
Bad faith and apparent independence

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Having just written an article on the pronouncements of the so-called independent media, I was not entirely surprised to discover that the Associated Press had deliberately misrepresented my answer with regard to the winding up of the Commission of Inquiry into several cases of violence over the last few years. The article described the cases as those of human rights abuses, whereas they dealt with a number of high profile killings, including the murders of some politicians, most prominently that of the Sri Lankan Tamil Foreign Minister, Lakshman Kadirgamar.

The journalist in question, having promised to take just a couple of minutes of my time, was evidently not satisfied with my initial comment when he asked for one. It was that I thought it a good thing that the reports on seven cases would now come out soon, and that possibly inquiry into others would be expedited through the normal process. He then claimed that the Chairman complained that the Commission had been closed down, and asked for comment on that. I noted that what might be considered the more controversial cases had all been completed, and that cases such as the Kadirgamar murder, which the government obviously would want solved soon, had been omitted. Thus it could be hoped that, without the long process the Commission had gone through, the normal investigation into such a case, which had been delayed while the Commission sat, would now go ahead swiftly. I did however note under further questioning that this was my view, and that I could not myself give the actual reason for the winding up since that was a decision of the President, this being a Presidential Commission of Inquiry, and he would need to ask him or his advisors for a precise answer. Needless to say, that answer was highlighted as though to suggest I was avoiding the question, whereas my actual comment was omitted. Similarly the report totally misrepresented the Amnesty report on government commissions. Though purporting to deal with commissions over 25 years, it actually looked only at the current Commission. It did grant that previous commissions, which it did not discuss, had led to indictments, though it regretted the conviction rate. The claim of government 'using bribes, threats and even murder to eliminate witnesses' did not arise in that context since the conviction rate was no different from that of countries which Associated Press would not deem of indicting, as can be seen for instance with regard to the incomplete inquiry into Bloody Sunday or the single conviction with regard to Abu Ghraib, of all those charged. In that context I should perhaps cite the report of what I said at the presentation in Geneva of the Amnesty Report, which notes elements the Associated Press would never cover in its adulation of such misleading reports as well as the 'international panel of experts' who were so harsh about the Commission which the Associated Press now regrets – He welcomed what seemed the positive approach of most of the speakers, but noted what seemed a political agenda in one case, and said it was a pity that there had been much bad faith in criticisms of Sri Lanka. It was recognized that there were lapses, but it was important to engage constructively to improve the situation, and he hoped that this would be possible in the future. He noted some inaccuracies, in that the Amnesty publication spoke of 20 years of impunity, but the document itself dealt almost entirely with the current Commission and noted several indictments on the basis of earlier commissions. It did say that convictions were few, but this was not unusual in the world at large, as was obvious from the Rodney King case. In this context, while the points made by Mr Iqbal about the police cases in the Negombo area were valid, he indeed had noted the arrests that had been made, in referring to bail being refused etc. The problem was that the state had brought prosecutions, which had failed. It was inappropriate to criticize the decisions of the courts, but it should be noted that the state could endeavour to improve its prosecution skills. In addition, it would be useful if lawyers had a code of conduct so as not to appear in such cases since often, with able people not joining the state apparatus, an able lawyer could achieve acquittals despite the best efforts of a less skilful state prosecuting lawyer. In fact the Peace Secretariat had a couple of years back convened a task force on human rights for the police, and senior police officials had pointed out the need for professional training as well. They had noted that police officer training had been reduced from years to months because of needs, unlike in the case of the army where training had been extended with emphasis on rights. Training for the police had then been requested, but turned down by the then High Commissioner for Human Rights who was insisting on an office or nothing, but the situation had now changed and training had begun. Meanwhile the new Attorney General had also begun training in prosecution capacity with the Commonwealth Foundation. Another instance of bad faith related to the refusal to assist the National Human Rights Commission. Ms Foster's comments about its regional offices were valid, but when help had been asked to improve these, it had been denied. The excuse from the UN was that donors were unwilling to fund the HRC, but in fact the Swiss had revealed that they had provided funds for the purpose to the UN which remained unused. Again, with regard to Witness Protection, the need for this had been accepted long before, and an act had been prepared, but it had also encompassed video evidence, and when this had begun there had been what seemed interference by one of the Assistants to the IIGEP, who had been overheard coaching a witness. That was the reason for the government view that safeguards were necessary. The bad faith had in fact been a continuous problem with the IIGEP. Whilst the Eminent Persons themselves had generally justified the faith placed in them, some of their assistants had arrogated an authority they did not possess. They had thought it fit to release denigratory reports to coincide with meetings of the Human Rights Council in Geneva, in the days when they thought they could make use of it for political purposes. One report had been issued without the comments of the Commission, which were a requirement, and the news that the IIGEP had decided not to continue from March was revealed by the Deputy Dutch ambassador in December, which certainly made clear the improprieties that had taken place. Along with the bad faith of some of those who professed concern, it was also necessary to consider the fear that had dogged Sri Lanka for so long. One speaker had mentioned two sorts of fear, but he had forgotten the most pervasive, fear of terrorism, which had naturally led to reactions based on a sense of insecurity. Now that terrorism had been destroyed in its worst form on Sri Lankan soil, it was possible to move forward in a more positive spirit, and it was to be hoped that all those truly concerned with reform would work together without the

bad faith of the past. Prof Rajiva Wijesinha Secretary General Secretariat for Coordinating the Peace Process