

PEACE WATCH – Jayadeva Uyangoda

Crisis of Democratic Institutions

Events that have occurred in April in and outside Sri Lanka's parliament on issues relating to the election of the Speaker have been given various interpretations. For a non-partisan observer, those events quite clearly indicate that the decaying process of our democratic institutions has reached a qualitatively higher phase. The mainstream parties as well as the JVP and JHU, the relatively new actors in parliament, are implicated in many of these incidents that have brought parliament to public ridicule. This indeed should be a matter of great concern for citizens committed to strengthening democratic institutions of governance. In one TV discussion the other day, a viewer phoned into express his disgust in vivid colloquial Sinhalese: "*ape parlimentuwa deka koleta wetila*" ("our legislature has been reduced to nothing").

The reduction of democratic institutions of governance to nothingness – this should not be a philosophical formula of political phenomenology, but a simple political point that should make us think about how to arrest the process of decay of political institutions.

Speaker Election

Even a brief recalling of what happened after the parliamentary elections of April 02 would compel us to re-think our faith, if we had any, in political parties as agents of democratization. After the outcome of the parliamentary election which did not produce a majority government, the election of the Speaker became for both the UNP and the UPFA a prestige issue as well as a key issue in their power struggle. The stakes were so high on that single event of the new parliament that as we now know from the media, the exchange of large sums of money as well as blackmailing has been the order of the day. There were even stories of two monk MPs being abducted to force their vote in favor of one camp. The whole exercise of electing the speaker was such an ugly and sordid episode that many MP's behaved inside the parliament in a manner that totally undermined the public faith in the institution of parliament. Those who came on the TV to explain their positions made it worse.

The way in which some MPs treated those Buddhist parliamentarian monks was simply appalling and disgraceful. That is not the way people committed to parliamentary democracy should treat their opponents. Parliament should be the space where dissent and disagreement is treated with respect and the spirit of right to disagree tolerated without rancor. It was quite clear that a large number of MPs could not just come to terms with the loss of their party's bid to get their candidate elected as Speaker through a simple exercise

of electoral democracy. As one exasperated citizen asked me the other day, why should millions of rupees of public money be spent every now and then to elect MPs who do not seem to honor even elementary principles of democracy.

Public Scorn

The point that one has to make in relation to this continuing behavior of some of our parliamentarians bringing the national legislature to public scorn is that our institutions of parliamentary democracy are fast losing popular legitimacy and credibility. It is because the institutional system of democratic governance is decaying from within. Those errant MPs are mere actors in a process of decaying governance that originated in Sri Lanka some years ago. Recalling the way in which this process took shape may help us to understand how to arrest further decay.

Golden Age

From an institutional perspective, the 'golden age' of Sri Lanka's parliamentary democracy was in the 1950s and 1960s. With all its blemishes arising from ethnic majoritarianism, institutions of parliamentary governance enjoyed universal respect of the citizens. The practitioners of parliamentary democracy, MPs as well as Ministers, behaved in a manner that generated public respect for them as individuals as well as leading actors in the political system. Corruption and abuse of governmental power was at a low level. MP's were constituency MPs, maintaining a close links with their electorates and the voters, often in the spirit of public service. That was the time when we all eagerly awaited newspaper reports of the parliamentary debates to enrich our political education.

Decay

But this system began to decay in the 1970s, particularly after the 1972 constitution and the partisan politicization of public institutions for which the United Front government was directly responsible. In order to make parliament the key instrument of social progress, the coalition leaders gave the MPs of the ruling party enormous political authority and power, making them mini centers of state power. As it happened, this inaugurated a new process of political abuse of power and corruption by the MPs, Ministers and their political agents. The huge electoral defeat of the UF parties at the 1977 election occurred largely against a backdrop of such public perception of corruption, abuse of power and the total disregard for the old ideal of serving the public.

The election of the UNP in 1977 with a massive parliamentary majority did not make any change for the better in this process of institutional decay in governance. The long UNP rule that began in 1977 in fact hastened the process with new dimensions added to it. The 1978 Constitution brought the legislature under the executive branch of the state, making the parliament effectively subservient to the all-powerful President. The 1982 Referendum that extended the life of the exiting parliament elected in 1977 for another term was the ultimate insult to the entire theory and practice of parliamentary democracy in Sri Lanka. Almost all the elections held under the UNP, till 1993, were such exercises in political manipulation that they only added to the increasing public loss of faith in the system of democratic governance. This was also the period in which continuing and large scale political corruption and abuse of political power continued to erode the efficacy as well as legitimacy of public institutions. The fact that two armed insurgencies developed in the North and South, parallel to the decaying process of institutional governance, clearly indicated that Sri Lanka's politics really needed to enter into a post-authoritarian phase, if the system were to survive at all.

Post-authoritarian

The change came in 1994, with the election of People's Alliance to power. That was also the period in which a popular democratic movement had emerged independent of political parties. The PA's electoral victory was the result of a combined and sustained effort made by the forces of democratic civil society and political society to take Sri Lanka to a post-authoritarian transition. One aspect of the democratization challenge in the period after 1994 was the restoration and re-strengthening of the institutions of democratic governance. It is however in this particular task that the PA's post-authoritarian democracy project failed.

The continuing subversion of the role of the cabinet and parliament as institutions of public policy making is perhaps the greatest institutional setback that Sri Lanka experienced under the PA's 1994-2001 rule. Instead of downsizing the bloated cabinet that the UNP had created to satisfy MPs in search of accumulation of capital and power, President Kumaratunga continued to expand its size, with no regard for growing public cynicism. She also continued, with greater commitment, another tradition that Messrs. Jayewardene and Premadasa as Presidents had practiced: deciding public policy outside the cabinet and with the involvement of a very few trusted Ministers, officials, advisors and Presidential task force members.

This practice was quite in accordance with the spirit of the Presidential system of government under the 1978 Constitution and the macro-economic reform process that the PA government faithfully implemented. The economic reform process, linked to the imperatives of economic globalization, enunciated a particularly new framework of public policy making, despite the 'good

governance' rhetoric of the donor agencies and their agents posted in Colombo. In this new framework, major policy decisions are made by an extremely small number of individuals that includes the President/ Prime Minister, treasury secretary, head of the central bank, the resident representatives of the IMF and the World Bank and few experts who are in the presidential task forces. Except the President and the Prime Minister, none of these actors is accountable to the people, or institutions of democratic governance such as the Cabinet of Ministers or the Parliament. They are not elected by the people. Indeed, very often they are contemptuous of the people and their elected representatives. In this regime of governance under globalization, the cabinet and parliament are mere transmission belts for the decisions already made elsewhere, by a small group. No wonder that President Kumaratunga is reputed to have walked into her cabinet meetings after keeping her minister waiting for hours!

Although Prime Minister Wickramasinghe may have been punctual in attending his cabinet meetings, he also carried forward the same process of pushing the institutions of governance for further decay. Wickramasinghe was an institutional builder in a technocratic sense. During his two year rule, he strengthened the Treasury Secretary's office at the expense of the Cabinet. It even led to a public showdown between the Treasury Secretary and the Minister of Agriculture. In his conflict with President Kumaratunga, Prime minister Wickramasinghe often talked about the sovereignty of parliament and re-gaining the role of parliament vis a vis the executive. But he did not indicate at all that he understood the need to revive democratic institutions as a whole. President Kumaratunga's decision in last October to dissolve the UNF-majority parliament and Wickramasinghe's inability to politically respond to President Kumaratunga's undemocratic move were actually two sides of the same coin.

MPs

Taking away from the cabinet and the parliament of the power and responsibility of public policy making is thus one of the key features of the institutional decay of democratic governance in contemporary Sri Lanka. MPs are among those who have immediately suffered from it. They are conscious of their utter irrelevance and uselessness to the task of policy making. They know that although they are technically representatives of the people, they are not consulted in making major policy decisions. So do most of the ministers who belong to a bloated and unhealthy cabinet the meetings of which often require a big conference room. The MPs, aware of their impotence as actors in democratic governance, often indulge in abusive behavior in parliament, even investigating sexual conduct of their parliamentary colleagues. Hardly would the MPs prepare for quality contributions to parliamentary debates. As we have been seeing quite often, the parliamentary debates are now reduced to a exchange of verbal abuse across the floor. Hansard reports have long ceased to be reference material for informed citizens.

Task

The challenge in Sri Lanka's democracy in this context is to revive in the South its democratic institutions of governance and resurrect the practices of democratic behavior among those who populate institutions of governance. In the North, it entails the establishment of democratic institutions and practices of governance. This is the unfinished task still valid in the post-authoritarian reform agenda that was inaugurated in 1993-1994. Institution-building and institution-strengthening for democracy is the key task that awaits an effective agency. The JVP and JHU have not so far indicated that they are such an agency. Tragically, they with their youth, vigor and vitality have joined the other mainstream actors to further the process of political decay of our democratic institutions. ■

Peace Process in a Downward Spiral

Sri Lanka's peace process appears to have entered a period of downward spiral. With continuing uncertainty about the relations between the UPFA government and the LTTE, there is no hard evidence to suggest that negotiations will resume soon. Viewed from the perspective of advancing the peace process, almost all political events during the past weeks and months have been rather negative. This is a challenge which the UPFA government, the LTTE, the UNP and the opposition as well as the international custodians of Sri Lanka's peace process should immediately confront. Hopefully, Mr. Erik Solheim's visit to Colombo and Kilinochchi this week will initiate a new process of thinking, reflection and moving forward.

Batticaloa

Let me begin this discussion by referring to a brief visit I made to Batticaloa in May. Although I was in Batt for just two days and I met only a few people, I don't need to either exaggerate or understate the crisis there. A new sense of fear has gripped the Tamil populace in Batticaloa and it is a debilitating fear. I was told by a number of people that this is a qualitatively new fear that did not exist in the past, before the movement's North-East split. The killing of the journalist Nadarajah and the university academic Tambiah by unidentified assassins has really shaken Batticaloa town. The LTTE's split has also fractured the Tamil polity there in a particularly alarming manner. As I was told, even the family members are now split. Friends don't trust friends. Political and personal links are suspect. No one knows from where the firing will come for what reason and when. As I was told, fourteen academics of the Eastern University in Batticaloa have submitted their applications for sabbatical leave. Soon, the Eastern Tamil society will become one without its head. It runs the risk of becoming the metaphorical graveyard of its own daughters and sons. Those who claim to represent the interests of the Tamil nation as a whole as well those who claim to be the saviors of the Tamil

community in the Eastern province cannot do better disservice than this to their own constituencies.

What can be done in this situation? I am no advisor to the LTTE's Vanni leadership or the Karuna faction. But I stand for just, durable and negotiated peace in Sri Lanka. My warning to both factions of the LTTE is that unless they resolve their very serious dispute politically, the Tamil nation will stand to lose, and lose dearly. The imprudent handling of their internal crisis by both the Vanni and Karuna leaderships have cost the Tamil people much of the positive achievements gained during the peace process of the last two years. The issues raised in the Vanni-Karuna dispute are essentially political ones that should be resolved through political means, and not by means of internecine war and violence. Actually, the present crisis in the Tamil nationalist movement is one that will test the capacity of the LTTE as well as its breakaway faction to bring about any degree of political emancipation to the Tamil nation. It is quite an irony that both factions of the LTTE on this particular issue of the split have proved the critics of Tamil national struggle correct.

Resuming Negotiations

Back to the issue of the peace process. As it appears at present, neither the UPFA government, nor the LTTE is seriously committed to resuming negotiations soon. The two sides are increasingly drawn into a mode of positional bargaining. Positional bargaining is both bad and destructive. It does not allow parties to clearly work on their mutual interests and move towards an enlightened compromise. In the months to come, they are more likely to stick to their non-negotiable positions, ignoring the interests that should actually guide enlightened positions. In positional bargaining, as President Kumaratunga and the LTTE appear to be engaged now in their pre-negotiation dialogue, there is the ever present risk of losing one's perspectives on interests. This is exactly where Mr. Solheim and his political bosses should re-think their role in Sri Lanka. Now, it is no longer one of facilitation or mediation. On the contrary, it is one of preventing a long-drawn, unstable and precarious negotiation stalemate. Public mood now is to recognize the emerging reality of an intractable stalemate in the peace process.

That negative public mood is not far from the truth. Sri Lanka is at present running the risk of entering into a period of unstable and protracted stalemate. The immediate characteristics of this unfolding stalemate would be as follows: The Kumaratunga administration and the LTTE, despite their sharp disagreements in public, will agree between themselves that there is absolutely no point in resuming direct talks in view of the incommensurability of their competing agendas. Although they will blame each other for the negotiation delay, they will try to pursue their own interests outside the framework of negotiations. For the UPFA government, the primary course of action in this direction would be to wait for the alteration of the initial strategic equilibrium that provided the

context for UNF-LTTE negotiations. For the LTTE, meanwhile, the immediate task would be to regain the strategic symmetry while thwarting the tactics of the UPFA and re-establishing its politico-military hegemony in the Eastern province. Thus the UPFA regime and the LTTE have the potential of entering into collision courses of action bringing the CFA into sharp crisis. The only deterrence that might prevent escalation of violence is the realization that relapsing to war would be seen as a very, very costly option by both sides. Nevertheless, unless negotiation begins, low intensity violence parallel with a war of words will bring the CFA under continuing pressure.

Pre-interim Dialogue

However, the LTTE's best option would be to refrain from low intensity violence, make a political deal with Karuna and work towards a *de facto* interim set up in the North and East. This is an option the prudence of which the LTTE might be able to convince President Kumaratunga. After all, the LTTE and the government should behave rationally, act rationally and make rational decisions about their strategies, tactics and options. What it means is that the debate between Colombo and Kilinochchi should move beyond the limited framework of ISGA versus parallel talks for core issues. Meanwhile, the challenge for the Norwegians now is two fold. Firstly, Sri Lanka's peace process needs to be protected from the uncertain and volatile political process. Secondly, the negotiation process needs to be protected from the possibility of the two sides retreating to their own positional shells.

The present debate on the agenda should not be allowed to drag on any longer, because the events in the Eastern Province might take over the entire political process in the coming months. This calls for a new phase of political engagement between the government and the LTTE, in the form of a pre-negotiation dialogue. There is indeed enough that the two sides can explore. For example, on closer analysis, both sides will realize that their present dispute over the agenda for talks is based on that false dichotomy of interim versus core issues. Some of the key proposals in the LTTE's ISGA package are linked to core issues concerning re-structuring of the state on the principle of shared sovereignty. In any serious exploration of an interim settlement based on the LTTE's own proposals, the LTTE will have to deal with core issues. Similarly, the government will realize that interim measures cannot wait until the difficult core issues are settled.

Thus, what the UPFA government and the LTTE should now do, with the assistance of the third party facilitator, is to enter into a pre-interim dialogue in order to unpack their own positions and find a common ground on which a move to an interim settlement can be built. This should take the form of a problem-solving exercise, involving perhaps the Colombo and Kilinochchi Peace Secretariats. Despite their undeniably contradictory positions in the approach to talks, the two sides might also find much in common in their concerns and interests. ■

A Way out from the Present Crisis?

Sri Lanka's peace process has now reached an unmistakable turning point. The suicide explosion in Kollupitiya should not be allowed to mark itself as the beginning of a new process of low-intensity war. Without any further delay, President Kumaratunga's government should take new political steps to revive the negotiations, bring the process of violence under effective control and restore the stability of the overall political process. Otherwise, Sri Lanka runs the immediate danger of relapsing into escalated violence.

Returning to violence in Colombo is indeed not a major surprise to those who followed, with consternation how the political process has been going through a period of instability. The new UPFA regime did not have an effective strategy to revive negotiations, or to manage the political consequences of the LTTE's split. Instead, the government allowed the situation to grow out of hand. Now the UPFA government should take the Wednesday event as a violent wake up call, re-assess its inept political strategy towards the LTTE as well as the peace process and design a new initiative to return to the negotiation table.

Analysis

Returning to negotiations is the best course of action that President Kumaratunga should pursue. But, in pursuing that line of action, her government needs to develop a credible analysis of why it should engage in negotiations with the LTTE at all. On key problem with the UPFA leadership is that they have not taken the trouble of exploring the windows of opportunity available in the process that their political rivals began in 2002. Instead, they have substituted rhetoric for rigorous analysis. The UPFA has repeatedly given the impression that its understanding of why the LTTE has been seeking priority of ISGA over core issues in negotiations is embedded in an old mindset.

That in turn emanates from an inability of the Sinhalese political class to acknowledge its own leading role in shaping a trajectory of the ethnic conflict in which not the war, but accelerated economic development, can take primacy in the North and East under the LTTE's control and management. Many UPFA critics have argued that the LTTE's ISGA proposals are a stepping - stone to secession. But, a government that is serious about negotiated peace in Sri Lanka should also be able to see a negotiated ISGA as the prelude to re-union after years of a secessionist war. Without such flexibility of assessing a broad political process, no government in Colombo could have the courage or capacity to take the peace process any further.

President Kumaratunga can hardly afford now to allow diverse currents in her regime or administration to push the political conditions around the peace process along various contradictory directions. She has to pursue political options to bring the

negotiation process back on track. It requires political, not military, initiatives that should also enable her to stabilize the country's political process that is in disarray at the moment. There are two political initiatives she can take immediately. The first is addressed to the LTTE, and the second to the UNP and the opposition.

Initiatives

In the first initiative President Kumaratunga needs to announce that her government is now ready to resume negotiations with the LTTE on an agenda around the LTTE's ISGA proposals in order to explore a negotiated interim settlement to the ethnic conflict. Dropping the stand on parallel negotiations on core issues should not be seen by her as a political setback. Any serious political gain for President Kumaratunga now rests not on her sticking to positional bargaining with the LTTE, but with her capacity to move forward in the direction of principled negotiations.

The second initiative for advancing the peace process calls for integrating the UNP and the Opposition in the peace process. The UPFA government is now repeating the same political idiocy that the UNF government did when in power by harassing and pushing the opposition against the wall. President Kumaratunga does not

need to indulge in this politics of mutual destruction any longer, because in her last address to the nation she herself has proposed a very good plan to make the peace process inclusive and multi-party. Her proposal to set up an apex body of National Peace Council under her leadership, but providing co-partnership to the Prime Minister and the Leader of the Opposition, is certainly an excellent proposal in the direction of bipartisanship in the peace process.


The proposed National Advisory Council on peace, consisting of representatives of political parties as well as civil society, is an equally good proposal for multi-party process building. Setting up of the NPC would also be a step in the direction of arresting the mutually destructive politics of acrimony between the UPFA and the UNP of which the people are just tired. The UNP should see their involvement in an NPC as constructive from their point of view as well, because it locks both the President and the UNP in a bi-partisan institutional process.

Finally, there still remains a small window of opportunity for President Kumaratunga to take Sri Lanka's peace process forward towards a constructive compromise. Needless to say, losing this moment will be quite costly. ■

Available at Suriya Bookshop

ISSN 0391-9050

lines



November 2003
Vol. 2 No. 3