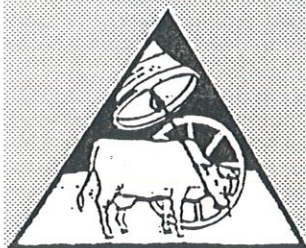


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In this issue we publish an article by Professor Hettige on social integration in Sri Lanka. He analyses the issues that have led to social disintegration and discontent among youth. He stresses that there is an urgent need for consensus building and collective action on vital social issues, without which the society can easily fall apart. He advocates for the formulation of a comprehensive income distribution policy and for supporting family and community life. He calls for the formulation of a national youth policy; devolution of power to enhance local autonomy; incorporation of work skills and work ethics into school curricular; training, orientation and employment programmes for school-leavers; and above all, for educational reforms aimed at combatting segregationist tendencies.

In her article on the International Convention on the Protection of Migrant Workers, Ms Nimalka Fernando discusses the salient features of the Convention. She states that although it is premature to predict the impact of the Convention, the migrant worker phenomenon has international political, economic and social effects as well as humanitarian considerations and the Convention could be an invaluable instrument for the enforcement of the rights of migrant workers.

TOWARDS SOCIAL INTEGRATION

AND

THE MIGRANT WORKERS CONVENTION

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ENHANCEMENT OF SOCIAL INTEGRATION IN SRI LANKA*

*Prof. S.T. Hettige***

Introduction

The need for social integration does not arise if there are no tendencies, either actual or potential, towards social disintegration. In this respect, it should be pointed out that we have witnessed clear signs of social disintegration in Sri Lanka in recent years.

Even though the signs of social disintegration may surface rapidly, within a short period of time, i.e. eruption of open conflicts, their origins can often be traced back to the historical past, either recent or distant. Sri Lanka's experience is no exception in this regard.

Societies do not remain static but undergo change and even transformation over time. In the process, they become more complex and differentiated, both socially and culturally. Such changes may produce conflicts of interest and ideas. However, so long as these conflicts are regulated, managed and effectively contained through appropriate mechanisms and strategies, the constituent segments of society may achieve a reasonable degree of autonomy and mutual tolerance without leading to socially disruptive behaviour.

The purpose of the present paper is twofold. Firstly, it attempts to provide a brief account of the phenomenon of social disintegration in its diverse manifestations. Secondly, it explores the possibilities for intervention with a view to facilitating social integration.

The Processes and Manifestations of Social Disintegration in Sri Lanka

A discussion on social disintegration should necessarily be based on an analysis of social change over time. On the other hand, social change is a wide ranging subject which can be approached from different theoretical perspectives.

Integration in general means bringing or keeping the parts of a 'whole' together. This 'whole' may be a small group like a family, a formal organization like a modern firm or a national society comprising many groups, large and small. However, when we talk about social

* This paper was originally prepared for the Sri Lanka National Committee on the World Summit on Social Development held in Copenhagen in March 1995.

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integration, we usually have a national society in view. This does not, however, mean that integration at lower levels is not important. In fact, the degree of integration within a national society may be dependent on the extent of integration within smaller social units which often constitute the 'building blocks' of the larger society.

The basis of social integration varies over time and across social groupings. As we all know, in traditional societies, primordial bonds and traditional ideologies helped keep such societies together. In this regard, family, kinship, caste, religion, etc. played a crucial role. With social structural change, modernisation and urbanisation, traditional social institutions have been either eroded or weakened with the result that their capacity to hold a society together has been greatly reduced. What is also observable is that some of these institutions which provided a basis for co-operation have even turned out to be divisive forces providing a basis for competition and conflict. This is true with respect to all the social institutions mentioned above.

In rural Sri Lanka, family and kinship do no longer provide an adequate basis for intra-village co-operation. The disintegration of the extended family has brought into existence a multitude of nuclear families now competing with each other for material gains, social influence and even political power. Competition for material wealth has greatly contributed to the disintegration of kinship networks which often provided a basis for economic cooperation and social harmony in the past. This is evident from the fact that many disputes and conflicts over land, water and other resources are among close kin and at times, even among the members of the same family.

The relative autonomy which the small village communities seem to have enjoyed in pre-colonial times has already been completely undermined under the influence of diverse forces of modernisation, commercialisation of production and exchange, democratisation of politics etc. The result is that individual lives are constantly influenced and shaped by the forces emanating from the macro-structures, both national and international. So much so, today, even the socialisation of children is not the sole prerogative of the family and the close kin, let alone preparing them for their future professions.

The processes of change that have engulfed the Sri Lankan society over the last several centuries have produced two seemingly contradictory outcomes. These two outcomes can be characterised as unity and diversity. Both the unity and the diversity represent tendencies and therefore, can persist in a dynamic equilibrium. What is important to note here is that any attempt to put too much emphasis on one can weaken the other leading to a disruption of the balance. Such a disruption of the balance poses a serious threat to the entire social order.

The dominant social values by and large provide the moral basis of any social system. This does not, however, mean that there exists a value consensus in society. As is well known, there exist social groups in any modern society which reject the dominant values to which the majority of the people subscribe. Yet, such minorities do not necessarily pose a serious threat to society as long as they are allowed to pursue a life style of their choice.

Social order is often threatened when it is widely perceived that the widely-held values do no longer correspond to the normative framework guiding the affairs of a society. It is such perceptions which have often provided the basis for the emergence of many a social protest movement which secure their legitimacy by pointing to the widening gap between the precept and the practice. In the case of Sri Lanka, many of the disintegrative tendencies can be explained in terms of the tensions within the sphere of social values.

As is well known, the impact of western colonial rule on Sri Lankan society, culture, economy and polity has been far reaching. It not only generated deep social structural changes leading to the formation of new social classes, status groups and power alliances, but also paved the way for significant changes in the ideological sphere.

While society became more and more differentiated, the emergent ideological apparatus has helped keep society together. For instance, despite growing inequalities, the ideas of equality, equality of opportunity, social mobility, participation, social justice, etc., constituted the normative framework which is claimed to guide public policy. It is the collective belief in the efficacy of such a moral project which kept Sri Lankan society together. However, certain developments in the recent past have been potentially disruptive of the new social and moral order that came into being after colonial rule.

Emerging Patterns of Social Inequality and the Legitimation Crisis

In spite of continuing state interventions through diverse policies and programmes, wide social disparities persist in Sri Lanka. A sizable segment of the population i.e. 30-40% is still living below the poverty line. While most of them live in rural areas, the others reside in urban slums and shanties. The most significant categories of the poor are the landless labourers, under-employed workers, old and disabled people not having access to family or institutional support, beggars, alcoholics, chena cultivators in the dry zone, and petty traders. These groups by and large have the least access to institutional services like credit, education and health services.

The continued marginalisation of the poor is a major factor that contributes to tension in society. The children belonging to these families cannot compete with the others in the spheres of education, training, employment and social mobility. The anxieties and disappointments often result in higher rates of suicide, mental illness, anti-social behaviour, etc. among them.

Discontent Among Youth and its Implications

Many factors have contributed to youth discontent in Sri Lanka. In this section the most important factors are outlined. Although they are discussed separately, in reality, such factors are interrelated.

The prolongation of adolescence is a major phenomenon in Sri Lanka today. The main reasons for the prolongation are long periods of schooling and training, high rate of unemployment among youth and postponement of marriage. For a large segment of the youthful population, there are also long waiting periods between school and employment resulting in prolonged periods of anxiety and uncertainty.

Inability to secure the desired types of employment has long been a source of frustration for many youth in Sri Lanka. This issue which was explicitly recognized by an ILO mission to Sri Lanka in the early 1970's persists even today. The youth who go through the education system end up having aspirations for white collar employment and often remain unemployed till they find such employment. Given the severe competition for more rewarding white collar jobs, only a minority of the aspirants succeed in their efforts. The rest no doubt becomes disappointed and often develops hostile attitudes toward the social system, in particular the dominant elites. In recent years, the competition for more lucrative white collar jobs has become more intensified. In the process, certain categories of youth have been adversely affected.

The twin processes of the privatization of state enterprises and the expansion of the private sector in the last decade or so have resulted in a curtailment of employment opportunities in the state sector. While recruitment to state sector positions was by and large guided by universalistic criteria as well as political affiliation, market forces tend to play a dominant role in the allocation of jobs in the private sector. Moreover, private sector employers can also be pragmatic in recruiting people and do not have to be guided by social and political considerations.

The result is that many of those who would have otherwise been taken care of under the old system remain marginalised today. Such people are invariably those from rural areas and marginal social layers. They are often people who can hardly fit into the urban middle class corporate surroundings.

Youth movements in Sri Lanka have lately posed a serious threat to the established social and political order. This is clearly evident from the militant youth movements in the Tamil dominated North-East as well as in the South. Why do the youth revolt or agitate against the established order? While there is no simple answer to the question, it can be pointed out at the outset that the causes go far beyond the simple bread and butter issues. This does not mean that such issues already outlined are less important.

National Politics, Political Culture and the Alienation of Youth

An important outcome of the national political campaign during the latter part of the colonial period and immediately afterwards was the propagation of a democratic form of government in the country. The latter by and large conformed to a political culture which set out the 'rules of the game' in clear terms. The main elements of this political culture were cleaner and

accountable public life devoid of corruption, adherence to norms of fair competition and the tolerance of free expression of opinion and loyalty.

The above politico cultural elements were not only adhered to in the conduct of politics, they were also inculcated in the minds of the young through formal education, political campaigns and mass media. The democratically-oriented people, in particular the youth, in turn began to believe that any deviations from the norms are undesirable and therefore, detrimental to the established democratic way of life.

Political developments in the recent past, particularly in the 1980's, have been perceived as not quite in tune with the democratic ideals and politico - cultural norms embraced by the people in general. Such deviations have no doubt contributed to the alienation of large sections of the youthful population in the country. It should be noted once again that a society can easily fall apart if the widely held values are either openly violated or only paid lip service to.

Education and Social Segregation

Post independence Sri Lanka witnessed a transition from English education to swabhasha education within both the school system as well as the universities. The adoption of Sinhala as the official language opened up employment opportunities to those who had their education in that language. On the other hand, those who had the education in Tamil alone were adversely affected by the adoption of Sinhala as the official language. Only those who were bilingual could survive in the new setting. In particular, those who had a good knowledge of English could at least fit into the corporate private sector where business is usually conducted in English.

The adoption of the mother tongue as the sole medium of instruction without equal attention being paid to a link language produced a whole generation of youngsters who were unable to communicate across ethnic lines. The result was social segregation on ethnic lines.

The older people belonging to different ethnic groups and a minority of young people belonging to urban middle class families experience little difficulty in communicating across ethnic boundaries. But the vast majority of today's youth belonging to different ethnic groups can hardly have direct, face to face communication across the ethnic divide. Yet, given their sheer numbers, it is they who are likely to dominate the political scene in the years to come. Since language, ethnicity and religion in this country coincide to a great extent, the significance of these factors in national politics is unlikely to diminish in the near future.

In the next section of the paper, an attempt is made to identify a number of areas in which interventions might be possible and desirable.

Towards an Agenda for Social Integration

Today underdeveloped societies in the South are increasingly characterised by social differentiation, conflict of interests and the lack of value consensus. The situation is often further complicated by a widespread tendency on the part of the economically, politically and socially powerful segments of the society to assert themselves at the expense of the weaker social strata. The result is that corruption, abuse of power and extreme forms of social inequality become the order of the day. While the rich pursue affluent western life styles, the under-privileged groups often struggle to secure the basic necessities of life.

The above state of affairs can hardly be expected to promote social harmony and solidarity. Such a social system can scarcely pursue collective goals, be they economic or social, because people do not share a common sense of purpose. Such conditions retard individual initiative and discourage healthy competition both of which are essential prerequisites for social and economic progress. The lack of a broad sense of sharing and caring cutting across social divisions coupled with the widespread pursuit of naked self-interest generates social tensions, antagonisms, hatred, despair and hopelessness.

Individual initiative and entrepreneurship should no doubt be encouraged and rewarded if a country is to progress. But, such encouragement should not result in the pursuit of naked self-interest by some at the expense of social responsibility and collective well-being. In other words, economic liberalisation should not mean the end of state intervention. It, in fact, signals the beginning of a new era of state intervention and collective responsibility. This is so because, even with economic progress, social, moral and ethical issues do not disappear. It is a seemingly non-partisan state, facilitated by the instruments of a vibrant civil society that can address such issues with a view to resolving them as much as practically feasible.

There can therefore be little doubt about the need for consensus building and collective action on vital social issues, for without such broad consensus and collective action, societies can easily fall apart. So, our task today is not only to promote economic growth but also to plan whatever action that is needed to prevent society from falling apart.

What are the contentious social issues that our society is confronted with? Even though the list can be short or long depending on the degree of importance we attach to various issues, there can be little dispute over the significance of the following issues: extreme social inequality, youth unrest, weakening of supportive family and community structures, the ethnic question, mismatch between education and employment, youth unemployment, social segregation, abuse of power, violation of human rights, inadequate support for groups with special needs such as children, disabled and the elderly, inadequate freedom for the media and the growing tolerance of corruption.

1. Formulation of a comprehensive income distribution policy

As already mentioned, poverty, both relative and absolute, continues to be a major social problem in Sri Lanka. Available data clearly indicates that the gap between the rich and the poor has further widened over the last decade. This situation is neither morally acceptable nor socially desirable. Since it also amounts to a waste or marginal use of valuable human resources, it can also be detrimental to economic development.

Poverty is not only a matter of low income. In the case of rural Sri Lanka, it is also the lack of access to productive resources and proper social infrastructure services. So, what seems to be needed is not mere income transfer but the filling up of the existing gaps in resources and social infrastructure.

Since poverty is perhaps the most significant cause of deprivation of basic needs and human dignity, its eradication alone can arrest the marginalisation of a major segment of the country's population. What should, however, be noted here is that there is no simple solution to the problem of poverty because it emanates from multiple sources such as poor earning capacity, assetlessness, unemployment, disability, chronic illhealth, old age, etc. What is required therefore is a multi-pronged attack involving a number of specifically designed programmes supported by rapid economic growth.

As mentioned before, the gap between the wealthy and the poor has considerably widened over the last two decades. Many poor people, particularly in the cities suffer for want of gainful employment. This is often not because there is no room for employment creation. A clear example is the large community of beggars who roam the city streets. They subsist entirely on what they get from the public as small donations. The irony is that the public spaces they occupy such as pavements, public parks, bus stands and railway stations are usually littered with garbage and are in a state of neglect. The question is whether the able bodied beggars could be better off if they are weaned away from begging and employed as city cleaners paid by the municipal authorities or even an NGO active in the environmental field. Why shouldn't the members of the general public who toss their coins at the beggars pay the contributions to a "keep the city clean fund" which can in turn pay the wages of the newly recruited cleaners. What is needed perhaps is a carefully worked out plan aimed at the mobilisation of public support, manpower and political and administrative will. Such action may benefit almost all segments of society including the well-to-do who could now move about in a litter free city.

If we look around, it might be possible to identify many other areas in which similar actions are possible. What is required perhaps is innovative thinking and unconventional planning.

2. Supporting the Families and Communities

As indicated earlier on in the paper, there are clear signs of social disorganisation in grassroots communities. Intra-family and intra-community conflicts, high rates of suicide, etc. are

evidence of such disorganisation. This situation is usually compounded by poverty.

It is futile to expect the above situation to get better on its own. If the traditional defences against such tendencies have been weakened or eroded, they do not get resuscitated automatically. What is required therefore is a clear social policy aimed at supporting families and communities in distress.

Family and community life is usually strained under conditions of poverty, deprivation and social dislocation due to migration. While thousands of families are adversely affected by the temporary migration of parents to the Middle East for contract employment, uprooting of families from traditional habitats to be resettled in new settlements has disrupted traditional community life of a large part of the rural populace of the country.

Economic pressures have thrown many elderly people out of their households. While some of them have found refuge in institutional settings, others have become paupers in the streets. Children abandoned by their broken families find refuge in the city streets and eke out a living by begging or working as helping hands to pavement hawkers. Girls often turn to prostitution early in their lives.

The elderly and the children who are not ejected out of their deprived families are often only marginally better off as many of their basic needs are only partly fulfilled. The deprived children in such families often grow up to become only marginally better off than their poor parents.

The desirability of a stable family environment can be hardly overemphasised for such family environments provide a sound basis for child development and inculcation of basic values through childhood socialisation.

The disruption or the weakening of kinship and local social networks in rural communities coupled with intense competition for resources such as land and water has generated intra-community tension often leading to violent disputes.

While a family support policy involving material benefits to the aged and the children coupled with a national counselling programme could go a long way in strengthening the institution of family, the promotion of community based organisations such as rural development societies and former organisations can help arrest further disorganisation of grassroots level communities.

Some of the other concrete steps that can be taken to facilitate social integration are as follows:

- a) Formulation of a national youth policy with a view to providing a non-partisan framework for youth services and youth participation. This would not only help mobilise young people around national goals but also provide them with opportunities to play a constructive role in national development. What should

be noted here is that, in the absence of non-partisan national programmes for mobilising the young for national development, they are likely to be drawn into ideologically attractive movements, which can turn out to be socially and politically disruptive.

- b) Devolution of power enhancing local autonomy, particularly for ethnic communities. This is a subject which has received considerable attention but require serious follow-up and decisive action.

The Tamil separatist movement in the north-east of Sri Lanka is the result of a long-drawn out campaign for regional autonomy spearheaded by Tamil political parties. The regional autonomy package embodied in the Provincial Council system that was implemented in 1987 as a response to this demand has already been discounted as falling short of the aspirations of the Tamil minority. The Council that was established in these two provinces did not last long due to various difficulties and was soon dissolved. While the security situation worsened thereafter in the north-east areas, all parties involved in the conflict have failed to find a peaceful solution to the problem.

Elsewhere in the country, the Provincial Councils have been functioning without running into major difficulties. Those Councils controlled by the opposition parties have encountered resistance from the central government when they agitated to secure constitutionally sanctioned powers. Since the central government continues to operate within areas devolved to the Provincial Councils, significant conflicts of interest have surfaced. This has also contributed to the duplication of work and wastage of resources. Given the significant regional disparities that exist in Sri Lanka with respect to social and economic inequalities, living conditions, etc., genuine devolution of powers to Provincial Councils can go a long way in narrowing such gaps and giving the local people and their leaders the opportunity of managing local affairs in ways which are beneficial to them. Such a genuine programme of devolution and decentralisation is more than likely to contain separatist and ultra-rationalist movements which pose a real threat to national integration. It is, however, necessary to ensure that regional bureaucracies do not simply become a source of power and privilege for regional elites exploiting the resources available for the benefit of the local people.

- c) Incorporation of work skills and work ethics into school curricular: This will help equip the school leavers with the capacity to identify areas of employment in keeping with their aptitudes and interests.

The white-collar oriented education system of Sri Lanka has continued to wean the young people away from physical labour. Except in rural schools where

pupils engage in some physical labour like home gardening, the school system as a whole is almost classroom oriented. This tendency has both directly and indirectly contributed to a devaluation of creative and productive work involving physical labour. Although Sri Lanka can boast of a very high literacy rate and a relatively well educated population, the products of the school system by and large continue to be averse to productive labour. While this can be partly explained in terms of privileges associated with white collar employment, the values and attitudes inculcated in the minds of school children and the non-exposure to productive labour while in schools are also largely responsible for this state of affairs.

Sri Lanka cannot afford to retain its present education system without incorporating a distinctive work and skill orientation into it, particularly in view of the urgent need to raise productivity in all sectors of the economy, especially the industrial sector. While not many school leavers can be accommodated within non-productive service activities, the bulk of them will have to fit into productive sectors. Without a major change in incentives, attitudes, orientation and initial training, this can be an extremely difficult task.

- d) Training, orientation and employment programmes for school-leavers. This may be done through a genuine dialogue between the state agencies and the potential employers.

A large proportion of school children in Sri Lanka move into secondary education and leave school after successfully completing national-level examinations conducted at G.C.E. (O/L) and G.C.E. (A/L). Although G.C.E. (A/L) is also the university entrance examination, since many of those who qualify cannot enter the local universities due to inadequacy of places, for many youngsters, it is a qualification for employment.

The highest rate of unemployment in Sri Lanka is found among youngsters who are educationally qualified, at least with G.C.E. (O/L). Their unemployment is at least partly voluntary in the sense that they look for particular types of work, namely white collar jobs. Moreover, in spite of their educational qualifications, most of them lack work skills. This is another factor that contributes to their unemployment.

The creation of work opportunities for unskilled school leavers remains an urgent task due to a number of reasons. Firstly, in the absence of opportunities to develop their creative talents and use them for productive purposes, they develop hostile attitudes towards the social system and then get drawn into ideologically motivated, socially and politically disruptive movements. Secondly, their unemployment represents an unnecessary waste of valuable human resources at

creative talents which can be meaningfully utilized for productive and constructive purposes. Finally, persistence of widespread frustration, despair and hopelessness among youth can facilitate the growth of extremist movements which can threaten social order as was clearly demonstrated in Sri Lanka in the late 1980's.

So, the need of the hour is to explore ways and means of accommodating the young within mainstream processes of social and economic development. Economic growth which leaves out a major part of the youthful population can only generate social unrest and instability both of which are not conducive for social integration.

The task involved is not simple. It requires a genuine, collective effort with the participation of the political leadership, planners, potential employers, academics and the representatives of the youth themselves.

- e) Educational reforms aimed at combatting segregationist tendencies. A concerted effort should be made to mobilize resources to provide children with the facility of a link language.

Introduction of free and Swabasha education was intended to expand the opportunities for formal education in the country. The availability of instruction in one's own native language from pre-school to university did away with the need for proficiency in a second language for educational advancement. This, unfortunately also deprived most children of the facility of a link language that would have enabled people belonging to different linguistic communities to communicate with each other. Since most schools, in particular the state schools in rural areas, became monolingual, children grow up with little or no knowledge of other languages spoken by other ethnic groups. The seriousness of this segregationist tendency within the general education system becomes clearly visible when these children encounter each other outside the general system of education and their own community like, for instance, in the university. They occupy the same physical space without being able to communicate or understand each other.

Communication difficulties across ethnic groups reinforce parochial tendencies. Such tendencies in turn facilitate the growth of ultra-nationalist and separatist movements which threaten the integrity of nation states as is evident in the case of the Tamil separatist movement in Sri Lanka.

So the need to promote communication and understanding across ethnic lines cannot be overemphasised. For this, it is necessary to combat the pervasive segregationist tendency which characterises education system. This could be done only by encouraging multi-lingualism, at least in schools and the universities so that the vast majority of our youthful population could communicate across ethnic lines and build social and cultural bridges facilitating social integration within a multi-ethnic and multi-cultural setting.

- f) Working towards a national consensus on the need to combat social injustice, corruption and abuse of power, all of which contribute to frustration, disillusionment and alienation among disadvantaged groups, in particular the educated youth. This would help invigorate the moral fabric of society leading to a reduction in social tensions.

The significance of social values and moral principles for the existence of a harmonious society can be hardly overemphasised. On the other hand, when such widely held values and moral principles are ignored or flouted by people with vested interest for reasons of political expediency or personal gain, the moral basis of the whole society is threatened. This naturally irritates the socially and morally conscious members of society who are quick to agitate for the restoration of the moral order.

Equality, social justice, good governance, public accountability, human rights and non-violence, are some of the slogans which represent the commonly accepted values and moral principles in our society. The recent events in the country and the experiences of large sections of the people point to the fact that we have failed to uphold these cherished ideals. Miscarriage of justice, widespread abuse of power, continuing violation of human rights, political violence unleashed by various forces, suppression and manipulation of free flow of information, widespread corruption and the lack of public accountability, etc. which we have witnessed in the recent past, all point to the above fact.

Unless and until we arrest the above tendencies and create public confidence that the widely held values and moral principles are no longer under any serious threat from within or without, the much needed social consensus might not be built. Without such consensus, different segments of society cannot be easily held together. The result would then be not social integration, but social tension, unrest and conflict all of which facilitate social disintegration.

Concluding Remarks

In the present paper, an attempt was made to outline some of the tendencies towards social disintegration in Sri Lankan society and explore ways and means of arresting such tendencies with a view to providing certain guidelines for corrective action.

The paper did not deal with such important topics as status of women, children, the disabled and the refugees, good governance, public accountability, free access to information, the rights of indigenous people, etc. These issues, however, are relevant and important in the context of Sri Lanka. Any plan of action aimed at facilitating social integration should necessarily address them and they should not be considered as any less important.

The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*

Some Comments

by

*Nimalka Fernando***

INTRODUCTION

On 18 December 1990 the United Nations General Assembly approved the new International Convention on the Protection of All Migrant Workers and Members of Their Families. This international agreement is a major accomplishment. Ten years of arduous drafting work and negotiations were required to bring it into existence.

The document provides a broad definition of the rights of migrant workers and their families and offers some means to review the compliance of nations in upholding these rights.

Furthermore, the new Convention is a necessary extension of global efforts to expand human rights, including those of migrant workers and their family members.

The significance of this new international convention has yet to be addressed by the international community. However, as the experience with existing international conventions on human rights, on refugees as well as other issues shows, such conventions can be extremely valuable mechanisms both to bring about recognition of rights and to uphold or defend such rights in practice.

Clearly, implementation of this convention will go a long way towards upholding basic humanitarian treatment of migrant workers wherever they may be. Indeed, campaigning to promote ratification of this convention can itself serve to highlight the role and contributions of migrant workers in many countries and to gain recognition for their rights.

Twenty states must ratify this new international human rights accord in order for it to "enter into force." Even then, it will only be binding on those states which do ratify it. Ratification involves formally agreeing and incorporating these provisions into national law.

* This document is available at the LST library.

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Obtaining approval of this convention will be no easier than is the gaining of acceptance for the presence of migrants in many countries. Already officials of three major "Western" countries have indicated that their governments do not intend to ratify.

The significance of this convention can be highlighted by these six points:

- (1) It recognises that migrant workers and members of their families being non-nationals residing in states of employment or in transit are an unprotected population whose rights are often not addressed by the national legislation of receiving states and by their own states of origin. Therefore, it becomes the responsibility of the international community through the United Nations to provide measures of protection.
- (2) It provides for the first time an international definition of a migrant worker, categories of migrant workers, and members of their families. It also establishes international standards of treatment through the extension of human rights to migrant workers and members of their families.
- (3) Migrant workers are viewed as more than labourers or economic entities. They are social entities with families and have rights accordingly including that of family reunification.
- (4) Fundamental human rights are extended to **all** migrant workers both documented and undocumented, with additional rights being provided to documented migrant workers and members of their families notably equality of treatment with nationals of the states of employment in a number of legal, political, economic, social, and cultural areas.
- (5) Overall, the International Convention seeks to play a role in preventing and eliminating the exploitation of all migrant workers and members of their families including an end to their illegal or clandestine movements and to irregular or undocumented situations.
- (6) Finally, it seeks to establish *minimum* standards of protection for migrant workers and members of their families that are universally acknowledged. Hence, those states lacking national standards under international pressure will come to bring their legislation in closer harmony with recognised universal standards in the international convention.

WHY IS IT NEEDED?

Migrant workers are a dynamic, permanent and global phenomenon in the contemporary world whose numbers and scope have expanded in the post world war II era. It is estimated that the number of international migrants in the world, including refugees, is in excess of 125 million, about half of them in the developing countries. In recent years, the main receiving countries

in the developed world registered a net migration intake of approximately 1.4 million persons annually, about two-thirds of whom originated in developing countries. More and more persons of diverse backgrounds and training travel across many more borders and seas than in previous eras for employment in a variety of forms and occupations. Women are recruited in groups as well as individually. Family members often follow. Many more nation states are involved either as sending countries or receiving countries, and in some cases both. Countries which are not experiencing this phenomenon today, have in the past, and may in the future. Transnational labour migration is both intercontinental and regional. The inter-regional migration is primarily from developing countries in the 'third world' to developed countries in the west. There is also today a significant movement of workers within regions of less developed states to newly developed sectors, such as in Southern Africa, Asia and Europe.

The migrant worker phenomenon has international political, economic, and social effects as well as humanitarian considerations. The recruitment of migrant workers and their homelands comprise a type of global interdependency for the receiving and sending countries that many states have yet to fully acknowledge. Many states of employment now recognise that migrant workers and their families are a permanent rather than a temporary part of their society.

PREAMBLE

The Preamble declares among 16 points that the states parties - the nations signing and ratifying the convention:

- Take into account the principles embodied in the basic instruments of the United Nations concerning human rights, in particular, the Universal Declaration of Human Rights;
- Take into account also the principles and the standards of the International Labour Organisation;
- Realize the importance and the extent of the migration phenomenon, which involves millions of people and affects a large number of states in the international community;
- Consider the situation of vulnerability of migrant workers and their families, and that their rights have not been sufficiently recognised everywhere;
- Consider that recourse to the employment of migrant workers who are in an irregular situation will also be discouraged if the fundamental human rights of all migrant workers are more widely recognised;
- and are convinced therefore of the need to bring about the international protection of the rights of all migrant workers and their families, reaffirming and establishing basic norms in a comprehensive convention which could be applied universally.

LOOKING BACK AT 1995

All in all, 1995 was a busy year for the Trust. Several new projects were launched while many on-going projects were successfully completed. The political developments in the country, the appointment of a parliamentary select committee to draft amendments to the Constitution, particularly to the fundamental rights chapter, amendments to the existing legislation, the peace talks and the subsequent outbreak of violence, and the devolution package had a significant effect on the work of the Trust.

The highlight of the year was the successful completion of the 1994 State of Human Rights Report, the second in the series. After months of painstaking work by the writers, the editor and the LST staff, the Report was presented to the Honourable Minister of Justice and Constitutional Affairs, Professor G.L. Pieris. The Report is now available at all leading bookshops.

The Trust also co-ordinated an evaluation of the projects and programmes of the International Commission of Jurists in Geneva at the request of the Ford Foundation. This evaluation, which followed a preliminary meeting in Geneva covered five regions of the world: Asia, Pacific and Australia; Francophone and Anglophone Africa; Latin America; the Middle East; and Europe.

1. Discussions

Discussions were held on various themes throughout the year:

- (a) The role and the powers of the Ombudsman in February;
- (b) The proposed amendments to the fundamental rights chapter in February and June;
- (c) The Bill on Commercial Arbitration in May;
- (d) Amendments to the Penal Code - rape laws in June;
- (e) Abortion laws in September;
- (f) Open forum on the Beijing Conference in September; and
- (g) The Bill on the Human Rights Commission in October;

2. Legal personalities lecture series

The fourteenth lecture on Legal Personalities in Sri Lanka was delivered by Mr Mohamed Hussein on Justice M.T. Akbar, K.C. in May. The Trust is preparing some of the lectures in this series for publication.

3. Conferences/consultations

The second follow-up consultative meeting on Minority Rights took place in Cambridge in August with participants from all over the world. The Trust's paper on Minority Rights and Development Co-operation was presented by Dr Neelan Tiruchelvam. The Trust is preparing the papers presented at the consultation for publication with the help of the Minority Rights Group in Geneva.

Regional Human Rights Reports Workshop, organised by Forum Asia of Thailand and co-ordinated by the Trust, was held at Induruwa Beach Resort in November from participants from South Asian countries to share experiences of those groups which have compiled national human rights reports.

The Consultation of the SAARC Working Group on Economic, Social and Cultural Rights on the theme *Copenhagen and Beyond: Asserting the Primacy of Rights* was also held in November. The main aim of the Consultation was to discuss the Copenhagen Declaration and the Plan of Action adopted at the Copenhagen Conference.

November saw the successful completion of the third National Law and the Economy Conference which was sponsored by NORAD. This year's theme was *Legal and Policy Issues Relating to Infrastructure Development*. Altogether ten papers were presented at the Conference and the keynote address was delivered by Dr Lal Jayawardena, the economic advisor to the President. The Trust is now preparing these papers together with a few additional papers for publication which the Trust hopes would provide a multi-disciplinary perspective of issues involved in infrastructure development.

4. Art competition/exhibition

In our effort to create awareness of human rights issues in the wider community, the Trust organised an art competition and exhibition in September on the theme *Defending Human Rights*. The competition was open to all school children over the age of 15. The competition was judged by Mr Senaka Senanayake. The winning picture will be used for the cover of the 1995 State of Human Rights Report.

5. Conferences attended by Trust's staff

Shariya Basnayake attended the consultation on Democracy, Development and Human Rights in January 1995 which was organised by the Asian Forum for Human Rights and Development, Jakarta, Indonesia. In March 1995 Mario Gomez attended the NGO session of the Social Summit which was held in Copenhagen, Denmark.

Sonali de Silva attended a 3 week training workshop on human rights issues in Kathmandu, Nepal. This was organised by the South Asian Forum for Human Rights (SAFHR) Nepal. Sumudu Atapattu was a member of the NGO delegation which met with their counterparts in Denmark and Norway in July which was sponsored the Danish Foreign Ministry.

In August Neelan Tiruchelvam, Damaris Wickremasekera and Kanya Champion attended the Minority Rights Consultation which was held in Cambridge, U.K.

Dharshini Sivanathan attended a two day training seminar in Dacca, Bangladesh on Implications of International Trade Agreements on South Asian Countries which was organised by the Consumer Association of Bangladesh in association with Consumer Unity and Trust Society of India.

Sumudu Atapattu and Dharshini Sivanathan attended the South Asia Conference on International and Regional Trade: Implications of Non-Cooperation in Kathmandu, Nepal in December 1995 which was organised by the Consumer Unity & Trust Society of India in association with the Pro Public, Nepal and the Leaders of Nepal.

6. New projects

The new projects commenced in 1995 include the CIPART project on the citizen's access to the law and the media which was commissioned by Asia Foundation and USAID. This is a joint project with ICES, Kandy in which the LST is responsible for the law component. Under this project, which is co-ordinated by Damaris Wickremasekera, the Trust carried out, with a team of 18 young lawyers/law students, a baseline survey in 23 areas of the country (excluding the North and East) based on a structured questionnaire to ascertain the people's access to the legal system and their knowledge of the legal system. The results from the survey are being tabulated and the final report will be ready by February 1996.

The Trust's project on health and human rights issues was also launched during 1995 under the co-ordination of Dr Hemamal Jayawardena and Ms Manjula Soysa. Under this programme a booklet on HIV/AIDS and human rights issues has been prepared which will be published soon. It is also proposed to organise a series of lectures aimed at creating awareness on HIV/AIDS issues. The target group will be students of medicine and law. In addition, the Trust hopes to carry out field surveys on access to health care, safe water and sanitation, malnutrition, health issues arising from urbanisation, pollution and environmental degradation.

The Trust is also working on a project on the impact of economic liberalisation on consumer protection and environmental protection in collaboration with Consumer Unity and Trust Society of India, of which the LST is the working partner in Sri Lanka. Although preliminary work on this project has been completed, the Trust is awaiting funds to launch this programme. Dharshini Sivanathan is co-ordinating this programme, with the assistance of Sumudu Atapattu and Damaris Wickremasekera.

7. Staff profile

1995 also saw the expansion of the Trust with the addition of many new faces to the staff under the able guidance of Damaris Wickremasekera. Sumudu Atapattu joined the Trust as a consultant in May after completing her Ph.D. at Cambridge University. She is in charge of the Law and Economy Programme and is the Editor of the *Fortnightly Review*. She is also the team leader for the CIPART project. Since joining the Trust, she has written several articles, completed the ICJ Evaluation Report, contributed to the Minority Rights Paper for the Cambridge Consultation and represented the Trust at several conferences/workshops.

Menique Amarasinghe joined in August soon after her final exam at the Law Faculty. She is working on the 1995 State of Human Rights Report and has organised many workshops, carried out research on various issues and is also preparing the legal personalities lectures for publication.

Manjula Soysa is the Co-ordinator of the Law and Economy programme and also of the health and human rights programme. She joined the Trust in October after completing her LL.B. at Colombo University and was instrumental for the successful outcome of the third Law and Economy Conference.

Minoli Hattotuwa joined the Trust in November after completing her MBA at Brunel University, West London. She is in charge of the institutional component of the CIPART project and is also working on the 1995 Annual Report.

Nirajan Ganeshwaran and Amali Abhayaratne joined the Trust in June and November respectively as administrative assistants.

Wedding bells for Dharshini

Dharshini Mahadeva married Dr Sivanathan at a traditional Hindu wedding in November. We wish them every happiness.

Farewells

Shariya Basnayake left the Trust in February. During her stay here she was responsible for the layout of the State of Human Rights Report 1993. In addition, she dealt with the publishing and marketing of the Report and co-ordinated the Professional Ethics and Responsibility Workshop and organised a book fiesta in 1994. She contributed actively to the activities of the Trust, including the annual report. We wish her every success.

The Trust bade farewell to Kanya Champion in June. During her two year period at the Trust, she co-ordinated the 1993 and 1994 State of Human Rights Reports, wrote several articles, represented the Trust at several conferences and workshops and also co-ordinated the ICJ evaluation. Although she no longer works for the Trust, she continues to contribute to the activities of the Trust. We wish her every success.

The Trust also said goodbye to Mario Gomez, this time temporarily. Mario went to the USA with his wife, Sharmala where she is reading for her LL.M. Degree on a Fulbright Scholarship. Sonali de Silva returned to the Law Faculty to complete her LL.B. Degree.

8. Interns during 1995

Two interns joined the LST in June/July: Sean Muggah and Nayantara Wijayanandana. Sean is a law student at McGill University and during his stay here he contributed actively to the activities of the Trust and wrote several articles.

Nayantara, a Biochemistry student in the USA, worked at the Trust for two months and helped the staff with the Trust's activities. She, together with Sonali de Silva, successfully organised the art competition and exhibition.

Sumudu Atapattu and Dharshini Sivanathan attended the South Asia Conference on International and Regional Trade: Implications of Non-Cooperation in Kathmandu, Nepal in December 1995 which was organised by the Consumer Unity & Trust Society of India in association with the Pro Public, Nepal and the Leaders of Nepal.

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