

L i b e r a t i o n

JOURNAL OF LIBERATION, FORMERLY THE MOVEMENT FOR COLONIAL FREEDOM



Universal Human Rights Day

L i b e r a t i o n

Formerly, the Movement for Colonial Freedom, Liberation was founded in 1954 as the Movement for Colonial Freedom. Today, Liberation campaigns for Peace, Economic Justice, Equality and Human Rights.

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Morocco's "Green March" and Western Sahara

Khalil Asmar

On November 6th of every year, Morocco celebrates what once Hassan II, the father of the current King, named the "Green March"; the smokescreen of a military invasion with disproportionate brutality where the Saharawi's were uprooted from their ancestral homeland. Left to their tragic fate, the Saharawi's were forcibly scattered between a hideous occupation, inhospitable land of refuge or alienated in the diaspora.

All the Saharawi's with no exception have suffered in a way or another from the cruelty of the Moroccan occupation whose scar is still engraved through many generations.

The gruesome invasion

Sid Ould Ahmed Baba, an old man in his seventies, is one of hundreds of thousands of Saharawi's, whose lives have been scarred for ever since the occupation of their land. He fled his hometown El Aaiun in occupied Western Sahara to end up living in the refugee camps south west of Algeria; the neighbouring country that hosted the Saharawi refugees fleeing an indiscriminate genocide perpetrated by the Moroccan military forces against the Saharawi civilians. Deprived of his country and its resources, Sidi, since then, joined the Saharawi armed resistance under the Polisario Front leadership to fight the invaders, but the war that he had thought to be temporary extended years on end as well as the subsequent fruitless UN peace process. Forty two years between war and peace, Sidi still languishes in the refugee camps depending on his crutch to move from his mud house to the nearby erected tent. Yet, he has been left with hazy memories that he often times yearns to remember during the long tea times gatherings.

Akhdajja, who was twenty two years in 1975, was also among the Saharawi's in their great exodus fleeing Morocco tanks and war planes' bombs. In a testimony to "Saharawi Voice" blog, Akhdajja talked about her journey through the desert and how she gave birth to a baby son who did not survive because of the scarcity of food.

The same tragic fate happened to Soukaina's baby girl in the occupied territories of Western Sahara. This woman, who remained in the occupied zone, disappeared after she had been abducted by the Moroccan police. The baby girl she had left died shortly after. Soukaina spent several years in secret Moroccan prisons and underwent outrageous torture and human degrading treatment. Now, she lives in occupied Samara and still campaigns to free her land from the Moroccan ongoing cruel

occupation. Her grown up kids carry the scar of the tragedy of their mother and homeland.

Saving the crown

But these three Saharawi's in illustration knew little about why their life and that of their siblings suddenly turned into an eternal tragedy. In a classified document of the US State Department that has just been released to the public, the King Hassan II is said to have invaded Western Sahara because of the threat that had been imposed by his military after two failed coups d'état. With a UN resolution to decolonize this non-autonomous territory that had long been colonized by Spain, and a Spanish transitional vulnerable rule, Morocco seized the opportunity to strike the steel while it was hot. The newly-born republic in Western Sahara wouldn't resist a well-equipped and strong army after the anarchic departure of the Spanish administration. The Moroccan King built a false national cause for his people and drove his army south to occupy the Saharawi lands under the pretext of taking back what he named the Moroccan Sahara. Addressing his army, the King recommended his high military officials to go down to invade Western Sahara and make business instead of politics; a reference to the abundant natural resources in Western Sahara with which they were gifted to enrich themselves.

In addition, taking hold of Western Sahara resources made Morocco a regional power to counter the mounting leading role of Algeria which is the main back up of the forcibly distituted and occupied Saharawi republic; a fact among others that explains France's unwavering support to Morocco.

But meanwhile, these old Saharawis knew nothing about the big game of which they have been a victim; Morocco's monopoly of the Saharawi lucrative natural resources for a leading regional role and France's ongoing imperialist ambitions to weaken the newly independent countries, Algeria and Western Sahara and thus prevail and keep its hegemony in a supposed French cultural zone of Africa.

Yet, the Saharawi catastrophe still goes on with no apparent solution on the horizon, and its memory haunts the Saharawis every time the Moroccan celebrate their "Green March" anniversary.

Khalil Asmar is a writer and blogger from Western Sahara. This article was originally published in Freedom Support.

Children in Iran

Azar Sepehr

The murder of several little girls in recent weeks has drawn media's attention to the suffering of children, the unprecedented increase in the rate of child marriage and the appalling social damage caused by child abuse in Iran. These are only a small part of the social problems related to the children that surface in the media. They are rooted in poverty and unemployment, combined with ignorance, cultural poverty, and policies based on the traditionalist and reactionary views of the ruling regime in Iran. Combined with an absence of legal and state protection for children, these conditions exacerbate social problems and the suffering of the children in Iran.

According to the statistics, children make up 24 million of Iran's population (according to the Convention on the Rights of the Child, anyone below the age of eighteen years is defined as a child). Sociologists deem children as the most defenceless and vulnerable individuals in a society. The Convention states, "The Convention states that everyone under the age of 18 (the definition of a child), regardless of gender, origin, religion or possible disabilities, needs special care and protection because children are often the most vulnerable."



Despite signing the Convention on the Rights of the Child, Iran's theocratic regime has taken no steps towards it. The Child Protection Act has been gathering dust in the bureaucracy of the parliament for years. The regime persecutes organisations that genuinely promote the rights of children, it conceals and obstructs the publication of data on the harm done to children and works towards removing the subject from the agenda of periodic international meetings on the rights of children, and it tries to present fake statistics. In 1994, Iran joined the convention of the Rights of the Child (adopted by the UN in 1989) and is obliged to implement its articles. However, in reality, being a signatory to the convention has not led to Iran acting on its obligations. Iran has spent his efforts only on issuing unrealistic and unsubstantiated reports on the life of children in Iran. But the statistics and the painful facts that are published by non-governmental organisations, or that were publicized in the media during the election campaign, reveal how appalling the violation of children's rights is in Iran.

Based on the statistics in official publications, 63% of girls and 37% of boys suffer physical and sexual abuse in Iran. This does not even include the abused street children or children who work in small workshops. While physical abuse is the most obvious form of child abuse and the most visible one, child sexual abuse in the homes, schools, and other public spaces, is neglected, and given that sexual abuse is a taboo, it is not discussed or investigated publicly, and continues to have a devastating impact on children's mental and physical health and safety.

Working Children and Sexual Abuse

According to available statistics, 2.5 million children have no access to the education system in Iran. Besides, 1.5 million children, including street and working children, are forced to work to help the livelihood of their families. Some of these children are among street and working children, even as load carriers across the borders. Based on research in the field of child abuse, suggests that those who abuse children have been abused as children, themselves. However, given that the media and official statistics do not report on these, there is little statistics, and these are among the problems that threaten the lives of millions of Iranian children and continue the vicious circle of violence in the society.

Experts believe that child abuse is the outcome of domestic violence, particularly violence against women. When women and children are considered as the property of men, under their unlimited authority inside the home, where men are not prosecuted for violating the rights of women and children and abusing them, and in the absence of any legislation protecting families, the cycle of violence continues.

Child Marriage, a Clear Manifestation of Child Abuse

Children's marriage, as a clear case of child abuse, rooted in poverty and economic, cultural, and social deprivation, is lawfully supported by the Iranian regime. The Family Protection Law, adopted in 1975, defined the minimum age of marriage at 18 for girls and 20 for boys. The Law which was the result of the women's fight for their rights under the Shah regime, was repealed and replaced after the Islamic revolution. The misogynist and traditional clergy of Iran set the marriage age at 9 for girls and 13 for boys, i.e. their maturity age according to religious beliefs. The amendments in 2002 made some changes to the previous law. Based on these changes, girls below the age of 13 and boys below the age of 15 should have the permission of their legal guardians or the discretion of the court for marriage. 40 years after the "Islamic Revolution" and despite serious challenges against this inhumane law, the Iranian regime resists increasing the age of marriage to 18 for boys and girls. This inhumane law affects children mentally and physically and threatens their health. Girls, as young mothers, are especially vulnerable and experience serious infections, bleeding, and even death.

Besides anxiety, depression, and attempts to commit suicide, other social damages such as early age divorce, education deprivation, increased domestic violence, and finally perpetuation of the vicious circle of deprivation, are consequences of the child marriage.

According to the official statistics, out of the registered marriages in 2015, 34.09% and 4.1% belong respectively to girls and boys under the age of 19. Of 97,862 registered new-borns in the same year, 1511 belong to mothers under the age of 15.

The results of a survey done in 2000 show that 56% of girls from 10 to 19 years of age, have quit school due to early marriage. Very high rates of child marriage and divorce are registered in the provinces of Sistan and Baluchistan, Khuzestan, Khorasan Razavi, East and West Azerbaijan, Fars, Zanjan, Tehran, Hamadan and Mazandaran.

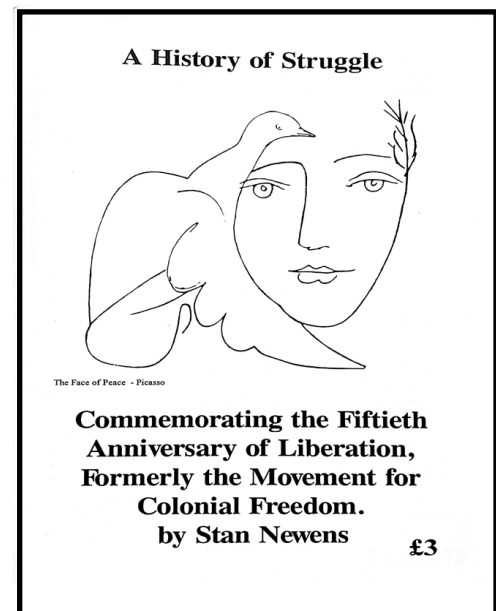
Yet another consequence of child marriage is 25 thousand divorced children with girls being the majority among them. According to the released statistics, during the years of 2011 to 2015, the rate of divorced girls age 10 to 14 almost doubled and reached 127, from 68. The number of divorced girls, age 15 to 19, shows also an increase from 1026 in 2011 to 1231 in 2015. Similarly, the rate of divorced girls shows a distinct increase in the recent years.



A group of civil right activists have recently raised their concerns about the epidemic child marriage through a statement which titled "End Child Marriage". The statement asks for raising the age of marriage to 18 for both girls and boys, and for avoiding the possibility of child marriage through the permission of their legal guardians. The statement also asks for criminalizing the children's unregistered marriages.

Resolving the problems in the field of child abuse is tied to alleviating the economic and cultural poverty, criticizing traditional ideas, repealing Sharia laws, and setting in place protective legislations in accordance with the Convention of the Rights of the Child. The medieval-age regime of Iran has neither the power nor the intention to put an end to this dilemma. It is up to everybody, especially women with their influential role, to fight together to provide children with the world they deserve.

This article was written for Liberation by Azar Sepehr, Democratic Organisation of Iranian Women (DOIW)



ELECTIONS EXPOSE HUGE GENDER AND OTHER INEQUALITIES IN KENYA

Dan Thea

Just as generally in other countries, there are slightly more women than men in Kenya. However, there are far fewer women than men in the top public service positions; both elective and appointed. It, however, appears that more progress towards gender equality has been achieved in appointed positions than in the elected ones. Even in the August 2017 general elections relatively little progress was made at the top elected positions, such as Governor, Senator, and National Assembly Member levels. Indeed, all the eight presidential candidates, and their eight deputies, were male; and, disgracefully, not a murmur was heard about this huge scandal in the 21st century!

Even the quite progressive 2013 constitution fails the gender test; with its confusing “two thirds” gender clause; meant to address this issue through the provision that not more than two-thirds of a group of top public service positions will be occupied by men.

With universal adult voting rights; mass voter participation in elections; and virtually equal education levels between women and men, why do the elections produce such predominantly male outcomes? Like me, a woman candidate in the 2017 elections in Turkana County was baffled; and was reported as having observed that: “in my ward there are over 11,000 women voters against 7,000 men voters; but I only secured 800 votes!” She added that: “Only one woman was elected to the County Assembly”.

Turkana is a geographically huge county; with a population of about one million people; located at the north-western horn of Kenya; neighbouring Uganda, South Sudan and Ethiopia. (Just look for the huge namesake Lake Turkana, and there it is; to the west.) This is also where anthropologists “discovered” the famous “Turkana Boy”; the first human to walk the earth.

What did the elections tell us about gender balance in Kenya at the close of 2017?

The second most coveted position in the elections was that of county Governor. Hurray! The country’s first three women Governors, i.e. 6%, out of 47, were elected. Of course, another 20 were needed to even approach gender equality. But, let us be grateful for small mercies; and congratulate the three women governors: Joyce Laboso of Bomet County; Anne Waiguru, Kirinyaga; and Charity Ngilu, Kitui!

It is noteworthy that of the 47 outgoing governors, 22, (47%), lost their seats. (Oh, if only they were replaced by 22 women!)

As with governors, among the 47 Senators elected, one in each county, only three were women. Professor Margaret Kamar won in Uasin Gishu; Susan Kihika, (previously Speaker of the Nakuru County Assembly), in Nakuru; and Charity Ngilu, (a fierce fighter, and former cabinet minister), in Kitui.

The very small number of 22 women elected from constituencies to the National Assembly was hugely lifted by the 47 Women Representatives, one per county; and hugely raising the level of women representation in the Assembly. This level was further increased by the additional 10 nominated women; including one each to represent youth and the disabled. Thus, women representation in the Assembly increased to 79, i.e. 27% of the membership. This is a significant level; but is still only slightly above the half-way mark to gender parity in the 350-member chamber.

As indicated above, from the 290 National Assembly constituencies, only a paltry 22, (8%), women were elected; and not the 145 that equality would require!

Of course this kind of outcome was to be anticipated, given the overwhelming blindness to gender injustice the society metes out to women; and so, clever measures have been devised to pad the result. However, these shame-faced devices, including the establishment of the Women Representative and the ‘nominated member’ posts go nowhere near to properly addressing gender injustice.

The 27% representation of women achieved through these special measures ameliorate the injustice a little; and produce a result that is fairer than the un-adjusted 8% produced by the direct electoral process. They should not be dismissed. However, this approach is not at all satisfactory; and allows manipulation. Critically, the selection is not a direct expression of the will of the voter; unlike elections; and is thus not a truly democratic procedure!

Could the present system of a single-member parliamentary constituency be replaced by a two-member system, electing a woman and a man; and thus directly and immediately ensuring gender parity in the National Assembly? Problem solved!

In order to keep down the size of the parliament, the size of constituencies would be increased accordingly. This suggestion may sound rather dramatic; but already, as the County Government gets embedded, it is increasingly being suggested that the size of parliamentary constituencies should be increased. The two issues could be considered and resolved jointly.

As with women, the youth and people with disabilities are currently allocated a number of nominated seats in both the National Assembly and the Senate. This arrangement does not seem adequate; but there currently does not seem to be an easy alternative.

The 2017 elections produced a particularly interesting case of the youngest MP, 23 years old Mwirigi; a university student, who comfortably trounced his three much older rivals. He was described as “from a poor background”; “lives in a granary”; and begged canvassing financial support from his neighbours. He pointed out that he understood “the issues that affect residents” of his constituency. To travel to Nairobi to take his oath of office upon his election, (and to take in the city atmosphere!) he took a ride in a battered commuter bus; becoming a celebrity!

Then there is the case of the youthful Abdullah Guliye, who, having failed to win his ward by a mere 17 votes in 2013, took it in 2017 with 1,153 votes to 1,003 for his opponent. He explained that his victory was based on the support of the youth and women; and against the opposition of the reactionary ‘council of (men) elders’. He declared that his principal goal as a Member of the County Assembly was the provision of water to households and livestock; alongside better healthcare for the community.

Kenya is multi-racial; with small but historical Asian, Arab and European communities. In these elections three ethnic Asians were elected to the National Assembly: Rahim Dawood in North Imenti area of Embu County; Shakeel in Kisumu East; and Dr Swarup Mishra in Kesses, Uasin Gishu. Interestingly, the three-some constitute 1% of the National Assembly members; the same ratio as the Asian community in the Kenyan population. (Come on Britain, Europe and USA: catch up!)

The small El Molo community of Marsabit County complained of not being nominated for a special seat in the County Assembly, citing the constitution; unlike similarly placed communities, including the Rendile, Gabra, Borana and Somali. The El Molo got their entitlement!

As for the ruling Jubilee party, after the shock defeat for the inaugural Nairobi County Government in 2013, it swept to power in 2017, comfortably winning Governor, Senator, and County

Assembly majority. Come the election of the County Assembly’s Speaker, it was glorious for Jubilee. Its candidate, Beatrice Elachi, (only recently a Nominated Senator), swept through with 90 votes, (74%). Hurray! And another feat on the gender score card!

Pending the presidential re-run, let us take a peep into the gender make-up of Kenyatta’s outgoing government of 20 Cabinet Secretaries and 44 Principal Secretaries appointed, (not elected), positions. One would expect 10 women and 10 male Cabinet Secretaries; and 22 each of male and female Principal Secretaries. Not so! There are only five, (i.e. a mere 25%), women Cabinet Secretaries! The situation is better with the Principal Secretaries; whereby 15, (34%), are women; just meeting the notorious “one-third” constitutional provision. (Mr President, 50/50 next time... please!)

Women appear to be well represented at the head of the country’s powerful commissions such as the Public Service Commission, (Prof Margaret Kobia); the Salaries and Remuneration commission, (Sarah Serem); and the Teachers Service Commission, (Nancy Macharia and Dr Lydia Nzomo); as well as deputy heads at the Ethics and Anti-Corruption Commission, (Sophia Lepuchirit), the Judiciary Service Commission, (Philomena Mwilu); and the Independent Electoral and Boundaries Commission, (Consolata Maina).

Encouragingly, the appointive judicial service appears to provide an encouraging example in addressing staff gender composition. The Chief Justice is male; the Deputy, female. The seven-member Supreme Court has two, (29%), women; including Deputy Chief Justice. The Court of Appeal has seven women members, (35%); to 13 men. The 66 women judges constitute 42% of the 157 total. Similarly, there are 208, (49%), women magistrates; out of 422. Of the total 4,326 judiciary employees, 2032, (47%), were women. This is indeed a good pointer to gender parity.

Let no obstacles stand on the way of gender, youth and disability justice in employment, (and in service-delivery), across the public sector!

UP-DATE ON THE REPEAT PRESIDENTIAL ELECTION.

The re-run presidential elections ordered by the Supreme Court after expunging those of 6th August were held on 26th October; with Uhuru Kenyatta receiving 98% of the vote; well over his 55% in August.

Dan Thea is a regular contributor to Liberation journal, writing mainly on Africa.

MEXICO'S HUMAN RIGHTS CRISIS IN THE SPOTLIGHT AS ELECTION YEAR LOOMS

Mexico's inability to reign in atrocities at home is likely to have a significant impact on the 2018 Presidential election, says Xochi Wright

The struggle for human rights and justice in Mexico received a much needed boost this year as the activities of UK-based solidarity and campaign groups such as Justice Mexico Now have helped raise awareness of the worsening crisis in the country.

The number of human rights defenders, media workers and journalists and other civilians such as peaceful protesters or innocent bystanders who have been deliberately targeted by paramilitaries or state or federal backed law enforcement, often with the knowledge or collusion of very senior figures has continued to rise - in spite of promises by the Mexican government to crack down on such attacks.

Following the mass disappearances of 43 student teachers from the Normal School of Ayotzinapa in the state of Guerrero on 26th September 2014, the authorities publicly declared they would pursue and prosecute the perpetrators and the intellectual authors of the crimes.

While lacking bodies or any independently verified substantial remains (one student was deemed to have been killed and his remains identified by his dental records there is at the time of writing no proof that the government's claim that the 43 were arrested and handed over by police who murdered them and burned the bodies) the families of the 43 - and the three students who were killed on the night of the disappearances - have stated they will not accept reports of their childrens' deaths until they have forensic details confirming this.

"Justice Mexico Now", an independent, non-profit organisation run entirely by volunteers, has worked hard during the past 3 years to raise awareness of this and other issues and has sought to liaise with several unions who have longstanding links with Latin America - including the National Education Union (formerly the National Union of Teachers) and Unite - to help disseminate information to their members and to press the country's Embassy in London to explain in detail the Mexican Government's actions to date.

Kevin Courtney, the then head of the NUT, wrote to the Mexican Ambassador over the summer to ask for a breakdown of how the promised investigations were progressing. The Embassy reply was that they took the matter seriously and that more than 128 arrests had been made in connection with the case. It was not the robust and open explanation, the Union, which campaigns on behalf of teachers who have been persecuted worldwide, had expected given that the Mexican government had previously promised that it would pull out all the stops - a position that was shortly followed by a statement from the country's then Attorney General to the effect that the government believed the students were dead and that efforts would now be directed away from the hunt for the students.

But Liberation understands that of the 128 detained under suspicion of some kind of involvement in the attacks in September 2014, a substantial number have been tortured.

Furthermore, Anabel Hernandez, one of Mexico's best known investigative journalists who has covered the case from the start, believes that the authorities will leave the Ayotzinapa case unpunished.

This is why the solidarity shown by the Trade unions and others is so important. If those responsible - at any level - for the cold blooded attacks on young people training to become educators in one of the poorest and most marginalised parts of Mexico, where there is a long tradition of radical school teachers supporting a population with a worryingly high level of illiteracy who have been taken advantage of for generations - are allowed to escape justice, then it will send a signal that those lives are not valued sufficiently and that murderers and organised criminals can continue to operate with total impunity.

Labour Party Leader Jeremy Corbyn, MP, chaired the All Party Parliamentary Group on Mexico prior to his election as Leader of the Opposition. He has supported teachers, union members and human rights defenders in Latin America for more than 30 years, and has followed the Ayotzinapa case from the beginning. He submitted an Early Day Motion (EDM) condemning the attacks and calling for the case to be resolved within hours of the news.

While he has stepped down from chairing the APPG, he has continued to follow developments in Mexico closely, attending fundraisers organised by Justice Mexico Now.

Some of his constituents have Hispanic or Latin heritage and his wife is Mexican. The day after the Labour Party Conference they returned to London to attend an event hosted by the NEU in conjunction with Justice Mexico Now to mark the third anniversary of the Ayotzinapa disappearances.

This was one of JMN's biggest meetings to date and the panel of all female speakers included the NEU's Louise Regan, Helen Goodman MP who took over as Shadow Minister with responsibility for Latin America earlier this year and JMN's Lila Caballero.

Also on the panel was the Glasgow-based Scots multimedia artist and activist, Jan Nimmo. Her digital portraits of the missing students have been seen around the world thanks to social media which, with the blessing of the families of the students who were gifted the paintings by Ms Nimmo, have made them available for use by anyone wishing to help spread the word about the search for the young men who were last seen alive inside a police station in the town of Iguala.

The Mexican embassy has acknowledged the communications received from the unions but seems to place a higher priority on promoting trade relations with the UK -

it is especially keen to reach agreements on a post Brexit free trade deal - rather than urging the government back in Mexico City to take note of the strength of feeling not just in London but across the UK with regard to human rights abuses and what is perceived as an ongoing lack of will to deal with the corruption and impunity, which is now endemic at many levels of law making and government in Mexico.

Mexico is due to hold elections for a new President next year and, as incumbent Enrique Peña Nieto is not permitted to run for a second term under the country's Constitution, the current administration is scrabbling for a candidate who will continue his neo-liberal agenda which seems to include pacifying the President of the United States, who continues to declare that he will make Mexico pay for a hard border wall between the two nations.

Prior to taking over the most senior political position in the land, Peña Nieto was governor of the State of Mexico - the country's largest entity by population - during the notorious attacks on peaceful protestors in Atenco who were seeking to avoid the construction of a new airport on virgin land in the state. That incident - where woman and men were rounded up and many were tortured - has been a stain on Mr Peña Nieto's record throughout his period in office.

A recent court ruling gave legitimacy to the claims of sexual abuse and torture by police and other authorities present during the Atenco operations and that case continues moving through the Mexican courts and looks likely to end up in the Inter American Court, if, as expected the Mexican government continues to evade its responsibilities and seek impunity for those acting under state and federal control that day.

The country's general election - likely in July 2018 - will be a crucial barometer of how it can demonstrate a mature commitment to tackling the human rights crisis as well as the deep divisions over the selloff of natural resources such as the country's reserves of oil and gas including a large amount that lies on ancestral land belonging to indigenous communities who fear more environmental destruction and loss of autonomy.

The coming year will see JMN consolidating its outreach work with likeminded advocacy groups as well as International human rights organisations such as Amnesty International which hosted several of the parents of Ayotzinapa students at an event attended by JMN.

International solidarity has long been appreciated by those inconvenient Mexican speakers of truth to power and 2017 will be hearing more from them as more events are announced via the website and social media.

This year's visit to the UK by politician Andres Manuel Lopez Obrador - the former mayor of Mexico City who has run for President on two occasions and who is currently the frontrunner culminated in a lecture and Q&A at the London offices of

Unite the Union. Lopez Obrador, known by his initials as AMLO, stunned many in the audience with his commitment to establishing truth and reconciliation process and well as promising that suspected criminals within the armed forces would be tried in civilian courts and that army barracks and other closed areas - mostly linked to the armed forces and long suspected as concealing mass graves - would be opened to investigators as previously recommended by international bodies.

At the current time, there are around a dozen candidates representing a range of parties from across the political spectrum. Mexico has a history of using a large slate to dilute the vote and maintain the political status quo and there are fears that this could happen again.

There is also considerable interest in the first indigenous woman candidate who is backed by the Zapatista movement which first made headlines around the world when it stormed its way into public consciousness on 1st January 1994 by declaring war on the Mexican government of Carlos Salinas Gotari who presided over the ill-fated NAFTA trade deal which proved so disastrous for millions ordinary Mexicans who never saw any of the much vaunted benefits from a trade tie up with Canada and the United States. In the meantime, JMN will continue raising awareness of the Human Rights crisis in Mexico, as well as collaborating with organisations and Unions to bring justice to Mexicans and make a difference to many lives.



Justice Mexico Now: Stand up for Democracy and Human Rights

In 2018 Mexico will elect a new president. The government of Enrique Peña Nieto has been a disaster for democracy and human rights, with rampant violence, political corruption and impunity. Trump's efforts to build a wall and renegotiate NAFTA also challenge Mexico's political establishment. The panel will reflect on these issues and the outlook for diverse actors, including civil society, to engage and influence these processes to transform Mexico's democracy and strengthen the protection of human rights.

This article was written for Liberation by Justice Mexico Now

Partition referendum of 1947

Murad Qureshi

One of the untold stories of Partition is the Partition referendum in Sylhet.

Very unusually for partition along the borders of the proposed two-states of India and Pakistan, the Sylhet region (within Assam) at the time had a public poll to decide whether the district would fall into either India or Pakistan. And while it was hotly contested it did mean it had a mandate and as a result a major explanation of why we had a lot less communal violence in Assam than in Punjab and Bengal.

The Public Poll

On the 6th and 7th of July 1947 the Sylhet Division of Assam under the British Raj held the most momentous poll for the future of the district and its inhabitants – whether it wanted to be in the future state of Pakistan. The referendum simply asked “Should Sylhet join East Bengal?” and for many this would be the first time they voted. So in many ways it was a more important referendum than the BREXIT one held in June 2016 in the UK to leave the EU, as it involved potential joining a new state altogether.

Interestingly the Government of British Raj only declared on the 3rd of July 1947 that a referendum would be held to decide the future of Sylhet and H.C Stock was appointed the commissioner of the referendum. That is only a few days before the poll itself!

Why the Poll?

It was clear Assamese wanted to hand back Sylhet anyway as it once belonged to the Bengal province. Essentially as Sylhet was seen as a Muslim majority division within a Hindu majority province like Assam and its people did not speak Assamese but Sylheti and Bengali. The government of Assam believed removing Sylhet would make it more homogeneous and stronger as a result. This was encapsulated well when the Assam's Prime Minister Gopinath Bordoloi said in 1946 that his wish was to “hand over Sylhet to East Bengal”

Furthermore, Sylhet as a colonial province of Assam was little known other than for tea production and a religious centre but was eventually included into Jinnah's demand for six province Pakistan – Jinnah was clearly lobbied by Bengali Muslims and indeed made a visit to Sylhet in March of 1946 for its inclusion within Pakistan, as Muslim League leaders entertaining him in their tea plantations, in the photo above.

Memories from the Grave

My late father Mushtaq Qureshi wrote quite extensively about the poll just before partition in his autobiography (in Bengali) and it is a useful example of the verbal history his generation of Bangladeshi's have of the partition and the poll itself. Many of

his contemporaries are still alive in the UK and Bangladesh and could give verbal histories of those events in Sylhet during their childhood. I quote extensively from his book, to illustrate the insight you can get from this verbal history amongst the remaining members of his generation who were witness to the events around the poll at Partition.

Build up to the Poll

There was a lot happening in Sylhet in the years before the Poll was declared – the famine in 1943, the ending of the second world war and of course the campaign for the British to quit India. These were just the things my father's generation of school children in Sylhet Town were observing, for example he states;

“When I was a primary school student, the Non-Cooperation Movement was going on. Almost every day there would be a demonstration of students in front of the DC's office. The Congress activists would have meetings and processions. The police would beat them black and blue; we used to observe silently as some town dwellers would assist the police in beating up Congress Activists, some of whom were Hindus. Later, I realised that it had been a mistake to take every Congressman for a Hindu.”

He remembers the build up to the poll very well, high lightly the political activity around the poll, as the quotes below illustrate well from his book:

“ There were all sorts of rumours in the air: India and Pakistan would definitely be separated; there would be a united Bengal; Punjab would become a separate country. Amidst all this, the question that was troubling the people of Sylhet was, ‘What will happen to Sylhet?’ ‘Would it be a part of India along with Assam, or would it be a part of Pakistan?’ We learnt that this would be decided through a public poll. Although Sylhet was a stronghold of Congress and Hindus, the Muslim League built a powerful team which started a rigorous campaign for union with Pakistan. We later learnt that they were funded by the central branch of the Muslim League. We also learnt that Hossain Shohid Sarwardi was most enthusiastic about including Sylhet in Pakistan and played the most active role in this respect. He sent a team of around forty students to Sylhet to campaign for Pakistan. Arrangements were made for this team to stay at Bakhtiar Bibi School in the Rainagar area of Sylhet where we went in groups to meet them. We were hardly thirteen or fourteen years old then. “

He continues;

" On one particular day, the students of our school pulled down the Union Jack Flag from the court building and hoisted the flag of the Muslim League in its place. They brought the Union Jack Flag to Govinda Park following a scuffle with the Assam Rifles Jawans. When the District Commissioner of Sylhet arrived at Govinda Park, demanding that the flag be handed over, Bari Bhai (Dhola or 'White' Bari) thrust his thumb into the D.C's mouth. To this day, his bravery in performing such an action amazes me. Compared to the brutality with which the Bangladesh police treat politicians nowadays, especially the women activists, the police force of the British Government and the members of the Assam Rifles appear to have been much better. However, one day there was a clash between the police and the students, as an attempt was made to retrieve the Union Jack from Sylhet Kotoali Thana. A student called Alkas died and others were injured when the Assam Rifles fired at them. Having witnessed all of this with my bare eyes, I can claim to be an eye-witness of the anti-British movements."

And he remembers the political leaders who came along and campaigned in Sylhet as well

" Around this time, most probably on 3 March 1946, Jinnah came to Sylhet and spoke to a large audience in Eidgah Maidan. Then he attended a students' meeting in which I was also present. I still remember what he said: 'Today is the third day of March. Students, you march forward.' Around this time, perhaps before or after Jinnah's visit, Liakat Ali Khan also visited Sylhet a couple of times. Many of the All-India leaders also visited Sylhet at that time."

He also remembered the days of the Poll very clearly;

" Finally, the day of the public poll came. On the first day of the two day long poll, Muslim women were prevented from voting by the female activists of Congress. The next day, however, Muslim leaders fetched the female voters from their homes and arranged for them to vote. While it drizzled throughout the day, people waited anxiously for the results. As far as I can remember, 51% of the votes were in favour of Pakistan. Congress' election symbol was 'house' and the Muslim League's, that is Pakistan's was the 'axe'. We used to chant slogans like 'Strike the box of the house with the axe'"

And the involvement of some of the characters involved in mobilising the woman vote:

" All the members of our family, even the women and children, worked hard to persuade people to vote in favour of Pakistan in this public poll. Our mothers, aunts and grandmothers worked especially hard in teaching people how to cast their votes. Jobeda Khatun was the most prominent of the women leaders. Sherajunnesa and Hajera Mahumud also played important roles. Jobeda Khatun was the Begum Rokyea of Sylhet in the field of women's development. Despite being the daughter of a

high-ranking government officer and the wife of a public prosecutor, she worked as one of the leaders of Congress without any hesitation. The women of Sylhet worked for the Pakistan movement under her leadership."

Begum Rokyea of Sylhet was also to play a critical role in the 1970 General Election in Pakistan in the lead up to the liberation of Bangladesh, something I saw for myself.

The Result

Over half millions people voted in the referendum of which 57 per cent voted in favour of Sylhet joining East Bengal and 43 per cent against. The majority of the population had voted in favour of joining Pakistan. The first instance of electoral irredentism, at least in the Indian sub-continent.

Interestingly there was just over 22 per cent of votes were invalid or left blank on their ballot.. Not surprising as for many it would have been their first time of voting. The result was then implemented in the Article 3 of the Indian Independence Act of 18 July 1947.

Karimganj misses out

Karimganj (blue area outside red boundaries along Assam border in the map above) was left out of the transfer of land to Pakistan. Even though there was a majority vote across Sylhet to join East Bengal, the published Radcliffe line gave some areas of Sylhet to India like Karimganj, while the rest of Sylhet joined East Pakistan. It had a majority Bengali Muslim population which had opted for Pakistan (East Bengal) unlikely some other areas in Sylhet like Moulvibazar which had not. There has never been an adequate explanation for this from the government of the British Raj and would later have an important bearing on the inhabitants of Karimganj and their ability to migrant to the UK.

This botched handover was also highlighted by the number of enclaves we had both within India and East Bengal of Pakistan which has only recently been sorted out by the Bangladesh and Indian respective governments in 2015 and has referred to as the the world's craziest border.

Quite honestly it is a bit like the solicitor of the purchase of your home getting their conveyancing wrong for you and it not being appreciated till well after you had moved into the property but involving tens of thousands of life's. As within the main body of Bangladesh there were 102 enclaves of Indian territory, which in turn contained 21 Bangladesh counter-enclaves, on of which contained an Indian counter-counter-enclave – the world's only third-order enclave. Within the Indian mainland were 71 Bangladesh enclaves, containing 3 Indian counter enclaves. A joint census in 2010 found 51,549 people residing in these enclaves, of which 37,334 were in Indian enclaves with Bangladesh and 14,215 in Bangladeshi enclaves within India.

Independence Day & Aftermath

Finally my father remembered the day of independence well;

' On 14 August 1947, the District Commissioner of Sylhet, Mr Khurshed, formally raised the flag of Pakistan in front of his office. Although we were still very apprehensive and unsure as to whether the mighty British really had left India and whether we were really free, our happiness knew no bounds. Little did we know that we were being freed from one master only to be ruled by another. Soon, we came to realise that we had fallen out of the British pan into the Pakistani stove.'

Incredibly the precise borders of the partition of Bengal & Assam were only revealed two days after partition as in the rest of country which added to apprehension of whether the British had left or not. It would also have added hugely to the tension of the migration between the two states as no one really knew precisely which side of the border there were on. It strikes me as criminally negligent on the part of the authorities not to have at least announced the borders before partition itself.

Conclusion

Though the poll was rushed and the implications of the poll result were only made apparent after independence, having the poll at least legitimized the move of Sylhet division into East Bengal, Pakistan. Given that it was done under the Indian Independence Act of 1947, why were not similar polls undertaken in provinces like Kashmir? While Kashmir had another dimension – Princely head of states had the option of either being in India or Pakistan – a poll of local views then would have been a much better means of dividing up Kashmir with possible transfer to the present day unsolvable mess.

Finally these and many other instances of maladministration during partition like the creation of enclaves creating problems along the India & Bangladesh border; giving the princely states the option to opt in or out of joining India & Pakistan; declaring borders of the two nations two days after independence makes my case for criminal negligence by the last government of the British Raj as partition displaced up to 15 million people and caused the killing of over one million.

Murad Qureshi, Former Labour Member of the Greater London Assembly



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Theocracy rules over poverty stricken nation

Jane Green

As part of the presidential election campaign, earlier this year, the issue of poverty was central to the debate in Iran. Jane Green looks at the issues and the prospects for the Iranian people.

The opposition to President Hassan Rouhani were vocal during the campaign in criticising the performance of the government in addressing poverty, denouncing Rouhani's term of office (2013-2017) as the period when the rich became richer and poor poorer. Rouhani was equally adamant that the policy of following free market forces will have the necessary effect eventually, by attracting foreign investment, expanding the economy and creating jobs.

The facts certainly suggest that levels of poverty in the country are resulting in unprecedented levels of hardship, crime and anti-social behaviour. Drug addiction, prostitution, homicide, theft, embezzlement are at record levels. While the official rate of unemployment is quoted at 12.4%, unofficial estimates suggest that the real unemployment rate is in fact between 35 to 40% of those able to work. According to reliable estimates, at least 50% of university graduates are unemployed.

From 1962 to 1976, Iran's average economic growth was 10.5%. From the years 2005 to 2012, the average growth rate was 3%. The unemployment rate prior to the 1979 revolution was always quoted in single digits and after the revolution has always been double-digit.

In 1997 Mohammad Khatami was elected as President on a limited reform programme. Khatami promised better governance and an end to corruption. While Khatami's reforms did have some impact by June 2005, at the end of his 2nd term of office, the poverty level in the country was still at 10.5%, though this was the lowest level in the period since 1979 revolution.

The hard line Ahmadinejad governments of 2005- 2013, declared themselves to be in favour of social justice. However, the implementation of a wide ranging programme of austerity measures led to such a catastrophic situation that, at the end of Ahmadinejad's second term of office in June 2013, the number of the households below the poverty line in urban areas stood at 33.4% and in rural areas at 40.1%.

According to the Ministry of Labour, over the past four years, more than 60 billion dollars have been spent on poor Iranian households but there remains a dramatic gap. In this period, the urban poverty line was 31% and in the rural areas stood at 30.8%. The Rouhani government has followed economic policies which have not departed significantly from his predecessor. As a result, poverty remains a key problem in a resource rich nation.

As a country with massive oil and gas reserves Iran should not be a nation in which poverty is an issue. However due to the mismanagement of the economy and unbelievable levels of corruption in the country, high indexes of deprivation have been the order of the day.

Even influential figures within the theocratic regime have described the spread of poverty in the country as "catastrophic". Officially the regime admits to 12 million people living under the absolute poverty line and 25 to 39 million are under the relative poverty threshold. This is in a country with the fourth largest oil reserves in the world, accounting for 9.3% of existing oil reserves, while the largest part of the world's gas reserves at 18.2% are located in Iran.

The pitch of Rouhani in the election campaign was to appeal for four more years in which to see through reforms, which would result in significant economic improvements. The basis of this appeal was the lifting of international sanctions as a result of the nuclear deal with Western nations.

There is no doubt that sanctions have had a crippling impact upon the economic life of the nation and, in particular, Iranian workers. The international nuclear deal was just concluded towards the end of Barack Obama's term as President. Four years under Rouhani with Barack Obama in the White House did not have a positive impact upon the lives of ordinary Iranians. There is no reason to think, that with Donald Trump as US President, that situation is likely to improve.

Jane Green is National Campaign Officer of CODIR (Committee for the Defence of the Iranian People's Rights).

For further information on CODIR's news and views please visit www.codir.net

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- **Working Class Movement Library**
- **SOAS Library**

Peace Process in Colombia

Nick MacWilliam

One year after the signing of Colombia's peace process and approaching the most important elections of the modern era, an escalation in political violence and deliberate attempts at bureaucratic sabotage threaten the entire agreement.

In November 2016, as the Colombian government and the Revolutionary Armed Forces of Colombia met in Bogotá's Teatro Colón to sign an agreement – for the second time – to bring the country's long-running armed conflict to an end, it was clear that peacebuilding in Colombia faced a myriad of challenges and obstacles.

The shock rejection of the first peace agreement in a national plebiscite revealed strong opposition towards the deal and threatened to plunge the country into renewed instability and violence. But with the No result serving as a major wake-up call, the hope was that Colombians across the socio-political spectrum would work together to overcome right-wing attempts to scupper the peace process. Sadly, one year on many Colombians' fears over the agreement's fragility are being realised: the peace process today finds itself in crisis, with the real and alarming prospect that it could collapse altogether.

Rather than unforeseen or unfortunate circumstances, this is the result of deliberate sabotage instigated by the same political sectors behind the effective No campaign that swung the plebiscite. The crisis is unfolding at all levels of Colombian society, from the highest courts in the country to isolated rural communities where the new dawn promised by peace has failed to materialise.

The sense of urgency around saving the peace process is intensified by looming presidential elections in May 2018. President Santos is a lame duck, unable to muster the political strength to push through core terms of the agreement – that's if he even wants to. When the FARC completed its decommission of weapons, the government's main incentive to fully uphold the deal was gone. Santos' grand ambition of the Nobel Prize was, of course, already in the bag. As such, the truly complex work of implementing the social programmes designed to eradicate root causes of conflict – land reform, rural development and voluntary crop substitution – has yet to properly begin.

For all the talk of economy, crime and public services, the election will be fought along the pro- and anti-peace dichotomy.

The political right has staked its opposition to the agreement from the off, with the Democratic Centre party of former president Álvaro Uribe looking to replicate its success in mobilising its constituency to vote against the 2016 plebiscite. Its candidate, Iván Duque, refuses to recognise FARC legitimacy as a political party and supports exemption for military personnel from civilian courts. Former vice-president German Vargas Lleras, of the Radical Change (which wants to keep things the same, especially economic hierarchies) is another contender. A presidential victory for either party would have severe repercussions for the entire peace process: although the FARC would not return to armed struggle, the agreement would likely disintegrate, leaving Colombia potentially vulnerable to violence that has so terribly affected post-conflict societies in Guatemala and El Salvador.

Fortunately, the pro-peace movement is widespread and strong, if not in the congress, on the streets. It is hard to believe a majority of Colombians would will the country back to conflict. However, the pro-peace camp needs to work fast to build alliances between numerous parties, including the FARC, now called the People's Alternative Revolutionary Force (which retains the FARC acronym). As things stand, there are eight pro-peace and two anti-peace candidates for the presidency. With so much at stake, those in the pro camp must cooperate to avoid splitting the vote and facilitating a right-wing victory.

Establishment opposition to the peace agreement has driven congressional attacks on the transitional justice mechanism, known as the Special Jurisdiction for Peace (JEP), that forms one of the core elements of the entire deal. The JEP aims to bring justice to conflict victims by establishing clarity over many unanswered questions, not least relating to thousands of victims of forced disappearance, and punishing those guilty of major human rights violations. In return, it offers reduced sentences for combatants who confess their role in the conflict.

However, with many in Colombian politics implicated in abuses, there have been concerted attempts to undermine the JEP. In contravention of the terms of the peace agreement, the Constitutional Court recently ruled that civilians would not face the JEP, thereby exempting business and political figures suspected of sponsoring right-wing paramilitaries which conducted a decades-long dirty war, abetted by the military, against civil society.

Peasant farmers, trade unionists and social activists were particularly targeted. Furthermore, high-ranking military officials will not face the JEP if they profess ignorance over subordinates' actions in the field. Judges will be banned if they have a background in human rights, a ruling clearly designed to protect the powerful. The JEP eventually ratified by the congress resembles a shell of what was actually agreed during peace negotiations.



Source: National Catholic Reporter

The political skulduggery has occurred alongside an escalation of violence against political activists and social organisers, with many victims actively working on implementing elements of the peace process such as crop substitution or land restitution. Since the agreement was signed at least 140 people have been murdered for political motives, as paramilitaries continue the terror campaigns that so effectively opened land for capital accumulation during the 1980s and 1990s.

While politically-motivated killings were sadly somewhat predictable in the immediate aftermath of the agreement, the sheer number of deaths – an increase on the year prior to the signing – evidences the state's inability to successfully secure regions long abandoned by central government, where economic misery was reinforced through army or paramilitary repression. These factors underpinned the rise of guerrilla movements that sought to improve social conditions and provide the infrastructure and security so painfully denied these populations. The FARC's demobilisation was supposed to initiate a developmental state advance into historically-marginalised territories lacking the most basic services. As the state dithers, paramilitaries and other armed groups have instead filled the vacuum and destabilised areas where the FARC previously operated as a surrogate state.

Other unpleasant tendencies of Colombia's historic relationship between state and society persist. The police massacre of protesting peasant farmers on 5 October, in which at least nine people were killed, was not only a state atrocity: it also compounded the government's failure to uphold terms which it had itself co-drafted. The universal guarantee of security and political liberty for all citizens was brutally exposed as a myth by the very forces of public order responsible for overseeing the transition to a stable and lasting peace in Colombia. The campesinos were killed while protesting the regional pres-

ence of over 1,000 security personnel conducting forced eradication of coca plantations. IMF-backed trade deals have decimated Colombian agriculture and left coca as the only means of survival for many rural communities. Providing alternative means of livelihood is another core chapter of the peace agreement. However, under pressure from Trump's Washington, the Colombian state persists with the same disastrous policies of punishing those communities merely trying to survive.

In many ways the supposed post-conflict era is hard to distinguish from its violent predecessor. Regardless of the peace agreement Colombia's military spending remains the highest in Latin America in terms of GDP. Security personnel deploy high-tech weaponry against indigenous demonstrators blocking roads and wielding traditional wooden staffs to demand that the terms of the peace agreement are fully implemented. This means land distribution, rural investment, expansion of housing, education, healthcare and security into marginalised regions. It means allowing communities to direct substitution of coca plantations with economically-viable crop alternatives and providing state support to ensure that localised economies can develop. It does not involve the perpetuation of repressive state policies applied during conflict. In November, as armoured troop carriers rolled into Catatumbo to disperse strikers occupying the main highway, the United Nations tweeted: 'Use of military units in situations of social protest goes against international human rights principle'.

International pressure is critical to ensuring the Colombian government fulfils its commitments to peace and starts laying the foundations – development, land, security – promised in the agreement. In a world of bad news, Colombia seemingly represented a rare beacon of light. Yet the country faces a crisis as serious as any other since Santos' election in 2010. The outgoing president may be weak, unpopular and seemingly unable or uninterested in implementing the agreement, but global legacy was assured with the Nobel Peace Prize. When Santos steps down in 2018 – following the most important election in modern Colombian history – he will have time to brightly polish it every day. Unless a major effort is made to defend peace, the country he leaves behind will remain in the darkness.

Nick MacWilliam is co-editor of Alborada magazine. Follow him on Twitter at @NickMacWilliam

CONSTITUTIONAL HERESY IN GUYANA

Mohabir Anil Nandlall

The unilateral appointment of Retired Justice James Patterson by President Granger on the night of October 19, 2017, vindicates the People's Progressive Party/Civic's (PPP/C) view that Guyana is on a road to political dictatorship and authoritarianism, once again. The People's National Congress, the largest party in the APNU+AFC Coalition government, has not changed; it remains a party that is innately and inherently authoritarian and undemocratic, and, if allowed, will rig every future election in this country as it did from 1968-1985

The President's unilateral, unconstitutional and undemocratic appointment of the Chairman of the Guyana Elections Commission (GECOM) and further swearing in of the Chairman that same night was a deliberate move to ensure that this act would not be forestalled by a recourse to the courts the following morning.

The PPP/C warned, after the rejection of the first list of six (6) names submitted on December 21, 2016 to President Granger, that the President was setting the stage to eventually choose a person of his own liking, irrespective of the provisions of the Constitution. Almost 10 months later, that is exactly what he has done. In the process, he has led Guyanese along a deceptive and agonizing path of public debates on constitutional interpretations, public consultations that produced 18 outstanding Guyanese, all of whom were eventually rejected, and a ruling from the constitutional court which vindicated the Opposition's position— all of which made no difference in the end.

The President, from the inception, misinterpreted Article 161 (2) of the Constitution by contending that it only qualifies a judge, a former judge or a person qualified to be a judge, for the position of the Chairman of GECOM. When this interpretation was met with public condemnation, the President conceded that that provision of the Constitution also caters for "any other fit and proper person".

Proviso has no applicability

The Chief Justice's Ruling in July this year put to rest these puerile interpretations of the Constitution. The President's response, however, was that the Chief Justice's Ruling is her own opinion and therefore, not binding on the President.

Following the court ruling, the President proceeded to misinterpret the proviso in Article 161 (2).

When one examines the intention of the framers of the Constitution, which was to create a bi-partisan mechanism to produce a chairman of GECOM, no rational mind would be unclear as to when the proviso can/should be activated. It can only be activated when no list has been submitted by the Leader of the Opposition. Once a list has been submitted, this proviso has no applicability. As the Chief Justice stated "this was academic as lists were provided. "Any other interpretation would make a mockery of the letter but moreover, the spirit of the Constitution because every President would then be free to reject a list submitted to him by the Leader of the Opposition and appoint a person of his own choice, rendering the very constitutional provision otiose, superfluous and nugatory.

Article 161(2) imposes on the Leader of the Opposition a duty to submit a list of six names to the President, which in the opinion of the Leader of the Opposition is not unacceptable to the President, from which the President is empowered to choose one. Since the Leader of the Opposition is not endowed with clairvoyant powers or an ability to read the President's mind, the framers of the Constitution could not have expected and do not expect him to know which names the President would find not unacceptable. Therefore, the responsibility is on the Leader of the Opposition to select six names that in his opinion, the President would find not unacceptable. The Leader of the Opposition submitted not 6, but in the course of 9 months, submitted three sets of names totaling 18. To his credit, for the first time since 1991, the present Leader of the Opposition, consulted national stakeholders from the Christian, Hindu and Muslim communities, the business sector and the labour movement, rights bodies, Amerindian, women and professional bodies on three occasions to assist him with nominating and selecting names of persons who were "fit and proper" to the President.

The golden rule

Simultaneously, when the Constitution vests with the President, a power or a discretion to determine whether the names are not unacceptable, the framers of the Constitution expect and the law mandates that power and discretion to be exercised rationally and reasonably and not capriciously and whimsically but in a manner that a responsible President would do in the circumstances. To enable him space to exercise that power, the Constitution was fair enough to give him six choices. In this particular instance, he had 18 choices.

If any doubt or ambiguity arises in interpreting the literal language of the constitutional provision, then the established canons of construction mandate that the golden rule be employed in the interpretative process. This takes us straight back to the Carter-Price Formula, where the intention was to dispense with the unilateral appointment of a Chairman of the Elections Commission by the President and to establish an election's commission whose composition imbues trust and confidence in the election machinery through a constitutional power sharing mechanism to appoint the Chairman between the Leader of the Opposition and the President. This objective created the Guyana Elections Commission enshrined in the constitution and statutes comprising of 6 Commissioners, three representing the Government and three representing the Opposition and a Chairman who is empowered with the authority of a casting vote to break gridlock and who is to be appointed from a list of six names emanating from the Leader of the Opposition from which the President is obliged to select one.

Therefore, the President was never intended to have a unilateral power of appointment. His power of appointment is circumscribed. It is only in the rare and exceptional circumstance where there is no list submitted by the Leader of the Opposition.

I emphasize that it was never expected that the President must find all the names acceptable. That is why the framers of the constitution, rather than use the word acceptable they used the double negative, not unacceptable. Therefore, the names submitted are not necessarily to be acceptable to the President. They must be not unacceptable. The term not unacceptable does not mean acceptable.

By the unilateral appointment of the Chairman, the President has destroyed that vital balance at GECOM, which the framers of Article 161 intended to create.

The three Is'

The perversity of the decision to act unilaterally is compounded by the fact that the President has not given a single reason for rejecting 18 accomplished, professionally qualified and respected Guyanese. Legal arguments aside, the President led this country to believe by several public statements, including a joint statement on June 12, 2017 with the Leader of the Opposition, that he will not act unilaterally but will pursue a collaborative course on this issue to the very end. On that note, the President has simply deceived the nation.

The President stated that the person must possess the three 'I's' that is, the person is "independent", is a person of "integrity" and "impartial".

I say with the greatest of respect that Justice Patterson does not satisfy these requirements. In his resume, Justice Patterson states that he was the Chief Justice of Grenada in 1987. This claim cannot be substantiated; official sources lists the Chief Justice of Grenada in 1987 as Sir Samuel Horatio Graham. Although, the President was advised by a person in high office in Grenada that Justice Patterson was never appointed Chief Justice in Grenada, the President proceeded to appoint and to cite Justice Patterson's alleged appointment as Chief Justice of Grenada as the basis of appointing. How can the Guyanese electorate trust the Chairman to manage the election machinery when he lied on his curricula vitae?

Rally Around The People's National Congress

In his own list of criteria, the President indicated that the candidate who he is looking for must not be an activist of any kind, religious, political, gender, etc., or leader. In his CV, Justice Patterson described himself as a reverend with a detailed list of theological qualifications and religious posts which he held.

Furthermore, the President stated that the candidate should not have "any political affiliation or should not belong to any political party in any form, apparent or hidden".

Justice Patterson can, by no objective standards, be adjudged as impartial or independent or, not connected to the People's National Congress. His association has been long - he was a pall-bearer at the private party funeral service of the former President Desmond Hoyte's at his party headquarters. Justice Patterson is also a member of the Facebook page calling itself 'Rally around the People's National Congress', established just before the 2015 General Elections.

How can the Guyanese electorate have any confidence in this person's independence, impartiality and integrity?

The public condemnation of this act by President Granger, by the PPP/C, leaders of civil society, including those who generally support the APNU+AFC Coalition government, individuals and opinion makers in the media and social media is unprecedented.

For these reasons, the People's Progressive Party has approached the courts on the unilateral, unconstitutional and undemocratic appointment of the Chairman of GECOM, retired Justice James Patterson, by President Granger. The appointment simply cannot be allowed to stand; the future of free and fair elections in 2020 is at stake.

This article was written for Liberation by Mohabir Anil Nandlall MP, of the People's Progressive Party, Guyana.

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