

Nimalka Fernando on Women's Struggle for Rights in Post-War Sri Lanka

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Nimalka Fernando is an attorney and eminent women's rights activist from Sri Lanka. She is a Co-convenor of Platform for Freedom and a member of the National Movement for a New Constitution in Sri Lanka - each a coalition of NGOs, trade unions and people's movements involved in ongoing democratic reforms process in Sri Lanka. From her early days as a student, Nimalka has been involved in many people's movement both inside

Sri Lanka and across South Asian. She is President of the International Movement against All Forms of Discrimination and Racism (IMADR) and the Women's Political Academy in Sri Lanka. Nimalka is also a founding member of Asian Regional Exchange for New Alternatives (ARENA).

Sri Lankan women have played an important role in post-war Sri Lanka, yet that have been habitually sidelined by state and non-state actors. Can you tell us some strategies they have used to engage and have their voice heard?

There is a debate in Sri Lanka about whether or not there is a women's movement happening. Looking back, I would say in the early 80's women who were involved in student movements, literary initiatives and trade union activities were compelled to recognize the initiative taken by the UN declaring a 'Women's Decade'. This was when we began to address and talk about women's right as an issue.

Early on, discussions were happening in small gatherings of women for evening coffee or tea which eventually evolved into more advanced discussions on feminism and women's liberation. Women's rights activism took a radical and visible turn in the late 80's. We saw many groups getting involved in women's mobilization in that era taking on issues individually. In the mid-80's I joined the **Women's Action Committee (WAC)** which could be called the first feminist platform



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in Sri Lanka. WAC had representatives from the working class, academia and journalists from various ethnic backgrounds.

Soon after 1989, we were challenged with the **issue of disappearances** as the ethnic conflict intensified while **the second youth uprising** occurred in the country. Militancy in the north emerged and in the South semi-fascist patriotic forces mobilized, state repression intensified, and thousands of young people disappeared. Violence plagued our everyday lives. Bodies were seen laying on the road; half burnt bodies were found piled up in certain regions of the country.

We began to meet with mothers of the disappeared through our associates in the South and North. Some of the husbands and relatives of WAC members who were trade union activists and peace activists faced threats from the semi-fascist forces who had no sympathy for those working for a political solution to the ethnic conflict. We were thrown into a new struggle - one for survival and protection.

We all became a part of the human rights struggle and built a democratic kind of activism. Women's Action Committee transformed into a new forum called Mothers and Daughters of Lanka. It became a national forum where women could come together for joint and collective action. For me, this was a movement. The platform [Mothers and Daughters of Lanka] brought together various women on issues of national attention that were of vital importance during the crisis. Sinhala and Tamil women came together forgetting all their differences – something rarely seen during that time.

We were united against violence and war. I value the experience and lessons I received those days in MDL and WAC. I realized that talking about peace without politics is easy but talking about peace with politics is difficult. The day to day struggle of the grassroots women against the militants and the white van abductions was tremendous for me to see in Sri Lanka's male dominated society. In some sense it was those women rushing up to the police stations when their loved ones were abducted that secured the space for human rights. They had to struggle against the denial of the state and we had to be with them to strengthen their resolve. On the contrary, men used to accept this as a fate. I have seen mothers searching for their sons for almost 20 years. Many fathers have not been able to cope with the harshness of the struggle.

Sri Lanka has experienced many committees and commissions. How successful have these endeavors been in addressing human right violations and ethnic discrimination in a meaningful way?



In the last three decades Sri Lanka has seen a lot of commissions and committees appointed to address issues of human rights violations as well as deal with challenges related to reconciliation. Political leaders have had to deal issues of political prisoners, youth in detention, and the disappeared brought out by social conflict. Most of the commissions were appointed as a result of foreign pressure from either the World Bank or the UN. In the late 80's we saw the establishment of the Commission on Disappearances and the appointment of the Language Commission, but still both issues still remain unresolved.

Soon after the war in 2009, the then-President Mahinda Rajapaksa appointed the **Lessons Learned and Reconciliation Commission**, among others, which have produced many recommendations and reports. The most active statutory body today is the Human Rights Commission (HRC) that was established in the aftermath of the Second Youth Insurgency in 1989. HRC-Sri Lanka was the only institution that intervened effectively and, with civil society, initiated few checks and balances related to detentions in the early 90s. But, when President Rajapakse held office HRC- Sri Lanka's mandated shifted under the executive and quickly became ineffective. Since the change of regime in 2015, people have gained renewed confidence in HRC-Sri Lanka as it has become independent in giving recommendations and producing alternative reports related to laws impacting human rights.

However, we have never been able to setup a race relations commission for the ethnic conflict, which is at the core of our political life. This can only be resolved with the re-envisioning of Sri Lanka with power sharing. I don't think we want an ethnic commission, but rather a race relations commission so that the issues of discrimination and religious tensions can be resolved somewhere.

The report compiled by the UN Special mandate holder on minority rights after visiting Sri Lanka in 2016 has recommended the establishment of a minority rights commission. What are your views on that?

I endorse this recommendation so that we can begin to address intimidation and harassment experienced by our minorities. The emergence of the **Bodu Bala Sena** like the Shiv Sena in India has created fear in minority religion communities. The report made some brilliant recommendations, but how far they are implemented only time will tell.

In the post-2015 political era we are talking about setting up three mechanisms:

1. The official structure to deal with the Enforced Disappearances and Missing Persons.
2. A reparation mechanism.



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3. A Truth and Reconciliation Commission.

Given the dismal history of commissions and committees, unless we come up with an effective response through transitional justice mechanisms, we will not have any proper justice or accountability.

What are the major challenges that Sri Lankan women still encountering post- conflict?

In general, Sri Lankan political parties and leaders are unable to accept the idea of equality for women. Even some of the women politicians who have served in the government positions have shied away from using the term 'equality for women'. In my opinion, it is one of the major problems we are facing in the post-colonial period and now.

When we talk about women being raped or affected by war, they are looked as if it was their fault to be in a precarious situation or as victims of circumstances. They are blamed and told they responsible for what happened. There is a reluctance to deal with the issue of violence against women as an issue of power or militarization. It is considered natural or normal thing that could happen to any woman. The government has failed to address this issue in the post-war era.

Authorities still look at women's rights as a welfare subject. The Women's Ministry has not taken steps to develop a right's-based framework to promote a political policy for decision making nor develop plans for rehabilitation. Even if there is an action plan, these are documents produced by NGO projects that never see the day light in the Minister's interventions.

Recently, I was urging authorities to provide immediate relief to families of the disappeared and war affected women who are now exposed to vulnerability. Even though we talk about women's agency, right's and so forth, the real politik at the grassroots level is destitution and regular exposure to violence. A top official told me "we better not make them dependent". How long have these women waited for assistance? There is no cohesive national policy for their upliftment. They have been deprived of resources and what they had was lost during the conflict - their lands, houses or whatever little they had. The jewelry they pawned were also lost during the war as banks were destroyed during the conflict.

There is no proper discussion over women's rights and issues at stake officially, nor proper planning. In Sri Lanka, women are the most marginalized, especially war affected and injured women who were part of the **LTTE Movement**. There is no plan for rebuilding their livelihood.



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Some Ministry somewhere is still working on some projects, nothing has materialized yet. The assistance that they have received is not enough. There is no proper marketing if they start their own set-up. Nothing is well thought out or planned. NGOs are running some projects, but those also lack direction and are unsustainable. That creates a lot of tensions even within the communities.

Women's Regional Network is advocating for a Women's Human Rights Tribunal as a human right advocacy tool. To what extent do you think this attempt could have positive impact and outcomes?

We had a few tribunals in the past, but we haven't had a South Asian regional tribunal for a long time. If we talk about the South Asian Association for Regional Cooperation (SAARC) as an institution or as a process least attention is given to human rights. But war-affected women or women's human rights issues is not on SAARC's agenda. I have seen in the media SAARC women's meetings, but the women attending all represent the authorities and are not women in the respective countries. So, our agendas do not align.

It has always been the civil society in South Asia that has managed to raise issues of social exclusion, marginalization and patriarchal oppression of women that gives rise to violence and murder of women. I have been involved in the people's SAARC since 1990. We are inspired by each other. We also talk about mechanisms that give visibility to issues of women's rights, peace, security and protection. Look at South Asia's countries - Afghanistan is in state of conflict; Pakistan in a state of conflict, India across Kashmir and the Northeast is in conflict. Nepal, Bangladesh, Sri Lanka are in post conflict phases.

Nonetheless, nothing has happened. We still need to discuss the impact of militarization very openly. Of course, civil society has produced many documents, but they don't come in public domain for discussion. Dialogue remains in civil society. In such kind of situation, we need to challenge the present situation in front of all our governments.

I think if we are having a tribunal, it should be a challenging platform that would be like a permanent mechanism. It cannot be short term activity, a finite project because we received funds. I would like to see a process like the Permanent People's Tribunal taking place in South Asia with 20-25 eminent activists forming the tribunal. The sittings could be arranged so that



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some would be public while others can testify privately to the tribunal. Making testimonies public would have considering sensitivity and confidentiality of the witnesses.

I think we need to create this tribunal as a strong mechanism that is lacking in our countries. In almost all South Asian countries we have women's commission, but they have become absolutely ineffective just like another government institution. We need a new, dynamic mechanism with a proper secretariat, a committed core team, and imminent personalities as judges who will create strong recommendations. We should give those recommendations international coverage, take it to Geneva like we did in 1993 UN conference. That's when it will become a powerful tool.

You have done a lot from the beginning of your career up to now, if we ask you to tell us about what inspired you to work as women activist?

The important thing that I would like to remember is the spirit of resistance that I seem to have that I believe I got from my early readings of leftist struggles. Later, I got involved in politics parties with a revolutionary vision as a student. I don't accept things as they are, especially in the political field. Things have to change, and I rebel against the status-quo ideology.

There have been lots of instances for me to have worked in the region. I worked as the Regional Coordinator for Asia Pacific Forum of Women Law and Development based in Malaysia 1989 to 1994. There have been so many little incidents in meeting women across Asia that have given me courage and energy to move on.

I was able to go to villages in Bangladesh many years ago to look at the legal literacy programs. I went to a village to teach elderly men and women. The trainers, including me, conducted the whole session with the help of pictures. We concluded the session by asking what they learned. An elderly man responded, "Now I know I have the right to use the school hall for community activities." Moments like these have stayed with me for years. Sri Lanka there is a mother who, every year that I see her, will say, "You have not been able to find my son but at least I see you every year at our memorial. I have someone to meet who is also searching for our sons and daughters. My son is still missing, but at least I have found somebody with whom I can speak and share my sorrows." So, I suppose all these things gave me courage to bring meaning full changes in people's lives.



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There have also been incredibly painful events, like the assassination of my mentor Dr. Neelan Thiuchelvam. I was waiting to go to his office that morning when I got a message that something had happened near his office. We knew he had to be careful as there were threats to his life. When I rushed there, I heard that he had been killed in a suicide blast I found his head on the road. This incident shook my work. I never had imagined that I will be going and participating in Dr. Neelan's funeral. For a while, I could not work. He was the one who taught me basics of peace and reconciliation and encouraged me to be the president of IMADR. So, if I am there for peace I am destined to carrying the work he could not complete. This is what memorialization is all about. Our life in their sacrifice.