

An interesting issue was raised in one of the Sri Lankan newspapers recently in connection with the GSP PLUS crisis that hangs like a dark cloud over the island's horizon. The GSP PLUS agreement is crucial to the country's economy and employment. In the year 2008 we had over 1.24 billion Euros of trade with the European countries under this agreement. In particular the garment and fisheries industries thrived on that trade agreement. The agreement has now come up for renewal in August (it is renewed every three years) and the EU countries which suspended its operation some months ago due to violations of preconditions by the government has now given another chance of renewing the agreement provided the government agrees to abide by 14 conditions covering the prerequisites. President Rajapakse has said "no" to the conditions charging that they are an affront to our "sovereignty" as a nation.

The newspaper feature referred to raised the question "Sovereignty for whom? The ruling regime or the people?" The writer pointed out with cogent reasoning that the preconditions for the grant of GSP PLUS would only go to safeguard the sovereignty of the people by helping ensure the rule of law and the protection of their basic liberties.

GSP stands for 'Generalised System of

IMPLEMENTING GSP PLUS CONDITIONS CAN LIFT THE GAME OF THIS GOVERNMENT

Trade Preferences' which European countries give to poor countries to enable the latter to have easy tariff-free access to the vast European market. The GSP



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PLUS agreement constitutes an added bonus in preferences. The package is granted to countries subject to certain eligibility criteria and the observance of Human Rights values and labour laws are foremost among such conditions. Due to the failure of the government to abide by such requirements Sri Lanka will lose this facility on August 15. This would put our economy into severe jeopardy.

President Mahinda Rajapaksa announced at a Cabinet meeting that Sri Lanka would not be committing to the demands made by the EU since they deal with

internal politics rather than international trade. When one examines the impact of these preconditions it becomes patently clear that they are not political at all; they are rules already framed under international covenants that the Sri Lanka government has signed and agreed to over many years ago. Let's take each condition and see for ourselves:

(1) Reduce the number of derogations to the ICCPR (International covenant on civil and political rights)

(2) Take steps to ensure that the key objective of the 17th Amendment to the Constitution, namely to provide for independent and impartial appointments to key public positions, is fully safeguarded, including through a Constitutional Council which adequately reflects the interests of all political, ethnic and religious groups and minorities within Sri Lankan society

3. Repeal the remaining part of the 2005 Emergency Regulations, notably those regulations concerning detention without trial, restrictions on freedom of movement, ouster of jurisdiction and immunity and repeals of the 2006 Emergency Regulations (Gazette No 1474/5/2006). If the government considers that it is essen-

tial to retain certain provisions which are compatible with the ICCPR or UNCAT, such as provisions concerning possession of weapons, such provisions should be transferred to the Criminal Code.

5. Repeal of the outer clause in Section 8 and the immunity clause in Section 9 of the Public Security Ordinance or amendment so as to make them clearly compatible with the ICCPR.

6. Adoption of the planned amendments to the Code of Criminal Procedure, which provide for the right of a suspect to see a lawyer immediately following his arrest.

7. Legislative steps necessary to allow individuals to submit complaints to the UN Human Rights Committee under the First Optional Protocol to the ICCPR and to the UN Committee against Torture under Article 22.

8. Steps to implement outstanding opinions



GSP PLUS & THE GOVERNMENT

of the UN Human Rights Committee in individual cases.

9. Extension of an invitation to the following UN Special Reporters who have requested to visit Sri Lanka (UN Working Group on Enforced Disappearances, UN Special Reporter on Torture, UN Special Reporter on Freedom of Expression, UN Special Reporter on Independence of Judges and Lawyers).

10. Responses to a significant number of individual cases currently pending before the UN Working Group on Enforced Disappearances.

11. Publication of the final report of the 2008 Commission of Enquiry.

12. Publication or making available to family members a list of the former LTTE combatants currently held in detention as well as all other persons detained under the Emergency Regulations. Decisive steps to bring to an end the detention of any persons held under the Emergency Regulations either by releasing them or by bringing them to trial.

13. Granting of access to all places of detention for monitoring purposes to an independent humanitarian organizations such as the International Committee of the Red Cross.

14. Adoption of the National Human Rights Action Plan by Parliament and its prompt implementation.

15. Take steps to ensure journalists can exercise their professional duties without harassment. It is clear that none of these requirements are of a directly political nature and that they all are coming under the ambit of international covenants and rules. Sri Lanka is a member of the international community and indeed must continue to be so. That being the case abiding with international law is a must. As we pointed out in last month's column of the Sannasa the classical notion of 'sovereignty' no longer exists. International law does not accept that any given state can deal with its citizens in ways it deems fit. The Sri Lanka government must realize this. That said, it is true that in the implementation of

international law Big Powers are often capricious; but, then, that is real politic over which we cannot have control.

What the Rajapakse government must do is to put its house in order with regard to the Human Rights and governance issues that underlie the EU preconditions. We cannot go on castigating the West; rather we must not leave room for accusations about international law violations. The government does not seem to care about inappropriate behavior in this regard. As a matter of fact moves are afoot to bring in hasty and secretly hatched amendments to the Constitution just to ensure the President has a third term. Another proposed amendment would do away with the obligation to set up a



Constitutional Council to implement the 17th Amendment. At this rate we would be isolated like Burma.

The EU conditions relate to normal eligibility criteria that applicants for GSP PLUS must adhere to. However, if implemented in the right spirit it would win the EU for us, boost our economy, while at the same time paving the way for good and responsible government. Who, then, would be the beneficiary? Answer: the people. Condition (2) for instance would mean that there are checks and balances applied to the different arms of government. This would help militate against corruption and the arbitrary exercise of power. In fact the 17th Amendment had been passed unanimously by government and Opposition during President Chandrika Kumaratunge's tenure.

The tendency to excess leadership is a common malady among our rulers. The outcome of such a managerial style is to control everyone and everything. Parliament and the Opposition gets decimated, Parliamentary Select Committees, Ministers, Provincial agencies, Heads of Department, the Police, Judiciary, the media etc get marginalized.

The EU issue has nothing to do with Ban's United Nations Panel. It is strange, therefore, to observe government media mixing the two different issues and bashing the West over interference.

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