

PARLIAMENT WATCH – SRI LANKA*

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Sri Lanka's protected war resulted in many socio-political changes in the country. A key change was the reduced recognition for rights and liberties of citizens as a result of the promulgation of laws that catered strictly to national security concerns.

For nearly three decades, Sri Lanka was ruled under emergency regulations. The only departure from this practice was recorded during the 2002-2004 period, a brief spell during which emergency rule was relaxed following the truce between the Government and the Liberation Tigers of Tamil Eelam (LTTE).

The circumstances that compelled the administrations to make use of the Prevention of Terrorism Act (PTA) and the Public Security Ordinance (PSO) did leave an indelible mark on the Sri Lankan society as their operational aspect resulted in the suppression of human liberties.

In reality, such laws naturally repose significant power in those who hold specific functions in any administration. The office of the Defence Secretary was one key position that was strengthened by the two specific pieces of legislation.

These provisions provided the Defence Secretary with unfettered powers to authorize the detention of a person without requiring the person to be presented to a court of law first. This can be seen as an aberration of the accepted legal principles and be further argued that a person's freedom of movement can be so curtailed only through court action.

Important to note, that the current Defence Secretary was not drawn from Sri Lanka Administrative Service (SLAS). Although his contribution to the war effort was immense and even won appreciation of many an opposition party, there had been expressed discontent over the powers bestowed upon him by these laws and how such overwhelming powers could be used against political opponents, if and when the need arises.

Defence Secretary, Emergency Regulations and Lanka E News

The unique position of the Defence Secretary and the impact of the powers he wield on society formed the subject of discussion during an adjournment debate in Parliament.

The mover of the motion, Janatha Vimukthi Peramuna (JVP) Parliamentarian Anura Kumara Disanayake pointed out that nearly two years since the conclusion of the war, there was a vital necessity to discontinue with the state of emergency.

It was his contention that a country that has concluded the phase of war should not be governed under emergency as he argued the point that it was completely unacceptable for a democratic country to hold on to war-time regulations two years after. Disanayake cast great emphasis on the fact that the Defence Secretary Gotabaya Rajapaksa was a political appointee and wartime functions need not be continued post war.

"He has been appearing at government political rallies which is not possible given his status as a senior public servant. So it is obvious where his allegiances lie. And we have given such a

political appointee the powers to deprive the liberty of men for 90 days at a stretch,” Dissanayake said.¹

Dissanayake also pointed out the arson attack on Lanka E News website on January 31, 2011 and that JVP candidates have been attacked in the North and the East. He claimed that these attacks have been carried out despite the immense powers in the hands of the government to control any type of unrest.

The government has repealed several clauses from the emergency laws since May 2010. These include Regulation 8 (possession of buildings and premises used in connection with any offence under these regulations) Regulation 12 (special precautions should be taken to prevent the entry of unauthorized persons into any area, place or premises occupied or used for the maintenance of essential services) and Regulation 13 (prohibition of holding of public processions or public meetings in areas and the duration specified in order made by the President and few others)

However, regulations which deal with the restriction of liberty of an individual including those applicable to freedom of expression and movement have not been repealed.

The 2011 local authorities' elections will be held under Emergency Regulations and already the government has postponed the elections in several local authority areas under emergency regulations. Even if the implications of emergency imposition are overlooked to a large extent, it is evident that these laws have been used by the government to control political activities of opposition political parties in the northeast.

Attack on UNP MPs on Independence Day

A few days after the attack on Lanka E News, some United National Party (UNP) MPs held a protest march against the detention of Gen. Sarath Fonseka. This protest, incidentally held on February 4, Sri Lanka's Independence Day, came after a blistering attack by unidentified persons. The main opposition has alleged that government goons were involved in the attack.

Speaking before parliament, Leader of the Opposition, Ranil Wickremesinghe said that the government was using the emergency laws to attack even MPs.

“Some of our Members of Parliament were assaulted on 4th February, 2011 when they were walking in the night. When they were going in a peaceful procession holding a peaceful demonstration, they were stopped by the police and then attacked by thugs. Then, within the week, you are going to have the Asia Regional Conference of the Commonwealth Parliamentary Association and the Members of that Association have been assaulted with the help of the police.”²

¹ Hansard, 08th February, 2011 Volume 197 - No. 11, pg 1612,
<http://www.parliament.lk/news/ViewPublication.do?published=Y&documentID=PUB3115>

² Hansard, 08th February, 2011 Volume 197 - No. 7, page 1120.
<http://www.parliament.lk/news/ViewPublication.do?published=Y&documentID=PUB3078>

The military presence in the North

Besides the continued application of emergency laws, there are other measures that practically restrict peoples' freedoms.

Two years after the end of Eelam War IV, the majority of the administrative activities, from building roads to registering people in the North and the East are still carried out by the Army. This level of involvement has become necessary since the civil administration structures require further strengthening.

However the presence of the Army and the slow progress in re-establishing civil rule have resulted in feelings of unsettlement among the residents as well as their representatives. Compounding matters, the government has been hesitant to disclose any details about the soldiers stationed in the northeast as shown by the refusal to answer questions posed by A. Vinayagamoorthy in January, 2011 about the number of soldiers in the East.

However A. Vinayagamoorthy's question on 'Security forces of Northern Province: private houses and institutions' on February 23, 2011 was answered by the Leader of the House, Dinesh Gunawardane.

"The private lands, houses and institutions which are being used by the Army are approximately 1,129, while 35 private lands are being used by the Navy. Approximately 32 private houses and relevant lands, and two paddy mills and relevant lands are being used by the Air Force in the Palali Camp, which is situated in the Palali High Security Zone."³

NGO funding sources

At a different front, the government has continued to attack the Non Governmental Organizations (NGOs) and their funding sources, activities and accountability mechanisms. Certain media institutions have been continuously publishing content critical of NGOS and their functions and funding, especially those that are generally considered 'anti-government'.

Some state-run media institutions have commenced morning talk shows on the evils of NGOs. However despite its anti-NGO rhetoric, the government has so far not implemented any of the recommendations contained in the interim report of the Parliamentary Committee looking into the conduct of NGOs, released two years ago. The report drew a list of comprehensive recommendations to establish independent mechanisms to monitor and regulate NGOs and with focal points to be included in a new Act regarding NGOs.

This issue was raised by United People's Freedom Alliance (UPFA) National List MP Prof. Rajiva Wijesinha who questioned the government about the mechanisms that exist to monitor the inflow of foreign funds for Non-Governmental Organizations. Despite the attacking speech by

³Hansard, Volume 197 - No. 10 , 23rd February, 2010, page 1438,
<http://www.parliament.lk/news/ViewPublication.do?published=Y&documentID=PUB3114>

Dr. Wijesinha, Deputy Minister of Finance and Planning, Gitanjana Gunawardena was unable to answer Wijesinha's query and bought more time to prepare an answer to the same.⁴

COPE fails to tackle public sector corruption

In an interview with The Island news paper, Chairperson of the Parliamentary watchdog Committee on Public Enterprises (COPE), D. E. W. Gunasekera criticized Parliament for the failure to tackle public sector corruption, waste and irregularities.⁵ He added that the Parliament should be held responsible for the pathetic state in many public enterprises, adding that the country would have been better off had governments followed basic principles in good governance and accountability.

However, COPE and the Public Accounts Committee (PAC) have failed to make a real impact on curbing the financial irregularities. The only exceptions to the rule were perhaps the much-lauded Wijayadasa Rajapakse- initiated COPE report and the simultaneously released PAC report⁶ that disclosed massive financial mismanagement. It was mostly about a lucky combination of having the right people at the right time to look into grave issues of public finance.

However, despite the disclosures and the recommendations for improvement made by the two oversight committees, no concrete steps were taken to initiate necessary action, thus rendering those engaged in financial mismanagement bold and brazen.

This is an aspect that the administration should clearly worry about and come up with quick solutions. Strengthening the two oversight committees in structure and independence and taking their recommendations seriously for future implementation will ensure better transparency and accountability at legislative level.

⁴ Hansard, 08th February, 2011, Volume 197 - No. 7 1077, <http://www.parliament.lk/news/ViewPublication.do?published=Y&documentID=PUB3078>

⁵ COPE Chief admits Parliament ignored public sector corruption, <http://www.tisirilanka.org/?p=7093>

⁶ Sri Lanka on the path to financial ruin—UNP MP, The Nation, September, 12, 2007 MP, <http://www.nation.lk/2007/12/09/inter1.htm>