“In the last thirty or more years we have seen the failure of those holding high political office to observe and respect the spirit of the Constitution and the law. One can see many people blaming the 1978 Constitution for the many ills in our country, but the fault lies not in the Constitution, but in the men and women who have failed to operate the Constitution in the correct spirit”

*by Saliya Pieris - The Sunday Leader - 01/05/2016*
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**Cover Page Picture -** -the Sunday Leader- 01/05/2016
Is Good Governance Possible Even Under this New Regime

President Maithripala Sirisena came to power in January 2015 promising to cleanse the whole corrupt political system, abolish authoritarian rule, get rid of corrupt politicians, mete out justice to those found guilty of defrauding the country, probe war crimes and disappearances, help the victims of war to find justice with the support of the UN and the international community and finally implement a lasting solution to the ethnic problem with the introduction of a new constitution.

He has had to meet many challenges and what has been achieved so far seems very little compared to what was promised. The difficulty is that he and his PM come from two rival parties, and though they continue to speak of a ‘national government’ in theory, in practice there is no united national government with both parties working together for the good of the country. The President and Prime Minister were expected to work as a team but it doesn’t seem possible.

The UNP and the SLFP politicians and their supporters other than President and Prime Minister want their party to take over complete control of the government. It is that goal they work towards, in their own selfish interests and not in the interest of this country, to make it a better place for all Sri Lankans. On the other hand the people who voted for the Sirisena – Ranil combine came from all parties and communities ignoring all racial, religious and political differences. They had one aim, to replace the corrupt, authoritarian Rajapaksa regime with an efficient, democratic government. Their interests were national.

It is the aspirations of this multi-ethnic, multi-religious group of people who came from all walks of life to bring about this great change in January 2015, that the ‘yahapalanaya’ (good governance) regime must fulfill. But it seems difficult, almost impossible. The two leaders, the President and Prime Minister are being influenced by their party supporters who put their parties before the country.

In their attempt to win over the extremists within the government and the opposition there is the danger of the country being further divided although they promised unity in diversity. The extremists are against devolution of power to the minorities as a solution to the ethnic problem and international involvement in our attempts to find justice for war victims. Wining over these extremists would mean sacrificing the goodwill of the minorities and making the division wider.

Although they promised to eradicate corruption and punish those found guilty, they seem to be unable to do so because they need the services of those very same corrupt politicians and administrators to strengthen their own position of power. Thus the president went back on promises, and nominated corrupt and dishonest men to adorn his cabinet. These men have various allegations against them and some of them were even rejected by the people at the election. But today those law breakers have become the country’s law makers!

The Prime Minister considered to be ‘clean’ has surrounded himself with his college friends, not all of them seem clean. Today they are ministers and administrators wielding great power. The President has admitted that he did not want the Central Bank governor and the Finance Minister appointed to these posts, and requested the Prime Minister to refrain from doing so. But his advice was disregarded. Today there is so much criticism and disapproval of the Central Bank governor, but the Prime Minister seems to believe that he could be reappointed after the COPE inquiry is over, even if the President does not approve. One of the allegations against the Central Bank governor is that he and his son in law used the ‘bond scam’ money to finance the UNP’s election campaign and it is for this reason that

(Continued on page 4)
the Prime Minister is so protective of the governor. The governor of course has dismissed it as mere mud-slinging. But this ‘mud-slinging’ has caused great embarrassment and harm to yahapalanaya. Therefore in this case we hope the President himself will take the correct decision and not leave it to the Prime Minister. Most probably all allegations against the Central Bank governor could be proved baseless by the UNP members in COPE. That certainly would create a rift in the so called ‘National government’. As Rajan Philip points out one could only hope that the government will not sacrifice the institution by way of restructuring the Central Bank to reappoint the current governor with diminished powers. This would be a travesty and Arjuna Mahendran could become the Prime Minister’s Albatross!*

What about the 225 members of Parliament? How many of them are working for the good of the country? One has only to watch their brawls and fisticuffs in Parliament to realize how ignorant and uncouth they are – a set of hooligans and ruffians. Of course there are a few exceptions in both parties but they are so very few, against the large majority of unruly men. Recently ‘Sirasa’ conducted two programs, their teams going into remote villages in almost all districts to see for themselves how much development and progress had taken place in those areas and also how much their representatives in the Parliament and local councils had done for them.

What they revealed was shocking. Almost all these villages lacked basic facilities like roads, bridges, transport, water, electricity, toilets, hospitals, schools and many more. None of the promises made during election times had been fulfilled. In addition to all this their mud huts and the few crops they managed to cultivate were being destroyed by wild elephants. Ancient tanks which were to be renovated, with funds allocated to these politicians remain dry and useless. Villager after villager said that they see these politicians they elect only during election campaigns, when they come almost ‘begging’ for their votes, promising them heaven and earth if voted into power. They next see them only years later, just before the next election.

These are the same politicians who demand luxury vehicles worth 50 to 60 million rupees to tour their remote constituencies, where some villages cannot be reached even on a bicycle as the Sirasa team revealed. The sick in these villages are physically carried by their kith and kin to the nearest hospital which could be miles away. They have only footpaths and must wade across streams, without bridges. All this was shown on TV. But it has had no effect on these ‘honourable’ members who keep demanding more and more perks for themselves – while heaping more and more taxes on the people who brought them to power. Is yahapalanaya or good governance possible with such a set of callous, ignorant, greedy and corrupt politicians who seem to have put their conscience to sleep – people wonder.

The moment this question is posed, government supporters specially the UNPers retort "so do you want Mahinda Rajapaksa and his white vans to come back?" This is the dilemma the country faces today. There seems to be no alternative third force visible even on the distant horizon – but maybe there is some hope that the followers of Sobitha Thero will ultimately help to create a just society.

* Finally the many voices from civil society have been listened to and the government has appointed Dr. Indrajit Coomaraswamy as the new governor of the Central Bank on 02nd July. So maybe given time we will be able to see a just society that the Ven. Sobitha Thera dreamt of and Prof. Sarath Wijesooriya dreams of.
Buddha on excessive taxes, and good governance

The Buddha was just as clear on politics, on war and peace. It is too well known to be repeated here that Buddhism promotes and advocates peace as its widespread message, it disapproves violence or destruction of life.

According to Buddhism there are no ‘just wars’ – a false term put into motion to justify and reason violence, hatred, cruelty, and slaughter. Who decides what is just or unjust? My war is always ‘just’, and yours is always ‘unjust’.

Buddhism rejects this position. The utterances of attaining peace through the balance of power, or through threats is foolish.

The show of power can only produce fear, and not peace. It is impossible to achieve genuine and lasting peace through fear. Fear can develop hatred: suppression works for the time being only, will erupt and become violent later on.

True and genuine peace can prevail only through metta, amity; free from suspicion, fear, and danger. There were rulers who governed their states unjustly even in the days of the Buddha. People were exploited and oppressed, agonised and mistreated, excessive taxes were imposed and cruel penalties were imposed.

The Buddha was deeply moved by these injustices. The Dhammapadaha Katha says that he directed his mind to the issue of good governance.

He had revealed how a whole nation could become dishonest, corrupt, and discontented when the leaders of its government, the cabinet and administrative staff become corrupt and unreasonable. For a nation to be contented it must have just rulers. How this can be achieved he explained in Dasa-raja-Dhamma; the ‘Ten Duties of the King.

By K.K.S. Perera
-Daily Mirror - 21/04/2016

Possibility Of All MPs Getting Ministerial Posts –
Dr. Nirmal Ranjith Devasiri

Renowned academic Dr. Nirmal Ranjith Devasiri says that there is no need for a large cabinet, which the present government is building, and notes that it is being done with the intention of solidifying the president’s position within the SLFP and winning over the Joint Opposition members. He said that other than that, it is not intended to benefit the country at all.In an interview with The Sunday Leader, he said that with regard to reconciliation, there are a lot of things to be done especially to address the concerns of the Tamil society. There are some improvements, especially where military presence in the north and east are concerned, but when it comes to the issues of these allegations of war crimes, he said there is no improvement or progress.

Following are excerpts of the interview:

Q: There was a great deal of criticism about the former regime but with this present government also they keep adding minister after minister. What is the difference you see? Do you think that this is necessary?
A: It is not a matter of necessity. It’s a part of the political game. The rationale behind the large cabinet is due to the way in which the government was formed at the very beginning. And once the Rajapaksa government was defeated, the president was consolidating his authority with the SLFP. He wanted to win over as many SLFPers as possible. That was the rationale behind the formation of the so called national government.

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Therefore the nature of our political culture is that people are joining the government for personal benefits. Especially the ministerial portfolio is one of the main objectives and targets when they join a government. The more MPs you have on your side, the more ministerial portfolios you have to create. That’s the simple logic.

Even I attended some of the discussions and Prof. Hettige very clearly states that there is no need for even 35 and that 30 would be more than enough but due to the need of national government, we increased it to 35. But in my opinion that was not considered when the new ministries and portfolios were created. Now there is no limit and I won’t be surprised if all the 225 members will be made ministers at one point of time.

Q: Sri Lanka has to submit a report to the UNHRC in June. Do you think that we have done enough to satisfy them according to what we have promised?

A: There are a lot of things to be done especially to address the concerns of the Tamil society. There are some improvements, especially where the military is present in the north and east but when it comes to the issues of these allegations of war crimes, I don’t think there is an improvement or progress.

You cannot forget the fact that it is a very traumatic experience for the ordinary people in the north and east, especially the Tamils. So whatever the legal definitions are for the war crimes, the bottom line is that the people in the north and east have lost their loved ones, their properties and so on, because they were subjected to highly unfortunate circumstances. So, there is a need from their side to know what happened to their children, parents and loved ones and so on and that is a genuine concern.

I mean you can’t always point your figure at the Tamil Diaspora and other Tamil nationals with certain political agendas. Of course in certain instances you can argue that there are certain political interests but at the same time you can’t forget the fact that there is a genuine concern from the ordinary people.

So you have to address not just the concerns of the parties with political agendas but genuine concerns of the ordinary people. I have seen a number of studies done in the post war period where people have expressed their dissatisfaction over what has happened. They are not fully satisfied with the situation. Therefore I think there are a lot of things to be done to improve the situation, especially the human rights situation and the security situation from the point of view of the ordinary Tamil people. I am not talking about the Tamil political parties but about the ordinary Tamil people.

*Interviewed by Camelia Nathaniel*

*The Sunday Leader – 24/04/2016*

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**If we don’t kill corruption, it will kill Sri Lanka**

Corruption is killing our country and each and every one of us is responsible for its initiation, continuation and maturation

The public ire and wrath is greatly amplified by the fact that one of the critical issues on which the current regime ran its Presidential Campaign in January 2015 was corruption, nepotism and lack of good governance on the part of the Rajapaksas. Eradication of corruption and nepotism and setting up of good governance were the promises held out.

It is time we stopped talking about corruption and started taking some serious action. Commissions and committees have outlived their usefulness. The people are tired and sick of the pace at which these various bodies, whether they are armed with judicial powers or not, proceeding against whom allegations are dragging on.

*By Vishwamithra 1984*

*Daily Mirror - 18/05/2016*
Like Oliver Twist, Our Political Fat-Cats Want More

The question now is whether, amidst the ever rising cost of living, taxes, and the country’s economy in danger of collapsing, it is fair to bring in a proposal to increase parliamentarians salaries. It has been said that even the entire revenue of the country is not enough to repay the interest on loans taken by the former regime. Therefore, anyone with e can understand that increasing parliamentarians salaries should not be a priority at present.

Some of the payments and benefits that parliamentarians receive today are given below:
- Monthly salary: Rs. 100,000/-
- Attendance payments for a parliamentary session: Rs. 500
- An official residence for an out-station parliamentarian: Two storey house of 900 sq ft.
- Free official and personal communications facilities
- Duty free vehicle to the value of USD 50,000 after every five year period in parliament (vehicle permit was not allowed to be sold in the past, but now that rule has been done away with and vehicle permits can be sold without any restriction). A duty free vehicle permit is sold at an average of Rs. 2.5 million.
- Free native and western medical facilities and massage
- Prescription medication recommended by specialists can be obtained for free
- A pension after five years in parliament
- Stationery
- Fax machine
- Foreign trips
- Free availability of luxury food during parliamentary sessions
- Medical insurance to the value of Rs. 3.5 lakhs
- Ability to enrol children to prestigious schools
- Apart from payments for attending parliamentary sessions, a payment is made for attending other parliamentary committees.

Reported by Ashanti Warunasuriya
-The Sunday Leader - 03/04/2016

Most of our politicians at present do not represent their constituents with dedication, honesty and the love for the people. Their ability to oversee the executive as law makers and as peoples’ representatives have been far below expectations. Their integrity is questionable. They are only interested in making money, promote lawlessness, nepotism, communalism, violence, hatred, greed, abuse of power and other acts leading to deterioration of law and order. All these have affected all of us whether we were Sinhalese, Tamils or Muslims. Aren’t we all a combination of matter and of mind. Aren’t we all the same? Human beings. When it comes to politics, politicians have created all these differences among us. Shouldn’t we now unite for a common goal?

The Opposition in Parliament seem to be determined to achieve their personal goals. How about those in the Government? Aren’t they all doing the same thing for their own benefit? If so, do they only want to further their selfish interests at a cost to the people? Sri Lankan, CTB, Petroleum and other state owned establishments, boards and corporations are heavily in debt and mismanaged too. The number of Cabinet, state and deputy ministers has also increased. Every successive government in the last few decades failed to introduce effective policies to minimise overheads, losses and corruption in order to take the country forward. Haven’t they created serious issues of governance?

If we need to achieve sustainable growth shouldn’t we create a culture to work harder than before? Shouldn’t the leadership strengthen institutions against fraud, corruption and abuse of power? A majority of our elected representatives do not have the administrative experience. Wouldn’t it be better if they go for new blood? They lack the ability to steer a country to growth and development. If we have to pursue such targets, politicians must primarily tighten their belts and set the best example. Their performance needs improvements.

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overall. If not, it would lead to friction and failure. Sri Lanka is an ideal case study for political and administrative bungling! Our country’s failure could be attributed to our inability historically to unite the forces for the benefit of the people.

VAT proposals have created another intense debate. Treasury officialdom repetitively under the Unity government had performed the role of a bull in the china shop. President had to come forward to tell the countrymen that VAT will not be implemented. Why should they increase telecommunication bills? WI-FI and telephones are not luxuries. Shouldn’t they instead ban importing luxury vehicles for politicians and public officials? Would they sacrifice luxury automobiles to basic Indian cars to help the government to overcome financial difficulties?

-Daily Mirror - 17/05/2016

Sajin Vass: Witness Most Corrupt

Should all crimes of a wharf clerk turned CEO Mihin be ignored just because he now turns state witness against the Rajapakasas?

Sajin de Vass Gunawardena, former Monitoring MP, External Affairs Ministry, who stands accused of mass-scale fraud, unpaid loans, criminality and unfulfilled promises during the Rajapaksa regime, is back in the spotlight, this time for enjoying ministerial privileges from taxpayers hard-earned money despite not being an MP, a minister or even a local government member.

Despite pledges being made by President Maithripala Sirisena and Prime Minister Ranil Wickremesinghe prior to the 2015 presidential election, that stern action would be taken against all those who syphoned public money and were involved in fraud and corruption, the ‘good governance’ government has provided Sajin Vass with police guard instead of taking legal action against him for the alleged large-scale corruption he was involved in.

Sajin Vass had come to an agreement with the Criminal Investigation Department (CID) to turn state witness in all investigations carried out against alleged Rajapaksa family corruption. In return, immediately after he was granted bail last year, the Defence Ministry provided Vass with security from the Ministerial Security Division (MSD) together with back-up vehicles.

Questions have been raised as to why the CID or the Financial Crimes Investigation Division (FCID) have failed to take any action against Sajin Vass on the alleged mass-scale frauds he was engaged in, other than taking action only on the relatively minor matter of allegedly misusing 23 vehicles at the Presidential Secretariat.

By Nirmala Kannangara
-Sunday Leader – 01/05/2016

Extract from an article by Chrishmal Warnasuriya

Of Taxation, Inland Revenue And Panama Papers

Let’s use the backdrop of the now infamous Panama Papers revelations as a starting point. So we are made aware of some twenty odd Sri Lankans (yet unnamed) who are supposed to hold and/or benefiting from foreign holdings, assets or income amounting to trillions of rupees, which by law must be disclosed internally and be subject to taxation, unless of course they are entitled to some exemption such as double taxation regime. This is in addition to the so many “golden horses” and “foreign castles” etc that were mentioned regularly in the run-up to our Peoples Victory of 8th January last year and repeated ad nauseam in August which were assured to us as matters of priority that would be pursued, reclaimed and credited to the coffers of the People upon assuming governmental power. With all of this yet to see the light of day even one and half years later, we are now appraised (at last week’s Cabinet Briefing) that, inter alia:

1. We are facing severe economic issues, particularly due to debt servicing of loans (appearingly raised by the previous regime), and that therefore;

(Continued on page 9)
2. We will have to be taxed more, pay / charge more VAT on several added items at a higher rate;

This immediately triggers some reasonable questions in the minds of that very minimal (not even 10% according to our friend Harsha) taxpayers, as indeed it will in so many other citizens, as to whether:

(a) The incumbent regime, prior to forming government had absolutely no idea of this spiralling debt component, if they did why were we not informed before the election that their method of solving this problem was to tax the citizen;

(b) If they claim they were unaware of this situation up to now, what were they doing in Parliament all those years enjoying perks at our expense without doing this basic duty of an Opposition?

(c) Have they explored all other avenues of collecting lost revenue and/or reclaiming “lost monies” before landing all of that corruption on us, the tax payers and if not, why did they assure us that they will?

(d) If the answer to (c) above is in the affirmative, isn’t it simply “political deal-making” by threatening those corrupt of impending action to gain some governmental advantage to remain in office, but not really following up with legal steps and taxing us instead? Some points to ponder.

- The Sunday Leader - 01/05/2016

Yahapalanaya is not transparent - Prof. Sarath Wijesooriya

Professor Sarath Wijesooriya, convener of the National Movement for a Just Society, in an interview with Daily Mirror said that as a member of civil society he was not content with the manner the present government was functioning. However, he admitted he had no regrets about former President Mahinda Rajapaksa’s defeat. Prof. Wijesooriya was of the view that many state institutions in the ‘Yahapalana’ government were not independent. He also said it was mandatory to find a solution to the national question and the time is right now.

Following are excerpts of the interview:

Q A year and a half has passed since the present government was elected. Last week we saw a number of May Day rallies. Do you think any significant changes have taken for workers to celebrate?

A: Today, May Day is being celebrated by politicians who want to ensure their power. Even in the past this had happened. But it was civil society that brought change to the country on January 8, 2015. The new government came into power as a result of the people’s engagement. The agenda of the elected government should be to resolve the burning issues of the people in this country.

The government came into power on many promises among which was the subject of eradicating corruption. But soon after the government was elected, the Minister of Finance acted in a way which destroyed the faith people had in the government. Also the issue of the Governor of the Central Bank with regard to bonds caused a major outrage. Many commented that the Central Bank issue resulted in the UNP losing five seats. It was not a simple matter; even the President commented on it; yet the Governor was not removed. When considering these incidents, a key personality in the Yahapalana government washed out the faith people had in the government.

People understand that there is an economic set back in the entire world. Due to the amount of loans to be paid, the journey before the government is not a comfortable one, all citizens understand. But for people to make sacrifices, the government should act in a way that will make people think their sacrifices are worth it. Unfortunately the government does not give that assurance. It is pathetic that these politicians use May Day to gather people just to establish their political stability.

(Continued on page 10)
Q You were in the forefront of bringing the present government into power. In the previous answer you only spoke about corruption and issues with regard to the Finance Minister. But there were incidents reported with regard to the Minister of Justice and some of the Members of Parliament engaged in illegal activities such as kidnapping people. What can you say about this?

A: We cannot be satisfied with the behaviour of some of the Cabinet Ministers and Members of Parliament. For example in the Avant Garde issue, it was reported that two Cabinet Ministers were involved in it.

It is difficult to restore faith after it has been washed away. Looking at the incidents which occurred in the past, the message people got was that there was protection for people who were engaged in corrupt activities. This is a serious issue. Even at present the government states that they will not give room for laws of the jungle to operate. But the manner in which the law operates is questionable. Of course it is difficult to capture all the culprits at once, but the government’s conduct in some matters is most surprising. For instance, Sajin Vaas Gunawardena was a person who got arrested under the Yahapalana government. He was accused of corruption and other misdeeds and later released. Now we have got to know that he was a chief organiser for the May Day rally held in Galle. This cannot be accepted and the government is unable to answer the question as to whether there was a political hand behind his release.

Wimal Weerawansa was arrested when he tried to travel on a fake passport. If a normal citizen had done that, we know how the law would have operated. But why didn’t the same law operate in his case? It is indeed clear there is political backing behind these incidents. There are many instances where the law did not operate. They say there is a delay in justice because they are working according to the given procedure. But how can citizens accept that?

Also when some of the files related to investigations being carried out were handed over to the Attorney General’s Department, the procedure did not follow beyond that point. Furthermore, once the legal procedures are completed what is the need to get permission from the Prime Minister or the President? The law must operate.

Q Once you said it was not only Mahinda Rajapaksa who was defeated, but his entire Cabinet. However, we see the same Cabinet Ministers in Parliament under this government as well. Don’t you think it is the people who voted for a yahapalanaya?

A: When we of civil society want to change the existing system it is to make our dreams a reality through a newly elected government. It is an inevitable truth that politicians in this country work according to their own agendas. With the Executive Presidency, politicians got the legal opportunity to engage in businesses. Under the open market economy, many good things came to us. But some politicians used the system to initiate large scale businesses and use their political power for the well being of their businesses. This continues to date.

Q You have been appointed as the convener of the National Movement for a Just Society. Considering what has happened during the last year, do you think we will be able to see a country that the Ven. Sobhitha Thera dreamt of?

A: We are working towards it. As citizens we should influence the government to create a new Constitution. The present Constitution has been amended 19 times. Except for one or two instances, the other amendments were made to establish the rulers’ powers and not for the benefit of the people. And due to some of the provisions in the Constitution, defeated candidates were able to get into Parliament easily.

Also an answer is needed to the national question. The last proposal to resolve this question was through a new Constitution. Politicians should take bold decisions for the betterment of the country and we of civil society should contribute to them. If you ask me whether we are satisfied with the government, the answer is; ’No, we are not; but we cannot shut the door which we opened with so much effort.

By Chathushika Wijeyasinghe
-Daily Mirror- 10/05/2016
Citizen Power And The Opposition

Puravesi Balaya (Citizens’ Power) organization at a media conference held on May 16 claimed that there is a great suspicion that the corrupt are being safeguarded. Even a discussion telecast by the Independent Television Network (ITN) on May 17 at 10.00 pm raised doubts that the government is actually afraid of the corrupt. Without some grounds, such doubts may not arise.

In the run up to the January 8th, 2015 Presidential Election, they emphasized that the corrupt will be punished and airports will be closed to prevent them from fleeing the country, but nothing has happened as stated. Politicians do not care and never bother at all on these matters. Instead, they asked the citizenry as well to follow them. Citizens’ Power Co-convenor Saman Rathnapriya stressed at the press briefing that the government should not get away from punishing the corrupt. Prof. Sarath Wijesuriya from the University of Colombo stated there is a great suspicion that the corrupt is being defended by the law because the government seems having doubts in taking actions against them.

Citizens’ Power

Prof. Wijesuriya stated at the recent press conference that the Member of Parliament and Former Minister Wimal Weerawansa was arrested some time back for using a false passport to go abroad and that he was released on bail overnight. Prof. Wijesuriya added emphatically that despite all these issues against Wimal, he has been issued a new passport. The Negombo Magistrate’s Court released the MP with two sureties of one million rupees each and a Rs. 10,000 cash bail. An average citizen of the country will never get such privileges.

All those people who fought their level best to establish a new government by defeating the former regime now have encountered even more severe issues. They have no choice but wait till the government takes steps to make those promises a reality. Therefore, a considerable force and influence from the citizen organization and the people are much needed to create a notable influence on the government.

By Wmalanath Weerarathne
-The Sunday Leader - 22/05/2016

More than mere obstacles on the road to Governance?

Recent media attention has focused on the appointment of Mr. Palpita as an Additional Secretary in the Ministry of Public Administration, the incident involving the Provincial Chief Minister and the Navy in the East and the assurance given by the Prime Minister to the security forces that any accountability mechanism in the transitional justice process will be domestic, not international. In all of these events and in varying degrees of intensity, the government does not come off well, be it on account of incapacity and/or disregard for the core tenets of governance it stood committed to in January 2015 and its understanding of the process of transitional justice it is committed to since, the September sessions of the UN Human Rights Council and the resolution it co-sponsored there at that time.

Mr. Palpita’s appointment is an outrage. He stands indicted in the largest case of fraud in respect of public finances and is still able to operate with relative impunity in public service. Action should have been taken against him according to the Establishment Code when he was indicted. It wasn’t then; it isn’t now or at least it hasn’t yet. As pointed out in the statement by the Centre for Policy Alternatives: As noted above, he has been indicted before the High Court by the Attorney General.

The Procedure to be followed when a Court of Law or a Statutory Authority proceeds against a public officer is provided in paragraph 27 of Chapter XLVII of the Establishment Code. As already pointed out by several civil society organisations, Paragraph 27:10 provides that where legal proceedings are taken against a public officer for a criminal offence or bribery or corruption the relevant officer should be immediately interdicted by the appropriate authority. It has to be emphasised that several decisions of the Supreme Court and the Court of Appeal have stated that the procedures laid down in the Establishment Code.

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in general and paragraph 27:10 (of Chapter XLVII) in particular are mandatory and cannot be superseded
or disregarded without due legal authority.

The question arises as to whether those in power and authority are ignorant of or oblivious to the
facts of the case. How can they? How could they? In both instances this egregious violation of governance
has exposed the inability and/or unwillingness of the government to fulfil its commitments to governance
without exception. That this could have happened and presumably with the presumption that it would pass
without comment or condemnation because it required neither, begs the question of capacity and commit-
ment with regard to governance.

Damage limitation is very much in order, not just in terms of the government’s loss in credibility,
but also in terms of the country’s tryst with governance after the dark years of yore. Responsibility must be
acknowledged and the decision reversed. Moreover robust safeguards must be instituted to prevent recur-
rence. The minister has denied responsibility for the appointment. Who takes responsibility? What of the
Public Service Commission?

With regard to the incident in the Eastern Province, the basic question that springs to mind is what
on earth were the forces doing at a school function? One would have thought, certainly hoped, that under
the new dispensation, the blatant militarization of its predecessors would have ceased and that even if more
concrete and substantial steps from those already effected towards its jettisoning have yet to materialize,
even symbolically steps would be taken to continue to signal sincere and unwavering commitment. The
manner in which the Chief Minister expressed his displeasure at the lese majesties meted out to him not-
withstanding, he ought to have declined to participate in a school event with the participation of the mili-
tary. Moreover, are tri-forces bans on an elected representative, the Chief Minister of the Province no less,
appropriate in a functioning democracy? Wringing out the old and bringing in the new may well take time,
but wringing it out is a must and time of the essence.

Both the President and the Prime Minister have publicly stated that any accountability mechanism
will not include Foreign Judges. The Geneva resolution of 2015 on Sri Lanka, which the Government of Sri
Lanka co-sponsored provides for the active participation of international and Commonwealth judges. The
issue here is that from the perspective of the victims and their families, especially in the North and East
from which they are predominantly drawn, any mechanism that is exclusively domestic will not be credible
in their eyes. The report under the aegis of the UN High Commissioner for Human Rights called for a hybrid
mechanism -- a combination of domestic and International Judges.

The statements from the President and Premier may well spring from a perceived political necessity
to dismiss the allegation by supporters of the former regime about transitional justice being in effect a pro-
cess through which war heroes will be turned into war criminals. Allaying the fears and concerns, such as
may exist within the forces on this score is of course important. The point should be made to them that the
allegations are not about the forces per se but rather in respect of certain incidents and that the honour of
the forces will be affirmed if these incidents are credibly investigated and those responsible brought to jus-
tice. Furthermore, there is a process of public consultations on mechanisms for reconciliation to be com-
menced this month. This columnist is the secretary of the Task Force charged with that responsibil-
ity. Hopefully all stakeholders will come forward with their submissions and not be deterred by statements
by government leaders, which appear to limit their scope.

The incidents above, in small and more substantial measure indicate the magnitude of the challenge
of governance. We have come though to a point at which explanations and excuses wear thin. The transi-
tion we embarked on last January needs a feel good factor amongst the public to animate it, a predominant
belief that there is a trajectory of progress and that it is unambiguously in the direction of governance.

By Dr. Paikiasothy Saravanamuttu
-Daily Mirror - 01/06/2016
Concern over drastic slowing down of anti-corruption drive

Clear Attempt To Paralyse Investigations
Dr. Nalinda Jayatissa, JVP MP

By March 31 the FCID had handed over their findings on 42 cases to the Attorney General but legal action has been taken only on five cases. After January eighth, we in our capacity as a political party and anti-corruption group lodged many complaints with the FCID and the Bribery Commission. At present, adequate information has been provided to these authorities to initiate action against many culprits. At that time the general public too came forward to divulge information despite death threats. During the first 100 days and later in the first three months of the Yahapalana government, the authorities justified the delay saying the Attorney General who was a Rajapaksa stooge was not taking any action on these cases.

Now more than three months have passed since a new AG has assumed duties. But no action has still been taken regarding any of these case files. No new case has been filed. There were allegations against the former IGP. Now even he has been transferred. The people can only defeat a corrupt regime in the election. After that it is up to the government to carry out the investigations against these culprits and take legal action against them.

Institutes such as the Justice Ministry, CID and the police have been set up to counter these problems. We are disappointed with the lethargic conduct of the government even while having full control over these institutions. Many investigations have reached the level where adequate evidence has been found to arrest the culprits. But still the law enforcement officials are being held back by undue political influence. For example, even though there is ample evidence available to take five persons including a Rajapaksa son into custody, still it is not being done.

We have also received information that a discussion has taken place within the cabinet against the FCID officials involved in these cases. This is a clear attempt to paralyse the investigations by removing those who are involved in it. This proves that there is a particular group of politicians inside the government who wish to see these cases go under the rug. Further, it is also rumored that an order has been made from a top brass member in the government not to arrest either Mahinda or Shiranthi Rajapaksa. So it is clear that this delay has been caused entirely by political influences. It seems like the present government only wanted to snatch power from the hands of the previous regime by creating public displeasure with fraud and corruption allegations, not because they had any genuine wish to protect public property.

Many culprits who had been involved in these corrupt deeds have now become either government witnesses or government allies. Sajin Vass Gunawardena is the best example of this. During the first few days after January eighth all those who had been involved in corrupt deeds during the former regime were stricken with fear. That is why Basil Rajapaksa immediately fled the country. But since he has now sensed that the situation is not so hazardous he has now arrived back in the country with assurance and is now involved in politics again. They have even started to pull out the cash that had been stolen and hidden in safe places. This is a pathetic situation.

Those who were previously accused of misdeeds have now been able to publicly claim that they have been wrongly accused. It is the people’s mandate this government is ignoring. As a political party we are doing everything we can to raise the awareness of the people in this regard. Civil society organisations that played a key role in toppling the Rajapaksa regime have a key responsibility in this issue. They must urge the government to take action against these culprits. If not, there is no doubt that within a few months this government would fall in to the same track of its predecessor.

Politicians such as Wimal, Basil and Rohitha were in the frontline of splitting the SLFP. By doing so the UNP is getting the upper hand in the government. So the UNP leadership has decided to let them loose as the UNP’s survival depends on the splitting of the SLFP. That is why no action is being taken against them.

Reported by Ashanthi Warunasuriya
-The Sunday Leader- 22/05/2016
Continuing To Protect Thieves?

The failure to bring in the Audit Act which gives powers to the Auditor General to recover state money looted by errant politicians and government officers is a clear indication of how the Good Governance administration is trying to protect thieves.

The rulers who promised to bring in the long-stalled Audit Act are now preventing it from being tabled in cabinet to have it approved for implementation.

While the legislatures of 2004, 2005 and 2010 were reticent in bringing in this very important act that gives powers to the Auditor General to recover public money that has been plundered, now we see ministers in the Good Governance administration too following in those same footsteps much to everyone’s surprise.

Had the Audit Act been ‘given life’ by March 19, 2015 within the 100-day programme as promised on election platforms prior to the 2015 presidential election, the government coffers could have by now recovered millions of rupees looted by fraudsters.

Reported by Nirmala Kannangara
-The Sunday Leader- 22/05/2016

Situation in the North & East

Extract from an article by Mahendran Thiruvarangan - Daily Mirror - 24/05/2016

Seven years after the end of Sri Lanka’s War

Seven years have passed briskly since the war ended but the larger questions that led to the carnage still remain unanswered. The State which is supposed to treat all its people and communities equally continues to be discriminatory. The minorities’ demand for a measure of regional autonomy continues to be trivialized or is made a non-issue by the politicians in the South. Even after the regime change last year, political authorities failed to take action against the illegal construction of Buddhist temples in lands owned by the Tamils. The military’s attempt to grab land continues amidst communities’ protests in the North, though private lands in some areas in the Northern and Eastern provinces have been released to their rightful owners after many years.

The State has done little to address disputes arising from competing claims made by Tamil, Sinhala and Muslim communities over agrarian land and fishing waters in parts of the Northern and Eastern provinces giving room for chauvinistic forces to exploit these conflicts to deepen the ethnic divisions in the region. But we have been visited by moments of hope too. The Tamil people of Pudukaadu, a border village in the Trincomalee district noted that the majority of the Sinhala community in the village were in support of their move to re-start cultivation in their lands, even as a group led by the Chief Incumbent of the Dehiwatte Buddhist temple armed with knives and axes recently attempted to obstruct the farming activities underway and retain illegal control over those 300 acres of land belonging to the Tamils. Likewise some courageous voices from within our communities attempt to initiate a dialogue on the war across ethnic barriers. A friend of mine recently told about the positive response to the Sinhala translation of Thamilini’s (the former leader of the LTTE’s women’s wing) self-reflexive account on the war and militancy received in the South. It is these acts of translation, communication and solidarity across divisions that emit a spark of hope in a land that has suffered much. Translation across territories, nations and ethnicities within the island is an act that the country could benefit immensely from. I do not want to reduce translation to acts of translating texts on the war or the ethnic conflict from Tamil to Sinhala or vice versa. As a metaphor, translation also means how we translate ourselves into others. We cannot build our future on false foundations without addressing the war and its effects upon the communities or by denying the war-survivors justice and reparation. Navigating these messy and muddy waters of truth, justice and coexistence are two of the greatest challenges facing Sri Lanka seven years after the end of the war. How our political leadership, and we, as communities, activists, writers, perpetrators, witnesses, survivors and victims respond to this challenge through legal means and creative avenues like social dialogue and translation will determine our political future.
CURRENT ISSUES

TORTURE STILL CONTINUES: UN RAPPORTEURS SLAM CID, TID

Two United Nations Special Rapporteurs yesterday accused the Criminal Investigations Department (CID) and the Terrorism Investigation Divisions (TID) of using torture as a "common practice" in their probes.

Juan E. Mendez, the Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment and Monica Pinto, Rapporteur on the independence of judges and lawyers, told a news conference at the end of a ten-day visit that despite a decrease in the number of reported cases of torture, the practice of "interrogation under physical and mental coercion still exists and severe forms of torture continue to be used."

"Torture is a common practice carried out in relation to regular criminal investigations by the CID. In cases where there is a real or perceived threat to national security, there is a corresponding increase in acts of torture and ill treatment during detention and interrogation in TID facilities," Mr. Mendez said.

He said both old and new cases continued to be surrounded by impunity and the present systems and laws in place like the Prevention of Terrorism Act (PTA) "open the door to — almost invite — police investigators to use torture and ill treatment as routine methods of work."

He added that confessions appeared to be the primary tool of investigations by the Police. The practice of conducting investigations while the suspects were in custody, rather than determining the detention based on preliminary investigations, also incentivize the use of torture.

The UN Rapporteurs said they had unfettered access to all the places they wanted to visit including detention centers, prisons, police stations and military camps and also met with victims of torture and detainees. "I received many testimonies from victims and detainees. I found the testimonies truthful and many were substantiated with physical evidence that is conclusive of torture," Mr. Mendez said.

Reported by Chandani Kirinde
- The Sunday Times - 08/05/2016

MEDIA ATTACKS

JOURNALIST ATTACKED WITHIN MC PREMISES

Freddy Gamage, journalist and Convener of the Web Journalists Association was assaulted on the afternoon of June 2, while returning after covering the Negombo Municipal Council Meeting, by two people wearing full-face helmets and overcoats.

"When I looked at the motorcyclists at the Council grounds where my car was parked they appeared to be baffled. When I opened the car door I looked at them once again and suddenly they were on me. Though I tried dodging their first blow it hit my head. I fell flat on to the floor and managed to run away without my shoes. I saved my life by jumping over the fence of the council. Some women who witnessed the incident said that there was no number plate on the bike," Mr. Gamage told Daily Mirror.

"Two weeks prior to this incident I received a phone call threatening me not to write anything demeaning about the Lanza brothers. I have the voice recording," Mr. Gamage said.

Report by Shatara Jayasinghe
-Daily Mirror - 14/06/2016

UNHRC & THE INTERNATIONAL FRONT

TORTURE STILL CONTINUES: UN RAPPORTEURS SLAM CID, TID

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Reported by Chandani Kirinde
- The Sunday Times - 08/05/2016
Alleged war crimes: PM announces probe will be domestic, no foreign judges

The United National Front Government’s final position on the UN mandated probe on allegations of war crimes in Sri Lanka was spelt out on Thursday by Prime Minister Ranil Wickremesinghe.

He told senior Army officers that the judicial mechanism would be made up entirely of Sri Lankan judges, putting to rest months of speculation if foreign judges were to be part of the tribunal. He met some hundred officers including senior Colonels, Brigadiers and Majors General at ‘Temple Trees,’ the Premier’s official residence. These officers serve in different parts of the country, most in military installations in the North and East.

Here is what the resolution said with regard to probing alleged war crimes: “Welcomes the recognition by the Government of Sri Lanka that accountability is essential to uphold the rule of law and to build confidence in the people of all communities of Sri Lanka in the justice system, notes with appreciation the proposal of the Government of Sri Lanka to establish a judicial mechanism with a special counsel to investigate allegations of violations and abuses of human rights and violations of international humanitarian law, as applicable; affirms that a credible justice process should include independent judicial and prosecutorial institutions led by individuals known for their integrity and impartiality; and also affirms in this regard the importance of participation in a Sri Lankan judicial mechanism, including the special counsel’s office, of commonwealth and other foreign judges, defence lawyers and authorised prosecutors and investigators’.

By Political Editor
-The Sunday Times - 29/05/2016

Armitage Does Mediator Role; Meets TNA To Discuss Issues

A onetime strongman in the US administration, Richard Armitage, had talks with the Tamil National Alliance (TNA) last week in what was seen as a mediator role.

A former United States Deputy Secretary of State at the State Department, Armitage met TNA leader R. Sampanthan and TNA spokesman M.A. Sumanthiran.

TNA sources said that Armitage was briefed on the developments in the North and East, seven years after the war came to an end.

Armitage was told that the army continues to occupy large areas of civilian owned property in the North and East.

He was also told that Tamil political prisoners arrested under the Prevention of Terrorism Act must be freed.

Sampanthan has told Armitage there needs to be a push to return the civilian land occupied by the army and free the political prisoners.

The concerns raised by the TNA echo some of the concerns being raised by other Tamils, particularly ahead of the UN Human Rights Council session in June where Sri Lanka will be discussed.

The government has repeatedly promised to quickly try or release the 200-250 Tamils held under the Prevention of Terrorism Act (PTA). After hunger strikes and public protests, 39 were released in November, but remain on bail, required to report to police though never charged. The government acknowledges another 117 against whom cases are pending. Some of these, a number of whom have been locked up for more than a decade, are reportedly being offered release in exchange for pleading guilty and agreeing to undergo “rehabilitation”.

According to ICG, many of those released, as well as ex-combatants who have done a rehabilitation term, reportedly face police and military harassment and community ostracism.

By Easwaran Rutnam
-The Sunday Leader - 22/05/2016
Skills Development and Vocational Training Minister Mahinda Samarasinghe yesterday said the UN, UNHCR, any other global agency or country had never claimed that 40,000 were killed during the final phase of the humanitarian operation in 2009.

‘The claim that 40,000 were killed in the war at the tail end of the fighting was a fabrication by former UN spokesman in Sri Lanka Gordon Weiss who later joined an NGO and wrote a book on Sri Lanka’s civil war.

The Darusman report also claimed that 40,000 had been killed at the final phase of the humanitarian operation, quoting Weiss’s book. No one has done a comprehensive study to correctly determine the number killed at the final phase of the war,” Minister Samarasinghe said, and added, Weiss may have done this to draw the readers’ attention to his book.

Some of our own people took this canards as facts and confirmed that 40,000 have been killed at the final phase of the war. This gave rise to the allegation that there were high scale violations of the International Humanitarian Law by the Sri Lanka Armed Forces. The foreign policy adopted by the last regime and its hostile attitude towards world powers and global agencies like UN and UNHRCR aggravated the situation, he added.

Minister Samarasinghe told the media on 3rd June that the joint opposition must stop hoodwinking the public by saying this government would be toppled soon, as under the Constitutional provisions, the consensual government must rule the country for a minimum of another four and half years.

Minster Samarasinghe said even President Maithripala Sirisena could not dissolve Parliament if he wanted to, before the government completes four years.

“The only option for the joint opposition is to gather the support of two thirds of the embers in Parliament if possible and make a request to the President. But I don’t think any voter with a correct mindset will believe that the joint opposition with 40 odd members has the capability to do that. Therefore, I think the joint opposition must refrain from giving false hopes to their fast dwindling supporter base about forming a government soon with members of the joint opposition. Minsiter Samarasinghe stressed.

War crimes probe: President says technical assistance only if necessary, but no foreign judges

President Maithripala Sirisena made clear in an interview with the Sunday Times that any technical assistance to the proposed inquiry into alleged war crimes would be without any commitments or conditions attached.

His remarks came on the eve of the United Nations Human Rights Council (UNHRC)’s 32nd sessions which begin in Geneva tomorrow. A resolution co-sponsored by the United States and Sri Lanka called for the establishment of a judicial mechanism “of Commonwealth and foreign judges, defence lawyers and authorised prosecutors and investigators” to probe alleged war crimes by troops and Tiger guerrillas.

“We don’t need foreign judges. We can resolve any problem within the country without foreign intervention,” the President re-iterated commenting on his previously declared position. “If necessary we can obtain foreign technical support but without commitments or conditions attached,” he said.

A similar declaration to have no foreign judges was also made by Prime Minister Ranil Wickremesinghe when he addressed senior Army officers at Temple Trees on May 27.

- The Sunday Times - 12/06/2016
Tamils In Exile Ready To Testify

Exiled Tamil victims of alleged war crimes and torture say they would testify by video to a special court in Sri Lanka only if international judges were involved and their identities protected, says a new study. This comes as Sri Lanka is under scrutiny at the Human Rights Council in Geneva next week for its progress in implementing a transitional justice programme it outlined nine months ago and agreed to in a consensus.

"To our knowledge this is only the third time – after Sierra Leone and Liberia – that victims outside a country have been consulted during a transitional justice process," said its author, Yasmin Sooka,

"It’s important that thousands of Tamils who’ve fled Sri Lanka have a voice, especially as some are the only known surviving witnesses to alleged war crimes and crimes against humanity”.

Congress Committee Disappointed Lanka Has Rejected Foreign Judges

A US Congress committee on foreign relations has expressed disappointment at President Maithripala Sirisena and Prime Minister Ranil Wickremesinghe’s decision to reject foreign judges in the domestic accountability process on the war.

The views were expressed when the Congress Foreign Relations Subcommittee on Asia and the Pacific met last week to discuss Sri Lanka.

Committee chairman Matt Salmon noted the negative impact the Mahinda Rajapaksa regime had on US-Sri Lanka relations and the progress made in Sri Lanka after January 8 last year.

However he noted that there still remains some concerns on Sri Lanka even after January 8 last year, including on the failure to agree to foreign judges to be part of the domestic accountability process in the war. Salmon also raised concerns on Sri Lanka’s relationship with China, including the construction of a port city in Colombo with Chinese funds.

The discussion on Sri Lanka was held under the topic ‘Sri Lanka’s Democratic Transition: A New Era for the US-Sri Lanka Relationship’.

Statements were made at the discussion by Ms. Lisa Curtis, Senior Research Fellow at the Asian Studies Center at the Davis Institute for National Security and Foreign Policy of the The Heritage Foundation and by Ms. Kara L. Bue, Founding Partner at Armitage International and Nimmi Gowrinathan, Visiting Professor at the Colin Powell Center for Civic and Global Leadership in New York.

In her statement, Kara L. Bue said that the presidential and parliamentary elections of 2015 that brought President Maithripala Sirisena and Prime Minister Ranil Wickremesinghe into power have resulted in a paradigm shift away from the authoritarian and chauvinistic rule of former President Mahinda Rajapaksa to a reform-minded era focused on good governance and reconciliation.

This shift, she said, also has effectively ended Sri Lanka’s 10-year self-imposed exile from the international community.

"Presently, the international community is largely focused on the Geneva human rights process. While important, greater economic opportunity and development are both key pieces of any peace dividend and should be supported. Sri Lankan government officials have discussed the need for an international donor’s conference for development in the North and East akin to the 2003 Tokyo’s Donor Conference. Consideration should be given to such an effort,” she added.

Armitage International was formed in March 2005 by Richard L. Armitage, former U.S. Deputy Secretary of State.

He was in Sri Lanka recently where he met the Government and the Tamil National Alliance (TNA).

By Easwaran Rutnam
- The Sunday Leader - 12/06/2016
CURRENT ISSUES

Why war crime trials and a political solution cannot go together?

There is a significant issue at stake, which is overlooked by the champions of war crime trials. If the Sinhalese majority tend to consider their government as having capitulated to international pressure to haul military personnel before war crime trials, it will seriously diminish the government’s capacity to promote reconciliation and a political solution. There is a negative correlation between the success of war crime trials and a prospect of a political solution. In fact, it is rather simplistic to say that the governments in the past did not want to address Tamil grievances through Constitutional reforms. On each instance, other extraneous factors, the most consequential of which during the 1980-2009 being the presence of the LTTE, seriously hampered those efforts. Now, the danger is that war crime trials would have the same adverse impact. External threats (read as any threat out of the political mainstream of the South) had always hardened public opinion in the South. Devolution when the LTTE was fighting its terrorist war was viewed not only as a step towards separation, but also a capitulation (and obviously the LTTE was not prepared to accept anything short of de-facto separation, no matter under which political jargon the solution was framed)

Now that the LTTE has been conclusively defeated and that existential threat, which was the main obstacle to a political solution removed from the equation, the Sinhalese majority is more likely to consent to a political solution that grants extensive devolution to the North East.

Political leaders of all communities should grasp that historical opportunity. Instead, as some do, calling for bloody revenge (perhaps as a punishment for liquidating terrorists for good) would not serve the purpose. It does make the Sinhalese bitter, which would again harden the collective position. On the other hand, it also fosters the collective Tamil sense of victimhood, both real and perceived, while in the process masking the responsibility of the Tamil political leadership in escalating the national question to a suicidal war for their community, in particular and the country at large, in general. That is also a dangerous ploy which would foster ethnic polarization once again.

By Ranga Jayasuriya
-Daily Mirror - 13/06/2016

UNHRC Chief renews calls for int’l participation

The United Nations High Commissioner for Human Rights Zeid Ra’ad Al Hussein said today that he was convinced that international participation in the accountability mechanisms would be a necessary guarantee for the independence and impartiality of the investigation process in the eyes of victims, as Sri Lanka’s judicial institutions currently lack the credibility needed to gain their trust.

Presenting an oral update on Sri Lanka to the UN Human Rights Council (UNHRC) during the 32nd session of the UNHRC in Geneva, he said it was also important to keep in mind the magnitude and complexity of the international crimes alleged to have been committed, which the OHCHR investigation found could amount to war crimes and crimes against humanity.

“A key question remains the participation of international judges, prosecutors, investigators and lawyers in the judicial mechanism. In late May 2016, while addressing a large group of senior military officers, Prime Minister Ranil Wickremesinghe was reported to have again ruled out international participation in a domestic mechanism. The High Commissioner said he was convinced that international participation in the accountability mechanisms would be a necessary guarantee for the independence and impartiality of the process in the eyes of victims, as Sri Lanka’s judicial institutions currently lack the credibility needed to gain their trust,” he said.

The High Commissioner welcomed the Government of Sri Lanka’s (GOSL) very positive and productive engagement with the United Nations human rights mechanisms, including the standing invitation issued by Sri Lanka to all Special Procedures in December 2015.

He said the full promise of governance reform, transitional justice and economic revival had yet to be delivered and risks stalling or dissipating despite the promise of the National Unity

(Continued on page 20)
Government to create a political environment conducive to reforms and added that negotiating party politics and power sharing within the coalition had proved complex as the Government seeks to build and retain the two-thirds majority in parliament necessary to reform the Constitution.

He said significant momentum had been achieved in the process of constitutional reform and that the constitutional reform process presented an important opportunity to rectify structural deficiencies that contributed to human rights violations and abuses in the past and reinforce guarantees of non-recurrence.

The High Commissioner also said the Government had also continued to take some important symbolic steps towards promoting reconciliation including the de-listing of a number of Tamil diaspora organisations and individuals who had been proscribed under the Prevention of Terrorism Act (PTA), singing the national anthem in both Sinhala and Tamil on Independence Day and replacing the previously hubristic military celebrations of the 2009 victory by a more understated Remembrance Day.

He criticized the fact that the Government had also not moved fast enough with other tangible measures that would help to build confidence among victims and minority communities.

The High Commissioner strongly urged the Government to review and amend the Assistance to and Protection of Victims of Crime and Witnesses Act of 2015 in order to incorporate better safeguards for the independence and effectiveness of the victim and witness protection programme in line with international standards.

**NPC adopts proposal seeking federal rule for merged North & East**

The Tamil National Alliance (TNA) - controlled Northern Provincial Council yesterday adopted political proposal to be presented to the Constitutional Assembly asking for a Federal form of governance to a merged unit of northern and eastern provinces, officials said on 22nd April, Council chairman, C.V.K. Sivaganam, told the Daily Mirror that only the two Sinhala members representing the Council opposed it.

Asked whether extensive power sharing is sought, he said the powers related to external affairs, defence and monetary policy implementation were normally vested with the centre under any form of Federal administration in the world.

"We do not mind these powers remaining with the center," he said.

He said what was advocated for the north and the east would be ideal for the other provinces in the country.

Mr. Sivagananam said the proposals, adopted by the Council, would be first presented to TNA and Opposition Leader R. Sampanthan. Later, they will be handed over to Speaker Karu Jayasuriya as the Chairman of the Constitutional Assembly and Prime Minister Ranil Wickremesinghe as the Chairman of the Steering Committee.

**THE ETHNIC PROBLEM**

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Lesson to learn

Those who refuse to recognize the diversity of our country and those who fail to see all people as equal have a lesson to learn from one of the greatest jurists this country has produced.

As Dr. C. G. Weeramanthry in his work ‘An Invitation to the Law’ said, ”There was a time when what has been described as the ‘melting pot’ theory held sway. Adherents of this theory believed that it was both the interest and duty of minorities living with a majority community to give up their individuality as a group, in the interests of harmony with the majority and to work their way towards absorption in the larger group. The wheel has turned a full circle in this regard and the growing value attached to individuality has meant a realization also that it is valuable to retain individual differences in a free society. There is a growing belief that the richness of a society depends on variety rather than uniformity. No longer is there a general desire to shape everyone in a common image.”

In this context it is my firm view that if we are to encourage plurality we must recognize that racial and religious extremism is a threat to the democratic fabric of our society, it is time that the State deals with the issue of hate speech. I am not talking of those merely expressing views on different issues, however unpalatable they may be. I believe the right to disagree or dissent is an important right in any society.

However this should not be extended to instances where raw hatred and incitement to violence is spread among people against communities, religions and those who hold differing views. One has to only look at social media such as Facebook to understand the level of intolerance and hatred which exist among many people- ranging from ethnic and religious hatred to political hatred. More than one year after the Aluthgama incident, we have yet to deal with the perpetrators of that incident. I am firmly of the belief that it is time that the provisions of the ICCPR Act, which has criminalized hate speech and incitement to violence on ethnic and religious grounds, be implemented by the State including the police and the Attorney General.

It is also opportune for me to speak on the protection of the rights of the people.

There is a fundamental duty of every citizen to uphold and defend the Constitution and the law. This duty is very much related to upholding the rule of law in Sri Lanka and in ensuring that the Constitution and the law are respected. No country can have a future if the Constitution and its laws are not upheld and defended and if the Constitution is observed in the breach.

In this regard in the last thirty or more years we have seen the failure of those holding high political office to observe and respect the spirit of the Constitution and the law. One can see many people blaming the 1978 Constitution for the many ills in our country, but the fault lies not in the Constitution, but in the men and women who have failed to operate the Constitution in the correct spirit.

By Saliya Pieris
- The Sunday Leader - 01/05/2016

Federalism: A way Out From Ealam Struggle?

Minister of National Dialogue Mano Ganeshan says the push for a Federal solution should not be seen as a threat to the reconciliation process despite all that is being said.

Northern Provincial Council opposition leader S. Thavarajah insisted that the NPC is not calling for a separate State

He told The Sunday Leader that his party, the Ealam People’s Democratic Party (EPDP) also backs maximum devolution for the North which equals federalism. Thavarajah also clarified that the document adopted by the NPC calling for a federal solution was not by Wigneswaran but by an NPC committee and had the support of all but two NPC members.

“Some people in the South have this wrong idea that calling for federalism is calling for a separate State. That is wrong. While the North and East want a federal system other areas in the country will also have their own federal structures. The NPC is not calling for North and East vs rest of the country,” he asserted.

However the government position is that the root cause for the 30 year conflict should be looked at and a political solution should be devised

(Continued on page 22)
(Continued from page 21)

President Maithripala Sirisena had said last week that the Northern Province had in the 1940’s, 1950’s, and 1960’s raised a voice to federalism.

We should pay attention not to these voices calling for federalism, but look for the root causes that make people raise the voice for the concept of federalism. We should find the causes for the occurrence of the war. It is the responsibility of all of us to take forward the country while providing solutions for all these issues. Let’s unite to build a positive country with economic prosperity where Sinhalese, Tamils, Muslims, Buddhists, Catholics, Hindus and Islamists live in harmony, with a strong national reconciliation process while ensuring democracy and freedom,” the President said last week.

One reason why the Northern Tamils are calling for a federal solution is because of the heavy military presence in the North and the inability of the NPC to act.

But Northern province governor Reginold Cooray says the army in the North should not be seen now as fighters but ambassadors of peace. He said the people in the North should not be focused on removing the military but rather on how best to make use of the army.

Reginold Cooray, who is seen as a friend of the Tamils, urged the Northern Tamils to keep the past in the past and look at the future. He said whatever happened in the past cannot be erased so the hatred of the army which was linked to the war should be forgotten and everyone should look at ways to move forward.

Cooray said the army is determined to assist the people and help in the development of the war affected areas.

By Easwaran Rutnam
- The Sunday Leader - 08/05/2016

FACING DISASTERS

Extract from an article by Prof. Siri Hettige
Dissecting the disaster

The people in the country should hold Governments, State institutions and other stakeholders such as private businesses and professional groups accountable for avoidable disaster risks.

For instance, regularisation of encroachments in highly vulnerable zones, such as low lying areas and steep mountain slopes exposed to heavy rainfall due to political pressure has resulted in the proliferation of dense human settlements there. It is people who were so settled in the recent past who are exposed to devastating floods and landslides today.

Sri Lanka is not known for careful settlement planning. Even in Colombo, there is hardly any systematic settlement planning. Local Councils have progressively reduced the land plot size and the same trend has prevailed in other cities and towns.

In rural areas, there has been hardly any building regulation. People have built whatever structures anywhere at will. Some of the structures so built have been highly vulnerable. Even politicians have built all kinds of edifices on environmentally sensitive hilly areas exposing village settlements in the vicinity to disaster risks. In all these cases, no careful risk assessments are done. On the other hand, if human settlements are carefully planned in terms of location, housing types, common amenities, infrastructure, open spaces, etc. , most of the vulnerabilities could be avoided. This of course is too much to ask for from populist politicians.

Total number of affected people
348,476
Total number of persons displaced
242,927
Deaths
87
Missing
138

-Daily Mirror - 23/05/2016
Disaster at Disaster Management Centre

Billions of rupees worth of equipment to effectively cope with natural disasters have become unusable because they have been left idle after being procured by the Disaster Management Centre (DMC) on foreign loans and grants.

These include tsunami-warning towers, emergency call centres and satellite communication systems. In last month’s worst-ever floods and landslides, the use of this equipment together with others would have been invaluable for early warning, prevention or rescue work.

Disaster Management Ministry Secretary S.S. Niyanwala acknowledged there were “technical issues” regarding the VSAT system and tsunami warning towers but said he had no information of any irregularities.

He had no knowledge about questions that linger over Rs. 72 million worth of equipment and services supposedly purchased by the DMC. “I have not been at this post for very long so I am unsure of details regarding this particular case,” he said, promising to look into the matter.

Reported by Sandun Jayawardana
-The Sunday Times – 05/06/2016

Salawa Army Camp fire: A mystery yet to unfold

The real cause of this fire needs to be investigated : Prof. Ananda Samarasekara

Ex-Colombo Judicial Medical Officer Professor Ananda Samarasekara stated that when ammunition stores are in close proximity of the residents, usually they should be warned. “There are no specific guidelines about how ammunition should be stored. When the military store ammunition, certain precautions have to be taken as well. In this situation we need to look at the cause of the fire and also whether the safety measures have been taken. The real cause of this explosion needs to be investigated. These kind of things happen in other countries as well but we should always make sure that the military has always taken precautions to safeguard the people.”

-Daily Mirror – 07/06/2016

Tragic Stories of Landslide Survivors

The story of 28 year old D. Kadireshan, a resident of the workers’ line rooms in the Kalupahana tea estate that was recently destroyed by the landslide. When a thick sheet of dampened soil tumbled down the mountain, Kadireshan’s house was among the many it had obliterated. Along with the house, it also claimed the lives of all the other members of his family which was seven, leaving Kadireshan as the sole survivor to tell the world their tragic tale. All the line rooms of the workers’ along with the workers were buried by landslide killing all of them. The only reason Kadireshan survived was because he was away working abroad.

This is yet another tragic story that bears testimony to the tragedy of recent natural disaster that shook the island. The devastating landslide that occurred in Kalupahana around 10 pm on May 17 has created many terrible stories of death, destruction and survival. Kadireshan hears the terrible news of his entire family being buried alive by a landslide on May 18. After hearing the news from a relative, he returns to the country on the following day.

He is still unable to put his feelings in to words after witnessing the mass grave of his family. He still believes all this to be a nightmare. The small house where he grew up since childhood has disappeared. And

(Continued on page 24)
no one in his family was there to hug him after his arrival in the country. Instead, he had to weep in front of a sealed coffin that as said to have contained the remains of his family.

We then spoke to Balendran Kumar, who is the son of Kadireshan’s aunt. I cannot describe how I feel about this. It feels as if a part of my body has been amputated. None of us are living there at the moment.

So we ask the authorities to save at least the survivors. Initially we were taken to a relief camp claiming that it was not safe for us to live here. Now we have been send back to the same place. How can we live in this place looking at the mass grave of our loved ones? Even the remaining houses has been destoyed by the rain. We cannot live here like animals” he said. Kumar had a lot to say and he poured out his anger and sorrow in to words.

The Kalupahana tea estate is administered by the estate Superintendent. The NBRO had warned about a possible landslide threat in the area about three years ago. But unfortunately, no steps were taken to safeguard the Line rooms. Had these warnings been heeded none of these sad tales would have never been told “When the rains had started, the Estate Superintendent had asked the workers to be vigilant. The rains continued for three days. Mere advice about being vigilant will not help. Where can these people go? At least they should have provided the workers a safe place to stay.” Balendran said.

We tried to contact the Estate Superintendent to get his comments but since he was not present at the estate we were unable to do so.

These workers’ line rooms are over 200 to 250 years old, most of them built during the colonial era. The living conditions in these lines rooms remain the same. The walls are built with mud and stone and covered with roofing sheets. There are no safety standards in these houses. There are no proper drainage systems in these line rooms. This is a common problem in most of the workers’ line rooms in the plantation sector. It is high time the estate authorities took steps to build new and safer houses for the remaining workers. If not more lives would be lost in the future.

“Money is of no use to me now. I only ask the government to save the survivors.” This is Kadireshan’s final wish. He too is helping the survivors as best as he can.

The lives of these innocent souls have turned upside down. It is up to the government to take this as a lesson and prevent any further harm to these lives.

-Sunday Leader - 12/06/2016

There was a sense of deja vu to see the President (who is also the Minister of Environment) and all the Government leaders conferring on what must be done to mitigate the effects of another flood. Only days earlier the Disaster Management Minister was giving interviews to the media how amendments are to be brought to the National Building Research Organisation (NBRO) law. He had to say something after the disaster after all but the problem, Mr. Minister, is that laws are plentiful; it’s their implementation that is the problem.

The death toll from last week’s floods remains at 104 and the Government is reluctant to add the 99 missing to the tally.

The path forward is difficult, but there is never a better time to act than now – when memories of the terrible flood are still fresh in the minds of the people.

-Editorial
-The Sunday Times -29-05-2016
We live in an era where human rights is a word used commonly on a variety of conditions affecting human beings and also animals as well as fauna and flora. Which in the normal course of events would be a jolly good idea. How jolly is it though in actual fact when it comes to dispensation of justice, independence where required and the accountability of all concerned?

In Singapore postponements carry penalties for the lawyer postponing the case within stipulated criteria. It would be rare for a judge to delay cases in Sri Lanka though judgments can be subjected to delays. The parties who can are, litigants with conniving lawyers, lawyers on their own volition and prosecuting authorities. Recently in a case where an individual was sentenced to a very long period where the evidence proves to the contrary and where even a Presidential pardon was issued and withdrawn over a technical error, the State and Counsel in appeal both found it difficult to attend Court where the diary is so full the next date was given five months hence.

Money making exercise

The defendant's mother has had a nervous breakdown, been treated in a mental hospital and his only sibling has left his business overseas to be present to deal with his brother's predicament which includes paying a prison guard to protect from assault from other prisoners which had occurred on six previous occasions requiring hospitalization.

In another case the applicant an attorney obtained interim relief and to date found excuses not to lead evidence five years after filing of the case. It has become a money making exercise. It would not have been possible without the collusion of attorneys appearing in the case. The interim relief was granted without ascertaining the facts or the income of the defendant and remains the state of affairs to date.

Basil Fernando says that prolonged litigation "creates a culture that encourages lying" and the long years between the commission of a crime and disposal of the case provides immense opportunities for unscrupulous litigants and lawyers to engage in many forms of manipulation.

Minister in charge of Prisons has said his Ministry is currently working with the Justice Ministry to address issues such as 'no date cases' and overcrowding. How does one have a case with No date? Though practically there is such a category of persons facing indefinite incarceration without a sentence pronounced on them. Our overcrowding has reached vulgar proportions of over 300% above capacity. Both these factors scream at the face of any decent citizen and public at large.

Judicial Services Commission

A member of the Human Rights Commission for whom I have the highest regard has said that in terms of Section 5 of the Release of Remand Prisoners Act (No. 8 of 1991) it is the duty of the Magistrate to visit the prison. It says, it shall be the duty of every Magistrate to visit every prison situated within his judicial division, at least once a month. I have with the entire Commission visited the Welikada Prison with then MP Prof. Rajiva Wijesinha. What we saw was inhuman, degrading, shocking and unpardonable. If Section 5 of the Remand Act were to be operational more such utterances would be made. What came of the long delayed report of the HRC after the visit? Can and should not the HRC bring to the notice of the Judicial Services Commission any lapse on the part of Magistrate to visit the prisons rapidly? If not why not?

The report of two UN Rapporteurs recently was damning on our systems of Justice. None though have chosen to officially comment or rebut its utterances so far.

-Daily News-09/06/2016
No longer a missing entity

The OMP Bill was gazetted by order of the Prime Minister on May 27. This is one of the four pillars of reconciliation of the present Government.

Basil Fernando of the Asian Human Rights Commission has made a cogent public critique. "Persons who go missing in Sri Lanka are dead since corpses are rarely found. In the absence of proof the dead remain classified as missing being, the body and not the person. If murderers have disposed of the body in order to destroy evidence of the killing we must look for who the murderers are. Investigating murder is the task of a country’s criminal investigation apparatus being the investigative and prosecutorial departments, the Attorney General’s department. There is an established record of murders where abductions take the place of arrest in order to hide the identity of the arresting officers and authorities involved with reason to deduce that those who carried out such ‘arrests’ which is murder and the disposal of the body. Matters that the country’s crime investigators can deal with under its criminal and criminal procedure laws by the CID with laws criminalizing enforced disappearances."

My observations are-

We have an overburdened underperforming criminal justice system. Successive commissions of inquiry into gross human rights violations have been unable to overcome the systemic weaknesses of the criminal justice system-e.g. The 1994 Commissions of Inquiry into Involuntary Removals and Disappearances (Central, North Western, North Central and Uva Provinces/Northern and Eastern Provinces/ Western Province, Southern Province and the Sabaragamuwa Province) appointed on November 30, 1994 reported in September 1997.

These three Commissions investigated a total of 27,526 complaints out of which 16,800 cases were established to amount to enforced disappearances.

Out of the 16,800 cases, the three Commissions were of the opinion that, there was evidence indicative of the identities of those responsible for the relevant involuntary removal of persons and their subsequent disappearances in respect of 1,681 cases.

Out of the 8,739 cases reported to the Commission, 1,296 cases concerned the involuntary removal of children aged below 19 years, effectively therefore 14.82% of the total number of disappearances. Another 2,451 (28.05 percent) were from the 20-24 age group.

Thus 3,747 (43 percent) of disappearances reported to the Commission were of persons aged 24 and below; 63 percent of those who disappeared were below the age of 30. Women were also intensely victimized. These are grotesque facts made worse by little or no action to prosecute any.

Our Commissions of Inquiry first, determine as best as possible – usually below the standard of ‘beyond a reasonable doubt’ – the truth about the circumstances in which alleged harms were committed, including the level of state involvement and the disclosure of crimes that merit individual determinations of guilt (beyond a reasonable doubt) and delivery of justice by criminal courts; second, they make their findings public, satisfying the public demand for acknowledgement and clarification of the harms and the level of state responsibility; and, third, they can recommend policy and institutional reform measures to prevent recurrence.

We have an unimpressive track record of prosecuting and punishing those found responsible before previous Commissions of Inquiry contributing immensely to nurturing a climate of impunity perpetuating gross violations of human rights and murder. The OMP has an unenviable task of attempting to turn the tide.

Jeevan Thiagarajah - Chairman - IHR
-Daily News - 21/06/2016
Methsewana Detention Centre

A state owned detention centre for women under Vagrant Ordinance, IHR has been providing legal aid and humanitarian assistance since 2000, and is in the process of coordinating with the officials of Methsewana to look into their current needs as below;

♦ They do not have an in house nurse or doctor for emergencies
♦ Counseling services are badly in need
♦ There are 170 inmates of which 90 of them are mentally and psychologically affected. All inmates are between the age group of 16 to 60.
♦ Transport to case readings are the biggest challenge faced, having only one vehicle but they have to travel throughout the island
♦ Legal Aid is currently looked after by Legal Aid Commission, but it does not cover the whole area.

They requested the following

♦ Entertainment activities – at-least once a month
♦ Porridge stall to be refurbished
♦ Cut pieces materials (as we provided earlier)
♦ Publicity for their stalls at the time of exhibitions and people made aware of Methsewana (for aid)
♦ Computer training facility (resources + computers)

Diploma in Human Rights

23rd batch of Sinhala Medium of Diploma in Human Rights course was conducted as per below schedule and delivered by a panel of human rights academics, activists and professionals working with government, non-governmental and academic institutions.

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<tr>
<th>Date</th>
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<td>♦ Case studies</td>
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<td>25th June</td>
<td>♦ Child Rights</td>
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FACILITATING THE ACTIVITIES OF ELDERS

In the past IHR has been initiating for a "Elders Dropping Centre" at IHR - Urelu.

The District Elders' Association was lacking of space and IHR - Urelu provides a space for their activities.

The members of the District Elders' Association along with Development Officer - Elders' Rights visited IHR - Urelu office on 20th June 2016 with the view of commencing their operations.
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<tr>
<th><strong>Chairman</strong></th>
<th>Jeevan Thiagarajah</th>
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<td><strong>Board of Directors</strong></td>
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<td>Michelle Gunaratne</td>
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<td>Leela Isaac</td>
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<td>Legal Officer</td>
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<td>Menaka Shanmughalingam</td>
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<td>Priyanthi Gamage</td>
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<td>Education Coordinator (English)</td>
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<th>021-2240999</th>
<th>A. S. Athputharajah</th>
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<td>Legal Consultant</td>
<td>T. Sanmuhanaathan</td>
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