

Human rights reporting and the rural poor

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Human rights reporting and the rural poor. by Mr. Rajpal Abeynayake

In 1989, when journalist Richard de Soysa was killed by what was seen to be state employed terror squads, in the waning days of the armed JVP leftist guerrilla group, the reaction that followed was a curious affirmation that the human rights of the urban elite are considered more important within the Sri Lankan polity than the human rights of the rural poor. Soysa's killing elicited passionate cries of opprobrium from the Colombo social elite, and the cry was later taken up by the newspapers, the non governmental organizations and civic activists of various colourations.

This was good. The killing of Soysa was definitely abhorrent, and the reaction of shock was not misplaced, particularly since he was a journalist who was working for a reputed international agency. But, in a context in which thousands of youth had lost their lives in a state reprisal against the virulent armed JVP campaign, it begged the question why similar reactions of shock were not commonplace when decapitated or burnt bodies were surfacing in all parts of the country in those very troubled times.

The Mother's Front for instance, which subsequently became a activist group agitating for information on missing youth, was also interestingly catalysed as a result of the killing of Richard De Soysa, who happened to belong to a influential Colombo elite circle.

De Soysa's killing was no doubt symbolic, but what the reaction to the murder underscored was the fact that the entire gamut of human rights reporting, and human rights activism seemed to be in abeyance when the killing of rural youth took place.

Though human rights organizations did not consider the lives of rural youth more expendable, as their latter work addressing the subject proved, it was apparent that their reaction was slow as it was apparent that the reaction of the media in general was also different in the comparative cases of Richard de Soysa and the thousands of youth who died before him.

Therefore, the case of Richard De Soysa seems to be a suitable point of origin from which to analyze the sensitization to human rights reporting in the Sri Lankan polity. It shows at least in a symbolic way, that a large swathe of the rural poor are far more susceptible to human rights violations than the smaller number of the relatively more privileged in the urban setting.

Though this situation may be almost axiomatic, it needs an emphasis --- due to the fact that there is a tendency to regard human rights violations in the provinces as a matter of course.

Disappearances

The human rights reporting in Sri Lanka is probably, in this context, characterized by the fact that the reporting comes very much after the event. This, for instance, is true when one takes the case for example of student disappearances in a town called Embilipitiya during the period of JVP violence in the South -- an instance of the

killing of 21 schoolboys who had no connections with any form of armed activity. The Embilipitiya disappearances took place during the 1989 period of instability and violence in the country. The court case however was concluded in 1999. The reporting of the court case was unprecedented; but this was partly because the new government had incorporated the swift conclusion of the Embilipitiya case into their campaign agenda.

Human rights reporting of an investigative sort, though prevalent, therefore is seen to be muted, or coming in a delayed reaction very much after the transgressions. This situation may have improved, with the return of normalcy in the most parts of the country around seven years ago. But, that does not take into consideration the complacency of the media regarding human rights reporting, and it underlines the fact that similar situations in the future could engender similar muted reactions from the press, which had not been organized in any way to report drastic human rights violations as and when they take place.

However, since the 1989 – 90 period of terror, media organizations may have come up with some answers by way of an organized reaction to human rights violations, and perhaps the Free Media Movement which was created as an anti government task force, which allied itself with the opposition at the last national election held in 1994 is a case in point. The Free Media Movement, however, had taken up issues at a ‘macro’ and general level, and is seen to be an activist origination in its own right than an organization that enables more comprehensive and efficient reporting of human rights violations in the media.

Electronic media

However, the fact that human rights issues have received much more coverage in the electronic media in the form of talk shows etc., cannot be underestimated. The electronic media has had a proclivity to dwell more on political issues; but certainly there has been a greater sensitization of the polity through the electronic media on human rights issues. How much of this could have percolated to the rural poor however is a different question. But, sensitization is a process that can be catalyzed in one place, and would then be left to disseminate by word of mouth among larger segment of society. Therefore, whatever sensitization that has been brought about by the relatively new tendency of a freer electronic media, would definitely have contributed to the sensitization of the rural poor about human rights issues in the country.

The Editor of the Sinhala language weekly, the ‘Yukthiya’ Mr Sunanda Deshapriya for instance, expressing his views recently at a meeting convened in Colombo to discuss a human rights related issues, mused that there was a sensitization among the ‘common man’ that a fundamental rights case could be filed in the Supreme Court, challenging any basics violations of a human right. The gut reaction of ‘ordinary people’ he said is that violations of human rights could be challenged in court, by invoking fundamental rights laws.

This sensitization could not have been brought about if there wasn't good coverage in the newspapers, and inasmuch as there seems to be a greater awareness about what could be done about transgressions by the state of basic human rights, the media seems to have played a role in sensitizing the rural poor about the forms of recourse that are available to them.

However, in times of crisis, this sort of sensitization that is carried out by the media seems suddenly to become extremely muted, as was evidenced by what took place during the period of instability ending in 1990. In these times, the government, making extensive use of the public security ordinance and the indemnity bill, retaliated against the revolt that was aimed at it by the rebelling forces of the JVP. Though recourse to such legislation would have been resorted to by most governments, to combat what was in many instances a very virulent armed campaign, what was problematic were the excesses carried out by the government. For instance, the Embilipitiya student disappearances were a case in point. The students were kidnapped, and "disappeared" (that was the parlance used for the kidnap killings that were carried out by state paramilitary organizations in those days) for what was proven to be a petty private vendetta. A schoolmaster has been offended that his daughter's name was coupled with that of a boy from the same school by some students in a certain class in a school in Embilipitiya. He then exacted his revenge by getting the students kidnapped -- and subsequently killed.

The press was caught in a tailspin, taking - in the events of that era, and the Embilipitiya disappearances made their imprint on the national consciousness very much later, when news about these events began to emanate in a trickle.

Wartime reporting

Though it can be argued that this was effectively a situation of 'wartime reporting', and that the press failed to enlighten the public about these violations as a result of the backdrop of armed confrontation, the question is how the press can now in the future arm itself to provide effective coverage of wartime transgressions. This is especially so, as there is a war going on in the North East of Sri Lanka, which of course results in human rights violations that take place all the time, the perpetrators being both the country's armed forces and the LTTE rebels who are fighting for a separate state in the North and the East of the country.

The fact is that the Sri Lankan polity can never be complacent about the possibility of armed conflict and the resultant possibility of extensive human rights violations: therefore, the media should evolve ways of providing effective coverage when these eventualities do arise.

In the Northeast of Sri Lanka, the situation that obtained in the South several years back, still may obtain, even though coverage in these areas are extremely muted, due to the fact that there is inaccessibility for the national newspapers that operate from the South of the country.

"A foreman of the Paranthan chemical factory was taken in a case of mistaken identity and was tortured by being hung by the legs and beaten on the soles and back. Electrical currents were passed into the sensitive areas like the tongue and penis and

the burning end of a cigarette applied to the arms. On his identity being established, he was released. Despite severe physical damage, he did not appear to have any psychological squeal¹."

These types of incidents are probably legion in the North East of Sri Lanka, to a point where the press is almost apathetic to these human rights transgressions; perhaps jaded as well, though it is not perhaps the best word used under circumstances describing severe human rights violations. But, the media may be jaded, professionally, due to the fact that there is little the press can do to keep up with the scope and magnitude of human right violations by both government and armed groups in the long war that has been prevalent in the Northeast.

Academic treatises

What's evidenced from the North East, is that there is a greater possibility of the more brutal crimes to be reported, such as the rape and murder of a schoolgirl, Chrishanty Coomaraswamy. But, the "lesser" cases such as that described above are reported few and far between, and are often unearthed later by persons writing books on the war and its repercussions very much after the event .

This was the case in the South as well, for instance, as chapter upon chapter of books that have chronicled the events of the rebellion in the South confirm . Many events that the newspapers of the time, which were more involved in capturing the evolving political developments missed, were unearthed subsequently in books and academic treatises .

"Later , at the ops combine headquarters, at Havelock Town in Colombo, everybody in the Defense establishment flocked to see the prize catch. Minister Ranjan Wijeratne had also arrived to look at Wijeweera, brigadier Algama had earned himself a bad reputation in the eyes of the JVP, in Embilipitiya and in Galle. . He would go to Janawasama's and tell the public " if anybody tries to deliver threatening letters or comes to ask for extortion money to your homes and work places, kill them! THROW ACID AT THEM. Hack the bastards to death with katties!" now the dreaded prosecutor was face to face with the rebel Supremo²."

These types of dramatic characterizations (here a Sandhurst trained military big wig asks civilians to take the law into their own hands) emerged after the violence , in chronicles that were almost academic in their nature of treatment of events.

But the newspapers were unable to keep up with the pace of these developments when they were happening, or were unwilling, and this lacuna in the coverage of human rights violations in times of conflict is something that repeats itself in the Northeast of the country and could repeat itself in other parts of the country in the eventuality of the surfacing of a new conflict situation in these areas.

Subsequently, and particularly after the change of government in 1994, some of the alleged perpetrators of human rights violations were charged.

¹ Scared minds, the Psychological impact on War in Sri Lanka; Daya Somasnderam.

² C. A. chadraprema, " sri Lanka : Years of Terror, P 305.

“Based on the findings of commission appointed by President Chandrika Bandarnaike Kumarantunge, over hundred members of the security forces are being charged in the courts for alleged cases of disappearances during the regime of the last government.”³ Such news items, hidden generally from the news spotlight of the day, are a good indicator that once the issues are past, the import of reporting of human rights violations decreases. There is also, much after the events have taken place, a lack of discussion on how much of these violations were in fact sanctioned, and were perhaps even necessitated by a virulent armed campaign of aggression/ terrorism which often was aimed at civilians of other political parties. Sans this debate or discourse, and sans a backdrop, reporting of these prosecutions soon petered out to nothing, which showed the disembodied nature that human rights reporting acquires after the events have passed.

Refugee camps

The situation in the North East however, in that cauldron of conflict, is continuing, and the reportage is no more cotemporary than it was when the war in the Southern part of the country was in progress. Statistics for the year 1997 for instance show that there were 1, 10,680 refugees in refugee camps alone, and 2,26,465 refugees outside camps in that year⁴.

This number would have definitely increased; for instance there was another exodus of tens of thousands of people from the city of Vavuniya in the North several weeks back, adding to the burgeoning refugee problem in the country. Rights violations and the refugee problem are indubitably two different issues, but what is important is the fact that the refugee problem does not receive any real coverage in the newspapers on any sustained basis.

What this would show is that any human rights transgressions that are possible if not probable in a situation of a mass human exodus do not receive coverage, if not attention, that is deserved in a media that is hard put to cover these issues on a sustained basis due to the fact that the problem occurs far away from where the newspapers are stationed.

Therefore, the human rights reporting of the poorest of the poor, the displaced and destitute, sometimes, at least in the war situation in the north East appears to be almost a forgotten problem, at least as far as the refugees are concerned if not the others.

The war situation also glaringly lays in abeyance some of the most fundamental rights, of some of the poorest in the nations' outlying areas. For example, in the month of October, there was an Air Force bombing of a market in a Northern town, apparently by mistake. Some twenty five civilians died in this bombing.

Low intensity conflict

³ The Daily News 23/11 1998

⁴ Refugee and Rehabilitation Organisation. (TRRO)

In apparent retaliation, the Liberation Tigers of Tamil Eelam massacred a village in the Eastern province border, obliterating almost the entire village including men women and children.. It can be argued that both the bombing and the retaliation violated the most fundamental human rights. These violations however receive coverage in the newspaper, but are also seen to be covered as long as the news is on the spotlight. There is seldom any follow up coverage; granted also, that there is very little the media seems to be able to do to address these situations given the sporadic nature of their occurrence in a low intensity conflict that has been dragging on for indefinitely now for over 16 years.

However, the media also seems not to have been able to successfully hold either the government or the LTTE "accountable" for these rights violations. Either media censure of these violations has not been strident enough, or the protagonists in the conflict do not care about the public perceptions that have been engendered by the media coverage of these conflicts and media censure of excesses on both sides.

If the press is not able to get to grips with the big picture, or if the more glaring violations continue despite the censure of the media, the press perhaps has to play a larger role in stemming the tide of "lesser" violations that occur. These continuing violations have a debilitating effect on the social fabric, and are ultimately a factor that threaten the very existence of the concept of human rights.

Public Security Ordinance

The press has perhaps in this regard a role to play as a facilitator or a liaison between the potential victims of human rights violations and the law enforcement authorities. "Facilitation" however would essentially under the prevailing circumstances mean that the press can educate the public and the poor rural population on the fact that there are laws and legal decisions which have been in favour of the idea that the state cannot transgress human rights even under circumstances in which emergency regulation and the Public Security Ordinance prevails. (The Emergency regulations, which have been almost continually in existence barring sporadic intervals for the last decade of years, place certain restrictions on the normal provision of the Penal code and the Criminal Procedure Code.)

Alternately, the newspapers themselves have been hamstrung by certain judgments which have held that the restrictions placed on the freedom of speech by the emergency Regulations are valid.

For instance, in a fairly celebrated case, *Visvalingma V Liyanage* which was heard sometime back, the publishers of a certain newspaper *The Saturday Review* challenged the closure of this newspaper by the then Competent Authority acting under resolution 14 (3) of the Emergency Regulations in force.⁵

In this case, the judges held that "the fundamental rights of the publishers of the *Saturday Review* have been lawfully restricted by the Competent Authority and

⁵ Reported F R D 2 529

accordingly the fundamental right of the petitioners as readers and contributors have also been lawfully restricted. The petitioners claim under Article 14 (1) (a) thus flails.

The Saturday Review case therefore becomes an important point of reference, because around it can be woven some of the facets of how the media coverage and reportage of human rights violations in the North East has trailed off.

The Saturday Review was one example of a newspaper which was in situ, because it was being published from Jaffna in the heart of the North where the ethnic conflict was raging. It was edited by a Sinhalese, and as an English newspaper, it was widely circulated in Colombo where the powers that be and the "power elite" congregate. Therefore it was a vital conduit of information that could bring notice of human rights violations to the people concerned in the power center, who could do something about these violations if they were sufficiently embarrassed by them.

But, the judgment referred to did not offer any redress for the publishers of Saturday Review, and therefore, this newspaper closed down, and the Editor subsequently passed away, his life mission unaccomplished.

Reporting in situ

But, the Saturday Review case also brings up the issue of the lack of newspaper reporting in situ of the situation in the Northern province. Whatever little news that the Colombo based national newspapers garner of the situation in the North East is through a few correspondents who are part time contributors scattered in the region.

It is a fact that these part time stringers cannot adequately report or investigate the events and incidents that transpire in a conflict situation, and in the absence of any other alternative, the national newspapers depend on hearsay reports either from sources in the Sri Lanka army or from sources via telephone in the North and the East.

The fact is that non existence of in situ reporting of the conflict in the Northeast (needless to say) hampers the coverage of human rights violation in that part of the country, and these human rights violations often are of refugees, displaced persons, minors or women or the most vulnerable sections of society.

Even foreign newspapers which have stationed correspondents in Colombo have not been able to station correspondents in the war torn areas, and this may give some indication of the difficulties involved in having in situ reports of the conflict in the national newspapers.

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The fact that incidents of human rights violations were not reported thoroughly during the duration of the Southern conflict where there WAS in situ reporting in place is acknowledged; but the situation in the North east is far worse because there is almost no reporting that emanates from the vortex of the conflict.

But, also of importance in conflict areas, and even areas that are recovering from conflict, such as the South is that substantive human rights may only be sporadically recognized; there is no sensitization of the public about certain rights, for instance "the right to life," which has "finally been recognized in the new draft constitution."

Legal recognition

It is almost absurd that much space has been devoted to the absence of the right to life clause in the Sri Lankan constitution, because the right should obviously be guaranteed by implication, considering the fairly exhaustive listing of rights of individuals in the constitutional provisions. But, the debate on the other hand underlines the fact that the Sri Lankan polity demands unequivocal constitutional and legal recognition of rights before these rights are sought to be enforced.

The new draft constitution of Sri Lanka for instance, which of course the present Sri Lankan government has been trying to make into law, so far unsuccessfully, "is unfortunately a perpetuation of the same old model, one that recognizes constitutionally guaranteed fundamental rights as only civil and political rights, and one that relegates economic and social rights to the back - burner by including them merely in the directive principles of state policy."⁶

The fact that there is little sensitization on these aspects, of social and economic rights in the media, has perhaps resulted in these aspects being almost ignored insofar as the human rights situation in rural Sri Lanka is concerned. But, what are the social and economic rights of the refugees for instance, or of displaced persons, displaced due to intransigent territorial claims on both sides of the divide in the North East conflict?

⁶ Deepthi D. Jayasinghe, in "The Draft Constitution of Sri Lanka Critical Aspects," Law And society Trust, Colombo.

These are issues of gigantic scope, and they have not even touched the surface of the Sri Lankan consciousness, largely due to the fact that the media or the polity does not recognize these rights as rights any longer in the conflict areas, because repeated transgressions of these rights (by the creation of refugee communities for instance) has lent to the idea that the tenuous existence of social and economic rights in a war torn theater is an inevitability in the social process.

But, though this may be so due to the searing nature of the conflict, at least the message that things should be different and should "by right" different for the victims of these social upheavals, needs be conveyed to the poor and the illiterate who are often the victims of these upheavals.

But, this sensitization cannot be easily brought about by a society that has been increasingly disrupted by violence.

The fact that economic and social rights are also human rights, is moreover not easily learned by the sections of the society targeted, if these messages are sought to be conveyed academically in the newspapers by way of information on universally recognized declarations rights for instance.

The sensitization in Sri Lanka that a person who is illegally detained could invoke fundamental rights legislation and get redress from the Supreme Court, was established due to the fact that the media reported cases in which persons went to courts and availed themselves of certain redress. But , economic and social rights are not justiciable, in either the prevailing constitution or the one that is proposed.

Alternative for the press

Therefore, the alternative for the press is to perhaps, ambitious though it may be, hold the intellectual community and the activist sections of society accountable for agitating towards getting basic economic and social rights written into the constitution, so that they too may be enforceable at least in a very basic and fundamental way that would effect society positively on the long run.

In other words, the onus is probably on the press to get these issues into "the public discourse". Once there is serious public concern about these issues, at least it will be apparent that refugee communities for instance will not be "forgotten communities"-- or communities in a peripheral limbo...

These realities however should apply for simple peace time violations of human rights, as much as they do for violations of human rights during times of instability and general unrest. Peacetime violations of human rights might include illegal arrests, illegal detention, or cruel inhuman and degrading treatment, or unequal treatment before the law, for instance. Whatever the transgression, there are impediments that apply towards the reportage of peacetime violations, and the publicity and public sensitization that should follow thereof.

The impediments might be unintentional; but the fact that legal aid cases for instance attract little attention among the press, compared to other cases, is also a relevant factor for example when considering the coverage of human rights violations. This may be because of the way in which the system of legal reporting operates; there is often some sort of liaison between the lawyers and the reporters, and there is a tendency for the senior lawyers, who generally do not take legal aid cases, to attract more publicity due to name recognition and other factors.

These may be incidental matters, but they in many ways underline the fact that reporting of human rights violations of the underprivileged is not as frequent or as proportional to the violations as they should be. All of this could contribute to the feeling that human rights litigation is a costly process, perhaps more accessible to the wealthier or even the middle classes than the underprivileged classes who sometimes have to find recourse in legal aid.

In this respect, it needs be stated that the sensitization on human rights violations and the ability to litigate may not necessarily mean that violations are now more the exception than the rule; for one case which reaches court, there may be ten which have not reached court due to the lack of knowledge or the lack of wherewithal of victims to peruse the matter in court.

The crime rate.

But perhaps, even though human rights litigation may be few and far between, it appears that it has had a deterrent effect on police excesses for instance, at least judging by the way in which some establishment figures have complained that human rights legislation has had a detrimental effect on combating the crime rate.

There have been complaints, from some of the highest quarters of the land, reported in the newspapers that "some lawyers are making human

D/S 27/11

To: PRADIP N. THOMAS

MEDIA AND HUMAN RIGHTS SEMINAR**Howard's way: East Timor has made waves for Australia**

The despatch of British Gurkhas has undoubtedly helped quell the violence in East Timor. By all accounts, they are performing a difficult task in exemplary fashion. Their deployment as part of the Australian-led international intervention force has also redeemed, to a limited extent "the government's deeply flawed" Indonesia policy. But few could have imagined that the arrival in Dili of a mere 164 British soldiers might change the course of history. Yet there is a very real possibility that Australians, who decide on November 6 whether to retain the Queen as head of state or become a republic, will be crucially swayed by Britain's swift support for their troops. Polls were already predicting a close referendum result. Now the dangers inherent in the operation, Indonesia's enmity, and the ugly, racist criticism emanating from some Asian "allies" have given Australians a sharp reminder of who, when the chips are down, their true friends are.

The possible rout of republicanism is not the only unexpected ramification of the Timor emergency in Australia. Prime Minister John Howard, a conservative monarchist, told parliament last week that the crisis had reaffirmed some awkward "home truths". Australia was not an Asian nation, as some of his predecessors had contended, but a western nation in Asia, he said. Its policy "must be based on a clear sense of the national interest and on our values." This meant maintaining trade and other regional links, but not at the expense of basic principles, such as democracy and human rights. As the leading regional power, by default, in the Timor crisis, "we have got on with the job of being ourselves."

The "Howard Doctrine" represents perhaps the biggest shift in Australia's debate about its identity and role since the days of Gough Whitlam almost 30 years ago. In Mr Howard's views on the need to re-emphasise ties with the US and Europe, Asian leaders claim to detect a reviving colonialism. "We don't want to see any country appointing itself protector of this region," the Malaysian deputy prime minister said. In truth, Canberra does not seek such a role - but if a more confident Australia is now reassessing its compromises with "Asian values" Asian countries which prevaricated, ducked, and appeased throughout the Timor crisis have only themselves to blame. They waited for someone else to tackle their problem. Luckily for them, Australia. (and the Gurkhas) obliged.