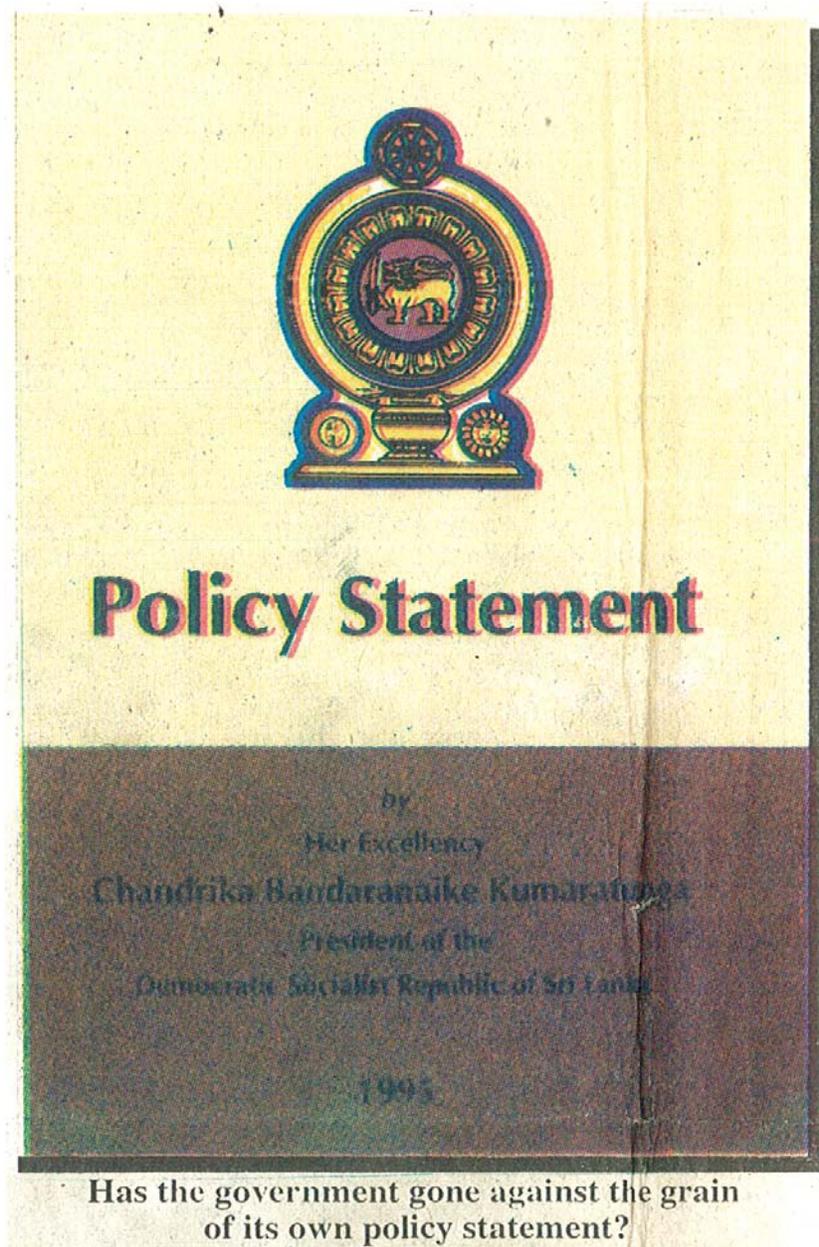


## BREACH OF POLICY STATEMENT?



*THE Sunday Leader* has, in the public interest, time and again, analytically exposed the dubious methods and manner of the privatisation of the valuable plantations, a national asset, which formed a core segment of the economy of this country.

In the case of some of the plantation companies, investigations and analysis have revealed the blatant conflict of interests and controversies that pertained to the privatization of those plantation companies leaving a litany of unanswered questions.

In the face of these factual media exposures made in the public interest, the Public Enterprise Reform Commission (PERC), headed by Deputy Treasury Secretary Dr. P.B. Jayasundera has maintained a significant silence, obviously unable to answer the several questions that have surfaced.

Does not public accountability and responsibility of holding such public office, carry the obligation to afford the public of this country adequate explanations of such questionable transactions, particularly since such transactions pertained to the sale of the plantations, an asset that belonged to the people of this country?

From a government that captured power promising transparency and public accountability, could the public of this country ever have expected such a calamitous performance, on the privatisation of the plantation companies?

Ought not the deeds of the government be measured and evaluated against the dicta of the policy statement of the government, made to parliament on January 6 1995 by President Chandrika Bandaranaike Kumaratunga?

Policy statement to parliament breached?

The people's Alliance government's policy statement to parliament in January 1995, castigated in the strongest of terms, the privatisation transactions of the previous United National Party regime.

To recall some of the strong criticisms contained in the policy statement to parliament –

“In the name of privatisation, the past regime had engaged in virtual daylight robbery of valuable national assets. In most cases, the award of contracts had violated all accepted norms and procedures”...

“Many of these ventures were grossly undervalued by reducing their sale price by as much as 2/3<sup>rd</sup> or 3/4<sup>th</sup> of the actual value.”.....

“Nowhere in the entire world would you come across such brazen pillage and plunder of a people's wealth.”.....

“They have only succeeded in enriching some powerful persons close to the leadership of the last regime.”

Ought not the privatisation of the valuable plantations, a national asset of this country, be scrutinised and reviewed in the context of the very dicta of the People's Alliance government's such policy statement?

What would the answers be on such scrutiny and review? Ought not PERC be held accountable and responsible to demonstrate that the privatisation of the plantation companies been entirely devoid of even an iota of the criticisms contained in the government's strong policy statement?

No prompt action

Should not the government that took up a very high profile stance on transparency and public accountability, have promptly taken action, to inquire and investigate and to hold those responsible accountable, if such policy enunciated by the government to parliament had been blatantly and grossly violated?

On public accountability and responsibility, particularly in relation to privatization, the People's Alliance government's policy statement to parliament in January 1995 promised the following-

'The government's approach to privatisation will be distinguished by full transparency and accountability which have been notoriously absent in the past. There will be no crony privatisation in the future.'....

"We have also to ensure that the process of government is transparent and free of corruption, and that everyone in public life is accountable for their actions."

Has all this been a dream or has the government tragically failed to transform that difficult but beautiful dream into a living reality?

Ought not the privatisation process of the valuable plantations, be examined and considered in terms of the standards and criteria spelt out in the People's Alliance government's policy statement to parliament of transparency and public accountability?

Would the plantation privatisation process and transactions when examined, be in strict conformity with such standards and criteria that had been spelt out by the government in its policy statement to parliament?

If not, ought not action have been taken to hold those responsible accountable? In not taking any action, particularly in the light of factual media exposures, had not the government patently failed to uphold the very policies that it ardently committed itself to uphold?

As regards public enterprise reform, the government's policy statement to parliament in January 1995 clearly stated – "Some government shareholdings in companies will be disposed of in the market. Also, the government will enter into long-term management leases in the plantation sector." (Emphasis added).

Hence, the policy statement to parliament, as regards the plantation sector stated that the government would enter into long-term management leases. But is this what has really taken place?

What is the worth and meaning of a policy statement to parliament by a government if in actual practice, implementation is totally different from the policy spelt out?

Last week we reproduced in these columns the details sourced by PERC, pertaining to the 20 plantation companies, whose majority shareholdings had been sold by PERC, contrary to the dicta of the policy statement of the government made to parliament – that than government would enter into long-term management leases as regards the plantation sector.

Had PERC no obligation to have taken action to implement the government policy pronounced to parliament? How did PERC act otherwise? Where would the government stand with respect to its pronounced high profile policy on transparency and public accountability?

### **A VERY 'PRIVATE' PRIVATISATION**

The majority share holdings of the plantation companies had been sold to selected parties. Some were exclusively selected and sold virtually on the basis of private treaty on a ludicrous 'strike price' formula without any competition.

Had the 51% majority shareholdings of the 20 different plantation companies been really sold to at least 20 different controlling parties or groups?

In several cases, the same controlling party or group acquired the 51% manority shareholdings directly or indirectly in more than one plantation company? If this has happened, then would not the whole process of pre-section be put in issue?

Would not a free and open economy have demanded open competition among many parties or groups as possible, and ensured that one party or group acquired the 51% majority shareholding of only one plantation company to have a broad spread out?

### **SAME GROUP**

Do not the 51% majority shareholdings of the plantation companies Kotgala and Agarapatana belong to the same group?

Similarly, do not the 51% majority shareholdings of the plantation companies Kelani Valley and Talawakelle also belong to the same group?

Similarly, do not the 51% majority shareholdings of the plantation companies Balangoda and Madulsima belong to the same group?

Similarly, do not the 51% majority shareholdings of the plantation companies Pussellawa and Maturata belong to the same group?

Similarly, do not the 51% majority shareholdings of the plantation companies Hapugastenna and Udapusellawa belong to the same group?

Similarly, do not the 51% majority shareholdings of the plantation companies Kegalle, Maskeliya and Namunukula belong to the same group?

Is this not factually so, whether such shareholdings are held directly or indirectly through corporate structures?

Would it not be calamitous if the profits of the first plantation company (questionably acquired well below the realisable market prices) had been utilised to acquire the 51% majority shareholdings in the second plantation company?

Meanwhile the state has lost the sale proceeds that ought to have been realised. Given such a scenario, can one really postulate that the privatisation of the plantation companies has been successful in terms of the real objectives of privatization?

Or on the contrary, has this been a very private privatisation? *Prima facie*, apparently only 51% majority shareholdings of the plantation companies was purported to be sold to one party or group.

In reality by the strategy of mandatorily convertible debentures, the controlling interests in the plantation companies that had really been sold had been well in excess of a 51% majority shareholding –even going upto as much as 71% majority shareholdings in one instance – through such ingenious process. This has been exposed in these columns.

The resultant picture is that. far from selling the majority shareholdings of the 20 different plantation companies to 20 different controlling parties or groups, the majority shareholding of the 20 plantation companies appear to have been sold only to 13 different controlling parties or groups.

Could such privatisation process be endorsed as a truly successful privatisation process or on the contrary, deemed a tragic failure on this facet alone, let alone the other exposures made on the questionable method and manner of privatisation and the dubious facets pertaining to some of the plantation privatisation transactions, including blatantly conflicting interests?

Even on the privatisation yardstick of the realisation of sale proceeds to the government, had there not been colossal losses wrongfully caused to the state, while unfair advantage, favour or benefit had been questionably conferred on selected parties by selling the majority shareholdings of the most profitable plantation companies, way below the realisable market prices, virtually by private treaty to exclusively pre-selected parties on a questionable strike price formula?

In terms of the government's own definition of corruption, would not some of these plantation company privatisation transactions warrant investigation in the first instance? Why has the government been unable to take action to uphold its own enunciated policies?

### **SOCIAL JUSTICE DISREGARDED**

The report dated February 6, 1995 of the committee on the proposed privatisation of the plantation sector, headed by then Finance Secretary and now Governor, Central Bank, A.S. Jayawardane, had defined one of the goals to be achieved by the process of privatisation of the plantations, as – “To ensure greater social justice in the allocation of shares of the national assets.”

The plantations being a national asset, this is what the A.S. Jayawardane committee report propounded, “National asset – the plantations are a national asset and therefore it is necessary to ensure that the benefits of the proposed restructuring be passed on to all citizens of the country in an equitable manner.”

“At the same time, the proposed scheme for disposal of shares should result in maximising government revenue. It is also desirable that the citizens in the country have a more direct stake in the plantation sector.”

“Equitable distribution –Since this is the largest and the most important segment of the national economy, the committee recommends that 20% of the shares held by the government in each of the plantation companies in which controlling interest is given out be distributed equally among all house holds in the country.’

The committee went on to recommend-

“ National Unit Trust

There are some practical difficulties in distributing individual certificates to every household and the cost to the plantation companies of servicing such a large number of shareholders would be prohibitively high.

In view of this, the committee recommends that the shares from all plantation companies should be allocated to a newly created National Unit Trust (NUT) and the households would become holders of units in this NUT. The head of each household in the country would be entitled for freely transferable vouchers and the recipient could exchange the voucher for a specified number of units in the new NUT. The rationale and basic technical aspects relating to setting up an operation of the NUT are given in Annexure 21.”

The plantations of this country, in addition to having been owned by a number of foreign companies, were primarily owned by a very large number of people of this country, spread out all over the island.

On the socialist principle that the plantations should not be owned privately by the people of this country, all the plantations were nationalised by the Sri Lanka Freedom Party led coalition government headed by Prime Minister Sirima Bandaranaike.

The plantations that be longed to a very large segment of the people of this country were virtually plundered from their owners under the policy of nationalisation by the Srma Bandaranaike government.

The plantations were to be owned by the state for and on behalf of all the people of this country, presumably for their benefit. Nevertheless, it is now surfacing that several politicians of both sides of the political divide had obtained valuable land from the land reform commission at questionable prices, putting in issue the whole process of nationalisation.

Nationalisation was a thunderous bolt and the deathknell to capital for mation in the hands of the people of this country and only contributed towards thwarting private initiative and enterprise and stifling economic emancipation and prosperous growth of the people of this country.

Ironically, what has happened today? The people’s Alliance government headed by Prime Minister Sirima Bandaranaike’s daughter President Chandrika Bandaranaike Kumaratunga, has handed over the plantations, virtually on a platter, to about a dozen parties or groups.

These were the very plantations that had been acquired under the policy of nationalisation from several thousands of people of this country by a coalition government of the Sri Lanka Freedom Party - led by Prime Minister Sirima Bandaranaike. How could this ever be social justice?

Though the lands had been given to the plantation companies on a 50 year lease upto the year 2045 that too with a right to be used as free hold, would not such possession be 9/10ths of ownership, with a legitimate expectation to renew the lease?

Ought not the former owners of the plantations have been given an option to purchase, had they wished to do so, a certain quota of shares in the plantation companies?

There are other countries that have honourably done so in the process of de-nationalisation of the plantations. Instead, plantation management companies have been virtually gifted the 51% majority shareholdings of the most profitable plantation companies on an exclusive option on the basis of a questionable strike price formula, without any open competitive bidding.

The A.S. Jayawardene committee report on the privatisation of the plantations had in fact gone one step further to ensure social justice and equitability by recommending the allocation of 20% of the shareholdings of the plantation companies to be owned by a share-owning trust for and on behalf of all the people of this country.

Yet all that does not, however, remedy the social injustice caused to the former owners of the plantations whose land had been plundered under the cry for nationalisation and who, have been questionably left out in the cold in the process of privatisation of the plantation companies, while the majority shareholdings of the plantation companies have been given to a selected dozen or so of parties or groups.

The irony is that Sirima Bandaranaike was the prime minister, when the plantations were nationalised and she is also the prime minister today, when the majority shareholdings of the very same plantations have been privatised by a government led by her own party, in a questionable manner to a small coterie of persons.

In such circumstances, how could she, as a national leader, be a silent spectator to this spectacle?

For that matter, how could A.S. Jayawardene be a silent spectator, having not only recommended a more equitable distribution of the shareholdings of the plantations, but also, no doubt, having had a hand in the formulation of the People's Alliance government's policy statement to parliament in January 1995, as the then Finance Secretary and a key economic strategist of the government?

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