

PERSISTENCE VERSUS OB DURACY: HUMAN RIGHTS, LITERATURE, MEDIA AND SRI LANKA

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Abstract

It has been more than five years since the end of the bloody three decade ethnic conflict in Sri Lanka and that island nation is seemingly on the road towards national reconciliation. Yet literary writings, exposure in the media on the goings on thanks to numerous reports from non-governmental organizations and analysis in the media itself have to a very large extent featured on the issue of human rights especially as it pertained to wanton death and destruction in the last five months of the civil war—January to May 2009. Interestingly but not coincidentally, the more persistent literary writers and projections in the media have been against human rights violations, the more obdurate have the powers-that-be have become to the point that meaningful debate has become a thing of the past, if that situation ever existed.

Key Words: *Ethnic Conflict, Human Rights, Literature, Media, National Reconciliation*

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By Archana Arul and Dr. Sridhar Krishnaswami

INTRODUCTION

Conflict in civil societies is not a new phenomenon although one would have to make a distinction between conflict involving cultures or within cultures. The violence that has been unleashed in the name of cultural conflicts can be witnessed in the horrendous crimes of Rwanda, Bosnia Herzegovina, Darfur and in the context of South Asia, Sri Lanka. And preceding all of them was the horrendous scheme of things that was put in place by Pol Pot in Cambodia between 1975 and 1979 when about million people were done to death—some estimates stretch it to three millions—not in the name of culture but in an obscurantist ideology that wanted to go back to Year Zero.

But in the case of Sri Lanka, the issues on hand would seem to be simple and straightforward—the accounting of between 40,000 and 70,000 people in the North and the East of that country who died as a result of the final stages of the war in which the Liberation Tigers of Tamil Eelam(LTTE) were crushed by the Sri Lankan army. The telling and compelling statistics is this: an estimated 100,000 people are said to have perished in the 26 year old civil war and even by standards of the lower estimates, some 40,000 people alone are said to have died in the last five months of the conflict. And that has precisely opened the eyes of international governments, non-governmental organizations, human rights groups and diasporic literary writers to step up the pressure; and in turn for a government to dig-in.

One of the latest additions in Literature would be Samanth Subramanian's "*This Divided Island: Stories From The Sri Lankan War*, which is undoubtedly a rich mix of literature, journalism and history driven by curiosity and a thirst for facts especially at a time when the religious and

political hawks in the Island Nation would make the rest of the world believe that linguistic grudge, a superiority complex or a misplaced sense of majoritarianism has not only ripped apart that “tear shaped nation” but also continuing to head in the wrong direction and in the process only inviting more trouble down the road.

In every one of his sections in the book, be it *Terror*, *The North*, *The Faith* and *Endgames*, Subramanian does not spare the reader of the complexities involved in the cultures seemingly uniting that island nation by a simple renege of the fault lines—identity or lack thereof, assimilation, perception, majority versus minority and the crisis of identity that eventually fuelled the sparks of a long ethnic conflict that virtually brought the nation to a standstill.

Put in a current context the sophisticated literary-cum-journalistic work by Subramanian is not just yet another “book” on a period of history that many would like to think did not happen or pretend that it did not take place. To the apologists of the powers-that-be in Colombo that “nothing happened” or what did happen could be swept under the carpet because the “opposition” also did the same will not wash for the simple reason that nation states are held to a higher bar in the process of governance. And invoking the concept of national sovereignty and trying to drum up support on this point from dictatorships around the world does not speak too highly of an Island Nation that has its roots in democracy and human rights.

After all Sri Lanka needs to get to the bottom line—is genuine national reconciliation possible without coming to terms with the excesses in the last phase of the war? And that is the genuine issue that needs to be addressed. Brushing aside the calls of the international community, throwing up the bogey of a return of terror or going about intimidating yet another community in the hope of further nurturing the triumphantism bodes ill not just for Sri Lanka and India but for South Asia and the world at large.

The persistent call on Sri Lanka from literary writers or writers of Tamil diaspora to be accountable for what had transpired in the gruesome days ahead of the formal closure of the ethnic war has been matched with equal vigour from journalists, nongovernmental organizations, eminent

international personalities and nation states in the international system. The call on Sri Lanka has been on similar lines—that whatever has been done by the LTTE during the war and in the closing stages does not absolve the responsibility of Colombo to protect its citizens; and that much of what transpired in the first five months of 2009 were violative of not only the laws of war but also of human rights law and international humanitarian laws.

Writing in *The Guardian*, Callum Macrae who was literally the face behind the powerful docu-drama says, “No Fire Zone shows the relentless horror of those final weeks. These are images so shocking that they changed votes when we showed a cut of the film at the UN Human Rights Council in March. In the last few days of the war, in May 2009, the massacre of the civilians was followed by another series of war crimes. Victorious government troops systematically executed bound, blindfolded prisoners. Women fighters were stripped, sexually assaulted, blindfolded, and shot in the head. In one incident the 12-year-old son of the Tigers' leader is seen first in captivity, eating a snack. Two hours later he lies dead, having been shot, five times, at point-blank range. These events were recorded by the perpetrators on mobile phones as grotesque war trophies¹”

“These things happened and they must not be ignored. Because although the war in Sri Lanka is over, the repression continues – indeed it is escalating. The Tamils in the north are denied basic human rights; places of worship and of cultural or religious significance to the Tamils are being destroyed; rape is routinely used as a weapon of repression; and the ethnic makeup of the region is being re-engineered by a Sinhala plantation of fishermen and farmers. Throughout the country, government critics are being attacked, silenced and are disappearing. The judiciary is under attack – the chief justice impeached and independently minded judges marginalized²” he added

The outrage sparked by *The Killing Fields of Sri Lanka* did not stop with *Channel 4*. It served as a backdrop to a host of organizations and respected world leaders to step up the ante and pressure the Rajapaksa government into allowing an international team of investigators to get to the bottom of what really happened in those five months of 2009. In fact the horrors of what went on in the final weeks and months of the showdown did not begin only in 2013 and with an eye on the

Commonwealth Meeting. In 2011 Channel 4 exposed damning evidence of atrocities including a forensic examination of a systematic execution of naked and bound LTTE prisoners including the gruesome video footage of a 12 year old brutally done away with.

“Selective memory is a defense mechanism with which we are all familiar. For governments and international organizations, as with individuals, moral failure is easier to live with if we can pretend that it never happened. But mass atrocity crimes did happen in Sri Lanka, there was moral default all around, and if we do not learn from this past, we will indeed be condemned to repeat it³” says Garreth Evans, former Foreign Minister of Australia and President of the International Crisis Group.

“One of the worst atrocity crime stories of recent decades has barely registered in the world’s collective conscience. We remember and acknowledge the shame of Cambodia, Rwanda, Bosnia, and Darfur. We agonize about the failure to halt the atrocities being committed almost daily in Syria. But, at least until now, the world has paid almost no attention to war crimes and crimes against humanity comparable in their savagery to any of these: the killing fields of Sri Lanka in 2009. Three years ago, in the bloody endgame of the Sri Lankan government’s war against the separatist Liberation Tigers of Tamil Eelam, some 300,000 civilians became trapped between the advancing army and the last LTTE fighters in what has been called “the cage” – a tiny strip of land, not much larger than New York City’s Central Park, between sea and lagoon in the northeast of the country⁴” Evans pointed out.

“The lack of outrage mainly reflects the Sri Lankan government’s success in embedding in the minds of policymakers and publics an alternative narrative that had extraordinary worldwide resonance in the aftermath of the terrorist attacks of September 11, 2001. What occurred in the cage, according to this narrative, was the long-overdue defeat, by wholly necessary and defensible means, of a murderous terrorist insurrection that had threatened the country’s very existence. The other key reason behind the world’s silence is that the Sri Lankan government was relentless in banning independent observers – media, NGOs, or diplomats – from witnessing or reporting on its actions. And this problem was compounded by the timidity of in-country United Nations officials

in communicating such information as they had⁵”, he added

But Evans conveyed an important message: “President Mahinda Rajapaksa’s government claimed throughout, and still does, that it maintained a “zero civilian casualties” policy. Officials argued that no heavy artillery fire was ever directed at civilians or hospitals, that any collateral injury to civilians was minimal, and that they fully respected international law, including the proscription against execution of captured prisoners. But that narrative is now being picked apart in a series of recent publications, notably the report last year of a UN Panel of Experts, and in two new books: UN official Gordon Weiss’s relentlessly analytical *The Cage: The Fight for Sri Lanka and the Last Days of the Tamil Tigers*, and BBC journalist Frances Harrison’s harrowingly anecdotal *Still Counting the Dead: Survivors of Sri Lanka’s Hidden War*⁶”

“Nobody underplays the LTTE’s contribution to the 2009 savagery; but, with the Tigers’ leaders all dead, international attention should now be focused overwhelmingly on holding the government accountable for its failure to accept its responsibility to protect its own people. For far too long, Rajapaksa’s government has been evading accountability with an endless stream of diversionary maneuvers (usually involving committees of inquiry intended to lead nowhere, and duly complying), denial of physical access, outright dissimulation, and relentless verbal intimidation of anyone daring to question it” he says in his commentary⁷”.

“As Sri Lanka’s long history of failed and ignored presidential inquiries demonstrates, these mechanisms are ultimately powerless. The country’s post-war course will not change unless the Rajapaksas decide it has to. So far, they have shown no interest in doing anything that would diverge from the Sinhalese nationalist vision they have embraced fully, as both means to stay in power and end in it. Instead, they continue to repress the media and political opponents, while manipulating elections and silencing civil society. Constitutional reforms strong-armed through parliament in 2010 have removed presidential term limits and solidified the president’s power over the attorney general, judiciary and various “independent” commissions⁸” Arbour maintained.

The Rajapaksa government was further floored and is still smarting under a highly damaging report prepared by *Australia's International Crimes Evidence Project* in February 2014 titled *Island of Impunity* that laid down thread bare the final stages of the conflict and not stopping at both sides for the fashion in which the last days turned into a living hellhole for those trapped in the so-called cage. The report has been placed before Australia's Parliament. Amongst the key findings⁹:

- Although violations were committed by both sides, evidentiary material indicates that members of the Sri Lankan Security Forces perpetrated the vast majority of alleged crimes during the investigation period.
- Flagrant and reckless disregard for the laws of war strongly suggesting there was intent to commit those crimes... Sri Lankan security forces conducted indiscriminate artillery bombardments of areas known as civilian concentrations, also striking hospitals and humanitarian sites
- Both parties involving in widespread torture, sexual violence and enforced disappearance which continue in part today perpetrated by the Sri Lankan Security Forces on the civilian population.
- The Sri Lankan government may have sought systematically to exhume and destroy evidence of mass civilian deaths
- The ICEP has questioned why the Sri Lankan military established three successive No Fire Zones in North East Sri Lanka where the LTTE were already conducting operations and in the process substantially increasing the risk of heavy civilian casualties.
- The attacks on civilians suggest that the use of military force was “manifestly” disproportionate to any anticipated military advantage. Even if there was the presence of LTTE cadres, the Sri Lankan Forces did not take adequate precautions to protect civilians from attack... such acts could also amount to war crime of attacking military objective that causes excessive incidental civilian losses.
- Relying on photographs, video footage and witness account, locates Tamil news reader Isaipriya alive, unarmed and in Sri Lankan force's custody on the same day as other

photographs and footage show her lying dead on the ground, partially naked with blood on her face and left breast.

- The evidentiary material of the ICEP has shown the 12 year old son of the LTTE Supremo was dead less than two hours after being taken into custody by Sri Lankan forces, killed by five bullets shot at close range.

“More than four years since the end of the Sri Lankan civil war, the Sri Lankan Government has failed to address serious and credible alleged violations of international law. The Sri Lankan Government has not complied with the UN Human Rights Council’s March 2012 resolution on reconciliation and accountability. There is strong concern about the independence of Sri Lanka’s judiciary and the inadequacy of other checks on executive and military power. Accordingly, there remains serious doubt that the Sri Lankan Government will establish a credible investigation into allegations of war crimes, crimes against humanity and breaches of international human rights law and IHL¹⁰” the reports says.

“An independent and comprehensive international investigation is needed into these alleged violations of international law. Failure to do so can only damage the prospects of meaningful and enduring reconciliation in Sri Lanka. The absence of such an investigation will also ensure the ongoing impunity of those on both sides of the conflict who have committed violations of IHL and international human rights law, thereby emboldening those who may continue to abuse the civilian population¹¹” the report maintains in an ominous fashion.

THE DEFIANCE OF RAJAPAKSA

But none of this seemed to rattle the President of Sri Lanka, Mr. Mahinda Rajapaksa, who went about his usual defiant note on Sept. 24, 2014 in his address to the 69th session of the United Nations General Assembly. Not only did he pooh-pooh the notion of a troubled nation-state that he was presiding over, he also categorically said that “external intervention” in the name of human rights was simply unacceptable.

“Human rights are used as a tool to implement motivated agendas with no understanding or appreciation of the complexity of issues in the countries concerned. Human rights should be recognised by all as a moral and ethical concept rather than as a political tool. External intervention without adequate consideration of the structures in a society and cultural traditions of the countries where such intervention takes place, inevitably results in destabilisation, which is very much in evidence today, in most parts of the world¹²”, the President told the world body.

Rajapaksa then went on to a territory that both he and his cohorts have travelled several times in the past—that somehow Sri Lanka was victim of a vast ill-conceived conspiracy, especially in the United Nations Human Rights Council that deliberately the rapid strides made by the island nation. “Post-conflict Sri Lanka has also become an unfortunate victim of ill-conceived agendas of some in the Human Rights Council, who pay scant regard to the substantial progress achieved by Sri Lanka, in reconstruction, rehabilitation and reconciliation within a short span of 5 years¹³” Rajapaksa said making the point that somehow Sri Lanka was being singled out when other disturbing situations have been given the go-by.

“Sri Lanka remains committed to supporting all multi-lateral efforts to counter terrorism deriving from extreme ideologies impacting on people across national frontiers”, he said. “Terrorism continues to be a grave threat to security and stability of nations across the globe. Having suffered at the hands of terrorism Sri Lanka knows well, its drastic impact on societies, communities and institutions founded on democratic traditions and ideals¹⁴” he added. Obviously Colombo has been over the years strengthened with this “terrorism” theme that was opened up by the West led by the United States in the aftermath of 9/11 and now continuously used to force journalists to cough up their “sources” that endanger the so-called national security interests.

Expectedly, even as a majority of well-intentioned nations were calling upon Rajapaksa and his officials to stand by the promises that have been made to the Northern and Eastern provinces, the President gave the impression that things were well in place. The “transformative journey”, the Sri Lankan President argued was done “in accordance with our traditional foreign policy of ‘friendship towards all and enmity towards none’. We hope that the international community will reciprocate and assist Sri Lanka in her domestic process of reconciliation and economic development without

exerting undue pressure on us¹⁵” he told the august gathering stressing that his government “remains committed to its objective of pursuing the processes of reconciliation, and nation building, undeterred by ill-motivated criticism¹⁶”

Rajapaksa’s defensive posturing is not without good reasons for after all he started off his second term in 2010 with the hope that the past will soon have to be forgotten. In an interview with *The Hindu* in November 2010, the President of Sri Lanka maintained, “To the international community, my message is they must understand our position. We defeated terrorists, not freedom fighters. The whole world is facing this problem. So they must realise what we have achieved and help to develop the country, develop the North-East. They must help us not to widen the gap between the communities but to bring them closer. The past is past; you don’t dig into the wounds. We must think positively, not negatively¹⁷”, Rajapaksa maintained.

“I understand the plight of the NGOs. They have to say something. Whatever we do, finally we won’t be able to change their views – we might be able to change the views of a few of them but not all of them¹⁸” he said

Interestingly some four years down the line, Rajapaksa, had the same line to offer to The Hindu again in the course of an exclusive interview—more of the same pretension that everything was honky dory in that island nation and once again drawing the distinction between terrorists and freedom fighters. “We have already implemented 35 proposals of the LLRC (Lessons Learnt and Reconciliation Commission) and more are to be implemented. Some of them deal with issues like land, which can’t be done overnight. At the UNHRC session in progress right now, your ambassador admitted there have been thousands of cases of disappearances during the war years. We have already appointed a Disappearances Commission in Sri Lanka, and about 20,000 cases have appeared before the commission. The cases are from both the North (Tamil-dominated areas) as well as from the armed forces. The report is still not out, but from what I understand, the majority of the cases are where the LTTE was responsible for the disappearances¹⁹” Rajapaksa said.

The President would not subscribe to the notion that the war had been won but the government is yet to win the peace. “If you go to the north and east you will see the real situation. We can’t

change the mindset of the older politicians, the ones who were once entrenched with the LTTE, but younger people feel differently today. We held provincial council elections there last year, knowing very well that we would lose. There is a new freedom of movement after the war. People from the north are freely travelling to the south in Sri Lanka, those from the south feel comfortable travelling to the north²⁰” Rajapaksa said rejecting the notion that there is a large presence still of the military in the North and the East.

“Since the war ended in 2009, the presence of the military has been reduced by 90 per cent. I am trying to move them to other areas...but how much further can I go? I have to find space for my Army in Sri Lanka itself...I can’t send them to be housed in India or some other country, can I?²¹” the President said going on to also reject the argument that there had been the colonization of the Tamil areas with non-Tamils settling in there as a deliberate state policy.

“I deny that categorically. There has been no demolition of Tamil monuments. There is no colonisation. But in Sri Lanka, any citizen can live in any part of the country — whether the person is Tamil, Sinhalese or Muslim” he said.

And just as he was defiant at the United Nations General Assembly session, Rajapaksa rejected any notion of an outside agency conducting enquiry in Sri Lanka and cleverly raised the issue of Kashmir to drive home the concept of national sovereignty. “We want a local enquiry here to find out what happened to them. Obviously many are missing in the war, both from the civilians and the Army. But we reject this UN commission, and how it was formed. From the beginning, the statements by the (former) UNHRC Commissioner (Navi Pillay) were biased. We invited her here. She told us one thing and said another thing after returning. But we have nothing to hide, so if the new Human Rights commissioner wishes to come, we would accept his request²²”

“Our government is speaking of local investigations, but we won’t allow them to internationalise it. The next time if they will say that there must be an international enquiry into Kashmir, what would be our position? Would we support such a thing? No! Whether it is against India or Sri Lanka, we will not allow an external inquiry. It is all politics²³” the Sri Lankan leader said going

on to insist that the killing of the 12-year old son of the LTTE Supremo was not done by the Lankan military. “We are investigating it still...I don’t believe that it was (carried out by the military). But if it is true, I must know. That is why we are enquiring. In a war, when both sides are fighting, how can you say who shot at him?²⁴”

The defiance and obduracy of the Sri Lankan President, his military, diplomatic and civilian officials can almost be pegged to the “*No Fire Zone: Killing Fields of Sri Lanka*”, a documentary that is seen as not only detailed and meticulous in his making but also a spine chilling drama that was repeated by people who lived through those traumatic 138 days, the last moments of the brutal conflict.

END NOTES

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⁸ Louise Arbor president International Crisis group in *Sunday Independent*, July 22, 2011

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