

THE HUMAN RIGHTS DIMENSIONS

Neville Jayaweera

**Neville Jayaweera formerly of the Ceylon
Civil Service and presently Consultant to
the Presidential Secretariat**

Economic Review : In the recent months we have seen the donor countries expressing a great deal of interest in the alleged human rights violations taking place in Sri Lanka. In fact for the first time perhaps human rights has become a conditionality for aid. Therefore is it correct to say that concern for human rights will have to be an important aspect of our foreign policy for some time?

Neville Jayaweera: You are absolutely right in pointing out that there is a heightened interest internationally in human rights and that the issue should be high up on our foreign policy agenda. It is also correct to say that human rights have now been tied to aid flows. The willingness of donor countries to grant aid is now dependent on what is called *social conditionality* - i. e. the readiness of recipient nations to conform to democratic norms, especially human rights.

Social conditionality has been around now for about five or six years. Increasingly donor countries are demanding the observance of certain non-economic norms as a criterion for granting aid. Sri Lanka has had to cope increasingly with this demand over the last few years.

A Fundamental Distinction

However, we need to recognise firstly, that since about 1983 the question of human rights has become increasingly problematic in Sri Lanka. But one should make a fundamental distinction at this point. Human rights violations have occurred and tend to occur mostly in societies and in countries where democracy even in its basic forms is not visible or where a democratic tradition hardly exists. Classic instances are the countries of Latin America, throughout most of Africa and in many countries of Asia. Curiously

Western nations don't generally complain so vociferously about human rights issues in Singapore, South Korea, Chile etc.

In all these places human rights violations occur in the effort to preserve non-democracy. Sri Lanka on the other hand is alleged to have violated human rights while trying to preserve democracy. Sri Lanka has had a democratic political social-judicial system going for over 60 years. This system conforms to all the basic requirements of democracy. We have practised universal franchise since 1931. It has never been abrogated. We have had regular elections as and when required under the constitution and except for one or two aberrations i. e. in 1975 and in 1982, the democratic process has by and large functioned. We have a representative Parliament. We have an independent Judiciary. We have had a reasonably free press in fact no less "free" than the so called "free" media which in some major democracies is dominated by vested interests. *The quality of our Media is a different matter. They may often infringe of professional criteria and good taste but not necessarily, democracy.*

Moral Ambiguity

The fundamental distinction I wish to draw is this. In Sri Lanka alleged human rights violations have been incurred almost largely reactive reasons - i.e. for defending democracy rather than for preserving non-democracy. I think there's a great deal of moral ambiguity internationally on this question of how best to defend democracy. When the western powers had to defend democracy and freedom against fascism they drew up their own criteria of what was permissible and what was not. Earlier during the period that democracy was enduring among Western nations the concepts of

human rights and "Violations" weren't even around. Over a period of 300 - 400 years Western democracies' were able to evolve stable systems without being subjected to international scrutiny or moral stricture. When they felt that "freedom" and "democracy" were at stake they did not always observe the criteria they prescribed for Sri Lanka today. For instance Cologne, Hamburg, Dresden, Nuremberg, Berlin, Hiroshima Nagasaki were all incinerated in the "defence of freedom". So it is today in Iraq. The resultant violations of the rights of untold millions of non combatants, the old, the infirm and women and children somehow do not draw the moral strictures that seem to apply to Sri Lanka.

So you see Sri Lanka's human rights dilemma has not been a unique one.

This terrible moral dilemma has been confronted by powerful countries in the past and solved in a way that would not stand up to their own criteria today. Unfortunately Sri Lanka has to face this dilemma over an internal situation and when it is bereft of an international voice, or leverage.

We have also no models anywhere in the world to go by of a democracy able to preserve its democratic system in the face of ferocious internal anti-systemic challenges. There are models of fascist governments and of dictatorships coping with comprehensive anti-systemic challenges from within, and surviving, but not of democracies. The advanced industrial countries have no models to offer us. So we are in a very difficult situation - of having to develop a model through trial and error and always under the rigorous scrutiny of the international community and with the foreign aid screws being constantly tightened. The foreign aid issue is terribly ambiguous and contradictory because when foreign aid is withheld in order to enforce human rights, conditions are created for further violations for ultimately at least in the Sri Lankan situation human rights violations occur mostly because of unresolved poverty-based socio economic conflicts in a society.

Polarisations

None of what I have said is intended to exonerate or apologise for alleged hu-

man rights violations in Sri Lanka. I have said all this to put Sri Lanka's dilemma in perspective and not for the purpose of minimising our human rights responsibilities. I think this perspective must be stressed because what we need today are not strictures or condemnations from the International community but understanding, sympathy and help. And more than any other Third World country, Sri Lanka has taken seriously the experiment of linking democracy to an open economy. There are many international examples where the open economy had been linked to fascist systems and dictatorships—and have worked. I do not have to mention examples. In fact all of the Third World Market economy examples that are on offer internationally are non-democratic. Sri Lanka is probably the only Third World country which has experimented with the market economy within a democratic framework.

But socio-economic polarisations such as we have in Sri Lanka, may not always be easily resolved within a democratic framework. Sri Lanka is therefore likely to confront human rights problems for many years to come, and with increasing intensity and regularity.

Task Force

However President Premadasa has taken the human rights issue seriously enough to do several things. Making a correct appreciation of what happened at the Paris Aid Consortium in 1990 the government has realized that the human rights issue is more than a moral problem. It is also an economic issue. It is tied to aid. Therefore it is at least expedient for the government to do something although expediency is not the only consideration. The President has appointed a Task Force, which significantly for the first time consists mostly of non politicians, who are capable and willing to look at the problem in non sectarian terms. The primary purpose of this Task Force is to look into the whole issue of human rights and recommend to the government what actions should be taken to deal with it.

One of the immediate consequences of the appointment of the Task Force is the adoption of a different approach towards the human rights issue. The new approach is non confrontational and non-

polemical. It is prepared to recognize the reality—that there have been human rights violations—but it also seeks to present the reality in its total aspect—which has not been done before. Secondly it has recommended to the government that a commission be appointed to look into the question of disappearances. Furthermore an order has gone out for the withdrawal of guns issued for the protection of individual politicians and other civilians. That is a further step towards the de-militarisation of our society. These are significant steps. The Task Force is also putting together a data base of all alleged violations and is systematically investigating every known or reported instance of a disappearances. The task Force does not promise that it can come up with "persons" and "bodies" in all instances but at least it is investigating all or most of the reported disappearances and alleged violations.

The total impact of the Task Force, the "Disappearances" Commission and the other steps taken, is to create a new environment, a new realization that the President and the government are has taken the Human Rights issue very seriously.

E. R. : As you correctly pointed out Human Rights has become not only a social and a moral issue but also an economic issue because of its recent tie up with aid. Thus which being an important aspect of our foreign policy it plays an important role in our domestic policies also. What do you think can be done to create an environment conducive to the protection of human rights, on the economic front?

N. J. : As I said earlier a sharp socio-economic polarisation cannot be resolved easily within a democratic framework, while adhering strictly to human rights. Therefore an essential requirement is the creation of an environment which is less polarised, and more equitable. People have to be given the benefits of development, they must have their economic and other material needs met. Most social conflicts are to a very great extent caused by the lack of essential material goods or because of inequitable distribution. In a situation where basic needs are not being met or where their distribution is inequitable, the ensuing competition for re-

sources, produces a social, political and cultural dynamic which in turn results in human rights violations. Therefore all our efforts should be directed towards alleviating poverty, ensuring the equal distribution of the social product and maximizing output—They are all components of one remedial package. Merely having legislation, or enforcement machinery in place (this is not to say that such mechanisms are unnecessary or unimportant) is not going to create the new environment, or to turn this society into a more equitable place.

Sri Lanka's greatest advantage is that it still has a basic democracy—however flawed it may be. People tend to minimise or ignore that fact.

No social reality can be looked at in isolation. We are at the convergence of all sorts of contradictory pressures. Consumerism is a compelling factor. Today policy makers, do not have the space to manoeuvre that their predecessors had 20 years ago. For instance popular pressure on governments for consumption goods cannot be turned down today like the way they were turned down in the period from 70 - 77. If they were, we will have a social upheaval of incredible proportions on our hands. All this is as much a part of our reality as are the issues of human rights.

E. R. : The international experience has been that militarisation of a society is a major factor in growing human rights violations. In Latin American countries for example ensuring the predominance of civilian administration has been an important step in the creation of an environment conducive to the preservation of human rights. Since human rights will continue to be an important aspect of our foreign policy for some time to come what can be done in this particular area to ensure that violations are kept at a minimum?

N. J. : A military establishment gains ascendancy in a period of social turmoil. So the answer to your question is to resolve our multiple conflicts and crises as soon as possible. Secondly the military also tends to gain ascendancy in climate of economic deterioration. So for averting militarisation, economic devel-

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opment and equitable distribution are essential. Thirdly let us also reconstitute our army. We don't have a Sri Lankan Army, we have an *ethnic* Sinhala army. Fourthly we also need to educate the army politically in a non-sectarian non-polemical sense. I think the right steps are being taken today in having a different curricula for the military academy. But that is only at the officers level. We also need to educate our NCOs and privates in concepts like the "rule of law". When we look at some of the human rights violations that are alleged to be taking place we tend to forget that *90% of the security forces have been recruited over the past 15 years. When we have been under "Emergency" rule. So our security forces have not had experience of normal "Law". If you ask them to enforce the "Law" they understand by that the "Emergency Law".* This is different from the way things were 25 years ago. Upto 1970, the entire country (and therefore the army) was under the civil law i. e. under the Rule of Law. The Military then knew the limits of their powers, they knew civil procedure; they knew criminal procedures. These concepts, institutions and values have no place in the thinking of the ordinary security forces personnel today. That is not their fault. They are just a part of our traumatised social system.

Therefore I fully endorse the President's efforts to strengthen the civilian political system as a counter-vailing power--the APC process is one example.

The concern for human rights is part of our concern for democracy. If we are concerned about our democratic image. We must realise that it is not separable from our ability to maintain a good record on human rights. So the question is whether we want to convince the world that we are a democracy. I do not think that we can gloss over human rights as a foreign policy issue. It will remain an essential component of our political agenda, whether we like it or not, for a long time to come.

We are not as yet signatories to the "Covenant". But that does not release us from the obligation to observe the basic moral demands that our claim to be a civilised society and a true democracy, imposes on us. ■