

DEMOCRACY AND VIOLENCE- LESSONS FROM SOUTH ASIA

Justice Chelameshwar, Justice Chowdhury, Mr. Jatin Hazarika, Ladies and Gentlemen: I am deeply honoured to be here today to speak in memory of Dr. Amitabh Chowdhury, a person whom many of you know as someone who uniquely combined scholarly and scientific distinction with personal integrity and compassion. I am going to speak on Democracy and Violence- I was struck by what Justice Chelameshwar's quote from Winston Churchill. Now Winston Churchill and Mahatma Gandhi were bitter political opponents but they shared one thing in common- which was that they left to posterity many quotable lines. Justice Chelameshwar quoted a brilliant line of Churchill namely that – war is normal to human affairs where the peace is an occasion to do- nothing...On this he will disagree with Churchill as he would with many other things. But he may have agreed with Churchill about a wonderful remark that he had made- which I am going to make now: Churchill once said- "*Parliamentary Democracy is the worst form of Governance except for all the others*". That is the premise in which I will begin: "*Democracy is the worst form of governance except for all the others.*" But what I shall try to do, is to unpack the meanings of Democracy; to differentiate between different forms of democracy; to try and understand when it is that democracy fails to live up its potential. There are three major threads of thought in my mind. The first thread is the core component of Democracy- especially in the South Asian context, is cultural pluralism. So, Democracy is not just about choosing your representative; it is not just about the right to vote; it is also about cultural pluralism, and this aspect of Democracy, is particularly important in multi lingual, multi ethnic, multi religious societies such as ours. That's the first theme. The second argument of my talk is that when Democracy or Pluralism is denied to a countries population, that section

chooses to protest. The third theme, deals with the forms of protests. So, a core component of Democracy is pluralism, guaranteed pluralism, which not just guarantees individual rights but also community rights. When, this guarantee is violated, those who suffer this violation choose to protest. Then the question, that we should ask ourselves, is how do they protest? If you look at it historically, sometimes these aggrieved section of society protests violently; and at other times they protest non-violently. When do they move from non-violent protests to violent protests? When do they choose to adopt the gun rather than street protests Satyagraha? Can we distinguish between different forms of violence? What are the different methods of violent protests, used by rebel or insurgent groups in South Asia? And finally when we speak of violence and non-violence, are there circumstances when a group can turn from violence to non-violence? Are their circumstances firstly, what are the circumstances that force or compel a group or an aggrieved section to move from non-violent protests to violent protests? And then could we evaluate a scenario when the move in the converse direction from violence to non-violence? These arguments of a Democracy, cultural pluralism, forms of protests, whether violent or non-violent, these large arguments I will deal straight by looking closely at the historical perspective. So, I am going to talk about Democracy, Pluralism, violence these are in short the arguments of my talk, with examples from the recent political history of India and Sri Lanka. And why Have I chosen India and Sri Lanka in particular? I have chosen these two countries, because these are the two countries, not just from South Asia but in the whole of Asia, not just in Asia, but the whole of the developing world- Asia, Africa, Latin America. These are the two countries that have the longest continuous experience of electoral democracy. We have had fifteen General Elections and countless State Elections. Sri Lanka also from its birth in 1948 has chosen a democratic constitutional form of Government. And in this aspect, India and Sri Lanka are quite distinct from most other countries in Asia and Africa that has had

interrupted and episodic and haphazard experiences of democracy. Those other countries have been either ruled by a Single party regime such as China, Vietnam. Sometimes instead of General Elections, they have Election of the Generals. India and Sri Lanka stand out because, if you look at the developing world, both countries have a continuous experience, in our case interrupted of course by the two years of the Emergency. The other aspect, in which India and Sri Lanka are common, is that they also each have a long line of insurgency. That, of the Kashmiris in India, and there are other Tamils in Sri Lanka. So, at one level India is a Nation State, it's a democratic political regime; yet from its birth in 1947, one part of India, has never really been at peace with living in India. Like for example Sri Lanka, it is a United Nation it is a democratic political regime but one part of that Nation- the Tamils in the North of the island, do not really consider themselves to have ever been granted full rights of citizenship. And though I will be specifically speaking of the Kashmiris in India and the Tamils in Sri Lanka, I will try to analyse why these groups took to violent means. But these case studies of the Tamils and the Kashmiris, will have some bearing on other violent conflicts. But those I leave it to you to draw out inference. I will not mention secessionists' movements or insurgent movements in North East India. I will also not mention the Maoists Insurgency in Central india, which is adopted means of violence. However my analysis of Democracy, Pluralism and violence, which I will illustrate with the case studies of the Kashmiris and the Sri Lankan Tamils, you will find ofcourse deficiency in my arguments, but you will also find deficiencies in my arguments but perhaps you will also find ideas and clues that can help explain the situation in the North East, or the situation in Eastern and Central India, where they are now faced with a violent Maoists insurgency.

Now, let me begin by distinguishing the Hardware and the Software of Democracy. And although I am not a Scientist, as a tribute to my Hometown,

you will allow me to use the words Hardware and Software, but apply them not to computers and information system but to the messy complicated world of political democracy. By Hardware, I mean the political and institutional aspects of Democracy. These include a multiparty system, free and fair elections, freedom of the Press, an independent Judiciary and the freedom of citizens to live where they wish and to associate with whom they choose. These are the classical components of Democracy. If you ask a Political Scientists, what are the core elements of Democracy? They will mention these five- multiparty system, regular and fair elections, independent Judiciary, free Press and freedom of citizens to associate with whomsoever they choose. Now one difference between our country and China for example, is that we can live wherever we want. In America, china you need the permit of the State to move from one corner to another. Now, these are the formal institutional aspects of Democracy. That's the Hardware; and that's what Political Scientists usually study and focus on. But I believe, that as important as the Hardware, is the Software of Democracy. And by Software I mean not the Institutional or Political form, but the cultural and emotional aspects of Democracy. Crucial here are the Pluralism of faith; the freedom to worship any God or Goddess you want or the freedom to worship no God or Goddesses' at all. So, the freedom of faith, the pluralism of faith. The next aspect of the Software is the pluralism of values. To me, the greatest tribute to the idea of India is a great idea often dishonoured in practice. I am speaking in front of two imminent Judges, I can quote the Jurists Nani Palkivala- who once said, India is a third class Democracy with a first class Constitution. But, because we have a first class Constitution, we still have some ideals to live up to. And, to me the most remarkable aspects of the idea of India, is the Rupee note- the pluralism of language. No other Nation in the world has on its currency note, the denomination written in seventeen different languages; indeed in seventeen different scripts. So, the pluralism of language is very crucial. Now, had

Mahatma Gandhi been fighting the French, he would have given Non-violence within a week. Now, this is actually a very insightful and wise remark, because the British may have finished it, but they were also Gentleman. You could embarrass them into feeling guilty. That's what Gandhi very skilfully played up through his rhetoric; through his protests, you could get the British into feeling guilty. The British would not fire upon a group of unarmed protestors. But, the French, the Dutch, the Portuguese, the Spanish had no hesitation in doing so. So, whichever way it has been said, that had Mahatma Gandhi been up against the French or a more brutal unfeeling regime ruled by people with no heart and no conscience, he would have given up non-violence. And that's what happened to the Kashmiri insurgents and the Tamil insurgents. Even so, while you may sometime understand why movements of protests take to violence, we must still distinguish between the different forms of violence. I must come to the core of my talk- and I would like you to focus your attention particularly on what I am going to say now. Because, it is not enough to distinguish between violence and non-violence; it is also important to distinguish between the different forms of violence. Some forms of violence are more legitimate than others. Some forms of violence are less inhuman than others. Conceptually, I would like to distinguish between five forms of violence that has been undertaken by a rebel or insurgent groups across the world. Across the world, not just in Kashmir and Sri Lanka; but in other parts of India, in Bangladesh, Pakistan, Africa, in Ireland, in the vast country wherever there is a secessionists' movement seeking a independent Nation state, they have resorted to...adopted five distinct forms of violence. And I would like to distinguish between them and you should pay some attention to this fivefold classification.

The first form of violence is attack on State Property- so, you break a Railway line, you burn a Railway station, attack on State property, because the

property itself represents... the Governmental, that you dislike so much, that you want to demolish that symbol of the oppressive government.

The second form of violence, attack on State Officials. So, you kill a particularly brutal Policeman, or a particularly brutal forests officer, or whatever it may be.

The third form of violence is attack on the civilians on the other side. So, you are moving now from more elementary, more basic forms of violence...more elementary more discriminating forms of violence to less and less discriminatory. So, the third form of violence is an attack on the civilians of the other side. So, you feel that, you throw a bomb like as it happened in the Khalistan movement for example- bombs were let off in Delhi, where lot of Non-Sikhs who died.

The fourth form of violence is attack those on your side who worship a different God. And the fifth form of violence is attack those on your side who practice a different form of politics.

Now if you look at the Tamils in Sri Lanka; and if you look at the Kashmiris; and indeed if you look at many Secessionists movement across South Asia, you find that they have moved from the first to the second to the third to the fourth to the fifth form of violence. So, first they have attacked Government offices; then they have assassinated Government officials; then they have engaged in violence against ordinary civilians on the other side; then they have attacked those on your side who practice a different form of God. In Kashmir for example, the attacks on the Pandits who are also residents of the valley would be an example of this. In Sri Lanka, the Tamils who are largely Hindus attack Christian and Muslim Tamils. Then the fifth form and the most extreme form of violence, would be attack those who are within the Secessionists' movement, but of a different faction or a different allegiance. For

example, Prabhakaran, the Tamil Liberation leader assassinated many Tamil politicians. In Kashmir, the latest attack on Mr. Kamlesh Qureshi of the Hurriyat movement, or the assassination of many Kashmiri leaders such as Abdul Ghani Lone, is an example of this. So let me for your benefit, go back to those five forms of violence- attacks on State property, attacks on State officials, attacks on Civilians of the other side, attacks on civilians on your side who worship a different God, and attacks on political rivals on your side. Now it is important to make these fivefold distinction. Because the first two forms of violence- namely attacks on State property, attacks on particularly brutal state officials, are in some ways more easy if not to exclude; at least to understand. Then there are the other three- attacks on Civilians of the other side, attacks on civilians on those on your side who are of a different religious order, and attacks on your own political rivals are simply unacceptable, I mean they caught the browns of decency and humanity, they can't be justified by recourse to any history of discrimination or whatever. So, what is striking about the Kashmiri and Tamil Liberation struggle is that they have moved from the forms of violence which are number one and two to three, four and five; and in doing so, has transgressed the browns of what we may consider as reasonable and legitimate use of violence. And this is probably the case with many other Secessionists movements or radical movements; including that of the Maoists in Central India. So I have spoken about- how democracy may sometimes violate its own ideas. It may deny fair elections. It may deny the pluralism of faith and violence...faith and religion...democracy may violate its own ideas. This violation leads to a sense of resentment and grievance and hurt amongst the section of the population that suffers it. That section tries to protest. It may try reasonable form of protest, it may try assertive forms of protests and then it may move to violent forms of protests. When it moves to violent forms of protests, it often moves from more discriminating, more focussed, less harmful forms of violence, to less discriminating, less focussed and more harmful forms of

violence. Can this trajectory be reversed? In Kashmir, in Northern Sri Lanka, the rebels moved from moderation to assertion to secession. Can they start moving back? Should they start moving back? Well, one reason I believe they should think of start moving back, in that the dream of independence is a fantasy. I mean dreams nourish all kinds of hope. But it is important to understand that these hopes are realisable, practical, feasible. If you look at Kashmir, Azadi or freedom is not a legal, military or diplomatic mission any more. The original term of the plebiscite of 1948, was that there were only two choices- India and Pakistan, not freedom. It's not a military option, because the Kashmiri insurgents cannot defeat the Indian States. It's not a diplomatic option because India is not a small country that can be pushed around by the countries. Similarly for the Tamils in Sri Lanka, Azadi is not really an option. If Azadi is not an option, how does one work for an honourable peace? Can the Secessionists become the regionalists once more? Can the movement that prefers violence turn into non-violence and negotiation? So can they reverse that trajectory top to bottom because in both cases, in Kashmir and in Sri Lanka the violence has been continuing for a very long time? Thousands and thousands of life has been lost, lives of militants, lives of State officials and lives of the civilians caught in the cross firing regime. So we should now start thinking of reversing this whole cycle of violence and the amount of violence. Can this be done? For us to think of reversing this trajectory we will have to really require visionary leadership from both the States and the rebels' groups. Now, there are some successful examples of this. Within our own country, Justice Chelameswar will exactly know this, as many of you may not. That till as late as 1963, the Dravida Munnetra Kazhagam, the DMK's fought for complete independence...an independent Nation of Tamil Nadu. And it was only in 1963, that they gave up their independence demand and formally accepted the Indian Constitution, and won the next election in 1967 as a regional part, and they ruled Tamil Nadu for about a large portion of the subsequent four

decades. Now, as a Tamil I think they were wise to do it, because, by being a part of this large country there were many more opportunities for the Tamils. So, the Tamils have got some of the best jobs in the Indian Union. The Tamils have over represented, the Tamils have been in law Courts, in the bureaucracy, the corporate sector. So it was sensible of them to make that accommodation. But it was only in 1963 that the major Tamil political party gave up its demand for independence. That's example number 1. Example Number 2, people in the audience knows much better than me- is that in Mizoram, where you had Mizo National Front, which stood for complete independence, which lodged a long arm struggle against Indian National States- struggle that prompted a lot of violence from the Indian States too. Infact the first time, the Indian Airforce was ever used against its own people was in Mizoram in 1966, but after 20 years of brutality on both sides and many deaths- the leader of the MNF - Laldenga came overground, entered the democratic process and instead of being what you could have never have been- the Prime Minister of an independent state of Mizoram- he became the Chief Minister of Mizoram within the Indian union. That's example number 2. Example Number 3- which is actually the most interesting does not come from the sub-continent it comes from South Africa. The African National Congress, started as a protests movement, which was based on Non-violence or the ideals of Mahatma Gandhi. From 1912 when it was founded till 1960, it sought to demolish the racial regime in South Africa through non-violent protests. In 1960, occurred what is called the Sharpville massacres, where Police in Cape Town, killed lot of innocent black people. After the Sharpville massacre the ANC turned to violence. But even when it turned to violence, it was extremely discriminating. It only attacked State officials, State targets and State officials. Civilians...white civilians were their victims. After 25 years, of a focussed and discriminating armed struggle, in which civilians were targeted they decided to open negotiations and Mandela then renounced violence entered the democratic process, his colleagues in the

Democratic Party the National political party of FWD Clerk negotiated the transition to a long racial and Democratic South Africa. So, if we in India, are to find in our lifetime, a resolution of the Kashmir dispute...if the people in Sri Lanka are to find a long term sustainable resolution of their Tamil problem it will require Statesmanship on both sides. I think the insurgents, the rebels need to absolve violence and enter the democratic process. At the same time the Government or the State acknowledge the errors of the past. State is not blameless. The Kashmir problem started because of the violation democratic processI am outright. The Tamil Insurgency started because imposition of certain restrictive and discriminatory policy by the Govt. of Srilanka. I am not going to outlying the concrete step that the rebels and the State needs to take. That beyond realm of my competence or my expartise but I would like to say that the example of Mizoram , e.g. of Tamilnadu, I will take the e.g. of Tamil Nadu, Tamil Nadu is very interesting. I will take just a minute here, in 1965 according to the Constitution of India; Hindi was to be placed over English as the sole official language and the Tamils protested. By that time, the DMK had agreed to adhere to the Constitution. They did not want an independent State. But they were completely against the imposition of Hindi ion them. Annadurai was the leader of Tamil of the DMK wrote a letter to Prime Minister, Lalbahadur Sashty where he said, '*Do not...*'he asked him to withdraw the imposition of Hindi, which he refused. Then he said something very interesting. If Hindi is to replace English ion 26th January, 1965, don't pass that order on 27th January, 1965. So that, you can celebrate Republic Day; and of course we will protest your policy. But, at least let us celebrate Republic day with rest of our fellow citizens! Unfortunately the Central Government, as it is so often the case did not hear those signals and instead imposed Hindi on the same day, as the protest started and after about six weeks of protests, the Government had to give in. Now, I had already talked about the importance of the software of democracy. It is absolutely crucial, the Tamil case is very

crucial. Because Hindi was not imposed either in 1956 or 1960. We still have you know, a large part of India that is content to be a part of India. There are still few Hindi tenets in North India. One of them, when he was Chief Minister of Uttar Pradesh in the late...early 1990's, wrote a letter to the Chief Minister of Kerala in Hindi, and the answer came back in Malyalam. Now there are very few people in Lucknow, who understand Malyalam, as there are people in Trivundram, who understand Hindi. Henceforth the letters were sensibly written in English. This kind of visionary reconciliation is quiet on both sides. In case of Srilanka for example, if the Government was to first of all renounce the proclamation of the official language, I think it would do a great deal to reconcile the damage then. In our case, the Kashmir I think frankly go wholly with the excesses by the Army, to account assuring them their full right and promise them, when they exceeded it. I think these are very important. For a workable, sustainable negotiation to be enacted, it requires a visionary leadership by both the rebelists' group and the violent States. For instance, Mahatma Gandhi, always spoke of the beauty of the compromise. The modern leader, whom nobody followed his dictum, was Nelson Mandela-whose work in bringing about non-racial democratic South Africa of which I have already spoken about. Now, this example must be heeded by both States and the rebels. For, all one can say about Kashmir and Srilanka is that, violence has gone on for far too long indeed. It is time to give pluralism and democracy a fair chance. Thank you, very much!
