

FOR A PROGRAM OF JOINT ACTION TO RESTORE HUMAN RIGHTS IN SRI LANKA

(A proposal by the Committee for Democracy and Justice)

Preamble

The Committee for Democracy and Justice in Sri Lanka (CDJ) organised a seminar in November 1990 to discuss the national question and the restoration of democracy and human rights in Sri Lanka in the context of the continuing crisis in Sri Lanka. The discussion identified the sources of the crisis and key issues related to the resolution of the crisis. It also recognised the need for the broadest possible unity among all forces concerned for the wellbeing of the people of Sri Lanka on the basis of principles of humanity, justice and democracy and agreement among them on a minimum program for action. The following paragraphs outline briefly the sources of the crisis and proposals which could form the basis for a minimum program for united action by organisations and individuals concerned for democracy, human rights, freedom and justice in Sri Lanka.

It is true that the seeds of the present crisis were sown even before Sri Lankan independence from colonial rule in 1948. The failure of progressive political parties to take the initiative in seeking and struggling for solutions to the many aspects of social injustice inherited from the colonial and feudal past and their excessive reliance of electoral politics led to the development of new forms of social injustice in addition to the remnants of the past and to unprecedented violence and social conflict. Remarkable achievements in matters relating to trade unions and other mass organisations, free elections, the articulation of social and political views of individuals and organisations, and artistic expression have been severely undermined in recent years. The independence of the judiciary and the answerability of the police and other arms of enforcement of law have ceased to be. The scale of state violence in the north and the east in the pretext of containing the separatist struggle and in the south in the pretext of containing the JVP has surpassed that under any other repressive regime today. Despite this, the Sri Lankan government enjoys a considerable degree of respectability among western democracies which seem more than willing to prop up the faltering economy and a failing government.

Violations of democratic principles and human rights and the denial of the rights of minority nationalities cannot be attributed entirely to the UNP government since 1977. Earlier governments too have seriously erred on more than a few occasions, and even some political parties and groups opposed to the present government have their share of blame. It was, however, the activities of the UNP government since its massive electoral victory in 1977 which have done the most to destroy the institutions of democracy, justice and freedom. It is again the cynical attitude of this government and its armed forces which are responsible for the continuation of violence in the country. The opposition to the undemocratic, inhuman and unlawful activities of the government and the program for the restoration of democracy, human rights and justice in Sri Lanka cannot, on the otherhand, condone violations by the opponents of the government, especially those in total or partial control of territories where they exercise power over people and are responsible for the way in which this power is exercised. The strength of the forces uniting for a just cause relies not only on their number but also on their integrity and morality.

The national question

The war in the north and the east is to many the salient issue because of the scale of the violence and human misery. The reluctance of the government to find a just and lasting solution has been demonstrated by its failure to implement the Indo-Sri Lankan accord and in its efforts to play one section of the militants against another to undermine a peaceful settlement. The vicious bombing of the north in recent months is yet another demonstration of the government's intention to subdue the Tamil people by brute force.

Peace in the north and the east cannot be restored unless the rights of the nationalities to self determination is respected. This includes the right of the Muslims and Sinhalese in these areas to safeguard their fundamental rights including the right to be excluded from a regional government under which they fear that their rights will not be protected. Self-determination implies the right to secession but does not secession alone, and any solution imposed on a nationality without its approval through the democratic process will be a violation of its right to self-determination. A precondition to finding the consensus of opinion is the restoration of peace and an early, if not immediate, ceasefire is therefore essential. Pressure should be brought upon the warring factions and the government, in particular, to agree to a ceasefire and to initiate constructive negotiations without preconditions.

Disarmament of some of the combatants while others are armed to the teeth will be neither fair nor acceptable, and the insistence of the government on its right to maintain its armed presence in the north and the east, where its record is one of brutal repression of the Tamil nationality, will be rejected by the vast majority of the people of these areas. Threats to Muslims and Sinhalese from Tamil nationalist forces are serious and these people have a real need for protection. A neutral peace-keeping force acceptable to all nationalities is less likely to heighten tension than the presence of the armed forces of the government. Experience with the IPKF suggests that the peace keeping force should, preferably, be a multi-national

force of the UN or the South Asian region with no vested interests, partiality or prejudice.

The negotiations should include all the parties concerned and not be between just two parties so that the non-participants can shirk responsibility in the implementation of the outcome of the negotiations. The involvement of Indian interests through some of the Tamil nationalist groups makes it necessary to have India as a participant so that India will also be bound by the terms and conditions of the outcome.

Attempts to deport Hill-Country Tamils should be halted forthwith and the matter suspended until the national question and issues of democratic and human rights are satisfactorily resolved and peace and democracy restored in the country, so that a people who generated the bulk of the wealth of the country will be given a fair opportunity to decide their country of domicile.

Restoration of democracy

The intention of the UNP government to demolish all political opposition was clear when violence was unleashed against its opponents in the period immediately following the 1977 elections and its cynical attitude towards the violence against the Tamil people a month later. The establishment of an executive presidency, the victimisation of the former prime minister, the succession of violent attacks on opposition party meetings and the brutal suppression of the general strike in 1980 were none other than repeated declarations of that intention. The Prevention of Terrorism Act served as a guise to cover the acts of terror by the government forces in the north and enabled the government to extend its repression to the whole island. The long series of amendments to the constitution including those designed to prolong the life of the parliament and to keep the TULF out of parliament have destroyed the credibility of the parliamentary system and ensured that real power rests in the hands of the executive president.

The police and the armed forces have been transformed into appendages of the party in power. The judiciary, robbed of its independence, has also been stripped of dignity to the extent that even in the rare event of a court of law ruling against the government the ruling is ignored by the government, and not only lawyers associated with the opposition but also judges are threatened by people with the full backing of the government.

The trade union movement of Sri Lanka, once the envy of the rest of South Asia for its spirit of independence, has been all but destroyed. Mass organisations for social justice face repeated threats when there is the slightest possibility that they may alert the public about the misdeeds of the government. The bulk of the news media is directly or indirectly controlled by the state and even the small section outside state control is subject to severe pressure from the government so that there is always some form of political censorship in operation.

The restoration of democracy in Sri Lanka cannot merely be a return to the kind of parliamentary government which existed before 1977 and requires the development of organs of democracy which will safeguard the society against the return of a dictatorial regime and therefore requires the devolution of power in its widest possible sense. This is a major task to which the main hurdle is the executive presidency which stands in the way of the restoration of any form of democracy. The first and essential step in the restoration of democracy will therefore be the curtailment of presidential powers during the short period of transition leading to the abolition of the executive presidency and the evolution of the organs of a more decentralised form of democratic government. All unjust laws and amendments to the constitution passed during the years following 1977 for the purpose of tightening the grip of the dictatorial UNP regime should be repealed without delay.

The right of trade unions to be free from state interference and control and their right to industrial action should be restored, and they should be enabled to elect their officials without fear of outside interference and harassment. Popular organisations fighting for the rights of women, children and disadvantaged social groups should be allowed to function freely with legal protection but without state interference. The right of individuals to form and function as organisations for social justice and human rights and as political parties and groups should be respected and the right to free speech, publication and assembly protected by law.

Victims of human rights violations

Conservative estimates of killings in the anti-Tamil violence under the UNP regime and in the military operations in the north and the east run into tens of thousands. To this should be added the numbers killed in the internecine warfare between rival Tamil nationalist movements and in attacks by these movements on selected individuals. The number of killings in the south run into hundreds of thousands. A substantial number of these are attributed to the opponents of the government, but the government appears to be responsible for most of the killings.

The crisis in Sri Lanka and the handling of the crisis by the Sri Lankan Government have created a Tamil refugee problem unprecedented in the history of the island. The problem is further aggravated by the treatment of people in refugee camps by the armed forces and by the pressure brought upon the refugees by the LTTE who want them to leave the camps. The refugees within Sri Lanka and in the south of India are living under appalling conditions and an unestimated number driven away from their homes by the armed forces are forced to live with friends and relatives in other parts of the island. The Sinhala and Muslim refugees from the north and the east are in no way better off and efforts by the government to make political capital out of their plight is in no way helpful to the refugees or to the solution of the problem. This situation has been further complicated by the cruel decision by the LTTE to rid the north of Muslims. Thousands of Muslims have been robbed and driven away from areas in the north despite appeals by the Tamil people in these areas. Refugee status is invariably accompanied by the loss of property and means of livelihood for a vast number, and prolonged existence as refugees is likely to make their return to normal life all the more difficult.

Refugees in West European countries and in North America, predominantly but not entirely Tamil, are not in an enviable situation either. They are unable to integrate with the host societies because of cultural differences and prevalent social prejudices and suffer humiliation and isolation in some countries where their presence is not particularly welcome.

The fighting has claimed many victims besides those killed in combat. Bombing and artillery attack have injured and killed many civilians. Refugees have been particularly vulnerable to deaths caused by food shortages, insanitary conditions and inadequate medical attention.

Little can be done to compensate the loss of life. But the dependents and the immediate family of those killed need consolation and assistance to return to normal life. The bitterness caused by the death of a loved one is not easy to get rid of, but conciliatory attitudes in a caring society can help heal some wounds. Material compensation for the loss of life of the breadwinner or a potential breadwinner is necessary for most affected families to help them resettle into a more tolerable mode of existence. Compensation also needs to be paid to all civilians disabled partially or totally as a result of the conflict.

Resettlement of refugees in their homes requires the restoration of houses and other property damaged as a result of the conflict, compensation for the loss of livelihood, assistance with resettlement, and provision of useful employment. All stolen and confiscated property should be returned to the lawful owners and damage repaired or fair compensation paid where return or repair is not possible, irrespective of whether the loss was caused by the forces of the government, the militants or the IPKF.

The confidence of a victim of the conflict will never be restored as long as those who inflicted the wounds are seen to be in control. Legal inquiry into the violation of human rights should be carried out and those responsible for serious offences duly punished and removed from public office and not permitted to hold positions where they represent the government at any level and in any capacity. Killing of civilians should be treated as murder and unlawful confiscation of property as theft.

All persons detained without charge including political detainees should be tried or released without delay and all persons detained without charge paid full compensation for loss of earnings during detention. Persons against whom criminal charges exist should be subject to fair and proper trials, with the accused entitled to legal rights and to legal aid. Prolonged detention without charge should be deemed illegal and a punishable offence. Nobody in detention or otherwise should be subject to torture or sexual abuse or any other form of cruel and degrading treatment, and every person subject to such treatment should be entitled to compensation. The government should allocate special funds for the rehabilitation of individuals who have suffered severe physical and emotional stress as a result of detention and maltreatment.

The minimum program

The campaign for the restoration of democracy, human rights and justice cannot pretend to be apolitical. If the source of the problem is political, the solution will also be political, but the campaign should not be designed to serve any given political party, faction or ideology. The immediate issues confronting the country need urgent short term remedies about which agreement can be found among all democratic forces in the country and for which there will be overwhelming support from the masses. It is therefore possible for those who are sincere about a just solution to the crisis in Sri Lanka to agree on a minimum program for a united struggle in pursuit of that cause. Those who think that any given political party or faction could go it alone and defeat the UNP government are in for a rude shock, and those who intend to use the united front and the minimum program to further the interests of any party or group at the expense of the others will merely undermine unity and betray the cause. The united struggle and the minimum program cannot be opportunistic in any way and must be based on clearcut principles with no room for deception.

The good work of such an alliance of forces cannot cease with the overthrow of the repressive government and has to continue for some time after the establishment of the institutions of democracy and social justice.

Those who seek to separate the issues of democracy from those concerning the national question cannot serve either cause well. Narrow nationalism and chauvinism run against the spirit of democracy and it is sham democracy which denies the right of a nation to self-determination. Although it is possible for the united front to accommodate differences in views about specific solutions to important political questions, violation of basic principles cannot be accommodated. Those who pander to narrow nationalism and chauvinism of any kind will, sooner than later, serve the interests of the dictatorial UNP regime.

The Campaign

It is acceptable for one or more organisations to take the initiative in proposing and working towards the setting up of a broad-based united front. But it is wrong for any group, however large, to impose its will on others with whom it seeks to unite. What is important, especially at the early stages, is the identification of the issues on which unity can and should be achieved and to evolve through discussion among potential participants a minimum program capable of uniting the democratic majority against the oppressive few.

The program has to recognise the ultimate reality that the final battle will be on Sri Lankan soil and that it could involve violent confrontation with the ruthless government and its allies. It should also recognise the immediate reality concerning the prospects of organising an effective opposition within Sri Lanka. The government has demonstrated beyond doubt its capability to sabotage, split and brutally suppress any democratic opposition. Tolerance to dissent exists only insofar as dissent poses no serious threat to the UNP regime. The weakness of the regime is, however, in the international arena, because of the need for foreign aid to prop up the faltering economy.

Democratic and human rights organisations have achieved considerable success in exposing the violation of human rights and undermining of democracy by the Sri Lankan government. It is on the other hand true that these organisations have not been able to utilise fully the resources at their disposal. Unity among these organisations, cooperation on the basis of a minimum program, and coordination of activities with a common goal is likely to enhance the achievements of each and create a formidable force to confront the UNP regime on the international scene and inspire the democratic, progressive and patriotic forces within Sri Lanka.

As an initial step, effort should be made to improve cooperation between overseas organisations for democracy and human rights in Sri Lanka and to coordinate their activities in a way which makes the most effective use of the available resources. Dialogue and discussion between organisations should follow, with the aim of identifying a common denominator on the basis of which a minimum program could be drawn up and extending and expanding the scope of current human rights campaigns into a united and well coordinated effort.

Prospects

The success of organisations campaigning in the West for human rights in Sri Lanka in exposing the brutality of the UNP regime has made it difficult for the regime to obtain unqualified assistance from countries on which it is heavily dependant for its survival. The countries which aid Sri Lanka today, no doubt, prefer a right-wing government there, but are embarrassed by the human rights record of the UNP regime. They are, nevertheless, willing to restore any suspended aid at the slightest hint of a change in attitude of the Sri Lankan government. The Sri Lankan government is working hard to improve its image abroad without changing its domestic conduct. The image of Sri Lanka was tarnished by the violence of 1983 and by the behaviour of the government in particular. Tourism has barely recovered from the blow but efforts are afoot to build up tourism. Campaigns to boycott commercial tourism is a possibility worth considering. Trade boycott is a possibility for the future. The crisis in the Middle-East is adding to the fiscal problems of the government and a concentrated attack on foreign aid and earnings are likely to have a strong impact on the war effort of the government.

The campaign, as long as it is seen to be related to the Tamil national struggle or to the struggle of the JVP alone, is bound to fail since the government has the capability to drive a wedge between its opponents. The struggle, when it is recognised as one against the suppression of human rights, democracy and social justice, is likely to unite the vast majority. This could be achieved only through the human rights organisations working together in a way similar to that adopted in the 60's by organisations opposed to the US war in Vietnam. The present campaign is bound to be a little more complex than that because of the involvement of internal issues, but the basis for a common program exists and should not be wasted.

The proposed campaign is only a small step towards the great goal of restoring the dignity of a proud people and enabling them to stand with their heads erect among the people of the world. There are no guarantees of success in any campaign, but failure to make an effort will not be much short of condoning oppression.

APPENDIX I

Basic Principles for Discussion

1. Asking the combatants to seek a ceasefire and initiate negotiations
2. The holding of free and fair elections
3. The right of nations to self-determination
4. Halting the deportation of Hill Country Tamils
5. Safeguards against presecution on the basis of race, language, religion or caste
6. Abolition of the executive presidency
7. Repeal of the Prevention of Terrorism Act
8. The independence of the judiciary, the police and the armed forces from the party in power
9. Protection of the legal profession from harassment and threats
10. Freedom of trade unions from state interference
11. The right of employees to strike action
12. Freedom of speech and assembly
13. Treatment of all killing except in self-defence as murder
14. Protection of the lives and livelihood of non-combatants
15. Resettlement and rehabilitation of refugees
16. Compensation to dependents of those killed and to those left disabled as a result of the conflict
17. Return of stolen and confiscated property to the rightful owners
18. Repair of damage to immovable property at state expense
19. Removal from office of those who committed acts of murder, torture, sexual abuse and theft, and ensuring that they are not placed in positions of power
20. Safeguards against detention without trial
21. Allocation of resources to rehabilitate victims of prolonged detention
22. Safeguards against torture, sexual abuse or any form of cruel and degrading treatment and compensation to victims