

NOTE TO THE PEOPLE

Sri Lanka: Ignorance and Negligence of Law-Makers

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We have witnessed in the last a few days the presence of so many loopholes and gaps in the existing legislations that have had a negative and adverse impact on human security and the country's stability. These laws were passed by the Parliament consisting of elected representatives that is supposed to exercise peoples' sovereignty in the sphere of law-making. Article 75 says: "Parliament shall have power to make laws, including laws having retrospective effect and repealing or amending any provision of the constitution or adding any provision to the constitution." Article 76: 1 specifically mentions: "Parliament shall not abdicate or in any manner alienate its legislative power and shall not set up any authority with any legislative power."

So the Parliament and its members should be consciously involved in law-making process taking a long-term perspective on the context within which laws are made, the content and their implications and their possible future impact. What has recently come out is that our parliamentarians have miserably failed performing the task for which they got elected. This pathetic situation has now put into question the entire system of representation that we inherited from the British Raj and modified by the local brown sahibs. So one can justifiably ask: do Sri Lanka need a systemic change?

19th Amendment to the Constitution

Speaking in the Parliament a couple of days ago, Dr Jayampthy Wickramaratna, a UNP parliamentarian, revealed that the 19th Amendment to the constitution enacted in 2015 had a serious flow endangering the governability of the country. We all know the political context within which this amendment was passed by the Parliament. Two main political parties that were well known for 'ethnic outbidding' in the past came it to an opportunistic alliance just for the sake power the rhetoric used notwithstanding. Of course, the entire house except one member voted for the Amendment. The United National Party (UNP), the Sri Lanka Freedom Party (SLFP) and the Jantha Vimukthi Peramuna (JVP) described the passing of the 19th Amendment as a great victory for democracy and good governance.

What it has actually produced is political instability, human insecurity and ungovernability. Until the 19th Amendment, the Sri Lankan Constitution enacted in 1978 maintained political stability although the way in which it was produced may not be consistent with democratic governance. The best

example was the cohabitation crisis between 2002- 05 when the President and the Prime Minister represented two competing parties.

The 1978 Constitution has in-built mechanism to avoid a crisis because it gave power to the President to dissolve the Parliament after 12 months it was elected. The 19th Amendment, very badly written draft, took this mechanism away thus making cohabitation crisis protracted and injurious. The drafters of 19th Amendment would have been more careful and insightful in removing the above-mentioned stability mechanism. Had they been thoughtful they would have included an alternative mechanism. This shows the political ignorance and careless negligence of the Sri Lankan law-makers. The Constitution is the supreme law of the country. If it is changed this way to satisfy the whims and fancies of the politicians, it is adverse impact will be on the country and its people.

Foreign Exchange and Garbage

The government brought in a law in 2008 facilitating the importation of any item for certain applications without being subject to Customs or Inland Revenue or Finance Act regulations. In another law, brought in 2013, similar exemptions were granted for goods to be imported without being subject to Customs inspection or Finance Act Regulations or Import & Export Regulations, if the goods are delivered to “Free Port” area declared within the port premises and stored in specified “Bonded Areas”. Moreover, under the Strategic Development Projects Act, No. 14 of 2008, certain projects were identified as Strategic Development Projects. And the projects specified in the Schedule to this Act were granted exemptions. The importation of 27,685 tons of hazardous garbage from the UK has shown once again the total negligence and ignorance of the law-makers of the island. The loopholes and gaps in the above-mentioned acts and gazette notification have facilitated the importation of garbage that had serious ecological and health implications allowing money-makers to make quick profit. Well it may be good for the bourgeois economists as they know garbage handling and processing for reexport would add to the Gross Domestic Product.

Giving evidence before the Parliamentary Select Committee on April 21 incident, a senior director of the Central Bank of Sri Lanka has revealed that the changes made for Foreign Exchange Control Act in 2017 have made the foreign exchange transactions unaccountable. The question was asked by the amount money that was sent from Saudi Arabia to set up a private university in Batticaloa. The Central Bank officers has also revealed that the 2017 changes even to avoid the definition of foreign exchange malpractices (varada) so that what is legal and what is illegal are undefinable.

Is it really Ignorance and Negligence?

No doubt, an ignorance and negligence might have been played a major role in this whole exercise. It is true that many parliamentarians vote adhering to their party line. However, one may legitimately pose the question: is not there an underlying force behind the presence of those gaps and loopholes? Late Samir Amin talked about a New Class of Profiteers who control the entire governance program. He opines:

“The profiteers in question are business people, not creative entrepreneurs. They derive their wealth from their connections with the established government and the system’s foreign masters, whether representatives of the imperialist states (the CIA in particular) or the oligopolies. They act as well-paid intermediaries, benefiting from an actual political rent. This is the origin of most of the wealth they accumulate. The profiteers no longer subscribe to any moral and national values whatsoever. In a caricature of their alter-egos in the dominant centers, they are interested in nothing other than

“success,” in accumulating money, with a covetousness that stands out behind a supposed praise of the individual. Again, mafia-like, even criminal, behaviors are never far away.”

This new class of profiteers prefer to have loopholes and gaps so that they can use/ misuse them for their speculative semi-illegal operations seeking heavy and quick profits. And the politicians and the public officers may be involved this process as they may be benefitted by part of this monopoly profit.

Word of Warning

It appears that the Wickramasinghe wing of government is trying hard these days to pass so many bills on many subjects through the Parliament. Anti-Terror Act, State Land (Special Provisions) Bill, Amendment to the Higher Education Act, White Paper on Industrial Relations are among them. Many of these legislatures appear to be detrimental to the lower rung of society as well as the democratic rights of the people. Moreover, some of the changes may be to satisfy imperialist powers. So people should be vigilant about the government moves and prepare to stop them.

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