

"TATA" TO DEMOCRATIC VALUES

"Minister Ashraff chucks up cabinet portfolio – Sri Lanka Muslim Congress breaks away from the People's Alliance condemning the damning terror, intimidation and violence at the Wayamba provincial council elections" – "Minister Jeyaraj Fernandopulle submits resignation to President Kumaratunga – Troubled by his conscience Minister Jeyaraj Fernandopulle disassociates himself and shuns the undemocratic Wayamba provincial council elections".

"The IGP offers to resign taking responsibility for the lawlessness at Wayamba ? – It is speculated in political circles that Lucky Kodituwakku, the Inspector General of Police has assumed personal responsibility for the lapses in law enforcement at the recently concluded provincial council elections in the North-Western Province, in the wake of mounting public criticisms, emanating even from within the People's Alliance government circles".

"Elections Commissioner tenders resignation after Supreme Court Judgment – Dayananda Dissanayake, the Elections Commissioner, a respected senior public servant, bowing to the strictures passed by the Supreme Court Judgment on his conduct and actions in the postponement of the Western, Central, North Western, Uva and Sabaragamuwa provincial council elections has tendered his resignation with immediate effect ..."

"Police arrest hundreds of suspects – The police have moved in fast and acted promptly to take into custody for questioning several hundreds of persons suspected of unlawful activities at the recently held Wayamba provincial council elections and legal circles expect several imminent indictments to be filed in Courts against the culprits on the direction of the Attorney General, Sarath Silva, P.C."



President Chandrika Kumaratunga

FIGMENT OF IMAGINATION !!

The public no doubt, will be quite puzzled, as to whether they are reading fact or fiction ! Sadly, in actual fact, the above conjectured media reports are mere figments of imagination and plain and simple fiction ! On the contrary, would not the above have been the type of media reports of events, that normally and ordinarily ought have been expected in the print media in a true democratic society ? Does this not, in itself, raise the cogent question, as to whether the social system of our country is really and truly democratic ? Is it that the political leaders of this country have been paying mere lip service to democracy?

Capturing polling booths by means of intimidation and violence, desecrating the very heart of the democratic process of human franchise, would not augur well at all for the strengthening of the democratic process in this country. Capturing of polling booths through means of gun culture and terror could easily lead to the capturing of villages, townships, districts and even provinces through such very means. Such scenes are not mere fiction, but living realities witnessed in the electronic media of events occurring elsewhere in the contemporary world, particularly in the continents of South America and Africa.

If the phenomenon witnessed at the Wayamba provincial council elections is not stringently and immediately arrested with strong positive actions, then the apprehensions that this country would also be heading the same way as a *banana republic*, necessarily have to be entertained. Such apprehensions would only be reinforced by the apparent lack of commitment, that would be expected in a truly democratic society, for strong positive actions to have dealt with such ugly lawlessness.

Statements of condemnation by mere rhetoric, without the warranted positive action of law enforcement by the relevant law enforcement authorities, could hardly be the solution to such precipitous situation threatening the very social fabric of this country. Contrary to norms of a developed democracy, no one apparently is assuming responsibility, nor are the miscreants and culprits being held accountable for blatantly violating the law in the very presence of the very law enforcement authorities. Politicians are by no means above the law, on the contrary they should ensure the compliance with the law and its enforcement. Is this, what is witnessed today in this country ?

ADDRESS TO THE NATION

The appalling assault against democracy was witnessed at the Wayamba provincial council elections on January 25, 1999. Nearly 10 days thereafter on February 4, 1999, ironically on the day of the commemoration of the very independence of this country, this is what President Chandrika Bandaranaike Kumaratunga significantly , inter-alia, stated in the address to the nation, as reported in the *Daily News* of February 5, 1999.

"In the political sphere, one of the cornerstones of my Government's agenda was the guarantee of freedom and participatory democracy at every level. The spirit of a proud and creative people, devitalised and curtailed by ruthless regimes of repression, cried out for self expression. It is to this clarion call that we responded throughout the spectrum of Government policy."

"My Government began at a point where no form of dissent could be articulated, without fear of the gravest consequences, extending to denial of freedom and to loss of life itself. What our people unequivocally rejected five years ago was a culture of subservience and servile conformity."

"My Government was required to embark upon the historic task of banishing the gloom of two decades of terror and to usher in a vibrant and refreshing political culture which drew its inspiration from the entrenchment of freedom, both individually and collectively. We restructured our political institutions in such a manner as to enable the spirit of freedom and democracy to flourish everywhere without restraint or inhibition."

"Nowhere is this more plainly manifest than in the unbridled freedom of the media. Every point of view, however ill-considered, inadequately informed, overtly prejudiced or even malicious, is given the fullest expression. Dissent, we fervently believe, is the life blood of democracy, and we have unflinchingly adhered to this conviction not by mere precept but by practical example. Banished from the collective consciousness of the nation, is the grim anticipation of reprisals, attended upon the challenges directed against political authority. We have made it possible for our country to heave a collective sigh of relief, that this state of things, belongs definitely and irrevocably to the past."

"It is the experience of history that it takes at least a whole generation to effect a substantial change in the political culture of a country. It is a lasting tribute to the courage and maturity of our people that a change of this magnitude was accomplished in the remarkably brief period of half a decade. Some years ago we all dreamt of freedom, of democracy. It seemed mere impossible to realise it, until August 1994."

"Yet we toiled hard, suffered immense pain and made much personal sacrifice to achieve our goals. We shall never permit the phantoms from the past to destroy our hard-won gains, nor shall we allow anyone from our ranks to sully our great victories. If some persons from our camp, have indulged in any actions that are contrary to the pledges we have given our people – even if it has occurred only once in four and a half years, I pledge here and now, that my Government and our political party will take the strictest action against all such persons. We shall also, ensure that no such occasions arise in the future."

"We re-established democracy in this country. It is our sacred duty to guarantee it as long as we remain in Government. We do not need the preachings of sanctimonious humbugs, who connived in silence whilst tens of thousands of our children were massacred, to tell us what we should do."

"The hallmark of our policy has been the conviction that political power is neither a right nor an entitlement, but a trust. It is this profound belief, pervading every action of my Government, that has imparted to our political philosophy the basic element of emphasis on accountability. Indeed, our basic goals in this regard have been honesty, accountability, transparency and efficiency. We have at all times, been prepared to explain our actions as a Government to the people and to submit to their judgement."

"Our achievements with regard to establishing a free and democratic political culture, although immeasurably significant, do not by any means represent the whole of what we have accomplished during the last four and a half years. An essential part of our vision is that of a humane, compassionate and caring Government. This has been reflected in all aspects of our social policy."

CENSURE BY SUPREME COURT

Just two days after the Wayamba provincial council elections, the Supreme Court, presided by the Chief Justice, pronounced Judgment on January 27, 1999 on the postponement of the provincial council elections in the Western, Central, North Western, Uva and Sabaragamuwa provinces. This landmark Judgment was delivered in an application made to the Supreme Court by two representatives of the free media movement, citing the Commissioner of Elections as the 1st Respondent. The following extracts, passing strictures on the conduct and actions of the Commissioner of Elections, from this historic Supreme Court Judgment would be of significant relevance to the functioning of the democratic process in this country.

"Although speedy elections were, undeniably, a matter of paramount public importance, the 1st Respondent did nothing, on and after 4.8.1998, to fix another date of poll."

"The Learned Solicitor General's contention exposes a flagrant contradiction in the 1st Respondent's position. The 1st Respondent averred that the impugned Regulation was validly made under Section 5, and that upon its publication he 'had no alternative but to refrain from taking any further steps towards the holding of the Provincial Councils Elections'. If indeed it was his position that he could exercise his power under Section 22 (6) only if the Proclamation and the Regulation were valid, and if his honest view was that the Proclamation and the Regulation were valid, why did he not promptly fix a new date ? The conclusion is inescapable that the 1st Respondent did not consider whether the impugned Regulation was valid and what his powers and duties were, but tamely acquiesced in the indefinite postponement of those elections."

"The 1st Respondent therefore was at least partly responsible for the failure to take the poll on 28.8.98; and was wholly responsible for the failure promptly to fix a new date, on and after 28.8.98, after that Regulation had spent its force."

"The 1st Respondent's aforesaid conduct in violation of Articles 12 (1) and 14 (1)(a) was neither authorized nor justified by any legal provision falling within the ambit of the restrictions permitted by Article 15. Article 15(2) permits certain restrictions on the freedom of speech only if prescribed by 'law' (not including emergency regulations), and Article 15 (7) permits restrictions on the right to equality and the freedom of speech if prescribed by 'law' or by emergency regulations, 'in the interests of national security, public order and the protection of public health, or for the purpose of securing due recognition and respect for the rights and freedoms of others, or of meeting the just requirements of the general welfare of a democratic society'. The 1st Respondent's conduct was not authorized by any 'law', and so Article 15(2) was inapplicable."

PUBLIC ACCOUNTABILITY

The blatant violations of the electoral process, moreso particularly at the Wayamba provincial council elections were visibly witnessed in the full public glare. To those political leaders of the People's Alliance, flouting in the full public glare, the very cardinal principles of the People's Alliance government's policy pronouncements made to Parliament, apparently was of no concern and shockingly of not much consequence !

The much decried "*Bheeshanaya*" was openly pursued without any inhibitions, whatsoever, in the full public glare ! If this be the case, one begins to entertain legitimate apprehensions, as to how genuinely committed the People's Alliance government is in dealing with the similarly much decried cancerous menace of corruption, bandied as "*Dooshanaya*", which, however, takes place away from such public glare ? The People's Alliance government's commitment to effectively deal with public accountability appears to be somewhat strangely quaint, confusing and truly incomprehensible, judging by the following recent contradictory reports in the state controlled *Daily News* on the very same matter.

On November 28, 1998 the *Daily News* under the banner headline –"Our darkest days – How they squandered millions", inter-alia, carried the following report, under the caption –"*Former UDA Minister Cader's TATA bus deal with the government*"

"The former U.N.P. Minister A.R.M.A. Cader, had got down 360 TATA buses from India during 1992 and 1993 and had virtually dumped them onto 55 Peoplised Bus Companies, with 100% lease financing provided by Central Finance Ltd. Some Peoplised Bus Companies had been presurised into buying as much as 20 buses. The total price of the buses supplied had been around Rs. 430.0 Mn. and with Finance Company interests, the total commitments passed on to the Peoplised Bus Companies has been over Rs. 730.0 Mn. Leasing interest, which would be around 35% - 40% would be a very high cost of finance, that the Peoplised Bus Transport Services could not afford to bear. "

"Though Mr. Cader an M.P. had obtained import duty waivers from the U.N.P. Government on the import of these TATA buses, they have been sold to different Peoplised Bus Companies at varying selling prices ranging from Rs. 1.0 Mn. to Rs. 1.3 Mn. each. Since these buses had not been imported through the TATA local agents Dimos, there had been no proper after sales service and maintenance arrangements."

"It is understood that Central Finance Ltd., had made such very liberal lease finance to placate a VVIP from the central hills. Central Finance Chairman Mr. Chandra Wijenaike is known to be a Committee Member of the UNP organisation for the Kandy district. In offering such liberal leasing finance, the financial strengths of the Peoplised Bus Companies and their abilities to repay had been completely

overlooked. Some of the Peoplised Bus Companies had to pay as much as 60% of their total Monthly Revenue, as leasing instalments to Central Finance Ltd., naturally resulting in heavy defaults."

"During the final days of the previous Government, on political intervention, the Treasury, who had nothing to do with the sale of these buses to the Peoplised Bus Companies had paid out around Rs. 85.0 Mn. to Central Finance Ltd. on the instalments defaulted by these Peoplised Bus Companies."

In a remarkable turnaround, strangely and quite intriguingly, within just 10 weeks thereafter, the *Daily News* of February 11, 1999 in its Business and Finance section published a report on the very same transaction under the caption – "*Dues from Peoplised Bus Companies - Govt to settle Rs. 589 m claim by Central Finance*". Given below are extracts therefrom.

"The Government has agreed to settle a Rs. 589 million claim by Central Finance (CF) over the settlement of dues from the Peoplised Bus Companies. CF was involved in a unique financing scheme of buses for the Peoplised Bus Companies between 1990 to 1994. Funding for over 400 buses had been provided Chairman C. Wijenaiké said the company intends to credit Rs. 589 million to the unrealised income reserve immediately and to transfer same to Profit and Loss account on receipt. Mr. Wijenaiké told the *Daily News Business and Finance* that the Government has agreed to pay the amount before end of 1999. Mr. Wijenaiké said that the Government officials had been very cooperative and negotiations had been conducted in a very cordial manner."

It is left to the intelligent public of this country to draw their own conclusions on the foregoing !

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