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Separation of Powers & Devolution

by Gajalakshmi Paramasivam

(November 23, 2012, Melbourne, Sri Lanka Guardian) I write in response to the Sri Lanka Guardian article 'The Struggles of Identity in Sri Lanka' by Celina Cramer



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First of all I seek to confirm that my struggles for identity in Australia were much more serious and far more painful than my struggles in Sri Lanka. The reason was my education. Most of my schooling was in a Catholic institution – Holy Family Convent – and most of that schooling was in Jaffna. Majority in Jaffna are Hindus but due to their belief in education – they were able to override majority power with discriminative thinking. I was not only outstanding in my academic grades but was also Prefect. Likewise our son Pradeep who studied at Waverly College and our daughter Gayathri who studied at Brigidine College – both Catholic schools here in Sydney.

Ms Celina Cramer states/asks 'Among the language barrier that was created in some schools, was religion. A very shocking example is the "Prefect system" in some schools in Sri Lanka. In one of the schools that I attended, the title of "Head Prefect" was given only to an all-rounder who belonged to the school's principal religion. This clearly made those of other religious conviction seem 'less better' than those who followed the principal religion in the school. But when did anyone's religious convictions have anything to do with their academic strengths?'

A school that is not confident of its merit based status would need 'belief' based status and therefore 'majority' power to keep the balance. Likewise, a country. If merit based power was far greater than the belief based power in a community – high performers group together and separate themselves from the group that is driven by belief based power. This happened during British rule in Sri Lanka. Then the divide was between English speaking Ceylonese and local language speaking Tamils or Sinhalese. But this system was accepted by the citizen to whom economic status was more important than national status. To most migrants known to me – their first priority here in Australia – is economic independence. This is the reason why at the collective level – there is no threat to the Australian government from migrants of Tamil or Sinhalese origins. At the lower levels of Australian society – that threat is felt by more senior migrants who rely on their Anglo ancestors. Most Tamil as well as Sinhalese migrants accept this just as they accepted British rule. I did not. Hence I fought as an individual to maintain my 'free status'. It was painful at that time but I am now able to appreciate the value whenever I find someone who needs the partnership of Independence - including members of the ruling community.

When the British left Ceylon – without an appropriate structure that would help Ceylonese leaders manage without them – majority status was used to suppress merit based status. This happened due to desire for ruling power but without the confidence of governing on merit basis those outside the circle of belief of the rulers.

Most of us use subjective influence in preference to discriminative thinking, unless we want to put on a solo performance – for whatever reason. When I applied in Colombo to register our business name '*Australian Tamil Management Service*' the Registrar asked me why the word Tamil – whether I was going to serve only Tamils? I said since the use of 'Muslim Ladies' college' had been approved – we had every right to use 'Tamil' in our name. Some of my professional colleagues in Colombo had difficulty appreciating this. To the registrar I explained after he approved the name – that it was to draw to us, Tamils who had isolated themselves and would not seek common services unless they saw some kind of ethnic identity. But the fact that I felt Sri Lankan – would have helped remove their fears of the unknown.

Ms Celina Cramer states '*Now just watch a rugby match and you'll hear National anthem of New Zealand, it is sung in Maori and English. And so is the national anthem of South Africa. Both these countries are multiethnic like Sri Lanka and have managed to allow every citizen, regardless of their ethnic origins, to feel "included" and not so "excluded" as one would feel singing "Sri Lanka matha".*'

The National anthem of Australia is still sung in English only. Compared to Australia – New Zealand's status at the international level is much smaller. Likewise, compared to India, Sri Lanka's international status.

The leader who helped me appreciate diversity and unity is Sri Sathya Sai Baba of India. Millions go regularly to Puttaparthi. Today, millions all over the world specially celebrate the birth of Sri Sathya Sai Baba. Sometime back I included the following in a submission to our Australian Government in relation

to Boat arrivals:

[In this current context, majority Tamils including those aboard Jaya Lestari 5 as well as senior Sinhalese ministers in the government of Sri Lanka, are likely to identify with the following message from the best known Spiritual Leader of the Indian Subcontinent:

"Let the different faiths exist, let them flourish, let the glory of God be sung in all languages in a variety of tunes. That should be the ideal. Respect the differences between the faiths and recognize them as valid so far as they do not extinguish the flame of unity."

When I went to Puttaparthi I was initially upset by some of the practices – which seemed to be outside merit basis. Some of them led to those who queued up first going in after other rows. But gradually I realized through my own experiences that it was a place of belief and therefore one needed to identify with that belief based energy which gave us what we needed rather than what we thought was due to us. Thus a person going in later may end up sitting in front of a person who went first. What mattered most was that we needed to connect to the Divine Power and this happened as per our belief and not as per our merit. I used this lesson to stop 'judging' in areas where there was strong belief. Life is that much more peaceful that way. I use this regularly in remote areas of Northern Sri Lanka – when sharing donations.

The author of the Sri Lanka Guardian article '**Executive presidential system and the judiciary**' states *'From the beginning of the executive presidential system, the most important threat to it was perceived to be the judiciary.'*

With a four fifths majority in parliament, J.R. Jayawardene, the UNP leader, made sure that all his party members in the legislature surrendered their rights to him. He got this through undated letters of resignation he took from everyone except for a few who refused to comply. He was therefore certain that there would be no challenge to his authority from the parliament.'

An independent judiciary using merit basis – would be a competition and/or threat to any belief based system and therefore majority power. Sri Sathya Sai Baba was King – not only in Puttaparthi but wherever He went. That is the Unity of belief which is far greater than apparent merit based power in that area. Belief is the foundation on which merit needs to be measured. That Belief helps us realize that we are One with the other. An active mind is not able to appreciate this. Where we do not feel that Oneness with the other – we need merit basis applied on current work – for the purpose of distribution of common wealth and opportunity. One who believes does not fear the unknown. Had President Jayawardene believed in his party – he would not have feared them. In a belief based system – there is a natural hierarchy as per the depth of the belief. Sri Sathya Sai Baba for example communicates in many forms the message - 'you and I are One'. The language in Puttaparthi is Telugu and not Hindi. New Delhi is nowhere as Peaceful as Puttaparthi where Belief reigns over merit.

I believe that God placed the Divine system in us. Once we believe that God is within us – we would not need to calculate and divide at the individual level. To the extent we do not believe – and most of us do not fully believe in our Divinity / Oneness – we need to use Common Principles and Values to distribute Common wealth and opportunities. One with high level of belief in the whole, would need only a small doze of merit for fair distribution. Most Western countries promote their Judicial systems to limit the excessive reliance in belief and therefore majority vote . To my mind, this promotes competition and economic progress. This was visible with the Tamil Tigers who expressly separated themselves on the basis of language. They demonstrated strong cleverness due to this separation. When power is devolved towards such excellence – it removes the responsibility to show national level outcomes in general areas of activity. Those who believe in themselves work best when they do not have to report to others. Often ethnic leaders desire the benefits of Central Administration and hence actually seek Unitary Management – but keep shouting ‘Devolution’ so that they could get the benefits instead of the Central Administrators. This seems to have happened with the Sri Lankan Judiciary also – as confirmed in the above mentioned article.

To the extent a leader is elected by majority vote and that majority are apparently of one faith and at least one group expresses lack of faith – there needs to be devolution on the basis of that category of faith – be it religion, language or other categories of common faith. Majority vote without belief leads to superstitious thoughts of fears and desires and leads to chaos even in one community. On the other hand – true belief without any voting system would bring about natural Oneness. One who believes through a particular path would naturally accept, respect and integrate with other cultures.

Given that the ordinary person tends to accept the seen and gives that form to her/his belief – and thus identifies her/himself with the higher position that represent the whole – it would be difficult for minorities who are active in Public Administration and National Politics to identify with politically driven leaders of majority race. Mr. John Howard was for this reason rejected by ethnic minorities – especially those empowered by their belief that they are Australians. Such minorities hold the balance of real power in multicultural societies. Similarly Tamils who believe that they are Sri Lankans – are far more powerful in Sri Lankan politics than Tamils who believe they are Tamils. Likewise Tamils in other countries in the politics of other countries – even if their influence is not apparent. Communities led by leaders who believe at National and/or Global level – would perform strongly at those higher/wider levels.

Members of the Tamil Diaspora who do not maintain their root connections would tend to bypass Sri Lanka and are likely to feel more strongly connected to other Tamil groups to form global associations – including with Tamils in Tamil Nadu, Singapore and Malaysia. To the extent they believe in their religion and/or language above calculated thoughts – merit based or otherwise – they would influence each other naturally and intuitively.

Believers naturally respect Independence and therefore natural separations. Sri Lanka’s Constitution provides for such devolution on the basis of religion. If leaders of majority religion – Buddhism – had been true believers in their own religion – they would have not needed legislative provisions to spell out the need for this separation of religious powers. Commitment to One God confirms Unity and provision

of freedom of belief and practice for many religions confirms Diversity. This is not challenged so long as we live in our own ethnic areas practicing Common laws as per our interpretations on the basis of our belief. Every time a Hindu in Hindu area is 'ruled' by a Buddhist (even one using Common Law) the Buddhist is acting in breach of the above provisions of the Constitution. If both are of one religion – for example – Christianity or Islam – then such actions are not in breach of the law. Breach of the provisions of the Constitution naturally dilute the value of investment in Law and Order by that 'outsider'. LTTE who fought on language basis – but killed Sinhalese in Sinhalese areas – automatically lost their right to belief based self determination to that extent - through such actions. The reason for such separation is that through belief we intuitively feel that the other is part of us . This feeling by leaders is defined expressly to help their followers. Where a group is obstructed in such a path of belief – its natural rights to function as an independent group have been damaged. Under the system of Natural Justice – this damage is shared by both groups – the perpetrators who interfered with belief processes and the practitioners to the extent they failed to defend their rights. Hindus, Muslims and Christians hold the balance of power to punish Buddhists who have the first responsibility to structure systems that would not interfere with religious beliefs.

Ultimately, as per my experience – we complete the cycle of ownership through belief in ourselves. When our supervisors / bosses through whom we give form to our belief in our position – fail to confirm their side – we fill the gap eventually through ourselves. The other side is a temporary stage needed in the material world. Those who worked with belief in their positions would be empowered naturally so that the whole position merges with the institution and the institution with wider society. The believer merges with the position.

Likewise at group level – if minorities are able to believe and give form to their governance work through the occupants – they would own the whole position and therefore merge with the government and through the government with wider world. Likewise, members of majority religion where there is obvious rejection of their authority. As per latest report from Northern Provincial Council '*Northern Province GA Chandrasiri had a meeting on 22nd November 2012 with Director General, National Aquaculture Development Authority of Sri Lanka(NAQDA) regarding the development of the Inland Fisheries in the fresh water tanks and lagoons in northern province*'

If the Governor had taken up an Administrative position above a Hindu in that area, expressing through local belief – in relation to this matter - that would have been in breach of sections 10 & 14 (1) (e) of the Constitution which state:

10. '*Every person is entitled to freedom of thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice*'

14.(1) (e) *Every citizen is entitled to the freedom, either by himself or in association with others, and either in public or in private, to manifest his religion or belief in worship, observance, practice or teaching;*

Section 9 places the responsibility to uphold the above on the Government:

9. The Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster the Buddha Sasana, while assuring to all religions the rights granted by Articles 10 and 14(1)(e).

The Governor as the representative of the Government (not the People of Northern Province and therefore their belief) has the responsibility to 'assure' the People of Northern Province, their rights as per their religious beliefs. Hence unless there was scientific, logical derivation based on common principles – resulting in objectively measurable merit based outcomes – the above matter would have been made largely on the basis of personal belief. The belief of the Governor would therefore be strongly on the basis of Buddha Sasana whilst the belief of Hindus in the affected areas would be strongly on the basis Hindu forms of belief which include the belief that Lord Vishnu took the form of Fish to save the Scriptures from the Great Deluge.

It is to prevent such natural breaches that devolution based on faith is necessary where at least one group has strongly expressed lack of faith – as Tamils majority of whom are Hindus have overwhelmingly expressed.

Devolution on the basis of religious faith is required by law in Sri Lanka – at the individual as well as group level – where one side has higher official status than the other. It is not an option as per the discretion of the Government.

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