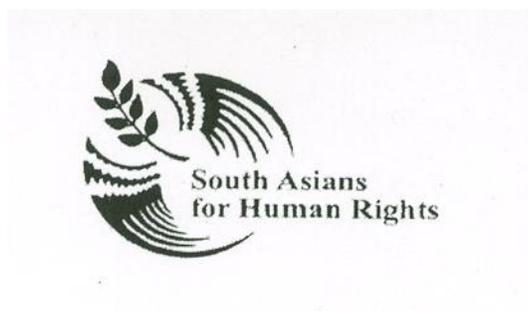


PARLIAMENT WATCH – SRI LANKA*

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The appointment of a three- member panel to advise the Secretary General of the United Nations (UN) Ban Ki Moon on alleged war crimes and human rights violations during the final stages of the protracted war in Sri Lanka came at a time when the Colombo administration was heavily emphasizing on the need for economic advancement and was lobbying for the GSP + trade concessions from the European Union (EU).

The EU has spelt out 15 conditions for the renewal of GSP+ trade concessions that dealt a strong blow to the administration's hopes to secure trade concessions given Sri Lanka's heavy dependence on European export markets.

As the country celebrated the first anniversary of the military defeat of the Liberation Tigers of Tamil Eelam (LTTE) on June 18, questions have been raised yet again over the slow progress in the area of human rights in Sri Lanka.

The general reading of the commitment level of the administration does not inspire much confidence given that besides the amendments to the emergency regulations and the appointment of a Truth and Reconciliation Commission tangible steps have not been taken in policy or in practice to improve Sri Lanka's human rights record.

With the non appointment of the Constitutional Council (CC) that rendered the independent commissions appointed by the CC ineffective, the public redress mechanisms have been weakened further.

UN Panel and GSP +

The appointment of a three- member panel by the UN Secretary General Ban Ki- Moon to look into alleged non- adherence to the internationally acknowledged human rights regimes during the final stages of Sri Lanka's 30- year civil war has cast the country in a negative light in the eyes of the global community. It also reflects the inefficiency of the Ministry of External Affairs and the government's lukewarm attitude towards its commitment to human rights accountability.

The appointment of the UN experts' panel on June 20, 2010 came in the backdrop of heavy lobbying by the Sri Lankan authorities against such a move. The panel's appointment was viewed by the administration as interference and a move to undermine the country's sovereignty.

The move however was welcomed by international human rights organizations including Amnesty International and Human Rights Watch (HRW).

Peggy Hicks, the Global Advocacy Director of the New York-based HRW said the UN panel was necessary since "the Sri Lankan government is unwilling to seriously investigate war-time human rights abuses."²

² 'UN's Ban names advisory panel on Sri Lanka war,' by Louis Charbonneau, Reuters Alertnet, 22 June 2010. Accessed at <http://www.alertnet.org/thenews/newsdesk/N22526612.htm>

The panel is chaired by Marzuki Darusman, also the U.N.'s Specials Rights Investigator to North Korea. The other members are Yasmin Sooka, a former member of the commission that investigated apartheid atrocities in South Africa and Steven Ratner, American lawyer and author.³

The government has clearly viewed such remarks as a UN driven witch-hunt aimed at derailing reconciliation attempts and its focus on developmental work.⁴

Fifteen conditions

The appointment of the panel and the 'wish list' of 15 conditions laid down by the EU in order to secure the GSP + concessions dominated the parliamentary debates in June despite the Appropriation Bill 2010 being presented to Parliament.

Legislative discussions paid much attention to the EU conditions for the renewal of the GSP + such as vital constitutional amendments, enhanced focus on human rights, achieving the key objectives of the 17th Amendment to the Constitution, repeal of the 2005 Emergency Regulations, introduction of legislative steps necessary to allow individuals to submit complaints to the UN Human Rights Commission under the First Optional Protocol to the International Covenant on Civil and Political Rights and to the UN Committee against Torture under Article 22.

This focus drew the government's ire while the opposition continued to question the government's credibility and commitment by levelling allegations that constitutional amendments were being discussed only as a means to perpetuate family rule as opposed to social democratization.⁵

The main opposition United National Party (UNP) MP Karu Jayasuriya told Parliament on June 30, 2010 that EU's 15 conditions were put forward due to the blatant and alarming deterioration of the rule of law including the politicization of the judiciary and insufficient protection available for human rights.

"The government is trying to show that the implementation of the 17th Amendment is against our sovereignty. I would like to remind them that when it was presented to parliament in 2001, 224 MPs supported it. Everyone including the present president, prime minister and the speaker voted for it. So how can the implementation of an amendment incorporated to our own constitution be a violation of our sovereignty?"⁶

³ 'Panel Named to Steer Course on Dealing With Sri Lanka', NY Times, 23 June 2010. Accessed at:

<http://www.nytimes.com/2010/06/23/world/asia/23briefs-LANKA.html>

⁴ 'Sri Lanka rejects UN's war crime advisory panel', by Ranga Sirilal, Reuters, 23 Jun 2010. Accessed at

<http://www.alertnet.org/thenews/newsdesk/N23216259.htm>

⁵ '15 conditions spelt out by the European Commission for renewal of GSP+ and followed by response from the Ministry of External Affairs, Sri Lanka,' Transcurrents, 23 June 2010. Accessed at

http://transcurrents.com/tc/2010/06/the_15_european_commission_con.html

⁶ Hansard, Volume 190 - No. 2, pages 172, 30th June, 2010. Accessed at

<http://www.parliament.lk/news/ViewPublication.do?published=Y&documentID=PUB2638>

In response to Jayasuriya, Minister of Economic Development and the President's brother, Basil Rajapaksa criticized both the UN and the EU for direct interference with internal affairs despite the government having already appointed a Commission of Inquiries to look into the same concerns.

On the other hand, there was Deputy Minister of Finance and Planning Dr. Sarath Amunugama who downplayed the importance of the GSP + concession for a mid income level country such as Sri Lanka.

Sri Lanka a middle income state

"We are now a middle income country and concessions like these are rare. We should try to move away from this kind of concessionary agreements and compete to capture markets," he insisted.⁷

In the months leading to the appointment of the UN panel of experts and the EU's 15 conditions, the government was indeed placed under significant pressure by the international community. It appeared that the government did relent with the appointment of a Truth and Reconciliation Commission, pardoning of journalist J S Tissainayagam sentenced to 20 years of hard labour last year and the relaxation of the emergency laws, measures still did not inspire the international community significantly.

Throughout legislative discussions, the above point was raised by opposition benches in addition to drawing attention to the monetary loss sustained by the country by the loss of GSP + concessions. It has been pointed out that the loss amounted to a staggering US \$ 500 million (Rs. 57 billion) per annum in addition to directly affecting the employment of thousands employed in textile-based industries and other millions indirectly.⁸

Extension of emergency law

Since the conclusion of the war in May 2009, the Sri Lankan government has given high priority to the developmental work. Given the level of focus, it is argued that the administration has failed to focus on human rights and ethnic integration. The Rajapaksa regime appears to subscribe to the belief that a stable government under a strong leader, devoid of any 'external

⁷ Hansard, Volume 190 - No. 2, pages 168, 30th June, 2010. Accessed at

<http://www.parliament.lk/news/ViewPublication.do?published=Y&documentID=PUB2638>

⁸ 'GSP Plus suspension will cost Lanka Rs. 57 billion a year,' by Leon Berenger, The Sunday Times, 04 July 2010.

Accessed at http://www.sundaytimes.lk/100704/News/nws_02.html

interference' could effectively steer Sri Lanka towards becoming the 'second Singapore in the region.'⁹

Further, there has been a conscious effort to promote Sri Lanka as a safe place in the eyes of the international community with the intention of rebuilding the war-devastated tourism industry to its past glory. Hence there was significant focus on the government sponsored *International Indian Film Academy (IIFA)* awards held in Colombo in June at an estimated cost of Rs. 1 billion to promote tourism in Sri Lanka with the Indian market.¹⁰

The opposition has raised the issue that the extension of the state of emergency two days after the IIFA Awards proved counterproductive as it sent out a signal that Sri Lanka is yet to experience normalcy and required restrictive regulations to maintain law and order.

The opposition's argument was augmented by Prime Minister DM Jayaratne's comments made during the debate on the extension of the state of emergency on June 08. The Premier noted with concern about the lurking dangers that continue to exist despite the war victory. He remarked that the LTTE's foreign networks were still active and argued in favour of the emergency extension as the government could not afford to let its guard down and keep windows of opportunity open for international terrorist networks to activate the LTTE agents operational in Colombo.¹¹

"We should continue the methods that allowed us to militarily defeat the LTTE and priority should be given to national security. Transnational Government of Tamil Eelam (TGTE) held its first session in Philadelphia on May 17. The congregation of these pro -LTTE elements shows that they have not given up the Eelam dream. The LTTE is building apartment complexes in Colombo and still we find caches of weapons and LTTE operatives."

Counterproductive statements

Responding to the Prime Minister's speech, UNP frontliner Joseph Michael Perera said that Jayaratne's speech had a negative impact on tourism and investment. He added that the

⁹ President Rajapaksa of Sri Lanka: Sri Lankan Economy Showing Signs of Recovery Following Five Year Anniversary of Tsunami, government press release, 12 January 2010. Accessed at <http://blog.taragana.com/pr/president-rajapaksa-of-sri-lanka-sri-lankan-economy-showing-signs-of-recovery-following-five-year-anniversary-of-tsunami-11569>

¹⁰ 'Rs billion on iifa, and now SLTPB to cough out for Salman Khan and Asin,' by Rathindra Kuruwita, LAKBIMA NEWS, 13/06/2010. Accessed at http://www.lakbimanews.lk/archvi/lakbimanews_10_06_13/news/laknew2.htm and 'How IIFA sucked Lanka dry,' the Sunday Times, 13 June 2010. Accessed at http://sundaytimes.lk/100613/News/nws_04.html

¹¹ Hansard, Volume 189 - No. 1, pages 58-61, 08 June 2010. Accessed at <http://www.parliament.lk/news/ViewPublication.do?published=Y&documentID=PUB2599>

government had a habit of contradicting itself which caused embarrassment to the entire country before the international community.¹²

“On one hand you say that there is peace in the country and immediately claim that the LTTE is busy building apartment complexes in Colombo. You say that there are LTTE cadres and that there are bombs while claiming peace is a current reality. So how do you promote tourism and tourists with fork-tongued policies?”

Meanwhile opposition front bencher MP Sarath Fonseka raised the issue of curtailed civil liberties post war and alleged that the government was waging a war against its own people.

“I see there is only one form of terrorism in the country today and that is state terrorism. If there is no war or a natural disaster in a country, there is no need for a state of emergency. In this case, it seems that the government wants to wage war against its own people.”

And the man who led the Sri Lanka Army to defeat the LTTE just a year ago also emphasized on the need to expedite the rehabilitation process of the LTTE suspects languishing in displaced camps scattered around the northeast.

“What about the 11 000 detainees held captive? After a year what is the state of their rehabilitation” He queried.¹³

Constitutional reforms

As the human rights debate continued unabated, the independence of the legislature and constitutional reforms too has been discussed from time to time.

There had been general consensus that J. R Jayewardene’s Second Republican Constitution of 1978 and the state structure created in 1978 had led to the deterioration of the rule of law and paved the way for the concentration of executive power.

Since the 1990s, there had been wide support for the overhauling of the constitution. The present debate however is generated by the government not on curbing presidential powers but with regard to the electoral system amidst mounting criticizing for proportional representation (PR).

The PR system has been severely critiqued as one that alienated the constituents from the elected representative. In the recent months, there has been renewed discussion on the need to reintroduce the first past the poll system to enhance the constituents’ link with the elected.

¹² Hansard, Volume 189 - No. 1, pages 62, 08 June 2010. Accessed at <http://www.parliament.lk/news/ViewPublication.do?published=Y&documentID=PUB2599>

¹³ Hansard Tuesday, Volume 189 - No. 1, pages 73, 08 June 2010. Accessed at <http://www.parliament.lk/news/ViewPublication.do?published=Y&documentID=PUB2599>

However, the successive SLFP-led governments since 1994 have made electoral pledges to abolish the executive presidency, a promise reiterated by President Mahinda Rajapaksa in his 2005 and 2010 election manifestos titled *Mahinda Chintana* (2005) and *Mahinda Chinthana Idiri Dekma*.¹⁴

In addition to above changes, *Mahinda Chinthana* of 2005 promised to improve the human rights situation by the introduction of a Bill of Rights to the Constitution. It states “Steps will be taken to include ‘A Charter of Rights’ into the Constitution based on the Declaration of the United Nations and other international treaties to uphold and protect social, cultural, political, economic and civil rights of all Sri Lankans.”¹⁵

In the 2010 Presidential and Parliamentary Elections, the United Peoples’ Freedom Alliance(UPFA) requested the people to provide the UPFA with a two thirds majority in Parliament to amend the Constitution to reintroduce the first past the poll system and to amend the powers relating to the executive.

Soon after the elections it was revealed that the main feature of the new constitutional reforms was the enhancement of the powers of the President and the annulment of the 17th Amendment. The opposition MPs continue to protest that the proposed abolition of the CC is aimed at further concentration of political power.¹⁶

Mandated to overhaul constitution

Meanwhile Minister of Construction, Engineering Services, Housing and Common Amenities Wimal Weerawansa who recently staged a fast unto death to protest against the appointment of a UN panel to investigate war crimes in Sri Lanka defended the government’s approach by claiming that the people have mandated President Rajapakse as well as the government to introduce the necessary constitutional changes.

Referring to the defunct status of the independent commissions at present, a one time proponent of the Seventeenth Amendment, Weerawansa told the House “Why should we give that power to a few old men in Commissions? No matter what you say, we will make the necessary changes. We will change the constitution so that a President can compete and elect himself as long as the people want. People elected him with a margin of 1.8 million votes and we almost have two thirds majority. We were given the power to make the necessary changes.

¹⁴ “I expect to present a constitution that will propose the abolition of the executive presidency,” Mahinda Chinthana, 2005, pg 97

¹⁵ Mahinda Chinthana, 2005, pg 98

¹⁶ ‘Sri Lanka plans Constitutional reform,’ Ada Derana, 11 June 2010. Accessed at <http://www.adaderana.lk/news.php?nid=8486>

People talk about the President having the power to appoint the IGP. Who else has the right to do so than a person who was elected by the people with an overwhelming majority?"¹⁷

The call for international mediation has divided political opinion in Sri Lanka. Those opposing the style of governance and believe that war excesses, if any, should be investigated welcome the UN move. On the other hand, the administration is turning hostile towards not just the UN but international agencies that critique what they perceive as growing authoritarianism in Sri Lanka.

Besides, there are those who hold the belief that even if the government has not followed the best practices in military engagement, the matter was entirely internal and laud the Rajapakse administration for not giving into Western interests as in the past.

Irrespective of the political debates that continue, some fundamental questions are also being raised about accountability and transparency in governance at this juncture. There are naturally problems relating to the country's archaic legal system, a constitution that requires amendments, public institutions that fail in the duty of service delivery and concerns about the basic law and order situation in Sri Lanka.

Taking on the UN or the Brussels headquarters of the EU would prove a futile exercise if the citizenry do not feel their issues are being addressed and their grievances go unheard. That remains the biggest challenge for a post war government.

¹⁷ Hansard, Volume 189 - No. 1, pages 84, 08th June, 2010. Accessed at <http://www.parliament.lk/news/ViewPublication.do?published=Y&documentID=PUB2599>