

HOME SOCIAL SPECIALS OP-ED ESSAYS COLUMNISTS INTERVIEWS

Search...

ABOUT



SRI LANKA  
GUARDIAN



SRI LANKA GUARDIAN BRINGS THE LATEST AND TOP BREAKING NEWS & VIEWS ON POLITICAL AND CURRENT AFFAIRS

SUBSCRIBE

Browse » Home » Basil Fernando , Interview » Caste origins of Sri Lanka's authoritarianism

Tuesday, April 13, 2010

## Caste Origins Of Sri Lanka's Authoritarianism

An interview with Mr. Basil Fernando of the Asian Human Rights Commission by Nilantha Ilangamuwa of the Sri Lanka Guardian

(April 13, New Delhi, Sri Lanka Guardian) Today authoritarianism in Sri Lanka is a common topic which is very much discussed. You have written extensively on authoritarianism in Sri Lanka, particularly since the 1978 Constitution. Could you try to explain why a Sri Lanka which began its independence period as a democracy shifted to an authoritarian system?

Recently, I was explaining to an American student about Sri Lanka's special history. I was showing him a book which documented 200 years of history of the Supreme Court of Sri Lanka. He asked me this question: obviously Sri Lanka has had a very long history of trying to introduce institutions of the judiciary into the country based on a common law system. However, it has now shifted to an authoritarian model. How did that happen?

He was wondering as to whether Sri Lanka have a sufficient amount of competent, well-trained judges. Or whether this happened because of a lack of human resources to run these organisations. Of course that is not the case.

For over 200 years Sri Lanka has had well trained lawyers. People initially went to the United Kingdom and were qualified in the British universities. There were British judges in the country for a long time and other training, including that of law graduates, started with the institutions like the Faculty of Law which started in the University of Ceylon, and then other institutions were created like the Law College of Sri Lanka.

Looking into the long record of new law reports we see judgements written by judges in Sri Lanka on criminal law matters, civil law matters and also constitutional and administrative law matters, and all this indicates that there is a competency of judges in Sri Lanka. There are many persons from the legal profession and sometimes the judicial profession also who have initially started their practices in Sri Lanka and then gone into important institutions outside like the United Nations and even the International Court of Justice, and taught in international universities and played their parts in many ways and in many capacities.

So from the point of view of the basic training of lawyers in the past, and the education profession, it is not the explanation about the manner in which Sri Lanka abandoned the conception of the rule of law and professionalism in a very fundamental way and now serious erosion has entered into the very practice of the independence of the judiciary in the country.

Also it is important to note the subjugation of the judiciary to the executive which is controlled by one man. The absolute power concept has replaced the idea of rule by any kind of checks and balances. So the reason does not lie in the absence of competence. We have to look to other sources to see how in the course of 30 years a whole tradition came down.

**So, how is it possible to bring down a 200 year tradition with some many competent persons within such a short time?**

That is the very issue that needs to be discussed. First of all the people that did away with the system came from this section of people who had their training on the judicial system. The Jayewardene's were involved in the law business. Although J.R. Jayewardene tried to create the impression at one time that his father was a judge this has now been challenged. Anyway, his father was a senior lawyer at the time and his brother was a Queen's Counsel and a leading lawyer at the time playing a very important role as the President of the Bar Association. Many prominent personalities supported him and his party. Even the chief justice he appointed from outside the judiciary was a prominent QC, Mr. Neville Samarakoon.

Even before J.R. Jayewardene, the first attacks on the judiciary came from the coalition government which ruled from 1970 to 1977, when there also prominent lawyers were in the government. For example Colvin R. de Silva is known as one of the best criminal lawyers produced in the country and had quite a great reputation. There were others like Felix Dias Bandaranaike who was also a senior lawyer who came from a family involved in the legal profession for a long time.

So the dismantling process of the separation of power concept, attacks on the checks and balances and the attempts to replace the independence of the judiciary all came from the so-called legal elite of the country.

-advertisement



FOCUS: FEATURES, ANALYSIS AND VIEWS



"The Rajapakses cured and made whole the Sinhala ego, battered and shattered by Indian intervention and Tiger victories. Only a stagnant economy resulting in drastic deterioration of Southern living standards can dent this positive image and turn a majority of Sinhalese against the Rajapakses. The repressive measures are needed partly as an insurance against such an outcome." ...Read More

Baba Saheb Ambedkar



Ambedkar's Buddhism was a Buddhism of a minority trying to liberate the entire nation. Ambedkar opposed separatism but always...Read More

-Advertisement

**Sri Lanka**  
Impunity, Criminal Justice & Human Rights

**SRI LANKA**  
Impunity, Criminal Justice & Human Rights

**Basil Fernando**  
Asian Human Rights Commission

"What this book does is to give some very vivid impressions about what it means to live in Sri Lanka today under a collapsed rule of law system, a collapsing situation of constitutionalism and the spread of the influence of the security apparatus in all parts of the country. How does the average citizen experience life, living under these conditions? What kind of insecurity is there today in Sri Lanka? The book narrates the details of this insecurity in all aspects of life. The theme is summarised under one expression: **abysmal lawlessness.**"

Copies of the book may be obtained from:  
Asian Human Rights Commission  
19th Floor Go Up Commercial Building  
998 Canton Road, Mongkok, Kowloon  
Hong Kong, China  
Telephone : +(852) 26986339  
Fax : +(852) 26966367  
Email : ahrehk@ahrehk.org

**About the author:** Basil Fernando is a Sri Lankan lawyer, who has also work as a Senior UN Officer. He is the director of the Asian Human Rights Commission and has written extensively on the human rights situation prevailing in Sri Lanka. He has published several books, and hundreds of articles.

web sites: [www.basilfernando.net](http://www.basilfernando.net) and [www.ahrehk.net](http://www.ahrehk.net)

Stop Making Excuses

In our last editorial comment, we said that if the UNP wanted to regain the confidence of the people they must admit to the wrongs...Read More

**Then how could that happen? How could they be involved in attacking the foundation in which they themselves had their education and social status?**

Once again this is all about knowledge. They knew the system very well. They knew of all the loopholes and the ways to undermine the system in much the same way an engineer might know how to demolish a building.

Someone who knows the structure of a building and the construction industry could be part of modern terrorism. For example there are talks about the 9/11 attack in the United States and how those huge buildings could have been brought down by such an attack.

The reason lies with the fact that some knew exactly where to attack in order that the buildings collapsed.

In the same manner, the Jayewardene brothers in particular, knew all the weak points of the system which was prevailing in Sri Lanka and in designing the 1978 Constitution they used this knowledge in order to undermine the very system of constitutional governance through a constitutional process.

Jayewardene made himself the first executive president of Sri Lanka with all the powers vested in him as the head of state by adopting a constitution through the formal process of passing a new constitution with the required majorities.

Furthermore, inbuilt into the new constitution were certain clauses which would virtually undermine the power of the cabinet by transferring its power into the hands of the president. It also undermined the parliament, virtually subjugating it to a place where it only had rubber stamping functions. It became a parliament that could not undermine the power of the president except by way of an almost practically impossible process of impeachment.

Above all, Jayewardene knew where to attack the judicial process.

With the capacity of a powerful president to direct the process of the selection of judges, purely by no other means than the choice of the president himself, is not just formality. By a process of controlling the budgets they knew that they could undermine the earlier construction of the constitution that had been in place.

This was what was done by the 1978 Constitution. Particularly by creating the position that put the president above the law.

It is a very funny way of using the constitution because usually the idea of constitution in a liberal democracy is to create the idea of the supremacy of the law over all the branches of the government, including the executive.

However, this particular constitution was made for the purpose of changing the system which accepted the supremacy of the law and replacing it with one by which the president was more powerful than the law.

That was the ultimate aim and the construction was done in such a way so as to achieve this.

**We do not need to go into the details of the Constitution itself in this discussion because that has been done elsewhere. However, the question is as to how, despite of over 200 years of judicial history was it possible to displace such a system and what was it replaced with?**

This really brings us the more important question about constitution making in Sri Lanka,

Particularly in the way in which the Soulbury Constitution was made, which was a law drafted by the British by a British constitutional expert Ivor Jennings, and whose operation was directed by the Colonial Office of the United Kingdom, must be examined.

What was needed was to make a constitution that was really a part of dealing with the problems of democracy as against the feudal foundations of a society.

In today's democracies like France, the United Kingdom and many others, there is a period in which there was a deliberate demolition of the feudal foundations of a state and a building of the democratic foundations of the state. No such internal political process took place in Sri Lanka. things were introduced into the country with the idea that when the new institutions were established and had been running for a long time the people would be accustomed to these new institutions and the belief that the memory of the old system would pass away. And the new system would be the ground on which the whole edifice of the social and political life of the country was built. It is this fundamental belief that was flawed. The house was built on sand whereas the inner foundation was not prepared and with a little bit of wind, in a political sense, the whole edifice could break. The social process of democratisation of a feudal society into a democratic society cannot be done purely by the introduction of institutions without an internal process. And that is what we see from the example of Sri Lanka.

Externally the processes of adult franchise was introduced, representation was introduced, the parliament was built, the laws were introduced in almost every area of life. In criminal law, there were criminal procedures and constitutional law. However, the building did not last and with a few clever tricks it was possible to bring it down.

**What did we get back?**



**2010: Our 1984**



I did not and do not consider Sarath Fonseka to

be a hero, any more than I consider Mahinda Rajapakse and Gotabhaya Rajapakse to be heroes.....[Read More](#)

### People Of Sri Lanka Deserve Better



When Sri Lanka recently went for Presidential election, many people around the world thought that the country's democratic system has matured and Sri Lanka will be

able to overcome its problems before long....[Read More](#)

### Theory Of Deconstruction

**The French philosopher Jacques Derrida questioned the fundamental conceptual distinctions of our understanding of the World through a close examination...**[Read More](#)

### War Trauma Experiences



In the Sri Lankan conflict, the impact of war and extreme stress on civilian population has been highlighted over the years.

However, war traumas experienced by the ...[Read More](#)

### Enforced Piety And Protecting Law & Order



We owe our readers an apology for this column not appearing last Sunday. The reason is, we confess, an orgy of kiributh...[Read More](#)



## JOURNEE MONDIALE CONTRE LA CYBER-CENSURE 12 MARS 2010



Téléchargez le logo et affichez-le sur votre blog, site internet, profil Facebook ou compte Twitter.

When you demolish something all you do is go back to how things were. Sri Lanka has returned to her feudal foundations. In the psyche and the minds of the elite who were educated outside, their inner minds, their inner psychosis, their inner psychological and social foundations were not changed. There is a whole process, like in the natural process, also in the psychological and social process of the evolution of thoughts, or ways which are part of a ruling. The ways of power in the country have always been authoritarian. It was the absolute power of the king and a few land owners and in the feudal pyramid. The king stood at the top and this feudal pyramid was cemented by the social organisation of caste. These are the two factors that need to be understood in Sri Lanka, the concepts of monarchy and the concept of caste. These are the things on which the power and the social control of the country have been kept over centuries. Now we have returned to this caste foundation. Instead of the monarchy we have a modern terminology, but essentially it is a power pyramid in which there is absolute in the hands of the executive president and there is nothing to control or check that power. In fact, there is the psychological and social foundations of caste and the psychology that was built through caste systems of intimidation and fear that supports this whole system.

So, what we have returned to is our origins, we have returned to our year zero. Our year zero is that zero that begins with absolute power and ends with absolute power systems. That is what we have at the moment. There is the façade of institutions but without power they are a force that has no real power today to deal with the questions of governance. The president is above the law; therefore, the courts are below him. Therefore without equal power in an abstract constitutional sense it is not possible to challenge another power. In the power dynamics, the courts, even if they do not want to despite of who the personality might be, do not have the power, the real actual power, to demonstrate a genuine independence of the judiciary that is possible within a liberal democracy with a foundation that gives considerable power to the judiciary.

When the judiciary is powerless there is very little that the individuals can do. Individuals do not matter very much in this and that is also the case of every other institution. So, we are back to the caste foundations, absolute power foundations and our feudal foundations. And it is in this area that any serious student today of politics in Sri Lanka should try to understand if we have to make some sense out of the present situation. Before we deal with solutions we have to understand the problem.

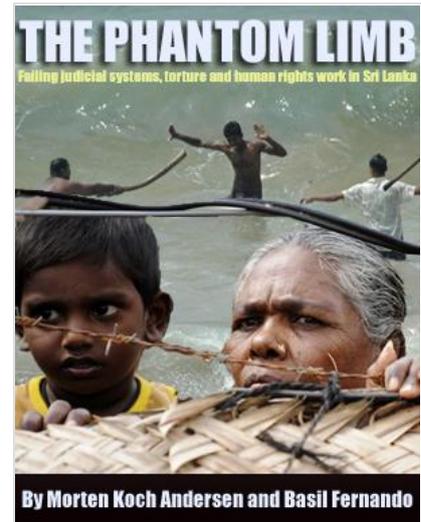
To be continued...



LINKS TO THIS POST

Create A Link

READ NOW: FREE BOOK



[Published in November 2009 jointly by the Asian Human Rights Commission (AHRC), Hong Kong and the Rehabilitation and Research Centre for Torture Victims (RCT), Denmark. 80 pages, ISBN: 978-962-8314-47-8]

LATEST HEADLINES IN SINHALA » ජනමය මාධ්‍යයේ අදාළ සහ පරණ ලැයිස්තු - පරිදා - අදාළ ක්‍රීඩා සහ සංවාදය - බැංකු පැළුම් හා නමුදු  
 ට පැළුම් අතර ඇති මහ වෙනස - සියලුම පැළුම් ආදායම් පැමිණිලි කිරීමේ කොටසක් ද!



WORLD NEWS: LATEST UPDATED

- Olic treble fires Bayern to final
- Afghanistan against the odds
- Scandal hits Indian cricket league
- IPL was 'an Enron in the making'
- Sampa blow Serie A wide open

**Did you know?**  
 262 million people were affected by climate disasters in 2004, more than 98 per cent of them in developing countries

LATEST SPORTS NEWS

- RR hit back at BCCI, say bid didn't flout norms
- The IPL's Most Valuable Player - Part 1
- Improbable for English sides to take part in CL T20: ECB
- Fielding cost us the game: Sachin Tendulkar
- Gavaskar, Shastri, Pataudi to decide on IPL-4 modalities

HOME SOCIAL SPECIALS OP-ED ESSAYS COLUMNISTS INTERVIEWS

Search...

ABOUT



# SRI LANKA GUARDIAN



SRI LANKA GUARDIAN BRINGS THE LATEST AND TOP BREAKING NEWS & VIEWS ON POLITICAL AND CURRENT AFFAIRS

SUBSCRIBE

Browse » [Home](#) » [Basil Fernando](#) , [Interview](#) , [Sri Lanka](#) » Caste origins of authoritarianism in Sri Lanka--Part 2

Thursday, April 15, 2010

## Caste Origins Of Authoritarianism In Sri Lanka--Part 2

An interview with Mr. Basil Fernando of the Asian Human Rights Commission by Nilantha Ilangamuwa of the Sri Lanka Guardian

(April 15, New Delhi, Sri Lanka Guardian) We talked about the linkage between the collapse of the rule of law, democracy and human rights violations in Sri Lanka and also the relationship to the issue of caste. Can you elaborate on this aspect?

In a caste based society there is no concept of the equality of the law. What this means is that there is no acceptance of laws common to and binding on all persons on an equal basis.

Without this there is also no basis for representation which is the basis for representative government. In fact, there is no room for inter-communication between various groups in society. In caste, instead of inter-communication what you have is very strict separation; something even more than the separation in apartheid.

Once you have no basis for inter-communication then there is no room to recognise freedom of speech, communication and media.

When these basic concepts of equality before the law are absent, the next thing to happen is that the punishment meted out to different groups varies. Therefore there is disproportionate punishment of the weak and the poor and those who don't belong to the privileged. This not only inherent in caste but is conceived to be a virtue.

In caste society the hierarchy is an ideal. If things are organised hierarchically in caste society the belief is that things will work well is way.

The top of the pyramid should have everything; the bottom of the pyramid should have nothing.

That is what caste is and it is what democracy is not. That is why we are giving up even the limited extent of democracy introduced with the independence and returning to authoritarianism.

**People will argue that there is no equality anywhere. Even in the developed world like the United States there is a tremendous gap between the rich and the poor. This is common throughout the world. So what is so very different in the caste society context and these other experiences?**

The question of equality, in economics or social equality and the concept of equality before law are two very different concepts. Equality before law means that despite of being rich or poor, powerful or otherwise the laws of the country apply to all in a similar way.

For example if there is a crime called murder which is called into law, a murder committed by a poor man and one committed by a rich man should not be different. It also applies to any other law, for example corruption. Let us say there is a crime called bribery. Whether an officer of lower rank obtains bribes or when the higher ranking officers or even persons holding political office obtain a bribe under the rule of law there is no difference.

The same law applies to all. Both officers need to be punished by the state. And the state must have the political will to punish both for similar types of crimes.

Of course the rule of law is not only about crime but everything else. For example, suppose you must declare your income. In fact, everyone, irrespective of rank has to declare their income according to the methods prescribed by the law.

If someone does not comply the law should also have the means and the methods of prescribing similar punishment to both.

No one should be able to enter court and say that he is the holder of a certain office and therefore he cannot be brought to court. That is the minimum of the rule of law, even if it is the king himself; the king cannot say to the court, "Your court is not for me. You cannot ask me to appear and to answer questions. You cannot even ask me to reply to charges when they are laid down properly according to the law".

-advertisement



FOCUS: FEATURES, ANALYSIS AND VIEWS



"The Rajapakses cured and made whole the Sinhala ego, battered and shattered by Indian intervention and Tiger victories. Only a stagnant economy resulting in drastic deterioration of Southern living standards can dent this positive image and turn a majority of Sinhalese against the Rajapakses. The repressive measures are needed partly as an insurance against such an outcome." ...[Read More](#)

Baba Saheb Ambedkar



Ambedkar's Buddhism was a Buddhism of a minority trying to liberate the entire nation. Ambedkar opposed separatism but always...[Read More](#)

-Advertisement

### Sri Lanka Impunity, Criminal Justice & Human Rights

"What this book does is to give some very vivid impressions about what it means to live in Sri Lanka today under a collapsed rule of law system, a collapsing situation of constitutionalism and the spread of the influence of the security apparatus in all parts of the country. How does the average citizen experience life, living under these conditions? What kind of insecurity is there today in Sri Lanka? The book narrates the details of this insecurity in all aspects of life. The theme is summarised under one expression: abysmal lawlessness."

Copies of the book may be obtained from:  
Asian Human Rights Commission  
19th Floor Go Up Commercial Building  
998 Canton Road, Mongkok, Kowloon  
Hong Kong, China  
Telephone : +(852) 26986339  
Fax : +(852) 26966367  
Email : ahrehk@ahrehk.org

About the author: Basil Fernando is a Sri Lankan lawyer, who has also worked as a Senior UN Officer. He is the director of the Asian Human Rights Commission and has written extensively on the human rights situation prevailing in Sri Lanka. He has published several books, and hundreds of articles.

web sites: [www.basilfernando.net](http://www.basilfernando.net) and [www.ahrehk.net](http://www.ahrehk.net)

Stop Making Excuses

In our last editorial comment, we said that if the UNP wanted to regain the confidence of the people they must admit to the wrongs...[Read More](#)

The idea that anyone is above the law is completely alien to the idea that everyone is equal before the law. We cannot say that everyone is equal before the law except the king.

In a caste based society the principle is different. In India the Brahmins are the top caste. They were above any of the rules. The rules only applied to those of lower caste according to their rank. If a high ranking person demands the produce of the villagers, the working farmers, they have no choice but to give it.

If a Brahmin demands a daughter of even a second ranking caste member, like the traders or warrior caste they have to hand her over.

Rape was not a crime in a similar way to any Brahmin. It can of course be a crime of unforgivable nature if by any chance a lower caste, a Sudra for example who did physical labour or an untouchable Dalit, were to rape a Brahmin girl not only the rapist but his entire family and his clan could be wiped out, their houses burned and by that everyone would be taught a lesson.

So that very concept of crime was relative; relative to the position held in the caste hierarchy. In the context of the rule of law irrespective of your economic, social or political position the way you are treated before the law is the same.

The same crime, the same punishment by the same process of law and the courts has the power to do that. No such court system could exist within a caste society. Thus the concept of the administration of justice as required by a rule of law system never arose in societies as long as the system which prevailed in the past was the caste system.

Even when colonial powers introduced it, it did not take root, in such countries.

Therefore before the colonial powers introduced the courts systems that developed later, in Sri Lanka we do not have the experience of justice in the true sense with which we talk about justice today.

For example the word 'yukkitiya' does not have the same meaning with regard to a landlord or a 'radalaya', an ordinary peasant. It is even worse if they belong to a lower caste, the fisher folk for example, or a washer man, there is no common idea of justice.

In caste society, inequality is inbuilt into any kind of punishment or justice. Privilege is justified and protected by the whole system. Any kind of advantage is gained only by way of some kind of patronage of the people at the top. Being servile to the top, showing every kind of deference to the top, respecting the people at the top, meaning doing whatever they wish is the normal law of caste and that is the kind of situation we are returning to in every respect within our social context also.

So the difference between democratic society and a caste based society is not about some kind of absolute equality which is not even an ideal. The ideal is equality before the law, the same laws, the same kind of treatment for non-observance of the law by the same kind of courts with the powers of those courts to ultimately monitor the observance of the law and having the same respect for the rights of everyone.

There must be rights for everybody, not just for some people and duties only for other people in caste society; duties for everybody other than those small privileged groups. The top group has the privileges the rest of society has only the duties and if they don't carry them out they can be punished as harshly as possible by those who have no concept of common right and wrong.

#### Related Links:

[Caste origins of authoritarianism in Sri Lanka--Part One](#)

[The Phantom Limb \( free E Book in Pdf format](#)

To be Continued..



#### LINKS TO THIS POST

[Create A Link](#)



#### 2010: Our 1984



I did not and do not consider Sarath Fonseka to

be a hero, any more than I consider Mahinda Rajapakse and Gotabhaya Rajapakse to be heroes....[Read More](#)

#### People Of Sri Lanka Deserve Better



When Sri Lanka recently went for Presidential election, many people around the world thought that the country's democratic system has matured and Sri Lanka will be

able to overcome its problems before long....[Read More](#)

#### Theory Of Deconstruction

**The French philosopher Jacques Derrida questioned the fundamental conceptual distinctions of our understanding of the World through a close examination...**[Read More](#)

#### War Trauma Experiences



In the Sri Lankan conflict, the impact of war and extreme stress on civilian population has been highlighted over the years.

However, war traumas experienced by the ...[Read More](#)

#### Enforced Piety And Protecting Law & Order



We owe our readers an apology for this column not appearing last Sunday. The reason is, we confess, an orgy of kiributh...[Read More](#)



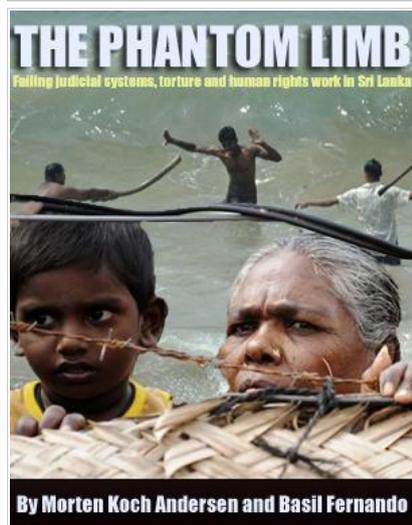
## JOURNEE MONDIALE CONTRE LA CYBER-CENSURE 12 MARS 2010



Stop Cyber Censorship.  
Protect Online Free Speech.

Téléchargez le logo et affichez-le sur votre blog, site internet, profil Facebook ou compte Twitter.

READ NOW: FREE BOOK



[Published in November 2009 jointly by the Asian Human Rights Commission (AHRIC), Hong Kong and the Rehabilitation and Research Centre for Torture Victims (RCT), Denmark. 80 pages, ISBN: 978-962-8314-47-8]

LATEST HEADLINES IN SINHALA » ජනමාධ්‍ය මිඬුකමේ අඩු සහ පරණ ලැයිස්තු - පරිපාලන - අධිකරණ පදනම හා පිටතේ සිතාපිටා - බැණව සැලසීම හා නම ලැබූ ම සැලසීම අතර ඇති වෙනස - විධිමත්ව අධිකරණයේ අඩු බලය සැලසීමට විධිමත් කෙරුණ ද!



**WORLD NEWS: LATEST UPDATED**

- .....  
Olic treble fires Bayern to final
- .....  
Afghanistan against the odds
- .....  
Scandal hits Indian cricket league
- .....  
IPL was 'an Enron in the making'
- .....  
Sampa blow Serie A wide open

**Did you know?**  
262 million people were affected by climate disasters in 2004, more than 98 per cent of them in developing countries

**LATEST SPORTS NEWS**

- .....  
RR hit back at BCCI, say bid didn't flout norms
- .....  
The IPL's Most Valuable Player - Part 1
- .....  
Improbable for English sides to take part in CL T20: ECB
- .....  
Fielding cost us the game: Sachin Tendulkar
- .....  
Gavaskar, Shastri, Pataudi to decide on IPL-4 modalities

HOME SOCIAL SPECIALS OP-ED ESSAYS COLUMNISTS INTERVIEWS

Search...

ABOUT



SRI LANKA  
GUARDIAN



SRI LANKA GUARDIAN BRINGS THE LATEST AND TOP BREAKING NEWS & VIEWS ON POLITICAL AND CURRENT AFFAIRS

SUBSCRIBE

Browse » [Home](#) » [Interview](#) » Caste origins of authoritarianism in Sri Lanka--Part 3

Saturday, April 24, 2010

## Caste Origins Of Authoritarianism In Sri Lanka--Part 3

An interview with Mr. Basil Fernando of the Asian Human Rights Commission by Nilantha Ilangamuwa of the Sri Lanka Guardian

(April 24, New Delhi, Sri Lanka Guardian) In the last discussion, we examined the inequalities which are inherent in the caste system.

**Q: How does caste affect the social aspects of Sri Lankan society?**

**A:** Caste systems idealize inequality, which creates and justifies cruelty in the treatment of the weak. Cruelty is not an accident when the caste system exists. In democratic societies, there are instances in which cruelties occur. However, the ideal of democracy espouses the prevention of cruelty and the maintenance of a humane society which respects every person.

This is not so with the caste system; the caste system idealizes a ruler who is capable of being harsh and cruel. If the ruler is not able to be harsh and cruel, then the ruler is seen as weak. Therefore, a mentality that is ingrained in the caste system allows rulers and those who engage in security to be harsh on others, without there being any problems of conscience.

**Q: Could you clarify how cruelty is within the very ideals of a caste-based society?**

**A:** Let's discuss it with an example. We know the famous Indian legend of Sambukar. Sambukar was a low caste person. He was supposed to do menial work, including physical labour, and was to refrain from making attempts to engage in learning or any kind of intellectual effort. But secretly, Sambukar aspired to be well-read and learned. With that aim, he studied the various Shastras, and Vedas, the books for Brahmins. In doing so, he transgressed one of the fundamental rules of caste society. But he did it in secret, and over time, he mastered the art of the yogis. He was able to do what any yogi could do in terms of breathing exercises. It was a habit among the Brahmins who engaged in yoga to develop various postures that they could hold for a long time. Sambukar developed the art of staying like an owl in a tree for a long time as well as other methods of yogis. During this time, the son of a senior Brahmin died. Brahmins believe that everything in their lives happens according to various rules and theories in their books. The senior Brahmin interpreted the death of his son as being due to transgressions in the order of the caste society. With that in his mind, he took his son to the house of Rama, their leader, and complained that the son of a Brahmin could not die if there had not been a societal transgression. He told the Rama that he should find out what had happened and immediately put an end to it. Angry Rama got into his legendary vehicle with his powerful weapon given by the gods, and immediately travelled around to find out what has happened. He went everywhere but he could not find anything that had gone wrong, or anyone other than a genuine Brahmin to have entered the Brahmin area. So he tried a trick which has been developed by Brahmins to find out who a Brahmin is and who is not: he asked for their genealogy. When he came to Sambuka, Sambuka humbly said, "I do not have any Brahmin genealogy." He explained that he belonged to a low caste, but by his own effort has learned the shastras and had achieved what he had achieved. The story goes that Rama was so furious that he took out his weapon and slew Sambuka right there. In response, the gods rejoiced and came down from the heavens to thank Rama for saving their system. The Brahmin son was revived, and everywhere, Rama was praised by the Brahmins.

This story illustrates the core of expectations of a ruler within the caste hierarchy: he must defend the rules with all possible ruthlessness. Rama does not ask any questions of Sambukar, nor does he see any sympathy for a downtrodden man who, in modern terms, was socially mobile, and was able to attain learning against all odds. And indeed, the rule within the caste system involves zero sympathy for those of low caste, and a ruthless defensiveness of the social order. Now, in Sri Lankan society, we have also seen a great deal of ruthless violence when citizens express any kind of dissent. Take the south, for example. The Sinhala Armed Forces were used to ruthlessly suppress the JVP in the late 1980's when over 30,000 people were forcibly disappeared. Is this not a reflection of a similar attitude?

The absence of remorse on the part of the Sri Lankan regime at the time, as well as on the part of a significant section of the intellectual classes, for those who were slain in times of repression particularly through forced disappearances, is a useful reflection of the value system within a once caste-based society, and the continuing effect of that mentality on society.

Extensive research with foreign researchers as well as through government-appointed commissions into

-advertisement



FOCUS: FEATURES, ANALYSIS AND VIEWS



"The Rajapakses cured and made whole the Sinhala ego, battered and shattered by Indian intervention and Tiger victories. Only a stagnant economy resulting in drastic deterioration of Southern living standards can dent this positive image and turn a majority of Sinhalese against the Rajapakses. The repressive measures are needed partly as an insurance against such an outcome." ...[Read More](#)

Baba Saheb Ambedkar



Ambedkar's Buddhism was a Buddhism of a minority trying to liberate the entire nation. Ambedkar opposed separatism but always...[Read More](#)

-Advertisement

**Sri Lanka Impunity, Criminal Justice & Human Rights**

"What this book does is to give some very vivid impressions about what it means to live in Sri Lanka today under a collapsed rule of law system, a collapsing situation of constitutionalism and the spread of the influence of the security apparatus in all parts of the country. How does the average citizen experience life, living under these conditions? What kind of insecurity is there today in Sri Lanka? The book narrates the details of this insecurity in all aspects of life. The theme is summarised under one expression: abysmal lawlessness."

Copies of the book may be obtained from:  
Asian Human Rights Commission  
19th Floor Go Up Commercial Building  
998 Canton Road, Mongkok, Kowloon  
Hong Kong, China  
Telephone : +(852) 26986339  
Fax : +(852) 26966367  
Email : [ahrhk@ahrhk.org](mailto:ahrhk@ahrhk.org)

**About the author:** Basil Fernando is a Sri Lankan lawyer, who has also worked as a Senior UN Officer. He is the director of the Asian Human Rights Commission and has written extensively on the human rights situation prevailing in Sri Lanka. He has published several books, and hundreds of articles.

web sites: [www.basilfernando.net](http://www.basilfernando.net) and [www.ahrhk.net](http://www.ahrhk.net)

Stop Making Excuses

In our last editorial comment, we said that if the UNP wanted to regain the confidence of the people they must admit to the wrongs...[Read More](#)

forced disappearances have demonstrated that the majority of those killed were poor and belong to what is known as the lower caste. The earlier research into this by Francois Houtard, a Belgian socialist, clearly established that the majority of the rebels who were killed belonged to the lower caste.

This is the whole issue of an absence of sympathy for people of a lower caste within the Sri Lankan hierarchical social system. Among the disappearances was the death of Richard D Soiza. This death provoked the Sri Lankan middle class. But all such killings should have provoked similar reactions. However, that reaction was not extended to others who were made to disappear and were exposed to enormous cruelties. It is the same in the north and the east for a longer period. There, the fact of ethnicity and the fact of caste were combined. With a simple excuse of dealing with ruthless terrorism in a ruthless way, the issue of large-scale cruelties perpetrated on a large population has been ignored.

This mental attitude is not about the suppression of terrorism, but has been bequeathed from centuries of caste oppression, caste system and the hierarchical values that have been established within a caste system. Today, repression has become a way of life within Sri Lanka. The law is not enforced at all in these matters.

**Q: Has there not been any kind of significant enforcement of law relating to the victims of disappearances in the south, north and east**

**A:** It can be said, categorically, no. Let's take the example of habeas corpus actions. This is an enormously important remedy in any rule of law society or liberal democracy, and Sri Lanka does call itself a rule of law society and a liberal democracy. There is a study which has not been published into over 900 Habeas Corpus applications that have been filed in the appeal courts of Sri Lanka in recent decades. There isn't a single case that could be called a success. Under various kinds of small pretexts, the cases have been dismissed and the excuses given by the establishment have been accepted. The courts have also found various legal excuses which allow them to not deal with the fundamental issue of the liberty of the individual. The liberty of the individual is at the core of the remedy known as the habeas corpus action. With the disappearances of people, the habeas corpus action has also disappeared from Sri Lankan law.

The virtual disappearance of the capacity of the courts to defend the individual liberty of citizens, which is the reason for the existence of the courts, is now becoming extremely visible. And now, the ideals of caste society are replacing the ideals of a rule of law and democratic society.

*To be Continued ...*

**Previous Parts:**

[Caste origins of authoritarianism in Sri Lanka--Part Two](#)

[Caste origins of authoritarianism in Sri Lanka--Part One](#)

[The Phantom Limb \( free E Book in pdf format \)](#)



#### LINKS TO THIS POST

[Create A Link](#)



#### 2010: Our 1984



I did not and do not consider Sarath Fonseka to

be a hero, any more than I consider Mahinda Rajapakse and Gotabhaya Rajapakse to be heroes....[Read More](#)

#### People Of Sri Lanka Deserve Better



When Sri Lanka recently went for Presidential election, many people around the world thought that the country's democratic system has matured and Sri Lanka will be

able to overcome its problems before long....[Read More](#)

#### Theory Of Deconstruction

**The French philosopher Jacques Derrida questioned the fundamental conceptual distinctions of our understanding of the World through a close examination...**[Read More](#)

#### War Trauma Experiences



In the Sri Lankan conflict, the impact of war and extreme stress on civilian population has been highlighted over the years.

However, war traumas experienced by the ...[Read More](#)

#### Enforced Piety And Protecting Law & Order



We owe our readers an apology for this column not appearing last Sunday. The reason is, we confess, an orgy of kiributh....[Read More](#)



#### JOURNEE MONDIALE CONTRE LA CYBER-CENSURE 12 MARS 2010



! Téléchargez le logo et affichez-le sur votre blog, site Internet, profil Facebook ou compte Twitter.