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Trauma in the Vanni:

Human Grist to the Mills of Dual Hypocrisy

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1. Anger and Despair over Aerial Terror

At the time this report goes out, residents just out of the war zone in South Vanni have been hearing constant sounds of intense warfare. From the government side, shells and MBRLs were being fired north into the Vanni, even as Kfir jets dropped their lethal cargo. Many of the young dying on the frontlines or being horribly maimed were barely 17 years old, recently conscripted, trained and sent to the frontlines. For the civilians life is no less miserable. The

respite only means intense preparation for the next round of bloodletting. Displaced many times and having gone back home during every abortive peace, they are on the run again. From Vidathalthivu, people are moving northward towards Illuppakadavai, Moondrampiddy and the Killinochchi border.

It would be months before their food rations are redirected and they find temporary shelter in places increasingly vulnerable to artillery and air attack, and then for how long? This way of trying to resolve what is at the bottom a political issue in one's own country is insanity. This report is about the victims and the narrow and inhuman ideologies that are at the root of the tragedy.

A resident of the Vanni told us, "You cannot imagine life there. It is unbearable, the constant fear of aerial attack. Everyone is mentally killed every day, women, children and infants. Some bombs are set to penetrate the soil and explode. You could then see a hole about 30 feet deep and the water spilling in as though a well had been dug. Some bombs are set to explode 15 feet above the ground. Usually about four bombs are dropped on the target area. Then nothing would be left standing in about two acres of land. It would simply be scorched earth. The third kind of bomb explodes on striking the ground. Its vibration, along with a heavy gust of wind could be felt in a radius of two miles. Most of the house windows would be shattered."

The resident dismissed the contention that the bombs are carefully targeted. He acknowledges that people are giving information to the Government, but on the other hand the LTTE has its establishments everywhere among civilians, and one could hardly speak of purely military targets. He gave an example close to his home a few months ago. It was after the bombing that he realised that the intended target was an LTTE nursing home. It was like an ordinary well-maintained house with a good cover of trees.

What happened was the LTTE had taken cover at the first signs of a bombing raid. The bombs missed the nursing home and fell in the compound across the road where five displaced families were living in improvised temporary shelters. Most of those in the compound had got into bunkers. One man among six who had not yet got into the bunker was killed and the other five trying to get in were injured. A few weeks later, the Air Force used its night bombing facility to bomb a place nearby at 3.00 AM. Again one civilian was killed. Civilians mostly dread night bombing where they have to drag their families and rush for shelter. His area had been bombed dozens of times.

Bunkers have been built everywhere, in homes, schools, offices and roadsides. Whenever they hear the hum of a high altitude aerial vehicle, mostly unmanned, which directs the bombers, people take cover. Bunkers have greatly reduced casualties, but the fear drives people to insanity.

2. Slaughter of Innocents and the Economically Marginalised

President Rajapakse's actions which betray a constant need to appease Sinhalese extremist sentiments, his complicity in targeted killings of Tamil civilians in the name of fighting terrorism, his selectivity with regard to facts and their self-serving interpretation, and his belief that he could pick pliant Tamils with a record of crime from whom the community

should be protected and impose them as their leaders; all go to determine his relations with the community, not that he is any more respectful of the Sinhalese.

There is no doubt that the Government is bombing and shelling people who are prisoners of the LTTE. The young are conscripted in the manner that cattle come of age are taken to the slaughter house. What kind of parent or benevolent ruler would slaughter these young victims and gloat over body counts, rather than show pity and seek strategies to rescue them? The object of this war is not to bring peace by giving dignity to the Tamils. It is prosecuted on the premise that every Tamil killed is a gain. It is a racist war that uses the LTTE as a pretext.

LTTE press gangs frequently invade homes before dawn carrying details about the residents, looking for those who have come of conscription age. A boy or girl reaching the age of 17 and failing to report to the LTTE could expect press gangs to turn up within two or three days. Others seen to be suitable are caught on the roads. Neither side spares Government servants. The Government's Deep Penetration Unit or their proxies have killed several of them in landmine attacks. A year ago, Killinochchi AGA Nithyananthan was travelling on his motorcycle with his young daughter on the pillion. He was stopped by the LTTE and the girl was taken. Nothing more has since been heard of her.

A Village Headman Pasupathy was asked for his daughters. He negotiated with the LTTE to take him and spare his two girls. The LTTE agreed and he went. Six months later the LTTE went to his home and took one of the girls. Not caring a thing for the father's bitter feelings, the LTTE recruiters went around saying, *'See now, this educated government officer Pasupathy has joined, why can't you join?'*

The new conscripts, who hoped against hope that they could escape, are put through brainwashing. Given the political reality of a detested government, most are turned around. Since the LTTE sees the new conscripts as the most likely to attempt escape, they are plainly told, *'You are here to die for the Nation. If you don't die today, you may die some weeks later. So why not die now?'* They are encouraged to volunteer for risky operations. Many of those dying on the front lines are the new conscripts ? those who join voluntarily now are exceptional.

Persons with contacts in the Vanni say in a general way that many of those conscripted in recent times have been killed. To get a very rough idea of the number, a man who knows well a village division in South Vanni having about 200 families, told us that about 25 of those conscripted in recent years have been killed. Assuming there are around 200 000 people or 40 000 families living under LTTE control, it places the number dead in this round of war roughly at the order of 5000. This would be fairly commensurate with other estimates from the Vanni, that about 30% of those conscripted in this round of war are, by now, dead. The qualitative effect of casualties is visible in other ways.

The injured from the frontlines are taken to Killinochchi Hospital in buses with windows blackened. After leaving them for a day, LTTE men come and pick up the ones who are fit to hobble about and take them back for military duties. This means that many placed on the frontlines are not fully fit to fight. Their camps being about 10 miles distant from the front, their food supply is also irregular.

Recently, the LTTE was telling the people that the 1990-born were going to be the final batch obliged to join them and the war would then be over. But from 2007, the LTTE was in fact

conscripting those who had reached 17. Presently they are appealing to those who are 16 to join voluntarily, but have not begun conscripting them.

Families are also being pressurised to join the service of the LTTE as family units or to pay an exemption tax. We have not received details on how this will be enforced.

At the same time many more soldiers are being killed than the Government admits. They also form the socially marginalised in the South who are being cheated. It is not those who talk loudest about Tamil terrorism who are dying miserably. At the current rate of inflation, what the family of a dead soldier receives as compensation would shrink in value quickly. The inflation funds the power elite with a foothold in the West who make off with the booty. Social unrest is a ticking time bomb in the South.

3. How the LTTE Survives? ? People Believe in the Struggle though not in the LTTE

For a force that has repeatedly proclaimed each current round of war to be decisive and final, and pushed up the toll of dead cadres from 550 in 1987 to what it officially declared to be 19 877 on 20th November 2007, has thrived without getting anywhere near finality in its stated goal. The civilian dead, including the thousands the LTTE killed in mass executions for real or imagined political reasons in its dreaded mass prisons in the early 1990s, and in regular individual killings, would be even higher.

What is remarkable again is that the people in the North-East have increasingly hated the LTTE. In the Vanni, the hatred is uniform, mainly because of conscription. Even its victories, which make news headlines around the world, evoke contempt. A local observer was very critical of the suicide commando attack on Anuradhapura air base on 22nd October 2007 by a team of 21 commandos, pictures of whose last farewell with the LTTE leader hit the headlines. *What was the use of having them killed??* the observer asked, *in such missions the loss of life must be kept in the single figures?* He added, *If they are doing such an operation, they must strike a deadly blow that would bring the Government to its knees. These would just alert them to step up their guard.?*

That brings us to an important consideration. The people believe the Tamil liberation struggle to be legitimate, although they have lost faith in the LTTE. An older generation remembers the humiliations more vividly than the actual communal violence. They remember the 1958 violence when toughs used to threaten Tamils with obscene violence and later years when some would get into buses and seeing there were Tamil passengers, announce that there is a stink because there are Tamils on the bus! A great deal more has happened since then. The aerial bombing and claymore mine attacks on civilians by the Army's DPU or proxies offers them no hope in the Government. Claymore mine attacks on civilians or civilian transport in the Vanni and, on the other side, terror attacks in Colombo, intensified from late November 2007.

Asked what people in the Vanni feel about LTTE terror attacks in the South, residents asked did not give a direct answer. It took the form: *When there is an attack in the South, the US and European nations rush to condemn it, but who says one word about the regular bombing*

and mental torture we are subject to?? The civilians were at the same time scathing about the LTTE. Like many others living in the Vanni, they feel that the LTTE, by wiping out the other groups and isolating itself, is now sacrificing lives for a lost cause. Nor do they believe that the Government could defeat them.

This is the reality behind which the LTTE is able to conscript even the stridently unwilling and turn them around, something that amazed neighbours who knew the conscript's earlier negative attitude to the LTTE. Even when people do not believe in the LTTE they know and feel that the Tamil struggle is legitimate. This is enough for the LTTE to work on the young. They are shown films of cadres sweating it out on battlefields, carrying with a heavy heart the bodies of their dead and injured colleagues. LTTE propaganda says clearly that the road is difficult, but there are many willingly sacrificing themselves. The conscript is driven to ask him or herself, *‘Could one be so selfish as to want to escape from the battle against Sinhalese cruelty for which thousands are making sacrifices?’*

The LTTE keeps telling civilians, *‘You are fighting for your family, and we are fighting for our Nation.’* Knowing the nature of the present government, it evokes a sense of guilt, on top of their anger against the LTTE.

4. The Escapees

One could hardly be surprised that many want to escape both from the LTTE as well as the bombing and shelling. Those who succeed in coming out are sent by the Army to a camp in Kallimottai near Murunkan. That too is like a prison compound. Food is provided mainly by NGOs. There is no electricity. The soldiers guarding the place are very polite and there is an area where visitors could meet the inmates. But the people would like to move out to Vavuniya or Mannar, but are not permitted to do so. The older ones are allowed to go as far as Murunkan and that is as far as their freedom goes. The result is frustration and disillusionment with no long term plans for them. They live as illegally detained prisoners, regarded potential terrorists because they came from the Vanni.

The inmates present at the end of June give a disturbing picture. There were 382 inmates from 277 families, pointing to most of them being by themselves and young. The LTTE did not spare people because they were married. Attempts at escape have led to many scattered families and resulting social problems because of it. The husband may still be in the Vanni while the wife managed to get across.

In one family, the father and four children, two girls and two boys, tried to get across to India, for which service boatmen charge about Rs. 50 000 per head. (Earlier people used to get across to Mannar Island by fishing boats, which used to come from there. The Navy has stopped fishing boats moving out, although there is quite a lot of smuggling done by the LTTE, after bribing the appropriate parties.) The LTTE did a round up of the beach and the father, a boy and a girl were taken. The LTTE conscripted the father, but asked the boy and the girl to get back to their village. The father had told the children to escape and that he would find a way later. The four children managed to escape south by land and are without the father.

Recently there was talk and negotiations to shift the statue of St. Mary back to the Madhu shrine from where the LTTE earlier removed it. The shrine is now under army control. The story doing the rounds is that 50 000 people are planning to accompany the statue out of the

Vanni. At the same time, due to recent army advances, the people in the south have been leaving their homes and moving towards Killinochchi.

5. Life in the Vanni

Life in the Vanni is something between outright fascist repression and a horrid joke gone too far. The LTTE used to be ambivalent about university ragging of the freshers during the 1980s. Sometimes they would oppose ragging, and at other times support it when students opposed to them were against it. Vanni is one gigantic rag.

For some time after the outbreak of the current round of war in 2006, old men in their late sixties and mid seventies were forced to do home defence training. Men who could barely walk were forced to train, tottering in an attempt to run, carrying poles (made at their expense) as substitutes for guns. Standing continuously on guard duty was unbearable torture. One septuagenarian got permission from an officer to place his bicycle against a tree and rest his back on the seat while on duty. Another officer came along and gave him a verbal lashing for resting on the bicycle seat. The practice of forcing elders was later stopped.

Whenever there is news of an LTTE terror attack against civilians in the South, the people in the Vanni prepare for reprisal Air Force attacks. All functions over the next three days are cancelled. If there is an unexpected bombing raid while a function is going on, unless it is too close the function proceeds amidst explosions.

It appears to people that the LTTE endangers them as a matter of policy. We have recorded that at the beginning of a round of war in 1990, there were instances when the LTTE fired at passing aircraft from an LMG mounted on a vehicle from the vicinity of a refugee camp and sped away. After the recent commencement of war, LTTE vehicles used to be carelessly parked in civilian precincts in the Vanni, and were clearly visible from the air. Fearful of an aerial attack, people repeatedly asked them to park the vehicles under cover. After ignoring these pleas for a long time, the LTTE now parks them where they do not make targets from the air. Bombing raids are regularly aimed at putative LTTE targets, and predictably follow a military defeat inflicted by the LTTE or a terror attack in the South.

There was a long controversy about the 54 young schoolgirls killed in the aerial bomb attack on a camp in Vallipunam on 14th August 2006 where it was maintained that the girls were receiving first aid training. Residents now confirm that the girls were forcibly taken by the LTTE and the training was of a military nature. This does not however justify the Government bombing the schoolgirls.

An aspect of the militarisation and regimentation of life in the Vanni is that persons are allowed to work only if they have a card certifying that they had taken home-defence training. As most work is controlled by the LTTE, full salaries are paid only to those from martyrs' families ? i.e. ones where a member died fighting for the LTTE ? the others get half salaries. All able males are forced to do border security duties five days a month or pay Rs. 5000 a month for exemption.

Life is thus made almost unbearable for those who do not fall in line with the LTTE. For those who do not fully conform, it is very difficult to leave the Vanni even for urgent medical treatment. Consequently the extreme bitterness against the LTTE also expresses itself in willingness to act as saboteurs and to set off landmines provided by the Sri Lankan Army.

Vanni is a place where there are intelligence units everywhere. There are intelligence units for education, for distribution of rations and supply, for agriculture, and for photography ? all persons are photographed ? besides the regular Pottu Amman's intelligence. The Police do their own intelligence work.

If people are heard complaining or saying something that hints at criticism of the regime, often a policeman would walk up to them, warn them not to walk abreast and that if they want to talk they could come to the police station and talk.

There are hardly any services but mainly extortion. The LTTE has virtually taken over all enterprises except those of dhobis (washermen) and barbers. Everyone selling something or doing a service must issue a receipt so that tax could be collected. The combined intelligence services prevent evasion. Receipts must be issued whether it is fixing a punctured bicycle tyre or selling a dried palm leaf pyramidal basket for steaming *pittu*. When the LTTE took over houses, and if the owners were lucky enough for the LTTE to agree to return them, they were given huge bills for fictitious improvements.

Another function of intelligence is to prevent people from listening to the *Ithayaveenai* Tamil programme broadcast by government radio, just as people outside browse *TamilNet* because they don't believe the Defence Ministry's propaganda. The LTTE punishes offenders by sending them to dig bunkers.

The LTTE's control hinges on *poruppalars* (persons-in-charge or divisional heads). The official may be in charge of a political, administrative or a security division. They are the virtual maharajahs or fiefs. Many of them live in luxury houses amidst so much drabness and poverty. While ordinary people could hardly afford the highly inflated prices at which the LTTE sells cement, the *poruppalars* frequently have garden walls with well-shaped black stones. Anyone peeping inside would see a well-maintained garden.

The *poruppalars* duly acquire the mannerisms showing off their absolute power and the lowliness of anyone else besides them. They grow into the habit of commanding by grunts and a non-vocal economy of gestures, such as thrusting the thumb behind over the shoulder or ordering a person to come by lightly flicking the forefinger.

Of course, the people resent these impositions and curse the plundering *poruppalars*; peeping, eavesdropping and harassing intelligence officials and LTTE-appointed bureaucrats. But strangely they don't blame the Leader. The typical remark is, *'if only the Leader knows what the others do in his name, he will not permit it.'* The LTTE too encourages this game of good cop-bad cop. Similarly there was genuine grief when Tamil Chelvan was killed in an aerial attack on 2nd November 2007. Criticism of the Leader is confined to peripheral matters like his marriage to a high caste girl while denouncing caste. The really grave issues like the thousands of Tamils he has murdered are taboo subjects.

The manner in which the LTTE manipulates Tamils cannot last without the seemingly unyielding malevolence of the Government.

6. The Government and the Tamils

Until the end of 2005 the LTTE was becoming politically isolated. Its normal reaction to such a situation is to provoke and in early 2006 several Western nations and the EU signalled their

displeasure by making strictures against it. The Government should have kept things on course by respecting human rights locally and unilaterally moving towards a political settlement. On the latter the President bought time with the APRC process and ditched it the moment the Committee of Experts came forward with progressive proposals in December 2006.

Every government move reeks of racism, double-talk and sarcasm. After instituting the APRC to find a political settlement, the President moved with the Chief Justice and allies in the extremist camp of the JVP to de-merge the North-East Province in October 2006 without any consultation to address the political and security issues that brought it about.

The Government appointed a Sinhalese extremist ex-general as Government Agent Trincomalee in 2006 to advance Sinhalisation of the area. The Government recaptured Mutur East in August 2006 after driving the civilians away by relentless shelling. About 350 civilians were killed in the course of being chased by shells from one place to the next. The President announced soon after taking Sampoor that it was done *?purely for the benefit of the people?*.

6.1 Sampoor

Next, the President brought Sampoor under a High Security Zone to keep the people out and decided to install a coal power plant with Indian aid. After initial protest the Indians seem to have meekly fallen in line. To acquire 258 acres for a coal power plant in Norochcholai in Puttalam District, the Government had to go through protracted negotiations with the mainly Sinhalese local population for nearly 10 years and finally give an assurance that only 71 families would be displaced from the dry area having soil of low productivity, and pledge adequate compensation.

From Sampoor, 16 000 people were bloodily and brutally evicted from very fertile land with longstanding cultural and historical associations, and 700 acres were simply grabbed for a coal power station, which was earlier destined for location in China Bay, a largely Sinhalese area. The ex-general GA, T.T.R. de Silva, justified the takeover claiming at a meeting in the Trinco Kacheri that the displaced from Sampoor had no claim to the land there as they had no land titles. Being in charge of the Trincomalee Kacheri, which has a land registry, he should have known better. We have a copy of a survey map of the area of 1949 showing the lands, paddy fields, water resources and residential areas. Thanks to a government, which behaves like a Bandit, the displaced have been left in the lurch.

As pretence of resettlement 1000 plots of 20 perches each have been allocated on land near Sinnakulam and Ethikulam, 5 miles south of Sampoor and 3 ? miles east of Pallikudiyiruppu, an area people had avoided because of water problems. The 1000 households have been assigned a total of 30 to 50 acres of common paddy land. The Government destroyed their original homes, wrecked the landscape and rice fields with plans that have no legal approval and now wants NGOs to pick up most of the expenses of this bogus resettlement.

Even the legality of this resettlement is questionable. The standard government allocation for village extension schemes is for a family 3 acres of paddy land and ? an acre of high land for a house, coconut trees and a home garden. The resettlement of Sampoor folk is a cruel joke and a travesty of their right to live. In effect the people are being chased away after being robbed of lands, cultural associations, resources and livelihoods that belonged to them for

centuries, to go and beg. A section of those displaced from Mutur East are being settled on their own lands, but Sampoor is out for the residents.

The Government also has other tricks up its sleeve. Over 200 Tamil families were displaced from Raalkuli west of Mutur due to the fighting in 2006. There were also reports of plans to settle a section of the Mutur East, including Sampoor, displaced in Raalkuli. Fears were aroused particularly after reports that on 8th September 2007 a government delegation led by Basil Rajapakse laid a foundation stone for a housing project in Raalkuli, for over a hundred families, funded by a Buddhist organisation in Colombo and concrete posts came up in the area.

Suddenly last April (2008), 20 to 30 Sinhalese families, reportedly of ex-convicts, were brought and settled in the land enclosed by concrete posts ? reminiscent of Weli Oya in 1984 which saw the first LTTE massacre of Sinhalese moved from Anuradhapura prison to the area in South Mullaitivu from which the Tamils had been driven away. According to trusted sources in Trincomalee, an INGO was persuaded by the ex-general GA to provide assistance in the form of materials for shelter to the Sinhalese families moved into Raalkuli. The Sinhalese felt uncomfortable staying there and did not return after leaving the same month to spend *Vesak* in their native places.

Rather than let the materials go to waste, our sources said, the INGO asked the ex-general GA permission to remove them for re-use elsewhere. The man reportedly got very angry and reopened an investigation into the ludicrous allegation from which the INGO had already been cleared, that it had built an airstrip for the LTTE south of Illakanthai in the former LTTE-controlled area. The allegation appeared in a defence column about May 2005. Apparently, aerial photographs of a camp for tsunami-affected people and a long drainage channel alongside it had been misinterpreted as being an airstrip under construction. The camp is still visible on Google Earth. There were obviously plans to use pressure to get the Sinhalese families to return to Raalkuli.

The incident points to the manner in which this Government is ready to use the Sinhalese poor and marginalised, like in the 1980s, to advance a Sinhalisation agenda. For how many generations must this hatred and bloodletting go on?

6.2 Democracy for the East

One of this Government's satirical boasts is that it has brought democracy to the East by holding elections in the de-merged province on 10th May 2008 and duly received a pat on the back from India. How India, which stood for a fair political settlement, accepted the President's undermining of the APRC process by arm-twisting its chairman to suppress his long considered draft and present as his own a shadow of the Provincial Councils Bill, which is already on the statute book, is hard to understand.

The Government machinery pushed for Pillayan of the TMVP as its chief minister for the East. Allowing a free vote was too unpredictable for the Government. To obviate likely ignominy, the presidential sibling Basil bullied and arm-twisted, without leaving any stone unturned, to exclude the possibility of a credible alternative leadership.

In Batticaloa District itself, the TMVP, with the security forces turning a blind eye, resorted to targeted intimidation against supporters of opposition parties, including the Tamil alliance, and areas where their support was concentrated. The TMVP was also free to rig votes in

several booths. The result was that fewer than 35% of the Tamils in the district voted. The Tamil alliance which received 30 000 votes in Batticaloa District at the local council elections held two months earlier in March 2008, consequent to the violence and intimidation, received only 7 500 votes at the May Eastern PC elections from the same voter base.

It goes to show the minute calculations of Basil and Co, and the targeting for intimidation or exclusion of particular sections, by which the Government secured their favourite as chief minister to show off their gift of democracy for the Tamils. This Government is getting a lot of practice on how to win the 'popular vote'. Targeting a few districts and provinces, and a pliant Election Commission, could ensure its long and disastrous continuance in power.

6.3 We Choose Your Leaders and Fixers

A senior Tamil went to a top government leader and made a plaintive entreaty, *'Can you not somehow stop the killings in the North?'* The top leader dramatically clutched his head in a phony gesture of helplessness and expostulated, *'Oh this Douglas, he is uncontrollable!'* Likewise at a cabinet meeting a few days after the massacre in Allaipiddy of May 2006, the President, to show his goodness, castigated Douglas Devananda after his group was widely accused of involvement in the atrocity. As we have reported, the main parties to the massacre were the Navy and a killer unit of the Army. The EPDP just provided a few killers for the operation. This illustrates the farcical game of deception the Government plays with regard to killings.

In projecting its chosen multi-purpose Tamils as also Tamil leaders, these 'leaders' appear mainly to serve as beasts of burden, who must carry all the blame for the Government's depredations against the Tamil people. We reliably understand that it is actually LTTE dropouts and other Tamils working under Military Intelligence, who are responsible for the overwhelming bulk of the killings. Some of the figures are quite well known in Jaffna. One called Yarl Nambi was during the last ceasefire attached to the LTTE office in Kayts. His score is reputed to number several dozens. Another was Gunaratnam Suhatheepan, a former medical student of the University of Jaffna. He was earlier with the LTTE and left after a quarrel with Paapaa, its former deputy political leader for Jaffna. He later worked for Military Intelligence and was shot dead in Potpathy Rd., Kokkuvil, on 30th April 2008. That is a comment also on the political emptiness that characterises the LTTE.

Among Tamils who regularly deal with the Government, there is fear of its duplicity as well as a sense of hopelessness. After the first meeting with the President, and one might come away reassured, as the members of the Experts' Committee to advise the APRC once were. Over time one discovers that the President has no principles and no qualms about letting down with a humiliating bump those whom he invited with honeyed assurances to such august tasks as to advise on a political settlement or to investigate violations. What shows through with time is sarcasm, deceit and derision. To the Tamils and Muslims it has been clear for some time. The Sinhalese are finding out the hard way. Indeed the Government's conception of leadership lends far greater authenticity to Prabhakaran. He does not waste anyone's time pretending to care for such niceties as the rule of law.

7 The Breakdown of Constitutional Norms

The treatment of a Tamil, Dr. Devanesan Nesiiah, who had an unblemished career in the Civil Service, and was appointed to the Presidential Commission of Inquiry (CoI) to look into some

of the violations that evoked worldwide attention, reveals the Government's contempt for respected community leaders among the Tamils. The two cases taken up first were the Killing of Five Students in Trincomalee on 2nd January 2006 and the massacre of ACF aid workers in Mutur on 4th August 2006. There is not a shred of doubt that the State is culpable in both.

Having promised an international inquiry under pressure, the President backtracked and appointed a Commission of Inquiry with an International Group of Eminent Persons (IIGEP) as observers in November 2006. The IIGEP quit at the end of March 2008 citing a *lack of political and institutional will* to do justice to the victims. Yet all hope was not lost as the two cases mentioned began to move after a long stalemate.

Then two lawyers representing the security forces, who are well known for pushing Sinhalese extremist causes, began to target Dr. Nesiya accusing him of having a conflict of interest that prejudiced him against the security forces. All of a sudden, with the Press picking up this charge without a due sense of fairness to the person arraigned, it was Dr. Nesiya who was on trial and not those responsible for crimes against humanity. There were those on the CoI with real conflicts of interest, which one could overlook in the context of Sri Lanka, in the hope that as a team the CoI would rise up to the challenge.

By all accounts the Chairman of the CoI has earned public esteem as being both very fair and impartial. But a stickler for correctness could raise a significant conflict of interest he has in the ACF case, as having been on the Judicial Service Commission that removed the Mutur Magistrate from the same case on the very eve of his delivering the inquest verdict. Several legal experts, including the ICJ, hold that this was interference with the course of Justice.

Other conflicts of interest concern the past and present political party affiliations of CoI members S.S. Wijeratne, Javid Yusuf, Manouri Muttetuwegama and Douglas Premaratne. The member K.C. Logeswaran is an official of the Police Commission appointed by the President in contemptuous disregard for the 17th Amendment. Besides, the Five Students and ACF cases are ones where the Police are among the chief culprits.

While we have the highest respect for some of the commissioners named above, we must accept that individuals with such a background are despite themselves more vulnerable to political pressure. Who would have believed that Prof. Tissa Vitharana, a government ally and minister, who was widely known to hold progressive views on the settlement to the ethnic issue, would precipitately cow down to presidential pressure and submit as his own the President's travesty of a political settlement, after discarding his own draft?

Dr. Nesiya, by comparison with most CoI members, cannot be accused of doing or belonging to anything that compromised his integrity and impartiality. The charge of conflict of interest against him in the two cases concerns something remote from his work on the CoI - his having in the capacity of a consultant (and not a member) worked with the Centre for Policy Alternatives (CPA) on projects involving his academic pursuits of peace and conflict resolution. In an independent development having nothing to do with him, the CPA raised money to pay for lawyers representing the interests of the victims at commission hearings on the two cases. Based on the accusations of the two lawyers, the President, without the due courtesy of process, requested Dr. Nesiya in a widely publicised letter, to stand down from the two cases under review. Nesiya was left with no alternative but to resign from the CoI after the government media with other 'patriotic' sections painted a sinister picture and threw mud at him.

The CoI too compromised itself to a point of deep pessimism by meekly accepting the President's instruction to stop video conferencing of witnesses who fled abroad because of intimidation, and not standing up for their right of discretion in the interest of the truth. If the CoI is to reestablish its credibility and give confidence to witnesses, it must for a start at least fight for its right to use video conferencing.

In another move against a man of unquestioned integrity, the Supreme Court on 26th June 2008, affirmed its suspension against Attorney-at-Law Elmore Perera (President of the Citizens' Movement for Good Governance) in respect of contempt of court, and barred him from practicing as an Attorney-at-Law for seven years.

Mr. Perera was punished for his courage in challenging the practice, which became notorious in 2006, of the President appointing sycophants to important commissions, bypassing constitutional procedures contained in the 17th Amendment. In particular Mr. Perera took a fundamental rights petition to the Supreme Court about issues arising from the resignation of two justices from the Judicial Service Commission in early 2006 over disagreements with the Chief Justice, and the unconstitutional appointment of two others to replace them. The Chief Justice punished Elmore Perera under a clause making punishable *'deceit, malpractice, crime or offense'*, which have no relevance here.

The fundamental rights petition came up at a time the Chief Justice and the President were working in tandem. How it leads to abuse at the highest level of the justice system is seen in the transmission of the ACF case from the Mutur Magistrate to another at a time the former had shown a determination to employ his powers of investigation. Very remarkably the grave constitutional issue raised by Elmo Perera drawing the line between a dictatorship and a democracy, remains virtually in the waste bin.

All these developments show the weakness of civil society and the lack of will among leading sections of society to stand up to a government presiding over a regime of violations, in contempt of constitutional provisions for checking abuse. What makes the situation very dreary is that men of integrity like Mr. Elmore Perera could be struck down by judicial abuse arising initially out of the President's drive for arbitrary power, and the rest watch helplessly while the hounds try to maul him.

8. No Hope of a Political Settlement in the Near Term: Keeping the Flame Alive

The most urgent issue is undoubtedly the mass killing and displacement in the North-East, in particular the Vanni. The prospect of a settlement is now prisoner to the Government's obsession with its Sinhalese extremist agenda as the only means of prolonging its hold on power. So strong is this link that it is prepared to risk economic collapse and social unrest in the South by people ridiculously unable to make ends meet. The LTTE sees this last scenario as its best hope and would use any means, including likely an open use of child soldiers, to prolong the war until the South plunges into chaos.

Politically, what hope is there of a political settlement acceptable to the minorities, when dignity and democracy for the Sinhalese people are deteriorating daily with rising attacks on dissidents and journalists, who are being equated with traitors? Anyone would find it hard to

accept that Rajapakse's commitment to constitutional governance and the rule of law is in advance of Prabhakaran's.

The Sinhalese polity's inability to bring about an equitable settlement poses other dangers. Tamils everywhere, whether or not they support the LTTE, believe in the justice of the Tamil liberation struggle. The LTTE uses the resulting dilemma to conscript raw, unwilling youths and turn them around into determined fighters, because although the people are disillusioned with the LTTE, they detest the Government, and see the two as separate issues.

Overseas, the LTTE is recouping support, which was low in 2005. People attend LTTE anniversaries held under different names in increasingly larger numbers. The Government sending out abusive diplomats wielding megaphones is going to have little impact. Many of those away from home, have held a separate state of Eelam as an absolute regardless of the LTTE's terrible abuses of their own people ostensibly in the very cause. They supported Prabhakaran as the person most likely to achieve that goal and their commitment to him stops there. Even without Prabhakaran the goal will remain as long as there is no political settlement the Tamils at home could consent to.

When Sri Lanka lost its seat on the UN Human Rights Council, the *Tamil Guardian* published from London (24 May.2008) argued that Human Rights that had been a tool of the West (and indeed an embarrassment to the LTTE) had lost its potency, and for the first time perhaps was thinking of a world where the LTTE suffers military defeat. It argued:

Irrespective of whether the state defeats the Tamil Tigers or not, Sinhala majoritarianism (and its attendant consequences of ethnic and religious marginalization of Tamils and, of late, Muslims) will inevitably remain in tension with the liberal order. Sinhala hegemony needs external partners unconcerned by these consequences? Realpolitik has always been the order of things. It's just more overt now. This is not to predict that things are going to be either better or worse for the Tamil liberation struggle, but to argue that both new opportunities and new challenges will come our way.?

The pro-LTTE stance of a large section of Tamil expatriates has been callous without any real concern for the people and morally repugnant. Even without the LTTE, the present Government's course would drive many Tamil expatriates to act in anger and feel justified in so doing. They may in fact make life worse for those at home. But they can and will damage the State and the country quite effectively at every opportunity. By not resolving this problem, lots of people who should be battling for Sri Lanka would spend their energies advancing its ruin for generations to come. The country will remain condemned to perpetual anarchy.

Those responsible still left in Sri Lanka, have the formidable task of preventing the country from sliding into such anarchy. A just settlement for the minorities is the only hope for Sri Lanka. If the Rajapakse government is not interested in such a settlement, the political space has to be nevertheless maintained for another government and even another generation to address the burning issues of justice and dignity for the minorities. Given current global, regional and local realities, will there be no respite from the bloodletting; where the young are wrenched from their mothers by the LTTE and sent to die amidst the MBRL fire and Kfir delivered bombs of a pitiless regime?