

Chapter 05

Vistas of Prosperity and Splendour? A Critical Analysis of Sri Lanka's Challenges Implementing SDG16

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Introduction

The United Nations 2030 Agenda for Sustainable Development (2030 Agenda) boldly aspires to eradicate global poverty, fight inequalities, address climate change and promote peaceful and inclusive societies through the multipronged approach of achieving 17 integrated goals and 169 targets covering social, economic, and ecological issues the world faces today. It provides a guide for nation-states based on universal principles of human rights, aiming to achieve sustainable development (Mezzanotti and Griffiths, 2020). Since the adoption of the 2030 Agenda in 2015 (and the subsequent implementation of the 2030 Agenda through the Sustainable Development Act No. 19 of 2017 that came into effect in October 2017 (Transparency International, 2018: 2)), Sri Lanka has been engaged in the international framework to promote Sustainable Development Goals (SDGs). However, the draft UN Sustainable Development Framework (2022) stresses that the unprecedented challenges posed by the economic crisis in Sri Lanka can “reverse the progress” which has been made toward SDGs in Sri Lanka (UN Sustainable Development Framework for Sri Lanka 2023-2027, 2022: 6). Sri Lanka ranks at 76th place out of 163 countries with stagnating progress in terms of achieving SDG 16 (Sustainable Development Report, 2022),

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which is geared to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective accountable and inclusive institutions at all levels” (United Nations, 2022). The targets of SDG 16 steer three specific themes: a) peace, premiering the promotion of peaceful and inclusive societies; b) justice, in terms of ensuring access to justice for all; and c) inclusion, in terms of creating accountable and inclusive institutions at all levels (UNDP, Oslo Governance Centre, 2022).

This study seeks to problematize, through a critical approach, contrasting meanings in current discourses related to the implementation of SDG 16,² particularly targets 16.3, 16.6, and 16.10, which are critical for the discussion of the present economic and political crisis in Sri Lanka, particularly due to the emphasis of SDG 16 on inclusive justice, accountable institutions and the protection of fundamental freedoms - three contentious issues arising from the Sri Lankan case. Thus, this article explores Sri Lanka’s delicate balancing act between achieving targets within SDG 16 and its internal challenges related to the current economic and political crisis. Rooted in critical discourse studies, it explores the influence of power relations on the realisation (or lack thereof) of targets within SDG 16 at the national level.

Inspired by Fairclough’s approach to discourse analysis, this article aims to observe power dynamics within the nation-state and focuses on the analysis of discourses presented within the key policy documents pioneered by the Rajapaksa regime in 2019 and assesses them in connection to Sri Lanka’s commitment to SDGs. Accordingly, this study raises two questions: (1) to what extent the recent changes in public policy discourses have subverted attempts to achieve SDG 16 in Sri Lanka, and; (2) how does the discourse reveal the way power relations influence the realisation of SDG 16

2. Through this paper, the authors do not attempt to advocate for the 2030 Agenda and the SDGs as the panacea for the institutional and structural challenges ahead of the present Sri Lankan crisis. The authors recognize and identify the critique against the SDGs, particularly the issue of mainstreaming development alternatives instead of upholding alternatives to development and rendering human rights discourse as goals, which may have various negative implications. This study dwells on the SDGs-led approach of successive governments to understand and outline the actions of the government (or lack thereof) towards realizing its international human rights obligations - the bare-minimum standard in the context of realizing basic human rights pursuant to SDGs.

at the national level. The article is divided into two parts: the first presents the legal commitment of Sri Lanka to International Human Rights Law, the SDGs, and SDG 16; the second focuses on Fairclough's main theoretical foundations and the data analysis. Thereafter, a joint analysis of the texts is proposed, considering the texts' perceived underlying circumstances and the reality intended from the discourse. This method allows the identification of ways by which the texts belong to a specific context of the international order and seek to influence this context through the actions they propose (Mezzanotti, 2020).

The Implementation of Human Rights and the Sustainable Development Goals in Sri Lanka

Domestic Application of International Human Rights Law and SDG 16 in Sri Lanka

Sri Lanka acceded to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) on the 11th of June 1980. However, with regard to the question of the domestic application of international human rights law, the relationship between treaty law and domestic law has proved to be a complex one. Such complexity arises out of "political factors" rather than "doctrinal constraints" (Udagama, 2015: 144). Importantly, the Constitution of Sri Lanka (1978) does not provide explicit reference to the relationship on the reception of international treaty law into domestic law. Further, a *lacunae* exists in the realm of statutory law concerning the reception of international treaty law. In this context, Cooray (1995: 237-238) underlines the requirement of enabling legislation in transferring domestic legal validity to treaty law, a significant characteristic of a dualist legal system. Referring to the implementation of International Human Rights Law in Sri Lanka, Udagama (2015: 109) outlines several provisions in the Constitution of Sri Lanka which provide vague indications on the status of international treaties in domestic jurisprudence. Among such provisions, Article 154 G (11) of the Constitution of Sri Lanka, which devolves the legislative powers of the government to provincial

councils, remains significant³. The Article stipulates that the Parliament is the only body that can enact legislation “in respect of any matter set out in the Provincial Council List for implementing any treaty, agreement or convention with any other country or countries or any decisions made at an international conference, association or other body”. Further, Article 157⁴ of the Constitution (1978) recognizes that, if the two-thirds majority of the Parliament approves any treaty or an agreement between the government of Sri Lanka and a foreign government in relation to the “promotion and protection of investments in Sri Lanka...as being essential for the development of the national economy”, such a treaty will have force in the Sri Lankan law. Interestingly, no executive or administrative action can be taken to contravene the provisions of such a treaty or an agreement, unless it is in the interests of “national security”. This complexity concerning the reception of international human rights law within the domestic legal system is further evident within the judicial practice. In *Singarasa v Attorney General* (2006), a controversial judgment that recognized the need for enabling legislation for the ICCPR to be domestically applicable in Sri Lanka, a five-judge bench of the Supreme Court identified Sri Lanka as a dualist legal system. Whilst this paper does not intend to dwell on the problematic implications of the judgment, its role in providing conclusive remarks on the dualist doctrine cannot be ignored. However, the formal legal position which has recognized the principles of dualism and the limits posited by the requirement of enabling legislation has also progressively declared international human rights law and environmental

3. Article 154 G (11): “Notwithstanding anything in paragraph (3) of this Article, Parliament may make laws, otherwise than in accordance with the procedure set out in that paragraph, in respect of any matter set out in the Provincial Council List for implementing any treaty, agreement or convention with any other country or countries or any decisions made at an international conference, association, or other body”.
4. Article 157: “Where Parliament by resolution passed by not less than two-thirds of the whole number of Members of Parliament (including those not present) voting in its favour, approves as being essential for the development of the national economy, any Treaty or Agreement between the Government of Sri Lanka and the Government of any foreign State for the promotion and protection of the investments in Sri Lanka of such foreign State, its nationals, or of corporations, companies and other associations incorporated or constituted under its laws, such Treaty or Agreement shall have the force of law in Sri Lanka and otherwise than in the interests of national security no written law shall be enacted or made, and no executive or administrative action shall be taken, in contravention of the provisions of such Treaty or Agreement”.

treaties as ‘soft law’ instruments in interpreting domestic law (Udagama, 2015 : 94). This is evident in cases such as *Bulankulama v Secretary, Ministry of Industrial Development* (2000) and *Weerawansa v Attorney General* (2000).

Sri Lanka’s dualist position has important consequences on the implementation of SDGs in the country. The 2030 Agenda has overwhelming implications for the realisation and protection of human rights globally, with the SDGs being relevant to rightsholders everywhere (Mezzanotti and Griffiths, 2020). The link between human rights and goals is especially evident in SDG 16. The goal embodies a range of civil and political rights, with the goal’s 12 targets addressing issues ranging from reducing violence, corruption, and bribery, to ensuring rule of law and legal identity for all (United Nations, 2022).

The SDGs were adopted by the 193-member states of the UN in 2015, where 169 targets were set out to create tangible goals for national planning and policy processes in each member state. Member states are also involved in voluntary follow-up and review mechanisms, particularly in reporting national progress in relation to the SDGs. As such, each state identifies various indicators, localized to suit the country’s context in terms of measuring the progress of each target and goal in the 2030 agenda. The High-Level Political Forum on Sustainable Development (HLPF) is the key mechanism that engages in the follow-up and review mechanisms for the 2030 agenda (United Nations, 2022). The targets spelled out under SDG 16, include a broad range of legal, political, and institutional reforms setting out to achieve peace, justice, and strong institutions (United Nations, 2022). The rationale underlying goal 16 is the need to ensure freedom from fear for all people irrespective of their social standing (United Nations, 2022). As such, SDG 16 requires multiple stakeholders ranging from governments, civil society organizations as well as communities to work in collaboration to ensure the achievement of the targets underlying SDG 16. The targets set out under SDG 16 are also not mutually exclusive from each other. On the contrary, it is apparent that each target comprises an indispensable link with each other in envisioning the nuances of building peaceful societies. According to the Thematic Review of SDG 16 at the HLPF in 2019, peace, justice, and strong

institutions were outlined as the enablers of the entire 2030 Agenda (High-Level Political Forum on Sustainable Development, 2019). The progress or lack thereof achieved, in terms of SDG 16, is measured by 12 global targets associated with 24 indicators that have been agreed upon by States in the UN Statistical Commission.

National Policies and the Commitment of Sri Lanka to SDGs

National Policies

Since the adoption of the SDGs, there have been two key documents that have influenced the national policy framework of Sri Lanka. In 2015, the coalition government headed by President Maithreepala Sirisena introduced the government's vision for national policy titled, "Vision 2025: A Country Enriched" (Vision 2025) which is premised on creating a "knowledge-based, highly competitive, social-market economy" (Vision 2025, 2015: 11). The document highlights an eight-year strategic plan to achieve various targets including driving Sri Lanka's economic growth to achieve the "upper-middle income" bracket by 2025 (Vision 2025, 2015: 13). The strategy for achieving growth is comprehensively outlined in the document, where the approach includes liberalising trade and investment, increasing foreign direct investment, and increasing national exports (European Institute for Asian Studies, 2017). With the defeat of the coalition government headed by President Maithreepala Sirisena in the 2015 Presidential election, a new face emerged within the national policy trajectory, which was significantly different from "Vision 2025". The national policy framework introduced by the Gotabhaya Rajapaksa regime in 2019 was titled, "Vistas of Prosperity and Splendour", which is aimed at achieving four specific goals namely, "a productive citizenry, a contented family, a disciplined and just society, and a prosperous nation" (Vistas of Prosperity and Splendour, 2019: 2). National security is explicitly placed as the priority of the policy framework with ten key policies outlined as the framework for governance, including policies such as "an administration free from corruption", "new Constitution that fulfils the

People's wishes", "people centric economic development", "disciplined, law abiding and values-based society" (Vistas of Prosperity and Splendour, 2019 : 2-3).⁵

National Responses to Implementing SDG 16

With the adoption of the 2030 Agenda, the Sustainable Development Act No. 19 of 2017 was enacted in Sri Lanka. The Act established the Sustainable Development Council Sri Lanka⁶ (SDCSL), which was entrusted with the responsibilities of "coordination, facilitation, monitoring, evaluation and reporting" of the SDGs implementation in the country (Sustainable Development Council Sri Lanka, 2022). Further, in line with the national commitment to fulfil the reporting of progress made towards achieving SDGs, the State has conducted two Volunteer National Reviews (VNR) in the past years. The VNRs are state-led voluntary reviews of the progress in relation to the achievement of the SDGs and should be analysed in that context. In the case of Sri Lanka, the periods of the two VNRs remain critical since the regimes in power during the two VNRs are significantly distinct, and as seen in the preceding section of this paper, they were operating within two different policy frameworks and national visions.

The Volunteer National Review in 2018 (VNR 2018)

The *Yahapalanaya* regime (Sri Lanka's National Unity Government)⁷, which was in power from 2015-2019 was a coalition government that fostered a development policy framework named "Vision 2025: A Country Enriched". The policy framework reflected key tenets of sustainable development and

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5. The ten key policies are: Priority to National Security; Friendly, Non-aligned, Foreign Policy; An Administration free from corruption; New Constitution that fulfills the People's wishes; Productive Citizenry and a vibrant Human resource; People Centric Economic Development; Technology Based Society; Development of Physical Resources; Sustainable Environmental Management; Disciplined, Law Abiding and values based society. See more in pp. 2-3
 6. Section 10 of the Act stipulates the powers, functions and duties of the council.
 7. The *Yahapalanaya* regime came to power in 2015 pioneering the promise of championing "good governance" in the country. The *Yahapalanaya* regime was a coalition government, which arose as an opposition faction to the preceding authoritarian regime (led by Mahinda Rajapaksa) that was in power since 2005.

the SDGs. In line with the country's commitment to the 2030 Agenda, Sri Lanka expressed its interest in presenting the first VNR at the HLPF in 2017, and subsequently, the review was submitted in July 2018. Then, the State had taken several vital steps to prioritize the achievement of SDGs in various public sectors, in addition to the implementation of the Sustainable Development Act. One key feature was the establishment of the Parliamentary Select Committee on the United Nations 2030 Agenda for Sustainable Development (Ministry of Sustainable Development, Wildlife and Regional Development, 2018: 14). In addition, a specific ministry and a subject minister were allocated for Sustainable Development as well (Ministry of Sustainable Development, Wildlife and Regional Development, 2018: 14). The VNR Process was a multi-stakeholder approach undertaken per the United Nations Secretary General's Guidelines for the preparation of VNRs. The purpose was to "appraise the status of SDG implementation" in the country, whilst "creating awareness and ownership" of the SDGs (Ministry of Sustainable Development, Wildlife and Regional Development, 2018: 16-17).

The Volunteer National Review in 2022 (VNR 2022)

The second VNR was concluded in 2022, taking into account the critical conditions that had unfolded since the conclusion of the first VNR (Sustainable Development Council Sri Lanka, 2022). The report refers to the economic downturn stemming from the effects of the 2019 Easter attacks, the Covid-19 pandemic since 2020, and the current debt crisis in Sri Lanka (Sustainable Development Council Sri Lanka, 2022: 18). The report presents ten key policy measures undertaken by the State in progressing SDGs, particularly highlighting the integration of SDGs in national policies under the national policy framework titled "Vistas of Prosperity and Splendour". These include policies aimed at reaching outcomes such as poverty reduction, developing a healthy population, ensuring education for all, and building a clean environment. Further, the report outlines the government's role in Drafting a National Policy and Strategy on Sustainable Development (NPSSD) in terms of Section 11 of the Sustainable Development Act No. 19 of 2017. The NPSSD is aimed at localizing and contextualizing the SDGs across all levels of governance, with specific strategic interventions aligning with

SDGs. However, the NPSSD remains at a draft level at present. The report also outlines the role of the SDCSL in developing an “Agency Framework for SDG Indicators” which assigns specific institutional responsibilities to curate SDG data within the Sri Lankan public sector. Further, to ensure the mainstreaming of SDGs within the public service delivery, a Presidential Circular was introduced in 2019, where a dedicated officer was appointed to every public institution, tasked with preparing public service delivery strategies with the guidance of SDCSL.

The United Nations Sustainable Development Cooperation Framework

Apart from the VNRs, the United Nations Sustainable Development Cooperation Framework for Sri Lanka (Cooperation Framework) also provides critical insights into the commitment and progress of the country in achieving SDGs from a different standpoint, given that the Cooperation framework is “mutually owned” and is jointly led by the Ministry of Finance through the National Planning Department and the UN Resident Coordinator (United Nations Sri Lanka, 2022: 6). The mutually owned character of the framework distinguishes it from the VNRs and renders it a vital instrument to understand the UN’s outlook on the strategic priorities for the country in the given period, including the issues underlying specific SDGs. Since 2015, the Cooperation Framework has had two stages: the Framework for 2018-2022⁸ (United Nations in Sri Lanka, 2017: 10) and the draft Framework for 2023-2027⁹ (United Nations Sri Lanka, 2022: 7), which also reflects the regime change in 2019 and its resulting policy implications. Evidently, both frameworks emphasize the vitality of building strong institutions oriented towards progressing peaceful societies. The draft 2023-2027 framework

8. The Cooperation Framework for 2018-2022 enclosed four key strategic “drivers” which included: 1) improved data, knowledge management, and evidence-based policy; 2) strengthened innovative public institutions and engagement towards a lasting peace; 3) human security and socio-economic resilience; and 4) enhancing resilience to climate change and disasters and strengthening environmental management.
9. The draft Cooperation Framework for 2023-2027 iterates four strategic priorities as well. It outlines that the four strategic priorities require accelerated actions to recover from the economic crisis and the impact of the global pandemic. These strategic priorities are: 1) inclusive and equitable human development and wellbeing; 2) resilient and green recovery and growth for shared prosperity and environmental sustainability; 3) social cohesion and inclusive governance and justice; and 4) gender equality.

specifically highlights the need for inclusive governance and justice (United Nations Sri Lanka, 2022: 14). It highlights the central nature of SDG 16 in terms of achieving other SDGs and notes that in the context of Sri Lanka, the legacy of the prolonged ethnic conflict requires attention specifically in advancing SDG 16 (United Nations Sri Lanka, 2022: 14).

Given the ambit of the present study, this paper will critically analyse the findings and insights presented in the aforementioned national policy documents and reports to primarily assess the commitment to SDG 16 (or lack thereof) of the Sri Lanka State, taking into consideration the existing empirical contradictions within the SDG 16 official discourse.

Analysis

Critical Discourse Analysis as a Theoretical Lens

Norman Fairclough's conception of CDA seeks to define the playing field of discourse in the social sphere and, at the same time, describe the process under which the analysis takes place. CDA's main hypothesis is that common sense assumptions are implicit in linguistic conventions and usually not subject to conscious awareness. Therefore, common sense forms the basis of discourse almost in an automatic way, frequently without conscious intention by the individual delivering a discourse. Fairclough (1989: 2) considers that such assumptions are the place of identification of the ideological aspects of a given discourse. And since we live in a linguistic epoch, the exercise of power happens through the linguistic exercise of ideology.

CDA conceives discourse as social action and that the social conditions in which a discourse is given have two main influences over discourse: they determine the properties of a given discourse and the processes to produce and interpret discourses. Such processes are formatted by and within social conditions, therefore constituting social conventions. There is a social determination in every discourse and, concomitantly, a discursive determination in society (Fairclough, 1989). The process for critically assessing discourse includes the text, the production, and the interpretation processes (Fairclough, 1989: 24).

Critical discourse analysis involves the assessment of different discursive instances: description, interpretation, and explanation of discourse. Description involves the formal properties of the text and the identification and categorization of its terms. Interpretation is a cognitive process that conceives text as the result of production and as a resource of interpretation itself. Explanation analyses the transitory social events and the more durable social structures that format and are formatted by discourse (Fairclough, 1989 : 26).

Fairclough has drawn upon Foucault's notion of "orders of discourse", which are the subjacent social conditions that determine discourse. Foucault's assumption is that social actions are formatted by social conventions and that discourse, as a social action, is subject to this same constriction (Foucault, 2002 : 90). This constriction appears in the common sense "hidden" assumptions of discourse, which-according to Fairclough (1989)-are expressions of ideology. Discourse is, therefore, manifestation of power and political statements that determine the discursive nature of social and political changes. It is important to highlight that, for both Fairclough and Foucault, discourse both shapes and is shaped by the social order. And the idea that discourse is a manifestation of the linguistic determination of power, one shall conceive power not just in its negative connotation (oppression, exclusion, censorship, abstraction, etc.), but also in its constitutional, commissive nature (power also produces domains of objects and rituals of truth) (Foucault, 1973: 194).

The intrinsic nature of the orders of discourse is that they are formatted and constituted by relations of power. The field of forces that shape discourse is made of power relations that are intrinsic to discourse itself. The object of CDA is, therefore, the exploration of the linguistic conventions as products of relations of power and/or power struggles. Discourse is assumed to both incorporate and proceed from forms of power. And its main goal is to sustain or acquire structures of power (Fairclough, 1989).

For Fairclough, power is exercised in and through discourse. Power in discourse is exercised under a different form of restrictions imposed by the power holder: *a*) on the content of what is said and done; *b*) on the types of social relationships that can be developed through discourse; *c*) on the

positions that people are allowed to hold. These restrictions operate specific effects on people's beliefs and knowledge. Power through discourse is exercised by: *a*) standardization of discourse; *b*) limitation of the access to discourse (meaning the imposition of limitations of access to specific orders of discourse) (Fairclough, 1989: 77).

Such limitations (in and through discourse) serve ideological means. Ideology will be more effective when it is less visible, especially when it seeks to legitimize unequal relations of power. In these cases, ideology is hidden in discourse, seeking to contextualize discourse based on a particular worldview in such a way as to constrict the interpretation of discourse, causing the interpreter to feel mandated to reproduce that ideology (Fairclough, 1989, p. 85). Here, Fairclough transitions from the notion of "common sense" as the ideological hidden assumptions of discourse to the notion of hegemony in discourse. For the author, hegemony is domination in the spheres of economics, politics, and ideology. As a concept, hegemony allows for the accommodation of these three aspects in the linguistic and discursive disputes of politics and power. Hegemony is unstable by nature and linked to social action, therefore it has to be assessed based on its social effects (Fairclough, 1995: 77).

The ideological dimensions of the hegemonic struggle are contextualized and assessed by CDA at the level of the orders of discourse, which constitute the ideological-discursive facet of the contradictory and unstable environment of the hegemonic struggle. In other words, the orders of discourse are as complex, heterogeneous, and contradictory as the ideological complex. The discursive practice is, therefore, social action that is used as a tool for the hegemonic struggle, seeking to either reproduce or transform existing relations of power and social structures (Fairclough, 1995: 77).

The critical nature of Fairclough's theory manifests in the following circumstances: *a*) it considers that ideology may dissociate from its social foundations and become "naturalized", perceived as belonging to the nature of things and people as opposed to representations of interests of specific social groups; *b*) these ideologies (or naturalized practices) may be perceived as factors of social order; *c*) this sense of order may impregnate social events

with such effectiveness that even micro events and local practices become dependent on the bigger, widespread hegemonic ideology (Fairclough, 1995 : 82).

In Gramscian theory – which was also a source for Fairclough’s work - cultural hegemony is used to maintain dominance, using ideology to reinforce the status quo (Gramsci, 2000). The ruling classes of the State can do so through coercion and consent. Coercion involves using force to make less powerful classes accept its rule. Through consent, hegemony becomes apparent with the use of ideals and values to persuade subordinate classes of the legitimacy of dominant rule – hegemony is therefore used to maintain consent to the capitalist order. Thus, the strategic use of discourse can have practical implications for a society, as limiting of social discourse by hegemonic influence allows dominant forces to influence society, and can exclude minority discourses (Fairclough, 2010).

CDA’s methodological aspects include different steps for the assessment, each of which is fulfilled by answering specific questions. The 3 different steps of CDA are: text description, interpretation and formation. Text description addresses the experiential values of the word choices in a given text, aiming at identifying how the choice of words rely on or try to create specific social relations between the different subjects of the given discourse. Text interpretation assumes that ideology and hegemonic struggle are necessarily integrated with discourse. It seeks therefore to identify the context in which the text is given and how this context influences the interpretation of the text by the participants. Finally, text explanation closes the CDA loop: it seeks to identify the ideological assumptions of the text in an intentional way. As mentioned above, the ideological-hegemonic conceptions of discourse are usually reproduced automatically and non-intentionally by participants of discursive practice. CDA seeks to avoid this automatic process by forcing the interpreter to intentionally extract and analyse those assumptions. Usually, when discourse is a product of a struggle for power, the ideological-hegemonic hidden assumptions of discourse relate to the past, as it assumes that the subject of discourse holds power as a result of such struggles. When discourse is perceived as belonging to (an ongoing) power

struggle, the ideological-hegemonic hidden assumptions of discourse relate to the future, assuming an association with the intended consequences of the current power struggle. Text explanation will, therefore, seek to identify which social determinant factors (relations of power) format the discourse, which ideologies are embedded in the discourse, and how discourse is played *vis a vis* current struggles for power (whether discourse seeks to keep or change current power structures) (Fairclough, 1989).

Inspired by CDA, this study aims at 1) at the text description level, to identify the gaps between SDGs and the internal official Sri Lankan policy statements; 2) at the interpretation level, to outline the context in which the official country's discourse has been stipulated, assessing whether discourse aims at promoting SDG implementation; 3) at explanation level, to provide a gap analysis of the prevailing ideological status in the country and its potential for alignment with SDGs, specifically SDG's 16 targets 16.3, 16.6, and 16.10. Considering the nature of this study, an integrated analysis is presented.

Discourse Analysis

The Rise of Authoritarianism and the Economic and Political Crisis

The present economic and political crisis in Sri Lanka stems from deeper-rooted systematic factors and has posited grave concerns for the protection of human rights and fundamental freedoms of the people in the country. Evidently, it has also posited grave concerns in terms of realizing SDGs and in fact, as outlined above, threatens to reverse the progress made toward achieving SDGs in Sri Lanka (United Nations Sri Lanka, 2022: 6). In April 2022, Sri Lanka declared a state of insolvency and later entered into negotiations with the International Monetary Fund (IMF) for macroeconomic stabilization and debt restructuring (Cassim, 2022). By the 1st of September 2022, the IMF and the Sri Lankan government had reached a staff-level agreement on an extended fund facility to support Sri Lankan economic policies in the following 48 months (IMF Communications Department, 2022).

Experts representing the United Nations Office of the High Commissioner for Human Rights (UN OHCHR), in a statement, iterated that the economic and political crisis perpetuate direct threats to the full enjoyment of human rights in the country, including the freedom of assembly and expression (UN OHCHR, 2022). This is particularly because the economic crisis ensued with severe shortages of essential amenities such as food, medicine, cooking gas, and fuel, followed by long queues to acquire such basic amenities, which consequently resulted in several deaths (Daily News, 2022). *Aragalaya*, translated into English as the “struggle of the people”, is the mass protest movement in Sri Lanka, which unfolded in March 2022 as a result of the escalating frustrations towards the regime in power, particularly owing to the regime’s contribution to the economic crisis (Singh, 2022). The *Aragalaya* was instrumental in evicting President Gotabhaya Rajapaksa on the 9th of July 2022, marking an arguably watershed moment of people’s sovereignty in Sri Lankan history (Samararatne, 2022).

Whilst the reasons underlying the economic crisis are attributed to various factors, including (however not limited to) long-term fiscal and debt sustainability issues (Hoskins, 2022), the Easter attacks, and the Covid-19 pandemic; scholarly work evinces that the reasons underlying the economic crisis remain deeper-rooted in political, economic and institutional factors (Balamayuran, 2022). According to Balamayuran (2022), the economic crisis is often misleadingly attributed to a foreign exchange deficit caused by various factors, whereas the reality reveals disparate complexities arising out of “bad business”; “bad management” and “bad luck” (Balamayuran, 2022). “Bad business” involved the government repeatedly entering into detrimental international business relationships. “Bad management” constituted policymakers’ unwillingness to prioritize economic efficiency over political gains and patronage and “bad luck” involved the economic strains exerted by the Easter Sunday attacks in 2019 and the global pandemic in 2020, all of which contributed to the economic crisis. For Singh (2022) authoritarian populism was a critical factor that triggered the economic crisis in Sri Lanka. Singh notes,

“...the making of the current economic crisis is not hinged on short-term triggers alone, but also in the pitfalls of authoritarian populism marked by unfettered powers to executive presidency and nepotism and corruption that followed from it” (2022).

Singh’s analysis sheds light on the authoritarian political model ushered by the Rajapaksa regime which resulted in the centralization of Executive power, a key determinant in creating a governance system where policymakers marshalled unquestioned decisions. According to Devapriya (2022), the orthodox view on the causes of the Sri Lankan economic crisis attributed to the ill-conceived policy decisions made by the Rajapaksa regime in terms of fiscal and monetary policy of the country, which arguably exacerbated the underlying structural economic issues in the country (Devapriya, 2022). The assessments presented by Balamayuran, Singh, and Devapriya are critical to understanding the deeper-rooted political and institutional facets underlying the economic-political crisis in Sri Lanka, particularly the issue of policy decisions made at the hands of unfettered power. It also signals the contradictions present within the State’s official discourse concerning SDG 16 (targets 16.3, 16.6, and 16.10), particularly in the context of the centralization of power and rising authoritarianism. The developments within the internal Sri Lankan institutional structure and the unfolding of the present economic and political crisis suggest that the regime change in 2019, with the ascendancy of President Rajapaksa posited clear implications for the realization of SDGs, especially SDG 16.

The Policy Transition and the Weakening of Institutions

The policy programs “Vision 2025” and “Vistas of Prosperity and Splendour” notes an apparent formal commitment to human rights, ‘sustainable’ economic development, institutional reforms, and several other initiatives toward an overall recovery of the country. The same applies to the creation of a Sustainable Development Council, which was mandated with the task to support SDG implementation in the country. From a formal perspective, the policy documents and the reports suggest that the Sri Lankan State is committed to its international obligations, particularly

regarding its participation in international human rights mechanisms and the implementation of SDGs. The country has acceded to major human rights covenants including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), and is also engaged in the domestic processes of implementing SDGs.

In line with its policy program “Vision 2025” and the commitment to progress SDG 16.3, the government of Sri Lanka introduced several vital reforms to promote the rule of law and strengthen independent institutions, particularly in April 2015. As such, the government enacted the Nineteenth Amendment to the Constitution (2015) which was principally rooted in depoliticizing the governance system of the country. As such, one of the strongest elements of the Amendment was the creation of the Constitutional Council (Article 41A) as well as the restoration of independent commissions administering human rights, the public service, the judiciary, elections, and the Police (Article 41B). The Constitutional Council played a prominent role in curtailing the powers of the Executive Presidency, particularly in making political appointments to key public institutions. The Constitutional Council’s role was two-fold: recommending presidential appointments to the independent commissions, and approving presidential appointments to the Superior Courts of the Judiciary. In any case, if the president fails to make the appointments through the recommendations made by the council within 14 days, the appointments are deemed to have been made through the operation of the law (Article 41A (6)).

Along with such robust institutional reforms, a new commission on Audit and Procurement was also introduced (Article 153A). The Bribery and Corruption Commission was strengthened by providing it with a Constitutional standing. National Human Rights Commission gaining the ‘A grade’ accreditation by the Global Alliance of National Human Rights Commissions (GANRI), “is a clear testimony of enhanced institutional capacity that has helped improved the rule of law in the country” (Ministry of Sustainable Development, Wildlife and Regional Development, 2018, p. 99), which is considered as progress made towards realizing SDG 16 targets.

Similarly, the introduction of the freedom of information to the fundamental rights chapter of the Constitution is outlined as a landmark step forward in achieving SDG 16.10 during this time period (Ministry of Sustainable Development, Wildlife and Regional Development, 2018, p. 101). Freedom of information, thus, has been strengthened as a justiciable right. The Government also enacted two critical legislations falling under the ambit of SDG 16: The Right to Information (RTI) Act, No. 12 of 2016, and the Office on Mission Persons (OMP) Act, No. 9 of 2017. Progressing towards target 16.10, the RTI Act promotes a culture of transparency and accountability within the public institutions of Sri Lanka. The OMP was established to promote reconciliation and ensure reparations for the victims of the long-term armed conflict that prevailed in the country.

Despite the aforementioned promising initiatives, more recent changes in the country's institutions have undermined democracy and the rule of law which are two fundamental tenants of SDG 16. The Twentieth Amendment to the Sri Lankan Constitution (2020) has promoted a change in the legal and political landscape, drastically hindering the capacity of the political and legal systems to provide for checks and balances, setting the President free from previous obligations and limitations enforced by the Nineteenth Amendment. The Twentieth Amendment, enacted in 2020 under the auspices of the Gotabhaya Rajapaksa regime, replaced the Constitutional Council with the "Parliamentary Council". The Parliamentary council was formulated with a sole composition of parliamentary members. It was not empowered to make binding recommendations as the Constitutional Council, but rather was provided with the powers to make "observations" to the president, which were not binding. As such, evidently, the Parliamentary council was a serious setback against the independent institutions in Sri Lanka. The Twentieth Amendment also bolstered the Presidential powers. The minimum age of eligibility was reduced and the disqualification of dual citizens running for the presidency was removed. It also repealed the previous duties of the president to ensure that the constitution is respected and upheld. In addition, the duty to promote national reconciliation and integration was also removed. The President also embodied the ability to remove the Prime Minister at any given time. In addition, the President was allowed to hold ministerial portfolios

without any limitations. The Presidential immunity was expanded to the extent where the President will not be subjected to any proceedings in any court or tribunal. Further, the Twentieth Amendment abolished the National Procurement as well as the National Audit Commission, two independent institutions previously established to strengthen institutional accountability to the public.

The aforementioned developments consequently posed a threat to Judicial independence as well. Under the Twentieth Amendment, the President is vested with the powers of making appointments of the higher courts in the judiciary at the President's own discretion. The President also possesses the discretionary power to make appointments to the judicial services commission. According to the International Commission of Jurists, the Amendment served primarily to increase the powers of the President and encroach on the powers of the Judiciary as well as the Parliament (International Commission of Jurists, 2020). The UN Special Rapporteur on Independence of Judges and the UN Special Rapporteur on Truth and Justice has reiterated the adverse impact posed by the Twentieth Amendment on the independence of the Judiciary, the separation of powers as well as the independence of institutions, a regressive set-back against the previous institutional reforms (UN OHCHR, 2021).

At a mere text-level, comparison between the progress made towards realising SDG 16 and the expected corresponding internal Constitutional system of Sri Lanka reveals that Sri Lanka has shifted from a position of "formally well placed" for the implementation of SDG 16 to one of "unfit for purpose". At the interpretation level, it is relevant to assess the rising of the twentieth amendment to the constitution, as that represents the shift and denotes the prevailing "orders of discourse". The twentieth amendment was approved by a majority in Parliament despite formal complaints and counter-movements by a considerable number of minorities and representatives of specific areas of society (such as political parties and civil society organizations ranging from the Janatha Vimukthi Peramuna (JVP), the Tamil National Association (TNA), Buddhist and Catholic clergies, the Sri Lanka Audit Services Association, etc.). Even a Committee appointed by Prime Minister Rajapakse issued a report with some criticism towards some of

the clauses from the amendments. The Supreme Court was also provoked by at least 39 different petitions and opined that four of the original clauses in the Amendment were inconsistent with the Constitution, and required an additional referendum (Centre for Policy Alternatives, 2021).

The UN statement titled “Sri Lanka: Experts dismayed by regressive steps call for renewed UN scrutiny and efforts to ensure accountability” (UN OHCHR, 2021) highlights specific concerns regarding the government’s commitments in relation to advancing SDGs. One key issue highlighted in the statement is the threat posed to independent institutions and the rule of law, key tenants formulating SDG 16. The concerns ranged from the threat to the independence of key public institutions such as the Human Rights Commission and the Judiciary to the issue of increasing militarization in Sri Lanka. One key implication of weakening institutions is reflected in the regressing space for fundamental freedoms ranging from freedom of expression, peaceful assembly, and the freedom of association. The UN Statement in 2021 brings to attention key concerns regarding the increased militarization and the restrictions against freedom of expression, peaceful assembly, and association within the national legislations and governance (UN OHCHR, 2021). This includes the continued presence of the Prevention of Terrorism Act No. 48 of 1979, a draconian law used to arrest and detain any individual under the guise of terrorism. The UN also cites the warnings of the Special Rapporteur on the rights to peaceful assembly and association on state surveillance and scrutiny of civil society organisations including human rights defenders (UN OHCHR, 2022). Against the backdrop of the recent protests, the UN OHCHR (2022) called for restraint, especially in policing the peaceful assembly of protestors who were dissenting against the prevailing regime. Further, the Office of the High Commissioner for Human Rights iterated several key aspects fundamental to upholding the rule of law in the country, especially fundamental for SDG 16. This includes the scrutiny against the use of the military in policing activities and the vitality of ensuring journalists and human rights defenders monitor and report the crisis in Sri Lanka.

The Ideological Shift and the Contradictions Revealed through the Discourses of the Policies

In the analysis of the national policy documents and the VNRs in the context of the legal and institutional reforms and related empirical developments in Sri Lanka, it is apparent that the implementation of human rights in general and of SDG 16, in particular, depend on the existence and maintenance, with a certain hegemonic predominance, of specific social structures that allow for a certain behaviour by the State, the ordinary people and those holding power positions within society. Such apparatus was clearly being established through the execution of the changes provided in the Nineteenth amendment to the Constitution, although however, the Twentieth amendment evidently reverted the process. President Gotabhaya, representing the Sri Lanka Podujana Peramuna (SLPP), was elected as the Executive President of Sri Lanka in October 2019 by an overwhelming majority of the population, marking an unambiguous ideological shift within the legal and policy trajectory in Sri Lanka, which reversed several progressive reforms made towards the furthering of human rights commitments and SDG 16 in Sri Lanka.

The political, as well as ideological circumstances that prevailed in the country at the time of the election, are significant to understand the drastic ideological shift reverting the institutional process foregrounded by the Nineteenth Amendment. The Presidential election took place in the aftermath of the Easter attacks in April 2019 (United Nations, 2019)¹⁰ and was grounded in Sinhala-Buddhist Ethno-nationalist aspirations (Vistas of Prosperity and Splendour, 2019, p.68) as well as a strong mandate to establish and strengthen the national security of the country (Vistas of Prosperity and Splendour, 2019, p.2). President Rajapakse's election manifesto, "Vistas of Prosperity and Splendour", had promised to introduce a new constitution (Vistas of Prosperity and Splendour, 2019: 3) and also remarked on the abolishment of the Nineteenth Amendment to the Constitution Vistas of

10. The Easter attacks in Sri Lanka were a series of terror attacks which targetted Christians who gathered in Churches and Hotels to celebrate Easter on the 21st of April 2019. See more about the UN statement on the attacks (United Nations, 2019).

Prosperity and Splendour, 2019: 9). As previously stipulated, the policy prescription promoted by President Rajapakse's election prioritised four goals "a productive citizenry, a contented family, a disciplined and just society, and a prosperous nation" (Vistas of Prosperity and Splendour, 2019: 2), whilst national security is explicitly placed as the priority of the policy framework. In that ideological context, the regime promised a "new Constitution that fulfils the People's wishes", "people centric economic development", "disciplined, law abiding and values-based society" (Vistas of Prosperity and Splendour, 2019: 2-3)¹¹. In August 2020, when the SLPP won the Parliamentary elections with a 2/3rd majority in Parliament, the context of the election was peculiar at best.

As analysed by Welikala (2020), the Parliament stood dissolved for over five months due to the Covid-19 pandemic, and the elections were eventually held on the 5th of August 2020. Whilst there are legal issues pertaining to the dissolution of the Parliament, this paper will not dwell extensively into that discussion. However, given the ambit of this paper, it is essential to analyse the implications of the election, disposition, and the ideological shift that took place in the Parliament. It is also imperative to underpin that the pandemic had reinforced the "case for strong Presidentialism" (Welikala, 2020). Against the backdrop of the pandemic, the government's response to unprecedented challenges was a national security-centered approach (Peiris, 2021: 64), where extraordinary powers were exhibited by the Executive in appointing various "Presidential Task Forces" (Centre for Policy Alternatives, 2020), composed of military and ex-military members to deliver public goods (UN Special Rapporteurs Statement, 2020). According to the UN Special Rapporteurs statement (2020),

11. The ten key policies are: Priority to National Security; Friendly, Non-aligned, Foreign Policy; An Administration free from corruption; New Constitution that fulfils the People's wishes; Productive Citizenry and a vibrant Human resource; People Centric Economic Development; Technology Based Society; Development of Physical Resources; Sustainable Environmental Management; Disciplined, Law Abiding and values based society.

“[I]n particular, the new administration has continued to bring non-military agencies under the Ministry of Defense and has appointed at least 28 retired and active military officials, including persons accused of committing serious human rights violations, in senior civil administrative positions and as part of a series of “Presidential Task Forces” established in the absence of Parliament in June 2020.”

The Task Forces were only answerable to the President and showcased the serious dearth of the regime’s public accountability (Centre for Policy Alternatives, 2020). President Rajapakse, in the inaugural session of the newly elected parliament, reiterated the priority for the abolishment of the Nineteenth Amendment to the Constitution in his statement of Government policy (Aljazeera, 2020). With 145 seats in Parliament, the SLPP secured an unprecedented majority, pertinent to achieve the aspired Constitutional reforms (Welikala, 2020). This ideological transition is considered a “democratic backsliding” by scholars such as Welikala. As Welikala (2020) observes, the reforms pioneered by the Nineteenth Amendment had empowered public institutions to counter the unprecedented powers of the presidential system, which were a hindrance to a regime geared to bolster the Executive presidency. In other words, the new shift of ideology was to centralize governance to further national security and economic efficiency, at the expense of fundamental freedoms, depoliticized public institutions, and accountable governance (Welikala, 2020).

The content of SDG 16 requires that democratic institutions operate within society in collaboration with the purpose of implementing enduring peace, justice, and inclusion. Strikingly, the VNR 2022 simply omits – or fails to address – the changes that the Twentieth Amendment generated in the centralization of unfettered political power at the hands of the Executive Presidency in Sri Lanka. What seems to have been an intentional omission in the official discourse has been flagged by the aforementioned UN’s statements on Sri Lanka (UN OHCHR, 2022), particularly in the context of the Twentieth Amendment’s direct implication on achieving SDG 16, which involves: militarization, over-concentration of power in the Executive branch, the dearth of power and independence of other legal institutions, the threat

to the rule of law, limitations posited against the exercise of fundamental freedoms (such as freedom of expression and peaceful assembly), the misuse of existing security legislations to arbitrary arrest activists, human rights defenders and individuals opposing the government in breach of due process of law, etc.

Thus, the assessment of the prevailing hegemonic power in Sri Lanka finds resonance in the challenging political discourse shaped by the Twentieth amendment to the Constitution, which has remodelled the foundations of an otherwise pre-existing democratic structure for a State struggling to make it right. It is apparent that the Twentieth Amendment promoted a quasi-constitutional dictatorship, and a bolstered presidential system subordinating the Parliament for the primary purpose of promoting authoritarian populism. However, in the official discourse, for instance, the reporting within the 2022 VNR, the omission of the empirical reality concerning the implications of the Twentieth Amendment to the Constitution is revealing of how the debate is no longer about if or when SDG 16 (or more broadly SDGs) development and implementation may occur in Sri Lanka, but about why it is obvious that within the current state of affairs, human rights and fundamental freedoms are not a political priority of the existing regime. Whilst the draft UN Sustainable Development Cooperation Framework for Sri Lanka 2023-2027 (United Nations Sri Lanka, 2022: 6) has flagged the implications of the economic crisis as a threat to reverse progress made towards achieving SDGs in the country, our analysis of policy documents in the context of empirical developments reveal far critical drawbacks in the path of progress towards SDGs, especially stemming to the dearth of political independence and rule of law within the public institutional framework. Although the UN Sustainable Development Cooperation Framework for Sri Lanka does not explicitly specify the implications of the heavy centralization of power by recent constitutional reforms, the fact that it highlights “inclusive governance and justice” as a strategic priority for the country from 2023-2027 (United Nations Sri Lanka, 2022: 7-9), is indicative of the challenges ahead of progressing SDG 16.3, 16.6, and 16.10 targets in Sri Lanka.

Conclusion

Inspired by Fairclough's approach to critical discourse analysis, this study has engaged in an analysis of discourses presented within the key policy documents pioneered by the Rajapaksa regime in 2019 in connection to Sri Lanka's commitment to SDG 16. The reporting and omissions present within the policy discourses were revealing of the subversion of SDG 16 in the country. The ideological shift exhibited by the reforms made in the governance structures signal the authoritarian political model that had risen in Sri Lanka in the aftermath of the Rajapaksa government that came into power in 2019. However, the official discourse of the 2022 VNR of the government of Sri Lanka at the HLPF omits, intentionally, the drastic reforms made to the constitutional architecture of the country, particularly the implications of the Twentieth Amendment and other quasi-constitutional exercises of power by the Executive President, for instance by executing functions of the governance via ad-hoc military structures, showcases the threats posed by the authoritarian model of governance towards realizing human rights in general and SDG 16 in particular.

Sri Lanka's National Unity Government or the *Yahapalanaya* Regime represented efforts to build democratic institutions and solid governance through democratic reforms during the period 2015-2019. One shall consider, though, that the *Yahapalanaya* Regime had also been preceded by authoritarianism, *i.e.* the former Mahinda Rajapaksa regime (2005-2010). The participation of civil society in the process of democratic reforms was key to challenging the then-prevailing perception that the Mahinda Rajapaksa regime was too popular and powerful to be defeated. The statements from the VNR 2018 reflect the ideological precepts from the *Yahapalanaya* Regime and the efforts towards an SDG-friendly ideological frame within the country. At the time, it seems that the prevailing order of discourse and the discourse from VNR 2018 was apparently a match, in the sense that the text sought to outline the regime's policies and aims. However, the *Yahapalanaya* regime lost momentum due to political infighting within the coalition, delays in the implementation of new policies, and a lack of a clear roadmap for the government to further implement the desired governance structures. These

are the main factors that led to the erosion of the regime. Consequently, the door was open to the return of authoritarianism, which culminated with the rise to power of the Gotabhaya Rajapaksa regime.

The circumstances of the rise of the Gotabhaya Rajapaksa regime were crucial for the present analysis. The country was in a post-armed conflict period when it faced the unprecedented Easter attacks, which paved the way for a regime associated with Sinhala-Buddhist Ethno-nationalist aspirations. The fear for their lives and of what the future could look like haunted the civil population, who, in turn, shifted their views back to a familiar political view: a more authoritarian standpoint anchored in “national security” and “economic efficiency”. The Rajapaksa regime, with the auspices of a strong electorate, therefore, concentrated power on the Executive branch, diluting power and ability to influence other institutional government branches and offices.

The present analysis of shifts of power and ideological hegemony in Sri Lanka considers the *Yahapalanaya* Regime as an exception in the history of the country, as it is both preceded and succeeded by authoritarianism and concentration of power in the Executive Presidency. The *Yahapalanaya* Regime and its commitments to SDGs, human rights, good governance, and democratization represent a struggle for power in discourse and in practice. Such struggle is not over yet, as one can see from recent events in the country, especially in the context of the *Aragalaya*. However, the ideology represented in the *Yahapalanaya* regime has not achieved hegemonic status, as it was overruled by authoritarianism again, which was even backed up by the political figures of the *Yahapalanaya* Regime *i.e.* the then Prime Minister and present President, Ranil Wickremesinghe, who is currently at the helm of the state anchoring the volatility of the Gotabhaya Rajapaksa regime). In Gramscian terms, it looks like the hegemonic struggles within Sri Lanka are still boiling and the ideological battles are yet to culminate in some sort of predominant viewpoint. Until then, coercion (through fear, authoritarianism, and state apparatus) may still take place. But it is not yet until a certain level of democratic consensus is reached that Sri Lanka will have developed adequate conditions to implement SDGs and reinforce human rights.

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