

THE STUDY OF THE CONTRIBUTION OF THE JUDICIARY TO GOOD GOVERNANCE IN SRI LANKA – POST 1978 ERA

By

Viveka Siriwardena De Silva
LL.M.(WSU, Michigan), BSc (Hons)Colombo, Attorney-at-Law

Sri Lanka Foundation/ Friedrich-Ebert-Stiftung
Annual Research Fellowship 2003
May- December, 2003

The contribution of the judiciary is an important area for research in the context of good governance. The key players in the arena of governance are the Executive, the Legislature and the Judiciary- the three main organs of the State. The Judiciary of Sri Lanka as embodied in Chapter XV of the 1978 Constitution comprises of all institutions established there under for the administration of justice to protect, vindicate and enforce the rights of the people.

The Judiciary is charged with the responsibility of dispensing justice and safeguarding the rule of law. Justice and Equality are essential features of good governance and the judiciary has a pivotal role to play in protecting and fostering these features. It is in recognition of this important role that the IMF, World Bank, UNDP and ADB have focused their attention on legal and judicial reforms in Sri Lanka.

The study will concentrate on the Supreme Court of Sri Lanka and critically analyze its decisions since the promulgation of the 1978 Constitution to evaluate its contribution to good governance.

The contribution of the Supreme Court has taken many forms some of which are:

Judicial Review

Judicial Interpretation

Judicial Activism

Protection of Fundamental Rights

Exercise of consultative jurisdiction

Administrative functions in the administration of justice

Year 2003 will mark 25 years of the 1978 Constitution and during its lifetime 17 amendments have been incorporated. It is an ideal opportunity to reflect on how the judicial power of the people, vested in the Judiciary by virtue of Article 4(c) of the 1978 Constitution, has been exercised.

OVERALL RESEARCH OBJECTIVE: To ascertain whether the Supreme Court has, by the exercise of its powers under the Constitution, contributed to promote good governance.

SPECIFIC GOALS

1. Identify the key areas of judicial contribution to governance as reflected in the judgments of the Supreme Court
2. Analyze the nature of such contribution
3. The impact of such contribution
4. Understand the judicial perception of good governance
5. Whether the judicial perception compliments or is in conflict with the perceptions of public administrators
6. Proposals for the future role of the Judiciary in Good Governance

COMMENTS ARE WELCOME

Please e-mail your comments or suggestions to :

E-mail- viveka_70@hotmail.com