

## **International Seminar: Envisioning New Trajectories for Peace in Sri Lanka**

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### **Session 8: Re-envisioning Sri Lanka – Lessons learned & Challenges and Opportunities**

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#### **The Crisis of the State of Sri Lanka calls for a Re-creation of the State rather than Adhoc Reforms**

#### **It is a Mistake to see the Crisis of the State of Sri Lanka as a purely Ethnic Crisis**

A popular and accepted view among sensitive commentators on the ethnic crisis of Sri Lanka is that a solution to the ethnic crisis, by itself will enable Sri Lanka to overcome the crisis the country is facing and to move forward successfully.

The idea of this article is to show that approach is not correct.

The ethnic crisis is only a one obvious expression of the crisis Sri Lanka is facing. The state of Sri Lanka has shown its incompetence not only in managing inter-racial emotions but in all the subjects relating to the subject matter of the state. The state of Sri Lanka is now in not a condition that can be reformed, but one that has to be remade in toto. It is not possible to view the whole crisis through an approach that gives weightage only to the ethnic crisis. Only a single facet of the crisis can be seen through such an approach. On the other hand a policy that gives weightage only to the ethnic crisis might interest the minority communities but not the Sinhala community.

The Sinhala people too can be involved actively in the need to reconstruct the state, only if it is possible to convince the Sinhala people that the sole feature of the existing crisis is not the ethnic issue and that it contains the evil features that have contributed to make the lives of the Sinhala people miserable. It is then that the necessity to reconstruct the state will become a common national necessity.

#### **Although the State is a Sinhala Dominated State, it has not won the confidence of the Sinhala people**

Although the state of Sri Lanka may be considered a Sinhala racist state dominating the ethnic minorities, that state has not won even the respect and confidence of the Sinhala community. If it had been a state dominating only the minority communities and protecting the Sinhala people and distributing the fruits equitably among the Sinhala people, it might have dispensed the minorities but pleased the major community. However, it has not been able to act efficiently and equitably even in regard to the Sinhala people. It has not been able to render equitably ever to the Sinhala people the services that should be rendered by a state to its citizens. While it is seen by the minorities as a Sinhala dominated state, the people of non- Goigama castes see it a state dominated by the Goigama caste. The non-Buddhist Sinhals see it as a Buddhist- dominated state. The poor see it as a state dominated by the rich.

1. It is not only the LTTE which represents the Tamil wishes that has refused to accept the legitimacy of the state and has gone so far as to rebel against the state. While the LTTE is rebelling to create a separate state the JVP, which represents the under-privileged rural Sinhala youth, has rebelled twice, aiming at seizing the state. This shows that it is not only the Tamil people who have doubts about the legitimacy of the state. It confirms that some of the Sinhala people too have a similar problem.

2. On the other hand, it is not only the minorities who have been affected by the factor of merciless repression. The two JVP insurrections, which may be considered uprisings of the Sinhala youth, too were put down mercilessly. A number of killings equal to that which has happened in the 20 years of the ethnic war happened in the second insurrection of the Janatha Vimukthi Peramuna and in the two years of its suppression.

3. The process of the denial of fundamental rights with the collaboration of the judiciary and in violation of the constitution has not been confined to the minorities. In 1982 the Sinhala people too were denied the right to elect a new parliament in the same way that the Tamil people of the plantation areas were deprived of their citizenship rights by rules and regulations on citizenship in violation of the constitution of 1948 and in the same way as the Tamil people were deprived of their language rights by the Official Language Act of 1956.

4. The multi-party system prevailing in the South has led to the Sinhala people being kept in the status of political serfs. In a situation in which political patronage has been made an indispensable condition for getting anything of importance life done, the Sinhala society of the South has become a party society. There is no internal democracy in the party system. It is the party leaders who have the right to decide anything. Although the head of state is elected by the vote of the people, the heads of state who come to power rule the country like feudal monarchs. The mandate that the winner at an election gets seems to be considered an official permit to plunder the wealth of the country. The winner usually oppresses the loser. The followers of the losing party are usually victimized and, when the defeated party wins later, there is a system of paying compensation to the victimized followers. This is not different for the right to plunder. The UNP government which came to power in 1977 rigged the elections to remain in power, and the People's Alliance too which came to power in 1994, rigged the elections to retain power.

### **The State of Sri Lanka is not a product of Consensus but one created by Lies, Fraud and Deceit**

At the time of independence the people divided by race had not become a nation perhaps if the people of Sri Lanka had had to wage a struggle to win their freedom as happened in India, the unity of the people divided by race might have become an essential condition for achieving independence, and a united struggle might have led to a unified nation. However, Sri Lanka received her freedom without a struggle for it and in conditions where a united nation had not emerged.

There was no consensus among the people divided by race, caste and religion about the system of government to be adopted. Among the minor ethnic groups there was a fear of a possible Sinhala dominance. Among the minor religious groups there was a fear of a possible Buddhist dominance and among the minor caste groups there was a fear of a Govigame and vellala dominance. That fear among them was expressed by them before the Donoughmore Commission and later before the Soulbury Commission. The state which had been moving towards decline due to politicization, corruption and inefficiency grew in debility due to the Janatha Vimukthi

Peramuns's rebellions and the LTTE's military attacks, and has become a rotten and incapable state which is unable to fulfil its duties and obligations even at a minimum level.

The commissioners of the Soulbury Commission were close friends of Sir Oliver Goonatilake and D.S.Senanayake. They had no profound knowledge of the problems of race, religion and caste in Lanka. The Commission believed that it would be possible to avoid conflict merely by providing for the security of the minority communities and that religious and caste distinctions would diminish after independence.

As the Whitehall authorities demanded a two thirds approval for the Soulbury constitution Mr.D.S.Senanayake was able to get the necessary parliamentary approval for the constitution by guaranteeing that no change at all would be permitted to the constitution and by tactfully winning over those who were in doubt.

However, after independence, things happened, neither in the manner promised by D.S.Senanayake, nor in the manner expected by the Soulbury Commission, but in a way that gave weightage racially to a Sinhala dominance, religion -wise to Buddhist dominance and caste-wise to a Goigama dominance. The Soulbury constitution was not an agreement based on a consensus, and the system of political institutions created under it was not one built on a strong democratic foundation. The legislature or the bureaucracy or the judiciary had no understanding of their duties or obligations. The media too had no such understanding of their obligations and functioned merely as a tool of power politics.

D.S.Senanayake in 1948 and thereafter S.W.R.D.Bandaranaike in 1956 implemented two pieces of legislation depriving the rights of the minorities disregarding the protection given to the minorities by Section 29 of the Soulbury constitution. The Supreme Court too upheld that legislation ignoring the unconstitutionality inherent in that process. Subsequently the government which came to power in 1970 enacted a new constitution paying no attention to the wishes of the minorities. Under that constitution the state was called a unitary state and Buddhism was called the official religion of the state. That same government abolished the public service commission and turned the public service in to a political tool which the governments that come to power would be able to handle as they wished. Subsequently the UNP government which came into power in 1977 created a severely centralized system of government giving weightage to the presidential system, making use of the majority it had got.

The subsequent generation of the forces which had expressed their suspicion before the Donoughmore Commission and the Soulbury Commission that there might arise a Sinhala domination and a Govigama and Vellala caste domination, refused to accept the legitimacy of the state and moved towards rebelling against the state. The main castes that expressed their suspicion about a possible Govigama dominance before the Soulbury commission were the Karawa, the Vahumpura and the Bathgama. The top leadership of the armed movement which arose in 1971 and again in 1987 belonged to the Karawa caste while young men and women of the Vahumpura and the Bathgama castes functioned as the foot soldiers.

While one of the two groups which presented their grievances on behalf of the Tamil people expressed their fears of a Sinhala dominance which might arise in the future, the other group (All Ceylon Scheduled Castes Federation) expressed its fears about a Vellala dominance that might arise in the future. The military movement of the LTTE for a separate state may be considered a unique mixture of both those expressions. It may be considered a struggle against the Sinhala dominance coming from outside and against the Vellala dominance coming from inside. While the castes which represent a status not high in the Sinhala caste hierarchy function from an anti-

Tamil position for the purpose of winning an honorable place in the Sinhala society, the castes which do not represent a high status in the Tamil caste hierarchy function from an anti-Sinhala position for the purpose of winning an honorable place in the Tamil society.

### **A State Rotten at the Top**

The following are several examples showing the extent to which the top of the state is rotten.

1. There are two motions of impeachment moved against the Chief Justice of the country. Although the charges contained in them are very serious, the parliament has not examined them.
2. Although in accordance with the 17th amendment to the constitution the constitutional council prepared a list of names of members for the elections commission and sent it to the former president, she did not approve it. According to the transitional provisions introduced on the assumption that the elections commission would be appointed immediately after the constitutional council recommended it, the elections commissioner cannot leave his post until the elections commission is appointed. The elections commissioner who is in a bad state of health went before the Supreme Court on reaching the age of retirement and requested an order for the setting up of the elections commission, stating that although he wanted to retire he was unable to go on retirement until the elections commission was established. "Sorry, we cannot do anything" was the reply the Supreme Court gave the elections commission. No elections commission has been established so far, and the question has not even been discussed in parliament.
3. Two weeks before the date on which the former President Ms.Chandrika Kumaratunga was to retire from her post she set up a trust headed by her for sports and cultural affairs. Thereafter she also opened a bank account for that trust. Two days before she went on retirement she got cheques for a sum of Rs. 650 million on the president's fund which was under her and got them deposited in that bank account. In addition to it she, through a cabinet paper presented by the minister for housing at the last cabinet meeting held under her before her retirement, got a land 1 ½ acres in extent, worth Rs. 350 million, approved for her, and got it written in her name.
4. After the results of the science stream of the GCE advanced level examination were published in the year 2006 by the Commissioner of Examinations there were accusations against those results and consequently the results had to be rescrutinized and the results had to be issued a second time. According to the second set of results a large number of those who had passed the examination scoring high marks had been brought to a lower level. A large number of those who had been jubilant over the earlier results found themselves unable to face the society after the results were issued the second time. However, the Commissioner of Examinations neither apologized nor resigned from his post. The political authorities took no action against him.
5. After a woman suicide bomber who had come to assassinate EPDP leader Douglas Devananda was arrested an inquiry was held into the identity card she had carried and it was found that the identity card was a bogus one issued by the Registration of Persons Department itself. Further inquiries into the matter revealed that the bogus identity card had been issued on the personal recommendation of the head of the Department and that he had issued 14 other such identity cards to the LTTE in that manner. The Criminal Investigations Department went before the judiciary and requested an order to arrest him, but the judiciary did not permit it. That the Commissioner of the Registration of Persons Department was a close friend of President Kumaratunga was a public secret.

6. The retired Inspector General of Police functions as a member of the Bribery or Corruption Investigations Commission now. Towards the end of the year 2005 the Anti-narcotics Bureau arrested a police officer who had been running a narcotics business. The inquiry further revealed that the retired IGP who is functioning as a member the Bribery or Corruption Investigations Commission has had a close connection with this police officer from the time he himself was the IGP. Further inquiries have revealed that the mobile telephone which the wife of the police officer involved in the narcotics business was using was owned by the former IGP. The inquiry further revealed that the member of the Bribery Commission comes frequently to inspect the building work of the palatial house being built by the police officer who is a narcotics businessman police officer. He did not resign from the Bribery or Corruption Commission even after the information came to light. The political authorities did not remove him from his post either.

7. The number of court cases instituted in the High Court by the Bribery or Corruption Investigations Commission against the person who had held the post of Public Trustee of the country, on charges of corruption, is 07.

### **Conclusion**

In view of the above facts it is incorrect to define the crisis which Sri Lanka is facing as purely an ethnic crisis. The ethnic crisis is not the only constituent of it although it is one of the main constituents. Sri Lanka's crisis is not one that can be remedied by ad hoc measures. The state of Sri Lanka cannot be reformed. Sri Lanka may be considered a state too far rotten to leave any possibility for reform. The state of Sri Lanka can only be recreated and not reformed. For that purpose it will be necessary to have a political agenda to recreate the state taking into consideration not only the ethnic crisis affecting the minority communities including the Tamils, but also the other crises, and in a way that will win the confidence of all the races. Only such a broad programme will enable Sri Lanka to overcome the crisis she faces.