

புத்தகம்
பிரதிபலிப்பு

POLITY

Vol. 2 No. 5 & 6

ISSN 1391-822X

Rs. 50

P-TOMS

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SABRE RATTLING?

In Sri Lanka's uneasy peace between the government and the LTTE, spreading violence is subjecting the cease-fire agreement to increasing pressure. There is also a growing fear that hostilities might break down soon, leading to the resumption of war. Even the Co-Chairs of Sri Lanka's peace process have expressed concern about these developments. They sent a communication to the President and even met her to discuss how to avert escalation of violence.

These events are taking place against a backdrop of continuing erosion of public confidence in the peace process in general. Three years of 'no war – no peace' has not contributed much to stabilize people's trust on the ability of government and the LTTE to advance the peace process further. The long suspension of negotiations, continuing violations of the CFA along with unabated violence and the myth of a 'peace dividend' amidst the spiralling cost of living are some of the key factors that have contributed to the erosion of popular support and confidence on the peace process. The overall behaviour of the government, the LTTE, the political parties and the media gives the impression that advancing the peace process further in order to stabilize it through fresh negotiation and settlement agreements is nobody's real concern. The extreme difficulty with which the government and the LTTE negotiated even a humanitarian mechanism for post-tsunami re-building, the intense opposition it generated among Sinhalese nationalist forces and judicial injunction against some of its clauses have further added to this atmosphere of despair that is fast building up in Sri Lanka at present.

The sabre rattling has begun against a backdrop of continuing uncertainty of the direction in which the political process of the country should move. Will there be full-scale war once again? People have begun to ask this question and only the government

and the LTTE will have an answer. The government on its part has repeatedly said that it did not want war. The LTTE has also said that they did not want war, unless the war is 'thrust upon the Tamil people.'

War, in objective analysis, does not seem to be the first choice rationally preferred either by the government or the LTTE at present. At the present stage of the conflict, full-scale war is unlikely to bring about any significant military or political advantage to either side. For the government, another phase of war would be extremely destructive in both political and economic spheres. For the LTTE too, the next phase of war would be immensely destructive. For the past three years under the conditions of CFA and political engagement with the government, the LTTE has begun a re-building process in the North. It includes economic recovery, infrastructure development, setting up of an administrative machinery while the combatants are in the barracks, and new institution building necessary for structures of regional autonomy. The LTTE might not want the next phase of war to destroy all these 'achievements' made under conditions of relative peace.

Meanwhile, for the government as well as the LTTE, taking the first step towards war might not be the rational first option, even under conditions of deteriorating conditions in the Eastern province. Amidst public posturing to the contrary, the government and the LTTE seem to have established a relationship of political engagement through negotiations for the MoU on the post-tsunami administrative mechanism. The terms of the MoU clearly indicate that both sides have made significant concessions to one another in agreeing to the final text. That relationship of engagement probably continues, despite hard-line posturing in public. What is really important now is for the two sides to build further on this engagement and broaden it to discuss key issues relating to the CFA, overall security

issues and the next phase of the peace process. It is probably not possible to begin peace talks as such at present, because there is no major agenda for them to discuss. But, preparation for the next phase of peace negotiations requires greater consultation between the two Peace Secretariats with the participation of the Muslim Peace Secretariat as well. Preparation for next phase of the peace process will invariably involve addressing issues that have led to the present stage of sabre rattling. **P**

POLITY

Vol. 2 No. 5 & 6
June-July 2005

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Annual subscriptions:

Sri Lanka	Rs. 600
By Airmail:	
South Asia/Middle East	US \$ 28
SE Asia/Far East	US \$ 28
Europe/Africa	US \$ 30
Americas/Pacific countries	US \$ 40
(Please note the revised subscription rates. Cheques in favour of Pravada Publications)	

SUPREME COURT JUDGMENT ON P-TOMS

Thirty-nine MPs belonging to the Janatha Vimukthi Peramuna (JVP) filed a fundamental Rights petition before the Supreme Court claiming that the Memorandum of Understanding signed by the government and the LTTE to setup a Post-Tsunami Operation Mechanism Structures (P-TOMS) violated their fundamental rights. They sought from the court an injunction prohibiting the operation of the MoU. The determination, written by Chief Justice Sarath Silva, is significant in a number of counts. While rejecting some key arguments of the petitioners, the Court granted them an interim relief concerning the clauses of the MoU relating the Regional Fund and the Regional Committee.

The following are the relevant excerpts of the judgment, delivered on July 15, 2002.

Sarath N Silva. Chief Justice

“The Petitioners contend that the entering into of the MOU, the management structure of P-Toms, and the respective powers and functions constitute an infringement of their fundamental rights guaranteed by Article 12(1) of the Constitution, for the following reasons:

- i. The 3rd Respondent does not have any authority to enter into the MOU for and on behalf of the Government of Sri Lanka
- ii. The MOU does not specify that the 3rd Respondent has been authorized by the President in this matter and in any event, even the President cannot grant such authority on her own responsibility in view of the provisions of Articles 42 and 43(1) of the Constitution.
- iii. There is no legal basis to enter into the MOU with the LTTE, which is not an entity recognized by law and which is identified with terror, violence, death and destruction;
- iv. The powers and functions of the Committees especially that of the Regional Committee are governmental in nature and content and cannot be validly conferred on such Committees in the manner contemplated in the M.O.U.;
- v. The foreign funds committed by the donors to carry out tsunami relief through the Government, form part of the funds of the Republic and should be disbursed and accounted for in the manner provided in the Constitution and the applicable laws and procedure. The provisions in the MOU for the Regional Fund and its management by the Regional Committee are inconsistent with their legal requirements.

On the basis of the foregoing it is contended that the MOU sets up a structure and lays down procedures that are contrary to the rule

of law and deny the Petitioners equal protection of law as guaranteed by Article 12(1) of the Constitution.

It is further contended that the MOU with special provisions in relation to six districts only of the TDZ with the establishment of a Regional Committee and a Regional Fund, discriminate against citizens in the area outside their Districts who have been equally or worse affected by the tsunami, on the basis of place of the birth and residence and as such the fundamental rights guaranteed by Article 12(2) of the Constitution is infringed.

The matters drawn in issue by the Petitioners in relation to:

- i) The ambit of Executive power of the President;
 - ii) The MOU ex facie agreed and accepted by the Government and the LTTE;
 - iii) Structure intended to be set up under the MOU in the form of Committees and their composition;
 - iv) The powers and functions of the Committees and the financial arrangements;
- are indeed unique and unprecedented in every respect.

The final relief sought by the Petitioners is that the MOU be declared void and invalid in law as being an infringement of their fundamental rights guaranteed by Article 12(1) and 12(2) of the Constitution. They have sought interim relief to restrain the Respondents from taking any steps to implement the MOU pending the final determination of these applications.”

The alleged infringements relate to the MOU which provides a management structure with functions and powers assigned to

Committees at three levels and in examining the criteria set out above the question to be considered is, whether the Petitioners have established a strong prima facie case in respect of the entirety of the MOU or in respect of any clearly severable part or parts of the MOU. If so, the interim relief has to be restricted to such parts only.

The criteria generally described as balance of convenience and equitable considerations would encompass the matters stated above with regard to the relief that may be granted for the protection of fundamental rights, as set out in article 126(4), and considered in the preceding section of this judgment. On the basis of that analysis, it would be necessary to consider the disadvantage and damage in relation to both parties. Since the MOU is intended to deliver urgent humanitarian assistance to the persons who suffered from the tsunami in the six districts referred to above, if there are any parts of the MOU in respect of which the Petitioners establish a strong prima facie case, it is incumbent on this Court to take the further step of converting the alleged illegality in respect of which a strong prima facie case has been made to a situation that is legal and according to law and thereby ensure that the interim relief would not result in undue hardship to the persons who suffered from the tsunami in these districts.”

.....
Mr. H.L. de Silva, P.C. contended that although the President identified in Article 4(b) as the single authority to exercise the executive power which forms part of the sovereignty of the People, the exercise of such power by the President is circumscribed by the provisions of Articles 42 and 43(1) of the Constitution.

.....
On a careful scrutiny it is seen that Article 42 specifies the responsibility of the President to Parliament for the due exercise, performance and discharge of the powers and duties under the Constitution and the law. Article 43(1) similarly lays down the collective responsibility of the Cabinet of Ministers to Parliament in respect of the direction and control of Government. These two provisions relate to responsibility and answerability for the exercise of executive power. The fact that these provisions lay down the element of answerability bring home the point that the exercise, performance and discharge of executive power and functions is primarily vested with the President. The stage at which answerability arises is upon the exercise of power. It could not be contended on the basis of these provisions that the President should consult or seek prior concurrence of either the Parliament or Cabinet of Ministers for the exercise of Governmental power. However, the element of responsibility and answerability postulates that the President, where it is necessary may seek the concurrence of the Cabinet of Ministers and of Parliament.

.....
These provisions in my view confer on the President not only specific powers but also a residuary power, in respect of functions that broadly come within the realm of the executive, and the Government, being the description of the status of the President in article 30(1), in appropriate circumstances the President may lawfully act on behalf of the Republic and enter into agreements

and arrangements that may be necessary to carry out essential Governmental functions.

The preamble to the MOU sets out the basis on which it was entered into, being the need to provide urgent humanitarian assistance to the persons who have extensively suffered on an unprecedented scale from the tsunami that struck Sri Lanka in December 2004. As Head of the Executive and of the Government it is the duty of the President to ensure that essential relief and assistance for rehabilitation, reconstruction and development should be made available to the persons who have thus suffered. Hence in my view there is no illegality in the President entering into an MOU for the objectives and reasons set out in the preamble. The Petitioners have failed to make out a strong prima facie case in respect of matters (i) and (ii) drawn in issue by them.

Mr. S.L. Gunasekera, contended that it is illegal to enter into the MOU with the LTTE which he described as a terrorist organization that caused tremendous loss of life and property in this country. The contention is that even assuming that the President could enter into a MOU for the objectives and reasons stated in the preamble, the other party to the MOU is not an entity recognized in law and should not be so recognized due to antecedent illegal activities of the organization.

In this regard I have to note that the matter so strenuously urged by Counsel cannot by itself denude the status of the 4th Respondent to enter into the MOU. The circumstances urged by Counsel cannot and should not have the effect of placing the 4th Respondent and Organization that he seeks to represent beyond the pale of law. We have to also bear in mind that already a cease-Fire Agreement has been entered into on 23.2.2002 between the Government of Sri Lanka and the LTTE, which according to section 2(b) of the MOU “shall continue in full force and effect.”

In these circumstances there is no illegality in entering into the MOU with the 4th Respondent for the purpose of rendering humanitarian assistance as contemplated in the preamble to the MOU. The petitioners have failed to establish a strong prima facie case in respect of this matter as well. In the result the Petitioners have failed to make out a strong prima case on any ground that warrants interim relief as to the entirety of the MOU.

From this point, I have to examine the submissions with regard to the specific provisions of the MOU in relation to the Committees and their respective powers and functions.

The basic submission of the Counsel for the Petitioners in this regard is that the three Committees proposed to be set up, as the Operational Management Structure would not derive authority from any law that is applicable. The Respondents reply is that these Committees are adhoc structures intended solely to ensure the effective disbursement of post-tsunami relief in the six districts referred to above. The Respondents have not identified the provisions of any statute or any other applicable law on the basis

of which the Operational Management Structures are being set up. Considering the objectives as set out in the preamble to the MOU and the fact that the Structure is set up to facilitate the disbursement of urgent humanitarian assistance, it would not be necessary, in my view to derive any specific authority from a statute, as contemplated by the Petitioners. The submission of the Petitioners that even in such circumstances the Structure sought to be established should derive authority from a statute imposes a undue rigidity to a process that must retain a degree of flexibility to ensure that all persons who have been affected are adequately cared for.

.....

The provisions of section 7 which establish the Regional Fund have been reproduced before. The Fund consists of foreign funds and secretariat funds, including both foreign and local funds. It is clear from the provisions of the MOU that the foreign funds referred to are the donations to be received by Sri Lanka from multi-lateral and bi-lateral donors. These funds when received by the country should in terms of Article 149(1) of the Constitution be paid into the Consolidated Fund and be disbursed in terms of the Constitution and the applicable law. Expenditure from this fund would be subject to audit by the Auditor General, as provided for in Article 154 of the Constitution. These are salutary safeguards included in respect of public finance to ensure transparency in the matter of disbursement of funds and proper accountability. Multi-lateral and bi-lateral donors being fully committed to the rule of law, transparency and good governance would necessarily insist that funds committed by them magnanimously for a humanitarian objective be properly dealt with and accounted for in this country, according to the applicable law. The provisions in Section 7 read with 6(b)(iv) are plainly inconsistent with the Constitution and applicable law. Thus the Petitioners have in my view established a strong prima facie case for interim relief in respect of Sections 6(b) (ii) and 6(b)(iv) and Section 7 of the M.O.U. A question now arises as to whether any measures could be imposed by this court to convert the situation of a prima facie illegality referred to above to one of legality so that it would be just and equitable from the perspective of all parties concerned.

In this connection it is relevant to note that Section 6(i) coming within the purview of the Regional Committees provides for Project Management Unit (PMU) to be established to manage projects approved by the Regional Committee. When the operation of Section 6(b)(i)(ii) with regard to project approval and management by the Regional Committee is stayed, necessarily the provisions of sub-paragraph (i) would have no effect. However, considering the objectives as set out in the preamble it would be necessary to establish a Project Management Unit that would exercise the Governmental functions in respect of projects for relief, reconstruction, rehabilitation and development in these districts. Therefore the 2nd and 3rd Respondents are at liberty to establish a Project Management Unit in accordance with applicable procedures. The Unit so established would take into account the measures recommended by the Regional Committee in terms of Section 6(b)(i) and the Regional Committee would retain its

functions in terms of 6(b)(iii) of overall monitoring of projects to ensure that relief is equally received by all persons who have been affected by tsunami.

A specific submission has been made with regard to the provisions of section 4(b)(f) being the location of the Regional Committee. It is provided that the Regional Committee shall be located at Kilinochchi. Counsel for the Petitioners contended that persons from certain parts of the six districts referred to would not have easy access to Kilinochchi. This matter was not disputed by Counsel for the Respondents. The safeguards contained in the decision making process set out in Section 6(e) to be effective to any "minority group" the members of the Committee should have no fears with regard to the proper exercise of their choice. The Petitioners contention of the lack of such an environment of freedom in the designated place cannot be disputed. In the circumstances the Petitioners have made out a strong prima facie case in respect of Section 6(f). Accordingly interim relief is granted restraining the operation of this provision. The parties would be at liberty to decide on a suitable site to locate the Regional Committee on the basis of the criteria set out below:

- i) That the place be centrally located with the TDZ of the six districts referred to;
- ii) That all persons from every part of the TDZ of these districts should have free and unhindered access to such location;

The criteria set out above would result in the illegality referred to above being converted to a situation according to law.

The findings stated above are summarized as follows:

- i) an interim order is not granted in respect of the entirety of the MOU referred to and the Structure as provided in the MOU consisting of Committees may be established and become functional subject to the restrictions as are imposed by this judgment;
- ii) the operation of Sections 6(b)(ii), 6(b)(iv), 6(b)(iv), 6(b)(f), 6 (I) and 7 of the MOU are stayed pending the final determination of this application;
- iii) the funds both foreign and local intended to be deposited in the Regional Fund as provided in Section 7 may instead be dealt with according to the provisions of the Constitution and deposited in a separate account with a Custodian to be designated, if lawfully authorized;
- iv) the location of the Regional Committee be decided on by the parties in compliance with the criteria that has been stated;
- v) a Project Management Unit (PMU) may be set up in lieu of the Unit provided for in Section 6(I) by the relevant Ministry in accordance with the applicable procedure. Such Project Management Unit would be at liberty to coordinate and implementation of the projects with the District Committees, the Regional Committee and the High Level Committees as provided in the MOU. ■

MEMORANDUM OF UNDERSTANDING (“MOU”) FOR THE ESTABLISHMENT OF A POST-TSUNAMI OPERATIONAL MANAGEMENT STRUCTURE (“P-TOMS”)

Preamble

WHEREAS the tsunami that struck Sri Lanka on December 26, 2004 (the “tsunami”) destroyed human lives and property on an unprecedented scale;

WHEREAS there is an urgent need for all communities, Sinhala, Tamil, Muslim and others, to cooperate on humanitarian grounds in the face of this common adversity; WHEREAS the equitable allocation of post-tsunami funds to all parts of Sri Lanka struck by the tsunami will be based on accepted needs assessments;

WHEREAS in recognition of this urgent humanitarian need and in a spirit of partnership, the Government of Sri Lanka (the “GOSL”) and the Liberation Tigers of Tamil Eelam (the “LTTE”) (the “Parties”) have resolved to work together, in good faith and using their best efforts, to deliver expeditious relief, rehabilitation, reconstruction and development to the coastal communities in the six districts of Ampara, Batticaloa, Jaffna, Kilinochchi, Mullaitivu and Trincomalee (“the Six Districts”) and to facilitate and expedite the process of rebuilding the affected areas;

WHEREAS there is a need for establishing P-TOMS to facilitate such cooperation among communities, and between the Parties; NOW, THEREFORE, in consideration of the foregoing the Parties have entered into this MOU and agreed as follows:

1. Structure

a. An integrated operational management structure shall be established for the purpose of planning, implementing and coordinating post-tsunami work. Such structure shall consist of:

- i. The Post-Tsunami Coastal Reconstruction Committee (the “High-Level Committee”);
- ii. The Post-Tsunami Coastal Reconstruction Committee for the Six Districts (the “Regional Committee”); and
- iii. Post-Tsunami Coastal Reconstruction Committees for each of the Ampara, Batticaloa, Jaffna, Kilinochchi, Mullaitivu, and Trincomalee districts (the “District Committees”).

b. The High-Level Committee, the Regional Committee and the District Committees shall discharge of their functions in such a manner as to address the concerns of all persons in the Tsunami Disaster Zone (the “TDZ”, as defined below) and shall do so without discrimination against any person on grounds such as ethnic origin, sex, language, religion, political or other opinion, social origin, birth or other status.

2. Scope

a. The scope of the High-Level Committee, the Regional Committee, and the District Committees shall be limited to performing the functions defined in Sections 5(b), 6(b), and 8(b), respectively, and having effect exclusively within the TDZ (as defined below), as further specified by Section 6(a) in the case of the Regional Committee and by Section 8(a) in the case of the District Committees.

b. The Tsunami Disaster Zone (the “TDZ”) shall be defined as the area affected by the tsunami.

c. The TDZ shall include all that tsunami-affected land area of Sri Lanka, which is adjacent to the sea, lying within a limit of 2 kilometres landwards from the mean low water line.

d. The High-Level Committee may decide to bring additional land areas within the TDZ; provided, however, that all such land areas must have been directly impacted by the tsunami or directly affected by the displacement and resettlement of persons as a result of the tsunami.

e. New proposals for measures to be adopted in, or affecting the coastal areas covered by seawater, shall be undertaken under the aegis of an international agency. Such proposals might include measures to recover material lost to the sea during the tsunami, the cleaning up of shores and beaches affected, even when covered by seawater, and the repairing and construction of jetties or commercial fisheries harbours affected by the tsunami.

f. The Ceasefire Agreement, dated as of 23 February 2002, between the GOSL and the LTTE, shall continue in full force and effect, and nothing in this MOU shall be construed to prejudice such agreement or alter its terms in any way.

3. Period of Operation

- a. This MOU shall enter into force from the date it is executed by both Parties (the "Commencement Date"), and continue in operation for a period of one year from the Commencement Date.
- b. The Parties shall by consensus have the option to extend this MOU for an additional period or periods.

4. Cost and Expenses

The donors shall be requested to cover all costs and expenses incurred relating to the establishment and functioning of the P-TOMS.

5. High-Level Committee

- a. Geographic Scope. The High-Level Committee shall act exclusively in relation to the TDZ.
- b. Functions. The High-Level Committee shall perform the following functions:
 - i. Formulation of policies for the equitable allocation and disbursement of donor funds in the TDZ based on needs assessments submitted to the High-Level Committee, guided by the principle that funds should be allocated in proportion to the number of affected persons and the extent of damage;
 - ii. Provision of advisory services; and
 - iii. Monitoring of the functioning of P-TOMS.
- c. Composition. The High-Level Committee shall consist of the following members:
 - i. 1 nominee by GOSL;
 - ii. 1 nominee by LTTE; and
 - iii. 1 nominee by Muslim parties.
- d. Alternates. Each nominating party shall designate one alternate, who will be authorized to attend meetings and act on behalf of the member only in the event he or she is unable to attend due to illness, necessary travel or other exigent circumstances.
- e. Chairperson. The High-Level Committee shall select one of the members of the High-Level Committee to serve as the chairperson to conduct and coordinate its meetings. The role of the chair shall rotate among the members, with each chairperson serving for two months.
- f. Observers. The High-Level Committee shall have one observer representing multilateral donors and one observer representing bilateral donors attend its meetings. The observers shall be nominated by the multilateral donor community and the bilateral donor community, respectively.
- g. Decision Making.
 - i. The High-Level Committee shall strive to make decisions based on consensus. All members shall work together in good faith and use their best efforts to reach a common agreement before the High-Level Committee makes any decisions.
 - ii. In the event that consensus cannot be reached, the members shall immediately enter into an extensive consultation procedure

with their nominating parties and the donor community with the aim to reach an agreement and to ensure continued cooperation in the High-Level Committee.

- iii. In the event that consensus can still not be reached the nominating parties may, after having followed the consultation procedure laid down in Section

5(g, i and ii) and after having given 14 days notice, suspend the cooperation in the High-Level Committee.

- h. Location. The High-Level Committee shall be located in Colombo.

- i. Procedures. The High-Level Committee shall determine its own procedures for the discharge of its functions.

- j. Servicing Secretariat. The High-Level Committee shall establish a small, independent secretariat with adequate staff.

6. Regional Committee

- a. Geographic Scope. The Regional Committee shall act exclusively within those areas of the TDZ in the Six Districts.

- b. Functions. The Regional Committee shall perform the following functions:

- i. Development of strategies for implementation and prioritization of post-tsunami emergency relief, rehabilitation, reconstruction and development measures;

- ii. Project approval and management, with respect to projects for post-tsunami relief, rehabilitation, reconstruction and development;

- iii. Overall monitoring of projects; and

- iv. Fund management, with respect to the fund specifically defined in Section 7.

- c. Composition. The Regional Committee shall consist of the following members:

- i. 2 members nominated by GOSL, out of which one will serve as Deputy Chairperson;

- ii. 5 members nominated by LTTE, out of which one will serve as Chairperson;

- iii. 3 members nominated by the Muslim parties, out of which one will serve as Deputy Chairperson;

- iv. The Regional Committee shall have a proper gender balance.

- d. Observers. The Regional Committee shall have one observer representing multilateral donors and one observer representing bilateral donors attend its meetings. The observers shall be nominated by the multilateral donor community and the bilateral donor community, respectively. Other observers may be invited to attend the meetings of the Regional Committee.

- e. Decision Making.

- i. The Regional Committee shall strive to make decisions based on consensus.

All members shall work together in good faith and use their best efforts to reach a common agreement before the Regional Committee makes any decisions.

- ii. In the event that consensus cannot be reached, decisions shall be made by a simple majority of the Regional Committee. In

the event of equality of votes, the Chairperson can exercise a casting vote.

iii. Notwithstanding paragraph iv below, in the event that a decision is taken on an issue having an adverse effect on a minority group, acknowledged by at least two members of the Regional Committee, approval will require two thirds majority (seven members) of the Regional Committee.

iv. In the event that a proposal from a District Committee does not get a simple majority in the Regional Committee and at least two members of the Regional Committee request redressing of the decision relating to the proposal, the rejection will require two thirds majority (seven members) of the Regional Committee.

f. Location. The Regional Committee shall be located in Kilinochchi.

g. Procedures. The Regional Committee, in consultation with the High-Level Committee, shall determine the procedures for the discharge of its functions.

h. Servicing Secretariat. A small Secretariat for the Six Districts shall be set up and may draw staff from the Secretariat for Immediate Humanitarian and Rehabilitation Needs (SIHRN). The Secretariat shall be named as the Regional Secretariat for Post-tsunami Coastal Reconstruction and Development (RSPCRD), and shall provide secretarial and administrative services to the Regional Committee.

i. Project Management Unit. A Project Management Unit (the "PMU") shall be established to manage the projects approved by the Regional Committee.

j. Accounting. The Regional Committee shall appoint a suitably qualified, independent accountant.

7. Regional Fund

a. There shall be a Post-Tsunami Coastal Fund for the Six Districts (the "Regional Fund"), consisting of unspecified (program) and secretariat funds. The unspecified (program) funds shall consist exclusively of foreign funds while the secretariat funds shall consist of both foreign and local funds.

b. The Parties shall appoint a suitable multi-lateral agency to be the Custodian of the Regional Fund.

c. The purpose of the Regional Fund shall be to expeditiously make available funds, following proper approved procedures, to facilitate and accelerate the relief, rehabilitation, reconstruction and development program in the tsunami-affected areas of the Six Districts.

d. The Parties and the Custodian shall agree on a mechanism for the establishment and operation of the Regional Fund.

8. District Committees

a. Geographic Scope. Each District Committee shall act exclusively in relation to those areas of the TDZ within its district.

b. Functions. Each District Committee shall perform the following functions within its district:

i. Identification of needs;

ii. Prioritization of needs;

iii. To generate, receive, appraise and prioritize project proposals from various stakeholders and submit recommendations to the Regional Committee; and

iv. To monitor and report on project progress to the Regional Committee.

c. Composition and Decision Making. The Districts Committees, already established and well-functioning, shall continue their work. The District Committees may further discuss and decide on issues relating to their composition and decision-making. Adequate Muslim representation shall be ensured. The District Committee shall also have a proper gender balance.

d. Location. Each District Committee shall be located within its district.

e. Servicing Secretariat. A small Servicing Secretariat shall provide secretarial and administrative services to the District Committees.

9. Execution

This MOU may be executed in duplicate, both texts being equally authentic. ■

P-TOMS: AFTER THE JUDGMENT

The Supreme Court determination on the P-TOMS (Post Tsunami operational management Structure) agreement delivered on July 15 is a significant judgment in a variety of ways. It is also remarkable that the JVP which sought the judicial intervention to invalidate the agreement, the government which was the respondent, and the UNP which has been watching the controversy outside the ring are all quite happy with the judgment for reasons of their own. Only the LTTE, the co-respondent who did not represent itself at the hearing, has expressed dismay over the judgment and its possible political consequences. If the officials at Colombo the Peace Secretariat can convince their counterparts in Killinochchi that all is not lost, the P-TOMS process can hopefully move forward even with the interim stay order in force.

Validation

The most important aspect of the Supreme Court judgment is that it has legally validated and legitimized the MOU on P-TOMS. It has also in passing endorsed the CFA which the UNF government signed with the LTTE in February 2002. The campaign opposing both these agreements was based on the assumption that they were legally wrong and politically illegitimate. Lawyers of the petitioners canvassed this point in the courts making the assertion that it was wrong for the President even in exercising her executive powers to enter into an agreement with a terrorist group that had functioned outside the law. The Supreme Court has found this argument untenable. According to the Justices, there was 'no illegality' in the President entering into an MOU with the LTTE for the humanitarian objectives as set out in the MOU's Preamble.

One of the key political arguments put forward by the JVP, JHU and many critics in their campaign against the MOU was that it was an agreement signed by the President in secrecy (*hora givisuma*), without informing parliament or even the Cabinet of Ministers. A 'secret pact', as they claimed, had no legal or moral validity. The Supreme Court has totally rejected this reasoning. President does not require, according to the judgment, to consult or seek prior concurrence of either the Parliament or the Cabinet of Ministers for the exercise of government power. Besides, when the Presidential action results in an outcome like the Operational Management Structure in the P-TOMS, its authority does not need to be derived from an existing statute. In making this point, the Supreme Court has also proposed to depart from the narrow, positivist legal position that authority should flow down from clearly defined sovereign body of the state, such as the legislature.

These are important conceptual points. They have the effect of making invalid the political arguments against the P-TOMS. This clearly is a setback to the oppositionist campaign. Yet, the Supreme Court's adverse findings relating to the Regional Fund and the location of the Regional Committee need to be addressed by the government and the LTTE in a continuing framework of cooperation. The LTTE's initial reaction to the Supreme Court determination was a negative one, on the assessment that the verdict has made the MOU totally unworkable. But, on sober reflection both the government and the LTTE should realize that there is still room for further consultation and modification of the disputed clauses and then return to the Supreme Court and explain the new position. The greatest challenge that the government and the LTTE will have to deal with is to stay on the course of compromise and convince the Court that what has been envisaged is a win-win outcome to an extremely difficult and complex political problem.

Violence in the East

Meanwhile, there are two other immediate issues that have a great potential to further de-stabilize the political situation—the escalating violence in the Eastern Province and increasing anger building up among Muslim political forces concerning the government-LTTE MOU on post-tsunami re-building.

The increasing violence and killings in the Eastern province involves the LTTE cadres, members of state security forces and the para-militaries linked to the so-called Karuna faction. In recent months, this violence has reached a qualitatively new phase. Earlier, there have been killings and secret violence involving the intelligence wings of the state and the LTTE. These incidents occurred and continued despite the cease-fire agreement. Now the violence involves, both as actors and targets, members of the state security forces other than the state intelligence wings and the combatants as well as political cadres of the LTTE. Continuing escalation of this violence will be the main threat to the CFA. Earlier many of these incidents occurred in Batticaloa and Colombo, and now they have reached the Trincomalee district as well. This is quite ominous. Both sides may continue to claim that they honour the cease-fire agreement. At the same time secret military operations by both sides are likely to escalate in the Eastern province making the CFA a mockery. Meanwhile, public confidence on the CFA and the peace process is plummeting. There is increasing fear in the Eastern province that the war might break out anytime there. The government should not treat the emerging situation in its characteristically passive manner. It is time now that the government immediately explores the possibilities for high-level political talks with the LTTE.

Muslim Issue

On the Muslim issue, the best option is for the LTTE and Muslim political leaders to initiate direct dialogue in order to address and resolve issues that have so far kept the two sides apart. This requires both sides to adopt a framework of mutual accommodation and flexibility. There are two fundamental changes that the LTTE and the Muslim leaders should consider as necessary in their approaches to each other. The Muslim political leaders need to re-think their strategy of dealing with the LTTE through the political leadership of the ruling party in Colombo. Similarly, the LTTE should be flexible towards the Muslim political leadership in order to respond to the concerns and aspirations of the Muslim community. The LTTE's strategy of by-passing the Muslim political leadership and dealing directly with Muslim community leaders on the ground in the Eastern province has not contributed much to Tamil-Muslim reconciliation. The Muslim political leaders' strategy of not directly dealing with the LTTE leadership in Killinochchi has led to similar negative consequences. Building the trust between

two sides at the leadership level is crucial for Tamil as well as Muslim communities affected by the Tsunami to receive any benefit. Perhaps, the LTTE and Muslim Peace Secretariat should take the initial first steps towards a new dialogue for accommodation.

While Sri Lanka's overall political situation remains of somewhat chaotic, there is an urgent need to protect the peace process in a context of escalating violence in the Eastern province, setbacks to the post-tsunami recovery process and increasing erosion of public confidence in the ability of the government and the LTTE work together for peace. A regime change in Colombo may not necessarily alter this condition of deadlock and uncertainty. A new process of high-level political dialogue between the government and the LTTE might succeed in reversing this situation. But there are no objective ground conditions that can facilitate such a dialogue. Sri Lanka's politics seems to have entered a peculiar phase in which everyone knows that things are moving from bad to worse, but no one really wants to do anything to arrest the process.

JU ■

P-TOMS, ETHNIC POLITICS AND CONFLICT TRANSFORMATION

Nearly a month after the P-TOMS agreement was signed, the opposition to the government-LTTE joint arrangements for post-tsunami rebuilding goes on unabated. While such opposition is not inherently bad in a democratic society, it nevertheless demonstrates the continuing incapacity of many Sinhalese nationalist forces to constructively grapple with the most fundamental political challenge of Sri Lanka today, namely, facilitating a transition from civil war to peace.

The basic argument put forward by this opposition is that a democratically elected government should not politically or administratively work with a terrorist entity. If it does, as the argument goes, it will only result in providing legitimacy to the 'terrorist' LTTE, strengthening its separatist agenda. It also suggests that if the LTTE wants to work with the government, it should renounce violence, terrorism, separatism and arms, accept the sovereignty of Sri Lankan state, and be prepared to agree to administrative decentralisation as the solution to Tamil political grievances.

This particular set of arguments against the P-TOMS appeared to receive considerable public attention for several weeks. However, after the JVP left the UPFA coalition government and the fasting Buddhist monks ended their protest without much drama, people in general have become weary of what ordinary citizens see as unreasonable opposition to any political engagement with the LTTE. The fact that the opposition UNP did not join hands with

the Sinhalese nationalist forces to oppose the P-TOMS agreement was quite significant. The JVP's opposition to Indo-Lanka agreement of 1987 and the Cease-fire Agreement of 2002 derived much of its strength from the alliance with the opposition SLFP. Now the UNP, with its mass mobilization for the presidential election, has to some measure altered the political agenda of the country. It has also diverted much public attention from the opposition to P-TOMS to presidential elections. It is quite noticeable that most of the media does not give front page coverage to the JVP-JHU campaign.

Not Feasible

The key difficulty with Sinhalese nationalist arguments against P-TOMS is that they are not at all feasible, viable, or even reasonable as public policy in the present stage of Sri Lanka's ethnic conflict. There was a time when the Sinhalese nationalist analysis of the conflict found its way to shaping the state policy and that was in the 1980s, in the early phase of the ethnic war. Those who ran the Sri Lankan state at that time thought that the conflict was primarily one of terrorism and it should be dealt with by military means. They also thought that Tamils should give up terrorism, separation and arms before being considered worthy by the Sinhalese polity of any concession. This is pretty old politics that Jayewardene, Athulathmudali and later Ratwatte and Wickramanayake practiced with no success whatsoever. Key leaders of the Sinhalese ruling class have in recent years developed

a new approach to deal with the Tamil society and the LTTE. The mainstay of that approach is political engagement between the LTTE and the government on the assumption that returning to war is not only destructive, but also utterly unnecessary.

Realities

Those who manage the state in Sri Lanka, unlike those in the opposition or those who write weekly newspaper columns, have to deal with the ethnic conflict and the LTTE in a manner that recognizes political realities in different and changing circumstances. For example, the government leaders do recognise today that political engagement with LTTE while it maintains its military machine is not only necessary, but also possible. They also recognise that the LTTE does control territory and a sizeable civilian population and that if the state wants to reach that territory and population, it has to do so in partnership with the LTTE. For a hard-headed Sinhalese nationalist, this is a totally unacceptable proposition, because it goes against the basic tenets of majoritarian nationalism. Why should a sovereign state seek permission of a terrorist entity to reach its citizens? Isn't this a serious violation of state sovereignty? Aren't politicians who do this type of thing traitors to the nation?

These are indeed questions that bother the conventional nationalist mind. These are also questions that have animated much of Sinhalese nationalist opposition to P-TOMS agreement. The JVP's predicament is also linked to their inability to deal with this type of issue with any new political understanding. While being a constituent member of a coalition regime, they tried to implement their oppositionist ideological agenda. They also tried to force the Head of State to implement their ideological program. President Kumaratunga could not say 'yes' to the JVP, because unlike the JVP leaders she had to manage the state. She could not exercise power without responsibility, however much she created a different impression when the UNF was in power. The lesson that the JVP and even the PA should learn is that it is not easy to translate a narrowly oppositional and nationalist-ideological program into state policy at the present stage of ethnic conflict in Sri Lanka.

Present Stage

What is so specific about the present stage of the ethnic conflict in Sri Lanka? There are some key and defining features. Firstly, the Sri Lankan state and the LTTE have been in the stage of a military stalemate for about four years, each side being unable to gain unilateral military advantage or to unilaterally alter the strategic equilibrium. Secondly, the secessionist project of Tamil nationalism has reached a stage of its feasibility being reviewed

by the LTTE, the principle actor in the Tamil nationalist politics. Thirdly, there is now a historical possibility and opportunity for the state and Tamil and Muslim political forces to work out a new framework of political co-existence through a process of political dialogue and reform. In brief, Sri Lanka's ethnic conflict has reached a historical stage of transition and transformation. Some key political leaders of the Sinhalese ruling class have recognised this qualitative change of Sri Lankan politics, but not all in either the SLFP or UNP. Certainly not the political forces of intermediate classes of Sinhalese society, the JVP and the JHU. They are unlikely to change their conventional majoritarian worldview, because the moment they do so, the main line of demarcation that separates them from the moderate sections of the SLFP and UNP will also disappear.

Imperfect Agreements

Given the fact that the armed LTTE is a leading actor in Sri Lanka's politics, regimes in power in Sri Lanka have no option but to politically deal with the LTTE. Such dealing will have to be codified in agreements like the CFA and P-TOMS which may not be perfect and comprehensive documents. They may be seen imperfect and incomplete from the perspectives of Tamil polity as much as they are not seen perfect to Sinhalese and Muslim polities. But, for Sri Lanka to move forward in the direction of peace, the Sinhalese, Tamil and Muslim political forces need to stop making zero-sum ethnic calculations. In fact, the whole controversy about the P-TOMS is also about negative ethnic politics, based on unmitigated mistrust. Such mistrust was eminently suitable to the period of war in Sri Lanka, but not the present and future phases of political engagement and conflict settlement. Sadly, representatives of almost all ethnic communities have been examining P-TOMS agreement, its implementation and consequences primarily from the point of view of ethnic gains and losses. They need to work in a framework of trust and cooperation, and not mistrust and enmity. One way to look at the P-TOMS from a constructive perspective is to treat it not as an end-in-itself, as ethnicised responses to it appear to presuppose, but as a means to building trust, confidence and cooperation.

This is exactly where the President Kumaratunga and her Peace Secretariat will have to work with a new agenda. They should not isolate the implementation of P-TOMS from the larger process of re-building ethnic relations. For the P-TOMS to work and to be a catalyst for conflict transformation – it is worth mentioning that the Presidential Secretariat is now using the language of conflict transformation!—the politics of inter-ethnic relations needs to be re-framed in a language of cooperation, trust and reconciliation. That presupposes a transformationist agenda for the state and its leading institutions in charge of conflict management.

JU ■

P-TOMS AND MUSLIM POLITICS

Fara Haniffa

Many progressive forces welcomed the Post Tsunami Operational Management Structure as a step forward in the peace and tsunami recovery processes. They felt that the implementation of the agreement would help some measure of development and economic stability to the country. Those opposed to P-TOMS were considered to be little more than the spoiler elements from ultra nationalist camps. An unanticipated response has been the extensive Muslim agitation against their marginalization in the process that produced the P-TOMS agreement between the government and the LTTE.

There are many fora today that are conducting discussions on the issue of Muslims and the P-Toms and some effort is being made to address their concerns or at least to appear to be doing so. However there has been little concrete progress to date.

The Muslim dissatisfaction can be summed up as stemming from two main grievances. First is the Muslim participation in the peace process. The manner in which the agreement was entered into, with Muslim members of the government and the Muslim Peace Secretariat consulted rather late in the process and allowed only very minimal input, with no place in the discussions and no possibility of having signatory status, has been seen as a betrayal of the Muslims by the government. The precedent that it sets for future Muslim exclusion with regards to the peace process is troubling.

However on this same issue the agreement is a significant step forward that must also be acknowledged. For instance, the symbolic inclusion of Muslims within the apex body-regardless of the fact that it is toothless-is a step forward in the recognition of Muslims as an independent party and must be acknowledged as such. However it is only a very small step forward and the very paternalism of the manner in which it was mooted is troubling.

The message from the government and the LTTE is that they will take care of Muslim interests and therefore there is no need for the Muslim community to be a party to the negotiations. This contravenes all principles of inclusiveness and consultation and should constitute an exemplary critique of the conflict transformation mode that privileges conversations between two equals even to the detriment of a third stakeholder. Further, regardless of the inclusion of Muslims as a distinct party to the mechanism as an equal member in the apex body, all other symbolism speaks to a continuation of the two party logic on which the negotiations were based. The all-powerful regional committee controls the approval of projects and the disbursement of funds. At this level there are two groups of five with the LTTE constituting one group and the government constituting the other. And in the government group Muslim representation is three with the promise of one more position by the government as an appeasement to the Muslims. This does not change the fact that the Muslims

continue to be subsumed within the government party at the critical decision making level.

Secondly a mechanism framed as Tsunami relief is seen to pay little heed to the losses suffered by the Muslim areas that it seeks to address. The people of these areas lost large numbers of their populations and are currently undergoing a transformation of their way of life. The neglect that the region has traditionally suffered, compound by the dissatisfaction that is apparent with the tsunami recovery process throughout the country has been further exacerbated by the lack of consideration shown by the government in drawing up a Tsunami relief agreement favoring the LTTE. There haven't been many fora outside the East where such a disaffection could be voiced. The Muslims feel that there has been little acknowledgement of the loss suffered by them as a community. They feel that the memory of their dead and the suffering of the living is not sufficiently given prominence by the state. Unfortunately, stridently insisting that they were the "most affected," with an overuse of the rhetoric of victimization has been the principle way in which their dissatisfaction has thus far been articulated. In a highly ethnicised post-conflict context where each ethnic group has long claimed a monopoly on suffering, such victimhood claims do not sit well and does little to gain sympathy for Muslims in the country. However there is a real sense in which Muslims of the East feel that the devastation that their communities experienced, their many dead, and the destruction of their way of life and community was not taken into account by the state. And it is necessary that the state make an attempt to address such a feeling of disaffection. It is the misunderstanding and underestimation of such deeply felt concerns that lead to future conflicts.

Muslims also have ground level concerns that stem from their everyday interactions with the LTTE. The possibility of intimidation by armed LTTE cadre, the LTTE's history of recalcitrance in keeping to its agreements with Muslim communities at the local level are concerns that are not within the purview of the mechanism's text. They will be tested only in the process of implementation. The ongoing day-to-day difficulties of highly ethnicised community interactions in the context where administrative divisions have long been drawn on ethnic lines and where ethnic tension has been simmering for sometime are also not within the purview of this mechanism. There is a need for some progressive discussion on the ethnicised land allocation in these areas. For instance, the expanding Muslim populations have by and large had to accommodate themselves in many areas of the eastern province where the availability of land is restricted and the population density is extreme. Even for resettlement after the Tsunami there is little hope of land for Muslims since there is no precedent of Muslims being allocated state land in DS divisions decided to be either Tamil or Sinhala. Further, the much celebrated district committee of the P-Toms, the bottom of this "bottom up" mechanism is taken to be beyond criticism. It is not established

that such committees as they function today are adequate to their task. There is no clarity either about mechanisms put in place to ensure that there will be no marginalizing of concerned stakeholders. Will the highly ethnicised administrative apparatus function in a manner that is fair by all parties concerned? These local concerns should have informed the P-TOMS mechanism at its inception.

Certainly, the LTTE's giving Muslims a place in any administrative structure must be acknowledged as an important development. However, within the logic that is currently operational the LTTE is not allowing Muslim participation as a third political entity to their negotiations with the government. And the by-passing of Muslim political representation while granting Muslims due recognition is a troubling indication of a position that has been long held by the LTTE. They have been reluctant to acknowledge a Muslim political identity. They have grudgingly conceded that a separate Muslim cultural identity must be recognized, and the need for coexistence with Muslims is also acknowledged; but they are not so clear about a Muslim political identity. Even at a point when Muslim political representation is acknowledged there is no space for the inclusion of Muslim representatives as a third political entity to the peace talks. Muslims must understand clearly the position articulated by the LTTE and strategize accordingly.

There has been little or no concerted effort at lobbying based on a properly conceptualized Muslim position. There is an assumption, on the part specifically of Muslim political party representatives that the Muslim position is obvious. Although Muslim political parties claim that they have long agitated for parity of status, what this might mean concretely has not been argued in any systematic way. The government too maintains consistently that the Muslims have not developed a clear position on the issue. And it is not an argument unfortunately, unlike the claim that there is no unity amongst Muslims, which can be dismissed as irrelevant. Posturing and overly legalistic argumentation in the available public fora has not helped the Muslim case.

It is essential that the Muslims find multiple ways of articulating their demands. Lobbying the LTTE should be one of the chief ways of doing so. For instance, if Muslim parties want to be a third party to the talks they must lay out the grounds on which they justify their position. Do Muslim parties consider themselves a political entity similar to the LTTE that is demanding a certain level of self determination for the region? What would such a demand entail? How do they see themselves in relation to the Government and the LTTE? Have they then thought about a solution to the problems of the Muslims of the other parts of the country who fear that any fall out from such an arrangement will be faced by them? Recent rhetoric by Rauf Hakeem indicates that such a demand for autonomy is indeed in the offing, at least for the East. If so there has to be clearer articulation of what that might mean. If keeping the parameters of any such "parity

of status" or "autonomy" claim blurred is seen to be advantageous then it should be a decision that is taken not by default and the lack of ability to do the work, but through conscious consideration. Further at the 4th session of the peace talks, in Thailand, the LTTE and the government agreed to include Muslims "at the appropriate time" when considering "relevant and substantive political issues." Why the P-TOMS which is a governance mechanism was not seen to be part of such relevant and substantive political issues must be raised and discussed. Muslims should further lobby the LTTE to expand its definition of such "relevant and substantive political issues." Another useful intervention might be to argue for inclusion of Muslims in all future peace talks on the basis of prevention of future conflict, and further that not just administrative mechanisms but normalization issues too have far reaching consequences for Muslims' security and livelihoods that merit their inclusion. Calling for inclusion asserting that it is their right only reflects an inability on the part of Muslim leaders to engage with the process at the level that is being demanded.

Muslim parties as well as Muslim civil society organizations need to improve their documentation and lobbying skills. There needs to be a clear articulation of the fears of the community. The disturbances in the East in 2002-2003 prior to the emergence of the Karuna faction created several fears in the minds of the Muslims. First there was the fear that the Muslim villages close to Trincomalee (Mudur, Kiriya) would be subject to ethnic cleansing in the LTTE bid to take over the harbour and its surroundings. There was discussion in public fora regarding the appointment of a Muslim to administrative mechanisms in the East that was scuttled on the request of Tamil politicians. Then there was reportage that the LTTE was systematically undermining Muslims livelihood in the East. These fears need to be documented as lobbying initiatives and must not remain at the level of anecdotes that are told to donors and other dignitaries on their visits to the Muslim parliamentarians. Even the very powerful and vociferous peace lobby has not been effectively used by Muslim interests. Muslims legitimate aspirations have no press within the peace lobby and their resistance to the P-TOMS is understood only in terms of an uninformed, emotional, spoiler position. This opportunity that demands much of the Muslim leadership must not be lost through a too close scrutiny of the P-TOMS mechanism. The government claimed that only a very small portion of the aid money will be disbursed through this mechanism and this has been confirmed by the United States, Japan and Australia stating that their moneys will be disbursed directly to the government and through government channels. Further, the Supreme Court's stay order on several crucial sections of the P-TOMS, the pending fundamental rights petitions by Muslim interests etc. augurs delays beyond the date of the next hearing. Therefore the current opportunity should be one that triggers more rigorous consideration of the larger questions outlined above. The leadership must develop a means by which the emotional outpourings of the Muslim community are properly channeled towards rigorously argued, useable statements on their disaffection. ■

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WOMEN'S COALITION FOR PEACE SUPPORTS P-TOMS

We welcome the P-TOMS as a necessary step in addressing the urgent needs of the population affected by the Tsunami. The goodwill and sympathy showed by many for the victims of the Tsunami in the immediate aftermath of the tragedy proved that it is possible to overcome long held antagonisms of class, caste and ethnic barriers. Women's groups were amongst the many that mobilized to provide speedy relief assistance to those affected.

Unfortunately the Tsunami crisis led to partisan differences and political wrangling has prevented adequate assistance, particularly with regard to alternative shelter, housing and livelihood support for those affected. This is a reality in the South as well as the north and East. The still unresolved issue of the buffer zone is only one example of the manner in which the State Tsunami assistance mechanisms have failed to put the concerns of the affected first.

Most anti P-TOMS agitation that the country experienced during the past few weeks portray an irresponsible disregard for the plight of those most affected. Many of those affected in the North and East were already victimized by the conflict. It is imperative therefore that the government puts in place an inclusive and representative structure that is both responsive and responsible for alleviating their suffering with the greatest possible speed.

While the inclusion of Muslim representation at the High Level Committee is an important development, the fact that neither the Muslims nor the dissenting Tamil parties were included in the negotiations that led to the formulation of the P-TOMS, and that Muslims were not given signatory status is regrettable. Given that this represents an important benchmark of the government and LTTE coming together, and marks a forward movement towards any future power sharing, it is hoped that a more democratic and representative process is followed in future negotiations.

The Women's Coalition for Peace, regards the joint mechanism or the P-TOMS as a welcome proposal that will hopefully address the needs of those affected. We also commend the fact that the text contains language assuring "proper gender balance" in both the district and regional bodies. It is hoped that in implementation, the inclusion of women will be more than mere tokenism. ■

VIOLENT MUSLIM MOBILIZATION IN SRI LANKA: SOME QUESTIONS

A.R.M. Imtiyaz

Many observers of Sri Lanka politics are baffled by the reports of relatively well organized, though isolated, Muslim armed violence in the eastern corner of the island. Usually, conditions such as unequal treatment, oppression and discrimination either by the state or dominant groups lead to political and armed mobilization among minority ethnic groups.¹ This essay is an attempt to look at various dimensions of Muslim extremist mobilization recently emerged in the Eastern periphery of Sri Lanka.

Why have some Muslims in Sri Lanka begun to rebel? Is the state the main target of their 'rebellion'? Can a Muslim rebellion, if it exists at all, consolidate itself effectively? Answers to these three questions would be useful to understand the nature as well as the roots of Muslim rebellion in the eastern part of Sri Lanka.

Answers to the first two questions are simple. The Sri Lankan Muslims, who actively identify themselves as distinct from the Tamil, Sinhalese and Burgher communities on the basis of religious differences, consider themselves the most peaceful ethnic community in Sri Lanka. They live in a relatively peaceful atmosphere both with the largest minority, the Tamils, who have been fighting to establish an independent state and institutions in the North and the East of Sri Lanka, and the majority Sinhalese who seek domination over the minorities, particularly the Tamils.

Motives For 'Rebellion

Why are some Muslims rebelling? Social, political, and/or economic grievances usually encourage communities to use either political protests or violence as alternative means of expression. Oppression of non-dominant groups by the dominant

groups often generates motivations for rebellion. The more the state or dominant group oppresses minorities, the stronger is the reason for rebellion on the part of the dominated. These assumptions of the link between oppression and rebellion are useful to identify the motives of the Muslims' 'rebellion' in Sri Lanka.

It is quite significant that unlike the Tamil rebellion, the Muslim rebellion does not target the Sri Lankan state. The state or the dominant Sinhalese majority has not made a serious threat to the Muslims identity and the community's existence as the Tamil leadership has done before independence. Even before and after independence, Ponnambalam Ramanathan argued that the Muslims were Tamils in ethnicity but Mohammedans or Muslims in religious identity. Several decades later, in October 1990, V. Pirapakaran, the Liberation Tigers of Tamil Eelam leader, forcibly expelled northern Jaffna Muslims. Muslims widely believe that the LTTE was responsible for the massacre in 1991 of over 300 Muslims, more than 120 of them at prayer time inside the Katankudy mosque in Batticaloa. This violence has significantly contributed to the mobilization of Muslim protests against the larger Tamil minority. Muslim frustration has been gaining momentum because the LTTE is perceived to treat the Eastern Muslims harshly. The LTTE cadres are believed to abduct Muslim youth in the province and extort money from other Muslims. In addition, Muslim non-participation in the peace process has created much resentment among the Muslim youth. The dominance of narrow Tamil nationalism has broken the back of Tamil-Muslim unity, sown Muslim ethno-religious nationalism and led to the current wave of anti-Tamil mobilization.

Muslim Nationalism

Muslim nationalism initially led to the formation of a Muslim political party for the expression of their own identity in Sri Lankan politics. This occurred in the 1980s, well before the Tamil cultural assaults began to be leveled against the Muslims. The Sri Lanka Muslim Congress (SLMC), formed in the mid 1980s by the late M.H.M. Ashraff, contested the provincial and general elections in the late 1980s. The SLMC utilized in the election campaign Islamic religious rhetoric and Muslim nationalism to win Muslim sympathy. It managed to obtain much of the northeast Muslim votes. The fact is that the LTTE atrocities against the Muslims increased aggressively after the formation of the SLMC. Incidentally, the SLMC maintained cordial relations with the Sri Lankan as well as Indian ruling elites.

Some observers make the point that the Ashraff-led SLMC did not do enough to alleviate the difficulties Muslims faced during this period. In fact, as a political party, the SLMC's major aim was to win Muslim votes. But the oppressed and marginalised Muslims expected more from the SLMC. They expected the SLMC to play an active role similar to the one the LTTE played for the Tamil community to win Tamil rights from the Sinhalese-dominated government. But the SLMC, as a political party established by the

business and educated elites, had its own constraints and compulsions for winning strategies to survive in the democratic system. Moreover, the SLMC is not a cadre-based political party dedicated to working with the oppressed Muslims in the northeast. Neither has it been a party that could marshal Muslim democratic populism to campaign for northeast Muslim rights. The SLMC's narrow focus and myopia frustrated Muslims, particularly the youth. Cracks started to appear in the party following the mysterious death of its leader M.H.M. Ashraff. The SLMC's limitations as a political party irritated Muslim youth. Muslim expectations were frustrated, especially when factionalism between the mainstream section led by Rauf Hakeem and a powerful splinter group led by Ferial Ashraff, widow of the late M.H.M. Ashraff, began to rock the SLMC.

Muslim Militancy

In my view, it is possible for a Muslim militancy to develop in Sri Lanka's Northeast, due to two major political factors. First and foremost is the LTTE's oppression and practices of discrimination against the northeast Muslims. The second is the SLMC's failure to carry out a moderate nationalist agenda. With regard to the second point, a recent study on Islamist politics by Vali Nasar suggests that political programs of Islamic radical movements can be effectively challenged if Muslim moderate parties, or Muslim democrats, formulate policies to balance Islamist agendas.² In this regard, the SLMC has failed to advance a moderate Muslim nationalism beyond its electoral aims.

Can a Muslim rebellion consolidate itself effectively, in case such a rebellion exists? Actually, there is no hard evidence to confirm the presence of violent Muslim mobilization in the eastern territory of Sri Lanka. Reports indicate that there are some frustrated Muslim elements active particularly in the eastern province.³ Diplomats and military officials say there are links between these groups and Pakistan and Bangladesh, but the nature of these relationships is not yet clear. Some Tamils have reported the presence of an 'Osama group' in the Eastern province. One entity most sources claim to exist is the so-called Muslim Defense Group. Another Islamist group has opened an office at Kinniya in Trincomalee, north of Batticaloa. However, organized Muslim mobilization is still not a major factor in the political life in Eastern Sri Lanka.

Can a militant Muslim mobilization survive in Eastern Sri Lanka? Geography and demography in the province is not in favour of a Muslim insurgency to survive. Any serious politico-military movement of a regional ethnic community requires a base area as well as a regional economy in order to sustain the movement. As for the militant movement of Sri Lankan Tamils, while they predominantly live in the northeast of Sri Lanka, they have had direct access to the sea. This fact has played a significant role in sustaining the Tamil insurgency. The Tamil-dominated northeast is also the home for deep jungle areas and other resources that are crucial components of any guerrilla struggle. Significantly, Tamils

had their own economy, largely based on agriculture, to support the mobilization. In addition, the LTTE's solid propaganda and information campaign played a major role in advancing Tamil mobilization. These internal factors helped the LTTE to consolidate the Tamil movement in the northeast, even bringing some parts of the province under their direct administration.

A Muslim insurgency in the Eastern province will not have such favourable domestic conditions. With regard to the economic factors, it is true that the Muslim economy is reasonably strong in the Eastern region. Muslim influence in agriculture and small business is widespread. Yet, the Eastern Muslim economy is largely mixed with the Tamil-dominated parts of the region. Muslims would enjoy no economic progress if a major conflict builds up between the Tamils and Muslims. The Amparai district is a clear case in point. Muslims will have to lose a large portion of their agricultural land and other resources if any Muslim rebellion targets the Tamils. Hence, rich Muslim farmers and traders would hesitate to back any Muslim insurgency. As a result, the Muslim rebellion would face early collapse. This stands in sharp contrast to the Tamil mobilization, which benefited both from the farmers and the business sectors. Moreover, any Muslim rebellion is unlikely to enjoy strong external support as the LTTE once received from India thanks to Cold War politics. The LTTE still receives moral and material assistance from Tamils in India and around the world, including Tamil diaspora, and maintain good relations with key international actors.

Some believe that a Sri Lankan Muslim movement would receive financial and material assistance from Arab and Middle East Muslim countries. This is not possible primarily due to the post 9/11 international political climate. Both India and the US will not allow any free flow of financial or material support to a radical Muslim mobilization in Sri Lanka. In other words, even if a militant Muslim mobilization begins in Sri Lanka, its consolidation will face serious obstacles, both domestic and international. Those frustrated Muslims need to think carefully before they initiate any militant movement to challenge their oppressors. As Sun Zi, the ancient Chinese military strategist, put in his famous work *The Art of War*, "war (or insurgency) is the road to survival or ruin. Hence, it is a subject which calls for careful study."⁴ Perusing the idea of a Muslim mobilization or violent intifada to confront the Tamil rebellion or to secure protection to the community is not a wise choice. Any such attempt would be suicidal to the Muslim community.

Muslim Concerns

Nevertheless, the legitimate concerns of the Muslims need careful attention, and such concern should go beyond mere academic interest. In fact, the Muslim fear of LTTE domination is

not imaginary. The LTTE is still continuing their narrow policies concerning the Muslim minority. The LTTE is not yet willing to allow expelled Muslims to resettle in the North. They have shown inflexibility in handing over the captured Muslim lands. The ban prohibiting the Muslims cultivating their own land continues. The abduction of Muslims as well as the practices of unfair taxation and extortion increases their fear and insecurity. Above all, the LTTE's tactical refusal to accommodate a Muslim delegation in the peace negotiations has aggravated the Muslim fear about Tamil/LTTE domination in a post-conflict Northeast.

Then, what should be done to alleviate Muslim fears and to dissuade radical Muslim mobilization? Counter mobilization and repressive action is not a viable option. The situation might get better if both local and international actors act responsibly. There should be sufficient pressure on the LTTE to re-think their relationship with the Muslim community. There should also be international pressure on both the LTTE and Sri Lankan leaders to permit a Muslim delegation to actively participate in future peace negotiations. In the meantime, the SLMC needs to play a responsible political role in the national affairs concerning Tamils and Muslims. In this regard, Muslim political forces need to formulate their policies, not only to win Muslim votes, but also to support reasonable Tamil nationalist aspirations. Meanwhile, the LTTE has a bigger task to erase Muslim fears and concerns caused by their own policies. The LTTE will hardly gain much if the Muslims pose a serious threat to their interests. In fact, the narrow practices of the LTTE would not only further damage Tamil-Muslim relations, but also shove Muslim reactionary forces to control Muslim politics. In the end, they will seriously hamper the efforts of progressive Muslim forces that work for Tamil-Muslim unity while challenging the illiberal and narrow nationalist Muslim forces. ■

Notes

1. Ted Robert Gurr, and Harff Barbara *Ethnic Conflict in World Politics* (Oxford: West view press, 1994). pp83-85.
2. Vali Nasar 'The Rise of Muslim Democracy,' *Journal of Democracy*, vol. 16 (2) April 2005, pp, 13-26.
3. Suspected Islamic fundamentalists recently killed a young Muslim in Eravur, in the eastern Sri Lankan district of Batticaloa, apparently because he and his cohorts were indulging in "un-Islamic" activities. Prior to this, some Islamic vigilante organizations had issued a warning that they would not tolerate un-Islamic activities like consuming alcohol, gambling, prostitution, and misbehaving with women.
4. Sun Zi, *The Art of War* (Beijing: people's China publishing House, 1996). pp7-10.

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AFTER THE TSUNAMI: RECONSTRUCTION, DECONSTRUCTION AND SOCIAL ANALYSIS

Darini Rajasingham-Senanayake

Introduction

Several weeks after the Tsunami hit the conflict affected east and southern coastline of Sri Lanka in December 2004, killing more than 31,000 people and displacing many more in a matter of minutes, David Beckham, European foot ball heartthrob and Amithab Bachan, South Asian Bollywood film icon, spoke in a UNICEF advertisement in the aftermath of the disaster. They appeared on international TV channels speaking of the child victims of the “Asian Tsunami” – an event that has also been termed a “celebrity disaster” in the age of the internet giving.² Beckham and Bachan suggested that there were a large number of children that had been orphaned in the disaster and suggested that UNICEF that works in the interest of children best understood the plight of Asia’s “tsunami children”. The viewer of the fund-raising ad was invited to visit the organization’s tsunami web site.

A several weeks later the National Child Protection Authority of Sri Lanka confirmed that all except 37 children who had lost parents in the disaster had been claimed by family members, extended families, relatives or other kin sometimes after rigorous identity checks and DNA testing. Given that the extended family is a major institution of the social fabric of all ethno-religious communities in Sri Lanka, as in most of South Asia, and the social service institutions of the State were not destroyed in the Tsunamis the suggestion that there would be large numbers of orphans whose needs UNICEF would take care of was largely unwarranted.

It is still unclear how much funding UNICEF that also works on the demobilization of child soldiers within the Liberation Tigers of Tamil Eelam (LTTE) in Sri Lanka, garnered from the advertisements and how it would be spent. After Ache Province Indonesia, the east coast of Sri Lanka was the worst affected in the December 26 Tsunami. Both regions have on going armed conflicts and peace processes. Our concern here is with the transnational politics and poetics of disaster representation and reconstruction that the advertisements indexed and how they configure a mindset characteristic of international relief, reconstruction and development policy and practice, and their local-global articulations.

The post-Tsunami UNICEF advertisements in Colombo were aired where family members, relatives, kinship networks, religious networks, local business and civil society groups had worked round the clock from the moment the disaster struck in an unprecedented effort of giving and coordination across ethnic, religious, class and

caste lines. One could not but be amazed at the scripted and casual manner in which the celebrities suggested in hushed tones that UNICEF best understood the needs of child victims of the Asian Tsunami disaster and was therefore best able to address them. There was no mention that in the Asian counties where the disaster struck there exist strong extended family and kinship networks as well as local civil society and religious organizations (Buddhist, Hindu, Christian and Muslim), that worked ceaselessly and across religious and ethnic borders to provide relief for the survivors and care for and reclaim children who had lost parents. Nor did we hear of State, social services ministries and civil and administrative structures, health care systems, religious welfare organizations, and civil society organizations of these countries that used their long years of experience to deal with the emergency. Nor was there mention of the local organizations and individuals who had done much of the work before the international humanitarians be they UN agencies, “volunteers”, other expatriates or INGOs who flew in, weeks later. The advertisement left one with a numbed sense that all local institutions, organizations, and discerning adults must have floated away, and Tsunami devastated Asia was left with child victims and UNICEF. The advertisement also failed to provide the information that despite an armed conflict of two decades, Sri Lanka has ninety percent literacy rates, a well developed health infrastructure and relatively high social indicators – in short significant levels of “local capacity” in country two kilometers inland from the tsunami devastated regions. Additionally, the country boasts a large number of under and unemployed university graduates who speak local languages who could well assist the relief effort.

Nevertheless, many I/NGOs and the UN agencies flew in young, well meaning but inexperienced “volunteers” from Europe and the US who did not speak local languages. Each one of their air tickets and per diems may have paid for the rebuilding of a couple of tsunami devastated homes. International agencies and disaster experts predicted wide spread epidemics, cholera, typhoid etc., in the wake of the Tsunami. These epidemics, like the long predicted AIDS epidemic predicted by various UN agencies and the World Bank in the conflict zones of Sri Lanka did not materialize.³ The prediction of epidemics and trauma saw many international health and trauma experts most of whom did not speak local languages and were unfamiliar with local religio-cultural coping mechanisms and rituals flying in to counsel those suffering from shock, loss, displacement, and despair. The Tsunami had affected a two-

kilometer coastal belt. The prediction of epidemics were clearly not based on analysis of existing health infrastructure and water supply and local social service capacity two kilometers in-land from the Tsunami devastated areas, where the displaced people were moved and resettled either by the various social service agencies of government of Sri Lanka or the Tamil Rehabilitation Organization (TRO) - the humanitarian agency of the Liberation Tigers of Tamil Eelam (LTTE) that control parts of the north east of the island.

The post-tsunami response of individuals and groups to the suffering of "other" communities of diverse linguistic and religious persuasions demonstrated beyond doubt that the so-called ethnic conflict in Sri Lanka was largely a product of and sustained by power struggles among politicians, presidents, and armed actors. After the Tsunami, civil society groups used to coping with the two decades of conflict talked of three tsunamis hitting the island: the wall of water was the first, the second was an international AID tsunami that had generated vast expectations and new conflicts, and the third was the NGOs and "volunteer" tsunami that hit the island, eroding local capacity and local ownership of reconstruction and development policy and implementation process, while promoting passivity among Tsunami survivors.

The conflict and tsunami affected areas seemed flooded by waves of aid and /INGOs (some of which were converting souls while saving bodies and fuelling local ethno-religious nationalism), international disaster experts who know very little about the country, culture and conflicts, etc. let alone local languages. This process generated a whole range of new expectations and conflicts at local community and national levels, and between the Govt. and LTTE, the primary one being the distribution of the aid. In the process the rapprochement that had emerged during the early days of coping with the Tsunami among the various ethno-religious communities were slowly eroded. This is not to deny there were sound international relief agencies and NGOs with long experience working with local partners in the country that did much to assist the government, military and civil society efforts at aid delivery and coordination during the early days of the disaster, but to flag some of the issues that the flood of global sympathy generated for tsunami affected countries. In the aftermath these agencies had to cope with the nationalist backlash from the JVP and JHU that seemed to unleash an indiscriminate witch-hunt against international humanitarian agencies and NGOs in the country.

In the context, this paper seeks to analyse the politics of representation embedded in international development, reconstruction and peace building discourse and practice in the wake of war and natural disasters and its implications for conflict de-escalation locally. The paper suggests the need for reconstruction that is owned by the communities affected by the disasters, and makes a distinction between national and community ownership of reconstruction policy. Such a process must derive from social analysis of conflict that is politically, culturally and historically located, and constant social monitoring of the reconstruction

process – an exercise not reducible to project specific Social Impact Assessments. Currently social analysis and oversight has been reduced to the measurement of "social capital" (or social networks as taught in introductory Sociology courses), by the World Bank, that also projects itself as the "Knowledge Bank" with characteristic modesty. In the development and reconstruction industry increasingly controlled by IFIs, INGOs and international consultancy companies, social analysis is treated as window dressing on the real reconstruction theory and policy work performed by economists, engineers, the private sector business and various technical "experts" and 'specialists', while disaster affected communities loose out.

Increasingly a great deal of humanitarian, reconstruction and development funding appears to be spent on media advertising of disaster anniversaries, that feature human interest stories about "disaster victims". These ads. and INGO press releases about international chivalry and/or victims who are doing it for themselves, appear to be designed more to elicit funds rather than educated the international public and civil society on global inequality that fuels many of the violent conflicts in the global south. What is avoided is critical analysis of the political economy of the international humanitarian and reconstruction industry that increasingly constitutes a fig leaf of what Naomi Klein has termed "disaster capitalism" in most of the global south where the structural adjustment of societies and economies that generate new cycles of conflict continues unabated in the name of "reconstruction", despite mounting critique. This is done by deregulation, liberalization, and privatization of natural resources, public utilities and services and the national wealth (not the national debt of course), of countries that are recovering from conflict (including Iraq). Disaster capitalism, where structural adjustments is pushed through and huge corporate profits may be made in a short space of time (the window of opportunity), while attention is focused on a society's trauma, is in short, a conditionality of international reconstruction aid.

An objective critique of the structures and practices of the international humanitarian, development, and reconstruction industry is to be distinguished from the xenophobic anti-INGO discourse that circulated among various nationalist groups in the wake of the disaster and the wave of international sympathy, care and assistance that the Tsunami disaster generated. Rather, there is a need for constructive critique of the international humanitarian and reconstruction industry, that rethinks the existing international development architecture bottom up.. The failure to do so will only result in further narrow ethno-religious fundamentalisms that destroy the fabric of historically multicultural societies, due to the fact that moderate local and national voices have been marginalized in the international development process increasingly driven by what Joseph Stiglitz termed "market fundamentalism", that has increased inequality the world over and made it a less secure place. Moreover if Sri Lanka and other disaster prone countries in the global south are to own their development and reconstruction policies they need to formulate strategies to manage and harness

the international development industry rather than be run by it. The latter process will only result in the destruction of local capacity, skills, knowledge and expertise - and a new cycle of war.

The Violence of Reconstruction

Wars, including struggles for ethno-national self-determination are fought to change the power-property status quo. If a peace process fails to acknowledge and address issues of economic and social inequality that structure a conflict it may result in an unsustainable peace that leads to renewed violence, years or decades later.⁵ A number of studies of the two decades long armed conflict in Sri Lanka have noted that the war was not simply an “ethnic” affair but rather a “complex emergency”. The conflict dynamic was sustained and fuelled by a range of global and local actors and factors including rural poverty, unemployment, caste marginalization (particularly in northern Tamil society and in the deep south). The majority of those who fought, died, and were disabled on both sides were drawn from the rural poor.

Additionally, in the last decade a ‘war economy’ that developed self-sustaining momentum emerged, as a number of trans-national actors and networks, from the diaspora to the military, humanitarian and development industry stabilized and sustained the conflict dynamic as the economy structured into a ‘war economy’. While a range of political actors and elites made profits through corruption, terror and taxation, the military became the leading employer of a class of marginalized youth from low-caste communities in the north and south alike. Simultaneously, economic inequality and poverty cleavages tended to be ethnicized and politicised due to the circular dynamic of poverty and identity conflict that results in a conflict trap that characterizes resource based ethno-religious identity conflicts in the global south (cf. Mayer, Rajasingham-Senanayake, Thangaraja: 2003).

After the CFA the presumption was that the free market would take care of social and economic justice issues that fuelled the conflict *a la* the Washington Consensus (World Bank and IMF). There was little discussion of the political economic transformation to society that twenty years of war had generated. The public debate is considerably influenced by global recipes for post conflict reconstruction focused on (neo-liberal) institution building and constitution design and the need for “good governance”. (UNDP Human Development Report 2000). Why else would the GoSL and the LTTE chose the World Bank that is closely allied to international finance and corporate interests, and in the grip of what Joseph Stiglitz, termed “market fundamentalism” to be the custodian of the post-conflict fund? This question was asked and answered by the Sri Lankan public two years later when the United Front government that brought peace to the country was voted out of office on its economic record.⁶

Likewise in post-tsunami resettlement discussion while the issue of a joint mechanism between the LTTE and GoSL to distribute

relief has received high priority, issues of social and economic inequality are not being addressed in any systematic fashion. The declaration of the 100/200 meter buffer zone by the govt., which claims to be left wing has impacted disproportionately on poor people who had flimsy shelters without adequate consideration of alternative methods to save lives in the event of further tsunamis. The JVP which claims to represent the poor and under represented has remained silent on the paternalistic and anti-poor nature of the buffer zone, while focusing its energies on supposedly preserving the fictitious unity of the nation.

The Crisis of Peace Building, Neoliberalism and the Reconstruction Tool kit

Despite recognition of a crisis in peace and post/conflict reconstruction processes (of 38 peace processes in the last decade, 31 have returned to conflict within the first three years), the international reconstruction agenda continues to be framed and carried out as a single ‘intervention tool-box’ by international agencies. The ‘tool kit’ approach to post/conflict and post-natural disaster reconstruction presumes that disasters are essentially the same and can be fixed with the same technical approach that leaves out political and economic analysis of the particular local conflict. Thus institution, constitution, social capital and local capacity building is a mantra for reconstruction. There is little recognition of actually existing local and national institutions and capacities in disaster affected regions. Those that exist are perceived as ineffective or irrelevant in the tool-kit approach to reconstruction. This tends to be the case despite the fact that historically international finance capital, dictators and military juntas have been allied to safe-guard their interests and deflect social justice issues embedded in complex conflicts. In this respect, the controversial analysis of violent conflict coming out of the World Bank research project led by Paul Collier on “the Economics of Civil War, Crime and Violence” is not encouraging. Collier claims that it is ‘greed’ rather than ‘grievance’, (as if these are not relational terms) that is the reason for conflicts in the global south. He suggests that the profit maximizing and utility optimising by war lords and armed groups explains violence. Collier thus rules out economic grievance and inequality as a cause of violence and views grievance arguments as a legitimacy clause for violence. While this kind of analysis may explain the Bush-Blair resource war on Iraq, it is telling in its misguidedness and ignorance of local issues, international political economic and global power/knowledge hierarchies that structure complex conflicts in the global south, and does not augur well for a sensibly theorised post-conflict reconstruction programme supervised by the Bank in Sri Lanka.

Primarily the tool kit approach to reconstruction consists of needs assessments undertaken by Multilateral Agencies – the UN agencies, World Bank and regional development Banks and implementation of neo-liberal institution, constitution and social capital building. The recipe is imported from one disaster zone to another and applied to diverse complex conflicts and contexts

whether in Africa, Latin America, or Asia. The role of the private sector, the market and privatization, structural and sector adjustments promoted by the Washington Consensus (World Bank and IMF) have become a *mantra* for peace building. Likewise, the industry was visible in the droves of international technical experts ubiquitous in the disaster zones of the world that arrived in Colombo and the northeast, from South Africa, DRC or Eritrea after the peace accord as well as the Tsunamis.

1. The tendency of the neo-liberal reconstruction and peace agenda is to presume that the free market will take care of the economics of peace and to ignore corporate corruption, crony capitalism etc. that are endemic in post/ war economies. Such policies in other conflict-affected parts of the world have demonstrably further distorted markets, fuelled inequality and cycles of social violence and conflict. There is clearly a need for a more balanced approach in the international post/conflict reconstruction agenda, where the benefits as well as the shortcomings of globalization and the neo-liberal emphasis on structural reform, the private sector and growth are recognized. In many parts of the global south globalization has become a race to the bottom as poor countries compete to lower already low wage rates in order to attract often speculative foreign capital and experts, and education systems are restructured to provide cheap labor at the lower end of the global economy, rather than to generate knowledge and research.

2. The international post-conflict tool-kit also entails application of a universal set of technical formulas transported from one conflict zone to another, (e.g. institution, constitution and social capital building). While often these are valid concerns they tend to be disarticulated from local social realities and political-cultural processes and hence become irrelevant exercises. Based on the assumption that conflicts are generically similar, the post-conflict tool kit approach produces a-historical, poorly theorized, a political and culturally insensitive strategies, many of them failing to effect sustainable solutions.

3. Given the logic of the operation of the international agencies, and the concern with the security of their personnel and international staff, programs and local communities often become a secondary matter. The bulk of the funds for post/conflict reconstruction go for administrative charges, salaries and maintenance and protection of internationals whose lives appear to be more highly valued than the natives that they are supposed to protect and develop. This is often reflected in disproportionate budget allocations for administrative charges and maintenance of internationals that work in the industry over actual programs and local staff. Indeed, a sort of institutionalized apartheid that distorts the value of lives and labour appears to exist in the institutions that constitute and operate the post/conflict industry where market imperfections and information asymmetries are glaring. It is in this context that the question arises: If the World Bank is to be the custodian of the post-conflict reconstruction fund in Sri Lanka, will the peace dividend become available to those marginal communities and social groups that were most brutalized and instrumentalized in

the neo-liberal war and peace machine? In short, would a neo-liberal post conflict peace that exacerbates socio-economic disparities as SAPs and sector adjustment programmes together with the questionable promise of long-term economic growth enable a sustainable peace? Is this constellation of actors and interests a recipe for a new cycle of violence that may destabilize the peace process in Sri Lanka? To answer this question it may be relevant to look back on how almost two decades of armed conflict was represented and analysed in the development discourse in Sri Lanka.

Representing Development: 'Growth with War' and other Myths

During the Second and Third Eelam wars (1990-2001), a public myth existed in the south of Sri Lanka that relatively high levels of economic growth could be sustained in the island while an expensive armed conflict was waged in the North-East provinces.⁷ As the Peoples Alliance government went ahead with structural adjustment programs (SAPs) and privatisation of various profitable and debt ridden government holdings just as the previous UNP government had done, the numbers of BMWs and Alfa Romeos that cruised the highways and bi-lanes of Colombo, the southern capital were on the rise. Signs of a growing economy and a market for luxury goods were apparent in the larger cities and in the display of sophisticated weapons and communications technology in the security sector. The Central Bank projected national growth figures of five percent, a figure that helped the ruling party to win local and national elections and attract foreign investment. International development organizations such as the World Bank, IMF, and UNDP projected similar growth figures.

The late nineties were years of converging national statistical percentages in Sri Lanka. While defence spending was 5 percent of GDP, donor assistance also hovered at around 5 percent GDP. That international aid might subsidize the armed conflict given fungibility of aid was not missed by a number of commentators. Yet if research staff in leading national institutions of higher education such as the University of Colombo could not use the internet because the Ministry of Higher Education could not pay its telephone bills and the library could not buy books and journals due to the toll of the war economy on the education sector that was being restructured, the international financial institutions turned a blind eye to military spending despite widely known and rumoured corruption in military sector the defence ministry. While structural adjustments to education, health etc., sometimes bringing long overdue reform to these sectors were on the cards, structural adjustments of the military and state's coercive apparatus was not on the cards. Indeed, the IMF appeared to underestimate the Sri Lanka government's estimation of its military expenses (Discussion with IMF representative at ICES – August 2001) while the Sri Lanka government seemed to practice home grown military Keynesianism.⁸ The continuing failure of the international development industry to address military budgets of governments at war with segments of their populations remains the scandal of

international development industry. In Sri Lanka the growth rate of about 5 percent in the late nineties despite the war seems to have been used to bolster the argument that neo-economic liberal structural adjustments works – even in conflict situations. What was ignored was that after almost two decades of armed conflict the rural economy seemed to be substantially and increasingly dependent on non-productive activity. i.e. war making (cf. Dunham 2000).

During these years, national statistics impervious to the law of averages, that excluded the under-performing north and eastern conflict affected provinces were produced by the Central Bank and seconded by organizations such as the World Bank and UNDP. It was suggested that excluding the north and eastern provinces from national statistics did was insignificant since population densities in those provinces were low, and would not affect per capita calculations.

Of course, statistics and information on the conflict zones were highly politicised, particularly given claims and counter-claims regarding human rights violations, numbers of displaced people, and food aid to be sent to the war zones. During the years of the third Eelam war that started in 1995 with the collapse of the peace process that had commenced when Chandrika Bandaranaike-Kumaratunge became President, the military frequently and possibly correctly argued that the LTTE was inflating figures and skimming excess aid.

The information lacuna arising from the politicisation of information and the difficulties of information gathering in the war zones was compounded by the censorship on media and reporting from the northeast. Because of difficulties of information gathering in the conflict zones “national” data on health, education and literacy excluded the war-deprived and traumatised regions of the island. International evaluations along with national statistics on many social and economic matters provided impressionistic and often grossly misleading and optimistic scenarios of the life and livelihood in the conflict zones. It was rarely mentioned that transport was literally by bullock cart in the “uncleared” or LTTE held areas, given the fuel and fertilizer embargo, while the economy and market had been bombed into the dark ages, and food security eroded.⁹

The information lacuna in turn perpetuated a number of myths that sustained the conflict, both at the level of policy as well as in popular discourse. As the conflict escalated in the nineties, the notion that ‘growth with war’ is possible appeared to be the operative fiction in policy circles. Meanwhile the conflict generated a war economy with military service becoming the leading income generation project for young men from rural areas even as it generated new forms of social and economic inequality and marginalization (eg. Muslim-Tamil conflicts in the east coast). That Sri Lanka, the South Asian leader in social indicators may be slipping in health and education, and mortgaging its future as the numbers of disabled increased, and the economy structured into a

war economy, with the rural sector increasingly dependent on soldiers wages was not mentioned. Of course a second scenario of Sri Lanka’s conflict-development nexus that focused on the social costs of war, was captured in popular films, other critical media, and by various studies by NGOs but with little impact.¹⁰ Squaring the circle – an analysis of which sectors benefited from the war economy and SAPs and which did not remains to be done.

On the other hand, the devastation of war in the north and east, gave credence to LTTE claims that they had nothing more to loose and hence must fight an opponent intent on decimating them to the end. The war years made clear the domestic economic policy is increasingly a global affair. As the country became increasingly dependent on aid for fight the war the international financial institutions and successive governments pursued a neo-liberal policy of economic restructuring. As privatisation appeared to sustain the myth of growth with war, a number of other local and micro-conflicts were displaced upon the over determined war between the military and the LTTE. The myth of growth with war was rudely shattered by the LTTE attack on the airport and the manner in which the economic growth was reversed for the first time in Sri Lanka’s post-colonial history.

Information Asymmetries and Power/Knowledge Hierarchies

International measures, indexes and observations of “success” or “failure” of nation-states, economies, or people, have their own logic. They establish authoritative descriptions, and construct truths about “national” progress or regress. Indeed a number of theorists of development and developmentalism (Escobar 1995, Nandy 1983, Gupta 1998) have noted, that in the trajectory of “world development”, peoples, nations, regions, and the “third world” have come to see themselves as more or less developed/ underdeveloped, and more or less in need of development, or social capital, or institutions, or better governance, or globalization etc. They have also suggested that development processes might actually de-develop societies, and have traced how development indicators may conceal increasing economic inequalities and social and regional polarization.

In countries with skeptical publics, information from international development and financial institutions are sometimes given greater authority because of the presumption that they may be more independent and accurate than government’s figures. In turn, these authoritative indexes, measures, and narratives of developmental progress or regress configure local perceptions of local conditions. Sometimes, these constructions and their policy agendas elicit counter-reactions and ethno-nationalist back lashes.¹¹ In noting this dynamic of how a country may be measured, evaluated, and restructured for World Development, my purpose is not to suggest that poor people or armed conflicts do not exist. Rather it is to mark how poverty *qua* poverty, or conflict *qua* conflict, are constituted as objects of and for analysis and developmental-relief

intervention (read power/knowledge), and how such interventions are legitimated.

In the late nineties as the war escalated in Sri Lanka local and global political-economic processes and imperatives configured the dominant representation and interpretation of the conflict-development nexus in Sri Lanka, that growth with war was possible. The notion that war with growth was possible is a corollary of the economic reductionism that characterizes the argument that “violence is economically rational” and it is greed rather than grievance that fuels conflicts (Collier et al., 2001). 1997-98 were years when the Bank and IMF were increasingly critiqued on the crisis and escalating social violence in the Asian Tiger economies. Internally, in the World Bank, Stiglitz had criticized IMF policies and suggested that developmental macro-policy may fuel and deepen the crisis and ensuing violence in South East Asia (Stiglitz: 1997, 1998, Wade: 2000). In this context, success stories even in conflict torn societies were needed. In “Missed Opportunities”, the World Bank’s Sri Lanka country report in 2000 suggested that Sri Lanka is a relative success in terms of economic liberalization and structural adjustments.

A story of operative fictions and mutual entrapment between international financial institutions and a government fighting a dirty war (given that national economic policy is increasingly globally configured), amidst an increasingly dysfunctional democracy emerges in the myth that “growth with war” was possible in Lanka. This entrapment in turn sustained the war dynamic which developed self-sustaining momentum (Rajasingham- Senakayake 2001). The myth was shattered after the LTTE attack on Katunayake airport in July 2001, that impacted on sectors dependent on external markets, particularly trade, tourism, and shipping and the growth figures dipped from 5 percent into negative digits overnight. This entrapment may continue with the peace dynamic too with the government and Bank promoting an unsustainable neo-liberal peace.

The myth that growth with war was possible was also enabled by the history of perception of the island as an “outlier” in the fifty-year-old “world development” discourse. Sri Lanka had always followed the path of the unexpected. At independence in 1948, armed conflict was not on the island’s development agenda. The island’s social indicators that were the best in the South Asian region despite very low per capita income. Moreover, a multilingual, multiethnic, multi-faith, and multicultural land, Ceylon as it was called, was considered a “model democracy” until the mid-eighties. In the years of the conflict, growth in the south despite a debilitating armed conflict in the north east further buttressed Sri Lanka’s standing as an “outlier” in the world development discourse, and enabled the perception that it was land of “missed opportunities”. The “outlier” perception of Sri Lanka masked the island’s de-development and deep regional divisions that fuel the armed conflict in the island.

Indeed, it is arguable that the regional disparity between the conflict affected North-East and the rest of the island constituted one of the biggest challenges of peace building and development, even as the central barrier to human development in Sri Lanka may be the information divide and information lacuna. The engineering of information and the resulting ignorance generated at the highest levels of policy and opinion making on the national impacts of the war was one of the reasons that the war escalated to dire proportions, without giving rise to an anti-war peace movement in the late nineties.

De-Development and the Poverty of Reconstruction Policy and Theory

Post-conflict reconstruction, a growth sector in the world development industry led by the Bretton Woods institutions is about information asymmetries, global-local hierarchies of knowledge and power and the marketing of myths and models of development. Recognition by the development policy community that Sri Lanka was a “complex emergency” and that violent conflicts could undo years of development achievements, has not entailed acknowledgement of the converse process: that the macro-policies and practices of neo-liberal development that exacerbate social, economic and regional inequality may also structure and fuel domestic political-economic transformations and societal polarization leading to violent conflicts. Possible linkages between development processes that exacerbated social inequality and a number of social tensions (JVP and LTTE youth uprisings), to contributed to over determine the north-south “ethnic” divide in the island, and hence the need for mainstreaming conflict analysis into development policy and planning are hardly acknowledged. There is a need to link macro-policies of development to the local war economy in the conflict zone, rather than treating them as separate.

It is arguable that trans-historical “ethnic” readings of the violence in Sri Lanka and neo-liberal myths that “growth with war” is possible in the dependent economies of the global south have obscured issues of economic and social inequality that structured the 2 decades-long armed conflict in the north and south of Sri Lanka. They also obscured how the war had transformed the island’s society and political economy. But issues of political representation and economic justice are inextricably linked: self-determination will remain an unfulfilled promise without economic and social rights.

After the initial de-politicization that the peace process necessitated, it would be necessary to move on and deal seriously with political economic issues by linking civil and political issues of demilitarisation and de-escalation with social justice issues or economic and social rights. Post/conflict reconstruction must have a holistic approach and move beyond a formalist legal approach to devolution and power sharing among the armed actors and the State, and address issues such as poverty, inequality and their relationship

to macro-policies of economic adjustment and conflict. Otherwise, the risk is that a peace agreement might once again become a blue print for more war, or be merely a trade off between armed groups, and politicians who peddle ethnic conflict or ethnic peace to shore up their vote banks. Rather, the need is for substantive democratic reform and transformation of political culture and economic ideology and institutions (including the state's coercive apparatus) that have generated and fuelled multiple conflicts and much of the violence over twenty years.

The dominance of the World Bank in the post-conflict reconstruction industry in Sri Lanka and the manner in which a range of structural adjustments projects (including the recently stymied labour bill) are being pushed through parliament as the peace process takes centre stage in national politics may suggests otherwise. Structural adjustments usually mean that things must get worse before they get better-- if ever. Things getting worse usually mean another cycle of conflict that is very hard to stop. The timing of these interventions in the long-term may lead to increased levels of unemployment, spiralling cost of essential services and living and the unravelling of the peace process by spoilers who exploit popular disaffection. Argentina where riots and social unrest has occurred in the wake of massive neo-liberal reform sounds a warning to us all.

My purpose here is not to decry all reform. Certainly reform in the energy, education, public and social sectors and administrative and governance structures is necessary. The point is that the neo-liberal agenda may not be the most appropriate type of reform. What seems to be forgotten in the post-conflict and developmental emphasis on "good governance" (based on the model and language of corporate governance despite Arthur Anderson Enron and the expanding of corporate scandals) is that institutions are embedded in social, cultural and political process. The formalist focus on institutions and constitutions often reduce democracy to actually existing free market democracy and may result in a new cycle of war as peace spoilers use the grievance of spiralling costs of living and real and perceived increases in economic inequalities to upset the peace.

Finally, the question remains: will humanitarian and post/conflict reconstruction aid effectively subsidize SAPs and county's adjustment to Global Capital (ism)? State and civil administration structures, social services ministries and administrative structures, health care systems, religious welfare organizations, civil society, had no relationship to prior competition over land between peasants of the various ethnic communities, and issues of land settlement and redistribution. Redistribution has been a fundamental aspect of peace processes in Guatemala and El Salvador and other parts of the world. In Zimbabwe the failure to address the issue of land in the first instance arguable has fuelled the recent land disputes form which Mugabe has made political capital. The post-conflict settlement in Sri Lanka if it is to be sustainable in short must take into account issues of poverty and property rather than seeking to extend the interests of international corporations. In short, the peace

process will have to balance the right of return of the (individual) property of the displaced with the new (collective) allotment of territory that the war has affected and notions of individual rights with notions of collective or social property and re-distributive justice. Three years after the "no war, no peace process" and six months after the Tsunamis hit Sri Lanka, there are signs that many are discontent with the reconstruction program and some nostalgic for the war economy, as inequality and the cost of living soar while a neo-liberal peace looms on the horizon.

Conclusion: For a Structural Adjustment of the Peace and Reconstruction Industry?

There is a need to rethink the international development and reconstruction architecture in the context of a growing reconstruction debacle and increased global and local insecurity. The international peace building, reconstruction and development industry run by the multilateral agencies and the I/NGOs that uncritically follow them, appear to be one of the main impediments to building locally-owned sustainable peace processes in conflict torn societies in the global south. This insight was at the core of the "joke" about 3 international aid, experts and INGO tsunamis hitting Sri Lanka and generating new conflicts while eroding local capacity. Clearly there is a need for structural adjustment of the international reconstruction industry as well as a new paradigm for reconstruction and development that builds bottom up from local knowledge, debates and grounded historical and social analysis.

The global economy is an information and knowledge economy. Nowhere is this more apparent than in the international reconstruction industry that is characterized by deep global-local knowledge and power hierarchies, information asymmetries, that impact negatively on efforts to build locally sustainable peace and post/conflict reconstruction. Within this global-local knowledge dynamic the multilateral institutions engaged in reconstruction have their own logic of practice.

The international tool kit approach to reconstruction ignores and marginalizes at the policy level national and local expertise (even as listening to the 'Voices of the Poor', displaced and vulnerable has become fashionable), while it trivializes social analysis, local knowledge, and political analysis that are crucial to building *locally appropriate and sustainable policy interventions in conflict-affected regions*. The international post/conflict technical tool- kit approach that comes with and imposes preconceived frameworks often results in the failure to addresses complex structural issues of power and hence is vulnerable to surprise when a new cycle of violence begins. The path to hell in this case seems to be paved with good intentions and poor social, political and historical analysis!

The industry is characterized by over emphasis on international technical knowledge and undervaluing of local knowledge and social and political analysis. The international agencies and their staff sometimes cooperate with but largely compete among

themselves and with local institutions to advertise their work, publicize their deeds, and secure contracts and control of particular sectors and projects. This competition sets up its own dynamic the most obvious being the exclusion of local priorities, expertise and alternative approaches to development that depart from the neo-liberal orthodoxy. The tendency to marginalize local knowledge and trivializing of grounded social analysis that myth of the absence of "local capacity" and "social capital" indexes, along with the failure to come to grips with the political dimensions of conflicts is often a bi-product of competition between the various international agencies and expertise that constitute the industry. Substantive analysis and solutions and policies adequately prioritized to meet the needs of conflict transformation and de-escalation is the victim of this state of affairs in the post/conflict industry.

There are also various myths about the disaster zones of the world that sustain the global reconstruction industry. The purported uniform absence of "local capacity" and deficit of "social capital" is one. Although it is generally recognized by academics that the 20-year old armed -conflict in Sri Lanka is one of the most highly researched and written wars in the world, there is a pervasive myth in the post/conflict industry that there is very little research on the conflict because local capacity and social capital has been destroyed as in other countries that have experienced violent conflict. This myth of the absence of "local capacity" and "social capital" is curiously reminiscent of colonial constructions of the lands of non-European "others" as *terra nueva* and *tabular rasa*, to be both colonized and civilized as per the white man's burden. Elsewhere I have traced the similarities and breaks in the reproduction of the colonial imagination of conflicts in Africa and Asia in the social imaginary and mythology about the "war zone" that constitutes the cultural ethos of the international development and reconstruction industry and its *mission civilatrice*, that increasingly aims to transform whole societies and economies, via its governmentalities. The purported absence of local capacity more often than not constitutes a legitimacy clause for deliberate marginalization of alternative reconstruction and development paths. National and local academics and social scientists who disagree with the neo-liberal approach to reconstruction are deemed to lack capacity.

While there was a brain drain from the north and east of the island this is less the case of the south where throughout the war years a number of citizens organizations, NGOs, practitioners, scholars, and academics worked tirelessly to foster peace, build bridges, between the combatant groups, and critically analyze the complex dynamics of the war in Sri Lanka. Moreover, academics and practitioners from the northeast have also moved to other parts of the island and live and work in a range of institutions, governmental and NGO. In the north and east a number of diaspora members have returned. In short, the absence of local capacity is by no means uniform and is itself a ideological perception that marginalizes issues and approaches outside a preconceived frame. It means that the large amount of research and analysis that has already been

done on the conflict and the good analysis that exists in Sri Lanka, and the local institutions and personnel who have extensive knowledge and analysis of the conflict is systematically and often deliberately elided. Thus despite the multiplicity of studies and needs assessments the same information gaps are reproduced in the industry because institutional memory is short, like the ahistorical time frames of the international agencies and humanitarian consultants who parachute in and out of disaster zones.

A second myth that one encounters in the international post/conflict industry in Sri Lanka is that there are no citizens or nationals who are capable of non-partisan, de-ethnicized analysis, hence international personnel are needed who can act in an impartial manner. While international personnel often play an important protection role in conflicts where there are human rights violations by parties to an "ethnic" conflict, the assumption that the rest of local civil society is tainted by ethnic bias or hatred does not necessarily follow. It is also a common belief among external experts that the conflict in Sri Lanka is an more or less primordial ethnic one, rather than a complex modern war about poverty, exclusion from development, and political representation. Elsewhere, I have suggested that the narrowly ethnic reading of the conflict in Sri Lanka actually reproduces and mimics the conflict dynamic. For current interests, this also justifies importing internationals who have very little local knowledge and ability to engage in substantive analysis for sustainable interventions, but who are perceived to be objective vis-à-vis ethnic hatreds.

Structural Adjust of the Knowledge Bank

Highly qualified in-country academics, social scientists, and consultants often note that they were not treated as equals in reconstruction policy making processes orchestrated by Multilateral agencies. They were rarely recognized and involved in defining the parameters, priorities, substance and Tors of the studies being conducted by international disaster and development experts flown in to assess reconstruction need and priorities who have little grasp of the basis of conflict. At other times, consultations with local expertise by the multilateral agencies and related consultancy companies that proffer their knowledge and policy expertise to disaster besided and sometimes corrupt governments, appears to be a matter of ex-post facto rubber stamping of Need Assessments and policy recommendations.

More often than not in-country social scientists who engaged in informed critique of neo-liberal development and reconstruction trajectories are perceived as "security threats" by the World Bank that with characteristic modesty also deems itself the "Knowledge Bank". The bank and related developmental agencies fear their links with local social justice and grass root movements.¹² The undervaluing of social analysis and local knowledge often makes for inadequate policy and projects and programs that are unsustainable in the long run. Marginalization of social analysis is

partly the reason post/conflict reconstruction policies have often exacerbated real and perceived regional and income inequalities leading to new cycles of war and violence usually articulated in the form of ethnic or identity conflicts.

The result of the marginalization of moderate and informed in-country expertise in the development and reconstruction discussion is also one of the reasons for the increased prominence of anti-globalization and ethno-religious nationalisms of a fundamentalist bent in many parts of the global south.

The multilateral agencies involved in reconstruction cannot be assumed a-priori to be disinterested. International post/conflict and humanitarian agencies and interventions aimed at settlement are not always detached, well-meaning, and hence inherently effective. One important implication of this situation is intervention in the field of reconstruction must be premised on a more sophisticated critique of political economy, and of the relationship between local and global economic interests and embedded knowledge hierarchies in post/conflict reconstruction and peace processes. The local – global knowledge gap that structures the crisis in the international peace building and reconstruction industry is partly an effect of the fact that research and intervention aimed at conflict settlement is often initiated, funded, and carried out by external parties, while locally grounded social and political analysis is marginalized via application of the formalistic international technical tool kit approach to reconstruction, democracy and development. Meanwhile the issue the politics of knowledge production within the development and reconstruction industry is elided. Indeed at a policy level, these agencies do not appear to be accountable nor do they have the operational flexibility and necessary expertise to be accountable in a broader sense to the country they work in. Lip service is of course often paid to consultation with all stakeholders. However national expertise and social scientists often with far better qualifications than their international counterparts are paid and treated like research assistants while the analysis and report writing is done by the international technical expert.

The role, value and exit strategies of international development and reconstruction experts and actors must be constantly evaluated, monitored and assessed. Given the extra-ordinary and often indecent salaries that international experts and staff make in disaster stricken countries where a significant part of the population lives on less than a dollar a day, there is a tendency for internationals to extend their contracts and stay on. After all, Sri Lanka with its tropical beaches, fertile soil and lazy natives is considered a highly desirable disaster zone by those who work the international post/conflict humanitarian and reconstruction industry. As such, local capacity building and handing over of the project to locals is rarely a priority even though lip service is often paid to doing so. This is however necessary if reconstruction is to benefit the people who have been affected by natural and man-made disasters, rather than the global post/conflict industry. In the meantime, it may be relevant to do a conflict impact assessment of the post/conflict, post-tsunami reconstruction package and the role of international aid in the

making of violence. Sri Lanka simply cannot afford another cycle of conflict between its diverse ethnic and religious communities that co-existed in relative peace for centuries before the World Development industry led by the Bretton Woods institutions and the international military industrial complex came along. Finally, along with financial transparency social monitoring of the post-tsunami reconstruction package is necessary.

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End Notes

1. I would like to thank the Fulbright New Century Scholars 2002-2003 working Group 1 for critical comments and encouragement, particularly, Pratish Onta, Dan Rabinowitz and Courtney Jung. Needless to say they are not responsible of any shortcomings. A version of this paper is forthcoming in the Journal Development Vol. 48:2.
2. Peter Walker 2005 "Opportunities for Corruption in a Celebrity Disaster".
3. The World Bank and UN agencies has predicted an AIDS epidemic in the conflict affected parts of the country and set aside

a very large budget for free AIDs testing of refugees returning from India when the peace process began in 2001. These predictions of an AIDs epidemic and the culturally insensitive anti-AIDS program that took place were clearly was not base on a social political or cultural analysis of the relevant populations which have a highly conservative cultural profile buttressed by the moral Puritanism of the LTTE. They were based on a one size fits all reconstruction tool-kit imported from some conflict areas in Africa where there have been AIDs epidemics. The anti-AIDS campaign and predictions resulted in the stigmatizing of returnees from India in the northern and Puttlam districts.

4. See Ben Fine's *Social Capital versus Social Theory* (2001) for astute analysis of this issue.

5. In a recent book published by the Washington-based United States Institute for Peace, titled, *Effects of Violence on Peace Processes* John Darby notes: "Of the thirty-eight formal peace accords signed between January 1988 and December 1998, thirty one failed to last more than three years". Darby suggests that a peace process must be forward looking and potential spoilers of the peace must be on board, for if not they may destabilize the peace process. In Sri Lanka this would include potential spoilers who may use local conflicts and social and economic inequality that are not directly related to the macro armed conflict between the LTTE and GoSL.

6. It is of concern that a range of social conflicts have escalated in Latin American countries that undertook uncritical structural adjustment programmes (SAPs) at the end of "dirty wars". These economic programmes made them vulnerable to fluctuations in global financial markets at the behest of the World Bank and IMF (Argentina being a dramatic case).

7. The previous UNP government had managed to sustain growth and wage war, but by following a strategy of containing the conflict, and limited war.

8. It was noted that the Government's estimate was an underestimate of total defence expenditure, after the various military service sectors were accounted.

9. See "Voices of the Poor" ADB Poverty Study 2000.

10. *Pura Handa Kaluwara* (Death on a Full Moon Night) directed by Prasanna Vithanage, a film that commented critically on the futility of war and its social costs, was banned by the authorities and then unbanned following a prolonged legal battle and the Supreme Court ruling that the ban violated the freedom of artistic expression.

11. Michael Foucault's work on the dynamics of discourse and power to construct and represent an authorized social reality, and Nandy's work on how global discourses come to structure local realities and subjectivities has given us the tools to unveil some of the mechanisms by which certain orders of knowledge are produced as permissible modes of being and thinking, while others are disqualified, also in the historically singular experience, if not teleology of "world development".

12. The Senior Social Sector position at the World Bank Office in Sri Lanka has remained vacant for years despite there being many highly qualified and internationally recognized social scientists in the country. Many of these social scientists resist recasting capitalizing social relations and trivializing social analysis into the measurement of social capital.. Meanwhile the myth of the lack of local capacity, be it social scientists or construction workers persists among the multilateral agencies and related I/NGOs. ■

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KNOWLEDGE AND EDUCATION

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1. The Historical Method

Keeping in mind that one of the purposes of education is ultimately to advance knowledge, and where this is not always possible, at least familiarize the educated knowledge, I would like to consider this question in two ways: one is to discuss what an advance in knowledge involves, even at the level of schooling and even in relation to the one discipline that I know ? History; and secondly, to touch on some of the practical aspects of educational bodies and institutions that are expected to encourage the advancement of knowledge.

It was recently reported in the press that the ex-Minister for Human Resource Development, M.M. Joshi, had stated that historians such as myself, and a few others, needed to brush up our history in order to be in touch with the latest views. This was rich, coming as it does from someone who has repeatedly demonstrated little or no familiarity with history, whether old or new. Doubtless the remark was also intended to renew the controversy over history textbooks.

The debate on history teaching and textbooks will continue because the issue is not limited to the writing and interpretation of history, but concerns at least three aspects that impinge on history teaching as part of the process of education and as a part of the advancement of knowledge. The first of these raises the question of how committed are we to advancing knowledge even in a particular discipline. The second concerns the methods used to advance knowledge. The third is the degree to which we are aware that a discipline is being misused in the interests of assisting political mobilization.

Commitment to advancing knowledge applies not just to history but to every branch of knowledge. This involves a familiarity with the direction taken by a system of knowledge via its evolution, a comprehension of how and why it has changed over time, and what the relevant questions emerging from current knowledge are. In the case of what has more broadly been called Indology (which is often at the root of the present controversy) it would involve examining the early texts ? for instance, the *Vedas*, the *Mahabharata*, the *Ramayana* and such like ? as well as the commentaries on these texts that were written during the centuries between their composition and now. If we are to study these texts as part of a system of knowledge we have to consider the scholarship and the historical context of the discourse from early times and understand how scholars commenting on these texts analysed them. This requires a degree of expertise not easily available to all.

Associated with this were the variant versions in which the themes of these texts were treated. Why, for example, were these texts treated. Why, for example, were there Buddhist, Jaina and multiple other versions of the *Ramakatha* that differ in significant ways? This was also part of the discourse among scholars of the ancient past and among those who responded to these versions. But in the current discussion of these early texts we marginalize the commentaries and variant versions and refer largely only to 19th century writers. This is an impoverishment of our intellectual tradition. It would be worth examining why our views of these texts are largely determined by 19th century views of the past. Similarly, we are intolerant of attempts to analyse the past crosscurrents of intellectual life and their historical context, using contemporary techniques of analysis. If such discourse is thought to be a Western way of looking at the texts, then surely the logical reaction in terms of advancing knowledge is to discuss these analyses and not merely dismiss them. Why do we wish to freeze the past instead of exploring it? If the Jaina *Ramayana* – the *Paumacariyam* – tries to provide rational explanations for some of the fantasies of Valmiki, as has been argued by scholars, it would be of interest to find an explanation for this.

I refer to the 19th century because what is being projected as ‘tradition’ is generally the limited view of the 19th century, and then too of the more conservative writers on the past. Even when earlier commentators are occasionally referred to, little mention is made of the lively and contested debates among these scholars and commentators throughout the centuries, debates that arose through questioning and commenting on the meanings of established texts. There was a long lineage of such commentators spanning a range of views. Both the continuity and the changing historical context are relevant. Yet few students know that there were differences of opinion among intellectuals of the early periods on the texts that today are strait-jacketed into an almost meaningless description. Every text is ‘sacrosanct’. Few kings are not ‘great’. Most kingdoms are empires. Every hero is the epitome of moral values and there is no discussion of lapses. This is sought to be justified by arguing that such a treatment of the past is necessary for building confidence in the Indian identity; but in effect, a more realistic evaluation would create far more confidence since it would be pertinent to person, place and time.

If we are to familiarize ourselves with our intellectual tradition as a prelude to advancing knowledge, we have to bring into the discourse the debates and controversies among scholars of the period prior to colonialism who wrote in Sanskrit, Persian and a range of regional languages, commenting on a variety of earlier text. Discussions of the views of opponents were treated as essential

to the start of a philosophical debate. Current explanations of the Vedas for instance, frequently quote the views of Aurobindo and Vivekananda and the 19th century commentators. Their audience was the colonial power and the Indian middle-class and the end purpose was frequently some kind of mobilization. Few attempts are made to try and understand why a major commentator such as Sayana writing in the 14th century A.D., explained the *Rigveda* for example, in the way he did. If his comments were more familiar to us, even those that remain opaque, we would learn about his intellectual world and also have to consider ways of responding to the text, ways that are currently unacceptable. Since the modern theory of “the Aryans” did not exist in the 14th century, the context of the *Rigveda* was looked at differently. This is not to suggest that we adopt the fourteenth century reading of the text, but that we try and understand why the reading was different from what it is today, and the degree to which knowledge to this field has changed and advanced. There was in the past constant exchange of diverse views among scholars, writing in Sanskrit, in Persian and in what are now called regional languages. What was the impact of these dialogues? An advance in knowledge does not mean the imposition of a single point of view. It means analyses and assessments of a system of knowledge and these may sometimes lead to fresh perspectives.

The second aspect that impinges on teaching history is that of the method used to advance knowledge. The defining of a method, acceptable to those who are proficient in a particular area of knowledge or a discipline, is essential to the advancement of knowledge in that area. Curiously in India, and especially at the popular level, this concession is made to scientists and to scientific method, but less so to other disciplines. Non-scientists hesitate to pronounce views upon the work, for example, of physicists, astronomers, engineers and those conducting medical research. It is conceded that both the handling of data and the methods of analyzing data, require special training. But in the social sciences, barring the use of mathematics and statistics in economics, for instance, this receive little recognition.

Some social sciences are becoming quite technical, as for example, in the use of mathematics and statistics in economics and in certain kinds of sociological and geographical studies. But history remains the plaything of anyone and everyone. This is largely because the centrality of what is sometimes termed ‘historical method’ in the profession is not generally discussed in the average history syllabus even at college level, leave along high school. This is parallel to the kind of science teaching that ignores talking about scientific method. The result is that scientific formulations are often repeated in school (and sometime even later) as if they were mantras without going through the process of understanding the pros and cons of how they were arrived at.

Historical method involves the processes of understanding the nature of the data and learning how to analyse it. The data, for example, can be potsherd, a coin, an inscription or a text. Understanding the first two categories requires a knowledge of the

material from which they are made and their functions as an object. The information from the latter two trends to be more extract. It is not enough to be able to say that the potsherd belongs to the Northern Black Polished Ware variety, or that the coin was issued by Samudragupta, or that the inscription is a document recording the grant of land in Tamil Nadu or the text, the *Ain-I-Akbari*, is among other things, a statement on Mughal revenue administration. Each source carries a further range of information, not always obvious, but evident to the person trained to search for the information. The analysis of the information does not stop at the obvious statement, for the well-trained historian can draw out much more evidence than just the obvious, and seek answers to a further set of questions.

Explaining the quality, number and distribution of the potsherds and the coins adds further information to what is obvious. If potsherds of the Northern Black Polished Ware are found at sites all over the subcontinent, it is not enough merely to say so since the reasons for this distribution have to be sought. The weight and metal content of coins provides some glimpse of economic exchange, and the depiction points to style and symbolic content. Wheat does it mean – beyond the obvious – if a coin shows Samudragupta slaying a tiger? In the case of an inscription the language and the format can point towards many perspectives. If it is recording a grant of land by a king to a person, then there is the issue of political legitimacy – who is making the grant and why and who is the recipient; what information does it convey about the person issuing the grant, or about a religious sect that is being favoured and if so why; or the implications of the grant for the agrarian economy, if such grants are frequent and on a large scale. The primary questions posed to a text are those concerning the background of the author; the purpose, function and content of the text; and whether these can be compared with those of other texts similar in time and function.

What this means is that the historian has to think beyond the surface information. And since it is the function of the historian to try and explain the past, and the study of the past involves not just chronology but other social sciences as well, the historian has to be aware of the theories of explanation, not only in history but also in other social sciences, theories that have a bearing on the historical aspect of the study. Theories do not have to be applied literally, but an awareness of suggested explanations can help in formulating questions. If the purpose of history is to understand the past and attempt to explain it, which is what the contemporary approach to history is all about, then the theories of explanation in other related social sciences – archaeology, linguistics, social anthropology, sociology, economics, for instance – all have a bearing on this understanding. It is the inter-relationship of all these strands that go into the making of a historical generalization. This is why historical explanations can be and often are, complex.

Not so long ago, I was giving a talk on historical method to a group of science students in Bangalore, who compared it with the scientific method. They raised two questions: firstly, what procedure

does a historian follow in order to examine a historical question since history deals with the past and this cannot be reconstructed and demonstrated as in a laboratory experiment? Secondly, in science if an experiment in a laboratory fails, it is discarded; what do historians do? There are similarities and differences in the processes involved. The historian has to draw upon as much data as is available, to be familiar with previous discussions of the data, to assess its reliability and authenticity and to subject it to a critical enquiry. Unless the data is reliable, and the subsequent analysis is logical, the historical hypothesis collapses. These are the first steps towards stating and then testing a hypothesis, as a prelude to historical interpretation, and prior to making an eventual historical generalization. The historical generalization that then follows must explain as fully as possible the historical question that is being investigated. To this extent the historical method has similarities with the scientific method. Further, every theory finds a niche for discussion and is discussed by historians who are specialists in that field. If it cannot stand up to its critics, it is discarded. The later is not done through government fiat but through an evaluation of the research on which the theory rests. As in the sciences, so too in the social sciences new data and new theories of explanation, when they have been evaluated and established, lead to advances in existing knowledge. However, the evaluation of data from the past cannot be as extensive or as precise as in contemporary science. Therefore insights based on critical enquiry can be helpful in suggesting new avenues of research. Above all, historians focus not on molecules but on human beings.

2. Some Popular Misconceptions about History

An aspect that impinges on teaching history but is often overlooked is the popular use or misuse of history both at the level of individuals and by organizations. A number of people, otherwise well read, believe that the history that was current a century ago is still at the cutting edge of historical knowledge. It is often said that if the facts remain the same then surely the reading of these facts must also be unchanged. But not all facts continue to be facts for some do change. New evidence can modify or even annul what were previously taken to be facts. This happens more rapidly with the new evidence of archaeological material from excavations. Not only by this but by asking fresh questions the casual connections between facts can give a different reading. This leads to new historical interpretations.

There is a disinclination to understand, leave alone accept, the more recent interpretations of the past. Knowledge moves on, but for some people out-of-date knowledge remains evergreen. This is not to denigrate the classics of historical writing that can still be read with intellectual profit. But like any work of history, they are best understood when placed in a historiographical context as expressions of a particular space and time. There is also a feeling that the uncertainties of the present and therefore of the future can be relieved by the imagined certainties of the past. What is curious

is the continuous clinging to these imagined certainties among those who have in their own professions questioned past knowledge and projected new interpretations of knowledge in the present: I am referring to those scientists and technologically trained persons who use the scientific method in their own fields, but refrain from using even an approximation of the rational method when it comes to their vision of the historical past. If the method of investigation and assessment outlined above is not used in relation to all knowledge, then the question that needs an answer is, why is there a deliberate choice not to use it in the study of history.

One simple answer is of course that it is a political choice. For some, the past is a given and the particular interpretation of the past supports a political ideology. Such ideologies are being enmeshed in perceptions of identity with an insistence that identities have to be religious. In such cases it is not the history of the Indian citizen that is being sought but the history of the religious community, since that has now become the prime identity.

Where history is geared to a communal identity, attempts are not made to abide by the historical method. Statements of belief are made and reiterated and claimed as history. An example of this is that both Muslim and Hindu communalism have insisted that there was continuous hostility between Hindus and Muslims throughout Indian history. This was also the historical explanation given by most colonial historians to explain events in the medieval period. The communalists and the colonialists propagated the two-nation theory. Historical research over the last 50 years has shown that such a generalization is not tenable. There were immense variations in Hindu-Muslim relations ever since the coming of the Arabs, Turks, Afghans, Mongols and Persians. In some situations, relations were hostile and confrontational both between the two and among the many, in other situations they were amicable and friendly. This requires that historical situations be analysed and assessed in some detail, indicating the variations in the nature of these relationships and explaining why they varied.

There is also the myth that all conversion to Islam took place at the point of the sword: the choice was Islam or Death. This is a caricature of conversion and was first stated by Muslim chroniclers and has since been picked up by others in recent times. Conversion is a psychologically charged process and also relates to conditions of status and general well being. The majority of conversions were by *Jatil* caste and were therefore voluntary. This needs an explanation. Frequently it was the Sufis whose teachings were persuasive. Often this resulted in closeness between the guru and the *pir* in religious forms that eroded religious boundaries. It was this in part that brought about the pluralism of Indian Islam. Since cultural and religious pluralism is a strong component of Indian civilization it makes an impact on all religions in India. It is again this pluralism that is expressed in the many religious forms that allowed multiple and overlapping religious expressions. These are now being axed by the various religious fundamentalisms.

It is disheartening that those who otherwise pride themselves on their analytical abilities cannot analyse the propagandist projection of history. It is argued for example, that upper-caste Hindu culture has primacy because it is the indigenous culture and its history is indigenous history as against the history of India formulated by western scholars. Yet the central features of this so-called 'indigenous history', as for example the Aryan foundations of Indian civilization, or, the innate hostility between Hindu and Muslim, are essentially contributions of colonial interpretations of Indian history as has been repeatedly demonstrated by historians. Since the claim to a particular historical interpretation can become a justification for constructing a particular kind of society, there should be an awareness of what history is being used for example the Aryan foundations of Indian civilization, or, the innate hostility between Hindu and Muslim, are essentially contributions of colonial interpretations of Indian history as has been repeatedly demonstrated by historians. Since the claim to a particular historical interpretation can become a justification for constructing a particular kind of society, there should be an awareness of what history is being used for.

The 'indigenous history' is then described as being attacked by Leftist historians. The more trendy media, anxious to pick up anything that hints at controversy, and ready to sensationalise the trivial, projects the debate inaccurately, as Left versus Right. This particular projection is not peculiar to India. It is typical of many parts of the world where the current political battle is over the supremacy of groups defined by a variety of religious, ethnic or linguistic identities. Those insisting on a narrow, national identity invariably dub the liberals supporting a broader identity as Marxists – intending it as a derogatory term. In doing the same here in India, we are following an international fashion.

The description of Leftist historians in the Indian context has been particularly inept, since any historian who uses the word 'economics' or 'class' is immediately dubbed a Marxist, irrespective of whether he/she has claimed to be one. There seems to be a lack of awareness that such words have an independent existence. The same label is used for those who argue that Indian history has been largely the history of royalty and upper castes, and that history should also incorporate the activities of those lower down in social ranking. Such studies are relevant since the latter have not only provided the labour and the enterprise of much that went into the making of Indian history but have also pioneered a variety of religious movements cutting across formal religions. The objection to discussing the history of caste in India is because it inevitably highlights the warts on Indian society.

Some of the most intellectually stimulating debates in Indian history, have often originated in disagreements among Marxist historians but have then gone on to include a large spectrum of non-Marxist historians, and the debates have extended our understanding of historical problems. An example of this is the extensive debate on feudalism in India where there have been sharp differences among Marxists as well as between Marxists and non-

Marxists. The debate has resulted in far more knowledge now on themes relating to the nature of the state, agrarian economies, changes in caste statuses and the evolution of religious sects. Let us not forget that in a similar fashion, major debates on European feudalism involved economic historians who were not Marxists. Nor is feudalism the only subject of controversy. The definition and difference between states and empires is also being discussed, as is the question of the social origins of religious sects, the role of women in society, or even the impact of environmental factors on history. The issue is not one of Left Fundamentalism and Right Fundamentalism: it is one of history as against a political programme masquerading as history.

The debate on history came to a boil over the issue of textbooks. The Bharatiya Janata Party's attempt was to curtail knowledge rather than to advance it. Passages in the old textbooks that were unacceptable to the BJP ideology were deleted from history textbooks. Any thought of advancing knowledge was terminated by disallowing discussion of the passages in class. This was done not at the instance of historians but on the demand of organizations that were sympathetic to the BJP. History textbooks became a platform for political alliances among such organizations. The textbooks of the National Council of Educational Research and Training (NCERT) brought out by the BJP government show no evidence of being based on the historical method. If we are not going to repeat the same arguments again and again, and wonder what every change of government is likely to mean to the future of knowledge and education, then perhaps we need to understand the processes involved in the advance of knowledge, particularly in systems where government policy includes the handling of knowledge. This would mean underlining the transparency of institutions concerned with education at various levels and those unacquainted with the processes of advancing knowledge.

3. The Institutions of Education

In societies like ours where governments seek to be patrons of knowledge, government policy towards education is fundamental to the way in which knowledge can be advanced, or for that matter, reversed. This becomes central and sensitive in situations where the major part of education, at all levels, is controlled by the Central and State governments. The alternative is not that education should be privatized but that governments should treat it in a less casual way than most have done, or in a callous way as one recent government has done. We have experienced the disastrous impact on education of a committed propagandist policy under the BJP. Such experiences could well be avoided if there is a great participation of educationalists and academics in hammering out the policy, and if the institutions involved in education are allowed to exercise their autonomy and at the same time made transparent and responsible in terms of their social function.

We may choose to regurgitate what we find indigestible from the period of the BJP government in matters of education, but it is

equally, if not more, important to set up procedures and give them the necessary statutory and legal basis so that they cannot be overthrown by the next government. This demands urgency since we are chronically slow at activating clearly thought out procedures. It also demands some hard thinking on how to structure institutions. This may involve reformulating the statutes that govern such institutions, a reformulation that could require more than just a ministerial sanction. It would also need a fresh look at the procedures for funding institutions and procedures of how funds are made available. Is it possible to think of alternative ways of ensuring that at least the funding for research can be an independent source even if the finances come from government? The crisis that we have been through was in part created by the collapse of those institutions that had neither the democratic nor the professional autonomy to sustain themselves against government directives. This has to be corrected. Such a correction should be the priority of the present government.

The Central Advisory Board on Education (CABE) needs to reconsider urgently the curriculum for school education and do so not in a leisurely fashion but with alacrity, drawing on widespread discussion. There would be at least a small safeguard if the CABE were to be made a statutory body incorporating some legal rights in determining educational structures. Frequency of meetings to vet the procedures could be stipulated. An adequate membership representing educationists and professionals in the disciplines should be a requirement. A good professional representation may allow it to exercise more autonomy than if it is swamped by ex-officio members. It may be worth reconsidering the balance of membership in such bodies. Governments tend to fear the autonomy claimed by academics, consequently academics will have to insist on being represented on state organizations that have educational functions.

In bodies such as the Indian Council for Historical Research, the Indian Council for social science Research and the Indian Institute of Advanced Studies, which were mutated to suit the political policy of the BJP, it is not enough to change the people running these organizations. It is equally necessary to examine their existing constitutions with a view to incorporating into these institutions the required statutory and legal provisions that will give them the authority to resist the pressures of a government. These are all primarily research institutions and even though financed by the government, their administration of research projects should not be so vulnerable that they are subjected to the whims of whichever government happens to be in power.

The NCERT could enhance its role as a center for pedagogy interwoven with the disciplines. It could have a primary concern with assessing the textbooks that are used. NCERT textbooks need also to be sieved through professional bodies both for disciplinary content and for pedagogy. Two committees of historians vetted the NCERT textbooks in History prescribed in the 1960s. It might also put into perspective the function of the NCERT textbooks, which were originally thought of as model textbooks.

Since there are a number of textbooks on the market for each subject and class, an evaluation of these books by a responsible body would be a considerable help to schools and Examination Boards in prescribing books. An additional exercise would be to set up discipline committees to assess at least a sample of textbooks used in a range of schools, be they government schools, *shishu mandirs*, *madrassas*, *gurdwara* schools, convents, Dayanand Anglo Vedic (DAV) schools, those of the Ramakrishna Mission and the lot. This is not to suggest a centralized control but transparency in who is teaching what, a transparency that needs to be taken seriously both by professional educationists and by the citizens. Textbooks in some States have been startling in terms of giving misinformation. And the assessment needs to be more than perfunctory. An evaluation of what is acceptable and what is not and for what reasons would raise debates about what goes into school education and such debates are essential for responsible schooling.

Textbooks are not just teaching manuals. They shape the minds of children and to that extent invest the next generation with values of citizenship. Consequently there has to be an awareness of the attitudes inculcated through textbooks – not values that promote political ideologies but values that ensure an informed citizenry and a vibrant civil society, and particularly an awareness of the human rights that go with both. However, vetting textbooks is not sufficient. The procedures of the Examination Boards require to be looked into – particularly the manner in which a syllabus or a textbook is chosen. More often than not there is little evaluation of the content and pedagogy of the book, the choice being arbitrary. Nor is there an attempt to involve teachers who are professionally interested in what they teach. This leads on to the publishers of textbooks, and that is another complex story.

If the syllabus in a subject is to be made more up-to-date then the training of teachers who teach the subject has to be improved. It is unfair to expect teachers to teach what they themselves are unfamiliar with. Extensive refresher courses would be one way of handling the problem. These could be aimed to train the teacher in the methods of the discipline and acquaint her with some of the more established advances in the subject with an emphasis on explaining how the advances have come about. The locating of the discipline within a bigger body of knowledge may help improve the intellectual world-view of the teacher and may well inspire an initiative in pursuing the subject at greater depth. Teachers also need to be encouraged. In many schools, teachers are not trained in a specific subject and teach a range of unconnected subjects. Such teachers would need to be familiar with both the subject and its wider context. If the context catches the attention of the teacher, the subject will also be taught in a more meaningful way. Such refresher courses could be backed by additional ongoing activities. A single course is not enough. It has to be supplemented with the assistance of booklets, television programmes, radio talks, so that the interest of the teachers can be both sustained and enlarged. Since the textbook provides the basic information, the audio-visual media could be used to talk more fully about the subject and to encourage teachers and students to apply this knowledge to the

world in which they live. If the general pattern of the programme can be worked out intelligently and imaginatively, it can be applied in multiple ways.

Doordarshan could have an educational channel bifurcated into programmes for students and teachers. This idea was discussed in the initial stages of Prasar Bharati but was not pursued when the BJP government came to power. Presumably this could also draw on the work of EDUSAT which need not be limited to science education. A basic TV set for every secondary school should not be difficult, particularly if manufacturers can be encouraged to donate such sets. It would make a substantial difference particularly in the teaching of subjects in which visual objects play a part, such as archaeology and history – showing what has been excavated; geography – displaying maps and landscapes; and demonstrating scientific experiments.

Some resources should at least be made available for setting up minimal library facilities in schools that might encourage teachers and senior students to read. The gifting of used books that can be distributed to school libraries may be a way of starting a useful trend. Band textbooks are less of a problem where teachers are themselves aware of the many dimensions of a subject through their reading. If the allocation of resources makes this difficult, some serious thought should be given to putting a stop to financing new universities until primary and secondary education has caught up to a greater degree. Or at least frill interests in university curricula can be divested. Clearly there was enough spare money to fund the whimsical interest of one Minister when finances were made available for establishing Departments of Astrology. This money could have been better diverted to more schools and more training for teachers. In most places children, and especially Dalit children, become literate despite the obstacles presented by the so-called 'educational facilities'.

Speaking of libraries, this is one fundamental requirement for research that with rare exceptions, functions in an appalling manner. Quite apart from books and manuscripts being badly housed, even up-to-date cataloguing is regarded as unnecessary. This makes the retrieval of books so difficult that finding them in the library becomes a battle of wits. When universities are financed, the library is not a priority even though it is in fact the most essential, if not dynamic, part of a university.

Where the state is disinclined, inadequate funding could be improved with private donations for the purchase of books as happens elsewhere where libraries are well managed. Part of the drag on the functioning of libraries is also that the staff is so poorly trained. Sometimes one has the impression that the only qualification seems to be basic literacy. Library science has perhaps to be converted into a more rigorous discipline.

And then there is the problem of duplications in holdings. Libraries have a tendency to order the same books and journals as other libraries in the city. If libraries were made more accessible this

could be avoided and there could be the availability of a wider range of reading. Such measures do become necessary where funding is limited and libraries are specialized. Added to which the cost of books keeps leaping upwards. A computer-based catalogue could provide useful information of the holdings of major libraries in a town provided the data is complete. For example, holding of journals should state which volumes are available where. The format for such computerized data is available from well-established libraries.

One assumes that this could be done more easily for libraries run by government departments. However, three major libraries in Delhi, (the libraries of the Archaeological survey of India, the National Museum and the Indira Gandhi National Centre for the Arts) in an area of less than half a mile square, with substantially similar holdings, function independently of each other. A few years ago, some of us working in fields of pre-modern studies had suggested that the functioning of these libraries might be rationalized. They could be clubbed together into a large library complex or their holdings could be so co-ordinated as to avoid duplication, allowing each one to specialize in different fields and subscribe to a different set of journals. A combined catalogue would help locate publications and would provide researchers with access to a fuller range of up-to-date publications and journals. This is centrally important to research since much that is new often takes the form of papers in reputed journals.

Lack of journals and recent publications puts Indian scholars at a disadvantage. Subscribing to many foreign journals is undoubtedly expensive. One of the ways of making such journals in the humanities and social sciences available would be to have a single center where all these are available and where researchers can come and consult them, or else purchase photocopies of relevant papers published in these journals.

Unlike university libraries there are not that many people using these libraries and the functioning could be streamlined. Research does not emerge full-blown seated on a lotus. It requires access to up-to-date information – the kind of access that is now taken for granted in the Institutes of Science and the Indian Institutes of Technology and Indian Institutes of Management. The existence of the Nehru Museum and Library has helped in raising the sights of research into modern Indian history. Access to up-to-date information is also a requirement for intellectual freedom.

All this cannot immediately be put into action, but much of it can be if it is prioritized and planned. Priority does not mean taking up one institution and funding it lavishly while neglecting others. It can also mean setting up pilot centers to introduce some of the activities and such centers may hopefully become the nuclei of expansion. It also means that there could be some integration with non-governmental agencies involved in similar work.

The advancing of knowledge is an activity at the level of research scholars and institutes, therefore why should one bring in the issue

of improving school education? Knowledge cannot advance in isolation. There has to be a support system that allows, or better still appreciates, cutting-edge research. This can come through an educational system that recognizes one of its purposes as being encouragement to the advance of knowledge through the educational values it endorses and the facilities it provides. This would strengthen the other function of education, namely, ensuring quality in professional training. Such educational values require the availability of school education to all. It is a commitment that few governments are willing to make as is evident from the perennial refusal of an even half way adequate budget for education.

Some like the previous government were reversing measures to advance knowledge because they used educational channels primarily and systematically to propagate an ideology with a deliberate deletion of knowledge that was unacceptable to the ideology. The procedures and institutions I have referred to are not

necessarily where advances in knowledge take place as a first priority, but where the future safeguarding of knowledge has to be ensured.

The wider support comes from a public recognition that the requirements for knowledge have to be comprehended and carried forward, for this alone makes it possible to explain the world around us: knowledge is not there to be bandied about by politicians and the trendy media. Advances in knowledge are always controversial, but the controversies have first to be understood, before they can be pronounced upon. Given all the talk about how advanced we are in Information Technology and what have you, we remain backward in the essentials of education. Having witnessed, not so long ago, an attempt to mangle knowledge, we have to prevent that from happening again. ■

Courtesy *Frontline*, January 28, 2005

Romila Thapar is an eminent historian in India.

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AUSTRALIAN MULTICULTURALISM AND THE POLITICS OF A NEW PLURALISM

Laksiri Jayasuriya

Introduction

The advent of multiculturalism ranks as a notable experiment of social engineering. Nevertheless, this social ideal has been under critical public scrutiny for sometime. The problematic nature of multiculturalism as a contested notion of public policy arises from two alternative ways of conceptualising multiculturalism:

- ◆ First, as a philosophy of migrant settlement catering to the needs of new comers through public policies designed to help their integration into the socio cultural structures of Australian society.
- ◆ Secondly, as a constitutive principle of the Australian nation, one which is central to how we regard ourselves as being Australian in a multicultural nation, ie, as Australian citizens in a diverse and plural society.

In other words, how do we as citizens in a liberal democracy deal with *difference*? How can the ideology of multiculturalism respond to the 'new pluralism' of Australian society?

The Multicultural Philosophy: from Whitlam to Howard

From the outset, Australian multiculturalism has been characterised by two distinctive features: one was that of a *migration for settlement linked to the idea of a common citizenship*,¹ the second was the fact that it was oriented to catering to the symbolic and expressive needs of the culturally different.² Firstly, as an inclusionary citizenship, these policies granted full protection of the law and most of the citizenship rights to all Permanent Residents or 'denizens'.³ This was what guaranteed a 'fair go' for the newcomers by recognising that all legal immigrants were no longer treated as 'aliens', but as citizens.⁴

However, the enjoyment of the rights and entitlements of citizenship by immigrant settlers was conditional on the newcomers accepting the common structures of society – its legal and political institutions, system of administration and rule of law, and English as the official language. While this was a limitation imposed on the manifestation of 'difference', this was the key to their incorporation into the commonalities of Australian society. This conditional multiculturalism,⁵ along with the conferment of the social rights of citizenship, accounts for the successful social integration of new settlers.⁶

Furthermore, from the outset, the doctrine of cultural pluralism also sought to embody the values and ideals of a liberal political culture and humane society. These included an 'equality of respect', the human dignity of all persons – expressed as a mutual respect for, and understanding of, one another and equal regard for every member of society as a human being.⁷ Underlying this was the belief that a sense of social/ethnic identity may, at least for first generation settlers, co-exist with a sense of national identity of being an *Australian*. Importantly, multiculturalism has evolved primarily as a doctrine of cultural pluralism. This refers to the 'preservation of the communal life and significant patterns of the culture'⁸ of immigrant groups subject to the proviso that this is within the context of accepting the rules and practices inherent in Australian citizenship.

Cultural pluralism was built around notions of *culture* and *ethnicity* and generating an *identity politics* which has governed the practice of policies of ethnic affairs and migrant welfare especially from the Fraser era onwards. This identity politics, based on an essentialist view of ethnicity and cultural groups/ communities⁹ and also drawing on various forms of cultural relativism, privileged cultural maintenance and cultural celebration. The fallout from this has been a 'them' versus 'us' attitude and this trend has been reinforced by *diaspora nationalism* (ie, linkage back to cultures of home countries) among some migrant groups.

This model of culturalist multiculturalism, despite modifications introduced in the Hawke-Keating era and also by the Howard government, has enjoyed bipartisan endorsement. While the Hawke-Keating policies still remained aligned to the identity politics and the ethos of culturalist multiculturalism inherited from the Fraser era, the underlying tenor of its policies was clearly one of a '*managerial multiculturalism*'.¹⁰ This was 'a policy for managing the consequences of diversity in the interests of the individual and society'¹¹ which Keating refers to as a 'productive dividend'.¹² This rationale was associated with the prevailing culture of economic rationalism, and advocated the virtues of productive diversity (and later 'economic efficiency'), to assist trade and business activity. By channelling multicultural policies towards enhancing Australia's competitive advantage, Keating was clearly attempting to reorient the ideology of multiculturalism in the national interest by adding to its foundations in an inclusionary citizenship.

Towards a Normative Multiculturalism

What this does is to provide the first signs of making multiculturalism something more than catering to migrant welfare needs, and dominated by identity politics. Accordingly, Keating's understanding of the philosophy of Australian multiculturalism was essentially the same as the key principles governing Australian social and political institutions. The latter he identified as 'the constitution and the rule of law, parliamentary democracy, freedom of speech and religion, English as the national language, equality of sexes and tolerance'.¹³ This endorsement of the ideology of multiculturalism with a focus on membership in the political community was importantly couched – to use the language of Baubock¹⁴ – as a 'republican citizenship' rather than the later Howard conceptualisation in terms of a 'national citizenship'.

When we come to the Howard era, as I have argued elsewhere,¹⁵ we find that *New Agenda*¹⁶ policy prescription only serves to fine tune and reform the edges of the *National Agenda* of the Hawke-Keating era. This is, indeed, a classic instance of the aphorism, *plus ça change, plus c'est la même chose*!

But there are two critically significant points of difference. Unlike, the Hawke-Keating document, Howard's *New Agenda* is stated not in terms of rights based citizenship but is more oriented towards 'civic duties' – the mutual obligations and responsibilities of citizens.¹⁷

The overarching theme of Howard's *New Agenda* is 'reconciling unity and diversity' by the simplistic solution of denying the migrant experience, the vibrant pluralism of society and re-affirming the cultural values of the dominant anglo celtic heritage as signifying the homogeneity of the 'cultural nation'. This, in many respects, is reminiscent of Henry Parkes' celebrated slogan – 'One People, One Destiny' – at the time of Federation. The only difference being that British identity is now replaced by a sense of Australian identity and citizenship arising from membership of a political community. This is constructed in terms of core cultural values, the inviolable cultural heritage of the Australian nation and citizenship.

Multiculturalism in Crisis

Multiculturalism as Public Policy

Until quite recently, this orthodoxy of Australian multiculturalism proved to be effective as a successful policy of migrant settlement for a variety of reasons. First and foremost, from its inception this policy ethos had a corporatist flavour; it was a state directed policy, a carefully monitored and regulated aspect of public policy which had the endorsement of capital and labour – employer organisations and the unions. Equally significant was that these policies were developed and consolidated in conditions of relative economic affluence. These policies were also carried out with the active participation of the new ethnic middle

class, co-opted by governments to promote an agenda of identity politics.

For two main reasons, the dominant groups in the mainstream of Australian society were also inclined to give this form of cultural multiculturalism lukewarm support as a way of managing diversity. One was because what was promoted was a highly depoliticised multiculturalism which afforded little occasion for social conflict and disruption. Indeed, the oft repeated theme of this period was the need for 'social cohesion', along with the slogan 'multiculturalism for all'.¹⁸ The main objective of the latter was to highlight the limits of difference within a framework of universal citizenship. The overriding concern was to prevent any form of 'structural pluralism' or social pluralism.¹⁹

Secondly, and more importantly, there was the expectation that in the long run, differences would disappear and there would be a 'melting pot'. The growing incidence of intermarriage, particularly among some ethnic groups²⁰ is repeatedly used by critics of multiculturalism²¹ as evidence of 'a melting pot', meaning ethnic assimilation or 'anglo-conformity'. This thinking, however, fails to recognise that what we may have with inter-ethnic marriages are mixed identities or 'half breeds' as revealed by some studies overseas.²² As Penny & Khoo²³ rightly observe, there are a variety of adaptations resulting from inter-marriage between ethnic groups. What has given this hidden assimilationism, evident in much of the public understanding of the multicultural discourse, an additional impetus was the resurgent new nationalism.²⁴ This held out the prospect of restoring the ruptured ideal of cultural homogeneity by constructing a sense of Australianness,²⁵ as one commentator put it, based on the 'cricket test'! This was also clearly the thrust of the Hanson critique of multiculturalism, but equally of the Howard Agenda for Australian multiculturalism, evident in the failed exercise of the Constitutional Preamble, and the conditions under which John Howard embraced the 'm' word.²⁶

From the point of view of migrant settlers, the inclusionary citizenship built into the doctrine of cultural pluralism was also attractive to new settlers because of the tangible benefits of political and social citizenship available to citizens and 'denizens' alike. The inherent fairness of the political and legal institutions, the generosity of the state in guaranteeing new settlers the social benefits of citizenship which accrued from the wage earners' welfare state, ie, a minimum level of economic security and a social wage, proved to be the most effective social glue, binding newcomers to Australian society and providing a sense of belonging. This clearly suggests that social solidarity and being a stakeholder resides in the political culture and not in some set of arbitrary cultural values derived from a historic past.²⁷

The Paradox of Pluralism and the Backlash

Yet, despite the success of this conventional model of multiculturalism, it has been subject to critical scrutiny from

across the political spectrum and also by the general public. The public perception of the practice of Australian multiculturalism remains confused and shrouded in uncertainty.²⁸ Neither is it seen as serving effectively the needs and aspirations of the ethnic minorities. There is no doubt that Australian multiculturalism is in a state of crisis. As suggested earlier, this is mainly due to two features. The first arises from the fact that the ideology of multiculturalism derived from the 1980s confronts a new social reality, especially a new pluralism; second, perhaps more importantly, that the contradictions and tensions inherent in the doctrine of cultural pluralism relate to *the paradox of pluralism*.

In short, multiculturalism, as a 'public policy regime' which evolved in the 1970s and 1980s had three essential components: a) it reflected the economic climate and regime that went along with a 'Fordist' manufacturing sector that served to produce for the internal market; b) it was enmeshed with 'welfare state' politics; and, c) it catered largely to the interests of first generation migrants of mostly European origin. However, right through the 1980s and 1990s the deep structural changes in the Australian economy shifted to a more competitive outward oriented economy, one where full employment and generous expansive welfare provisions could not be taken for granted.²⁹

Along with these structural changes there was a 'new pluralism' characteristic of Australian society. This was marked by new waves of migrants, mostly non-Caucasian groups from Asia, the Middle East, and Africa, the emergence of second and third generations of migrants, and a distinct religious pluralism³⁰ rarely acknowledged in the conventional multicultural discourse. Contrary to the view that 'Australia remains relatively homogeneous with ethnic groups being progressively integrated into mainstream culture',³¹ there is clearly an increased pluralisation of Australian society.³² This has led to a blurring of boundaries in social functioning, creating a 'mixed' cultural landscape, a hybridity and mixed identities. This policy regime of multiculturalism was clearly unresponsive to the needs and interests of this new social reality.

On the other hand, the *paradox of pluralism* linked to cultural pluralism, as *identity politics*, revolves around the issues of *equality* and *difference*. The first concerns the constructions of identity which draw on contested views about the meaning of *culture*, and *ethnicity*. It is beyond the brief of this essay to engage in an extended analysis of these issues which are more fully explored elsewhere.³³ In brief, the main point is that identity politics, by regarding the concept of culture in essentialist terms (ie, as an immutable fixed entity), offers a reified, static, unreal view of culture which fails to capture the lived reality of culture as a form of cultural practice. This view of culture has placed the emphasis on the *expressive/affective* dimensions of culture and ethnicity – the need to belong and maintain one's cultural identity (lifestyles).

In contrast, ethnic identity is best viewed as a 'politico-economic resource' that can be mobilised in the pursuit of group interests. What we experience therefore, are mixed identities arising from

the intersection of class, gender, ethnicity/race, which creates an entirely different understanding of identity politics. Therefore, once you recognise the contingent nature of identity, it is clear that identities are determined in the political realm, ie, the public domain, rather than the private domain. But this is exactly what the inherent privatisation of the cultural model ignores.

What lies at the heart of the *paradox of pluralism* is the coexistence of identity politics with notions of *equality* and *universalism*, arising from a common citizenship; hence the dilemma surrounding the conjunction of cultural pluralism and the 'politics of universalism' inherent in the practice of multiculturalism. But the dilemma of cultural pluralism is that the *universalism* inherent in identity politics seeks to avoid or minimise the very differences that it promotes. The assumption of a sanitised homogeneity arising from the universalism inherent in identity politics confronts the very difference that it seeks to avoid or minimise.

In other words, the celebration of difference, of culture and ethnic identity, sits uneasily alongside the universalism promoted by a common citizenship. Hence, the paradox: identity politics creates the very divisions and ethnic structures—be they in sport, religion, or the arts – it seeks to avoid. The latter are integral to the social and political reality of a diverse and pluralist society. This incidentally underlies the perceptive and insightful observation of Jean Martin many years ago, that there can be no cultural pluralism without some sort of social pluralism.³⁴

It is this policy orientation which has been mainly responsible for the backlash against multiculturalism in the wider community accusing it of tribalism and breeding cultural ghettos and of a *diaspora nationalism*,³⁵ all of which have been seen as endangering social cohesion and social solidarity.³⁶ In a nutshell, the problem is that multiculturalism, as a form of identity politics, seeks to emphasise a privatised cultural difference while existing within a 'public realm' where these differences are not recognised.

Reframing Citizenship for a New Pluralism *From Identity Politics to the Politics of Identity*

The starting point of any restructuring of multiculturalism or developing a new rationale rests on a) an acceptance of the stark reality of pluralism, and b) a preparedness to build on the positive achievements of cultural pluralism such as equality of respect, mutual understanding, tolerance, and an inclusionary citizenship. What we have today is a pluralistic community which is both 'racial', 'ethnic', and religious in composition, and this must surely include the Aboriginal people who have been left out in the multicultural consciousness as constituting a defining component element of a pluralistic society.

However defined, the reality we confront is that minority groups — be they racial, religious, cultural or ethnic — are status devalued groups operating in the public domain, but marginalised from the

power structures and treated pejoratively. Therefore, in refashioning our understanding of diversity and pluralism we need to move away from the *identity politics* of the past towards a *politics of identity* which views difference in terms of the minority status of ethnic groups as groups who have to contend with inequalities and disadvantage, reminiscent of the late 1960s.

This shift entails a move away from a narrowly conceived apolitical 'cultural pluralism' to a more *democratic pluralism* which confronts the problematic nature of what has been described as 'the tensional nexus of democracy (democratic citizenship) and multiculturalism'.³⁷ This form of democratic pluralism is contingent upon re-negotiating the concept of citizenship, and requires us to go beyond an understanding of citizenship merely as *legal status* embodying rights: civil, political, and social rights. Rather, *citizenship* has to be understood normatively as conferring a distinctive sense of identity, of belonging and enjoying full and equal membership status in a pluralistic community. The principles and ideals of a *democratic pluralism* based on a redefined and revitalised sense of Australian citizenship must perforce extend the meaning and understanding of a 'common citizenship' to recognise the full participation of the 'different'.

The logic rationale of the WA Charter of Multiculturalism³⁸ incorporates this new thinking about citizenship and carves out a new domain. In espousing the principles and ideals of a democratic pluralism it embodies four key principles - *Civic Ideals or Virtues, Fairness, Equality, and Participation* - and is built around three pillars or key notions. These are *participation, recognition, and representation*. Participation alongside the politics of recognition, among other things, leads importantly to questions of representation, ie, of *who* represents *what* and leads to questions of reordering the political foundations of Australian society associated with a radical citizenship.

A Radical Citizenship

Put simply, by reframing citizenship in this manner, we acknowledge that when a society is socially differentiated, citizenship must equally be so. The notion a democratic pluralism posits a political and enabling multiculturalism within a framework of citizenship that 'treats all members as equal and also recognizes their separate identities'.³⁹ Premised on the existence of a 'shared political culture', this allows for a '*differentiated citizenship*' (or a multicultural citizenship) which is socially integrative and acknowledges the reality of a society differentiated by gender, class, and ethnicity. Hence differences between individual citizens or a group of citizens need to be recognised and taken account of in catering to citizens' needs. All citizens, by virtue of their shared common citizenship, enjoy a sense of shared belonging by their membership of the political community based on public virtues such as democratic spirit of tolerance, the rule of law, respect for liberty, etc.

In short, it is this *civic culture* arising from a liberal political order that binds the nation and integrates varied segments of society. To quote Habermas,

... the political culture must serve as the common denominator for a constitutional patriotism which simultaneously sharpens awareness of the multiplicity and integrity of the different forms of life which exist in the multicultural society.⁴⁰

A radical view of citizenship, incorporating a differentiated citizenship flows from the *political* rather than the *cultural* nation. What is, therefore, crucial for social solidarity in a pluralistic society committed to a liberal political culture is the homogeneity of the *political* nation conceived of as a 'self governing' *political* and *moral* community, and not a *cultural* nation derived from core cultural values of a single unifying ethnic core of the dominant groups in society.

This difference in how we constitute the Australian nation may be summarised by contrasting the vision of Australian identity in the Howard era - as deriving from the anglo celtic heritage - and the Hawke Keating era in terms of our being a uniquely Australian nation; one which is geographically located out of the western orbit but still retaining a distinctive political culture which has its origins in western liberal political ideals. The contrast, therefore, is between an 'ethnic nationalism', one based on core anglo-celtic values and a 'civic nationalism'⁴¹ embodying a civic culture linked to democratic political values and social institutions. In this context, as Macgregor *et al*⁴² rightly point out 'a strong sense of Australian nationalism requires symbols that can speak meaningfully to the nation'. As these authors argue, the Eureka legend may well provide us with a powerful national symbol for constructing a national story, which is salient and sensitive to the new pluralism.

In other words, for those who do not share the Howard vision, the real basis of unity, social cohesion and social solidarity rests on an identity which derives from an acceptance and identification of a common set of social and political institutions, not shared values - a mythical set of core cultural values. Clearly, the unity and cohesion of society rests in the political consensus and the common possession of rights and entitlements associated with full and equal membership of the political community. What matters is the *political nation*, and not the *cultural nation*.⁴³

It is in this context that a constitutional document, embodying the aspiration of 'we the people' as a pluralistic society, acquires crucial significance in forging social solidarity and constructing our identity as a nation, as a truly multicultural society.⁴⁴ The constitutional document is what is most likely to give legitimacy and credibility to a sense of Australian identity, as a distinct nation in a pluralistic society; and at the same time it is a document that binds citizens in a common belonging through the principles and values enshrined in the constitution.

We need, as a matter of priority, to have an 'Australian conversation' to reorder the political foundations of Australia as a pluralistic society, governed by a rights-based democracy and committed to liberal political values. As the Premier of WA, Dr Geoff Gallop (2003) observed in his recent Walter Murdoch Address, entitled *Living with Difference*:

Australia has the opportunity to show the rest of the region that it is possible to have a robust democratic and civic culture that at the same time respects and values religious and cultural pluralism.

This must serve to articulate a new philosophy for Australian multiculturalism as a 'plural society ... held together and legitimated by a common understanding of a citizenship'.⁴⁵ There is, indeed, a compelling case for devising constitutional ways and means for incorporating the rights element in the Australian political culture as a means of safeguarding and protecting the rights and freedoms of minorities.⁴⁶ This needs to be strengthened by giving political legitimacy to a pluralistic citizenship and inscribing it in statutory form via a *Bill of Rights* or an Australian Charter of Rights.⁴⁷ Such an Act will help to include both indigenous and non-indigenous groups in the multicultural discourse, and facilitate the separate but linked development of an Aboriginal and a multiculturalism consciousness.

Australian multiculturalism, as an integral and defining aspect of the Australian nation needs to be embodied in a legislative statute, and this is best accomplished via a Bill of Rights inscribing a radical new ideal of a pluralistic citizenship.⁴⁸ As the late Jean Martin concluded from her path-finding research many decades ago, if Australian 'pluralism is to be more than a cardboard façade [it is] to be acknowledged as a potential political force [and it needs to assume] some kind of political responsibility and make their experience forcefully relevant at the level of political decision making'.⁴⁹

End Notes

* This is an edited version of two papers available at: www.socialwork.arts.uwa.edu.au/data/page/33070/diversity.pdf, and www.arts.uwa.edu.au/socWkwww/

¹ This is contrary to John Howard's apparent discovery and recent endorsement of 'Australian Multiculturalism' as an integral feature of Australian citizenship. By any reckoning, all versions of multiculturalism have been framed within the framework of Australian citizenship. This was explicitly acknowledged in the Committee on Community Relations (1975) - Lippman Report - as far back as the early 1970s. See also Zubryzcki, J (1982). *Multiculturalism for All Australians*. Canberra: AGPS; Castles, S (1998). 'Democracy and Multicultural Citizenship: Australian Debates and their Relevance for Western Europe'. In Baubock, R (ed) *From Aliens to Citizens: Redefining the Status of Immigration in Europe*. Aldershot: Avebury.

² Recently there has been a significant departure from these policies with the increasing number of short term contract labour

or transient migration. See Khoo, S-E (2002). 'Immigration Issues in Australia', *Journal of Population Research*, 19, 2.

³ 'Denizen' is a term introduced by Hammar, T (1990). *Democracy and the National State: Aliens, Denizens and Citizens in a World of International Migration*, London: Avebury, to identify permanently resident foreigners who still enjoy some rights of citizenship. In Australia, those with Permanent Residence status who are denied some rights, eg, right to vote and access to some public service appointments, are denizens.

⁴ Jordens, Ann-Marie (1997). *Alien to Citizen*. Sydney: Allen and Unwin; Castles (1998) *op cit*.

⁵ Kymlicka, W (1998). *Finding Our Way: Rethinking Ethnocultural Relations in Canada*. Toronto: Oxford University Press.

⁶ See Jayasuriya (1993) for the Australian approach through 'industrial citizenship' to confer 'social rights' to immigrant settlers in a 'residualist welfare state'.

⁷ Krygier, M (1996). 'The Sources of Civil Society', *Quadrant*, October.

⁸ Gordon, M (1981). 'Models of Pluralism'. *The Annals. American Academy of Political and Social Sciences*, 454.

⁹ Jayasuriya, L (1992). 'The Problematic of Culture and Identity in Social Functioning'. *Journal of Multicultural Social Work*, 2, 4; Jayasuriya, L (2000). 'Australian Multiculturalism and Citizenship: Towards a New Paradigm'. In Ethnic Affairs Commission, NSW, *Building the Reconciliation Bridge*. Sydney: EAC/NSW.

¹⁰ This characterisation is borrowed from Davidson, A (1997). 'Multiculturalism and CitezekDüip: Silencing the Migrant Voice'. *Journal of Intercultural Studies* 18, 2.

¹¹ OMA (1989). *National Agenda for a Multicultural Australia*. Canberra: AGPS.

¹² For the main proponents see B. Cope and M. Kalantzis (1996). *Productive Diversity: A New Australian Approach to Work and Management*. Sydney: Pluto Press.

¹³ Keating, P (2000). *Engagement: Australia Faces the Asia Pacific*. Macmillan.

¹⁴ Baubock (1996). *op cit*.

¹⁵ Jayasuriya, L (1998). 'NMAC and Multiculturalism: Plus ça Change, Plus c'est La Même Chose!' *Australian Language Matters* 6, 1; Jayasuriya (2000) *op cit*.

¹⁶ NMAC (National Multicultural Advisory Council) (1997). *Multiculturalism: The Way Forward*. AGPS; NMAC (1999). *Australian Multiculturalism for a New Century: Towards Inclusiveness*. AGPS.

¹⁷ Jayasuriya (1998) *op cit*.

¹⁸ Zubryzcki (1982) *op cit*.

¹⁹ Martin, J (1971). 'Migration and Social Pluralism'. In K Wilkes (ed), *How Many Australians?* Canberra: AGPS; Committee on Community Relations (1975) *Final Report (The Lippman Report)*, AGPS.

²⁰ Penny, J and S Khoo (1996). *Intermarriage: A Study of Migration and Intermarriage*. BIMPR. Canberra: AGPS; Giorgas, D and FL Jones (2002). 'Intermarriage Patterns and Social Cohesion among First, Second and Later Generation Australians'. *Journal of Population Research* 19, 1.

²¹ See B Galligan and W Roberts (2004). *Australian Citizenship*. Melbourne: Melbourne University Press.

²² Lambert, WE and DH Taylor (1990). *Coping with Cultural and Racial Diversity in Urban America*. New York: Praeger.

²³ Penny & Khoo (1996) *op cit*.

²⁴ Davidson (1997) *op cit*.

²⁵ This was advocated by the UK Home Secretary, Norman Tebbit, who argued that you cannot be accepted as being English unless you support England in Test matches!

²⁶ Kelly, P (1997). 'The Curse of the M-Word'. *The Australian* 30-31 August.

²⁷ Jayasuriya (2000) *op cit*.

²⁸ Sawer, M. (1990) *Public Perception of Multiculturalism*. Canberra: Centre for Multicultural Studies, Australian National University; DILGEA (1988). *Immigration and Commitment to Australia*. (Fitzgerald Report) Vol 1. Canberra: AGPS.

²⁹ Beilharz, P (1989). 'Social Democracy and Social Justice'. *Australia and New Zealand Journal of Sociology* 18 (1); Graycar, A and A Jamrozik (1993). *How Australians Live: Sociology in Theory and Practice*. (2nd ed) Melbourne: Macmillan.

³⁰ Carey, H (2003). 'Australian Religions Culture from Federation to New Pluralism', in Jayasuriya, L, D Walker and J Gothard (eds) (2003.) *Legacies of White Australia: Race Culture and Nation*. Perth: University of WA Press.

³¹ Galligan, B *et al* (2001). *Australians and Globalisation: The Experience of Centuries*. Cambridge University Press: 185.

³² Markus, A (1988). 'The Second Round of the Asian Immigration Debate'. In C D'Mello, Francis Kok Wahn Loh, A Markus, R Rasmussen and K Tang (eds), *Asian Immigration: Assessing the Issues*, Melbourne: Centre for Migrant and Intercultural Studies, Monash University.

³³ In Jayasuriya (1992); (2000) *op cit*.

³⁴ Martin (1971) *op cit*.

³⁵ See R Skeldon (1998). 'From Multiculturalism to Diaspora: Changing Identities in the Context of Asian Migration'. In E Laquain *et al* (eds). *The Silent Debate: Asian Immigration and Racism in Canada*. Vancouver: UBC Press, for a similar situation that has arisen in the context of Canadian multiculturalism.

³⁶ Blainey, G (1984). *All for Australia?* Melbourne: Methuen Hayes.

³⁷ Jayasuriya (2000) *op cit*.

³⁸ See WA Government Office of Multicultural Interests (OMI) website, www.omi.wa.gov.au/omi Charter for details.

³⁹ Taylor, C *et al* (1992). *Multiculturalism and the Politics of Recognition*. Princeton, New Jersey: Princeton University Press.

⁴⁰ Habermas (1994) *op cit*: 198-99.

⁴¹ Ignatieff, M (1993). *Blood and Belonging: Journeys into the New Nationalism*. New London: ABC Books.

⁴² Macgregor, D *et al* (2004). *Imagining Australia: Ideas for the Future*. Sydney: Allen & Unwin.

⁴³ Jayasuriya, L (1991). 'State, Nation and Diversity in Australia'. *Current Affairs Bulletin* 66, 6.

⁴⁴ Jayasuriya, L (2003). 'Fin de Siècle'. In L Jayasuriya, D Walker & J Gothard (eds) (2003). *Legacies of White Australia: Race Culture and Nation*. Perth: University of WA Press.

⁴⁵ Miller, D (1995). 'Citizenship and Pluralism'. *Political Studies* 23.

⁴⁶ Charlesworth, H (2002). *Writing in Rights: Australia and the Protection of Human Rights*. Sydney: University of New South Wales Press.

⁴⁷ Jayasuriya, L (2002). 'Taking Rights Seriously in Australia'. *Dialogue* 21, 3.

⁴⁸ *Ibid*.

⁴⁹ Martin (1971) *op cit*.



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THE GREENHOUSE EFFECT: GLOBAL WARMING AND ITS CONSEQUENCES

Osmund Jayaratne

Destruction by Humans

I do not wish to write about human beings self-destruction through wars and civil wars, which themselves are decimating the human race. I would like to draw the reader's attention to one aspect of human activities, industrial and otherwise, which is threatening the future of living beings, and may perhaps lead to our beautiful planet becoming an uninhabitable place at a time not so far away.

Over long-term periods the earth's climate has never been static. From time to time there have been changes in the composition, the temperature and the dynamics of our atmosphere. Today, the atmosphere consists of 75% nitrogen and about 23% oxygen. The balance 2% is made up of carbon dioxide, methane and water vapour. Today, a new factor has been added to the composition of the atmosphere. New man-made gases are being added to it. These are largely the consequences of human activity, mainly of industrial origin. The amounts of carbon dioxide and methane are fast increasing, as well as complex gases known as chlorofluorocarbons (CFCs), due to motor vehicles, leakage from refrigerators and air-conditioners, as well as insecticide and weedicide sprays. The absolute quantities of these gases may be small; but their effects on the atmosphere are significant.

Under normal conditions the temperature of the earth is determined by the balance between the rate at which the sun's rays reach the earth's surface and the rate at which the warmed earth sends heat radiation (infra-red radiation) back into space. The rate at which the composition of the atmosphere is being changed by human activities has accelerated in recent decades. This could very well destabilize the earth's climate and the natural systems we depend upon.

Material objects (including gases) that freely allow the passage of heat radiation are said to be *diathermanous*. Those that impede the passage of such radiation are called *adiathermanous*. In the presence of the naturally occurring trace gases (CO_2 , CH_4 , etc.) the average temperature of the planet was about 13°C . In the absence of these trace gases the average temperature would have dropped by 33°C to minus 20°C .

The Greenhouse Effect

The plant houses in highland parks situated in areas such as Nuwara Eliya and Hakgala would amply illustrate to my

readers the nature and meaning of the Greenhouse Effect. These plant houses are enclosed by sheets of transparent glass or plastic. A feature of these materials is that the passage of radiation through them is dependent on the temperature of the radiation source. Heat radiation entering the plant houses is directly emitted from the sun, where the temperature of the outer corona is about $8,000^\circ\text{C}$. This heat radiation heats the plants and other objects within the plant house. Irrespective of the actual temperature, every material body tends to emit heat radiation to some degree. The heated entities within the plant house likewise emit heat radiation.

However, the temperature within the plant house can hardly be compared with the sun's outer temperature. The result is that large quantities of heat radiation enter the plant house but only a minuscule quantity leaves it. The result is a pronounced rise in temperature within the plant house. This is why even tropical plants can be found in the plant houses of Nuwara Eliya and Hakgala. This effect is known as the *Greenhouse Effect*.

The earth's atmosphere behaves very much like a green house relative to the sun and objects upon the earth. Layers of CO_2 and other trace gases easily allow the passage of heat radiation from the sun to our earth. But radiation from the earth, coming as it does from sources of a much lower temperature, find it extremely difficult to pass outwards through the spherical layers of CO_2 and trace gases which surround the earth about a hundred miles above its surface. This causes the phenomenon of the Greenhouse Effect, which is the theme of my present article.

Deforestation and Its Consequences

The world's forests store 450 Kgs of carbon, which is 20 to 100 times more carbon than stored by croplands. When forests are cleared, their ability to absorb carbon in the form of CO_2 from the atmosphere is lost. Once the trees are cut, their carbon content oxidizes and is released quickly if the trees are buried and slowly if they are left to decay.

Since pre-agricultural times, the world's forests have declined one fifth, from 5 to 4 billion hectares. Temperate forests have lost the highest percentage of their area about 32 to 35%. Subtropical and deciduous and savannas have lost 24 to 25%. Old tropical forests have declined by 15-20%.

Today, over one half of the world's forests are in developing countries. From 1850 to 1980 the greatest forest losses occurred in

the regions of North Africa, the Middle East, South Asia, and China. The highest rates of deforestation are now in South America, mainly due to the ruthless denudation of the Amazon forests. A word may be said here about our own country, Sri Lanka. Here, in the name of development, forests are being fast cleared not only for peasant agricultural use and industrial use, but also for illicit purposes. Schemes for protecting our forests have not met with any success so far. Around 1908, in the days when Leonard Woolf and John Still lived in our country and whose writings are part of our literature, about 70% of the land was covered by forests. Recent figures are alarming. The latest estimate places our forest cover at 20.7%. The area of tropical wet forests in the island is a mere 8.0%. These areas partially include the Sinharaja Forest, the Knuckles Range and the Peak Wilderness, and still the illicit felling of timber continues.

Brazil has the world's largest remaining tropical forest. The Amazon forest in Brazil extends over 337 million hectares. It covers six states and parts of three others. In 1987 Alberto Setzer of the National Space Research Institute of Brazil, using satellite images, found that 8 million hectares of virgin forest in the official Amazon had been cleared in that one year.

Deforestation is second only to the burning of fossil fuels (such as coal and petroleum) as a human source of atmospheric carbon dioxide. Today, almost all carbon releases from deforestation originate in the tropics. Of course, the massive deforestation of Europe and North America in the past contributed heavily to current global carbon levels.

How does deforestation contribute to the Greenhouse Effect and thus to global warming? There are many natural processes that contribute to the growth and eventual death of vegetation of trees and plants. I will refer only to two such processes relevant to the subject we are discussing.

(1) Photosynthesis

The leaves of plants generally contain a green colouring matter known as 'Chlorophyll.' In the presence of sunlight, leaves absorb carbon dioxide from the atmosphere. The resulting biochemical reaction produces carbohydrates, which constitute the food of plants and are necessary for their survival and growth. This is called photosynthesis.

(2) Respiration

Trees and plants, like animals, undergo breathing in the absence of sunlight, particularly during the night. They *absorb* oxygen from the atmosphere and release carbon dioxide. This is the process of *respiration*.

Before the large-scale felling of trees commenced over 150 years ago, a fine balance existed between these processes of photosynthesis and respiration. However, with the advent of deforestation and the large-scale depletion of the earth's forest

cover, scientists have observed that the release of CO₂ into the atmosphere has begun to overtake the storage of CO₂ due to photosynthesis.

Role of Trace Gases in Global Warming

Tiny quantities of more than 30 trace gases (mostly man-made) threaten to warm the earth's atmosphere. Less and less heat is able to escape from the atmosphere. It is predicted that in the decades to come, the carbon equivalent in the atmosphere, due to the trace gases, will more than double the warming effect of CO₂. Dr Ralph J. Cicerone, director of atmospheric studies at the US National Centre for Atmospheric Research, says: "you may now have to think of a change two or three times bigger than we thought due to CO₂ alone. Recent US government studies of the Greenhouse Effect have concluded that the earth will see profound changes in the next two decades and changes in weather patterns are expected to cause serious disruptions in agriculture."

Possible Rise in Sea Levels

I quote from a statement made in 1989 by the late Prof. K.D. Arulpragasam (Professor of Zoology at Colombo University).

"It is expected that in the next half century or so, temperature will rise between 1.5°C and 4.5°C (due to the Greenhouse Effect). What effect will this have on marine eco-systems?"

One of the first effects will be a rise in the sea level due to thermal expansion. Melting of ice and glaciers may increase sea level further."

Already mountain-sized chunks of ice have begun to dissolve and flow into the oceans from the Northern and Southern Polar regions. I am not referring here to the very rare Tsunami that on December 26th 2004 devastated the coastal regions of the south and northeast of Sri Lanka. This is a rare phenomenon which has no connection with Global Warming.

"The projected rise in temperature is expected to bring about an increase in sea level of 0.50 to 1.65mm over the next few decades. Low-lying islands in the Pacific and Maldives in the Indian Ocean are likely to disappear under the rising waters, requiring in the latter case, the re-location of the peoples of an entire nation. It is likely that Bangladesh will lose about one sixth of its land area, the home now of about 25 million people. The Nile delta may lose a fifth of its arable area, now used by about 10 million people. The great centers of commerce and civilization that have developed around the major port cities of the world are likely to be severely affected. These would include London, New York, Los Angeles, Buenos Aires, Calcutta and Tokyo among others. Many coastal areas of the world would gradually become uninhabitable. In Sri Lanka, we have been troubled in recent years over inroads into the land that the sea has been making by erosion of the south-west and other coasts."

A sea level rise, as envisaged above, would also hurt rice production in the river deltas and coastal plains in much of Asia through salt-water intrusion. Wetlands nourishing the world's fisheries would also suffer destruction.

I have already mentioned that the doubling of CO₂ emissions by 2050 AD may lead to an increase in the earth's average temperature by anything between 1-5 degrees C and 4 to 5 degrees C. If no positive action is taken to overcome this trend, the doubling of CO₂ may occur as early as 2030 AD.

Many of my readers may feel that an increase of 1.5° to 4.5° Celsius from the present average of 13° C is insignificant. But it is worthwhile noting that the coldest average temperature during the last Ice Age was only about 5.5° C below today's average. Yet the consequent climate and ecological changes in that period were spectacular.

A Word about the Future

International conferences have been held from time to time about environmental damage and what should be done to

curtail or reduce it. I refer to the Rio de Janeiro Conference of 1992, where Sri Lanka also was represented. There has been much talk but very little action. Many NGOs are devoting their attention to these problems. But concerted global action is needed.

In recent months another important conference was held in the city of Kyoto in Japan, which was attended by over 100 countries of the world. Its purpose again was to find ways and means of reducing the emission of greenhouse gases in the world. It is a highly significant fact that at both conferences an important absentee was the USA, which is undoubtedly the greatest emitter of greenhouse gases into the atmosphere due to its industrial potential. It is clear that imperialism attempts to destroy the world not by military means alone, but by other methods such as we have outlined above. The short-term profit motive seems to be overtaking the dangers of the destruction of our human species. With the greenhouse effect, the depletion of the ozone layer, atmospheric pollution, along with the wars and civil wars sweeping through the world, one begins to wonder whether 'Homo Sapiens' is moving towards self-destruction. ■

Dr. Osmund Jayaratne is Emeritus Professor of Physics, formerly of the University of Colombo.

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NGOS AND HATE POLITICS

Jayadeva Uyangoda

The attack by the leaders of the Patriotic National Front (PNM) on some of Sri Lanka's NGOs and individuals associated with them needs some political response. I provide a response in this article not only because I have been a target of vicious attacks by the PNM, but also because this campaign of hatred and intimidation is symptomatic of a particularly dangerous, authoritarian political trend in Sri Lanka today.

The PNM's attack on NGOs has the following thematic directions: NGOs are agents of colonialism and imperialism; they are allies of the LTTE; they endanger the country's sovereignty and national sovereignty; the state should control and regulate their activities. This campaign coincides with the PNM-JVP's other campaign of the 'Year of De-colonisation.'

All these of course are not new arguments in the campaign against the so-called NGOs. For example, in 1987-89, during the second JVP insurgency, some civil society organisations were accused of being a threat to national security and sovereignty when they welcomed the Indo-Lanka Accord of July 1987 and a negotiated settlement to Sri Lanka's ethnic conflict. In fact, a few of them received a letter in early 1988 that they were a threat to Sri Lanka's sovereignty and national security and that they should immediately apologise to the Patriotic National Front, the predecessor of the present PNM, for their acts of treason. The letter threatened the recipients that if they did not publicly renounce all their anti-national activities (that included academic research on the ethnic conflict!), the leaders of those organisations would have to pay the supreme penalty. The letter, written in sociological English jargon, was signed by AK 0047. Among the research and advocacy organisations who received this letter in 1988, during that period of extreme political violence and terror, were Marga Institute, Social Scientists' Association, Centre for Society and Religion, International Centre for Ethnic Studies, Sarvodaya and, the Movement for Inter Racial Justice and Equality.

Witch Hunting

It is quite interesting that some of the wording in that letter figures in the new proposal for a parliamentary select committee on NGOs. For example, the proposal makes reference to some NGOs supposedly acting "inimical to sovereignty and integrity of Sri Lanka" and "in a manner detrimental to the national and social well-being" of the country. It also suggests that activities

of some NGOs have adversely affected the "national security" as well.

I have closely followed the debate on NGOs for the past two decades. In that I have found the following:

(i). The term NGOs is used loosely, without any social scientific or rigorous definition of the term, merely to attack, discredit, demonise and witch hunt social, professional and religious organisations with which some individuals do not agree. As a term of political slander, it is like calling one's enemy a CIA or RAW agent.

(ii). The civil society organisations who suffer regular attacks by the Sinhalese nationalist forces as anti-national NGOs are those who have been active in advocating minority rights, peace and a negotiated political settlement to the ethnic conflict. They are often branded as agents of Tamil separatism and the LTTE. Earlier they were branded as agents of Indian imperialism. Now they are agents of Western colonialism!

(iii). Attacking the so-called NGOs for some people is a means to settle personal and professional enmities. The best examples of this are President Premadasa's harassment of Sarvodaya and its leader, Dr. A. T. Ariyaratne and the attacks on Marga Institute's founder Director Godfrey Goonatilleke by another Goonatilleke.

(iv). Attacks on 'NGOs' emanate from a particularly outdated, backward, anti- and pre-democratic conceptualisation of state-society relations. The recent call by the PNM leader for 'mob justice' against individually identified civil society activists constitutes a dangerous tuning point in this anti-democratic hate politics.

Let me elaborate on the last point.

Non-State Politics

What has been described in the PNM attacks as NGOs are professional and advocacy organisations set up by groups of individuals who share some political, intellectual, or social service visions and objectives. They are basically voluntary associations located outside the sphere of state. They are non-state entities that may sometimes espouse and even campaign for

ideas, objectives and agendas with which the state, or the regime at a given moment, may not agree at all. For example, the Civil Rights Movement campaigned for the release of the JVP political prisoners in the early and mid 1970, to the annoyance of government leaders at that time. Similarly, the MIRJE stood for Tamil minority rights in the early and mid- 1980s which angered the government as well extreme Sinhalese nationalist forces. Some of the organisations being accused of endangering the sovereignty of Sri Lanka's nation-state have been advocating federalist constitutional alternative for Sri Lanka.

These are often not popular causes. Some may find them unacceptable. Some may even abhor them. But they should have the right to exist without harassment by the state. That right is precisely the magic of democracy and democratic politics. That is also why in a democracy, the right to dissent, the right to freedom of expression and association are constitutionally guaranteed. A democracy allows citizens to form associations outside the domain of the state, espouse ideologies and work for agendas that the state may not approve at all. In a democracy, citizens' groups don't need to get the state approval or concurrence to advocate even an extreme political position. Advocating and even organizing for 'proletarian revolution' is a democratic right under bourgeois liberal democracy, even though it goes against the state and the whims of the ruling class. In bourgeois democracies, Marxist political parties exist, despite the fact that they advocate revolutionary overthrow of the existing state, precisely because bourgeois democracy is supposed to tolerate its own potential negation. To brand those who advocate federalism or joint mechanism as a threat to national security and sovereignty, as do the PNM and its intellectual hangers-on, is an act of denying even bourgeois democracy. Politically, it is Pol Potism, pure and simple.

Pre-democratic

The current hate campaign against NGOs is not only anti-democratic. It also comes from a pre-democratic and even semi-fascistic understanding of the relationship between the state and society/citizens. In this view, the espousal of any political idea that is not acceptable to a section of the regime is anti-state! This

is political intolerance in its most dangerous form. It smacks a medieval understanding of politics where dissent was viewed as treason. No wonder some of them have begun to advocate that Sri Lanka should return to pre-1505 society and politics. Actually, those who are engaged in the anti-NGO campaign espouse a political perspective which does not recognise that there is space outside the state for autonomous social activism. Like in the fascist ideology in Italy and Germany some decades ago, they view the state as the supreme embodiment of social organisation and wisdom. To them any critique of the state, or a proposal for reforming, re-working and re-constituting the state, is simply anti-state activity. Citizens who challenge the state in terms of ideas, alternative policies and political visions are traitors! They should be investigated by the police, controlled by the state and harassed by the state agencies!!

As a political observer, I have begun to wonder whether Sri Lankan politics was slowly moving in the direction of a new authoritarianism. There are unmistakable signs of our society losing some of the major democratic gains and achievements made during the last century through years of struggle and agitation. The hate campaign against the Christian minority and the proposed anti-conversion legislation is a frontal attack on multi-cultural foundations of our society and minority rights framework of our polity. Now the new attempt to use the state against NGOs is a clear indication that the regime of civil and political rights in Sri Lanka is in danger of being irreparably undermined. These attempts are being made by relatively small political entities in parliament who have a very limited conception of democracy. They use democracy purely in an instrumental sense, as a means to gaining state power. As a way to monopolise the country's political and cultural space, they have an agenda to criminalise dissent and legalise action that is illegal in terms of democratic jurisprudence. In a fragmented parliament, they have also been able to bully the two main political parties, SLFP and UNP, who, with all their blemishes, have allowed a multi-ethnic, democratic, pluralistic polity to take shape in this country even amidst a prolonged civil war. The traditional democratic political parties in Sri Lanka, the SLFP, UNP, SLMC, CWC, TNA and left parties should not allow these half-democratic forces to use the country's parliament for undemocratic agendas and McCarthy-type witch hunting. ■

NGOS AND THEIR ROLE IN PROMOTING RIGHTS

Neelan Tiruchelvam

The activities of NGOs are coming under increasing attack in the South Asian region. NGOs, like the state are seeking social transformation of the societies they work in. As a result there have arisen tensions between these two actors, especially when NGOs have criticized governmental accountability and conduct. And to control such criticism, state governments have sought to control NGO activities.

International human rights law recognizes the Right of Freedom of Association in Article 20(1) of the Universal Declaration of Human Rights and Article 22 of the International Covenant on Civil and Political Rights. However, international law also recognizes that that this Right of Freedom of Association is not absolute but is subject to such restrictions that may be necessary and reasonable. For example, Article 22(2) of the ICCPR provides:

No restriction may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (order public), the protection of public health or morals or the protection of the rights and freedoms of others...(See also Article 29(2) of the UHDR and the Syracuse Principles.)

So while international human rights law recognizes the right to freedom of association, it also recognizes that the right may be curtailed so long as the limitation is not unreasonable and does not render the right ineffective.

The question of non-governmental organizations, apart from the freedoms of association and expression, also relates to questions of civil society participation, formation and involvement. It relates at a very fundamental level to the degree of democratic participation in a society.

South Asia has witnessed a massive growth in the number of non-governmental organizations. These organization have taken up a range of issues from human rights to rural industrialization.

Although citizens' groups have been functioning in our societies for a long time (universities, trade unions, church groups, boy scout and girl guide movements, for example), the character of non-

governmental organizations has changed in the post-colonial era. They have emerged because the traditional political parties (where multi-party politics existed) and traditional politics have failed to provide an effective vehicle of participation for citizen groups. In a way, the new social movements of the sixties, seventies and eighties have sought to 'usurp' the functions and role of political parties and state governments.

The credibility of NGOs has progressively increased. They have moved into several new areas like ecology and alternative media and culture and now interact with large segments of the population all across the South. NGOs especially human rights NGOs have also acted as a powerful critique of governments. They have monitored, observed and researched the question of human rights violations and scrutinized very closely governmental conduct in this area.

The role of the state, though, is now undergoing a radical change. Soon after independence, states discovered that the primary vehicle for development was the state itself. The role of the state expanded enormously in these newly independent countries and began to play a much bigger role in the lives their citizens. Under pressure from the world Bank and IMF, several countries of the South (including South Asia) are now trimming the activities of the state which is beginning to pull out of areas it has been in since independence and is allowing the private sector instead to step in.

States have often sought to use NGOs in the development process. This has meant a degree of coercion exercised on NGOs to get them to conform to state government policies and priorities. States have also attempted to exercise control over NGOs when the latter have highlighted and sought to document and publish human rights violations and attacks on NGOs in the region have taken civil rights groups. Attacks on NGOs in the region have taken the form of commissions of inquiry, as in Sri Lanka, which have sought through their proceedings to tarnish the image of NGOs; or as in India and Bangladesh, to control their sources of funding and the activities they indulge in. NGO accountability, then, is crucial to ensure that governments do not use cases of NGO corruption and misappropriation as excuses for state intervention and control.

The late Neelan Tiruchelvam was a lawyer, scholar and a member of Parliament

BOOK REVIEWS

FACES OF ELECTORAL POLITICS

Sharon Bell

Laksiri Jayasuriya: *The Changing Face of Electoral Politics in Sri Lanka (1994-2004)* Marshall Cavendish, Singapore and Sarasavi Publishers, Colombo, 2005.

Anyone interested in democracy, and the resilience of democratic processes should be interested in Sri Lankan electoral politics – this is the senior colony of the British Empire, a state that has, in the past decade, experienced rapid economic growth. It is also a once exemplar democratic third world welfare state – the first Asian country to enjoy universal (including votes for women) suffrage, high literacy rates and good health indicators, but has more recently been described as ‘paradise lost’. For anyone interested in Sri Lankan electoral politics Professor Jayasuriya’s concise analysis of electoral politics over the past turbulent decades is a must.

Professor Jayasuriya’s motivation for producing this informative volume is twofold: firstly, it has grown out of a personal commitment to fostering greater understanding of Sri Lankan politics ‘away from the myths, simplifications and distortions that abound in the overseas media’ (x); and secondly, to balance and inform the pre-occupation of the recent literature with the ethnic conflict and the attendant rise of cultural nationalism. (xvi). In addressing these aims he has been entirely successful. He has systematically translated a complex and dynamic politic into themes and trends that are comprehensible to the student of Sri Lankan politics, to those interested in the transformations of the Westminster system in the post-colonial state, and to members of the general public, particularly the ever growing Sri Lankan Diaspora. Professor Jayasuriya’s achievement is in isolating the critically changing patterns and rhythms that up close and personal seem incomprehensible: political parties that morph from radical to nationalist; constantly shifting individual allegiances and unlikely coalitions; a President whose stance on the ethnic conflict has shifted from idealistic ‘dovish’ to singularly (or as some would interpret the stance obstructionist) ‘hawkish’; and an assertive voting public that has, at every election since Independence, switched its preference from the Centre-Left social democrats (SLFP) to the Centre-Right conservatives (UNP). The author’s achievement is in fact somewhat disguised by this volume’s success – the interweaving of political and constitutional with economic and social transformations and the clarity that emerges appear, with hindsight, glaringly obvious.

The tri-partite structure of *The Changing Face of Electoral Politics in Sri Lanka (1994-2004)* is drawn from three major changes in post-Independence Sri Lanka. The first of these, the 1994 General Election and the introduction of Gaullist constitutionalism, was

governed, Jayasuriya argues, by four key issues: the ethnic conflict and prospects for peace; management of a new liberalized market economy; cessation of violations of human rights and abuses of political power; and the impact of increasing poverty (49). Combined with the ongoing and costly ethnic conflict in the North and East and a concomitant inability to achieve economic policy objectives, this was a period in which, although significant advances were made in restoring democratic principles and processes, the government struggled to retain popular support. Complex party politics and constitutional crises were the hallmarks of the electoral instability following the Presidential Election of 1999 and the general Elections of 2000 and 2001 which resulted in a divided executive government. During this period the principle of ‘combination’ – of an all powerful Presidential Executive (Centre-Left) in tandem with a Legislature and Cabinet drawn from rival and opposing political parties (Centre-Right) was put to the test (89) resulting in a new election in 2004. This most recent election added another complexity to the political landscape: a President simultaneously playing out ‘dynastic’ politics whilst her party, in order to maximize its chances for electoral success negotiated a coalition alliance with the JVP a radical Sinhala nationalist party (91) that is both officially and popularly held responsible for the assassination of the President’s late husband, screen idol and politician Vijaya Kumaratunga. This latest election also saw the entry into the political arena of a new Sinhala nationalist party of Buddhist monks – highly perplexing for those in the West who are disinclined to see Buddhism as a political force (in marked contrast to our reading of Islam).

If there is an omission in Professor Jayasuriya’s analysis it is that this overview of Sri Lankan politics reads, like the professor himself, as essentially highly civilized, albeit a highly civilized journey from a ‘welfare state’ to a ‘warfare state’. The focus on party politics and constitutional change over the past decade results in submerging the harsh realities of crippling poverty, the brutality and culture of fear and intimidation inherited from both the 70s and 80s and, especially for the minority Tamil population, the profound impact of the ongoing ethnic conflict and the human rights abuses of the militarized state. The social forces that have prompted suicide bombings, violence, torture and ‘disappearances’, perpetrated by separatists, insurgents, and the State continue to touch every Sri Lankan and need ‘lest we forget’ to be constantly foregrounded.

The fact that the volume went to press on the eve of the devastating December 2004 tsunami that killed more than 30,000 and left half a million homeless does not negate its import. Indeed, one of the critical obstacles to rebuilding many parts of the south and East has been

the paucity of social data. This volume provides an invaluable set of data, including detailed electoral statistics, and analytical benchmarks. Sri Lanka 'after the tsunami' will continue to be transformed in as yet unpredictable ways by the recent natural disaster, more so as the regions most affected are the war-ravaged districts of the North and East and the heartland of the Sinhala militants, the disaffected youth of the South. One can only hope,

along with Professor Jayasuriya that a real peace, in contrast to the current state of 'no war' and some form of consensual politics may characterize the next, phase of governance (xxi). If so, and indeed even if not, with the insight provided by the volume, we will be better placed to understand the next, and again critical phase of political evolution ■

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READING – *Writing that Conquers*

Anoma Pieris

Sarojini Jayawickrama: *Writing That Conquers: Re-reading Knox's an Historical Relation of the Island Ceylon*, Social Scientists' Association, Colombo, pages 350, Price Rs. 600.

Our knowledge of the history of our country is necessarily biased, due to our general lack of self-reflexivity and the selectivity of our national memory. My own understanding of history is gleaned from nationalist text books, which are reproduced in the ideological spirit of the *Mahawamsa* and bent on glorifying Sinhala kingship; or from its polar opposite: colonial travel narratives that cast our people as pagans that needed to be civilized. Textuality, i.e. the written word, predominates and in both cases is given an authority, which in each case is grossly over-rated. Just as the *Mahawamsa* has as its objective the legitimization of dynastic kingship the colonial narrative presents the colonizer as saving the native population from the tyrannical rule of those very kings. Much of the history of resistance to British occupation can be found in historical novels such as *The Last Kingdom of Sinhalay* by Elmo Jayawardene (2004), who narrates the treacheries and resistance to the British surrounding the fall of Kandy. Understandably the bulk of this work concentrates on the Kandyan period, a period charged with political strife and territorial contestation, as European powers competed for space and commercial monopolies over our specific geography. The anthropologist Michael Roberts in *Sinhala Consciousness in the Kandyan Period* (2004) describes how both Sinhalese and Buddhist sensibilities were being shaped and projected both politically and culturally during the Kandyan period differentiating the Sinhalese from both colonizers and peoples of other races.

Sarojini Jayawickrama's book *Writing that Conquers* adds to this discussion of the Kandyan period as yet another contribution to it history made during this year. Her research re-reads the *Historical Relations of Ceylon* by Robert Knox following the scrutiny of textual histories provoked by postcolonial studies. If we were to analyze the politics of the colonial text, would we draw quite different conclusions about our history? She asks.

Our knowledge of the Kandyan kingdom during the Seventeenth Century at a quotidian level and the details of the rule of Raja Sinha the Second are acquired from what has become a seminal

text: Robert Knox's *Historical Relations of the Island Ceylon*. The book is an anthropological narrative by an English sailor of the East India Company, who was held captive by the king of Kandy for nearly twenty years. During this period Knox observed the habits of the people around him, the villagers, courtiers and what he saw of the king recording it after his escape and return to England. His book, published in 1681 became an immediate success informing the British public about a territory that was available for colonization. Its religious overtones only superficially disguised its true objective of establishing the relative superiority of Britain and suggesting the need to deliver the Ceylonese from their feudal existence.

It is the minute detail in Knox's account that captures the readers imagination allowing him or her to construct a colonialist's version of native life. Knox's encyclopedic account gives intimate knowledge of community structures, marital relationships, cooking and eating habits, social customs, dwelling types and construction methods with special attention to the relations between the king and his subjects. On its publication, accompanied by lithographs it proved to be one of the most popular representations of Ceylon to be produced and disseminated in Europe during that period. Translations were made into French, German and Dutch. Jayawickrama compares this text to that by Daniel Defoe: *Robinson Crusoe* regarded by many of us as a boy's adventure-story but equally replete with Imperialist motives. By placing her analysis within the frame of postcolonial literary critique and employing comparisons with colonial period texts from other colonized cultures Jayawickrama demonstrates how Ceylon too was drawn into the larger *orientalist* project to colonize through the written word.

In this regard, Jayawickrama's re-reading of Knox addresses a familiar destabilization experienced by all 'native' readers on encountering a western version of their history. While the form of the narrative typically asks the reader to identify with the protagonist, Knox, and to imbibe his values and positioning, the necessity to sympathize with his predicament and empathize with his interpretations of the Kandyan kingdom jolts our post-national subjectivity. It places Sri Lankan readers outside the space of the narrative and its reception. It is from this liminal space outside the

reciprocity of Western authorship for Western audiences that Jayawickrama approaches the writings of Robert Knox deploying her knowledge of the complexities of a Buddhist Sinhalese subjectivity to challenge both his version of history and his motives..

What were Knox's motives when writing this history? Did his careful record of the Kandyan kingdom, the activities of the king and his subjects prepare the stage for British colonization of Kandy and therefore the whole island? Taking a range of subjects apart through careful analysis Jayawickrama suggests that Knox's impressions of the Kandyans was filtered through his own ideas of English morality, commercial interest and Individualism all of which was veiled in the language of a benign Christianity. She also describes how due to his own narrow patriarchal and puritanical world-view Knox's impressions of the Kandyan's particularly of Kandyan women were often quite contrary to what we know of the culture. Similarly his interpretations of Buddhism were confused in their translation into a Christian vocabulary.

Jayawickrama delves even further to argue that Knox's desire to represent the natives in these terms came from his own deep seated insecurity as a prisoner of the Kandyan king. The court of Raja Sinha the Second was a heterogeneous space including people from diverse religions and several other European prisoners. As a prisoner Knox no longer held the privileged space of the colonizer and found himself vulnerable to the Kandyan geographical context. Jayawickrama places Knox in a liminal space between colonizer and colonized anxiously preserving his own precarious self-image by differentiating it from the natives. This anxiety of the self, which Jayawickrama observes was European, predominantly white, male, Christian and middle-class accompanied the colonial project, but became fragmented and insecure in a space which was unknown, uncharted and unfamiliar. The collapse of Knox's confidence heightened the desire for self-affirmation and self-fashioning against the image of the East, the native and the unknown culture.

Jayawickrama observes that the representation of the other is textually fashioned and although the language of the travel narrative may purport to be neutral, and may appear to be an objective report on an individual's experience; all writing is ultimately political, and shaped by covert agendas. She observes that in travel writing a shared repertoire of tropes categorize, essentialize and objectify the native subject equating difference to primitivism, savagery, infantilism and inferiority. She says "Writing becomes a process of subordination and domination when in the act of representation one voice becomes privileged, silencing and suppressing others in the colonizing tones and gestures which inscribe difference, demarcating margins and creating centres and peripheries".

Jayawickrama's re reading of Knox addresses a generation born on the cusp of independence Sri Lanka's own midnight's children (or those for whom the collective memory of February Fourth 1948 resonates significantly), who were caught in the struggle between

two imaginations from the East and the West. Her education in a missionary school in Colombo was symptomatic of the education system at the time, with strong colonial overtones and a Christian morality constructing the proper objects of history. Buddhism, feudalism, and the 'tyrannical' kings of the Kandyan kingdom were scrutinized and marginalized in order to buttress the flailing confidence of the colonial project in its twilight years. It subjected Buddhist students like herself to a particular moral dilemma, that revealed the ideological undercurrents in colonial historical sources.

The generation that followed those born at independence, the children of our midnight generation born into a republican Sri Lanka have little awareness of this sensibility for they were swung in the opposite direction by a defensive nationalism. Immersed in an equally uncritical revisionist narrative that demonized the colonizer, students of the nineteen seventies and eighties like myself grew up with scant awareness of discourses outside the national narrative. Knox and all colonial sources were completely suppressed in the collective amnesia of a post-colonial consciousness. By the nineteen eighties and nineties colonial history made a comeback stripped of its political asymmetries in a nostalgic and sentimental yearning for a past era, promoted by tourism. It coincided with the Raj Revival: TV series like the Jewel in the Crown, Far Pavilions, and Heat and Dust that played on the exotic, chaotic image of the East through a process that Edward Said described as *orientalizing* the 'other' (meaning non-western cultures and peoples). The Raj Revival was a bi-product of the Imperialist ambitions of Thatcherite Britain punctuated by the Falklands war and the construction of British-ness against the influx of migrants from Briatn's former colonies. In Sri Lanka the colonial past seeped back into our architecture, through images and artifacts and supported by the hotel industry its picturesque ambience was captured in a life-style paradigm embraced uncritically by many Sri Lankans.

Jayawickrama's voice, framed by these shifting pedagogical positions writes history at the interstices of a generational shift and a national beginning. She speaks for a generation that unclouded by the terror of the post-nationalist era, are able to deconstruct the politics of partisan positions. She speaks against the tenor of the Raj Revival in literature and in cinema and its aggrandized, romanticized constructions of the colonial period and its orientalist constructions of us as 'natives'. We must learn to read behind the lines of the historic text and gain a more nuanced version of our own history with an awareness of the return of colonial power relations in new forms of imperialism and globalization (most visible in our hotel industry, and labour relations). More importantly in a time when competitive ethnic histories launch media wars in cyberspace and we are divided by the identity games of political parties, Jayawickrama speaks for a generation who understood that identity is a fragile construction in a world where there are no absolute cultural positions. ■

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FROZEN TEARS

Robert Simpson

Frozen Tears: Political Violence, Women, Children and Problems of Trauma in Southern Sri Lanka by Indika Bulankulame. Rs. 350.00.

In the late 1980s Sri Lanka experienced a conflict in which the legitimacy of the state was fundamentally challenged by a widespread insurrection in the South and Central region of the Island. The result was a relatively short but intense paroxysm of violence and civil disruption in which the government of the day responded with maximum force to put down and disperse the activities of the Janatha Vimukthi Peramuna [JVP]. Many perished in the widespread and seemingly indiscriminate violence that ensued. *Frozen Tears* is essentially about the longer-term consequences of this violence and takes as its focus those who survived those dark days; those whose lives were irreversibly transformed by events of unspeakable horror and the loss of close friends and relatives. As one might expect the survivors in question are typically women who lost their husbands, sons and brothers and children who lost their fathers.

One of Bulankulame's central contentions is that in the eagerness to 'move on', rebuild and forget, the deeply debilitating effects of the trauma experienced by this group is suppressed, over-ridden and lost. She addresses this issue squarely and offers an important service in the bigger project of bringing to light what it means in social and cultural terms to have survived violence of this order. Through the simple medium of relating and analysing stories told by those who were left behind when the unrest subsided, she describes the struggle to reconcile personal grief and suffering with the ongoing difficulties of practical social existence. The work thus touches on themes such as trauma, widowhood, being a single parent, bereavement and the role of kinship support. The picture that emerges is a tragic one in which these women and their children seem to have tumbled into something of a social void and a sense of victimhood from which attitudes of family and the wider society do little to help them escape. The early parts of the book describe and analyse this condition of rupture and disengagement from a variety of feminist and post-structuralist perspectives.

The second part of the book turns to the question of how attempts are made to address the personal and social consequences of a violent bereavement. Here the book turns to a potentially much

bigger canvass in that it considers the role of religion as a coping mechanism and how an indigenous repertoire of therapeutic techniques relates to interventions drawn from a western-originated one made up of psycho-social techniques such as post-traumatic stress counselling. In Sri Lanka, there is a range of local idioms through which suffering might be made sense of. These extend from the rather abstract accounting for suffering offered by Buddhism in which present conditions are attributed to actions believed to have been taken in previous lives, through to the more immediate work of exorcists and diviners who can identify a rather more personal and immediate nexus of cause and effect. The interesting and important question that Bulankulame poses is how western and local systems knit together, or rather fail to knit together, in providing solace for those afflicted by the traumas. What is the relationship between a consultation with an oracle and a trip to a Family Rehabilitation Centre for counselling? The kind of relationship she envisages is one in which the local forms provide the most powerful idioms for making sense of suffering yet the formal psycho-social interventions are the ones with resources and state legitimacy. The position she takes, and about which it would have been good to hear much more, is that western-trained psychologists and psychiatrists should know more about indigenous modes of dealing with distress and trauma and need to incorporate these into their practice.

The penultimate chapter of the book deals with 'The Truth Commissions as a Viable Healing Mechanism?'. The conclusion is a rather depressing one in that despite the good intentions behind their endeavour the Truth Commissions have, in the author's estimation, largely failed to ameliorate the suffering of victims to any great extent. Setting levels of compensation emerged as the primary function of the exercise with the quest for justice coming a poor second. Healing seems to have hardly figured at all in the mountains of testimony that the hearings generated.

There is clearly much work to be done in understanding and easing the suffering of those who were caught up in the political violence of the 1980s and indeed in the decade before that. This monograph marks a small but important attempt to understand the longer term and deeply personal consequences of political violence in Sri Lanka and maybe, somewhere in the future, it will help to unfreeze the tears which remain unable to flow and highlight the 'institutional amnesia' which currently perpetuates this state of affairs. ■

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VISIT OF THE SPECIAL RAPPORTEUR ON FREEDOM OF RELIGION OR BELIEF IN SRI LANKA

Asma Jahangir

Members of the press and other media,

I am grateful that you have taken the time to attend this press conference.

First of all, I would like to introduce my responsibility here as Special Rapporteur on freedom of religion or belief. I serve in this capacity as an independent expert, distinct from any United Nations agency, and report to the United Nations Commission on Human Rights on the worldwide situation of freedom of religion or belief. My methods of work include visits to countries of concern for the mandate. These visits are not limited to countries which have a weak record in terms of freedom of religion or belief but include countries where emerging issues may threaten a satisfactory level of religious tolerance.

I am also aware that I have come to Sri Lanka shortly after the tragic event that has affected your country with the Tsunami. The resilience of Sri Lankans in dealing with their trauma and sufferings is in this regard particularly remarkable.

During my stay in the country, in addition to Colombo, I have traveled to different locations, including Homagama, Kandy, Batticaloa, Ampara, Jaffna and Kilinochchi. I have met with a number of Government officials, including the Minister of Foreign Affairs, the Minister of Justice, the Minister of Constitutional Affairs and the Ministers responsible for the different religious communities present in the country. I have also met opposition. Meetings have been held with representatives of the Buddhist community, including the Most Venerable Udagama Sri Buddharakhitta, representatives of the Hindu, Muslim and Christian communities as well as of smaller religious groups. In Kilinochchi, I met with representatives of the LTTE. Finally and most importantly, I met with a number of representatives of the civil society, concerned Sri Lankans and members of non-governmental organizations.

The report on my visit to Sri Lanka will be submitted to the Commission on Human Rights after my visit and will include conclusions and recommendations to the Government as well as to the international community. At this stage I am therefore only in a position to share with you some of my preliminary observations.

During my visit I have noticed that there is a high degree of transparency in the Sri Lankan society, including amongst the government functionaries and the political leadership that I met. They were open to discussion and keen to preserve their culture of religious tolerance. However, I have noticed that certain issues related to the right to freedom of religion are not appropriately addressed. In this regard, I am concerned that inaction or lack of proper attention could lead to numerous misunderstandings and promote a climate of religious intolerance.

Over the last few years, I have received a number of reports of violent acts of religious intolerance such as the destruction or burning of places of worship. These have been perpetrated against different religious communities and have been widely confirmed by interlocutors from all sides. I have noted that in most cases the perpetrators have not been brought to justice. Moreover, in many cases, the police and other competent authorities appear to have been reluctant to take appropriate actions despite the identification of perpetrators. The inaction of the Government can only embolden the forces of intolerance and paralyzes rational voices. Inability to take appropriate and timely measures in arresting the rising trends of religious intolerance could make political as well as religious leaders a hostage to the very few who take extreme positions. I consider that the reported attacks on places of worship, mostly on churches, constitute clear violations of the right to freedom of religion or belief and the Government has an obligation to prosecute their perpetrators and to compensate the victims.

During my visit, I have received numerous allegations of organized groups involving in improper or unethical practices to induce individuals to change their religion. While it was not claimed that anyone was coerced to or forced to change his or her religion in a manner that is clearly incompatible with the right to freedom of religion or belief, many of these allegations have remained vague as to the identity or circumstances of the so-called victims. Despite several requests and efforts in this direction, I have been unable to hear direct testimonies of such cases. Nevertheless, second hand accounts by credible sources indicate that conversions through improper means have indeed occurred and certainly raise a concern.

There were a few reports of incidents of deliberate "hurt" to religious feelings and of defiling of religious symbols. These are

of concern to my mandate and I will be following the outcome of the investigations. I believe that the existing legal provisions in the Penal Code of Sri Lanka are sufficient in dealing with the nature of offences reported to me and urge that these be effectively implemented.

Moreover, in the same context, there have also been allegations that faith based organizations that have brought humanitarian assistance to Sri Lanka for the victims of Tsunami, have adopted certain methods exploiting the vulnerability of the population. I have also not been able to confirm these allegations by precise and individual cases but a sufficient number of allegations are confirmed by a number of sources. I would therefore call on those Sri Lankans and foreigners that are involved in humanitarian and development efforts to respect the guiding principles on humanitarian law. The United Nations General Assembly Resolution 46/182 urges NGOs, religious and missionary organizations to provide aid without espousing any particular religious opinion. A large number of humanitarian workers and organizations have scrupulously observed this principle. They have generously donated and tirelessly worked for the victims of Tsunami but regrettably a few have not strictly observed these guidelines. These are regrettable practices but do not constitute a criminal offence or a clear violation of the right to freedom of religion, as long as such conversions are not carried out under force, pressure or other coercive methods. Nevertheless, they do raise anxiety.

In response to these religious tensions, some initiatives have led to the introductions of two draft laws that would criminalize acts of “unethical” conversions. Contrary to what has been often claimed, the content of these drafts as well as the implementation of their provisions do raise concerns under human rights law, including the right to freedom of religion or belief.

In this respect, I note with some satisfaction that there are in Sri Lanka independent mechanisms and pluralistic as well as democratic traditions. As such Sri Lankans are adequately experienced to resolve emerging religious tensions. The Supreme Court of Sri Lanka in its determination has declared portions of one of these draft Bills as unconstitutional. In my opinion, the provisions of both draft Bills could result in the persecution of religious minorities rather than the protection and promotion of religious tolerance. The enactment of these Bills could seriously undermine the culture of religious tolerance enjoyed for decades in the country. It could impair the religious harmony that this country can rightly be proud of sustaining even through the difficult period of a civil war.

More essentially, while I could be apprehensive by the relative determination of a few, I have been encouraged by the fact that the important majority of my interlocutors have expressed their willingness to resolve this question through appropriate means.

Asma Jahangir is the UN Special Rapporteur on Freedom of Religion and Belief. She made the above statement in Colombo in May, this year.

The Changing Face of Electoral Politics in Sri Lanka- (1994-2004)

Laksiri Jayasuriya

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