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Remembering Christopher Weeramantry in Sri Lanka's Current Conundrum



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The body politic and almost all national institutions are today more than ever before wracked by corruption. This takes many forms ranging from blatant bribery to nepotism.

-C.G. Weeramantry, A Call for National Reawakening (2005)

Although written in 2005, the message conveyed in this book and its contents ring true at present in Sri Lanka. In fact, if one looks at the current island-wide protests and unprecedented unrest in the country the *problematic* looks even worse. Only a few days back, the Prime Minister of Sri Lanka [announced](#) that only one day of petrol stock is left, not to mention the shortage of electricity, gas and basic amenities to sustain the lives of the people.

His Excellency Judge Christopher Weeramantry further said in the book:

Sri Lanka continues to pile up a massive amount of foreign debt. Statistics of the extent of this indebtedness are not released in a manner which will enable the public to know its full extent. More and more attractive schemes are announced from time to time without the public being informed of what is involved. What has happened in effect is that the wealth and resources of the country have been mortgaged for generations to come.

This disturbing side trend identified by the late judge in 2005 gives a glimpse of how the country was increasingly misused by a certain class of people until the bubble finally blew up. He observed:

Unfortunately, a tendency has grown up in recent times to flaunt one's wealth and possessions. There is a love of display of status symbols. Mercedes-Benz cars, palatial buildings, opulent parties, foreign artifacts – all these are

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displayed in a manner that invites envy and class hatred, for in Sri Lanka we live in a growing disparity between the rich and the poor.

Children of wealthy families think nothing of spending up to a hundred thousand rupees in a hotel for one night's entertainment of their friends and their parents are knowing and willing parties to this for it gives them as well a sense of glamour.

Shifting to the older generation in control, the learned judge alludes to multibillion dollar deals conducted in public administration without the requisite transparency; ministerial interference with the administration of justice; blatant political appointments to high positions and even assassination of public figures. There is no accountability let alone a register maintained on these practices, which are often conveniently 'swept under the carpet.

Referring to unkept extravagant election promises, Judge Weeramantry notes that the candidate usually makes promises of prosperity for all at elections at times of crisis. A sense of fear is instilled into the minds of the populace that they are in a dire situation. But then, these promises are made without there being any means of monitoring or enforcing them:

Once you are in Parliament you have a job, a position and a series of valuable perks. All members of Parliament have a vested interest in the system.

The compelling value of the book is in the suggestions of the author:

The whole system needs rethinking and revision. Moreover, whoever stands as a candidate for such an august office as membership of parliament should have some achievement already notched up in his or her own right. There must be a track record. One must not be able to offer oneself as a candidate on an empty slate of achievement...it is useful to ask how many members of parliament qualify in this regard.

In 1983, Judge Weeramantry, in his work, *A Plea for National Unity and an Undivided Sri Lanka* called for education planning and a trilingual system that would effectively preclude contentious elements from sowing pernicious discord among the communities of Sri Lanka. In another text- *A New Human Rights Dispensation for Sri Lanka - One of the Paths to the Solution of the Communal Conflict*, 1984 he adumbrated principles for the legal system of the country saying that the government should affirm the principle of equality before the law and resolutely enforce it in the administration of the country for every citizen of Sri Lanka. Additionally, he advocated that the government should condemn and

conduct appropriate inquiries, procedures, and punishments for every violation of the principle of equality.

An essential characteristic of good governance would be that equality of opportunity is recognized as a fundamental human right, where social and cultural rights of every component section of the community are protected and fostered. Incitement to violence, acts of hate and violence should be rigorously punished.

Here's my take!

There should be a real application of the Rule of Law. Laws should be comprehensible. They should not be couched in a plethora of pages in convoluted language and expanded to hundreds of regulations. Nor should they be orally delivered through speeches and pronouncements. Any written amendment to law should be brought to the attention of the people. A society should be governed by law and not by discretion granted to or assumed by public officials. Additionally, they should be equally applied and should not favour a particular category of individuals.

Arguably, one of the most important principles of the Rule of Law is that powers should be exercised by those on whom specific powers are authorized by statute or law and not by any other claiming some kinship or liaison with those in power. Dispute resolution should be by the tribunals or courts appointed for that purpose and not by those who assume power that has not been granted.

Human rights form an essential component of the Rule of Law and the basic principles of The Universal Declaration of Human Rights, 1948 of The United Nations must be adhered to. Finally, the State should perform its obligations under international law, particularly in the context of the treaties that the State has ratified, and not subjugate the principles of a ratified treaty underneath conflicting domestic laws of that State. Lord Bingham, one of the most authoritative scholars on the Rule of Law, says in his book published in 2010 that its fundamental postulate is:

all persons and authorities within the state, whether public or private, should be bound by and entitled to the benefit of laws publicly and prospectively promulgated and publicly administered in the courts.

This brings to bear not only the fundamental principle of liberal democracy i.e. transparency of law, but also the compelling need for clear and legible laws that are

accessible and above every individual of society regardless of her social, economic or political status. There should neither be oral decrees, nor feckless insouciance toward the welfare of the public.

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