

LANKA

# GUARDIAN

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## THE HUMAN RIGHTS DEBATE

**DEPENDENCE: NO ROOM FOR DISSENT**

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**REAFFIRM UNIVERSALITY**

— *Johan Jorgen Holst*

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the Deaf and Blind — *ARDEN*

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**U.N. AND REGIONAL DISARMAMENT**

— *Jayantha Dhanapala*

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*OF*

**ELEPHANT HOUSE SUPERMARKET**

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## TRENDS

### Rajapakse under attack

*The Rajapakses are a leading political family in the South. So an attempted physical assault in public on Mahinda Rajapakse, MP, a scion of the clan did not go unnoticed. The occasion was a public meeting of the People's Alliance (SLFP, CP, LSSP and other sundry left of centre parties) on the Galle esplanade. Also under attack was an ally of Rajapakse, Hemakumara Nanayakkara, MP. The attempt was rebuffed by the young and sturdy Rajapakse with a flying kick.*

*Now Mahinda's friend Anura Bandaranaike, MP, and National Organiser of the SLFP, has protested to his mother Mrs Sirimavo Bandaranaike, Leader of the SLFP and Leader of the Opposition, against the attacks on his lieutenants. It was another incident in the ongoing intra-party tussle, apparently.*

### Briefly. . .

#### US bomb suspect in SL?

Ramzi Ahmed Yousef, a most wanted man in the US is believed to have entered Sri Lanka. Yousef is wanted in connection with the February 26 bomb explosion at the World Trade Centre, New York. The FBI has sought from the Lanka police to nab the man.

#### Opposition wants systems changed

The Opposition in parliament wants the Executive Presidential system and the Proportional Representation system out. The Opposition will recommend these

changes to the Parliamentary Select Committee on Presidential and Parliamentary elections.

The Select Committee is expected to hold its first sittings in the first week July. The Opposition will also press for the production of the National Identity Card by voters to be made compulsory to minimise impersonation.

### A Third World dilemma

Where negotiations and peaceful solutions are rejected by groups which opt for violence and terrorism the state confronts a deadly dilemma — how does a democratic state, within its constitutional framework and laws, deal with terrorist groups? "It is unacceptable that human rights criteria are only compulsory for economically weak states", Sri Lanka's delegate to the World Conference on Human Rights in Vienna, State Minister for Foreign Affairs John Amaratunga complained.

The State Minister said that with the exception of one terrorist group all ethnic groups in Sri Lanka have forsworn violence. He said that Sri Lanka had also continued to maintain the flow of essential items such as food and medicine to areas in the north and the east of the country in which the citizens were not yet free of terrorist dominance.

As a sign of Sri Lanka's commitment to the message of this World Conference Sri Lanka would undertake to ratify the convention against torture during the course of the coming year, the minister said.

### Undergrads under stress

Mental illness among undergraduates is on the increase. The main cause: fear of ragging and

the traumatic effects of being ragged. Among the other causes are financial problems, language (English) problems, and inability to adjust to a new environment. These revelations were made by the Peradeniya University Medical Officer Dr S. P. Amarasiri at a seminar organised by the Institute of Fundamental Studies (IFS) and the Ladies College Old Girls' Association (Kandy Branch).

Dr Amarasiri said that eight students suffered nervous breakdowns after ragging in 1991. In all 123 students at Peradeniya were treated for mental illness that year. More would have sought treatment elsewhere, the doctor said.

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# The East Being Liberated

Mervyn de Silva

The East is red. In the second phase of "Operation Muhudu Sulang", (Sea Breeze) the Army is moving into the jungle areas after consolidating its sea-coast presence. In a major action, against an LTTE camp in Angodawila, east Batticaloa, the Army killed 20 "Tigers". In another action close to Ampara, the Defence ministry, said that two "area commanders", both described as "hardcore terrorists" (Thangarasa Gopalapillai and Niazze), were killed. While six policemen and three soldiers have been wounded in the past ten days, the LTTE "resorted to its usual tactic", said a spokesman, "by kidnapping a senior official, an A.G.A." The LTTE is not confronting us, and the terrorists are not moving in large groups" a senior officer commented, adding "May be because of the helicopter gunships we are using freely..."

While the army is trying to "liberate" the East and make it reasonably secure for the referendum to be held before October, the immediate objective is to make Batticaloa and its environs secure for the Presidential Mobile Secretariat which will see President D.B. Wijetunge make his first visit to the battle-torn east. President Premadasa's last visit to the East was earlier this year when he made a highly publicised trip to Trinco — which is not just an important Indian ocean port but a multi-ethnic town, and the neck between the north and the east. The Tamil claim to the north AND the east as the "traditional homeland" added a new dimension to Trinco's historical importance as the finest natural harbour in the East, far finer than Subic Bay in the Philippines. It was Indian suspicion US designs on Trinco — the US had to pull out of Subic Bay under the US-Phillipine treaty — that sent alarm bells ringing in Delhi.

## PREMADASA LINE

The Mobile Secretariat was as much a contribution of Premadasaist populism as "Gam Udawa". For the past two months or more, there has been a not-so silent inner-party battle over the Premadasa legacies. In the old, Marxist analysts of such developments within the movement would have called it "inner party ideological struggle". In this instance, it was a question of the Premadasa "personality" as distinct from his "populism" or what Bangladesh's Begum Khaleda Zia descri-

bed as President Premadasa's "pro-people" outlook and program.

Whereas his critics as well as pro-UNP opinion-makers denounced his administration as "authoritarian", even some upper echelon UNP'ers found his "show business" gimmicks too "vulgar" and "brassy". This is the critique which can be classified under the popular "One-Man Show" or "Show-Biz" category. The western-educated professional class found it offensive because it was too "vulgar.."

By June however, the inner-party debate seems to have climaxed, with the staunchly Premadasaist Sirisena Cooray "line" gradually asserting itself as the "party line". It should not be forgotten that Sirisena Cooray is the party secretary. His political career had its roots in The Colombo municipality where he rose to be Mayor. It is from suburban Colombo and the C.M.C. that Mr. Premadasa also broke into big-time politics. But Mr. Premadasa's ambitions which were far grander turned the Chinese slogan upside down. Instead of surrounding the cities from the countryside (Mao's revolutionary slogan) the parliamentarist Premadasa broke out of the city to win over the villages. Sri Lanka after all has only **one** city. The votes were out there. The rural masses decided the balance of power in Parliament. He was always in search of a "project".

As junior minister of local government in the Dudley Senanayake administration, he hit upon the idea of "poottu palaan" (bridges) to improve transportation in the rural areas. More importantly, it allowed him to get out of the city and visit the remotest villages.

It helped him to project a new image — the Premadasa who was concerned with the needs of the neglected, the disadvantaged, less organised rural poor. The bridge was the bridge. The project was the attention-getting gimmick of the highly media-conscious politician.

## GAM UDAWA

The *Daily News*, probably because it is the leading English-language news paper, the paper of the Colombo-based Anglicised elite, was more D.U.N.F. in its thinking than the Premadasaist U.N.P. Almost instinctively, it swung away from

Premadasaist populism. Last week, it swung back to the old centre. In a CLOSER LOOK AT GAM UDAWA, the *Daily Neww* editorialised:

"What Mr. Cooray said on this occasion is worthy of reflection. There are those who over the years told the country that the GAM UDAWA was an extravagant tamasha, a carnival in which millions of rupees of public funds were wasted to pander to the vanity of one man who wanted the biggest birthday bash of them all.... People who are privileged to wing their way to the four corners of the earth do not understand the pleasue a village family takes in sitting in a simulated aircraft cabin in the Gam Udawa grounds and enjoying a taste of paradise...."

So the Mobile Secretariat will travel to Batticaloa just as the GAM UDAWA was "celebrated in the absence of its creator and the main driving force...." in Mihintale.

But security in the East is still a problem. And the LTTE cannot be trusted as the "negotiations" on the 39 police prisoners proved.

The high-level delegation from Thailand, Philippines and Malaysia, (Buddhist scholar-monk, Filipino Catholic Bishop and Malaysian Tamil cleric) wade no impression. On the basis of talks with the ICRC, the Sri Lankan authorities agreed to lift the embargo on many items, including diesel and petrol, in return for the 39 policemen. Only 5 were released. 34 hostages remain in LTTE custody while 50 helpless relatives are still in Jaffna hoping the LTTE will be somewhat more humane and trustworthy.

Now that Tamil journals are confirming that the Sri Lankan President was as much a victim of LTTE vengeance as President Premadasa, the emphasis of Colombo's strategy is likely from "peace talks" to military "containment" by making the east as secure as possible and limiting the "war" to the north.

If it is possible to contain the LTTE to the north, who knows whether it can become an easier target for Indian Intervention after the Gandhi trial is over. A lightning punitive strike.... like the US in Iraq?.

# **Western Domination**

**Dr Chandra Muzaffar**

**T**he United Nations Development Programme (UNDP), in its Human Development Report for 1992, observes that for the first time in human history the world is close to creating a single, unified global system. In the last two decades or so, nations and communities all over the world have been drawn, willy-nilly, into a single web spanning a whole variety of relationships.

What has been the impact of this global system upon nations and communities, especially those which are less powerful and less prosperous? What has been its impact upon human beings and human rights everywhere?

The existing — still evolving — global system has been unfair and unjust to the vast majority of the human race. Its inequities and its injustices are evident in almost every facet of international affairs.

### **The Global Economy and Human Rights**

The global economy, for instance, is controlled and managed by a handful of elites, corporations and states located in the North. They have done everything to ensure that their interests would be protected and enhanced even if it is to the detriment of the rest of humanity. Any analysis, however cursory, of the workings of the World Bank, the International Monetary Fund (IMF) and the General Agreement on Tariffs and Trade (GATT) which are all under the effective control of the Group of 7 (Britain, Canada, France, Germany, Italy, Japan and the USA) will reveal this.

This is one of the reasons why income disparities in the global economy have been growing wider and wider. These disparities are reflected in the distribution of the world's Gross National Product (GNP) over the last 30 years.

Between 1960 and 1989, the countries with the richest 20% of the world population increased their share of global wealth from 70.2% to 82.7%. The countries with the poorest 20% of the world population saw their share fall from 2.3% to 1.4%. The consequences for income inequalities have been dramatic. In 1960, the top

20% received 30 times more than the bottom 20%, but by 1989 they were receiving 60 times more'.

These disparities become even starker when one examines real consumption levels. 'The North, with about one fourth of the world's population, consumes 70% of the world's energy, 75% of its metals, 85% of its wood and 60% of its food'.

Contrast this with the situation in the South. Over one billion people are mired in absolute poverty. One and a half billion people are deprived of primary health care. About a billion adults are illiterate.

What this shows is that a huge portion of the population in the South do not enjoy the most basic economic and social rights. The global economy, with its 'capital markets transmitting more than 300 billion a day through international data networks', has meant nothing for these poor, powerless human beings who are barely able to survive. Indeed, it is this very lop-sided character of the global economy which is one of the main causes of the plight of the poor not only in the South but also in the North where 'over 100 million people live below the poverty line in the industrial market economies' — a fact that is often conveniently forgotten by the high priests of the 'free market'.

Poverty is also directly linked to the question of political rights. Poor nations are in no position to exercise their right of free expression in international fora especially if they are heavily indebted to international banks and lending agencies from the North.

The debt that nations in the South owed the IMF, a case in point, leaped from \$9.5 billion in 1980 to \$42.4 billion in 1986! This was only a part of the \$1.2 trillion that the South owed the North in 1986. Indeed, the servicing of external debts alone swallows up a huge chunk of the budget of countless countries in the South. It has been estimated that in 1988 '132 billion was bled out of these countries (in the South) in debt service'.

The UN Children's Fund (UNICEF) points out that as many as 650,000 children die across the Third World each year because of the debt. 'And in the Philippines one Filipino child dies each hour as a result of the Philippines government's failure to limit debt payment'.

How can one expect countries which are neck-deep in debt to articulate independent positions on global issues that impinge upon the interests of powerful nations in the North — nations which, needless to say, possess immense political and economic clout over international lending agencies and lending policies.

It is not just the debt trap that nations in the South have got into which limits their political rights and their political sovereignty. The South expects investments from the North. It wants access to markets in the North. It depends on technology transfers from the North. It employs consultants and so-called 'experts' from the North.

The South, in other words, has established a relationship of dependence upon the North. This, in one way or another, also impedes most countries in the South from speaking up, from dissenting — if it is going to incur the displeasure of some powerful state in the North.

### **Global Politics and Human Rights**

That the South as a whole has very little political freedom at the global level is underscored by the mechanics of decision-making in the most powerful international political organ in existence today — the United Nations Security Council. Apart from the fact that only one of the five veto-carrying members is from the South (which incidentally has three-quarters of the world's population), the Security Council has, in the last two years in particular, totally sidelined the South and the interests it represents.

Of course, South members in the Council speak but their speeches count for little. It is the United States and its allies who dominate, and dictate to, the Security Council.

The recent Gulf crisis demonstrated US power over the Council — so much so that it was nicknamed the US Security Council. That power has continued unabated, as reflected in the continued imposition of Security Council sanctions upon Iraq even after it had been forced out of Kuwait. The Council's stand against Libya — the abstention of most South members on Resolution 748 notwithstanding — was yet another illustration of how subservient it had become to US and Western interests.

*Dr Chandra Muzaffar is a Malaysian social critic and the Director of Just World Trust (JUST), an NGO based in Penang, Malaysia.*

Even the General Assembly, which in the 1960s and 1970s was that one organ in the UN system where the South exerted some political influence, has degenerated into yet another arena for the US to flex its muscles. The overwhelming endorsement by the Assembly (most of whose members are from the South) in December 1991 of a US-sponsored motion to revoke an earlier resolution equating Zionism with racism was proof of this. A large number of Assembly members, it is alleged, were bribed and blackmailed into supporting the US motion.

If the ability of a person to vote without fear or favour is one of the most important criteria by which one judges the authenticity of the democratic process within a country, then the UN General Assembly stands condemned as an institution where there is no genuine freedom of choice. The Assembly, at this point in time, together with the Security Council, provides ample proof that there is no real democracy in the global system. Only the political rights of the US and its allies carry any weight or value.

### Global Military Power and Human Rights

In any case, what do political rights mean — how much scope is there for autonomous political action — in a situation where devastating fire power is concentrated in the hands of one military 'super state'. The US Defence Department itself, in a document called *Defence Planning Guidance*, leaked to the Press by some officials in March this year, makes it abundantly clear that 'it sees a world dominated by a single superpower whose military might would deter any challenger'.

A high US military official has gone even further. He wants the world to be 'scared to death' of US power. If any demonstration of that power was needed, it came in the form of the Gulf War. Indeed, there are analysts who argue that this was one of the motives of the war: to show countries of the South in particular what the US could do to them if any one of them tried to challenge its dominant power in the post-Cold War period.

In a world where nations and peoples live in fear of a military superpower, they cannot be expected to pursue their aspirations, however legitimate they may be, beyond a certain point. This must deter small nations of the South, and perhaps the North too, from seeking to develop political or economic initiatives independent of the US. How can one talk of freedom, of independence in such a world?

— *Third World Network Features.*

## HUMAN RIGHTS (2)

A symposium on 'Human Rights in South Asia' organised by the Law and Society Trust was held in the Vienna International Centre on 15th June. Dr. Neelan Tiruchelvam, Director of the Law and Society Trust stated that the objective of the symposium is to develop a human rights agenda for the South Asia having regard to the priorities and strategies that need to be adopted by the civil society institutions. He argued that it was civil society institutions which could play a creative role in reconceptualising South Asia as a region which was held together by a common commitment to values such as pluralism, democracy, human rights and respect for diversity. The LST had prepared a detailed report called the Ahungalle Report, which developed a human rights agenda in relation to civil political rights, socioeconomic rights, group rights and gender issues. He called upon the participants to review this agenda and to ask themselves a question as to whether the ideological challenges to pluralistic and democratic values called for new strategies to empower civil society institutions. The symposium was presided over by Asma Jahangir, the Secretary-General of the Human Rights Commission of Pakistan.

Dr. L.M., India's High Commissioner to United Kingdom referred to the long political and legal history of South Asia and argued that the existing legal and political institutions, although imperfect, could be strengthened and revitalised to redress grievances and to resolve conflicts. He added that while South Asia has no difficulty in accepting the universality of human rights, this universality needed to be contextualized if it was not to lose contact with reality. The real challenges was therefore to reconcile the universal human values with the need to ensure that these values are rendered meaningful given the particularities and specificities of a regional and a national context. He agreed that non-governmental organisations and human rights groups have a particular responsibility to ensure the political institutions were rendered more accountable and effective. He felt that there was no need for an adversarial or confrontational relationship between the state and the human rights groups and that was a congruence of interest which should enable them to protect values and institutions

which was mandated by their Constitutions. While he was willing to concede that the courts system was not perfect in preventing arbitrary arrests or discriminatory treatment, they had proved to be substantially effective and in his own professional experience, he was able to obtain redress on behalf of many persons and groups whose fundamental rights had been denied.

Several human rights activists questioned the optimism that was implicit in Dr. L.M.'s presentation with regard to the status of human rights in India. Mr. Ravi Nair of the South Asian Human Rights Documentation Centre pointed out that although human rights groups would welcome a non-adversarial relationship with the state, many human rights activists had been exposed to arbitrary detention and in the case of the Andhra Pradesh Civil Liberties Union, 3 activists had been killed. Mr. K.G. Kannabiran, President of Andhra Pradesh Civil Liberties Union pointed out that although he had been originally invited by the Andhra Pradesh Government to participate in a discussion on the draft Human Rights Commission Bill, this invitation has been subsequently withdrawn on the directions of the Home Ministry. These were not actions which were conducive to a constructive relationship between the state and the civil society. He further pointed out that the legal and policy framework with regard to human rights organisations in India was unduly restrictive with regard to their ability to secure external funding or receive charitable contributions. Justice Rajindar Sachar who is a member of the UN Human Rights Sub-Commission also pointed out that there were long delays in the disposal of habeas corpus applications and there was a progressive decline in public confidence in the effectiveness of judicial remedies for the protection of human rights.

Dr. Kamal Hossain, former Foreign Minister of Bangladesh felt that it was important for the human rights groups to ask themselves the questions as to why the conditions relations to human rights in many parts of South Asia were much worse than they were when the transition of political power took place more than four decades ago. The political leaderships in South Asia had failed two generations. This decline has been particularly

marked in institutions such as bureaucracy, the party system, the administration of justice and the maintenance of law and order.

Much of the human rights abuses in the sub-continent may be attributed to policing methods and the abuse of police powers. He added that if the next generation was to have a better future in terms of individual freedom and respect for human dignity, civil society institutions must work in close concert across national boundaries. He particularly referred to the problems of multi-ethnicity and the need to devise structural arrangements and policies which will enable minority groups to protect the identities and equitably share political power. Bangladesh was founded on the principles of self-determination but self-determination need not be equated with secessions. So long as there is no massive and gross abuse of human rights and the minimal willingness to co-exist, alternative solutions need to be explored. Dr. Nihal Jayawickrema, the Ariel F Sallows Professor of Human Rights at the University of Saskatchewan felt that Dr. Kamal Hossain's approach to self-determination was too restrictive. He felt that the majority community must recognise that they cannot be the sole arbiters of redefining multi-ethnic polities. Minorities must also have the right to determine their political status and their political destiny.

Justice Dorab Patel concurred with the view that over the decades that the minor and appellate judiciary in Pakistan had been progressively eroded of their legitimacy. He felt that within the Pakistan context, human rights groups had to struggle against forces of religious extremism who imposed restraints on the freedom of expression of those who did not necessarily share their beliefs. Secular and pluralistic values continue to be threatened by the forces of intolerance and the courts were often helpless and unable to provide meaningful relief. Ms Asma Jahangir concluded that the protection of human rights called for human rights groups within the sub-continent to increasingly adopt a regional approach through cooperation and exchange of information. She felt that the existing networks between human rights groups needs to be strengthened to enable them to address problems of internal conflict which were deeply linked to some of the more serious human rights abuses within the sub-continent.

## HUMAN RIGHTS (3)

Johan Jorgen Holst

I want to express my sincere gratitude to the people and government of Austria for hosting this World Conference on Human Rights. Its deliberations and outcome are concern to all present, but first and foremost to the many human beings with little access to proper justice and whose daily lives are haunted by fears of brutal oppression. It is of particular concern to the countless victims of torture and maltreatment, to the people suffering from extreme poverty throughout the world and to the millions of refugees and displaced persons who have been forced to leave their homes to the ravages of war.

Not far from here, in the former Yugoslavia, we are witnessing appalling violations of human rights and the basic norms of humanitarian law. Forced displacement and detention of civilians, arbitrary executions, rape and torture, attacks on civilian settlements and the destruction of religious sites have become part of a deliberate and systematic policy of ethnic cleansing. Those who commit such atrocious crimes have left the confines of European civilization, made themselves outcasts. For them we have but contempt and anger. Their crimes are appalling by any standards, they are crimes against humanity. It is part of the fight for human rights to bring to justice those who yield to the temptation to use indiscriminate force.

My Government and the people of Norway are deeply committed to the task of building a just world order which includes respect for universal human rights. As we are talking about inalienable, universal rights we refuse to concede to the apologists of oppression who claim special circumstances and historical justice. No cause remains just which depends on unjust means.

Almost forty-five years have passed since the adoption of the Universal Declaration on Human Rights and the basis principle that human rights are inherent in every individual human being of whatever race, sex, culture, language, religion or belief. Unfortunately, the tenets of the

declaration remain unrealized for millions of human beings. Many societies of the international community have been unable to guarantee the four freedoms of the Declaration: freedom of speech, freedom of belief, freedom from fear and freedom from want. Grave violations of the rights of women, gender-based discrimination and rape as well as abuse and exploitation of children form part of the depressing and pressing problems which we cannot ignore.

This conference should provide a resounding reaffirmation of the principle of the universality of human rights. We need to fathom its consequences. Traditionally international law revolved around the principle of the sovereignty of States and the inviolability of their borders. At the end of the twentieth century we are concerned about the sovereignty of man, about the inviolability of the individual human being. The principle of State sovereignty may no longer be invoked for purposes of suppressing and violating the rights of the citizens of the state. State sovereignty is circumscribed. It does not include the right to violate the individual.

By focusing on the inherent and inalienable rights of all human beings we contradict those who claim exclusive rights for only some human beings chosen on the basis of ethnicity and religious belief. The emerging threats of ethnic nationalism constitutes a threat against human civilization, and certainly against the concept of universal human rights. Instead we must build inclusive human communities based on the rights of man rather than succumbing to notions of exclusive human associations based on myths of ethnicity. The pursuit of exclusive communities and pure race breed separation, estrangement, hostility, aggressiveness and callousness. It constitutes a denial of the values inherent in every human being. The battle of the oppressed for attention and justice is everyone's battle.

This conference should map out new goals and strategies. It should help governments overcome obstacles to achieve progress in the fight for genuine protection of human rights. Let me mention five

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*The writer is the Minister of Foreign Affairs of Norway.*

important aspects of a strategy for the protection of human rights:

**First**, ratification and implementation of the international covenants and other relevant instruments, without reservations which contradict their purpose and spirit.

**Second**, enactment of national legislation in conformity with the international law of human rights.

**Third**, establishment of national institutions for the protection and promotion of human rights, including a strong and independent judiciary.

**Fourth**, the constitution of a network of freely functioning non-governmental organizations. They are indeed indispensable to the protection of human rights, to keeping governments honest and to fostering an ethos respect for human rights.

**Fifth**, introduction of specific programmes of education and human rights training.

Democracy constitutes a necessary condition for the protection of human rights. Hence, the principal task is building democracy, promoting the values of the open society and organizational structures designed to preserve pluralism, coherence and efficiency in the face of diversity. The international community must stand ready to support such efforts. The World Conference should invite donor countries to increase their support for democratic development. Human rights conditionalities do not amount to unwarranted interference, but to necessary insurance that funds are not wasted and the power they provide not usurped.

We share a deep concern for people living in extreme poverty. We should rededicate ourselves to the task of alleviating the plight of the poor in a spirit of true solidarity. Development and the eradication of poverty constitute necessary conditions for human rights to flourish.

Regardless of economic obstacles, governments must comply with their obligation to respect the integrity of every human being. The World Conference should launch an all-out effort to eradicate torture, disappearances, rape and other violations of basic human rights. It should give firm expression to the need for a more active

role of the United Nations in the observance and enforcement of minimum non-delegable standards for the protection of human rights in all situations; particularly in situations of internal disturbance, civil and ethnic strife and political emergency.

Racism in all its manifestations and forms, including the ugly practice of the rights of human beings. Regrettably and unacceptably, racism is once again raising its ugly head in many places, including Europe. Racial discrimination and ethnic hatred are incompatible with any viable notion of human rights. This World Conference should urge all governments and the world community at large to combat all forms of racism, anti-Semitism and ethnic cleansing.

Conflicts entail not destruction and violence, but also fractured human relations and the separation of families. Hence, we must strive to alleviate the consequences of prolonged and entrenched conflict by reuniting families. We urge the release of Aung San Suu Kyi whose valiant and dignified fight for democracy and human rights commands broad international support and admiration. She has reminded us that guns cannot forever silence the will to be free.

Minorities are often subject to discrimination. Myths of a pure race, the constitution of exclusive communities dedicated to uniformity rather than diversity, will become oppressive to everyone. The human spirit can thrive only in freedom. Ethnic cleansing is a threat also to the ethnic cleansers. It points in the direction of a totalitarian society, of atomized individuals prevented from association with their fellow citizens except for purposes of enhancing the power of the rulers. Protecting the rights of minorities is protecting the rights of all members of a society. In international society we are all minorities. If minorities are not protected, anarchy will prevail.

The cultural and religious identity of all peoples requires our respect and an opportunity to flourish. Diversity rather than uniformity enriches human life and enhances freedom. Therefore we hail the noble and dignified effort by Dalai Lama to protect the religious and cultural integrity of his people.

My government genuinely welcomes

1993 as the International Year of the World's Indigenous People. "A New Partnership" should meet the legitimate aspirations of the world's more than 300 million indigenous people. Let me take this opportunity to pay warm tribute to the Nobel Peace Prize laureates present, among them Rigoberta Menchu, spokeswoman for the indigenous peoples. We join in her plea for compassion and reason and for the elimination of racism, oppression, discrimination and exploitation of all those who have been caught in a spiral of poverty and hopelessness.

We need to adopt an integrated, holistic approach to human rights. It embraces a wide range of activities spanning from development to peacemaking, confidence building and peacekeeping. My government supports therefore the establishment of a coordinating mechanism for a United Nations Human Rights Programme, under the auspices of the Centre for Human Rights.

Greater resources are needed. The World Conference should make a strong appeal to the General Assembly and governments to increase their financial allocations to the human rights programmes of the United Nations, particularly to the Centre for Human Rights.

It should call on the General Assembly also to establish the office of a High Commissioner for Human Rights, not to replace existing mechanisms, which should be strengthened further, but rather to optimize the use of existing resources and give the protection of human rights in the United Nations a new identity and a face. A High Commissioner for Human Rights would signal a new beginning and a renewed commitment to the spirit which gave birth to the Universal Declaration on Human Rights.

This conference should become a beacon of light and hope also for those human rights activists who have been deprived of their right to defend the integrity of other human beings. Nobel Peace Prize Winners Dalai Lama, Aung San Suu Kyi and Rigoberta Menchu symbolize all those brave individuals who deserve our full support and encouragement.

I trust that the conference will produce a major step forward on the road to freedom, equality and justice for all.



# Heal the Rogues' Wounds

Indran Amirthanayagam

NEW YORK

All lovers of that riot of nature, that former paradise known as Sri Lanka, where 78,000 people have been killed in political violence since 1983, should remember the metaphor of the rogue elephant.

This elephant has been cast out of the herd. Perhaps it is mad; perhaps it harbors some wound that does not allow it to graze in peace with its brothers and sisters. So it leaves the herd, or is forced out. And alone in the jungles it eats the dry leaves of loneliness. And when it spots a group of holiday travelers 50 yards down the dirt road — my family in a jeep — it charges.

We were lucky in 1965. The tracker who accompanied us spoke some commands in a tongue that the elephant understood, and the bruised animal stopped its charge.

The tragedy of modern Sri Lankans is that far too many of us, living in Colombo or Jaffna, Toronto or New York, have forgotten the tongue that will heal our differences.

That tongue is not Sinhalese, or Tamil, or English. It is all of these and much more. It is rooting out the unfortunate link between ethnicity and the bogeymen from the books our children read.

We don't need to have a Tamil villain and a Sinhalese hero. And we don't need to reverse the terms either. Let our villains be people who commit acts against the order of society, whoever they are.

One such act took place on May Day, when a young man bombs strapped to his chest, crashed his bicycle into President Ranasinghe Premadasa. Another was the shooting of one of Mr. Premadasa's main rivals a week earlier.

And these are just the latest public violations — by villains, bogeymen, crazed boys, rogue elephants.

Violations, Rape, Murder.

I wonder what Prime Minister Solomon

Bandaranaike thought in 1956 when he made Sinhalese the official language and Tamil a secondary tongue?

That was the beginning of the expulsion from paradise. And Mr. Bandaranaike was one of the earliest victims, assassinated by a fanatic.

I wonder what President J.R. Jayawardene thought when he stayed inside his house while much of Tamil Sri Lanka burned in the summer of 1983? Thirteen soldiers had been ambushed by Tamil guerrillas in the north.

The night of the funeral gangs of thugs set out to burn every Tamil home and business in the capital. And each was identified on voter lists supplied by sources in the government.

Mr. Jayawardene and Mr. Bandaranaike made contributions to the country. They were also terribly human, often serving their clans and not the larger interests of a nonracial, democratic Sri Lanka.

And I wonder what Velupillai Prabhakaran, the leader of the Tamil Tigers, "The Boys", thinks today, holding court in his bush empire. How many Tamil boys and girls have died for Eelam, the separate state the Tigers want? How many Tamil critics of Tiger methods have been silenced?

Oh, but I can hear the allowances made at a bachelor party on a recent visit to Sri Lanka. There was a lot of drinking and a fight started. A close friend of the bride punched a friend of the groom. Hands in the air — come, come, let's sort it out. And the conciliatory voice of an adult: They are just boys. They get drunk, play tricks on their companions. The wedding will take place. The sun will shine in the morning. Everything will be all right.

Enough of these denials. The boys and men who come to kill are not just rowdy drunk. If only for a minute, the wedding could create a space in a Sri Lanka where there is no need for the explanation that

smooths over the truth.

If only we could wear our tropical suits and sing our hymns and drive home to parties that admit our various bloods and the bonds that unite us.

The British saw cricket as a savior, something they could offer to smooth over the harder aspects of their kingship over us poor native subjects.

And we adopted the genteel ideas of sportsmanship. But we also called ourselves the Tamil Union Cricket Club or the Ceylon Moors, or the Sinhalese Sports Club. Perhaps we were honest. Perhaps we thought that even in cricket we must acknowledge the hatreds that eat away at our gestures of brotherhood and our adopted salutations — Good show, chap! Well done!

Well done, Sri Lanka! Here we go again! The new president, D.B. Wijetunga, has said that he will resume negotiations with the Tigers.

I welcome these words. The nightmare rides upon sleep, said Yeats about Ireland. But then we awake, as we must. And we must go about our business, and raise our children, and welcome back the family that has dispersed to Canada, Europe, India, if only for a visit.

And let us have a roaring reunion. Let us have Bharata Natiyam dancers and bailsingers and pianos and tablas. Let us have Hindu pujas and the rosary and the Four Noble Truths of Buddhism.

Let us invite the burghers to return from Australia and the Tamil stow-aways from the restaurants of Paris. Let us have a government of national unity. Let us care for the remaining herds of elephants. Let us develop potions to heal the wounds of the rogues.

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*This Sri Lankan writer's first book of poems "The Elephants of Reckoning" was published this month. This comment was contributed to the New York Times.*

# A Case for Public Morality

Izeth Hussain

Is public morality really important? Everyone will agree of course that public morality is something to which we should all make public obeisance. But many will argue that what is really important is to advance the rate of our economic development, because that will lead to high standards of public morality and all else that is good in life will be added unto us. In the meanwhile the less we bother about windy abstractions like the Good, the Truth and Justice the better it will be for all of us. It seems an eminently pragmatic point of view.

I want to argue the opposite case. Unless the Government respects worthwhile standards of public morality, and shows that it does so by punishing miscreants for criminal abuse of power, corruption, and violence, Sri Lanka will have to face further disasters. Economic development will also be jeopardised. This looks like a pre-eminently non-pragmatic approach to politics. The case I want to argue is that only the politics that takes public morality seriously is pragmatic.

The reason why public morality has to be regarded as crucially important raises the question of the relationship between morality and politics, a complex and difficult question requiring for its proper understanding a grasp of certain philosophical problems. I will not deal with that question at a theoretical level. In stead I will make some commonsense observations pointing to the connection between politics and morality.

At a commonsense level we have firstly to note that every known human society has had some kind of moral system, enjoining standards of good behaviour both in private and in public life. Secondly, we must note that every known human society has required punishment for crime. Whatever the explanations may be those are facts, universally valid facts, and consequently a pragmatic approach to politics has to take account of them. Those facts suggest that when a government persists in showing contempt for public morality, some kind of disaster can be expected to follow.

Sri Lanka's 1977 Government seems to provide a convincing illustration. It began with nowhere to go but up, and was backed by an enormous fund of goodwill both local and foreign. Considerable eco-

nomie development took place, but all the same Sri Lanka faced disaster by the time that Government relinquished power in 1988.

What went wrong? We may find an explanation in the notion that "Power tends to corrupt, absolute power corrupts absolutely". Significantly Acton's dictum has been for some years a widely popular quotation in Sri Lanka, showing that the ordinary folk understand power better than the bigwigs who have been wrecking this country.

It is well-known that unbounded power unleashes two terrible consequences, one of which is a weakened grasp of reality and the other a corrosion of the moral sense. Edmund Burke who, reflecting the wisdom of the ages, always insisted on the moral legitimisation of power, wrote "But unbounded power proceeds step by step, until it has eradicated every laudable principle". Such power he thought corrupted "both the heart and the understanding", that is to say the "heart" to feel and comprehend moral realities, and the "understanding" to be able to grasp any kind of reality.

The 1977 Government certainly had virtually unbounded power, and quickly started exhibiting the pathology of such power as understood right down the ages. It exhibited its weakened grasp of reality by its spectacular mishandling of our Tamil problem and its equally spectacular mishandling of our relations with India which, I can attest as a former Foreign Service officer, astonished the rest of the world. I will not go into details of that weakened grasp of reality because my focus in this article is on the moral factor in politics.

The other consequences of unbounded power, the corrosion of the moral sense, was exhibited in an unusually spectacular form. The power-mad usually display an inability to distinguish between right and wrong. What we witnessed under the 1977 Government was not that familiar atrophy of the moral sense but a prolonged and grim attack on public morality, an unusual though not a unique phenomenon.

A bulky volume can be compiled on the subject, chockful of hair-raising horrors. In this article I will refer only to a recent statement made by Mrs Bandaranaike. She spoke of the stoning of the houses

of judges over the Vivienne Gunawardena case and the promotion of the convicted police officer, and then went on to speak of another unspeakable horror which has not been widely known to the public. A notorious criminal from Gonawela who was serving a sentence for rape was not only freed, but was actually made an all-island Justice of the Peace. (Island, 8/6/93). In all these cases what was shown was not the usual hypocrisies of government; but a blatant contempt for the law, contempt for the judiciary, and contempt for moral norms. It amounted to an attack on public morality.

The case of the 1977 Government is unusual but not unique. There have been several cases where excess of State power has led to a show of contempt for public morality, in Bokassa's Central African Empire for instance. Disaster has invariably followed. By 1988 we had in Sri Lanka the two Pol Potist rebellions of the JVP and the LTTE, the IPKF presence, loss of Government control over a third of the national territory and almost half the coastline, hundreds of thousands of refugees, and an international image of Sri Lanka as an incorrigibly chronic case. It was a stupendous negative achievement. Pragmatic politics requires that we take note of what can be expected to happen when the Government displays a weak grasp of reality and contempt for public morality, the consequences of unbridled State power.

## II

Pragmatic politics requires also that we take note of the fact that all human societies have sanctions against crime. Primitive communities usually believe that only punishment can restore a balance that has been destroyed by crime, while the more sophisticated societies have other ethical justifications for making punishment an imperative. The need to punish crime is not a matter of ugly vindictiveness, but something integral to our being human. Pragmatic politics therefore requires a recognition that a society in which crime goes unpunished as a matter of course ceases to be properly human, at least to some extent.

Politics in Sri Lanka have become so peculiar that demands for punishment for all the criminal abuse of power, corruption and violence since 1977 do not figure too

prominently in our political discourse. An exception was the statement of extraordinary quality from the Fellowship of Christian University Students published in the *Island* 5/6/93. It asked the Government to "Restore public confidence in the law and the police by prosecuting all police officers, politicians and business tycoons against whom there is evidence of participation in corruption and violence".

The kind of political pragmatism for which I am arguing may be challenged by what appears to be a more hard-headed and more persuasive pragmatism. The counter-argument could proceed along the following lines.

Let us allow that the criminal abuse of power, corruption and violence of the 1977 Government kicked the Sri Lankan people deep down into an abyss. Commonsense requires a recognition that we need time to climb out of the abyss, and we have in fact been climbing. The 1988 Government was a distinct improvement on the 1977 one because it proceeded from anti-democracy to quasi-democracy, as shown by the indubitable fact that it allowed far more freedom of expression than was imaginable under the previous one. And the present Government looks like promising a further improvement. Should the Government now undertake a thorough ethical cleansing of the UNP, the Party can be badly shaken and chaos might follow. The climbing process might be reversed.

Above all, the counter-argument will proceed, it is only under the UNP that we can be certain of a rapid pace of economic development, and only that will lead to high standards of public morality and all the other good things of life being added unto us. "Grub first, then ethics", as Bertolt Brecht put it.

The power of that counter-argument derives from a utilitarian conception of ethics which prevails in the bourgeois secularized societies. A hundred years ago Bradley subjected the ethics of utilitarianism to an impeccably logical and devastating critique. But it survives and spreads in various forms, because utilitarian ethics are bourgeois ethics and there seems to be no way of halting the bourgeois juggernaut.

The basic principle underlying that kind of ethics is the greatest happiness of the greatest number. In its practical application to the politics of Sri Lanka it would mean that it does not really matter that the greatest crimes go unpunished, provided the UNP Government continues its economic policies which hold out the best prospects for promoting the greatest ha-

ppiness of the greatest number in Sri Lanka.

It all sounds commonsensical and thoroughly plausible. However, there is something mysterious about the moral nature of man as noted by Aristotle long ago, and that fact seems to be demonstrated by moral practice in the West frequently contradicting the ethical system of utilitarianism. I have particularly in mind the Western insistence on the highest standards of public morality. Those wire-taps which figured in the Watergate scandal seem a derisory misdemeanour compared to the kind of horrors accepted as more or less normal in countries like Sri Lanka. But Nixon was hounded out of office. Earlier American Presidents like Roosevelt were guilty of the same thing, but no ill consequences followed. The American public seems to have felt that Nixon had a dangerous appetite for power, and therefore exceptionally strict standards had to be applied to him.

But what is one to make of extreme censoriousness in Britain over sexual frolics in high places? It has nothing to do with power and abuse of power, because there have been no charges of anything like demands for sexual favours in exchange for jobs. Doctors, lawyers, scientists and so on can have a notoriety for fornication and yet be accepted as worthy citizens, and even pillars of society. But not Cabinet Ministers, even though it might be shown that their frolicsome life-style in no way interferes with the discharge of their Ministerial responsibilities. Britain had a long tradition of merry monarchs who fornicated merrily, much to the delight of the British people in the old days. But today royal frolics provoke the ire of British journalists who, we can be quite sure, themselves look forward to a spot of fornication every now and then.

The fuss over wire-taps and sexual frolicsomeness cannot be explained in terms of utilitarian ethics. They in no way deter the growth of the GNP, the increased flow of goods and services required to promote the greatest happiness of the greatest number. The explanation is that there is something about being human which makes people feel, both in the primitive communities and in the most sophisticated societies, that it is perilous to go against what a society conceives as the moral order.

It may be argued that I am here forging a simple and straightforward explanation for all the fussiness and censoriousness over the peccadillos committed in high places, which is hypocrisy. Ordinary people are jealous and therefore finickily

censorious over what is done by their betters. But hypocrisy cannot explain the scale of the American indignation over Watergate. I believe the explanation is to be found partly a commonsensical pragmatism. There is a disjunction between private and public morality, with stricter standards for the latter in some ways, because of an understanding that when things go wrong in the public realm the damage is to the whole society, and not just a few individuals. The threat of more serious damage requires stricter standards to prevent it.

It will be convenient for the reader if I briefly recapitulate my argument at this point. The question I am addressing is whether public morality is really important, and whether Sri Lanka can come through without punishment for crimes committed in the post-1977 era. The counter-argument is that should the Government undertake an ethical cleansing of the UNP, chaos could follow. What is really important is that the UNP economic policies provide the most hopeful prospects for the promotion of the greatest happiness of the greatest number. High standards of public morality will follow after further economic development.

I have argued that the counter-argument derives the power it apparently has from the fact that it is based on a utilitarian conception of ethics, which is prevalent in the bourgeois societies of the West. But moral practice in those societies contradicts the requirements of utilitarian ethics. That is seen most clearly in the insistence on high standards of public morality. And of course punishment follows crime, however powerful a person may be in those societies.

I am arguing that only the politics that take public morality seriously should be regarded as pragmatic. The test is a severely practical one, what actually happens under governments which do or do not show respect for standards of public morality. The evidence seems conclusive. On the one hand, we have the Western countries and others such as Singapore. On the other we have Bokassa's Central African Empire, Idi Amin's Uganda, Mobutu's Zaire, Papa Doc Duvalier's Haiti, Marcos' Philippines, and Sri Lanka of the period 1977 to 1988. In the latter cases contempt for public morality has meant public mess.

It should be instructive to ask, What went wrong with the Philippines? Its economic performance was creditable enough by Third World standards, which led the development economist Peter Bauer to write of it in the 'seventies as not really a poor country. At the time of the

imposition of the Marcos dictatorship in 1972 some things certainly required correction. The levels of violence and corruption were too high, land reform was badly needed, the gap between rich and poor had to be narrowed, and so on. The Philippines was a satellite, and when the Americans decided to jettison the democracy that had served that country well enough and impose the Marcos dictatorship, they must have expected him not only to stifle the nationalist outcry against the American bases but also take all the corrective action required and make the Philippines approximate to something like South Korea's dazzling economic performance.

It seemed a reasonable enough expectation. The economic performance did continue to be creditable for some time. But in the 'eighties the Philippines got into a mess and revolution was threatening. What went wrong can be conveyed by the term "crony capitalism" and all that it signifies by way of disregard or contempt for public morality.

I think of the Marcosian Philippines as an American Tragedy. Sri Lanka is not quite a satellite of the Western aid donors, but the economic policies followed since 1977 and the post-1977 UNP's capacity for creating a mess has certainly made Sri Lanka an economic dependency of the West. The aid-donors can call the shots, and a brief comment might be useful on their role in Sri Lanka.

As I have argued a utilitarian conception of ethics prevails in the Western countries, even though it is contradicted by their own moral experience. According to that conception, what is crucially important for Sri Lanka is that the Government follow the correct economic strategies, which will lead to everything else being added unto us. I have argued that what is crucially important is that the Government undertake an ethical cleansing of the UNP and enforce standards of public morality. Otherwise we have to dread a Marcosian future for Sri Lanka. Perhaps the aid donors should prod the Government into undertaking that cleansing, extending their notion of "good governance" for the purpose.

We must realize that "Grub first, then ethics" is all wrong. Brecht was sometimes brilliantly superficial. Not however the Brecht who was one of the great writers of this century, who wrote *The Caucasian Chalk Circle*, or *The Resistable Rise of Arturo Ui* which can be read as an attack on utilitarian bourgeois ethics. The great Brecht would have agreed with the premise behind the argument of this article, "No ethics, no grub".

## CONFLICT RESOLUTION (2)

# Proposals for Reform within the UN System

Kumar Rupesinghe

### a. An Agenda for Peace

Strengthening the UN's capability to protect human rights within states, as well as the use of its preventive diplomacy and early warning functions, are necessary components of a comprehensive strategy, which would incorporate tools for the peaceful management of claims for self-determination. In *An Agenda for Peace*, UN Secretary General Boutros Boutros-Ghali leaves no doubt that while thinking within the world body has moved considerably to recognise the reality of self-determination claims as a source of conflict, the nation-state remains the UN's primary constituency.

The foundation-stone of (the UN's) work is and must remain the State. Respect for its fundamental sovereignty and integrity are crucial to any common international progress. The time of absolute and exclusive sovereignty, however, has passed; its theory was never matched by reality. It is the task of leaders of States today to understand this and to find a balance between the needs of good internal governance and the requirements of an ever more interdependent world. Commerce, communications and environmental matters transcend administrative borders; but inside those borders is where individuals carry out the first order of their economic, political and social lives. The United Nations has not closed its door. Yet if every ethnic, religious or linguistic group claimed statehood, there would be no limit to fragmentation, and peace, security and economic well-being for all would be ever more difficult to achieve.

The Secretary General states that "one requirement for solutions to these problems lies in commitment to human rights with a special sensitivity to those of minorities..." Referring to the Declaration on Minority Rights, he adds that "instrument, together with the increasingly effective machinery of the United Nations dealing with human rights, should enhance the situation of minorities, as well as the stability of States".

The sovereignty, territorial integrity and independence of States within the established international system, and the

principle of self-determination for peoples, both of great value and importance, must not be permitted to work against each other in the period ahead.

While signalling a new-found recognition of the importance of self-determination claims for international peace and security and the protection of human rights, the Secretary General also emphasises the use of preventive diplomacy and early warning, particularly the use of fact-finding missions, his good offices, the increased use of the International Court of Justice to mediate and adjudicate disputes and the recommendation that the Secretary General be authorised to seek advisory opinions from the court. An Agenda for Peace also stresses better co-operation with regional international organisations in preventive diplomacy, peacekeeping, peacemaking and post-conflict peace-building.

### b. Other Proposals

In relation to self-determination, the Secretary General's approach is essentially one of improving existing mechanisms for the protection of human rights within states, as a means of preventing abuses against minorities within those states. In this area there are a number of initiatives stemming from the non-governmental sector which should be explored further with the goal of affording minorities the maximum amount of protection within existing states, including:

- the enhancement of co-ordination within and between UN departments and organisations engaged in the political and security elements of conflict prevention and those in the human rights, humanitarian and development fields, so that information on extensive human rights abuses reaches the Security Council and allows it to engage in more preventive work;
- greater use of the Secretary General's good offices function;
- NGO support for the Secretary General's proposal to be able to request advisory opinions of the International Court of Justice and his encouragement of all UN members to submit to the mandatory jurisdiction of the Court.

### **c. A Special Human Rights Commissioner**

The recent proposal by Amnesty International for the establishment of a Special Commissioner for Human Rights also merits close examination by the UN. The Amnesty proposal suggests the appointment of a Commissioner "as a new high-level authority with a sole and specific human rights mandate covering the full range of rights in the economic, social, cultural, civil and political spheres".

The task of the Special Commissioner would be to maintain an overview of the UN's human rights activities and their relationship to other program areas; to take initiatives and co-ordinate UN action in response to human rights emergencies; to ensure that appropriate attention is given to human rights concerns in any country of the world; to develop programs in areas which have been neglected or insufficiently developed; to formulate and oversee the human rights components of other UN operations, such as in the area of peace-keeping and peace-building, and to facilitate the involvement of the UN human rights mechanisms and experts in these activities; and to ensure the integration of human rights issues and concerns in the full range of other UN activities and programs.

### **PEACEFULLY MANAGING SELF-DETERMINATION CLAIMS**

While the above-mentioned improvements would have a useful impact on the ability of the UN to deal indirectly with conflicts arising from claims for self-determination, further steps are needed, including the development of specialised functional mechanisms for the peaceful management of such claims.

#### **a. The Declaration on the Rights of Minorities**

Compliance with the principles of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities must be strongly encouraged by both the UN and NGOs and a more binding instrument should be developed. Clearly, assured protection of minority rights within states will go a long way in defusing demands for outright independence and the fragmentation feared by opponents of self-determination.

#### **b. Reviving the International Trusteeship System**

As a means of strengthening preventive diplomacy, peacemaking and peacekeeping, it has been suggested that a resuscitated International Trusteeship System should enable progressive development

towards self-government or independence. A revived Trusteeship system could be used in cases such as Somalia, where the disintegration of government and law and order put millions of civilians at risk from warfare and starvation. In others cases, an aggrieved minority could request becoming a Trust Territory of the UN, and an international judicial body, such as the International Court of Justice, would determine, if the merits of the claim outweigh the interest of territorial integrity and national unity. The General Assembly would have final approval on the establishment of a trust territory, based on the recommendation of the International Court of Justice. Once trust status was granted, the UN peacemaking, peacekeeping and peace-building could be brought to bear.

#### **c. Reactivation of the Decolonisation Committee**

Another proposal is that the Special Committee on Decolonisation, known as the Committee of 24, could be remodelled to be able to examine reports on specific cases of claims for self-determination from a new High Commissioner for Self-Determination. The High Commissioner would receive claims in the first instance, reject those which were clearly frivolous or ill-founded, analyze the remainder based on criteria set by the General Assembly, report to the Committee, and make a recommendation to the General Assembly on the claim.

#### **d. Regional High Commissioners on Minorities**

Regional High Commissioners on Minorities, based on the model of the CSCE High Commissioner for Minorities, could serve as important early warning and prevention instruments in regions other than Europe where minorities are involved in potential conflicts with a self-determination component. As with the CSCE High Commissioner, they would be mandated to mediate disputes before they become violent.

### **THE ROLE OF NGOs**

It would be politically naive to expect that without concerted pressure from NGOs and "we the peoples of the United Nations" that UN member states will put aside their concerns over the dangers of fragmentation, grasp the nettle and work expeditiously to develop the necessary processes which ensure that claims for degrees of greater representation, autonomy and even independence can be managed peacefully. If an effective range of mechanisms is to be developed, NGOs can, and must, serve as a catalyst for

launching the process and as the "honest broker" between the inter-governmental community and minorities worldwide.

Both the NGO community and the UN should play more forceful and innovative roles in improving all human rights treaty compliance. For NGOs, development of a co-ordinated strategy on human rights monitoring, improved networking, co-ordination of representations made to the appropriate UN bodies, and dissemination of information to the parties to conflicts and the public need to be developed.

#### **a. A Global Consortium**

To do this job effectively, a global consortium of like-minded NGOs concerned with the protection of human rights and conflict resolution is needed to develop and advance realistic approaches, encourage their adoption by states and inter-governmental organisations and to co-ordinate efforts to ensure their implementation. Such organisations as the Minority Rights Group, International Alert, Amnesty International, the Unrepresented Nations and Peoples Organization and the International Commission of Jurists as well as organisations concerned with development, and refugees would be useful participants in such a consortium. Part of the mandate of the consortium could be to develop a comprehensive strategy for the international community for conflict prevention.

#### **b. Consultative Mechanisms**

NGOs active in conflict resolution and human rights should also develop consultative mechanisms for the timely communication of information on actual and emerging conflicts to regional inter-governmental organisations, the UN Secretariat, the Secretary General's Office, and other offices and agencies of the UN. They should also work toward the establishment of regional consultative fora in which NGOs, inter-governmental organisations and local actors can participate in creative dialogue in a non-adversarial manner. Further, greater use can be used of the various tribunals which periodically hear cases of self-determination and assist in the global awareness of issues.

#### **c. Improving Information Flows**

Finally, the development of databases and the exchange of information among NGOs on issues of self-determination should be accelerated. Currently, there are a number of non-governmental efforts to monitor the discrimination of minorities, others working and building data bases on minorities at risk and monitoring cases of potential genocide. International Alert has recently proposed a co-operative

effort amongst relevant NGO's for an early Warning Information Service.

#### d. An Independent Commission on Self-Determination

An independent commission composed of eminent persons and experts should be given the task of defining the terms of the debate and developing criteria for claims for self-determination. Such a commission should include a cross-section of highly-respected individuals, as well as commissioners with expert knowledge of international law, the current international political system and varying national, sub-national and supra-national political systems. A major component of the commission's work should involve setting out as complete a range as possible of political options available to parties to conflict over the issue of self-determination.

An adjunct to the commission could be the establishment of regional or sub-regional consultative mechanisms which include local parties to conflicts or potential conflicts over self-determination, as well as relevant NGOs. The regional consultative mechanisms should have access to outside expertise. In these fora, issues of self-determination could be discussed in a non-adversarial climate. The sustained work of UNESCO in elaborating the concept of Peoples Rights should be recognised and its recommendations and work be considered by the Commission.

#### Conclusion

By the early 1980s, Aureliu Cristecu, Special Rapporteur for the UN's Human Rights Sub Commission on the Prevention of Discrimination and Protection of Minorities, was able to conclude that it is generally recognised "that the concept of self-determination entails legal rights and obligations and that a right to self-determination definitely exists". Yet, 12 years later, self-determination remains one of the most complex and fraught problems

facing the international community. A past cause of contention, war and immense human suffering, it has now gained momentum with the collapse of the former Soviet Union and the break-up of Yugoslavia.

Without viable procedures to meet this challenge, the international community will continue responding to crises on an ad hoc basis and most often too late to avert widespread violence, gross violations of human rights, economic and social devastation, and international instability.

There is an urgent need for the development of a global capacity to peacefully manage change prompted by demands for greater self-determination, rather than being forced to react to violence and its consequences. Not developing appropriate mechanisms that enable the world's diverse peoples to attain more direct control over their political, social and economic development can only increase the potential for the widespread fragmentation feared by many.

Many states have shown willingness and great sensitivity and imagination in attempting to decentralise power and increase the collective rights of their inhabitants, as well as their ability to influence and shape policies which affect their lives and aspirations. The variety of different forms devolution of power can take — degrees of autonomy, regional or local self-government, federalism, confederalism, consociational arrangements, independence, supra-national institutions — afford many possibilities for peaceful resolution of conflicts.

While there are risks involved in reforming the international system to take into account of demands for self-determination, the greater danger for the global community lies in clinging to an unresponsive status quo.

## LETTERS

### North/East Referendum

Now that the referendum on the North/East merger appears to have been finally decided on, we hope President J. R. will honour his solemn undertaking to lead the campaign against permanent merger. According to reports he expects to be around for the next twenty years, so obviously he is fit to undergo the rigours of such a campaign.

Vijaya Perera

Colombo 3

### TULF and the Sixth Amendment

I refer to the article by Dr. Neelam Tiruchelvam titled "A tragedy in two acts" appearing at page 3 of your issue of the 1st of June 1993.

In the second column of that article, the author says that "the Sixth Amendment expelled the TULF from Parliament".

This is not a correct statement of fact and the author is persisting with this type of propaganda for obvious reasons. Such an incorrect statement cannot be allowed to pass by without a challenge.

The truth of the matter is that the TULF took a decision at their Mannar Convention, on the 23rd of July 1983, that they would not attend Parliament after the 21st of July 1983. This decision was taken because the TULF, quite rightly, was against the extension of the life of Parliament consequent to the Referendum of December 1982 in this matter. The life of the 1977 Parliament was due to end on the 21st of July 1983 after its six-year period.

The sixth Amendment to the Constitution was passed in August 1983. This Law stipulated that an oath must be taken eschewing a separate state.

Since the TULF had taken a decision not to go to Parliament after the 21st of July 1983, what did it matter to them what happened in Parliament after such a decision, and how could it be said that the Sixth Amendment that was passed on the 8th of August 1983 "expelled the TULF from Parliament"?

G. G. Ponnambalam (Jr.)  
General Secretary  
All-Ceylon Tamil Congress

## I ISHMAEL

*Everywhere the just are losing.  
Everywhere the deer they are slaying.  
I cry Cain  
And the voices are against me again  
The voices in the political pulpit  
The voices in editor's snakepit  
The voices in the conspiring cabinet  
The voices in the rogues's convoluted nest.  
But my breast is open to their whetted blade  
My spirit shall live in the quested shade.  
And they too shall be subject to death  
Who, high and mighty, murder in pasture and heath.*

Patrick Jayasuriya

# LTTE's Continued Survival

S. Murari

It was a dog day afternoon in October 1987. Palaly airfield in Jaffna was quite. There was little indication that it was about to witness an incident that would eventually seal the fate of the controversial Indo-Sri Lanka peace agreement.

A Sri Lankan air force plane was on the tarmac, getting ready to take 17 Tamil Tigers to Colombo. They were caught off Point Pedro with heavy calibre weapons by a Sri Lankan naval patrol a few days earlier.

What worried the Liberation Tigers of Tamil Eelam (LTTE) was not so much the prospect of its cadres being tried for violation of a provision in the peace agreement regarding the surrender of weapons, but the fact that two of the prisoners — Kumaraappa and Pulendran — were its commanders in Jaffna and Trincomalee before the Indian army landed. And Pulendran was wanted in connection with the massacre of bus passengers on Habarana on the Trincomalee border in 1986.

That day, as on other days, food was brought to the prisoners by the LTTE's No.2, Mahattaya. Along with the food, a note was slipped in and, possibly, cyanide capsules.

The Indian peace-keeping force (IPKF) was told to stand off, despite a warning by top commanders that if any untoward incident happened, the consequences would be disastrous. "The honour of India is more important than the lives of a few LTTE men," the then Indian High Commissioner J. N. Dixit reportedly told IPKF.

Around 1 p.m., Sri Lankan army men moved into the induction cell in a bid to forcibly take the prisoners to the plane, but backed off after the prisoners threatened to commit suicide. The prisoners then locked themselves in.

An IPKF officer, who was witness to the macabre drama that followed, describes the scene thus: "Around 3 p.m., commandos smashed through the glass panes. Immediately, the boys formed a ring round Kumaraappa and Pulendran. With a smile, the two leaders bit into their cyanide capsules, followed by others. My blood froze and I raised my hat in salute. The next day, the bodies of nine Sri Lankan policemen and soldiers held captive by the LTTE were found dumped at the Jaffna bus stand, with their entrails scooped out. I thought no true soldier would treat another like this and I saw the LTTE for what it was — a bloodthirsty group."

The Palaly incident and its aftermath, like the massacre of over 100 train passengers near Batticaloa, marked the transformation of the LTTE from a guerilla outfit committed to an armed struggle to achieve an independent Eelam to a group that revelled in mindless violence.

The first acknowledged murder by the LTTE was that of Jaffna mayor Alfred Doraiaappa. But the turning point was the landmine attack in Tinneveli in Jaffna in July 1983, in which 13 soldiers were killed.

So many Tigers have sacrificed their lives for a cause they believe in the last ten years. So many more have tasted blood in massacres and have become dehumanised and perhaps traumatised for the rest of their lives. The LTTE's reach has extended from Alfred Doraiaappa in Jaffna to Rajiv Gandhi in Sriperumpudur and now the late Sri Lankan President Ranasinghe Premadasa in Colombo. And yet, Eelam remains as elusive as ever.

The Tinneveli blast, which resulted in the death of over 2,000 Tamils in islandwide riots and the exodus of over a lakh to Tamil Nadu, only reinforced the validity of the argument of other militant groups that killing a policeman here or a soldier there in hit-and-run attacks would not serve their purpose as it would only expose innocent civilians to the wrath of the security forces.

The rationale given by LTTE's ideologue Anton Balasingham gives a clue to the group's mindset. He said the masses could be aroused unless you created objective conditions of terror. In other words, repressive and discriminatory measures like forcing the Tamils to learn Sinhala or denying them admissions in universities, unless they scored higher marks than the Sinhalese, would not by themselves provoke the masses. The armed forces should be forced to retaliate, so that there would be massacres, rape, loot and plunder. Only then would there be a mass uprising.

Essentially an urban guerilla outfit, the LTTE — as part of this strategy of creating objective conditions of terror — has put up the stiffest of resistance in battles over areas where the civilian concentration is large, as in Vadamarachi during Operation Liberation and Chavakacheri during the battle for Jaffna with the IPKF.

Until the direct Indian military intervention in July 1987, the justification given by the LTTE for its military strategy was that guerilla warfare was the only way to resist State-sponsored terrorism.

A close look at the progress of the struggle would show that each strike only brought in more troops and more camps in the north and the east. The LTTE and other groups were still able to sustain the struggle from July 1983 to July 1987 because the Tinneveli incident and its aftermath secured for them a base in Tamil Nadu.

In June-July 1985, when the Rajiv Gandhi administration in India sought to give indirect recognition to the militant groups by trying to involve them in the Thimpu talks, Colombo resisted. The Tigers bared their claws and the result was the Anuradhapura massacre in which over 100 civilians, including children and Buddhist monks, were killed in one fell swoop. This was the first massacre by the LTTE; it was also their first strike outside the north and the east. Colombo relented. The talks may have failed, but they gave legitimacy to militancy. From then on, there was no looking back for the LTTE.

By then, what began as a freedom struggle had become a multimillion dollar racket with India giving arms, sanctuary and training, and expatriate Tamils funding various groups on the basis of their track record, judged by the number of soldiers they had killed. The result was bitter internecine feuds and the fallout was the massacre of nearly 100 Tamil Eelam Liberation Organisation (TELO) boys by the LTTE in 1986. Jaffna residents were horrified when TELO boys were thrown alive into burning houses. Since then, they have either become insensitised or resigned to the brutality.

The LTTE also has an infinite capacity for self-flagellation, which it has used selectively whenever it feels alienated from the people, its ego is bruised or its image is down. Operation Liberation is a typical example. The operation, directed by the then Minister for Internal Security, Mr. Lalith Athulathmudali, was no doubt marked by indiscriminate air strikes and dropping of tar bombs, resulting in the death of hundreds of civilians. But the ground forces also inflicted heavy casualties on the LTTE in the battle for Vadamarachi, the region from where LTTE chief V. Pirabhakaran hails. But for the Indian intervention, Jaffna would have fallen.

For the first time, residents of Jaffna realised the limitations of the LTTE as their sole protector. This was a humiliation the LTTE could not stomach and it had to do something spectacular to salvage its image. The result was a suicide attack on a

Sri Lankan army camp a few days after a truce was brought about.

Black Tiger Miller, a Jaffna university student who drove a truck laden with explosives into the camp, has since been made a martyr and the story goes that his last wish was to have a bottle of Coke.

Thileepan was another leader ordered to die so that the LTTE could live. He began his fast unto death in Jaffna a few days after the LTTE, in a blitzkrieg, killed over 100 members of rival groups in Batticaloa, much to the embarrassment of the IPKF. The ostensible objectives of the fast were an end to colonisation, which the LTTE had alleged had resumed in Weli Oya, the dismantling of Sri Lankan army camps in schools, etc. Thileepan died on Sept 26, 1987.

Three days later, the LTTE reached an agreement with India on the setting up of an interim administration in the north and the east. None of the causes for which Thileepan undertook his fast find a place in the agreement. What did he die for, then? The objective was to drive a wedge between the IPKF and the people of Jaffna, who had said in effect that the boys could go back to their schools and colleges now that the Indian army was there to look after them. Thileepan's life was expendable to prove that the Indian army was there to protect only India's geo-political interests. It was also meant to pressurise India as the eventual agreement, in which the Tigers got a lion's share of the seats in the interim administration, shows. But, as irony would have it, the agreement floundered on the point of who should head the administration.

The collapse of the agreement triggered a chain of events leading to the arrest of Kumarappa, Pulendran and others by the Sri Lankan navy. They had to die, so that it could be proved again that the Indian army would not protect the Tamils — and the Tigers, who were getting used to relative peace, could be made battle-fit again. As a result, a reluctant IPKF was drawn into a confrontation with the LTTE, which lasted the next two years.

No doubt, the prolonged conflict led to a no-win situation, but the fact remains that the Tigers suffered heavy losses they could ill-afford and were stretched to their limits by the concentrated presence of the Indian army.

Therefore, when President Premadasa offered the olive branch to the Janata Vimukti Perumana (JVP) insurgents, the LTTE grabbed it, much to his surprise. But he quickly saw in this an opportunity to get rid of the IPKF. Once the two main antagonists came together, the IPKF had no leg to stand on and had to eventually pack up and go.

But whatever gains the LTTE achieved by this shrewd move were lost by the blunders it made later on. Take, for example, the assassination of Tamil United Liberation Front (TULF) leader A. Amirthalingam in the heart of Colombo in July 1989, barely a month or so after the LTTE started its honeymoon with the Premadasa administration. The immediate provocation was the speech made by Mr. Amirthalingam in Parliament, opposing the IPKF withdrawal until alternative security arrangements for the Tamils were in place. Since the three assassins themselves were shot dead by security guards and the LTTE too had disowned them, the Premadasa administration preferred to look the other way, only to pay the price for it latter.

Once the IPKF was gone, there was little to hold the LTTE and the Sri Lankan government together. The LTTE started what has come to be known as Eelam War III in June 1990 with the massacre of over 300 policemen in the east, the majority of them Tamil Muslims. Since then, there have been many more massacres of Muslims. The entire Muslim population in the north has been driven out. The LTTE which, like the other Tamil groups, considers the east as an inalienable part of the Tamil homeland, has thus permanently alienated the Muslims who form a third of the population in the province and there by hold the balance of power.

When the war started, the LTTE thought that since it had withstood the fourth largest army in the world for two years, it would make mincemeat of the Sri Lankan forces. Sri Lankan defence Minister Ranjan Wijeratne was on record as saying that the IPKF had dealt a mortal blow to the LTTE and what was left was only a baby brigade.

Three years into the war, both have been proved wrong. The Sri Lankan forces have learnt as much from the IPKF as the LTTE has. The forces are in no hurry to hasten the pace. They have secured the east and are slowly tightening their gripe in the north.

The LTTE would, no doubt, have fared better if it had not committed *hara kiri* by assassinating Mr. Rajiv Gandhi. Dhanu, might have been motivated by pure revenge as she was allegedly gangraped by the IPKF. But, for the LTTE, it was the irrational fear that Mr. Gandhi might intervene militarily or prop up rival militant groups if he returned to power.

A look at the pattern of LTTE operations in the last two years, beginning with the car bomb attack on Mr. Wijeratne in Colombo in March 1991, shows that the LTTE is increasingly resorting to suicide attacks to take the heat off it in the north and east. Mr. Wijeratne's assassination has been

followed by another car bomb attack on army headquarters in Colombo, the assassination of Navy chief Clancy Fernando by a motorcycle-borne suicide bomber and, finally, the assassination of Mr. Premadasa by a 14-year-old boy at a May Day rally in the capital.

No doubt, the army suffered a grievous blow when several top brass, including the northern commander General Denzil Kobbekaduwa, were killed in a landmine blast in the Kayts island off the Jaffna peninsula last August. But, to this day, it is not known whether it was an old landmine or a new one activated by the LTTE. There are even reports that the jeep in which Gen. Kobbekaduwa and other officers travelled was specially flown in from Colombo, and there was a bomb planted in it. Whoever was responsible, the incident had the most demoralising effect on the armed forces, leading even to desertions. Possibly to hasten the process, the LTTE struck at Navy Commander Clancy Fernando and now President.

Where does all this leave a 14-year-old boy who straps explosives round his body and, with coldblooded precision, rams his bicycle into the presidential parade? How is Pirabhakaran able to motivate young boys to die for him, when the goal of Eelam still looks a mirage?

The fact is that a whole new generation has come up in the last ten years, a generation which has seen so much death and destruction that it has developed a cynical disregard for human life, a generation moved by peer pressure to believe that power flows from the barrel of a gun. To this generation, Pirabhakaran is a mystic figure, a demi-god, a king who can do no wrong.

Indian intelligence could not successfully penetrate the LTTE even during the IPKF operations, though one of its topmost leaders, Sathasivam Krishnakumar alias Kittu, was in the custody of the Research and Analysis Wing (RAW) for nearly a year. Finally, he was taken back to Jaffna and let loose in the jungles to join Pirabhakaran. The fact that he was accepted shows that RAW had failed to win him over. But the establishment of the identity of Rajiv Gandhi's killers as Dhanu, Subha and Sivarasan and the successful interception of an LTTE arms vessel commanded by Kittu, leading to his committing suicide off the Madras coast, show that the LTTE is no longer an ultra-secret organisation.

But the LTTE will survive Kittu, and even Pirabhakaran, and continue to strike terror so long as the causes which made the Tamil youths take to arms remain. And India and Sri Lanka will continue to pay the price for it.

— Deccan Herald



# SWRD and Tamil Issue

A. Jeyaratnam Wilson

On the communal question, Bandaranaike was far from being the obscurantist. It will be a surprise to many that he opposed the formation of the homogeneous Board of (Sinhalese) Ministers in 1936. He walked out of the meeting convened by D. S. Senanayake on the score that "in the case of some of the ministries" they "should vote for minority men". (Jane Russell, *Communal Politics under the Donoughmore Constitution* (1982, p. 204). Again, it was he who convened conferences of representatives of the majority and minority communities in the State Council to work out a compromise on G. G. Ponnambalam's demand for fifty-fifty representation. After the 1944 Conference, Bandaranaike thanked "those minority members for their great patience, forbearance and real goodwill" though it was not possible to come to "an agreement capable of satisfying all sections" (Russell, *op. cit.*, p. 316). In desperation, on one occasion when leaving the State Council, he called G. G. Ponnambalam a "Dravidian cad".

Bandaranaike was much alive to the ethnic divisions in the island's polity and in 1926, on his return from England, he advocated a federal system (Russell, *loc. cit.*, p. 191). He dropped the idea by 1928. But the concept of decentralisation and devolution of powers died hard in his mind. Here again he was obfuscated by D. S.'s ideas. He had advanced a proposal to decentralise powers to *Regional Councils* (italics ours). There were defects in it which could have been corrected with time. D. S. however sent him a memorandum in which he stated: "I have read the details of the scheme for the establishment of Regional Councils contained in the memorandum and I am definitely of the opinion" that such a bill "will be a complete negation of democracy..." (sic). *Ceylon Daily News*, 3 April 1952, reproduced by the paper's Political Correspondent, J. L. Fernando).

Even federalism was not an alien concept in those times. It was considered as a way out of the communal impasse by the premier low-country Sinhalese political organisation, the Ceylon National Congress. Michael Roberts in his *Documents of the Ceylon National Congress*

and *Nationalist (sic) Politics in Ceylon 1929-1950*, Vol. 1 (1977) reported that a meeting of the Working Committee of the Ceylon National Congress on 16 October 1944 reported that P. G. B. Keuneman was asked to submit a memorandum on a Federal Constitution for Ceylon" (p. 819). The minutes of the meeting of the Committee on 12-10-44 reported that the Keuneman memorandum was considered and it was decided that resolutions would be submitted to the All-Ceylon Congress Committee meeting (p. 280). Nothing thereafter happened.

## B-C PACT

In power, Bandaranaike once again revived his Regional Councils bill with a view to decentralising the overcentralised Colombo administration. He then used it, with considerable amplifications to negotiate the Bandaranaike-Chelvanayakam Pact (1957) of hallowed memory. It is just possible that had he been given the chance to implement it, the sterile and counter-productive civil war of contemporary times could have been avoided. Instead his adversaries, especially the UNP led by a trinity of Dudley Senanayake, J. R. Jayewardene and Dr. M. V. P. Peris did everything to wreck it. And such are the ways of politics that Dudley Senanayake signed more or less the same agreement, the DC Pact of 1965.

Bandaranaike was faced with a similar crisis on the language issue. Again it was the UNP which dilly-dallied in implementing the original policy of Sinhalese and Tamil as official languages. At the 1952 general election Bandaranaike agitated for the implementation of Sinhala and Tamil but it failed to have any impact on the UNP bourbons. In 1952, he did not seize on making Sinhala the Only official language. Then the Sinhala Only movement overtook events. The UNP would have coolly gone with the mass trend. The movement was in search of a leader and offered the position to Dudley. But the dithering Dudley declined. It then fell to Bandaranaike to become the man of the hour. Again he had no convictions on the issue. Just before the Movement became a forest fire, he told a delegation of Ceylon University students a few weeks prior to the general election of 1956 that his obje-

ctive was to introduce Sinhala at a certain level of administration but that he did not want to go all the way. Here he miscalculated. He was swapt by a tidal way, not a mere ripple as he might have thought. Furthermore he did not plan on doing away with the English language.

What was more, Bandaranaike tacked on the proviso "the reasonable use of the Tamil language" to the Sinhala Only issue, evidence of his awareness that he was dealing with a multiethnic polity. Whereas his UNP rivals opted for "Sinhala Only" and made no reference to the Tamil language and even dismissed the request for a Bill of Rights put forward by S. Natesan and other UNP Tamils.

Thus as one part of the BC Pact, Bandaranaike had Parliament enact in 1959, the Tamil Language (Special Provisions) Act which broadly provided for Tamil as an administrative language in the Northern and Eastern Provinces among other provisions.

## BUDDHIST REVIVAL

On the question of Buddhism, Bandaranaike was again calumniated by the hostile national press. The latter tried to make out that Bandaranaike was seeking to inaugurate a Buddhist theocratic state. Bandaranaike himself wrote a letter to the *Ceylon Daily News*, published in its issue of 3 May 1952 contradicting these charges. The letter was published under the caption "State Religion". He refuted where he was reported to have stated: "I wish to make Buddhism the state religion of Ceylon". He explained that "state religion connotes certain particular legal implications" and he added "I certainly did not have in mind necessarily such a legal position". He concluded that "revival of Buddhism" for him *could be attained without such a position*" (italics ours). Bandaranaike adhered to this position. It was his wife who with the Marxist, Dr. Colvin R. de Silva, introduced the provision in the 1972 constitution that Buddhism should be given "the foremost place" and that it shall be the duty of the state "to protect and foster" it.

Bandaranaike manipulated the dark forces of Sinhala-Buddhist chauvinism

but had he not done this, his UNP adversaries would have stolen the victory that was his due. It was the UNP who drove him to the wall. His Sinhala Buddhism was a counterpoise to the UNP's posturings e.g. their Sanchi Relics affair and the elaborate state preparations for the Buddha Jayanti. In many ways it was fortunate that this leader with a modernizing outlook became under pressure circumstances, the instrument of the obscurantism represented by the Sinhala-Buddhist movement. He refrained wisely from going to the extremes that they demanded, for that would have damaged the less than perfect legitimacy of the new state. His solution to the language problem was pragmatic and he may have resolved the thorny question through his twin formula of regional councils and "the reasonable use of the Tamil language" (already referred to). "Step on it lightly" he once told Wilmot Perera "for this is my solution to the Tamil Question".

Bandaranaike acted with political foresight when overnight he postponed for five years the full implementation of the Sinhala Only Act. In the interim he hoped to resolve the Tamil question in the way he had told Wilmot Perera. By his action in putting off the implementation of the Sinhala Only Act, he successfully dammed the communal tide. However, during this phase, he gave populist expression to the anti-Tamil views of his Sinhala-Buddhist supporters. It is doubtful that he believed in any of these articulations. To my mind he seemed more keen on making his contribution to international affairs. It looked as if he desired to model himself on the lines of his enlightened Indian counterpart, Jawaharlal Nehru.

## WORLD AFFAIRS

Thus, in his foreign policy, Bandaranaike had his own modified version of Nehru's non-alignment, which he called *dynamic neutralism*. The part he played in the non-aligned movement reflected his way of thinking. He did not walk in Nehru's shadow. From a reading of his speeches, and information I received from former students who joined the diplomatic service, I drew the inference that he planned on devising his own strand of a non-aligned foreign policy. Judging from his pronouncements on the latter subject, I think that had he lived, he would have attempted to forge a bloc of the smaller Third World states, supportive of the great Nehru-Nasser-Soekarno-Tito-Chou En-Lai combine but not necessarily subservient to their dictates.

(To be continued)

## THE J. R. YEARS — (5)

# The Nadesan Case (Continued)

### Arden

- o. "Similarly under Section 32, the N.S.A. cannot order that the fine should be paid to the Deaf and Blind School. The fine imposed should go to the public revenue".
- p. "The very first case before the N.S.A. which was heard and concluded in an extremely short time affords a telling illustration of the dangers inherent in the new amendment giving punitive powers to the N.S.A. of sentencing persons to fine or imprisonment. This amendment which was enacted without the benefit of informed public criticism should be repealed".

That was the Attorney-General's case. In extenuation, it is fair to mention that the U.F. government's 1972 Constitution had removed all the constitutional safeguards that existed to protect senior public officials in doing their duty without any risk of political victimisation. Although Jayewardene had, in his election campaign condemned this measure and undertaken to restore the previous position, it was a promise he had no intention of keeping, and did not keep.

More than two years after the alleged offence, the matter came up before a five-judge bench of the Supreme Court. Attorney H.L. de Silva, for Mr Nadesan, submitted, *inter alia* :

"Parliament is not an idol before which we must stand in silent adoration. It is not an oracle whose pronouncements and decrees we must accept without demur. Nor is it a hothouse plant which has to be sheltered and protected from the winds of outspoken criticism. If it is to command the respect and esteem of intelligent men it must be exposed to public scrutiny, to the critical appraisal of fair-minded men and be judged according to the criteria and standards by which all public institutions are judged... It would be a wholly mistaken approach if we regarded the rules of parliamentary privilege as a kind of *cordon sanitaire* which protected members of parliament from unfriendly criticism. It is only a body of rules which have been developed to ensure that parliament is enabled to function without unwarranted interference and unfair attacks... The freedom of speech and expression which the constitution guarantees to us is not simply the freedom to sing praises, to

eulogise and to applaud. It includes the right to criticise, and to correct. Otherwise it would mean that we have only the freedom to support but not to oppose, to approve but not to disapprove, to accept but not to reject, to affirm but not to protest. That would be the very negation of freedom for freedom contemplates the possibility of contrary action and contradiction... To think that we are enjoined against criticism is to assume that we are all sycophants, given to fawning and flattery, seeking to ingratiate ourselves with those in the seats of power... To point out errors and mistakes on the part of parliament is not defamation because parliament has no prerogative of perfection, no immunity from falling into error and is not endowed with omniscience. It has no claims to infallibility or to our sustained admiration in all circumstances. It must earn our respect by the wisdom of its deliberations and decisions, by its knowledge and understanding of the problems it has to deal with. Parliamentary privilege was not meant to insulate parliamentarians against criticism and the considered judgment of the people. By virtue of their election to that high office and membership of that august assembly they did not acquire a right to our perpetual respect. By their own conduct they may forfeit it, in certain circumstances. The proceedings and conduct of the people's elected representatives must always be subject to the surveillance and scrutiny of the people. They must learn to endure adverse comment and fair criticism and not be unduly sensitive to it. To react to criticism with annoyance, resentment or pique shows an infantile attitude and is not what is expected of mature and responsible men.

To stigmatise criticism or fair comment as contempt of parliament or a breach of privilege is to misunderstand parliamentary privilege. What is prohibited is the scandalisation of parliament. To criticise we have the right — to scandalise we are forbidden. We must not mistake the one for the other.

Parliamentary privilege was not intended to be a coercive instrument for the elimination of dissent.

Members of Parliament have freedom of speech. They do not have freedom from criticism. Immunity from

criticism is not part of the doctrine of parliamentary privilege".

Mr. Nadesan was acquitted; but it had been a traumatic experience for serious-minded citizens, concerned for the integrity of their rulers. It was a matter of grave disquiet as to what these quite unprecedented developments might portend for the future.

### THE FREEDOM OF THE PRESS

Almost the first official act of J.R. Jayewardene as prime minister was to take over the pro-S.L.F.P. Times Group of Newspapers. He claimed it was done because the company was in a bad way financially. After some half-hearted attempts to run these papers with the help of a "competent authority" he closed down the papers altogether. The anti-S.L.F.P. SUN group of papers was left alone. A new newspaper group, the Island group, started by Jayewardene's cousin and the SUN group maintained a mildly independent line. The government's riposte was to withhold government advertising from these two groups. Government advertising had always been a fruitful source of revenue for newspapers and withholding government advertising (a device invented by the previous government) was used by President Jayewardene's government, while the president never ceased to extol the virtues of a free and independent press.

In 1972 the United Front government introduced the Press Council Bill. This bill was challenged in the constitutional court by the Leader of the Opposition Mr. J.R. Jayewardene of the United National Party. His lawyers urged, *inter alia*:

"Clause 16(1) absolutely prohibits publication in a newspaper of the whole or part of the proceedings of a cabinet meeting. Clause 16(2) prohibits the publication in a newspaper all documents passing between Ministers and the secretary to the cabinet and the publication of the whole or part of the cabinet decision, unless approved for publication by the secretary to the cabinet. This provision constitutes a flagrant violation of the freedom of speech and expression. Douglas J. said in the Pentagon Papers case: 'Secrecy in government is fundamentally anti-democratic perpetuating bureaucratic errors. Open discussion and debate of public issues are vital to our national health. On public issues there should be open and robust debate'. The essential aspect of freedom of speech involves the right of free criticism of the bureaucracy and the government. It is thus seen that the involvement of the press in the discus-

ssion of cabinet matters is but an essential part of the democratic structure in a free society. Any attempt therefore to remove from discussion such matters is fundamentally opposed to the freedom of speech and discussion in a democracy".

The U.N.P. lawyers' submissions were printed in booklet form and distributed at U.N.P. propaganda meetings.

The bill was passed into law as the Sri Lanka Press Council Law No. 5 of 1973. When the bill was taken up in parliament the U.N.P. led by J.R. Jayewardene staged a protest walk-out.

The U.N.P. government did not repeal the Press Council Law. Instead, Jayewardene appointed his own nominees to the Council. To head it he named a close relative.

On 11 November 1980 Mr. Amirthalingam, Leader of the Opposition, referred in parliament to a report by a SUN columnist of some matters that were discussed at a cabinet meeting held on 5 November, a few hours before the budget was to be presented. The Finance Minister was incensed. The very next day the government drew public attention to the fact that the publication of matters coming under Section 16 of the Press Council Law was a punishable offence.

In October 1982 the government instituted a prosecution against the SUN group of newspapers and the editors of the SUN and the WEEKEND for the contravention of Section 16 of the Press Council Law. The prosecution was in consequence of the publication of a news story headed: "Foreign aid gives first aid to balance Lanka's budget — Explosive cabinet meeting on Thursday".

(To be continued)

## The Scholar's Tale

### Prologue

*Long ere the Vikings battered with their genes  
The Franks, Celts, Saxons, Slavs and Arctic tribes  
Barbarian hordes had raided fragile Greece  
And Rome was ravished by wild Gothic types*

*Greek seed sprouted far in India's plains  
Persian tides flowed back to Byzantium  
Byzantine bedded Bulgar and fierce Turk  
The way Sassanids diluted old Babylon*

*Shame and betrayal stalked proud Queen and maid  
In Egypt (and Lanka too) and sad Carthage  
The Arabs straddled Africa and Spain  
In dhows, the China Seas, in Caravans  
Far Samarkand, while Genghis razed Peking  
Kiev and Warsaw, pursuing Carpathian Kings  
Through the ill starred Balkans.  
Mongol and Moghul Zig-zagged East-West and back  
To Akbar and the final shuffling of the pack  
With white genes on yellow, brown and black.*

*But while this tragic unending Story  
Unfolds with the Caravans of Time and torment  
Behold our Scholar, the hero of this Tale  
Research rare myths to cleanse this Ethnic ferment*

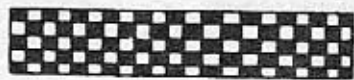
(Continued)

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# Regional Approaches — The Parameters of the Discussion

Jayantha Dhanapala

*From 'Regional Approaches to Disarmament, Security and Stability' Edited by Jayantha Dhanapala and Published by Dartmouth (U.K) for the United Nations Institute for Disarmament Research (UNIDIR)*

## Introduction

This introductory chapter will examine the emergence of strong pressures for regional approaches to disarmament, security and stability that have arisen in the wake of the progress achieved in bilateral US-Soviet arms negotiations and European disarmament. This impetus comes especially after the diminution of the threat perception regarding the former USSR and the end of the Cold War, and the perceptions in the North about threats of arms proliferation in the South. It traces the evolution of regional approaches and their complementarity to global approaches. It will attempt to analyse the transition after the end of the Cold War and the impact of the Gulf War on global disarmament and security in general and weapons proliferation in developing countries in particular. The actual facts of arms expenditure, purchases, development and exports and the details of arms supplies in the various regions outside Europe will be presented and viewed in the context of the global and regional environment with a view to understanding why these countries seek to arm themselves. In a highly interdependent world political and economic system, the linkages of the various regions with the rest of the global community demand that we view arms control in its global perspective while we work to achieve regional disarmament and security.

The discussion about regional approaches is not of recent origin. Regional and global approaches are not mutually exclusive. They are in fact complementary and mutually-reinforcing. They must therefore be pursued in tandem. Disarmament efforts confined to particular geographical regions certainly have a more ancient lineage than global disarmament. Imperial dominance through power projections beyond national territorial limits,

geographical discoveries, especially after the 15th century A.D., the era of colonialism and international commerce and trade and the remarkable development of communications technology all led to a gradual integration of the global system. More recent global approaches to security may be traced to the Congress of Vienna in 1815. It was after World War II, however, that disarmament truly became worldwide in scope and multilateral in participation, with the awesome spectre of the nuclear weapon threat, the emergence of Super Powers, the enormous decolonization process, especially in Asia and Africa, and the active involvement of the United Nations in disarmament and security issues. The creation of international mechanisms for world disarmament and security facilitated the focus on global disarmament efforts. Acute concerns about the global effects of nuclear weapons and other weapons of mass destruction helped to sharpen this focus. Unsurprisingly, the first UN General Assembly resolution was on global disarmament.

Notwithstanding this post-World War II preoccupation with global disarmament approaches, a number of initiatives were taken at regional levels to achieve disarmament, security and stability. Although the 1959 Antarctic Treaty demilitarized a specific region, it is uninhabited. Thus it cannot be regarded as a strictly regional approach to disarmament. European initiatives are also excluded from this discussion because of UNIDIR's separate research programme on this region and also because it has been embroiled in the East-West global disarmament negotiations. However, some references to the European experience will be made throughout this research report for comparative purposes. Included among the more successful initiatives are the 1967 Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) and the 1985 South Pacific Nuclear-Free Zone Treaty (Treaty of Rarotonga). Both treaties are the outcome of the collective efforts of countries of the regions to ban nuclear weapons from their regions. Protocols were established for extra-regional nuclear weapon states to demonstrate their respect for the denuclearization of these zones.

In addition to these treaties, a number of initiatives have been made by groups of countries in the past and continue to be discussed in international fora. These initiatives, which will be discussed in detail

in the following chapters, include the Declaration on the Denuclearization of Africa adopted by the Assembly of Heads of State and Government of the Organization of African Unity at its first ordinary session held in Cairo in July 1964 and repeatedly endorsed by the UN General Assembly; the 1971 United Nations Declaration of the Indian Ocean as a Zone of Peace which has been endorsed annually; the Ayacucho Declaration of 1974 regarding non-use of force, arms limitation and peaceful settlement of disputes by a group of Latin American countries; the resolution repeated at the UN General Assembly since 1974 on the establishment of a nuclear weapon-free zone in the Middle East; a similar resolution repeated since 1974 on the establishment of a nuclear weapon-free zone in South Asia; a proposal to strengthen security and co-operation in the Mediterranean region contained for example in UN General Assembly Resolution 44/125; the Kuala Lumpur Declaration of the Association of Southeast Asian Nations (ASEAN) on the Zone of Peace, Freedom and Neutrality (ZOPFAN) in Southeast Asia and the proposal for the denuclearization of the Korean Peninsula.

A number of regional organizations have been established throughout the world, which either already have the mechanisms to set in motion regional arrangements for disarmament, security and stability or have the capacity to design them. In Latin America, there is the Organization of American States (OAS) and to implement the Treaty of Tlatelolco there is OPANAL; in Africa there is the OAU as well as subregional bodies like SACEP which have been mainly economic in character; in Asia there are the predominantly economic organizations of ASEAN and SAARC, and in the Pacific there is the South Pacific Forum. The chapters to follow will discuss these organizations and others by examining their efficacy in the past and their potential for the future.

The Charter of the United Nations has ample provisions for regional approaches in the task of maintaining international peace and security. Chapter VIII contains Articles 52-54 which have the effect of permitting regional arrangements and agencies to work in accordance with UN objectives and achieve the peaceful settlement of regional disputes. The language of Article 52:1 "for dealing with such matters relating to the maintenance of international peace and security as are

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appropriate for regional action" (the emphasis is mine) could be interpreted as being restrictive. On the other hand, it is important that regional approaches should not seek to over-reach their limits, whether geographical or in terms of their mandate. The Security Council is required to encourage such approaches, with the initiative coming either from the region or the Security Council itself. Enforcement action has to be authorized by the Security Council except for situations relating to the end of World War II. The Security Council has also to be kept informed of activities undertaken or contemplated under regional arrangements. The present crisis surrounding the break-up of Yugoslavia is an interesting challenge for the regional bodies and the UN to work out a demarcation of responsibilities. The outcome could establish a precedent to follow in future conflicts.

The Final Document of the 1978 First Special Session of the General Assembly devoted to Disarmament (SSOD I) remains the high-water mark of the international consensus that has been achieved on disarmament issues. It asserted the central role and primary responsibility of the United Nations in disarmament and affirmed that the UN should be kept appropriately informed of all steps in disarmament negotiations, including regional ones. The establishment of nuclear weapon-free zones was considered to be an important measure (paragraphs 33 and 60-63). Reference was also made to regional Zones of Peace and the need for disarmament in Europe. The pursuit of both agreements or other measures, including on a regional basis, and of regional consultations was encouraged. Paragraph 121 stated that "Bilateral and regional disarmament negotiations may also play an important role and could facilitate negotiations of multilateral agreements in the field of disarmament".<sup>1</sup>

It is clear that the focus of SSOD I was on global efforts to achieve disarmament while regional initiatives were mentioned almost *en passant*. This was despite the considerable achievements (the Treaty of Tlatelolco and the Helsinki Accords) and ongoing initiatives that were being discussed in the field of regional disarmament and security. The emphasis on global disarmament, as stated earlier, was entirely appropriate at this historical stage, given the Cold War situation and the nuclear arms race. The perception also existed that regional measures would only be aimed at the least armed nations, leaving the arsenals of the Great Powers for bilateral negotiation and the global disarmament machinery. However, there appears to have been a tacit acknowledgment that the global agenda was vast in scope, making pragmatic steps at the

regional level also feasible.

In the same year, a resolution in the General Assembly requested a study of all aspects of regional disarmament which was completed in 1980. It is not necessary to summarize the contents of this United Nations study; it is important, however, to view the study in the historical evolution of regional approaches to disarmament. The current research report, written twelve years later, will also refrain from going over the same ground covered by the study. Suffice to say that the study comprehensively surveyed past experience and ongoing initiatives which were regional in scope; attempted to define the concept, the terms and the principles of regional disarmament, and to set out some measures which were regarded as feasible. The study, in conclusion, recognized the need for its general approach to be supplemented by detailed analyses of individual regions and the disarmament measures possible in them. This is what the present report attempts to do in the context of the revived interest in regional approaches.

At the outset it was recognized by the participants of this research project that even with the exclusion of Europe (which has been explained above), a comprehensive coverage of the regions of the world was not possible. The 1980 UN study adopted a flexible approach to the concept of a "region" since regional limits depended on individual initiatives; also areas of application of regional disarmament measures were not rigid. For the purposes of the current report, it was decided to identify regions in terms of security communities or groups of countries that share certain geo-political characteristics so as to place them in one relatively homogeneous security zone. This zone could encompass both land and ocean areas. Thus we see the Maghreb as a security region distinct from the Middle East, and the South Pacific as being distinct from the North Pacific. Inevitably some countries will fall within more than one zone. The rationale for the delimitation of these regions is explained by the individual authors in the following chapters. It is also being demonstrated by current events that regional demarcations themselves are subject to change.

Resolutions on regional disarmament after the 1980 UN study have been introduced in the General Assembly since 1982 with a view to encouraging regional initiatives. In the late 1980s, with the transformation in US-USSR relations and its global consequences, the resolution on regional disarmament acquired greater importance and gathered more support. At the 1990 session, Resolution 45/58 M on Regional Disarmament including

confidence-building measures was adopted without a vote, but Resolution 45/58 P had 142 states voting for, none against and ten abstaining. The resolution, in its operative part, called for agreements on nuclear non-proliferation, disarmament and confidence-building measures at regional and sub-regional levels. At the 1991 session, Resolution 46/36 F also affirmed the basic principles of regional disarmament including confidence-building measures, adding significantly in a preambular paragraph that "disarmament measures in one region should not lead to increased arms transfers to other regions". While this resolution was adopted without a vote, Resolution 46/36 I had 154 voting for and four abstentions (Bhutan, Cuba, India and Laos). The specialized deliberative body — the Disarmament Commission which agreed in 1990 on ways and means to enhance its functioning — has a "Regional approach to disarmament within the context of global security" as one of the four substantive items on its agenda. The discussions began in 1991 and will conclude in May 1993. The item has generated considerable interest and a number of working papers have been submitted. A consensus-building process has begun on general principles and guidelines.

A further development, indicative of the current trend to focus on regional approaches, is the establishment of United Nations regional centres for disarmament in Lome, Lima and Katmandu. These centres, which are financed out of voluntary contributions, are intended as focal points for regional co-operation not only in the practical implementation of the World Disarmament Campaign, but also "to facilitate the development of effective measures of confidence-building, arms limitation and disarmament" (Resolution 45/59 E). Financial constraints have prevented the regional centres from being as effective as they were intended to be, but they function for the benefit of the regions and are a nucleus on which to build.

Apart from the growing consensus within the UN system in favour of regional approaches, a number of influential reports outside the framework of the UN have also advocated regional disarmament. The Stockholm Initiative, for example, recommends a series of regional security conferences patterned on the CSCE process.<sup>2</sup>

(To be continued)

#### Notes

1. A/Res/S-10/2 dated 30 June 1978.
2. Common Responsibility in the 1990s, Prime Minister's Office, Stockholm, 1991.

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