active in counterintelligence work such as providing information on a variety of matters such as targets' background, movements contacts etc.

The military has been working hard in training a group of ruthless officers for counterintelligence work and Tamil paramilitary cadres to support them. They are active in the operational areas terrorising and browbeating the Tamil public into submission, while in Colombo they have been involved in selected assassinations in the hope of eliminating what they believe are Tamils working with the LTTE. These initiatives have however have been stoutly resisted by the Tigers leading to the cycles of violence in the east and mysterious dead bodies in Colombo.

Campaign in northeast to end violence against women

Activists of the National Alliance of WE CAN Campaign and its partner organisations have launched a programme calling for an end to violence against women from 25 November to 10 December all over Sri Lanka, including the seven districts of the northeast.

National Alliance of WE CAN Campaign plans to bring together 5000 people of all ages and backgrounds to express themselves on T-Shirts. They will paint T-shirts with their own messages and wear these while forming a human chain of solidarity towards ending violence against women.

Other activities include mobile exhibitions, street drama, painting 200 meters of banners with messages by all communities. Debates and discussions with stakeholder groups will also take place during the 16 day period of activism starting on the International Day for Addressing Violence Against Women and ending on World Human Rights Day.

The National Alliance includes community groups and organisations working on women's rights, youth groups, academics, university and private sector groups.

"We hope to get 500 people who will return to their communities to make changes. The T-shirt painting event will make people reflect on their thoughts on the issue of violence, bring it out and make people realise that there is a problem of violence against women. It will make further work easier for us," said V. A. S David, YMCA, Trincomalee

With the T shirt designing and human chain of solidarity, the campaign aims to raise individual awareness on the rights of women to a violence-free life and build community responsibility against condoning violence. The

campaign intends to mobilise community groups who will pressure the state to fulfill its obligations in implementing existing mechanisms such as the recently passed Domestic Violence Act and introduce new measures that will promote a more equitable life for women.

"Any action taken to raise awareness is good; the more people talk about issues the better it is. Last year it was interesting to see the Vavuniya police officers wearing the white bands. Though they seemed to find it amusing to do so, it still provoked thoughts on the issue of violence and made a public statement," said Pearl Stephen, Women Development Center, Kandy.

Through out the 16 days white bands, with the slogan "End Violence Against Women," will be distributed by the WE CAN Campaign Alliance. In Ampara, Batticaloa, Jaffna, Killinochi, Mullaitivu, Trincomalee, and Vavuniya white bands could be picked up from Oxfam GB offices.

In South Asia one in two women face violence in their homes. In Sri Lanka, studies reveal 60% of women suffer from domestic violence. Studies show women suffer not only physical violence, but also emotional, verbal and sexual abuse in close relationships.

The WE CAN Campaign is a South Asia regional campaign to change and challenge attitudes and practices that perpetuate violence against women. Women and men across six countries in South Asia have joined WE CAN Campaign. It was launched in Sri Lanka on 24 September 2004 and is now determined to take the message to 50 million people in the region. In Sri Lanka the campaign covers 16 districts through active participation of district action groups.

Profile of an elected dictatorship

By Professor Bertram Bastiampillai

Sri Lanka, well used to universal adult franchise since 1931 and to constitutions and electoral systems of diverse types over the years, is saddled with a curious and unique constitution from 1978. For example, persons holding constitutional offices such as president or prime minister under the earlier constitution could be appointed, without an election, to fresh office when the new constitution was promulgated. J. R. Jayewardene became the country's first executive president in 1978 after holding the office of prime minister in 1977. He created the constitution of 1978 with an executive presidency and moved into that authoritarian and exalted position with no election at all, or even a referendum.

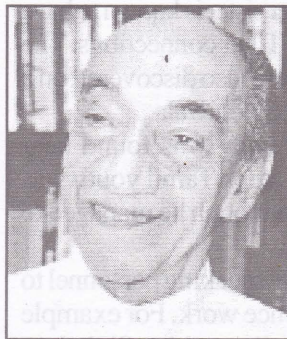
In the 1978 constitution, the system of voting was changed from 'first past the post' to that of 'proportional representation.' The system of voting suited the unique design of the constitution. Single member constituencies were abolished. Instead constituencies were represented through political parties, which vote many winners according to the number of seats allocated to a constituency depending on its size and the population of electors in it. The idea was to provide for different ethnic groups to be returned to seats in the legislature according to their numerical strength. But then the proportional representation system of elections could also tempt citizens to vote communally and not by assessing the virtues of policies or politicians.

The voting system under proportional representation also distances elected representatives from the citizenry because electorates are large and hence, supporters of parties and personalities are not identifiable and can be ignored by the elected members.

To ensure as far as possible that seats won by a party reflects the actual votes polled, provision also exists for some members to be appointed to parliament by the contesting parties, but in relation to the quantum of votes gathered in the constituencies.

Nevertheless, Jayewardene retained on the two occasions he was executive president the unusually large majority of over two-thirds of the total number of representatives in the legislature. However, he had gathered them through the earlier 'first past the post' system of elections. This was a questionable practice as the new constitution provided for an executive president to be directly elected through a different system of elections.

The constitution allows the executive president, although he or she is not in the legislature, to choose the prime minister and ministers of the cabinet. Further, the executive president could address the legislature when he or she wishes to do so.



J. R. Jayewardene

By virtue of the fact that the executive president holds ministerial portfolios but is yet outside the legislature, makes the holder of that office more or less not obliged to answer parliament.

Furthermore, the executive president is endowed with immunity from judicial action and enjoys impunity even after retirement from office. The executive president is, in a way, a dictator in the freedom from lawsuit he or she enjoys. It is untrammelled authority that the holder of presidential office Sri Lanka commands.

Since the executive president is, in addition, commander-in-chief of the security forces, the military is obliged to obey him or her. The executive president decides on promotions in the army, navy and air force, as well as appoints their commanders.

One way an executive president could be checked, or his or her powers curtailed, is by parliament not voting funds for that office to function. But this is not an easy exercise since the executive president appoints ministers and their deputies and, in addition, enjoys extensive powers of patronage. Appointments to several offices lie in the president's control, and few like to oppose or fall foul of such powerful a personage. Such power is only augmented by virtue of the fact the executive president is also head of his or her political party that brings even party offices under presidential jurisdiction.

Another way of keeping a check on the president is by removing him or her from office through impeachment, but the process is so involved and intricate, that it is not a realistic option available to the citizens of this county to control presidential power.

Another peculiarity that came into use with the 1978 presidential constitution is the power of the executive president to prorogue parliamentary sittings for a prescribed period (maximum of two months). This frustrates parliament's functioning. For instance, in the midst of a vital parliamentary debate, a prorogation by the executive president would render parliament impotent. The executive president could do even greater damage: after one year of a parliament's tenure, he or she can dissolve the legislature without affording an explanation for doing so.

With such characteristic powers, if the executive president belongs to one party and the majority in the legislature to another, there is ample room for discussion, confrontation or a deadlock. It is often quoted that the Sri Lankan presidency, parliament and constitution are very akin to the French system of governmental institutions such as the French presidency and the legislative chamber. The parallel is taken further stating that Sri Lankan presidents and the legislature should therefore learn to cohabit like their French counterparts.

This is more easily said than done. Sri Lanka was a British colony for a long time before its independence in 1948, and the island and its people have got accustomed to the British manner of elections and appointing a cabinet of ministers. The island even had for a while two chambers managing executive and legislative functions. The country's first citizen was a ceremonial governor-general like the queen in Britain. The French on the other hand, after the Revolution, Napoleon, and a succession of Republics, got used to quite a distinct and different form of government, which runs on a republican system that changes from time to time its president, who is repository of executive power.

Therefore, the present constitution of Sri Lanka is not really a replica of the French model, but has elements of the British and French systems, and, one discerns, of other countries as well. It is therefore more troublesome and difficult to operate smoothly.

Sri Lanka has experimented with different constitutions within a short period of time but achieved little. Voters have been confused and led to believe that whatever the constitution, it does not give them real power. The question is whether the winner of the just-concluded election will transform the constitution substantially to meet contemporary requirements.

Professor Bertram Bastiampillai, former dean of the Faculty of Arts, and professor of history at the University of Colombo was also the parliamentary commissioner for administration (Ombudsman) after retiring from the university.

When God made Jeyam Thamotheram he must have thrown away the mould

By Brian Senewiratne



Dr. Brian Senewiratne, C. J. T. Thamotheram and Adrian Wijemanne Pic. courtesy Sri Lanka: Witness to History

This is not an obituary, since I am not qualified to write one. It is just a note of thanks from a Sinhalese to a great Tamil for all he has done for the Tamil cause over a very long time. He is one of the unsung heroes of the Tamil struggle. It is a struggle for justice and freedom from Sinhala oppression, which has gone on for such a long time and at a terrible cost to Tamil lives, property, and the complete destruction of the Tamil areas. What is unrecognised is the damage done to the much-treasured and closely-knit family unit, which means so much to people of Jeyam's generation. People of that generation (and even later ones) have paid a terrible, but unrecognised, price in terms of social disruption, indeed 'social decimation,' as a result of the violence unleashed on the Tamils by a succession of Sinhala governments since 1956, and more so since 1983.

The Thamoderams have made a major contribution to education in Jaffna. Jeyam's father was the principal of a very famous school, Hartley College, a Methodist mission school founded in 1838
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and was, in fact the first non-white principal of any school in Jaffna. Among the many famous people coming out of that school was the brilliant Professor C. J. Eliezer who actually worked with Albert Einstein! Later Jeyam himself joined the staff of that school, making a significant contribution to education in Jaffna.

He immigrated to Britain many years ago. Unlike so many of his vintage who, having left Sri Lanka, have sat on their hands doing nothing other than hallucinating about the future, Jeyam acted in his own inimitable way. He made an enormous contribution, which is largely unrecognised because of the nature of the man. A quiet, unassuming, self-effacing man, modest almost to a fault, Jeyam had a vision of what expatriate Tamils could do in a positive way.

He founded, among other things, the first Tamil school in the UK, the *Tamil Times* and the International Tamil Foundation (ITF). A few years ago he telephoned me in the early hours of the morning (!) in Australia, to say that he thought it important to get together a group of international writers to highlight the

problems faced by the Tamils: would I join the group? That was typically Jeyam, his mind ever active, thinking what more he could do to further the Tamil cause. I gather that he also had the largest list of Tamils in the UK and their addresses. It was the Sri Lankan concept of an 'extended family' being applied on an international scale!

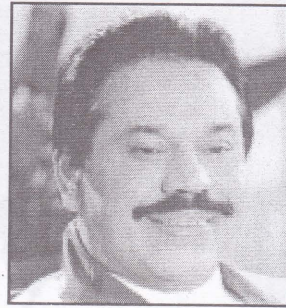
In October 1981 he founded the monthly *Tamil Times*, which was to be the voice of the Tamil expatriate community. This is the only journal run by Tamils that has been published uninterrupted since its inception more than two decades ago. It is most unfortunate that the founder of this journal had to distance himself from his brainchild. As another great Tamil, S. Sivanayagam, put it in his recently published monumental work, *Sri Lanka: Witness to History*, the *Tamil Times* "changed hands midway and subsequently changed direction as well... it was thought to be, by a wide spectrum of Tamil expatriates, no longer capable of speaking up for an oppressed Tamil nation with any conviction or courage." When I discussed this with Jeyam at our last meeting a couple of years ago, I could see his eyes brimming with tears and could sense his disappointment and sadness.

I first met this extraordinary man in 1984 when I was campaigning to draw international attention to the genocidal massacre of Tamil civilians in the Sri Lankan south whose only crime was that they were where they were. They had every right to be where they were since they and generations of their ancestors had made a major contribution to the development and prosperity of the Sinhala south, Colombo in particular. Jeyam had extensive contacts with British parliamentarians, especially in the House of Lords, and kept them informed of what the Tamils in Ceylon were going through. Among them were Dame Judith Hart and Lord Avebury, the latter being the author of the first of a series of damning Amnesty International reports on human rights violations in Ceylon that first drew international attention to the magnitude of the problem in that country. These are not people whom you can readily see. When I went to London to lobby them and ask for their help to apprise the

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Ranil Wickremesinghe, Mahinda Rajapakse and Siritunga Jayasuriya

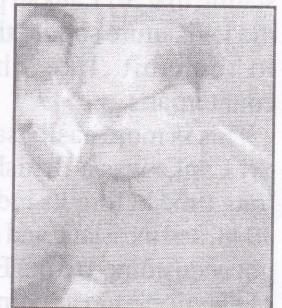
By Professor Karthigesu Sivathamby



Mahinda Rajapakse



Ranil Wickremesinghe



Siritunga Jayasuriya

Sri Lanka has had elections changing governments before. But there has seldom been such political dislocation emerging through the exercise of the franchise as is happening after the recent polls. Every major political organisation of the south is grappling with internal problems and none of the groups in coalition are working in unison after 17 November.

The country now faces a completely new set of challenges and the three contestants mentioned in the headline symbolise the change that is occurring in Sri Lanka.

Ranil Wickremesinghe has earned much sympathy after the election results, and the urban middle-class, both Sinhala and Tamil, feel that he has been unfairly treated. His electoral defeat highlights certain aspects, which though contradictory, constitute a dilemma posed by the polls.

The first relates to the votes he polled in the Sinhala areas. After the results there seems to be a growing tendency among the state media to give an impression that the vote for Mahinda Rajapakse was large and phenomenal, implying thereby Rajapakse was able to win the hearts of the Sinhala peasantry. The second relates to the morality of the northeastern Tamils – especially the north – in not having voted for a man who brought in 'peace.' Understandably the LTTE has become the focus of attention over the second issue.

To have a look at the second matter first: it is true that even some of the most liberal

mind, traditionally anti-UNP Sinhalese wanted Wickremesinghe to win because they did not wish to see the JVP triumph. They feel very strongly that the Tamils of the north, if not the LTTE, have not done the morally correct thing in rejecting the UNP candidate.

One could understand how political problems are seen from this perspective – especially in the context in which issues are addressed within the Sinhala electorate. But they seem not to take into account how Wickremesinghe and his close associates were responsible for creating fear and doubt in the minds of the Tamil voter and about the sincerity of opposition leader's commitment towards a just peace.

Even if we were to disregard Naveen Dissanayake's claims that Wickremesinghe had very ingeniously prompted the Karuna breakaway, one cannot dismiss out of hand the statements credited to Milinda Moragoda who is very close to Wickremesinghe. Though internal dissension within the UNP about its future leadership – after all Naveen is Gamini Dissanayake's son – could have been the cause of the young Nuwara Eliya MP's outburst, Moragoda is different.

Reportedly Moragoda had stated that Wickremesinghe was no betrayer of the Sinhalese because it was he who promoted the Karuna coup. The deeper waters of the UNP's internal politics are too difficult to fathom, but a statement like this coming from a man who is the trusted emissary

and lieutenant of Wickremesinghe shocked the Tamils. The LTTE's consternation, seen from that standpoint, is understandable.

Second, there was also the larger issue of the international safety net operating in the Palk Strait and south of it. Evidently, this safety net, which would enable US surveillance over Sri Lanka's waters, was construed as a major threat to the Sea Tigers. Of course, there was no discussion about this in the Sinhala media but there were ample references to it in the Tamil.

Thirdly, there was local eastern politics. Without any reference to the Tamils of Amparai, Wickremesinghe virtually promised that a separate administration would be set up for the southeast. At a time when the SLMM itself has declared the merger has to be discussed from a northeastern perspective, Wickremesinghe made a statement that virtually played into the hands of elements like A. L. M. Athaulla whose political stance demands a separation of the east from the north.

Though the second and third factors did not have an obvious impact on the regular Tamil voter, they raised questions about the sincerity of Wickremesinghe's commitment. There is a Tamil proverb, which states that vigorous enmity is better than a slippery friendship.

To be fair by Wickremesinghe, he might not have plotted all these, but it is one's duty to refer to the inner fears and suspicions of the Tamil voters. Had the Sinhala media been as bold and open, the Sinhala readers and viewers would have known this much earlier.

The sum total of the whole situation is that the Jayewardene-Wijewardene family nexus within the UNP has come under very serious threat. It is ironic that Ranil, the son of Esmond Wickremesinghe who was renowned as a wily strategist, should face such a humiliating situation. It is also true the UNP is in want of more earthy, Premadasa-like leadership.

Rajapakse, the victor of the allied Sinhala forces, finds his problems have only begun after the victory. Abandoning the 'hand' symbol for the 'betel,' he now finds himself in a different environment from what he knew in the past.

Leaving aside the campaign trail and reviewing only post-election movements, one notices that on the day the results were officially announced, Rajapakse's responses were very cautious and not provocative at all. But his address at the swearing in ceremony was very different. The first part of the speech referred to the popular support he had received for his mandate. But the balance, punctuated by the cheering of the audience, seemed more aggressive and the basic principles of deconstruction would reveal that they were aimed at the departing president and her policies.

The formation of the cabinet however brought out a completely different picture. The 'betel' was significant by its absence and the 'hand' appeared to have reasserted itself. The definitiveness with which the oncoming government was described ("this is a new government and a new vision") sounded very confident.

One can understand the president's eagerness to express his gratitude to the younger members of the SLFP who had stood shoulder to shoulder with him during his election campaign. But the realities of power politics have demanded that hierarchy of the last cabinet is not completely disturbed – the allocation of portfolios is by and large according to seniority in the party.

The announcement regarding the ministerial appointments reveals the centripetal forces that are at work within the government. The JVP has not accepted any portfolios. Nor has the JHU.

The post-election speeches of the new president also indicate the need for watchfulness with regard to peace, and more important, on the question of certain anti-American sentiments expressed during the election campaign. The SLMM has in its statement sounds more clear than what the mainstream media said during the last week. The SLMM stated very concisely that the president had accepted the ceasefire fully. This implies that Rajapakse now accepts the MOU as it stands but would like to discuss the changes needed. There is a slight difference of emphasis here. During the election campaign the stress was on amending the MOU and then going for peace talks.

During the campaign several adjustments had to be made in reference with whom talks for a settlement of the ethnic conflict should be conducted. More significantly, the outright dismissal of the role of Norway is not so clearly expressed now. Uneasy lies the head that wears the crown!

At this point, it is important to also examine the question whether Wickremesinghe did not have significant support in the Sinhala-Buddhist constituency. The figures show he has not gone below 35% mark in any of the electoral districts. And given the type of voter behaviour in the northeast, it would be foolish to interpret the 48% of the entire national vote he polled as a product of Thondaman and Hakeem's blessings.

It may be that the state media in wanting to be on the good books of the new president do not refer to this, but the advisors to the president and the president himself should be advised to interpret the poll figures realistically.

As the campaign became hotter and hotter, the two leading candidates directly and indirectly expressed concern for the Sinhala vote. The references to the non-Sinhala communities were in terms of a heavily loaded word 'sulu jaththi.' The semantics of the word 'sulu' creates a feeling of discrimination in the minds of the non-Sinhala groups.

It is at this point the speech made by Siritunga Jayasuriya (United Socialist Alliance), who we understand polled only 35,425 votes, has tremendous impact. Watching him on TV making that pithy post-election address in the presence of fellow-presidential candidates, a Tamil academic told me that never had he felt so elated to call himself a Sri Lankan as at that moment when Jayasuriya exhorted the newly-elected president that his biggest task would be to build bridges not only with the Tamils, but also the Muslims (he used the word Tamil-speaking people) if this country were to remain a single unit.

It was a completely unexpected voice, which at the end of a campaign and election where references were made by nearly all candidates to race, that declared with all sincerity and force to regard the Tamils and Muslims as part of this country. It is my humble belief that Sri Lanka for its future depends on people like Siritunga Jayasuriya. It is they who make the country one.

Professor Karthigesu Sivathamby is emeritus professor with a specialist interest in the social and literary history of the Tamils and their culture and communication. He is also involved in theatre studies and literary criticism.

Tamils, the LTTE and the elections

By J.S. Tissainayagam

Instructions to the Tamil people by the Sinhala ruling class were crisp: "Fifty percent of the south is expected to vote like donkeys. Another 50% will, hopefully, vote intelligently. It is your duty as a loyal minority in Sri Lanka to vote for Ranil Wickremesinghe and thereby return the UNP, darling of the ruling class, to power."

The unexpected however happened. The LTTE clearly enunciated its policy of not participating at the presidential elections. This was followed by various civic bodies, which the south interpreted were front organisations of the Tigers, declaring that the election be boycotted. The response from the north – Jaffna and the Wanni – was overwhelming, though not so enthusiastic in the east.

The call to boycott the polls came as a surprise to many Tamils. The reason for this was the LTTE had not indicated any overt hostility towards the UNP nor its leader, Wickremesinghe. In fact he was usually portrayed as someone keen on dialogue and negotiation, especially in comparison to former president Chandrika Kumaratunga.

In fact LTTE Leader Velupillai Prabhakaran said at his Great Heroes' Day address in 2004: "The leadership of the United National Party continues to insist that peace talks can be resumed based on our set of (ISGA) proposals, but the Kumaratunga government is imposing a condition for the resumption of talks."

The LTTE leader took this stance in November last year despite the open secret that it was the UNP, which was instrumental in instigating the Karuna rebellion. It has also been the Tigers' grouse the UNP was dragging its feet to negotiate the ISGA, or for that matter every other institution envisaged to be set up under the CFA to share power.

Even Tamils who were by no means UNP supporters, and aware of Wickremesinghe's subterfuges in the past, seemed to feel it was better that he were elected than Mahinda Rajapakse precisely because they felt that no Sinhala leader could deliver on the promises he / she made to the Tamils, and this had to be demonstrated.

When the UNP leader was upbraided for his inability to deliver on promises made to the LTTE leadership during the six rounds of talks in 2002-2003, he complained he was hamstrung by the Kumaratunga presidency. Tamils felt therefore, if he were elected this time, his tenure would demonstrate conclusively the inability of any Sinhala president to be fair by the Tamils due to the inveterate racism of the Sinhala ruling class expressed through parliament, the structural flaws of the constitution, the inability to carry the ultra-Sinhala nationalist parties on issues such as federalism and secularism etc. It would be then left to the Tamils and the LTTE to resolve whether they wished to remain as part of the Sri Lankan state, or go their way.

But the LTTE's strategy was smarter. It had learnt the most fundamental lesson the ceasefire taught the Tamils. It was that once the Tigers had been brought into the peace process, the international community had taken over the role of prime mover to keep the rebels talking, while an elaborate process was set in motion to undermine their political and military prowess. The Tamil rebel group also knew the UNP was much more astute in playing the game of trapping it (LTTE) in an international safety net than the SLFP/PA/UPFA or its aspiring leader, Rajapakse.

Second, Rajapakse's alliances with the JVP and JHU and the inward-looking economic policies he had espoused, would make him less savvy with the international community

than Wickremesinghe. Rajapakse's worldview would deter his ability to capitalise on political, economic and military alliances with the west, and therefore let the LTTE that is under a lot of pressure from countries such as the United States, the EU and Japan, off the hook. The Rajapakse presidency would no doubt involve the Indian government more closely in Sri Lankan affairs, but the Tigers could be dealt with that.

The other benefit was the SLFP-based political leaderships' inability to direct military operations as effectively as the UNP. Military blunders such as Operation Jayasikurui and the occupation of Jaffna took place under the political leadership of Kumaratunga and her

defence minister General Anuruddha Ratwatte. Even the Karuna rebellion that has undermined the LTTE greatly was masterminded by the UNP!

The LTTE's faith that the Rajapakse presidency would fail to instil confidence in the military hierarchy has been endorsed by recent happenings. Legislation passed by Kumaratunga to retain senior military officers at their posts after the mandatory retiring age of 55 has been rescinded by Rajapakse, while moves are afoot to promote the president's brother, Colonel Gothabaya Rajapakse, to generalship reminiscent of Ratwatte's promotion soon after the PA victory in 1994.

While these substantial benefits are likely to accrue to the LTTE through the Rajapakse victory, there are also a number of incidental pluses in the fallout.

The boycott by the Tamils has rendered the victory of Rajapakse one of the slimmest in the history of presidential politics in Sri Lanka – 50.3% to 48.3%. The margin of 180,000 votes has affected the legitimacy of the Rajapakse victory, a matter compounded by allegations of electoral fraud. This has given Wickremesinghe the belief that he too has the backing of a large enough vote base to agitate against the president and government

But the question surely is not whether or not force was used; it is whether any institution that sees itself as a state, or quasi-state has the will and ability to enforce its authority. The Tigers demonstrated very clearly on 17 November their writ runs

that would create instability and chaos in the south. And instability in the south is beneficial to the Tigers.

The boycott has also instilled in the LTTE tremendous confidence that its writ runs, even after three years of the ceasefire, in the government-controlled areas of the north and partially in the east. It has been repeated over and over again in the past few days that the LTTE had used compulsion to prevent the Tamil voters from exercising their franchise. But the question surely is not whether or not force was used; it is whether any institution that sees itself as a state, or quasi-state has the will and ability to enforce its authority. The Tigers demonstrated very clearly on 17 November their writ runs.

An attendant factor was the failure of Karuna to play the role of political godfather of the Tamil people of the east. Though it is true that some Tamils did not heed the call to boycott, at the same time they flouted with impunity Karuna's wish they vote for Rajapakse. Batticaloa Tamils voted overwhelmingly for Wickremesinghe.

Finally, Rajapakse's victory also means he has to deliver the bag of goodies promised in *Mahinda Chinthanaya* that will put him at loggerheads both with the multilateral donors as well as his supporters, thereby eroding his credibility in both camps.

The UNP has got on the propaganda offensive by portraying the Rajapakse presidency as one plunging the country in war. They support it by saying the LTTE had forced the polls boycott as a prelude to resuming military confrontation, and that Rajapakse too favours this because he does not have to deliver on the unrealistic promises made in *Mahinda Chinthanaya*.

This has however not been supported by Prabhakaran's Great Heroes' Day address. He said, "President Rajapakse has not grasped the fundamentals, the basic concepts underlying the Tamil national question. . . . However, . . . Rajapakse is considered a realist committed to pragmatic politics . . . We have, therefore, decided to wait and observe, for sometime, his political manoeuvres and actions."

For all intents and purposes therefore talks on substantive matters are in limbo. There might be an exchange of views on the CFA, to be initiated when Norwegian minister Erik Solheim arrives.

But it appears both sides are comfortable with each other and though there might be sabre-rattling neither side is expected to go to war unless provoked. In other words, the LTTE, rather than test Wickremesinghe's ability to deliver justice for the Tamils in the teeth of Sinhala chauvinism, is testing the far weaker leader Rajapakse.

But this does not mean that the LTTE is willing to see the rug pulled from beneath its feet. In his speech on 27 November the LTTE leader said, "This is our urgent and final appeal. If the new government rejects our urgent appeal, we will, next year, in solidarity with our people, intensify our struggle for self-determination, our struggle for national liberation to establish self-government in our homeland."

And it is in view of such an eventuality that the LTTE has ensured the election of a president whose party has had a poor record in military successes from 1994.

There are however a couple of factors that should not go unaddressed by the Tigers. They have managed to thwart the will of the international community, which hoped Wickremesinghe would become president. The international community that has repeatedly put the LTTE on notice on human rights and democracy issues would no doubt use the fallout from the low voter turnout in the north to tighten the screws on the rebels and their supporters. The UNP has already initiated the process domestically by alleging large sections of the voters had been disenfranchised.

An attendant consideration is that though Rajapakse presidency might be unfavourable to the international community, it is not likely the west will let the Tigers off the hook completely. Whatever might be the regime in office in Colombo, the international community's policy towards the LTTE is primarily directed by its war on international terrorism.

Second, with talks remaining in limbo and no relief in sight either for the victims of war or the tsunami, coupled with very little coming by way of investment or employment in the northeast the civilian population could become restive. The Tamils have, after all suffered the privations of war for 20 years. How long more can they go on? The support the LTTE was able to muster at the elections was indeed commendable. But to believe it will remain unchanged forever would be very foolish.

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international community of what went on behind the censored doors of the Sri Lankan government, all I had to do was to mention that I was "a friend of Jeyam Thamoderam."

In 1991 I had a call from the ITF inviting me as their guest speaker to address their annual sessions on 'The Abuse of Democracy in Sri Lanka.' I thought it was completely crazy to go more than 15,000 km for a luncheon meeting. I was then told that Mr. Thamoderam had specifically asked that I be invited. I was on my way.

In the packed hall, the man who was responsible for the ITF itself, and should have been on the podium, unobtrusively sat in the corridor. That was the nature of the man: I am sure that the scores of people who passed him had no idea of who he was and what he had done for the Tamil cause.

After the meeting he suggested that we drive up to Cambridge to see a man who makes me proud to call myself a Sinhalese – Jeyam's long-standing friend Adrian Wijemanne who has made such a major contribution to the struggle of the Tamil people. The next day we were on our way to see Adrian, who was too

ill to come down to London for the meeting. The historic photograph of that meeting is in Sivanayagam's book.

I met C.J.T once more two years later, also at the annual ITF meeting, this one addressed by Gajan Ponnambalam, MP. I was there as a visitor who had just 'dropped in'. Jeyam would have none of it. He insisted that I take a place on the podium and make a contribution to the meeting. That was typically Jeyam.

When I heard that he had passed away, I said that I was going for his funeral. What, all the way to England? "Yes", I said, "I want to say that I was there". He will be cremated in London on 4.11.05, the end of an extraordinary life.

When God made Jeyam Thamoderam he must have thrown away the mould. It was my privilege to have been associated with this great man. A fitting tribute to him would be to work towards the goal, which Jeyam had devoted the later years of his life – a Tamil homeland where Tamils can live in safety and without discrimination and domination by the brutal and racist regime in Colombo.

(Tamil Canadian)

In quest of an indigenous cinema for Tamil Eelam

By Jathindra

I had set down my views recently on the short film *Kichchaan* that was produced in Batticaloa. I also made brief references in that article as to why the Tamil Eelam environment lacked an indigenous cinema. I think I should examine this question in some depth. We are moving towards the establishment of a state. There are attempts in every field to establish something that could be distinctly identified as our own. While we are expanding our ideas about economic structures, a system of education, arts and culture, I think it is time we began thinking about our own cinema too.

As a precondition to that however, we have to examine the reasons why we failed to develop an indigenous cinema. For an answer we have to venture into the realm of politics. Though this is in a way unfortunate, it cannot be wished away. Our history and historical experiences are so severe. To put it simply, we live in the midst of oppression. Any analysis has to be along those lines.

At a time when Eelam Tamils are increasingly emerging as a nation, there are many who are beginning to speak in terms of an indigenous cinema. The LTTE's cinematographic division *Nitharisanam* had laid the foundations for this a time long ago. A few artistes living in the Diaspora are getting involving in producing short films and features. What remains to be done is a collective effort that is well focused in its objectives.

I will not attempt to describe how we can establish a cinema for ourselves because I am not qualified to do so. I am only trying to explore in depth the reasons an indigenous cinema has failed to develop in Tamil Eelam. Perhaps such an exploration itself could point out the need for an indigenous cinema.

At the very outset I would like to explain why I started thinking on these lines. Last year, Sinhala film director Dharmasiri Bandaranayake organised a film festival called *Cine Yatra* in a number of places in the Tamil areas, including Trincomalee. The creations of Lester James Pieris, Dharmasena Pathiraja, Sumitra Pieris, Asoka Handegama were screened. The screening was followed by a get-together.

Later, some among us said, "They (Sinhala film directors) have gone far ahead," "We are nothing when we compare ourselves to them." "We have failed to create a cinema for ourselves." If we are to look at the development of an indigenous cinema without taking into account the history of oppression but only internal factors, it would be irrelevant and contradictory to ground realities. That some people who



Kichchaan

repeat this identify themselves as progressives but completely disregard the realities around them is not a surprise.

There is a popular misconception that a reason for an indigenous cinema not developing in the Tamil Eelam environment is the impact South Indian cinema had on local filmmaking. Those doing research on Eelam cinema and others who think on the lines of an indigenous filmmaking base their comments on this premise.

It is indeed true that the above reason is an important factor that stunted the growth of an indigenous cinema. We are aware that there is a link between the life styles of South Indian and the Eelam Tamils. The linkages include a common Dravidian ethnic identity, and meeting points that are linguistic and cultural. It is no exaggeration to say there are no borders – people from both areas have been proceeding along the same lines.

This also resulted in the people of Tamil Eelam looking at the progress of the Tamils of South India as their own. We can see this trend clearly in other examples of art and literature too. There is a sense of awe among the literati of Tamil Eelam for the literature of South India. Coming under the influence of Jeyakanthan, following in the footsteps of Puthumaipiththan and imitating Mauni* are seen as accomplishments. Despite a global audience and the creative minds among the South Indians themselves conceding that the ideal conditions for literary output lies with our writers, these afore mentioned elements can be seen in local Tamil writing.



Kichchaan: a pioneering effort of Tamil Eelam filmmaking

Even today, we have to admit that popular South Indian writers attract those among us who are in the habit of reading. Seen from such a standpoint, it is difficult to deny that South Indian Tamil films would act as an obstacle in fashioning a cinema indigenous to ourselves. I agree with that point of view. But what is wrong is to assign this as the sole causative factor for the state of Eelam cinema and to be awestruck by developments in Sinhala cinema. Not only is it wrong, it is also dangerous. Underdevelopment in every field of endeavour among the Eelam Tamils is linked to Sinhala oppression. We cannot evaluate anything if we deny this reality.

We have to also take into consideration another factor here. Many who say we do not have a cinema of our own because of South Indian films, forget that in the early days, Sinhala cine artistes were also accused of relying entirely on South Indian cinema for inspiration. It was the view of critics that early Sinhala films were productions where people spoke in Sinhala and not Sinhala cinema. In *Sri Lankan Cinema: an Introduction* Wimal Dissanayake and Ashley Ratnavibushana say, "During the first decade of Sinhala cinema, there was a contest between fake South Indian Masala films and need for an original domestic cinema. The clash took place between the fakes and nationalism. Whatever that might be, because those who demanded the establishment of an official national cinema did not ensure the objectives they were working for triumphed, the matter ended in failure. In the late 1950s this began to change favourably. We have to understand this in the social context of those times." Seen from such a perspective, how come what were Sinhala-speaking films, became a distinct Sinhala national cinema? What was the politics behind it?

For more than half a century, Sinhala imperialism has thrived by riding the shoulders of the Eelam Tamils. Prompted by Sinhala imperialism, the Sri Lankan state is

engaged in destroying the identity and growth of the Eelam Tamils. Even after so much of destruction, the Sinhalaese are not willing to change their stance even a little. All this is not new to someone who is aware of trends in Sinhala politics.

Two examples could show how far the Sinhalese would go to destroy the Eelam Tamils: (1) The West German government donated a special variety of goats to the northeast in 1960 to improve animal husbandry in the region. But how could Tamils be allowed to rear a special variety of goats? So the Sinhala politicians took them to Anuradhapura. (2) In view of assisting the Tamil people who were victims of the 1983 ethnic riots a consignment of food was unloaded at the Bandaranaike International Airport. When he heard about this, Minister Cyril Mathew distributed the packets of food to Sinhala workers, stating that they were most affected by the riots.

Everyone knows of the relentless oppression of the Sinhalese. The above are small instances of such oppression. The list of examples of Sinhala oppression is very long. What I have tried to show with the above examples is that the hope of establishing a cinema that reflects our culture and national values while Sinhala hegemony is so prevalent is only a dream.

(To be continued)

Jathindra, freelance journalist, writer and critic, is a keen observer and commentator on contemporary political and social questions.

Jeyakanthan was a leading writer of fiction in the latter half of the 20th century whose choice of characters and style of presentation made him a charming artist; Puthumaipiththan regarded as a highly accomplished novelist who was well acquainted with western literature and responsible for the accommodation of fiction in Tamil letters; Mauni was a short story writer who introduced stream of consciousness into his fiction.

The day the worm turned

By Dr. Sachithanandam Sathananthan



Former President Chandrika Kumaratunga



Leader of the Opposition Ranil Wickremesinghe

Those who purveyed the so-called 'peace process' in Sri Lanka are reeling from the earth shaking double blow dealt by the 17 November presidential election.

First, the election revealed Sinhala-Buddhist supremacy in all its nakedness and enthroned it as the ruling doctrine, personified by the new Sinhala President Mahinda Rajapakse. In one fell swoop, the Sinhala-Buddhist majority unceremoniously dumped 'inclusiveness,' 'pluralism,' 'devolution' and the rest of neo-liberal shibboleth.

Rajapakse underlined this in his inaugural address on the 19th. "During the presidential election," he confirmed, "the overwhelming majority of the people said that the country should not be divided." All familiar with Sinhala-chauvinist politics know the meaning of "should not be divided." It means the unitary state must be preserved; that there shall be no political power sharing because a Tamil nation does not exist on the island; and that at best there can be only territorial decentralisation of administrative authority to provinces and/or districts.

So Rajapakse's position on the Tamil National Question is a throwback to the 1956 Bandaranaike-Chelvanayakam (BC) Pact, which his father – a founder member of the Sri Lanka Freedom Party (SLFP) – had a hand in crafting.

The second blow is that Tamils walked away from the election. They refused to carry on the charade of anointing a Sinhala politician as the leader of the whole country.

This has profound implications. In his 1977 election manifesto, the United National Party's (UNP) first executive president, J. R. Jayewardene, claimed to have discovered Tamils have "legitimate grievances," which, he glibly promised would be resolved through an All Party Conference; and Tamils voted in the Sinhala president. In 1988, UNP candidate R. Premadasa flamboyantly offered: "*Eelam nahe; Ellaam ouw*," ("No to Eelam; yes to everything else"); and Tamils voted in the Sinhala president. In 1993, the next UNP president, D. B. Wijetunga, appointed after Premadasa's assassination famously compared Sinhala and Tamil peoples respectively to a tree and the vine that creeps on it; mercifully he didn't seek election. In 1994, SLFP's Chandrika Kumaratunga emphatically asserted: "Peace at any cost;" and once more Tamils voted in the Sinhala president.

Consequently, every Sinhala president (except Wijetunga) was able to masquerade as a representative of 'all communities' – including Tamils. This allowed each to disparage the Liberation Tigers of Tamil Eelam (LTTE) as a so-called 'terrorist' fringe. Because Tamils voted for them,

all presidents sanctimoniously claimed to 'know' that Tamils want to be 'liberated' from the 'clutches' of LTTE.

After harvesting Tamils' votes, each Sinhala president let loose unbridled state terrorism and launched genocidal wars to 'liberate' Tamils by killing and maiming them. Every Sinhala president's hands dripped with Tamil blood. Indeed Kumaratunga presided over Tamil mass graves – a gruesome first in Tamil history.

And Tamils learnt a valuable lesson. Their votes may decide which Sinhala politician is elected president, but absolutely nothing more. So, Tamils made the obvious deduction: there is no 'parliamentary path' to secure Tamil national rights.

And most Tamils in the Tamil-majority North East Province (NEP) took the lesson to heart. On the 17th they turned away from the Sinhala presidential candidates for the first time. Tamils refused to vote.

They made Rajapakse sound pathetically hollow, when he alleged he is, "the president of all communities of my country" in his inaugural address. Hereafter Rajapakse is a SINHALA president who will represent Sinhala interests when addressing Tamils and their leader, Veluppillai Prabhakaran.

This has sent shock waves of tsunamiic proportions irreversibly altering the political landscape.

"Once the (presidential) elections are held we have to sit down with the parties and lay out what we can do," the Norwegian Foreign Minister Jonas Gahr Store had said on 28 October. "Then it will be up to the parties to invite us in to continue to play that role (of facilitator). We are ready to contribute but," he emphasised, "it really has to be owned by the parties."

What precisely are the parties apparently unwilling to own? Are the LTTE and the Sinhala government having difficulty in grasping the superior Norwegian logic? Is he lamenting the parties are not grateful to the Nordic state for its self-proclaimed altruistic search for 'peace' at its own cost in a distant, small South Asian island? Does he mean the LTTE ought to believe that the Norwegian government's role is unconnected to the seismic tests for offshore oil reserves carried out by Norwegian experts in south Sri Lanka? Or that Japan is a disinterested do-gooder oblivious to Ilmenite deposits on the northeast coast?

From the Tamil perspective, the political power struggle (so-called 'peace process') has nothing to do with justice and, therefore, wholly irrelevant to sustainable peace.

It was a three-cornered contest. The Sinhala and Norwegian governments (and their international backers) occupy one corner; the Indian government in the next; and the LTTE-led Tamil National Movement is in the third corner. The toothless Colombo-based Tamil politicians shuttled between the three.

In this power struggle the primary objective of the Sinhala government – assisted by Norway – is to re-establish the monopoly of armed power of the Sinhala state. For this, successive Sinhala governments had relied on brute military force to crush LTTE's armed power, which had shattered that monopoly in the mid-1970s.

The UNP presidents cut loose a series of military campaigns from July 1979 through the 1980s up to the early 1990s; the SLFP president similarly unleashed the armed forces between 1995 and 2002. Both parties exploited the fig leaf of 'talks' to justify the military aggression supposedly to 'soften up' the LTTE but in fact directed primarily against the Tamil people. They all ended in catastrophic defeats for the Sinhala state.

The Norwegian government, however, attempted a nuanced anti-Tamil political agenda in the garb of 'talks,' and sought the assistance of Sinhala politicians to reach a key strategic objective – to undermine the widespread Tamil support for the LTTE.

For this scenario to unfold, Norwegians wanted the Sinhala politicians to take the first dishonest step – to propose what at least superficially seemed a federal alternative. This is the essence of the 2002 Oslo Declaration, which is crafted to nurture the mirage of a 'parliamentary path' for Tamils to secure their national rights. Then, on behalf of the Sinhala and Norwegian governments, the pliant Colombo-based Tamil politicians would cheerfully 'sell' the disinformation to Tamils who, they hoped, could be turned away from the LTTE.

An isolated and cornered LTTE could then be coerced to decommission weapons. And that would re-establish the Sinhala state's monopoly of armed power.

But unimaginative Sinhala politicians, blinded by chauvinism, could not come

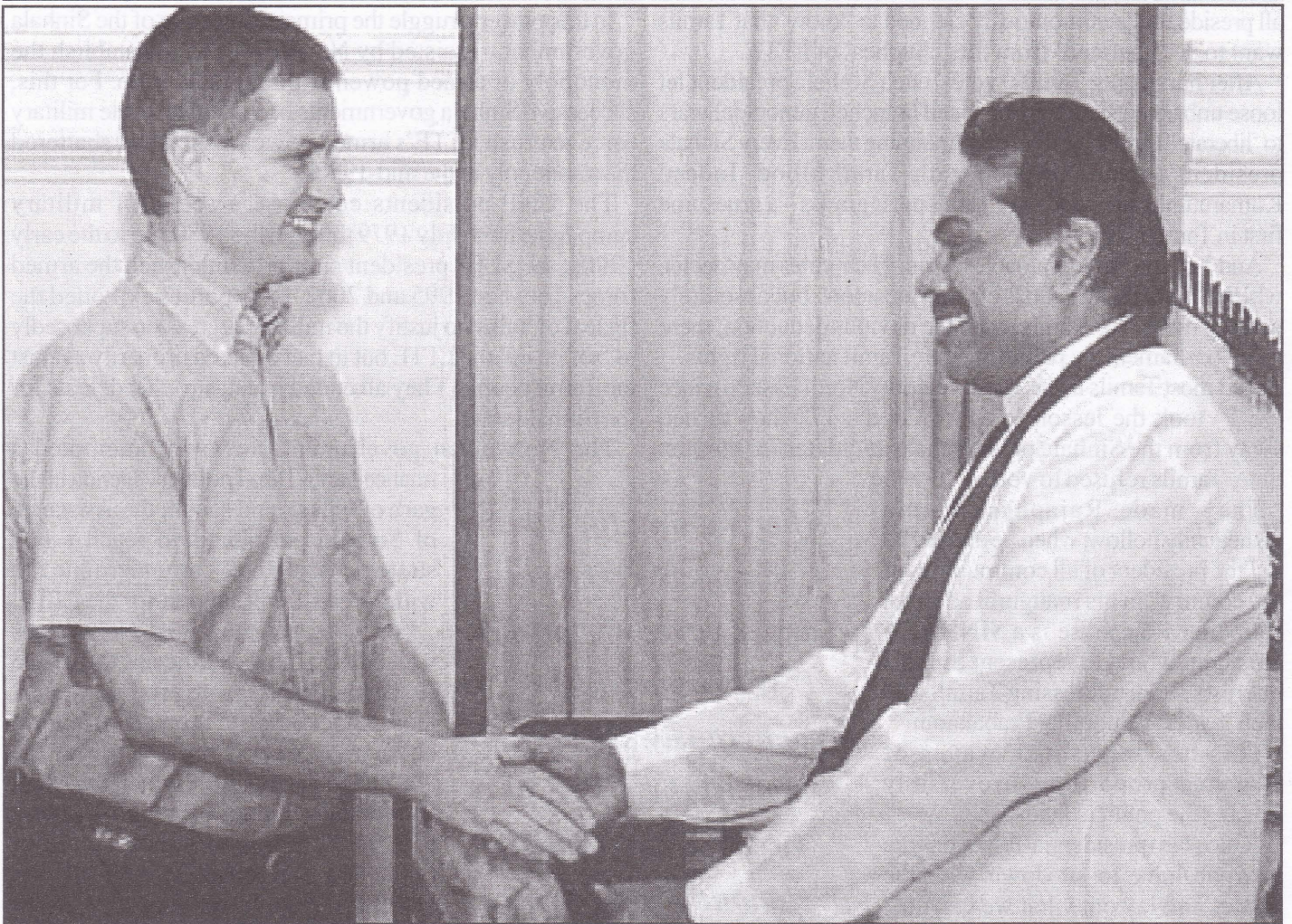
up with credible bait. Kumaratunga's 2000 draft constitution conjured up Sri Lanka as a 'union of regions.' But the federalist jargon was just that – jargon. There was no change in the unitary state since the draft concentrated political power in the centre while granting regions merely delegated authority. In short, the draft constitution was a crude deception.

Ranil Wickremesinghe fared no better. Despite lip service to the Oslo Declaration he could not cobble together anything remotely resembling a federal alternative.

If flatfooted Kumaratunga and Wickremesinghe were incapable of infusing life into the Norwegians' Machiavellian strategy, after Rajapakse took power it is crumbling before their eyes.

Rajapakse has made a compact with the extremist Sinhala-Buddhist Janatha Vimukthi Peramuna (JVP). He is bowing and scraping before the fundamentalist Sinhala-Buddhist Jathika Hela Urumaya (JHU). And, predictably, he chose

*After signing the 2002
Ceasefire Agreement,
under cover of 'talks'
Wickremesinghe
treacherously set Karuna
against the LTTE to
weaken the Tamil
National Movement.
UNP stalwarts Naveen
Dissanayake and
Milinda Moragoda
gladly confirmed this
fact*



Minister Erik Solheim meets President Mahinda Rajapakse (File photo)

as his prime minister the unabashed Tamil baiter Ratnasiri Wickremanayake, who, AFP reported on 21 November, is “a hardline nationalist who once urged the majority Sinhalese community to have more babies and produce more fighters against Tamil Tiger rebels.”

For the foreseeable future, Rajapakse is unlikely to ride the Oslo Declaration to conjure up a federal alternative. For the moment that Declaration is dead; so is Norway’s anti-Tamil agenda.

Apologists for Sinhala chauvinism are responding by furiously trying to re-tool the new president on two fronts.

On the one hand, they are disgorging elaborate disinformation to discredit Tamils for exercising their democratic right to withhold their votes.

A Sinhala ‘peace’ activist began blaming Tamils on the 11th, well before the election. “If the Tamil people” he lamented, “refuse to vote in numbers, this would strengthen the extremist forces on both sides of the divide,” Are Tamils responsible for the ascendance of Sinhala chauvinism?

An Indian scribe was blunt. “The ‘boycott’ may well be a subtle ploy” he alleged, “to make Rajapakse win, because the LTTE believes that it will be able to justify its separatist agenda and even an armed struggle to the international community, if there is a hard line ‘Sinhala chauvinistic’ government in Colombo.”

To reinforce the disinformation, the apologists are reinventing Rajapakse as a ‘hawk’ and Wickremasinghe as

a ‘dove.’ That Tamils have lost an opportunity to sue for peace with the ‘dove’ by refusing to vote.

And what is Wickremasinghe’s track record? He was in the UNP government that burnt down the Jaffna Library in 1981 and presided over the 1983 Tamil holocaust. He backed the successive military campaigns under UNP presidents Jayewardene and Premadasa.

After signing the 2002 Ceasefire Agreement, under cover of ‘talks’ Wickremasinghe treacherously set Karuna against the LTTE to weaken the Tamil National Movement. UNP stalwarts Naveen Dissanayake and Milinda Moragoda gladly confirmed this fact. Were the Norwegians unaware of Wickremasinghe’s shenanigans? Is Wickremasinghe a ‘dove’?

The paternalistic derision of Tamils exercising their fundamental right to freely make their political choices comes from ardent erstwhile proponents of democracy! Democracy is indeed raising its ugly head!!

But Tamils know which road to take. P. Selvan, a 19-year-old in Kilinochchi succinctly explained Tamils’ position to Arthur Rhodes. “These elections are not for the Tamils. They do not care about us in the south. No matter what happens we will not get what we need to prosper and be free...both [candidates] will probably bring war. One might bring it sooner, but it will come.”

In short Tamils have shredded the ‘peace credentials’ Sinhala politicians.

On the other hand, the apologists are begging Rajapakse to limit the damage. On the 19th, a South Indian newspaper's editorial desperately advised him "to reach out to the Tamil and Muslim minorities, and to Mr. Wickremesinghe's voters, and assure them that he intends to work towards a just solution that will meet their aspirations within a united Sri Lanka." Two days later, an Indian journalist helped Rajapakse 'interpret his mandate,' assuring he "is now in a setting appropriate for his transformation into a statesman" through "a seamless recalibration that balances his vision for Sri Lanka and the agenda of his political allies."

The following day, Rajapakse displayed his Sinhala statesmanship; he appointed Wickremanayake prime minister!!!

Rajapakse categorically declared, "War is not my method" and championed an "honourable" settlement to the Tamil National Question. The rhetoric is of course interesting; what exactly will be his method remains to be seen.

The reality on the ground is that a negotiated solution will confer legal recognition upon the existing Tamil state structures and institutions (including the armed forces) in the NEP built by the LTTE-led Tamil National Movement. It follows that a political settlement within a united Sri Lanka will have to be based on a confederal framework that accommodates the Sinhala and Tamil armed forces.

That outcome will be an abject defeat for Sinhala nationalism. No current or future Sinhala leader would even remotely consider shouldering the responsibility for such national humiliation. Neither does Norway wish to see the political power struggle unfold in a way that confers de jure recognition upon the fledgling Tamil state.

The Sinhala pre-requisite to a negotiated settlement therefore is either to destroy the Tamil political infrastructure and military assets or to assimilate them into the Sinhala state. But Tamil's armed strength resolutely stands in the way of both.

If war is not his method, the only option open to Rajapakse is to convince the LTTE to voluntarily decommission weapons and abandon the Tamil state structures and institutions. If he has that in mind, he is hopelessly out of touch with the ideological strength, political maturity and the psychological will to succeed of the LTTE-led Tamil National Movement.

Dr. Sachithanandam Sathanathan was born in Jaffna and read for the Ph D degree at the University of Cambridge. His research interests cover national movements in India, Pakistan and Sri Lanka and he was Visiting Research Scholar at the Jawaharlal Nehru University School of International Studies. Dr. Sathanathan is a filmmaker. Among other films, he produced the documentary *Suicide Warriors* (1996) on women cadre of the LTTE. His feature film *Khamosh Pani* won the Golden Leopard for Best Film at the Locarno International Film Festival in Switzerland, 2003. He is currently co-directing and producing a documentary film on Pakistan constructed around a dinner discussion with President Pervez Musharraf.

Japanese extol Kamikaze ideal to counter egocentrism among their youth

By Martin Regg Cohn



The interior of the Peace Museum for Kamikaze with memorabilia and other historical details of the suicide pilots

Stone lanterns light the way to the town museum, banishing the gloom that once hung over a secret military airstrip nestled on Japan's southern flank.

Welcome to the Peace Museum for Kamikaze Pilots, where the exploits of the first suicide bombers of our era are on display for admiring visitors.

Tour buses groan up the roadway lined with 1,036 lanterns — one for each of the young pilots who took off from here in the dying days of World War II on one-way trips to their deaths.

Cherry blossoms lend a fragrant air to a place that once scheduled self-immolation flights the way a mortuary plans cremations.

Schoolchildren stare wide-eyed at a wall-sized mural of white-robed angels cradling the lifeless body of a kamikaze, escorting him heavenward as his bomb-laden plane hurtles to its target at sea level.

Visitors learn that the doomed pilots never wasted fuel before throwing away their lives, filling up their tanks with just enough to reach their targets since there would be no return flight.

In this oxymoron of a museum, where "peace" and "suicide" implausibly share equal billing at the



The exterior of the Peace Museum for Kamikaze

entrance sign, suicide pilots are hailed as “brave young warriors who disappeared beyond the far horizon.”

For their devotion to empire and emperor, their deeds are “commemorated” in display cases with nary a thought for their senseless sacrifices — the war was already lost.

“A battleship for every aircraft!” proclaims one of the displays heralding the “human bombs” who piloted their planes on a flight path “unprecedented in human history.”

There is no depiction of the carnage they wrought, nor any recognition by the museum that kamikazes — the term translates literally as “divine wind” — epitomised the fight-to-the-finish tactics of the military command that perhaps convinced the United States to drop atomic bombs on Hiroshima and Nagasaki 60 years ago.

The revisionist view of kamikazes — as noble and pure samurai spirits untainted by the egoism and commercialism of present-day Japan — raises uncomfortable questions about how Japan views the past.

At a time when the Japanese are focusing on the atomic bombings of 6 August and 9 August 1945, Chiran’s museum — a mere 150 kilometres south of Nagasaki on the island of Kyushu — serves as a reminder of the militarist mindset then, and perhaps now.

When the war ended, Chiran was one of the casualties. It had been a bustling wartime base, but once the bright-eyed young flight students stopped killing themselves, this old samurai town lost its *raison d’être*.

When a sense of national shame cloaked Japan in the immediate post-war years, people questioned the imperial impulse. Kamikazes came to be seen as symbols of zealotry, and Chiran seemed destined to fade away as a footnote to history.

But influential Japanese decided it would not disappear from the map.

Bankrolled by private donations and government funding, Chiran re-branded itself in 1975 — three decades after the war’s end — by opening the world’s first museum celebrating kamikazes.

Now, three expansions later, on the eve of the 60th anniversary of V-J Day on August 15, the museum has emerged as a veritable shrine to the suicide pilots.

Prime Minister Junichiro Koizumi shed tears on a visit to the museum when he read the farewell letters penned by pilots, some of them teenagers.

The attempt to humanise the kamikazes — hundreds of evocative black and white portraits line the halls, alongside pilots' mascots, baseball caps, toy airplanes and goggles — stirs powerful emotions among the museum's one million annual visitors.

"I am happy to go," declares one such letter penned in neat Japanese script.

"I am going to die in the Okinawa Sea," reads another on display.

It's not just aging war veterans and aspiring samurais who visit the museum in search of past glories. Many ordinary Japanese who had almost no exposure to wartime history during their years of sanitised education make the pilgrimage to Chiran out of curiosity.

Many visit more than once, stocking up on souvenirs bearing the museum logo.

"I don't know if you can understand this, coming from Canada, but if you read the letters you will cry," says Shinichiro Kamio, a 61-year-old businessman making a return visit with his wife.

Sales manager Koichi Inoue came once before, on a company-organised vacation trip. Marvelling at the kamikazes' steely resolve, he has brought his adult son here to expose him to the discipline of previous generations.

"My son is 22, about the same age as the Special Attack Forces," Inoue explains, using the Japanese term for suicide pilots. "These people died for their families and country, and if we learn about this, it could change our lives in future."

Inoue's father served in Japan's imperial expeditions — somewhere in China, but he knows not where, because "Dad never talked about the war." Now, he wants to inculcate the kamikaze spirit of self-sacrifice in his own offspring but fears Japan's affluence has spawned "individualism and an egocentric way of thinking that wasn't there before."

Inoue stops to show his son another inspirational painting in the museum, depicting a kamikaze bidding farewell to a beautiful maiden against a backdrop of fluttering white doves, pink cherry blossoms and white trumpet lilies.

Next to it is an image of the Bodhisattva — a Buddhist worthy of nirvana — staring out at a restored kamikaze plane.

These powerful images, sanctifying the sacrifices of the kamikazes, are the heart and soul of the museum, according to Junro Matsumoto, a civil servant who has been its manager for the past 17 years. He gives daily talks to hundreds of schoolchildren, describing strategy and tactics, and the ethos and emotions of self-sacrifice.

Kamikazes were once seen as impulsive fanatics, but Matsumoto portrays them as intelligent young men who carefully counted down the days to their deaths, training with dedication for their final mission.

"Kamikaze pilots believed that, if they protected their families, this is how they could generate love and spread it," Matsumoto explains later.

Prior to 1975, "we didn't want to know about the war," he muses. Now, people are going back to their roots, recognising that the spirit of self-sacrifice is "in the blood of our race, it is something you cannot change and that will not be extinguished."

Pointing to the massive wall mural at the museum entrance with its six angels lifting a kamikaze toward heaven, Matsumoto rhapsodises: "They will comfort the souls of the Special Attack Forces."

Not everyone in Chiran shares Matsumoto's revisionist view.

Akihisa Torihama, whose grandmother ran a restaurant near the wartime base and comforted many of the teenage kamikazes, says the museum presents a sanitised, romanticised view of their suicides.

Many of the excerpted letters on display were written with an eye to the military censors and did not reveal the pilots' inner doubts, he argues.

"If you go to the museum, you emerge thinking the pilots boarded their planes and gave up their lives smiling, and never thought about death — but that's not the case, he insists.

Torihama, who runs a private kamikaze gallery next door to his grandmother's old eatery, tries to show a more balanced picture to counter what he considers militaristic propaganda.

He is especially critical of the way the museum stirs people's emotions by stressing the nobility of the kamikaze sacrifice.

"These were real people," he says. "And you can't make it beautiful just by saying that they had loved ones, and left girlfriends behind, and went smiling to their deaths."

(The Toronto Star)

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Distorted and selective reading of evidence by Supreme Court

By Professor Alan J. Keenan

This article addresses the Supreme Court acquittal of five persons who were convicted by the High Court for murdering 27 inmates at the Bindunuwewa correction centre on 25 October 2000. It is best read as the concluding piece of a monograph written by Professor Alan Keenan and serialised in The Northeastern Monthly between August 2004 and March 2005. The extensive footnoting in the original has been removed to facilitate easy reading.

With the death sentences (issued by the High Court) came an automatic appeal to the Supreme Court. A five-member bench, originally headed by High Court Justice J.A.N. Silva, began hearing the appeals from all five of those convicted in June 2004. Sub-Inspector Tyron Ratnayake was almost immediately acquitted of all charges, after the Attorney General's Department agreed that there was insufficient evidence against them. With Justice Silva having to leave the panel before deliberations had concluded, the bench was reconstituted under the leadership of T. B. Weerasuriya and arguments heard again in their entirety in November of 2004.

On 1 June 2005, the five-member bench of the Supreme Court announced the acquittals of the remaining four persons – M. A. Sammy, Sepala Dissanayake, R. M. Premananda, and Inspector of Police Jayampathi Karunasena. The court held that the three civilians and one police officer were wrongly convicted by the High Court given the lack of evidence that any of the four were actually members of the unlawful assembly that had committed the massacre.

In the case of Sammy, the Court held that the one witness who testified against him could place him at the scene of the crime only towards the end of the attack. Given that there were many understandable reasons for people to have been drawn into the crowd without therefore becoming members of the unlawful assembly, the Court held that it was "safer" to require some clear evidence that Sammy had shared the mob's intention to harm the camp inmates. In the absence of such evidence, his mere presence in the camp was not sufficient to render him a member of the unlawful assembly.

In the case of Dissanayake, the Supreme Court was even more emphatic: the credibility of the sole witness who testified against him had been so seriously undermined in the course of cross-examination that his testimony could not reasonably be relied upon.

As for Premananda, the Court held that the High Court had failed to take into account a whole range of evidence that called into question Premananda's membership in the unlawful assembly. The Supreme Court further held that the High Court had been wrong to apply two separate legal principles that were used to further establish Premananda's guilt. As a result, he too, had been unfairly convicted.

Finally, in the case of Karunasena, the Supreme Court held that the judgment of the trial-at-bar had misinterpreted a range of evidence presented at the trial and had failed to take into account many ways in which the police detachment under Karunasena's command had in fact done its best to prevent and mitigate the attack on the detainees. As a result, there was insufficient evidence to hold that Karunasena had, either through illegal omissions, specific illegal acts, or general intentional failure to discharge his legal duty, joined in the intention of the unlawful assembly to do harm to the camp inmates.

Before turning to the specific arguments the Supreme Court makes to support its acquittals, it is important to analyse the way in the Court frames the events leading up to the attack on the camp, as this is crucial to their understanding about what motivated the crowds that gathered around the camp and what distinguishes the bulk of the crowd from the smaller group that constituted the unlawful assembly. One of the most striking – and consequential – aspects of the Court's judgment is how radically it transforms the portrait of the situation preceding the massacre that emerges from the exhaustive investigations of the Presidential Commission of Inquiry, as supplemented by the interim report of the Sri Lankan Human Rights Commission and independent research conducted by this author and others. Presenting the crowd as having gathered for peaceful purposes and as merely reacting to the inmates' threatening and provocative actions, the Court effectively blames the inmates for their own attack.

To present this portrait, however, the Court must accept without question many claims that cry out for close scrutiny while neglecting to mention many other crucial pieces of evidence. Thus they present as fact the disputed claim that the inmates had tried to grab weapons from the guards in the camp on the evening of the 24th. They accept as fact the discredited and counter-intuitive claim that it was the inmates who initiated the stone throwing, not the crowd around the camp. The Court claims as well that the crowd was made up only of "villagers" who had gathered to stage "a peaceful *satyagraha*" calling for the removal of the camp, implying that this "gathering" had been planned prior to the incident in the camp and neglecting to mention that many of the posters "calling for the removal of the camp" also called for the murder of the inmates.

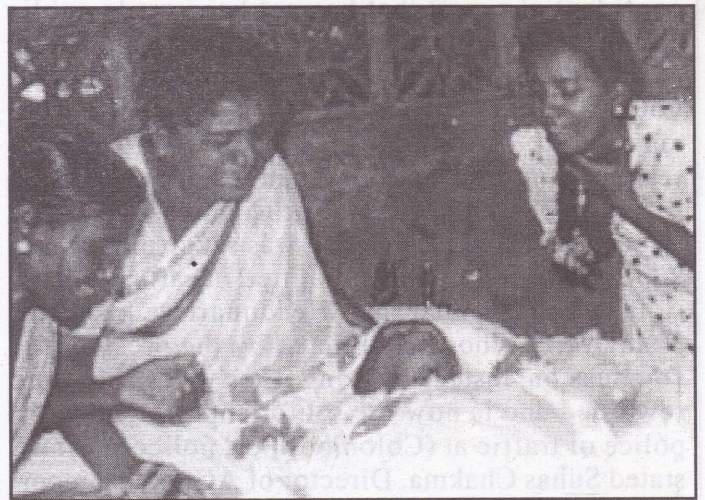
When the Court sets the scene on the morning of the 25th, they mention only the weapons held by the inmates, not those many more weapons held in the hands of the gathering crowd, nor the fact that among the "villagers" who had gathered were many brought in by vehicle to Bindunuwewa



A suspect led into court by prison officials.

from Bandarawela and the surrounding area. The SC also implies that that the actions of the crowd posed no threat to the inmates, despite the 41 young men being completely surrounded by large, hostile, armed, and entirely Sinhala crowds and Sinhala police armed with guns. In painting its portrait of a peaceful crowd some of whom were eventually provoked into murderous fury by the actions of the inmates, the Court also had to ignore the clear evidence that the detainees actively pleaded for peace from the crowd: for instance, their displaying a banner that announced that they had no quarrel with the villagers, only with the camp authorities.

Only through this selective and distorted reading of the evidence can the Court plausibly argue that “it was evident that the immediate cause for the attack by a section of the crowd was the provocative act of the detainees, in charging into the crowd with clubs, rods, and stones in their hands. (There is in fact no evidence that the inmates charged “into” the crowd, only that some of them rushed toward the crowd, evidently in a counterproductive attempt to show they shouldn’t be bothered.) The crowd having retreated for a moment, which reflected a moment of having got frightened, nevertheless broke into the camp with all their fury... It is from this point one could assert with justification the commencement of the unlawful assembly with the common object of causing hurt to the detainees.”



A woman cries over a victim of the Bindunuwewa massacre

Setting the stage in this way is important for the Court’s argument, given how they approach the difficulties involved in the law of unlawful assembly. Citing the relevant section of the Sri Lankan penal code, the Court establishes that to become a member of an unlawful assembly, one must be shown to have joined intentionally, knowing the common unlawful object of the group. Once this is established, an individual can be held vicariously responsible for any of the actions of the unlawful assembly if they can be shown to

have been committed in prosecution of the common objective or to have been offences that members of the unlawful assembly knew were likely to be committed in the prosecution of that common objective.

Making use of a number of established legal commentaries, the Court holds that, on the one hand, mere presence in a crowd isn't enough to render one a member of an unlawful assembly. This is particularly true in rural societies, they argue, where many people may gather at times of social tension merely out of curiosity, and some innocent bystanders may be caught up in the midst of events whose animating objective they have no intention of sharing. On the other hand, the Court acknowledges that no overt act by an individual

is required to establish his membership in the unlawful assembly. Nonetheless, the Court ultimately stresses the argument of one legal scholar that "it will be safer to look for some evidence of participation by him [i.e., a given suspect] before holding that he is a member of the unlawful assembly."

(To be continued)

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ACHR exposes secret report on Bindunuwewa massacre

New Delhi based Asian Centre for Human Rights (ACHR) released details of a confidential report of the Sri Lankan Presidential Commission on the inquiry into the Bindunuwewa massacre. The organisation released details Tuesday on the fifth anniversary of the massacre of Tamil inmates in the Sri Lankan jail in Bindunuwewa.

The ACHR said it had obtained a copy of the confidential report that has not been made public although Sri Lanka President Kumaratunga's term as president comes to an end. Twenty-eight Tamil youth between the ages of 14-23 years were massacred while 14 other Tamil youths were seriously injured by Sinhala mobs and Sri Lanka police on 25 October 2000. The Commission headed by Justice P. H. K. Kulatilaka was set up on 8 March 2001 and its report was submitted in early 2002.

"It is a shame that then Headquarters Inspector Seneviratne who was indicted by the presidential commission, instead of being taken to task has been rewarded and is now the senior superintendent of police of traffic at (Colombo) Fort police station," stated Suhas Chakma, Director of ACHR in a report released on Tuesday.

"President Chandrika Kumaratunga had no interest to prosecute the culprits. Even before the start of any inquiry, she blamed the massacre on the 'external forces.' Therefore, Justice Kulatilaka was mandated to investigate extraneous issues but not to find the truth and prosecute the culprits," the ACHR report said.

The Presidential Commission of Inquiry indicated the organised nature of the massacre. A section of

the villagers were drawn to the Bindunuwewa Rehabilitation Centre and there was "also evidence that crowds were transported from outside to the Vidyapeetaya playground in buses, private vans and also three wheelers." Posters like "why is the big man feeding the tigers with milk?" "Tigers, flesh to our dogs," was displayed in and around Bindunuwewa one day before the massacre.

According to the copy of the report made public by the ACHR on Tuesday, Justice Kulatilaka had concluded that the police knew about the impending massacre as the crowd gathered to attack the camp and it was "a lapse on the part of the ASP Dayaratne and HQI Seneviratne by their failure to send sufficient reinforcement to guard the perimeter."

Among others, Justice Kulatilaka further concluded that: "No meaningful steps had been taken by the police to prevent the mob from coming into the Rehabilitation Centre.

"Once the mob invaded the Centre, acts of setting fire to the buildings, attack on the inmates and the massacre of inmates continued unabated while the police were just looking on.

"The police had opened fire on the unarmed inmates who were running for protection towards the police trucks parked outside the main gate, thereby causing death of one inmate and injuring two others.

"The police (60 armed personnel) had failed to arrest any offender even though the assailants were seen moving about freely carrying weapons while the policemen were standing nearby."

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