

## **IHRP Internship Report – Centre for Policy Alternatives, Sri Lanka**

**By: Dharsha Jegatheeswaran**

This past summer I had the incredible opportunity to spend 10 weeks interning in the Legal & Constitutional Unit of the Centre for Policy Alternatives in Sri Lanka. Having had an interest in Sri Lankan political and legal issues since I was a child, this internship provided me with the ability to engage with human rights issues in the country in a meaningful way.

In 2009, Sri Lanka emerged from a 30-year civil war with the Liberation Tigers of Tamil Eelam. The government's victory was not without costs, and to date there are still serious calls for a credible and independent investigation into war crimes committed by both sides during the last stages of the war. Nonetheless, 2009 presented a unique opportunity in Sri Lankan history to bridge gaps and address some of the root issues of the decades long ethnically driven conflict. Unfortunately, my experience at CPA this past summer illustrated quite clearly to me, that the country has fallen into dire straits following the war and as the UN High Commissioner for Human Rights, Navi Pillay, said in her concluding statement during her visit to Sri Lanka a few days ago, "...Sri Lanka, despite the opportunity provided by the end of the war to construct a new vibrant, all-embracing state, is showing signs of heading in an increasingly authoritarian direction."

During my internship I had the opportunity to research comparative law, draft written submissions for ongoing trials, research and write policy briefs/internal memos, attend trials at the Supreme Court of Sri Lanka and participate in forums/lectures hosted by other NGOs. While there are many human rights issues facing the Sri Lankan people currently, in this report I will focus on the main three that I experienced and worked on during my internship: 1) Illegal land acquisitions; 2) Independence of the Judiciary; and 3) Freedom of press and civil society.

### **1) Illegal Land Acquisitions**

Like many Commonwealth countries, Sri Lanka's land acquisition laws are based on the principle of eminent domain and permit the Sri Lankan government to acquire private land where such land is required for a 'public purpose' following due process as per the Land Acquisition Act. Sri Lankan case law actually provides a fairly stringent test for what constitutes public purpose and would require the government to demonstrate that this purpose was beneficial both to the public at large and to the local community, and that the public purpose is genuine, i.e. there is no collateral purpose at hand. Nonetheless, following the war's end, the government has undertaken acquisitions of massive swathes of land primarily populated by minority communities. The ethnic and political dimensions, in addition to clear violation of the law, suggest that what the government is actually doing amounts to 'land grabs'. Most recently, the Sri Lankan government filed notices in April 2013 to acquire 6300 acres in the province of Jaffna in the North for a purported military base. This in spite of the fact that the land in question is some of the most fertile in the North, has been in the hold of private families for generations, and results in the continued displacement of thousands of individuals. Further, an acquisition of such magnitude is entirely disproportionate to the number of personnel actually present in the North and the ethnic dimensions of this acquisition demonstrate clearly that the government is violating public trust.

While I was at the CPA, land was one of the main issues I worked on and my main project was researching and drafting a policy brief highlighting the nature of the land acquisitions with a senior researcher at the centre. I also had the chance to conduct comparative legal research for an ongoing case that the CPA has filed against the land acquisition in Jaffna I've described above.

## **2) Independence of the Judiciary**

Despite spending an entire semester in first year learning the fundamentals of the rule of law it was not until this internship that I truly appreciated its importance. In Sri Lanka, the erosion of the rule of law has been going on for quite some time but the final nail in its coffin was the impeachment of the Chief Justice of the Supreme Court, Shirani Bandaranayake, in January 2013. The impeachment was condemned by human rights organizations internationally and nationally. The Sri Lankan Bar Association very publicly disapproved and the Sri Lankan Court of Appeal even found the findings of the Parliamentary Select Committee, which facilitated the impeachment, illegal. This was largely because the true reason for the legislature's impeachment of the Chief Justice was that she had rendered a series of decisions against the interests of the President. The appointment of the purported Chief Justice, Mohan Peiris, was clearly a move by the executive to bring the judiciary completely under their control as he is widely seen as the government's puppet.

During my internship I had a chance to see the effects of this impeachment myself by observing trials at the Supreme Court. One of the cases on which I helped research and draft written submissions was a challenge filed by CPA to a proposed constitutional amendment bill. During the Supreme Court trial, I was surprised by the blatant references made by the judges to the 'nature' of the current Supreme Court and by the decisions they rendered which were clearly along political as opposed to legal lines. The impeachment of the Chief Justice was a demonstration by the Sri Lankan government of the consequences of opposing the regime and it completely dismantled the checks and balances that previously existed on an extremely centralized government power. The opportunity to see this first-hand and support one of the only remaining organizations that continues to challenge it was both inspiring and disheartening at the same time.

## **3) Freedom of Press**

Freedom of press was not an issue I directly worked on during my internship, but was an issue I became acutely aware of through my time at CPA and daily life in Sri Lanka. This year, Sri Lanka was ranked 162<sup>nd</sup> out of 179 countries on Reporters without Borders' World Press Freedom Index, and for good reason. Most of the mainstream media and newspapers are controlled by the President and his brother (Minister of Defence, Gotabaya Rajapaksa), and the few that remain which choose to oppose the President or support any kind of opposition face constant threats, intimidation, economic pressure, attacks and in several instances, death or disappearance of outspoken journalists and editors. Since the war ended, many argue that freedom of press has been increasingly curtailed leaving little to no room for dissident voices in the country. Internet censorship is also a major issue in Sri Lanka as the government has blocked several sites which are highly critical of its practices, and several others face constant attacks by hackers suspected to be working for the government.

While the above is an account of the major human rights issues I encountered and worked on regularly during my internship, I also spent time working on the following: editing a forthcoming CPA publication on internal displacement; conducting comparative research on legal positions in relation to the burqa ban globally and nationally; and researching access to education through volunteering with another NGO (Visions Global Empowerment) in my spare time. In addition, I was able to make trips to the North of the country twice and through conversations with various NGOs and charities I developed a greater understanding of ground realities in the area.

Importantly, I was also there for the 30<sup>th</sup> anniversary of Black July 83', a week in July 1983 where Sinhalese mobs systematically attacked Tamil homes and businesses in the capital city and throughout the South, killing thousands and lighting the match that really started the war and divided the country in a way that has never been reconciled. 30 years later though, it was terrifying

to see that increasingly, the government and extremist political groups are propagating a Buddhist-Sinhala nationalist agenda that aims to alienate ethnic and religious minorities, creating an environment that is reminiscent of July 1983. While I was in the country, every week there would be at least one report of an attack on a church or a mosque, and in some instances, individual civilians and businesses owned by minorities. This speaks volumes to the lack of meaningful government-led reconciliation efforts and the government's approach of ignoring that July 1983 ever happened.

Overall, my experience at CPA was incredibly rewarding. I had direct experience in legal research and writing on human rights issues and I was able to contribute in a meaningful way to advocacy work that I truly support. I also had incredible learning opportunities and gained an in-depth understanding of many of the legal and political issues currently facing Sri Lanka. In many ways, this experience has also informed my understanding of post-conflict countries generally and the difficulties of reconciliation and transitional justice. I also had the incredible opportunity to develop great mentors and friends that work on improving the human rights situation in Sri Lanka against all odds and at incredible risk, by whom I am truly inspired. I am deeply grateful to the IHRP for this opportunity and to CPA for being extremely supportive of my internship and my continued interest in working on Sri Lankan issues.