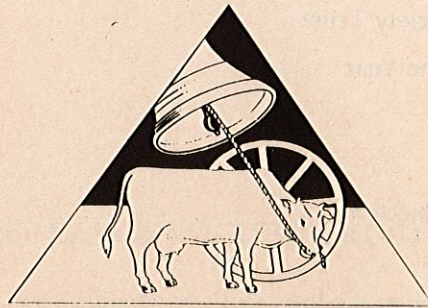


# **LAW & SOCIETY TRUST**

**ANNUAL REPORT**

**1994**



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**LAW & SOCIETY TRUST**

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## THE LAW & SOCIETY TRUST

The Law & Society Trust is a non-profit making body committed to improving public awareness on civil & political rights, cultural & socio-economic rights, and equal access to justice. The Trust is also concerned with consideration of, and the improvement of professional skills within the legal community. The Trust has taken a leading role in promoting co-operation between government & society within South Asia on questions relating to human rights, democracy & minority protection, and has participated in initiatives to develop a global intellectual & policy agenda for the nineties.

The Law & Society Trust was set up in June 1982 to initiate studies and activities on law and social change. It was created to fill a vacuum in our study of the law, its processes and institutions. In 1990 the Trust was incorporated as a non-profit making body under the provisions of the Companies Act of 1982.

The Trust has designed activities and programmes, and commissioned studies and publications which have attempted to make the law play a more meaningful role within society. The Trust has attempted to use law as a resource in the battle against underdevelopment and poverty, and has also conducted a series of programmes aimed at members of the legal community, including publications, workshops, seminars and symposia; it is developing its documentation centre with the objective of establishing, in the future, a regional centre for advanced legal studies and socio-legal research. The Trust is responsible for the production of the first independent review of human rights in this country; the *State of Human Rights 1993* report which was released in 1994.

The Trust has an ongoing programme designed to disseminate information and upgrade local legal skills on matters relating to commercial law. With the Sri Lankan Government's increased emphasis on economic restructuring, privatisation of state enterprises and liberalisation of the economy, there is a growing need within Sri Lanka for legal skills and expertise in drafting appropriate legislation and negotiating contracts. The Trust has also arranged dialogues between the public & private sectors, and labour on critical issues relating to economic law & policy.

## 1994 SUMMARY

The two elections - Parliamentary and Presidential - dominated events in 1994. The Parliamentary Elections in August saw a shift in political power - the first since 1977 - with the Sri Lanka Freedom Party (SLFP) led People's Alliance capturing a slim majority. This was followed by the party's candidate winning the Presidential Elections in November with a comfortable majority. The elections re-established a previous trend - broken by the notorious referendum in 1983 - that saw political power alternate between the two major political parties of the country. Following both elections, the handover of power by the former President Wijetunga was peaceful.

These two events were preceded by the Provincial Council Elections in the Southern Province in March which also gave the People's Alliance a comfortable victory.

The year witnessed the emergence of a new political leader in Chandrika Bandaranaike Kumaratunga, who catapulted from Chief Minister of the Western Province to Executive President in under 24 months. Her emergence as a political leader re-established a dynastic tradition - both her mother and father being former Prime Ministers of the country.

The bitter political violence which has grown in intensity over the years continued and among the victims in 1994 were Presidential candidate and former UNP Minister Gamini Dissanayake. Several former ministers and over 50 others were also amongst those killed by a suicide bomber at a political rally in October.

Questions of democracy, transparency in government and anti-corruption figured prominently in the People's Alliance manifesto. Unshackling the media and greater promotion of the freedom of expression was also a major campaign issue. While there have been some aberrations, the overall climate is now much freer with greater levels of tolerance to criticism and dissent.

Perhaps the biggest shift in policy has occurred in relation to the ethnic conflict. For the first time in several years the country has a political leadership which appears committed to the pursuit of a political, negotiated solution to the conflict. Whilst no doubt the process will be a long one requiring a high degree of tact and patience, there is for the first time in many years a commitment to seeking a sustained and democratic solution.

The new regime has promised a new constitution by July 1995. The Trust will be hoping to make an input to this process to try and ensure that this document produces a democratic system of checks and balances. Among the issues that figure prominently are the abolition of the Executive Presidency, federalism and other power sharing agreements, the revision of the fundamental rights chapter so as to bring it into conformity with international standards, and secularism.

Sri Lanka ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in early 1994, but the domestic Torture Act that was passed contained a narrower definition of torture than the Convention. Unfortunately the state did not make the additional declaration that would have enabled the Torture Committee to entertain complaints from individuals.

We also await the new Human Rights Commission Law being drafted by the Foreign Ministry. The Trust hopes the new institution will have a high degree of credibility, be accessible and have the necessary financial and human resources to discharge its functions.

The new government has appointed three Commissions of Inquiry with regard to disappearances occurring after 1988. The commissions have been given a wide mandate, including the power to order compensation, and their interim reports are awaited eagerly.

The year also saw the discovery of mass graves at Suriyakande, the victims suspected of being those murdered during the violence of 1988-89. The processes of exhumation followed were unfortunately not according to international standards. Forensic and anthropological processes have recently been refined after similar occurrences in Latin America; but the government unfortunately reacted very slowly and it was only after some weeks that an internationally recognised expert was brought to the country to share his expertise.

There is no doubt that the overall climate with regard to human rights has improved; yet several concerns remain. The Emergency Regulations and the Prevention of Terrorism Act still violate international human rights standards. The media, including Lake House, Rupavahini and the Sri Lanka Broadcasting Corporation (SLBC), continue to remain in state hands. A Committee has been appointed to 'broadbase the ownership' of Lake House but no steps have been taken to remove Rupavahini and the SLBC from state control. Other questions on preventive detention, impunity and the role of the Human Rights Task Force also need to be addressed.

During 1994 the Trust published the first comprehensive review and assessment of the status of human rights in Sri Lanka. *Sri Lanka: State of Human Rights 1993* was published in June 1994 and evaluated governmental and non-governmental conduct against international criteria. The Report is in the process of being translated into Sinhalese and Tamil, and several public discussion seminars in outstation areas are planned for 1995. Work on the 1994 report commenced in the last quarter of the year.

## PROGRAMMES

Pursuing the fulfilment of its mandate the Law & Society Trust focused on creating awareness among civil society of a broad range of human rights including civil, political, economic, social and cultural rights; and on impressing upon government the fact that good governance entails the protection of fundamental human rights. Recognising that international policy focus and standard setting, as well as regional co-operation and coherence of action are necessary pre-conditions for regional and national responses to contemporary human rights challenges, the Trust's activities spanned three dimensions; the international, the regional and the national.

### Primary objectives:

Taking a holistic approach to the promotion of human rights the Trust pursued the following objectives to implement its mandate:

1. Development of international human rights policy and standards which incorporate contemporary challenges in the developing world, and in South Asian countries in particular.
2. Development and strengthening of regional human rights organisations, mechanisms and democratic institutions.
3. Promoting the protection of human rights in the domestic arena through human rights awareness building among civic society, and influencing government policy making.
4. Pursuing general activities to make law responsive to societal needs.

### Methods of Implementation:

The Law & Society Trust implements its objectives in a number of ways:

- Consultations
- Workshops
- Research
- Lectures
- Reporting
- Lobbying
- Training Seminars
- Publications

### Development of International Human Rights Policy and Standards

At the international level, the Trust focused on ensuring the incorporation of concerns and perspectives of developing nations, and South Asian nations in particular, into an international policy agenda for the nineties. Activities in pursuit of this objective included the participation of eminent scholars representing the various regions of the world who influence international human rights policy and standard setting. Issues addressed for development and definition included the interdependence of civil, political, economic and social rights; human rights and development; and minority rights and political, economic and social participation.

### Development and Strengthening of Regional Human Rights Organisations, Mechanisms and Democratic Institutions.

At the regional level the Trust focused on strengthening influence on the domestic arena through regional co-operation and harmonisation of efforts, and the setting of priorities for concerted action. The Trust's activities were co-ordinated with NGOs in the South Asian

region and through the Regional Working Group, including representatives from the SAARC countries. Issues addressed included regulation of non-government organisations, strengthening of democratic institutions, implementation of international covenants in the SAARC region, monitoring and reporting on conformity of law and practice in SAARC countries.

### **Promoting the Protection of Human Rights**

At the national level, the Trust focused on creating human rights awareness, and urging government to subscribe to the fundamental principle that its obligation to promote and protect the fundamental freedoms of its polity is indispensable for good governance. In its efforts towards creating awareness the Trust not only undertook rights awareness activities, but also focused on disseminating information on violations of rights and lapses in legislation and implementation. To this effect the Trust undertook the task of compiling and reporting, and calling for effective enforcement, of human rights. In the government sphere, the activities incorporated impressing upon government its responsibilities to its citizenry in the light of its commitments and international obligations. This objective was sought to be achieved through lobbying for ratification of international human rights and humanitarian covenants and conventions, and compliance with such international obligations, the setting up of a national human rights commission, judicial reform etc.

### **Law Responsive to Societal Needs**

The Trust is committed to the development of the law, and towards making it more responsive to the needs of a modernising society. The issues of constitutional change and democratic transition were explored, both in the context of local experience, and in the process followed in a number of other countries, both Asian and western. Professional ethics in a changing society, and the strengthening of Sri Lankan professionals to assist in the ongoing restructuring of the economy and the development process were examined under a range of programmes.

## **HUMAN RIGHTS PROGRAMME**

### *National Focus:*

## **HUMAN RIGHTS IN SRI LANKA - ANNUAL REPORT**

### **Outline**

The concept for this programme was developed in response to the urgent need to collate, in one publication, information on the current situation regarding various aspects of human rights in Sri Lanka. Prior to this there has been no systematic examination and report of the state of human rights, but rather concentration by different agencies and groups on specific issues.

### **Goals**

- To gather all information, published and unpublished, on human rights to present a complete picture of the situation in a given year.
- To provide a focal point for dialogue between the NGO community and the government which for the facilitation of the strengthening of the protection of human rights through legal or procedural reform.
- To activate critical discussion, isolate reform programmes and constitute a central influence in the area of monitoring, reporting on and protecting human rights.



## **Activities**

### ***The Inaugural 1993 Report on the State of Human Rights***

Planning for the inaugural 1993 report commenced in January 1994 with the selection of topics, outline of the report and terms of reference for the chapters and sections established. A number of distinguished academics and practitioners in the field of human rights contributed to the report. Following the receipt of all final drafts, in May the report was compiled and prepared for printing. The 1993 report has been translated into Sinhala and Tamil, and these two editions will be published early in 1995.

### ***Presentation of "State of Human Rights 1993"***

*2 June 1994*

The Report was presented to Hon. K N Choksy, Minister of Constitutional Affairs, by Ms Damaris Wickremasekera, Secretary of the Law and Society Trust.

### ***The 1994 Report***

The 1994 report was commenced in September 1994, with an expected publication date of April 1995. The Sinhala and Tamil editions will be released as close to that date as is possible.

## **CONSTITUTIONAL AND INSTITUTIONAL REFORM**

### **Outline**

The Trust initiated an exercise to address major questions relating to constitutional and institutional reform, democratic governance and accountability. Ten seminars on critical questions relating to constitutional reform were held; two in 1992, seven in 1993, and the final seminar in early 1994, bringing together a group of academics, policy makers, media personnel, politicians, NGO representatives, business people and decision makers. Funding was provided by The Asia Foundation.

### **Goals**

- To strengthen the performance and accountability of democratic systems & institutions in Sri Lanka by facilitating greater public awareness of public issues
- To increase citizen participation in constitutional dialogue and reform

### **Activity**

#### ***Power Sharing between the Executive and the Legislature***

*19 January 1994*

*Speaker:* Sherille Ismail

*Moderator:* Mario Gomez, Law and Society Trust

The speaker discussed the need for structural reform in Sri Lanka against the congressional system in place in the United States of America. Areas covered in the discussion included the concentration of Presidential power, devolution as a means of giving minority communities a meaningful measure of political power, and the revitalisation of the judiciary in Sri Lanka.

### *Regional Focus:*

## **SAARC WORKING GROUP ON HUMAN RIGHTS, DEMOCRACY & CIVIL RIGHTS**

### **Outline**

In 1992 the Trust established a Regional Working Group on democratic governance and human rights protection in the SAARC region. The group allows human rights organisations to share experiences in upholding human rights standards, and to reflect on how to respond to new problems and challenges. The Working Group examines problems of institution building and the strengthening of the electoral processes in the SAARC countries.

Preparatory work was done towards drafting a common NGO position on the functioning of the voluntary sector throughout the region. However, since the SAARC Heads of State summit scheduled for New Delhi in late 1994 was postponed further action on the common NGO position also had to be postponed.

### **NGOs: THEIR FREEDOM AND ACCOUNTABILITY**

The original project was completed in late 1993, and as further funding was not forthcoming the programme ceased in 1993. Due to the political changes in Sri Lanka in 1994, the climate in which NGOs function and operate changed significantly, and the need to continue action against the emergency regulations ceased.

### *International Focus:*

## **HUMAN RIGHTS: THE POST VIENNA AGENDA**

*1 July 1994 at Cambridge, England.*

*Convenor:* Dr Neelan Tiruchelvam, Director, Law & Society Trust

A Trust convened a meeting of eminent international scholars to develop a research and policy agenda to provide a conceptual basis for sustained and effective action on human rights for the 1990s. A discussion paper was prepared by the Trust for the consultation.

The objective of the consultation was to highlight areas where further conceptual and intellectual work would be required to facilitate a meaningful human rights policy which is adequately responsive to contemporary challenges and demands. Issues discussed at the consultation included the universality of human rights, democracy and development, group rights, integration of women's rights, existing and new initiatives for the promotion and protection of human rights, and mechanisms of enforcement.

## **GROUP RIGHTS CONSULTATION**

### **Outline**

The theme of the consultation is to further develop issues relating to group (minority) rights, which are becoming critical to an understanding of the growing phenomena of ethnic violence, internal armed conflicts and human rights abuses associated with such conflicts.

The Trust prepared a funding submission for the consultation during 1994, and also commissioned background papers and undertook preliminary research. The consultation will be undertaken in 1995.

## OTHER ACTIVITIES

### RELIGION AND THE LAW

#### Outline

In 1991 a series of symposia on Religion and the Law was initiated by the Trust. The 1991 topic was Buddhist Ecclesiastical Law; 1992 Christianity, Law and Society; 1993 Islamic Law. The 1994 symposium completed the series.

#### Goals

- The promotion of intra-religious understanding
- To address a neglected area of legal study, and to examine the clash between religion and tradition on the one hand, and development and modernisation on the other.

#### Activity

##### *Hindu Law and its Interaction with Society*

24 September 1993

*Speakers:* Naresha Duraiswamy  
Justice C.V. Vigneswaran  
Justice K. Palakidnar  
Professor C. Suriyakumaran (Paper only)

*Moderator:* Nissanka Wijeyaratne

Justice Palakidnar, presenting Professor Suriyakumaran's paper, discussed the relationship between the priests, business class and leisured ruling class, and the larger, more menial groups in the context of the management of temples. An analysis was also made of the frequent recourse to the courts over the ownership/ trusteeship of temples.

Dr. Duraiswamy observed that Hindu law has never been envisaged as a fixed legal code, but rather as a coherent and overarching theoretical framework to be adapted according to the regional and community attitudes of the time. The paper looked at the development of Hindu jurisprudence, at the differences in various regions of India and at how different marriage practices exist across regions, caste and communities.

Justice Vigneswaran discussed the social provenance of Thirukural and the principles of jurisprudence contained within it. The major moral precepts were explained, and a comparison between western and Hindu jurisprudence made.

### LAW AND THE ECONOMY

#### Outline

From 1991 to 1993 the Core Group on Business Law & Economy operated with funding from The Asia Foundation; the funding ended in 1993. Due to the importance of this programme, and the high level of participation at the conferences and seminars held, in 1994 the Trust funded activities under this programme.

#### Goals

- To develop and strengthen the capacity of the Sri Lankan professional to assist in the restructuring of the economy and the developmental process in general.
- To develop a core of legal experience and expertise to which state corporations, regulatory bodies and private enterprises could have access.

TRUST STAFF  
1994



Standing left to right — *S. Simon, M. Mohan, Sonali de Silva, Dharshini Mahadeva, Shariya Basnayake, Vicki Esmonde-Morgan, Tilaka Fernando, Hema Ekanayake, P. Chitravel.*

Seated left to right — *Angela Hussain, Mario Gomez, Kanya Champion, Damaris Wickremesekera, Mala Dharmananda, Dr. Neelan Tiruchelvam.*

Missing — *Sabina Fernando, Selvi Premarajah*



*The then Chief Minister of the Western Province, Chandrika Bandaranaike Kumaratunga addressing the symposium on "The Political Transition in South Africa and its Relevance".  
12 May 1994 at BMICH*



*Speakers at the symposium on "Professional Ethics and Responsibility".  
16 July 1994 at BMICH*



*National Conference on "Law and the Economy", being inaugurated by Dr. Roberto Bentjerodt, Resident Representative of the World Bank.  
29 July 1994 at Colombo Renaissance Hotel*

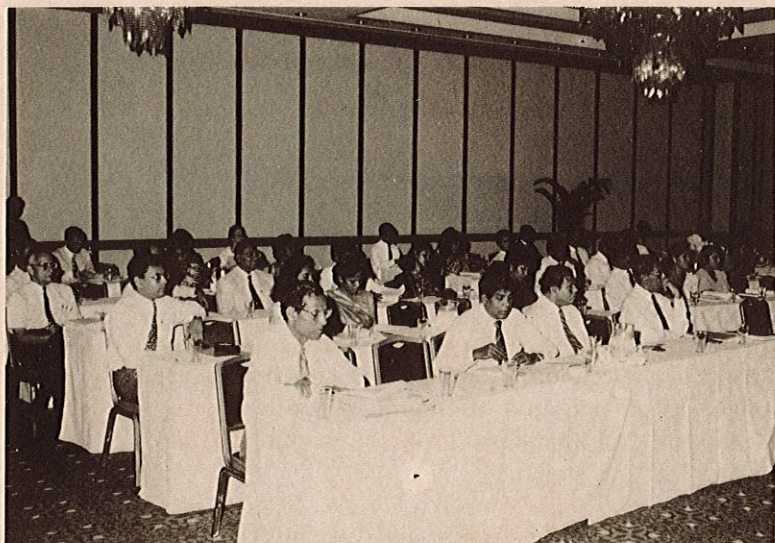
*Official launching of the book by Justice  
A. R. B. Amerasinghe, "Professional Ethics and  
Responsibility of Lawyers" by  
Hon. G. P. S. de Silva, Chief Justice.  
3 March 1994 at the Law & Society Trust*



*Presentation of "State of Human Rights 1993" to then  
Minister of Constitutional Affairs, Hon. K. N. Choksy.  
2 June 1994 at the Law & Society Trust*



*"Rating of Debt Instruments" Conference.  
19 March 1994 at Colombo Renaissance Hotel*



*National Conference on "Law and the Economy".  
29/30 July 1994 at Colombo Renaissance Hotel*



*Dr. Nissanka Wijeyaratne addresses the symposium  
on "Hindu Law and its Interaction with Society".  
24 September 1994 at the Law & Society Trust*



*"Party Manifestos: Constitutional Reform" symposium.  
2 August 1994 at the Law & Society Trust*

- To contribute to the more effective structuring of contractual arrangements between Sri Lankan and foreign enterprises, and to minimise the need for costly litigation and arbitration arising out of disputes which were not effectively anticipated.
- To develop teaching materials, manuals and case books which would be of benefit to legal and professional education in Sri Lanka, and to continuing education.

### Activities

*National "Law and the Economy" Conference 1994*  
29/30 July 1994 at the Colombo Renaissance Hotel

The conference was a major aspect of the programme to upgrade skills relating to commercial law, and focused on six key areas of the economy. Six panel discussions were held over the two days of the conference. 60 participants attended, including young professionals from various government departments, bankers, brokers, economists and academics.

The conference developed themes discussed at the 1993 conference, and was not confined solely to economic liberalisation, but also referred to the social aspects of economic reform programmes. The conference was inaugurated by Mr Roberto Bentjerodt, Resident Representative of the World Bank.

- **Corporate Law Reform and Corporate Bankruptcy**  
*Papers:* Kanaga Dharmananda, Law and Society Trust  
Philip N Pillai, Managing Partner, Shook Lin and Bok, Singapore  
*Moderator:* Walter Laduwahetty, Principal, Sri Lanka Law College  
*Panel:* David Goddard, Partner, Chapman Tripp Sheffield Young, NZ  
K Kanag-Isvaran, President's Counsel  
Philip N Pillai

The panel focused on changes in corporate law aimed at dealing with new problems that inevitably arise in a rapidly developing economy. Members of the Advisory Commission on Company Law referred to the proposed company law reforms and their objectives.

- **Labour and Private Sector Development**  
*Paper:* Ariam Brito Mutunayagam, Attorney-at-Law  
*Moderator:* T Jeyarajasingham, Labour and Industrial Relations Consultant  
*Panel:* Franklyn Amerasinghe, Gen Sec, Employers' Federation of Ceylon  
Manouri Muttetuwegama, Attorney-at-Law  
Ariam Brito Mutunayagam

Policies regarding private sector development often presuppose labour resistance to reform, with reforms often resulting in retrenchments and the reduction of benefits. The panel examined labour response to these policies, and considered examples in the privatisation of industries and plantations, also examining the role of the Department of Labour.

- **Banking and Financial Sector Reforms**  
*Papers:* K Sivagananathan, Deputy General Manager, Bank of Ceylon  
*Moderator:* Changa Samaraweera, Managing Director, Merchant Bank of Sri Lanka Limited  
*Panel:* K Sivagananathan  
W R Johnson Peiris, Director, Merchant Bank of Sri Lanka Limited

The panel examined three inter-related themes; the new Banking Act and its implications for financial sector reform; legal and regulatory issues relating to merchant banking in Sri Lanka; and legal problems associated with different securities offered to financial institutions and the problem of debt recovery. Special reference was made to the 'securitisation' of debts by pooling assets for the purpose of raising further money on the security of those assets.



- ***Cross Border Trade and Investments***  
*Paper:* Melloshini Perera, Law & Society Trust  
*Moderator:* Gishan Dissanayake, Lecturer, University of Cambridge  
*Panel:* Neelan Tiruchelvam, Director, Law & Society Trust and ICES  
 Gamini Corea, Chairman, Institute of Policy Studies  
 Philip N Pillai, Managing Partner, Shook Lin and Bok, Singapore

The panel examined the legal and policy framework for trade and investment within South Asia, exploring the SAARC Preferential Trading Arrangement (SAPTA) in promoting trade and economic co-operation within the region, the liberalisation of exchange controls and implications for intra regional capital investments, and prospects for the harmonisation of commercial and investment laws within the region.

- ***Capital Market Development***  
*Papers:* Debra Kertzman, USAID Financial Markets Regulation Specialist;  
 Advisor to the Securities and Exchange Commission of Sri Lanka  
 Milinda Gunatilleke, Attorney-at-Law, Tiruchelvam Associates  
*Moderator:* Gishan Dissanayake, Lecturer, University of Cambridge  
*Panel:* Debra Kertzman  
 Philip N Pillai, Managing Partner, Shook, Lin & Bok, Singapore,  
 L Namasivayam, Advisor/ Consultant, Colombo Stock Exchange

The panel addressed new trends in Sri Lanka's capital market development, the proposed amendments to the Securities and Exchange Commission (SEC) law, problems in regulating investment advisory companies, and the efficacy of a voluntary take-overs and mergers code. Issues raised during the session included the mandatory offer threshold and its financial burden on majority share holders, and forms of market manipulation and possible regulatory mechanisms.

- ***Legal and Socio-Economic Aspects of Poverty Alleviation***  
*Papers:* Nandini Gunawardena, Economic Anthropologist, The World Bank  
 Kanaga Dharmananda, Law and Society Trust  
*Moderator:* Godfrey Goonetilleke, Director, Marga Institute  
*Panel:* Justice K Palakidnar, Former President, Court of Appeal  
 Milinda Gunatilleke, Attorney-at-Law, Tiruchelvam Associates

This session examined the process of structural adjustment and the impact such measures have on vulnerable sectors of society. The panel reviewed poverty alleviation strategies in Sri Lanka and pointed out possible shortcomings; reference was made to the continued emphasis on welfare oriented approaches which channel subsidies and services, therefore increasing dependence on the state and stifling the development of self-reliance.

***"Rating of Debt Instruments" Conference***  
*19 March 1994 at the Colombo Marriott Hotel*

The conference was held to assess the financial and regulatory situation in Sri Lanka with regard to the rating of debt instruments. The conference aimed to provide participants with insights into the incorporation of technical information and details into decision making, and to allow Indian and Sri Lankan delegates to interact and benefit from each others experience.

105 delegates comprising legal consultants, accountants, economists, bankers and stockbrokers attended the conference. Seven presentations were made by Sri Lankan and international speakers, and a technical session on new debt instruments, rating driven interest rates and other relevant aspects was conducted by Indian delegates during the afternoon session.

*Conference Moderator:* Beverly Mirando

Legal Officer/ Company Secretary, Nestle Lanka Limited

- D N Ghosh  
Chairman, Investment Information and Credit Rating Agency of India (ICRA)

The paper discussed the changing financial scenario in India, and the challenges posed by economic liberalisation and globalisation for Indian financial institutions and investors. The session also covered the need for efficient debt markets in promoting economic growth and competitiveness, the merits of credit rating and other independent and objective means of investor protection which exercise control by ensuring maximum rationality in decision making without dictating or forcing decisions.

- P K Choudhury  
Managing Director, Investment Information and Credit Rating Agency of India

The speaker detailed the methodology, techniques and criteria adopted by the ICRA, and the usefulness of ratings to the investing public and other institutions. The legislation pertaining to rating and the regulatory agencies were also explained.

- Ranjit Fernando  
Managing Director, National Development Bank of Sri Lanka

An examination of industrial finance in Sri Lanka, detailing the role a development bank expects to play in globalisation and the opening up of financial markets. The changing scenario and the relevance of new techniques of analysis and appraisal to ensure objective decision making and optimal investment, and the pursuit of social objectives through institutional finance were also examined.

- Justin Meegoda  
Managing Director, Vanik Incorporation Limited

Changes in the merchant banking sector were discussed, along with the need for objective and specialised analysis upon which to base business decisions. The value of ratings in the assessment by merchant bankers of credit quality and the subsequent determination of premia, discounts etc. in bond issues was discussed.

- Nivard A L Cabraal  
Immediate Past President, Institute of Chartered Accountants of Sri Lanka

The speaker examined accounting standards in a fast changing financial sector, and the need for consistency in accounting terms where investment decisions are based mainly upon financial statement analysis.

- S Jeywarman  
Investment Manager, National Asset Management Limited

Areas covered included bond portfolios, interest rate and risk profiles, portfolio diversification in terms of risk, and the value of indicators of risk that are seen as objective and credible.

- Debra Kertzman  
USAID Financial Markets Regulation Specialist; Advisor to the Securities and Exchange Commission of Sri Lanka

Ms Kertzman described the American experience with regard to the rating of debt instruments, and the implications for South Asia.

***A Developing Country Perspective of Regulating Stock Exchanges (Lecture)***

3 November 1994

**Speaker:** Dr Darin C Gunasekera, Advisor, Capital Markets Authority of Kenya; former Secretary General, Colombo Stock Exchange

**Moderator:** Dr Gamini Corea, Chairman, Institute of Policy Studies; former Secretary General, UNCTAD

Topics covered prior to open discussion were: the experience of developing countries in the regulation of emerging stock markets, insider trading, public and private share issues, and minority shareholder's rights.

**OTHER ACTIVITIES**

***Booklaunch***

*Professional Ethics and Responsibilities of Lawyers*, by Justice Dr. A R B Amerasinghe  
3 March 1994

**Speakers:** Chief Justice, Hon. G P S de Silva  
Mr S Aziz, PC, Acting Attorney General  
Mr B W Abeykoon, President, Bar Association of Sri Lanka  
Dr Neelan Tiruchelvam

***Constitutional Reform in India (Public lecture)***

16 March 1994

**Speaker:** Justice P N Bhagwati, Former Chief Justice of India

***The Political Transition in South Africa and its Relevance (Symposium)***

12 May 1994

**Speakers:** Ms Chandrika Bandaranaike Kumaratunga, Chief Minister, Western Province  
Mr C V Gooneratne MP, Commonwealth Election Observer  
Dr Sarath Amunugama, Chairman, Assoc. Newspapers of Ceylon  
Dr Neelan Tiruchelvam

**Moderator:** Dr Radhika Coomaraswamy, Director, International Centre for Ethnic Studies

***Professional Ethics and Responsibility (Symposium)***

16 July 1994 at BMICH

**Keynote:** Mr Lakshman Kadirgamar PC

**Speakers:** Mr J W Subasinghe (Bar Association of Sri Lanka)  
Prof Ravindra Fernando (Sri Lanka Medical Association)  
Dr Melva Perera (Institution of Engineers, Sri Lanka)  
Dr Stanmore de Alwis (President, Organisation of Professional Associations)

The Symposium was organised by the Trust in collaboration with the BASL, SLMA and IESL, and consisted of a plenary session, working groups and presentation of recommendations. The role of professional organisations in regulating professional conduct and ethics was addressed, and a series of recommendations discussed and put forward.

***Party Manifestos: The Economy (Symposium)***

3 August 1994 at Marga Institute

**Speakers:** Mr Godfrey Gunatilleke  
Mr S W R de A Samarasinghe

***Party Manifestos: Constitutional Reform (Symposium)***

2 August 1994

**Speakers:** Desmond Fernando, President's Counsel  
Nihal Jayawickrema, University of Hong Kong  
**Moderator:** Dr P Saravanamuttu

The speakers made presentations based on the UNP and PA party manifesto documents, focusing on the issues relating to proposed constitutional reforms. A lengthy and lively discussion session involving the 90 attendees followed. Held jointly with Marga Institute.

***Northern Ireland: Towards a Settlement (Discussion)***

11 September 1994 at Colombo Hilton

**Speaker:** Mr John Field, United Kingdom High Commissioner  
**Response:** Dr Vernon Mendis

***Taslina Nasrin Case (Discussion)***

11 November 1994

**Speakers:** Mr Kamal Hossain, Lawyer to Ms Nasrin  
Mr Amir Ul Islam, Lawyer to Ms Nasrin  
**Moderator:** Ms Radhika Coomaraswamy

***Law and Society Trust "Book Fiesta '94"***

3 December 1994

The first annual booksale of the Trust, in collaboration with the International Centre for Ethnic Studies, the Centre for Women's Research (CENWOR), Environmental Foundation Ltd. and the Windsor Bookshop. The sale was opened by Dr Radhika Coomaraswamy, who also launched the new book by Regi Siriwardene, *'The Almsgiving' and Other Plays*. The sale was most successful, with a number of prizes and raffle draw.

***Constitutional Affairs and Political Culture (Symposium)***

11 December 1994 at BMICH

**Speakers;** Dr Dieter Conrad, South Asia Institute, Heidelberg  
*Federalism in the Constitutional Process*  
Prof Hartmut Jackel,  
*Construction of Human Rights in Various Constitutions*  
Dr Radhika Coomaraswamy, Director, ICES  
*Parliamentary Systems and Presidents*  
Dr P Saravanamuttu and Mr Rohan Edrisinha  
*Federalism*  
**Chairman:** Justice A R B Amerasinghe

A symposium held jointly by the Trust, Institute of Policy Studies and the Goethe Institute to discuss the range of issues pertinent to the constitutional alternatives available to Sri Lanka.

***International Commission of Jurists - Evaluation***

The Trust has been commissioned to undertake an evaluation of the programmes and projects of the International Commission of Jurists (ICJ) spanning the years 1992-94 and the future programme of work from 1994 to 1996. The evaluation is designed to assess ICJ's work in five regions of the world: Asia, Pacific and Australia; Franko-phone and Anglo-phone Africa; Latin America; the Middle East; and Europe. The ICJ mandate and activities in these regions will be assessed against contemporary challenges and needs in securing human rights. The evaluation team is comprised of the Law and Society Trust and four international evaluators. The evaluation commenced in late 1994 and will be finalised in early 1995.

## INTERNSHIP PROGRAMME

In 1990 the Trust commenced an Internship Programme which aims at forging links with institutions in other parts of the world. The Trust provides the visiting intern with institutional & other support, and the intern in turn makes a contribution to the activities & programmes of the Trust. In 1994 three interns took part in Trust activities.

## DOCUMENTATION, LIBRARY & PUBLICATIONS

### LIBRARY

A total of 275 items were added to the collection during the year, with the library collection at the end of 1994 numbering 4984 monographs, along with substantial collections of periodicals, workshop, seminar and conference papers, and the Trust's own publications. There are approximately 25 periodical titles on display, most of which are received in exchange for the Fortnightly Review of the Trust.

Special collections include *The Sam Kadirgamar Collection*, first opened in 1991, consisting of a substantial number of legal texts, and Indian, English, South African & Sri Lankan law reports. *The Canada Section*, set up with the assistance of the Canadian International Development Agency (CIDA), is a collection of the Dominion Law Reports & a complete collection of the Osgoode Hall Law Journal. The library also holds US Law Reports (such as *Corpus Juris Secundum* and *US Supreme Court Reporter*), and the Indian Supreme Court cases. Sri Lankan publications, including Legislative Enactments, Law Reports, and Acts of Parliament are collected.

### PUBLICATIONS

#### *The Law & Society Trust Review*

The Law & Society Trust Fortnightly Review was launched in 1990, and has been published on a fortnightly basis since. The Fortnightly Review is a unique newsletter devoted to contemporary socio-legal problems, economic trends in Sri Lanka, the region and further afield. In the forefront of Sri Lankan alternative media, it comments on current issues and surveys legal developments of growing importance. Initially, many of the articles were written by Trust staff members, but with time the review was able to feature pieces by both local and international experts.

In 1994, the Fortnightly Review has focused on issues of human rights, the political crisis & peace process, constitutional change and the federal system. Also featured were a number of papers presented at Trust seminars & workshops, including an issue devoted to the Symposium on Hindu Law, and one to professional ethics. Other major topics covered included the Parliamentary elections and federalism. The Review regularly features reviews of new socio-legal publications and appraisals of current amendments to the law.

The Fortnightly Review is distributed to private subscribers and public institutions in thirty countries, and issues are available for a nominal fee. An annually compiled, bound and indexed copy of the Review is also available from the Trust.

#### *Trust Monographs*

State of Human Rights 1993.  
Colombo, Law & Society Trust, 1994.

## STAFF ACTIVITIES, PUBLICATIONS ETC.

### Dr Neelan Tiruchelvam

Dr Tiruchelvam entered Parliament following the August Parliamentary elections. During 1994 he participated in a number of internationally important events, among them being:

- Human Rights: the Post Vienna Agenda. A meeting organised by the Trust in Cambridge in July 1994 to bring together key people in the human rights field.
- International Colloquium on Human Rights: Protection Mechanisms and Political Change, organised by the Gaza Centre for Rights and Law. Gaza, September 1994.
- "Five Years after the Fall of the Berlin Wall - From Euphoria to Nationalism." Pax Christi, the Netherlands, September 1994.

### Mr Mario Gomez

Mr Gomez is a consultant researcher to the Trust, and teaches Law at the University of Colombo. He was also the Director of the University Legal Aid Centre. During 1994 he was primarily involved with strengthening the Trust's collaboration with Forum Asia, a regional human rights organisation created three years ago with the support of the Trust. He was also involved in "Towards a Human Rights Agenda", where the Trust brought together leading scholars in Cambridge to develop a research and policy agenda.

### Ms Kanya Champion

Ms Champion is a consultant to the Trust, and she has been primarily focused on two major issues: the *State of Human Rights* reports and the Evaluation of the International Commission of Jurists. Other areas in which she has participated have been the South-Asian Human Rights Project, The Constitutional Reform Project, and post Vienna consultation in Cambridge. During 1994 she attended the NGOs Conference on Human Rights Follow-up Initiative (February, Bangkok), the Asia Pacific NGO Consultation on the UN World Summit for Social Development (May, Bangkok), and the Partnership in Action (PARINEC) Global Conference, a UNHCR/ NGO sponsored meeting (June, Oslo). Publications include:

- Legal Background; "State of Human Rights 1993" Research paper.
- Minority Rights; "State of Human Rights 1993" Research paper.
- Minority Rights and the Ethnic Conflict; "State of Human Rights 1994" Research paper.
- A book review on the "Yearbook on Human Rights in Developing Countries 1994", published in the *LST Fortnightly Review*

### Ms Sonali de Silva

Ms de Silva co-ordinated the activities of the Business Law & the Economy Core Group, including performing the administrative functions for the National "Law & the Economy" conference and the "Rating of Debt Instruments" conference. In July Ms de Silva commenced study towards a law degree at the University of Colombo.

### **Ms Sabina Fernando**

Ms Fernando organised the two symposia on Party Manifestos prior to the Parliamentary election, and was responsible for the preliminary work on the International Commission of Jurists evaluation.

- "Review of The National Communication Policies and Legal Framework affecting Broadcasting", in *LST Fortnightly Review*.

### **Ms Vicki Esmonde-Morgan**

During 1994 Ms Esmonde-Morgan undertook several consultancies for the Trust, including re-designing and compiling the 1993 Annual Report, a review of the Library and Information service and the Fortnightly Review including the development of funding proposals, and the editing of a book on Sri Lankan legal figures.

### **Ms Shariya Basnayake**

Ms Basnayake organised the July symposium on "Professional Ethics and Responsibility" and the December "Book Fiesta". She was responsible for designing the layout of the "State of Human Rights 1993" report, and for the publicity material relating to the book; and wrote a background paper for the report:

- Children's Rights; "State of Human Rights 1993" Research paper.

### **Ms Mala Dharmananda**

Ms Dharmananda works for the Equal Opportunity Commission, Perth, Western Australia, and was a consultant to the Trust for the period October 1994 to January 1995. She was the Co-ordinator with the Goethe Institute for the symposium "Constitutional Affairs and Political Culture" in December 1994, and a member of the Sri Lankan team of International Observers to the Nepal elections in late 1994. Publications include:

- "Equal Opportunity: Rhetoric and Practice", by Mala Dharmananda and June Williams, in *LST Fortnightly Review*.
- Report of the Review of the International Centre for Ethnic Studies, by Ron Jones and Mala Dharmananda.
- "Ethnicity, Discrimination and Conflict: a Threat to Human Rights and International Security", by Mala Dharmananda and Neelan Tiruchelvam.
- Women's Rights in Sri Lanka; "State of Human Rights 1994" Research paper, with Radhika Coomaraswamy.
- A book review of "Sri Lanka: State of Human Rights 1993, in *The Sunday Times*.
- A book review of "The Gaze of the Coloniser", in the *Lanka Guardian*.

### **Ms Tilaka Fernando**

Ms Fernando spent 6 weeks from June 10 1994 in Malaysia organising the library of the Asia Pacific Forum for Women, Law and Development (APWLD).

## LAW & SOCIETY TRUST

### Statement of grants received and expenditure for the year ended 31 March 94 \*

	<u>Rs.</u>	<u>Rs.</u>	<u>Rs.</u>
<b>GRANTS RECEIVED</b>			
Unutilised grants brought forward			
from previous year for continuing projects			4,558,287
Add 1992/93 adjustment			154,135
Grants received during 1993/94 (note 1)	13,168,130		
Other receipts	<u>411,257</u>		
		13,579,387	
 <b>LESS EXPENDITURE</b>			
Project Expenses (note 2)	4,960,685		
General Institutional Expenses (note 3)	<u>1,847,024</u>		
		6,807,709	<u>6,771,678</u>
 Unutilised grants carried forward			 <u>11,484,100</u>

**Notes:**

1. Grants Received during the year 1993/94

- General support for Human Rights & Legal Literacy Organisation project -The Ford Foundation	9,568,000	
- State of Human Rights Report project - CIDA	1,700,000	
- Institutional support grant (Part) - NOVIB	1,393,825	
- Short term placement Core Group- The Asia Foundation	150,000	
- Constitutional & Institutional Reform Project - The Asia Foundation	232,500	
- Rating of Debt Instruments conference - Investment Information & Credit Rating Agency	<u>123,805</u>	
	<u>13,168,130</u>	

2. Project Expenses during the year 1993/94

- General support for Human Rights & Legal Literacy Organisation project	1,668,352	
- State of Human Rights Report project	63,840	
- Constitutional & Institutional Reform Project	824,650	
- Short term placement Core Group	113,826	
- NGOs: Their Freedom & Accountability	49,381	
- Working Group on Human Rights, Democracy & Civil Society for the SAARC Region	794,750	
- Institutional support - NOVIB	<u>1,445,886</u>	
	<u>4,960,685</u>	

3. General Institutional Expenses

- Staff & other Institutional Overheads		<u>1,847,024</u>
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\* Latest available audited accounts



## **BOARD OF DIRECTORS**

**Dr. Nissanka Wijeyeratne**

former Sri Lankan Ambassador to the Russian Republic & former Minister of Justice

**Mr. Walter Laduwahetty**

Principal, Sri Lanka Law College

**Mr. Mohamed Hussein**

Former Chairman, Press Council of Sri Lanka

**Dr. Neelan Tiruchelvam**

Director, International Centre for Ethnic Studies

**Ms. Damaris Wickremasekera**

Secretary, Law and Society Trust

## **STAFF**

### **Accountant**

S. Premarajah

### **Administration**

Dharshini Mahadeva, B.A.

Hema Ekanayake

### **Publications**

Angela Hussain, B.A.

### **Librarian**

Tilaka Fernando, ASLLA

### **Programme Staff**

Sonali de Silva

Sabina Fernando, LL.B.(Lon), LL.M.(Sydney)

Shariya Basnayake, LL.B.(Hons.) (Uni of Buckingham)

Kanaga Dharmananda, LL.B.(Uni of West. Aust), B.C.L (Oxford), LL.M(Harvard)

(to February 1994)

### **Consultants**

Mario Gomez, LL.B. (Colombo), LL.M. (Monash)

Kanya D Champion, BA (East Carolina), J.D. & M.A. (The American Uni.)

Nandini Samarasinghe, PhD. Diploma, M.A. (International Relations) (Webster)

Deepika Udagama, LL.B. (Ceylon), LL.M. (Berkeley), J.S.D. (Berkeley)

Vicki Esmonde-Morgan, BA (Lib) (Canberra Uni.), Grad Dip Soc. Sci. (Uni. of Tasmania)

Mala Dharmananda, BA(Hons.), M.Phil.(Uni of Western Aust). Equal Opportunity

Commission, Perth, Australia.

### **Interns**

Romali Abeysekere

University of Warwick

August - September 1993

Melloshini Perera

London Guildhall University

July 1994

Dominic Meier

July - August 1994

