

The Sham of Independence Without Human Rights Protection

Dr Paikiasothy Saravanamuttu

Two days before our independence tamasha, an event with deep significance and bearing for the independence, integrity and unity of this country took place. It is unfortunately a part of a series of connected incidents.

On Friday 2 February, Mudiypu Remedias, Attorney at Law and Legal Advisor to the National Human Rights Commission, (HRC) Jaffna office, lodged a complaint with the Commanding Officer, Jaffna that he was badly assaulted by a group of Sri Lankan army soldiers that morning. Mr Surenthirajah, the Coordinating Officer of the National Human Rights Commission, Jaffna office has already complained to the Jaffna Police of death threats. In the Remedias case, the assault took place after Mr Remedias presented his HRC credentials to the soldiers and in the Surenthirajah case, Mr Surenthirajah states in his complaint that a member of a “political party” made armed threats against him. Two other Coordinating Officers of the Jaffna HRC office have sought asylum in Canada on account of being physically assaulted by the Police when they tried to lodge a complaint regarding threats to their lives. A Sinhala Coordinating officer at the Jaffna HRC office is also reported to have vacated his post on account of death threats.

These dire and shameful incidents exemplify the challenge to national unity and human rights protection in this country. The shrill patriotism, nationalist vitriol and hosannas cannot obscure this stark and simple fact. The President’s appeal to the TNA MPs, “frightened” individuals as he may call them, is clearly the accurate description of the officers of the Human Rights Commission in Jaffna and for good and indisputable reason. Furthermore, the source of their fear and the danger to them are members of the armed forces of Sri Lanka. In the Surenthirajah case, in all probability, the perpetrators of violence and merchants of intimidation are allies of the government, if not members of the government.

These incidents amply highlight a fundamental point with regard to the pressing issue of human rights protection in Sri Lanka. Those of us who have argued for a sustained presence in this country of the Office of the UN High Commissioner for Human Rights, complementing local monitoring are vindicated in our stand.

There is no way in which effective human rights monitoring can be conducted by national institutions. The National Human Rights Commission is undermined at the top by the intentional violation of the Seventeenth Amendment and the non-constitution of the Constitutional Council as well as by a lack of resources. Compounding this, the above information points NOT to the inability and/or unwillingness of the state to provide human rights protection to the officers of its Human Rights Commission BUT to the actions of officers of the state who should be working in partnership with the HRC, of gravely obstructing the performance of a fundamental responsibility of the state through assaults and threats against HRC staff.

Is there a definition of fascism or any approximation thereof, which these violations do not even come remotely close to ?

Is the government so consumed with majoritarian triumphalism or just so inept, that it does not realize that it is precisely incidents such as these which decisively puncture its pretensions of winning the hearts and minds of Tamil citizens and of providing for their human rights protection against terrorism ? Such violations puncture government pretensions just as effectively or more than its claims to have punctured the homeland concept and LTTE pretensions in the north and east through military operations.

The government's objective of buying time against international censure on its woeful record of human rights protection succeeded with the announcement of the Presidential Commission and the Independent International Group of Eminent Persons (IIGEP) which is scheduled to meet on 12 February. The announcement and establishment of the Commission, scepticism about the efficacy of Commissions in Sri Lanka based on past experience notwithstanding, and the appointment of the IIGEP, was surely intended to demonstrate the government's commitment and seriousness thereof to human rights protection. Clearly this has not filtered through the chain of command, control and communication raising questions of as to whether it was ever intended to. The announcement and establishment of the hybrid arrangement of the Commission and the IIGEP has not in any way constituted a deterrent to further human rights abuse by officers of the state.

Abuses mount. They occur on a daily basis. Were the case of the TRO abductees and Pastor Gnanaseelan to name just two amongst a host of others, to be added to the list of cases to be investigated by the Commission, the Commission could sit indefinitely. Accordingly, the government can claim that the strengthening of human rights protection must wait upon the findings of the Commission and the IIGEP. In the meantime the culture of impunity, already institutionalised will be consolidated.

So convinced about the righteousness of its war against terror and of the political benefits, the government is alienating the Tamil citizenry further. Recent developments confirm its lack of sensitivity and awareness in this respect. The Pan Sinhala Ministry of Nation building with six ministers in the farcical cabinet re-shuffle is one such example, the absence of Tamil cultural items in national cultural events is another and the lack of demonstrable movement on the language issue is yet another. The president proclaims that he will "gift" water to the Tamil people in the east and liberate them and their northern counterparts from terrorism.

They no doubt ask the question as to whether water is and should be a gift and as to whose terrorism he is referring to.

Now that he and his brothers have resolved the question of regime security for the short terms at least, perhaps they will garner their considerable talents towards human security and national unity through peaceful means – demonstrable and effective human rights protection, stamping out the culture of impunity and coming out with a set of proposals for a negotiated political settlement which will establish a just, democratic and durable peace for all the peoples of Sri Lanka.