

US State Department acts duplicitously *vis-à-vis* Supreme Court of Sri Lanka & the Impeachment in 2012 of Chief Justice ?

The US State Department in its 2010 Human Rights Report on Sri Lanka released on April 8, 2011, at Section 4 – Titled – ‘*Official Corruption and Government Transparency*’, at pages 25 and 26 thereof had, *inter-alia*, stated thus:

- “The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and Officials in all three branches of the Government frequently engaged in corrupt practices with impunity”
- “In 2008 the Supreme Court found then Treasury Secretary P.B. Jayasundera guilty of a violation of procedure in the awarding of a large contract for the expansion of the Port of Colombo. The Court barred him from holding the Treasury position. In June 2009, after President Rajapaksa named a new Supreme Court Chief Justice, the Supreme Court allowed P.B. Jayasundera to proceed with a fundamental rights Case protesting the original decision. The Supreme Court then overturned the previous decision and allowed P.B. Jayasundera to be reinstated as Secretary of the Treasury.”

One of the three branches of the Government referred to above is the Judiciary, whilst the other two being the Executive and the Legislature. Justice Shirani Bandaranayake was then the senior most Judge in the Supreme Court, the apex Court of the Judiciary. On May 18, 2011 on the heels of the US State Department Report, she was appointed as the Chief Justice of Sri Lanka.

Consequent to the *privatization* of Sri Lanka Insurance Corporation Ltd., *also handled, among others, by P.B. Jayasundera*, having been *annulled* previously on June 4, 2009, as *unlawful and illegal*, in SC (FR) No. 158/2007, the Supreme Court having *vested* the same in the Government, *directed* that *professionals* be appointed to its Board of Directors. Subsequently, Justice Shirani Bandaranayake’s *husband*, Pradeep Kariyawasam, said to be holding a Diploma in Marketing, *among others*, had been approved on June 26, 2009 to be appointed, as a Director thereof by a Supreme Court Bench, presided by Justice R.A.N.G. Amaratunga, along with Justices K. Sripavan and P.A. Ratnayake. (*Amazon Books – ‘IMF, World Bank & ADB Agenda on Privatisation – Vol. 4: Sri Lanka Insurance Privatisation - Annulled as Unlawful & Illegal by Supreme Court’*)

Chairman, Sri Lanka Insurance Corporation Ltd., was a *functionary* under the Secretary Treasury, and thus **Justice Shirani Bandaranayake stood precluded** from having heard on September 24, 2009 the Application of P.B. Jayasundera to reassume Public Office, as Secretary Treasury. ***Nihal Sri Ameresekere had submitted to the Supreme Court on February 9, 2012 in my SC (FR) Application No. 534/2011 that such was far worse than the aforesaid ‘misdemeanor’ in the Case of Chilean President Pinochet in the House of Lords, which I had cited.***

Notwithstanding the foregoing, ironically Officials of the US State Department, led by Assistant Secretary, South & Central Asian Affairs, Robert O. Blake, criticized the impeachment in December 2012 of Chief Justice Shirani Bandaranayake !

Blog – <http://corruption-ruleoflaw-governance.com/>

Correspondence with Robert O Blake referred to above : <http://www.consultants21.com/pdf/public%20interest%20litigations/177-US%20State%20Department.pdf>

Google Books – ‘*Socio-Political Realities - Hilton Hotel Fiasco & Ad hominem Legislation - Expropriation Law*’



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a petition in court to overturn the results of the election, based on the allegations of elections law violations and counting fraud, but on October 29 the Supreme Court dismissed the case on technical grounds without rendering a decision on the merits of the case, stating that it would be impossible to prove in court whether the alleged fraud and violations occurred to the point of justifying the disqualification of Rajapaksa as a candidate.

There were reports that several thousand IDPs housed at the Manik Farm camp in Vavuniya were not able to vote because buses arranged for transporting them to local polling sites were late.

Several small explosions occurred in the area around Jaffna early on the morning of the election, but no injuries were reported as a result. However, some local observers reported that these may have dissuaded voters from going to the polls in those areas.

The parliamentary elections in April experienced some violence as well, but it was based largely on intraparty squabbles, as local candidates competed for preference votes within their own party constituencies.

There were reports of complications in the registration of some IDPs in the north later in the year as elections officials prepared for a full round of local and provincial elections expected in early 2011. The numbers of voters reportedly affected by these complications were relatively small.

Political parties largely were free to operate and name candidates as they wished.

There were 10 women in the 225-member parliament, two female ministers, and two women out of 11 justices on the Supreme Court. There were 28 Tamils and 17 Muslims in the parliament. There was no provision for, or allocation of, a set number or percentage of political party positions for women or minorities. Women's participation in politics was approximately 5 percent in the parliament and the provincial councils.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials in all three branches of the government frequently engaged in corrupt practices with impunity.

The mandate of the Commission to Investigate Allegations of Bribery or Corruption expired during the year and had not been renewed by year's end.

The tendering and procurement process for government contracts was not transparent, leading to allegations of corruption by the losing bidders. Senior officials served as corporate officers of several quasi-public corporations, including Lanka Logistics and Technologies, which the government established in 2007 and designated as the sole procurement agency for all military equipment. Critics alleged that large kickbacks were paid during the awarding of certain defense contracts. In 2007 the government used state pension funds to set up a new budget airline, Mihin Air, with many of the same officials serving as corporate officers. In May 2009 Mihin Air went bankrupt, but the 2009 budget allocated several million dollars to restart operations and continue leasing planes for the airline. Parliamentarians from the Janatha Vimukthi Peramuna (People's Liberation Front) complained in session that the airline's officials did not follow proper tender procedures in acquiring the planes.

In 2008 the Supreme Court found then treasury secretary P.B. Jayasundera guilty of a violation of procedure in the awarding of a large contract for the expansion of the Port of Colombo. The court barred him from holding the treasury position. In June 2009, after President Rajapaksa named a new Supreme Court chief justice, the Supreme Court allowed Jayasundera to proceed with a fundamental rights case protesting the original decision. The Supreme Court then overturned the previous decision and allowed Jayasundera to be reinstated as secretary of the treasury.

Although members of parliament are asked to complete financial disclosure reports upon their election, there was no follow-up to ensure compliance, and little or no reporting ultimately was done.

There was no law providing for public access to government information.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups continued to investigate and publish their findings on human rights cases, despite increasing government restrictions and physical threats to their work. The government often criticized local NGOs critical of government actions, failed to respond to requests for assistance, and put pressure on those who sought such assistance. For example, the government failed to investigate a death threat in August 2009 against one