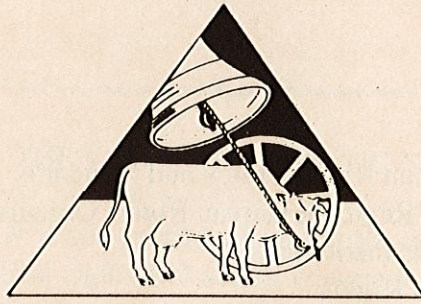




LAW & SOCIETY TRUST

ANNUAL REPORT

1996



Annual Report

1996

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 and political rights and social, economic and cultural 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 and society within South Asia on questions relating to human rights, democracy and minority protection, and has participated in initiatives to develop a global intellectual and policy agenda for the nineties.

The Law & Society Trust was established in June 1982 to initiate studies and activities on 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, second and third independent review of human rights in Sri Lanka: the State of Human Rights 1993, 1994, and 1995 reports.

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 discussions between the public and private sectors, and labour on critical issues relating to economic law and policy.

Primary Objectives

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

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

Methods of Implementation

The Trust implements its objectives in a number of ways:

- * Consultations
- * Workshops
- * Research
- * Lectures
- * Reporting
- * Lobbying
- * Training Seminars
- * Publications
- * Focus Groups

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 include 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 include carrying out research and organising discussions on various themes such as 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 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-governmental Organisations, strengthening of democratic institutions, the implementation of international covenants in the SAARC region, and 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 continuing its human rights activities, and urging the government towards the promotion and protection of fundamental freedoms as an indispensable part of 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 included impressing upon the government its responsibilities in respect of international commitments and obligations. This objective was pursued through lobbying for ratification of international human rights and humanitarian conventions, and compliance with such international obligations, legal reforms 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 reforms and democratic transition were explored, both in the context of local experience, and in the process followed in a number of other Asian and Western countries. 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

The research into the condition of human rights and the publication of the state of human rights reports resulted from an urgent need for a single publication examining the current and developing situation with regard to various aspects of human rights in Sri Lanka. Before the introduction of this publication, the reporting on human rights issues in Sri Lanka existed through a concentration on particular issues by different organisations and groups, without any attempt at tying these different areas together into an overall picture of their collective situation.

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 will promote 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 and protecting human rights.

In 1996 the focus of the human rights programme was, naturally, on the research for, compilation and publication of *Sri Lanka: State of Human Rights 1995*. The report examined the condition and development of human rights in the country in the light of the events of 1995, notably political change and the resumption of the war in the North and East of the country. In viewing human rights standards in the context of the war, the report expresses concern at human rights standards being compromised under a justification of the effects of armed conflict. It reiterates that human rights should not be a secondary concern in the country. The report looks at international conventions that have and have not been ratified by Sri Lanka, as well as at the documents for the protection of rights which have been developed within the country, such as the Workers' Charter and the draft Fundamental Rights Chapter of the Constitution. The individual chapters of the report view these issues in relation to international human rights standards, their implications and the issues with which they are concerned. Two areas not covered by previous reports were included in the 1995 report; the rights of Plantation Workers, as a subsection of the chapter on Workers' Rights, and the Right to Health.

The individual chapters include conclusions and recommendations in their particular fields of human rights. The chapter on the Integrity of the Person reiterated the comments of the UN Human Rights Committee in observing that the current situation with regard to the integrity of the person is "not satisfactory" in that neither the present legal system nor the proposed constitutional reforms cover all the rights to which the government is bound by the ICCPR and that there is widespread derogation of human rights in times of emergency. It was recommended that provision be made within the law to protect all these rights, even under emergency rule. The chapter on Emergency Rule highlighted concerns as to this derogation of rights in greater detail, focusing on issues of arbitrary arrest, detention, disappearance and torture, the limitations imposed on human rights

institutions in addressing these issues during times of emergency, the imposition of censorship and the failure to publish the emergency regulations. The chapter on the Freedom of Expression and Media Freedom expressed mixed feelings with regard to the situation in 1995. It was felt that while the fear psychosis prevalent under the previous government has been lifted, the present government appears more committed to a liberal media in principle than in practice. The chapter addressed with concern the imposition of censorship on the media and the poor relationship between the government and the media community, but hope that the government will fulfil its proposals in the field of institutional reform of the media. The chapter on the Judicial Protection of Human Rights commended the Supreme Court on its efforts to protect fundamental rights, referring to it as "the primary provider of relief" with respect to these rights. The chapter called for a close examination of the relationship between the Supreme Court and the proposed National Human Rights Commission and for a strengthening of existing institutions involved in the protection of human rights rather than providing for a proliferation of new institutions. This chapter also emphasised the need for the establishment of an independent judiciary to oversee the protection of human rights.

The chapter on Workers Rights drew particular attention to the plantation workers as an underprivileged community, stressing the need for the government to accord such recognition to this community. The chapter called for a greater consideration of economic, cultural and social rights, recommending affirmative action in the fields of education, health, housing, and access to services. The chapter on Minority Rights highlighted the Devolution Proposals of the government as the most significant aspect of 1995 in the field of minority rights. While the chapter observed the government's strong commitment to these proposals it reflected on the uncertainty of the proposals, on account of their facing so much opposition from different sections of the community. Moreover, the report stressed that the government's commitment should not only be to constitutional reform but to measures that ensure that minority rights and freedoms are not compromised by national security concerns. The issues of concern here, for 1995, were the arbitrary arrest and detention and the extrajudicial disappearances and executions in the South, as well as the conflict and mass displacement in the North and East.

The report saw little change in the field of Children's Rights during 1995. The chapter on Children's Rights welcomed the legal reforms relating to children but pointed out that these only address a few of the issues relating to children. It was observed that the government has yet to address child labour, the treatment of children in conflict with the law and the status of the child combatant. The chapter recommended that the government implement in full the suggestions of the Committee on the Rights of the Child.

The chapter on the Right to Health highlighted several issues that need to be addressed in relation to human rights and health, including the urgent need to address the issue of suicide in the country, to legalise abortion at least in specific circumstances, and to revise legislation regarding mental health and disabled persons. The chapter recommended a greater financial commitment to a multi-system approach to health as well as the adoption of a human rights approach to health. The chapter observed that there is good access to health systems, both preventative and curative, except in the north and east of the country, and focused instead on the need to revise and strengthen these systems. The chapter on the Internally Displaced highlighted that one million people of the country's population of 18 million were displaced during the year 1995. Moreover, it observed that every sphere of human rights was violated by both the government and by the LTTE with regard to these displaced persons. The chapter stated that these violations have yet to be addressed in any way.

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A **presentation** of the report was made to Mr Lakshman Kadirgammam, the Honourable Minister of Foreign Affairs, in August.

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A formal **launch** of the report, at the Sri Lanka Foundation Institute, was held in September. This programme included a series of critiques made on different chapters of the report. The chapter on Children's Rights was discussed by Ms Sharya de Soysa, Mr Batty Weerakoon critiqued the chapter on Workers' Rights, and Mr Lakshman Gunsekera discussed the chapter on The Freedom of Speech and Media Freedom. The session was chaired by Mr C.T. Janz, the Chairman of the Human Rights Task Force.

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As the report is published in the hope of making an informed contribution to the state of human rights in the country, the Trust has **circulated chapters of the report to the relevant ministries**, in the hope of organising meetings with representatives of the ministries to discuss possible reform. The Chapters on the Right to Health and Children's Rights were submitted to the Ministry of Health and Social Services, along with a summary of the recommendations of the report. The Trust received a response from the Ministry of Health, and a meeting was held to discuss the chapter on Children's Rights.

The Trust **published translations of a summary of the report into Sinhala and Tamil**. Brochures publicising the report were circulated. The report was put on sale at several major bookshops and the Trust has undertaken a wide distribution of the report, in its various forms, to schools, relevant organisations, the police force, to academics and human rights activists both in Sri Lanka and abroad.

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Health and Human Rights Desk

The Health and Human Rights Desk of the Trust has been active this year, with the preparation of several booklets on issues relating to HIV and Human Rights, which are to be published for free distribution. It was thought that HIV and AIDS being relatively recent issues of concern in Sri Lanka, an effort ought to be made both to discuss the issues that arise from the presence of such a debilitating disease and to call for humane norms to be adopted in the treatment of its victims. It is hoped that the booklets will pre-empt the reinforcement of myths and stereotypes and instead help to bring about a rational and effective effort to fight the spread of AIDS and prompt a humane manner of treating its victims. Therefore, while these booklets aim primarily to educate and raise awareness amongst the general public as to how AIDS is transmitted and treated, they also discuss the social implications of the disease. This is with a view to achieving greater consideration in the treatment and tolerance of AIDS patients by society. The booklets are to be published in all three languages, and are to be circulated to such public institutions as the police as well as to members of the general public. The following booklets in the series were prepared during the year 1996:

AIDS and the Right to Freedom from Torture, Cruel, Inhuman or Degrading
Treatment or Punishment- Charika Marasinghe

AIDS and the Right to Freedom of Movement- Manjula Soysa and
Shalindri Jayasinghe

AIDS and the Right to Health and Welfare- Dr Hemamal Jayawardene

AIDS and the Right to Work and the Right to Education- Dr Carlo Fonseka

AIDS and the Right to Liberty and Security- Shanti Jayasuriya and Dr D.C. Jayasuriya

AIDS and the Right to Family Life- Dr Hemamal Jayawardene

AIDS and the Right to Confidentiality- Dr Hemamal Jayawardene

AIDS and the Right to Equality Before the Law- J.C. Weliamuna

AIDS: The Disease and Human Rights- Cameena Guneratne

Law and Economy Programme

The Law and Economy Programme was initiated as a result of the economic transitions taking place both in Sri Lanka and in the region. It was felt that such a transition would naturally raise concerns and prompt an analysis of its progress. Moreover, Law and the Economy would be inherently linked to each other in such a transition. It was with a view to creating a forum for examining and improving this relationship that the Law and Economy Programme was launched.

The overall goals of the programme are:

- To develop and strengthen the capacity of Sri Lankan professionals 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.
- 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.
- To develop teaching materials, manuals and case books which would be of benefit to legal and professional education in Sri Lanka, and to continue training and development.

In 1996, the fourth Annual Law and Economy Conference was held, while the direction of the Law and Economy Programme was laid-out by its Steering Committee.

Steering Committee

A Steering Committee was set up for the programme, both to co-ordinate and to discuss and determine its direction, in its activities, focusing on the relationship between law and the economy. The mandate of the Steering Committee was to work to best develop the law and legal skills to create the necessary environment for the changing economic policies and culture of the country. Accordingly, the Steering Committee is made up of professionals involved in major components of law and the economy. The particular responsibility of the Steering Committee is to formulate a three year plan of action for the programme.

The Steering Committee has developed the following objectives for the Law and Economy Programme:

- The identification of areas conducive to law reform in response to the government's policy of economic liberalisation.
- The formulation of a programme of work aimed at improving legal skills in the community on issues relating to law and the economy.
- An increase in public awareness through the dissemination of information.

The members of the Steering Committee for 1996, were Mr Ranjith Fernando (National Development Bank), Mr Manjula Silva (CTC Eagle Fund Management), Mr Ananda Weerasinghe (Public Enterprise Reform Commission), Ms. Malathy Knight-John (Institute for Policy Studies), Mr Chanaka de Silva (Attorney-General's Department), Mr Gunendra Sellahewa (Crosby Securities Ltd.), Mr Mano Nanayakkara (Bureau of Infrastructure Investment), Mr Kalinga Indatissa (Corporate Chambers), Dr Sumudu Atapattu (University of Colombo, Law and Society Trust), Mr Sivaji Felix (Attorney-at Law), Mr Patrick Amerasinghe, and Mr Ranel Wijesinghe.

Co-ordinator: Mr Navin Perera

Annual Law and Economy Conference 1996

22nd November 1996, at the Sri Lanka Foundation Institute

The conference focused on *Legal and Policy Issues Relating to Privatisation*, and four panels of presentations and discussions were organised, both on universal issues relating to privatisation, as well as the implications for particular sectors of the economy. Many of the eminent speakers also presented papers, while the conference was attended by about 70 participants from various spheres of law and the economy, both in the public and the private sector, and in an academic capacity. The conference was inaugurated by Professor G. L. Peries, the Honourable Minister for Justice and Constitutional Affairs, and the inaugural session was chaired by Dr Nissanka Wijeyaratne, Chairman of the Trust.

Panels for discussion and papers presented

Legal and Policy Issues, including Procedural and Institutional Issues

-Austin Pulle, Ranjith Fernando, Gunendra Sellahewa,
speakers: Aritha Wickramanayake, Rajan Asirwatham

Policy Issues for Privatisation in Sri Lanka- R.N. Asirwatham

Procedural and Institutional Issues on Privatisation- Aritha R. Wickramanayake

Financing of Privatisation

-Austin Pulle, Ranjith Fernando,
speakers: Justin Meegoda, Rohini Nanayakkara

Financing of Privatisation Deals- Rohini Nanyakkara

Case Study of the Plantation Sector

-Chrisantha Perera,
speakers: David Dunham, Ananda Weerasinghe

Privatisation: A Case Study of the Plantation Sector- The Public Enterprises Reform Commission of Sri Lanka, presented by Ananda Weerasinghe
Privatisation and Labour Supply in the Sri Lankan Tea Sector- David Dunham

Case Study of the Telecommunications Sector

-Neelan Tiruchelvam

speakers: K.C. Logeswaran, Hans Wijesuriya, Christie Alwis, P.K. Wickramarachi

Telecom Sector Reforms- K.C. Logeswaran

Private Sector Participation in Sri Lanka's Telecommunication Industry- Hans Wijesuriya

A Case Study of the Telecom Sector- Christie Alwis

Re-structure of the Public Telecom Service Sector- P.K. Wickramarachi

Publication

The papers presented at the 1995 Conference, along with a few papers commissioned afterwards were edited and compiled by the Trust, for publication by Asia Law and Practice, Hong Kong. This publication, *Infrastructure Development in Sri Lanka: Regulation, Policy and Finance* deals with legal and policy issues relating to infrastructure development in Sri Lanka, and it is hoped it will be useful to policy makers, academics, students and possible investors in the country in areas relating to infrastructure development. The chapters of the book cover: The Role of the Public Enterprise Reform Commission, Legal Aspects of Infrastructure Development, Private Participation in Infrastructure Development, Environmental Impact of Infrastructure Development, chapters on the Transportation Sector, Port Development, and the Power Sector, and Private Sector Infrastructure Development Funds.

Other Activities

-Law and Economy Programme

Three presentation and discussion sessions were held at the Trust, under the Law and Economy Programme.

In September a presentation was made by Mr Mahinda Samarasinghe, MP, on Legal and Policy issues relating to privatisation. Mr Samarasinghe spoke on the privatisation of the Colombo Gas Company and the plantation companies.

In October, the Trust held a discussion on the **Goods and Services Tax Bill**, before its second reading in parliament. A presentation was made by Mr P Guruge, Deputy Commissioner, Department of Inland Revenue, who outlined the main reforms being proposed.

Also in October, the Trust held a discussion on the **Rehabilitation of Public Enterprises Bill**, at which Mr Gunendra Sellahewa, of Crosby Securities Ltd., made a presentation on the pros and cons of this Bill. Mr Sellahewa noted the controversial nature of the Bill and stressed the importance of a national policy on privatisation. Mr Sellahewa also discussed a few failed privatisations.

Bangladesh Project

In 1996, the Trust received approval and funding from Ford Foundation, Dhaka, to begin a project whereby the Trust would collaborate with ODHIKAR, a coalition of Human Rights organisations in Bangladesh. The Trust is to develop seminars on law and development and law and the economy, and to conduct training programmes in Dhaka on international and regional instruments relating to individual and group rights. The project is also to involve a programme of academic exchange and a sharing of experience, under this last category. In 1996, the Trust initiated a programme of internship, under which a Programme Officer from ODHIKAR spent 3 months at the Trust. The Trust staff provided this intern with training, and she in turn made a contribution to the work of the Trust.

Law and Economy Conference, Bangladesh

In 1996, the Trust also organised its first Regional Law and Economy Conference in Bangladesh, on the theme, *Investment and Legal Infrastructure*. The conference was held on the 10th and 11th of December, in Dhaka, and was inaugurated by Bangladesh's Minister of Finance, Shah. A.M.S. Kibria. The conference was attended by over 40 participants from a range of fields in both the public and private sectors, as well as by students and representatives of the donor community.

Panels for discussion and papers presented

Legal Aspects of Privatisation

Legal Aspects of Privatisation in Bangladesh- Ahsan ul Haye

Law and Policy Relating to Capital Markets

Capital Markets- Runa Alam

Infrastructure Development

A Comparative Study of Legal, Policy, and Financing Issues Relating to Infrastructure Development in Sri Lanka and Bangladesh.- Sharmela de Silva, Manjula Soysa, Ruwani Wijeyanandana, presented by Neelan Tiruchelvam

Infrastructure Development and Environmental Impact: Laws in Sri Lanka and Bangladesh- Sumudu Atapattu

Power and Energy

Private Power Projects in Bangladesh- Syed Janveer Hussain

The Pakistan Experience on Power and Energy- Shaheed Hafeez Ahmed

Project Finance

Basic Elements: BOO/BOT; Limited Resource Funding- Owaise Saadat

Commercial Arbitration

Commercial Arbitration and Alternative Dispute Resolution- Tania Amir

Law and Policy Relating to Debt Recovery

Law and Policy Relating to Debt Recovery- Tawfique Nawaz

Citizens Participation in Democracy Project (CIPART)

The Citizens Participation in Democracy Project was completed in 1996. Although the field research for the report was completed in 1995, the discussion and writing of the report was carried out in 1996. The CIPART project was aimed at generating data concerning people's perceptions of the legal system in Sri Lanka, and its efficacy. It also looked at people's experiences with the legal system and the problems faced by litigants. The report discussed the important roles played by law enforcement authorities as well as legal education, legal aid, and human rights NGOs.

Activities

A **pilot survey** was conducted in three localities of Colombo, chosen to provide an easily accessible sample of diverse economic and social conditions. The pilot survey served to evaluate both the questionnaire and public response to it.

A modified, structured questionnaire, translated into Sinhala and Tamil was then used as the basis for the **public survey**, conducted by law students and newly qualified lawyers. Twenty three localities were selected to provide a comprehensive representation in terms for ethnicity, gender, education levels, income group, and the locality (i.e. rural, urban, estate, settlement).

A **literature survey** was also carried out on material relevant to the study.

An additional **institutional survey** was carried out to supplement the public survey, and to gain an analysis of several aspects of the services offered to the public and suggestions for beneficial reforms. This consisted of five separate questionnaires administered to five categories of those who teach, apply and practise the law. These groupings were: the judiciary, lawyers, those engaged in alternative methods of dispute resolution (Mediation Boards), NGOs, legal educationists and scholars. Interviews of the two last categories were also conducted.

Focus Group meetings were held to discuss the project and generate suggestions and recommendations to be incorporated into the report. Groups of approximately ten people each, selected to provide a wide representation as well as a good balance, formed three focus groups. The meetings were held to discuss: (a) access to the legal system, laws delays, and alternative methods of dispute resolution; (b) legal education, legal literacy and training; and (c) legal services of the NGOs.

The discussions of the focus groups were brought together in the organisation of a **workshop** which was attended by about 20 participants from a range of law-related disciplines and practices. The workshop was held, primarily, to discuss the results of the public and institutional surveys, and the recommendations generated were also incorporated into the report.

The **results of the study** showed that the majority of the people interviewed were aware of their rights and were willing to approach the legal system, in which they showed great faith. Wherever those interviewed said they would use extra-institutional methods in the solution of disputes, this was in addition to a legal approach, not instead of it. The report questioned whether the present system of law in Sri Lanka and its infrastructure can

provide adequate and immediate relief. The greatest areas of discontent was in that legal relief, while not out of reach, is slow and expensive.

On the results of the project, the report acknowledges a possible disparity between public opinion and public action, but recommends the implementation of legal literacy programmes. The report observed that while the public is aware of its rights in concept, it would benefit from the discussion and promotion of specific rights and legal procedures. The report also suggested that programmes be drawn up for sensitising law enforcement authorities and for strengthening the effectiveness of alternative methods of dispute resolution, such as the Mediation Boards. Moreover, the report suggested that its recommendations be submitted to the relevant authorities and institutions so as to take the CIPART project beyond a purely academic realm.

Laws Delays

The legal areas needing reform that were highlighted by the CIPART project were further examined by the Trust in its programme on Laws Delays. The Trust will be working closely with the four committees appointed by the Ministry of Justice to look into this issue. In 1996 the Trust organised a meeting with members of these committees for the discussion of the issues pertaining to laws delays.

Law Reform Discussions

The Trust's involvement in debating issues of national concern was strongly reinforced, in 1996, by its intervention in the **National Human Rights Commission Bill**. This Bill, which sought to establish a National Human Rights Commission in Sri Lanka, was examined and discussed in a series of meetings organised by the Trust. These meetings, attended by academics and human rights activists focused on the need for the creation of such a commission, but with a clear mandate and a determined relationship to the fundamental rights jurisdiction of the Supreme Court. Pursuant to these discussions a lobbying document prepared by the Trust, suggesting several amendments to the Bill, was presented to the Minister of Justice.

It was felt that the Commission should be well co-ordinated with existing human rights institutions so as to prevent an overlap or confusion of functions. In addition, the lobbying document suggested that the Commission be bound to uphold internationally accepted human rights standards, beyond those laid out as Fundamental Rights in the Constitution. Recommendations to enhance the powers of the Commission included the provision of opportunities for the Commission to work closely with human rights NGOs as well as to provide technical assistance to those involved both in the investigation and the rehabilitation of human rights abuses. Further, theoretical and empirical studies of human rights, the periodic publication of reports on the state of human rights in Sri Lanka, and the liaison with international human rights bodies were recommended.

The document called for an emphasis on the role of the state in the Commission's work as the primary responsibility for the protection of human rights is on the state and not on private individuals. In the enacting of its powers the document stressed the need for the independence of the Commission to be maintained, and in order to do so it was suggested

that representatives of human rights NGOs and other professional groups in the field become involved in the Commission so as to avoid the problems and uncertainty of political appointments. It was also suggested that the Commission should comprise a varied body of expertise in a wide range of fields and disciplines, beyond simply those of human rights. Another concern that was expressed was regarding the relationship between the proposed Commission and the fundamental rights jurisdiction of the Supreme Court, which was unaddressed in the Bill.

A Parliamentary Select Committee was appointed to look into the recommendations made by the Trust, several of which were adopted.

The Trust also made an input into the discussion of the **Rehabilitation of Public Enterprises Bill** and the **Goods and Services Tax Bill**, under the Law and Economy Programme.

Uganda Institutional Capacity Building Project (UICBP)

In 1996, the Trust became involved in making a bid for the Uganda Institutional Capacity Building Project, a World Bank project aimed at reforming the commercial laws of Uganda in the light of the shift towards Private Sector Economic Development. The objective of this project is to strengthen the legal framework for economic development and to reform existing laws pertaining to economic activity in the country.

Much of November was spent in the preparation of technical and financial proposals for this project. The Trust approached this project from a perspective of close experience and familiarity with a similar situation in Sri Lanka, and was the only organisation from a developing country whose expression of interest in the project was accepted by the World Bank.

Work with Consumer Unity and Trust Society (CUTS)

In 1996, the Trust continued its work with the Consumer and Unity Trust Society, India, for the South Asia Watch on Trade, Economics and Environment (SAWTEE). The Trust has applied for funding for a project aimed at an evaluation of the existing laws relating to consumer protection and environmental protection in Sri Lanka, in the light of the liberalisation of the economy. This would include the administration of a survey to gather the public perception of these two issues. A programme to raise awareness of the law relating to consumer and environmental protection is also planned, so as to equip the public to take action, should these laws be violated. The work of the Trust would include the co-ordination of the project, the preparation and administration of the survey, the proposal of possible amendments to the law as well as the organisation of workshops and a regional conference in Sri Lanka.

In 1996, a member of the Trust's staff attended a training workshop organised by CUTS in Calcutta, on the Impact of International Trade Agreements.

Book Launches

In 1996, the Trust held a launching of Justice A.R.B. Amerasinghe's book, *Our Fundamental Rights of Security and Personal Liberty*. This took place at the Sri Lanka Foundation Institute on 31st May. Ms Suriya Wickremasinghe, Dr Neelan Tiruchelvam and the Honourable Chief Justice, G.P.S. de Silva spoke on this occasion.

On 3rd June, the Trust launched *Leonard Woolf: A British Civil Servant as a Judge in the Habantota District of Colonial Sri Lanka (1908-1911)*, by Prabath de Silva. This event was held at the Sri Lanka Foundation Institute, and Justice Sosa, Mr Regi Siriwardene, and Dr Neelan Tiruchelvam were speakers on this occasion. A presentation of the book was made to the Honourable Chief Justice, G.P.S. de Silva.

The Trust also launched its own *Sri Lanka: State of Human Rights 1995* in September at the Sri Lanka Foundation Institute.

Internship Programme

In 1996 the Trust continued the Internship Programme commenced in 1990 with a view to forging links with institutions in different parts of the world. The Trust provides the visiting interns with institutional and other support, while the interns make a contribution to the activities and programmes of the Trust. This programme establishes important links between the Trust and institutions overseas while also bringing a continual input of different ideas and a varied dimension to the work of the Trust.

In 1996, Matthew Starnes of McGill University and Rawnak Jahan of ODHIKAR, in Bangladesh, each spent three months at the Trust.

Evaluation of the Trust

In April 1996, an evaluation of the Trust was carried out for NOVIB, by two consultants, Hina Jilani, a Pakistani lawyer well versed in legal and human rights work, nominated by the Trust, and Brian Rowe, a Canadian consultant nominated by NOVIB. These evaluators conducted a comprehensive study of the Trust, conducting interviews both with members of the Trust as well as with other individuals and representatives of NGOs in Colombo. An assessment was made both of the Trust as an organisation as well as of the programmes conducted by the Trust. Their general comments on the Trust are as follows.

The evaluators found the Trust to be "a high performance organisation and a model in leadership and sound management" that was strong in research, advocacy and lobbying skills and capacities, and creative while also practical in its approach. They said the Trust was remarkable in that it displays few of the common weaknesses of NGOs and, as a result is able, though a relatively small organisation, to play a crucial role amongst other human rights organisations, at a regional level. Their report made special mention of what they felt was the dynamic flexibility of the Trust's work and the strong commitment and team-work of its staff.

The evaluators expressed the view that the Trust is perceived to be an organisation with little grassroots contact. However, they remarked that while this is certainly a consideration it must be remembered that human rights work requires both grassroots organisations as well as policy makers, and that in the latter category the Trust plays a vital and crucial role in addressing the human rights needs of the country. They recommend that the Trust work more closely with grassroots organisations to translate its work into more accessible forms. The evaluators commented that this would widen the contacts of the Trust and thereby deepen its legitimacy both in terms of its own research and the perception of this research by others. They recommended a strengthening of the Trust's paralegal programme as a means of achieving this.

The evaluators observed that a strategic programme-based approach might strengthen the organisation and also make it more convenient to handle, both for its own staff as well as its funders.

The evaluators recommended an internal evaluation of LST organised by the Trust so as to develop a strategic direction for the organisation's future. To this end, the Trust organised a preliminary meeting in 1996, involving its own staff as well as consultants from other organisations, to discuss the NOVIB evaluation and suggest means of incorporating its recommendations and to further develop the Trust's philosophies and policies, and their practical direction.

DOCUMENTATION, LIBRARY & PUBLICATIONS

LIBRARY

This year 132 new books were added to the library, increasing the collection to 5048 books by the end of 1996. The library also includes substantial collections of periodicals, workshop, seminar and conference papers, and the Trust's own publications. There are approximately 50 periodicals 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 and Sri Lankan law reports and cases. The Canada Section, donated to the Trust by the Canadian International Development Agency (CIDA), is a collection of the Dominion Law Reports. The library also contains a complete collection of the Osgoode Hall Law Journal. The library also holds a donation of US Law Reports (such as Corpus Juris Secundum and US Supreme Court Reporter). Sri Lankan publications, including Legislative Enactments, Law Reports, and Acts of Parliament are collected.

The library has a separate collection of Human Rights material and, in 1996, a Health and Human Rights section was also opened.

PUBLICATIONS

The Trust's Fortnightly Review was launched in 1990. 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. The review includes features by both local and international experts.

In 1996, the Fortnightly Review focused primarily on human rights issues in and outside Sri Lanka. This focus concentrated on specific issues, as well as the legal systems in place locally, and those proposed internationally, for the maintenance of human rights standards. Material was generated both out of the Trust's own activities and from the work of writers and academics on issues of interest and concern. The Review also 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 at the Trust.

Trust Monographs

Sri Lanka: State of Human Rights 1995

HUMAN RIGHTS PROGRAMME

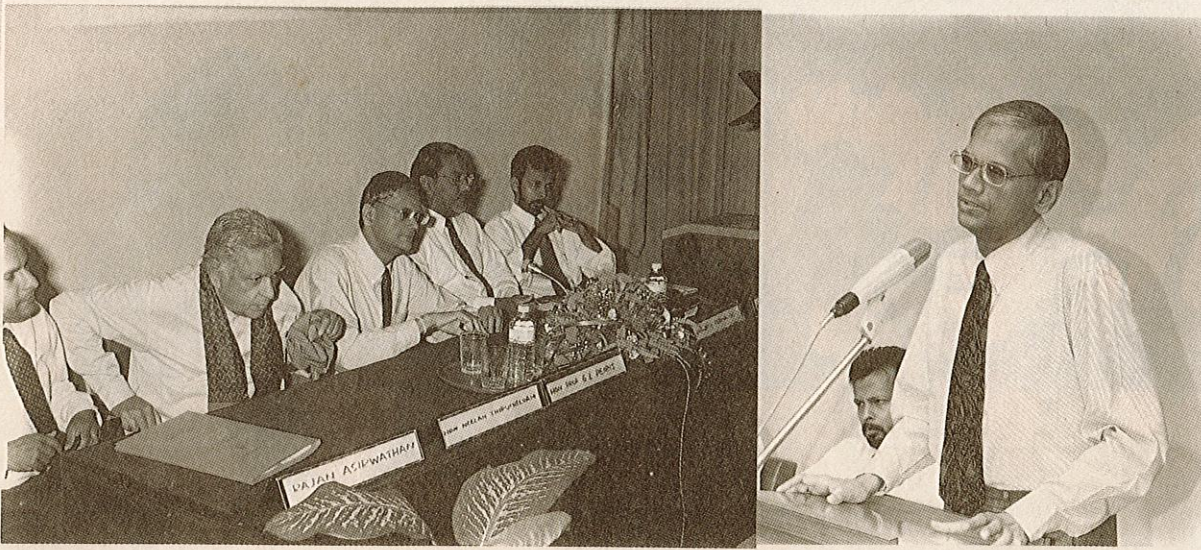


Launching of the State of Human Rights Report. Ms Sharya de Soysa, Mr Batty Weerakoon and Mr Lakshman Gunesekera each discussed and critiqued a chapter of the report



The official presentation of the Sri Lanka: State of Human Rights 1995 to the Hon. Minister of Foreign Affairs, Mr Lakshman Kadirgamar.

LAW AND ECONOMY PROGRAMME



The National Law and Economy Conference 1996: (Right) Prof. G.L. Peries, Hon. Minister of Justice and Constitutional Affairs, delivered the keynote address. (Left) the inaugural session.



Panel discussion at the Law and Economy Conference, at the SLFI, 22nd November, 1996



The first Regional Law and Economy Conference organised by the Trust in Dhaka, Bangladesh, in December 1996, on "Investment and Legal Infrastructure".

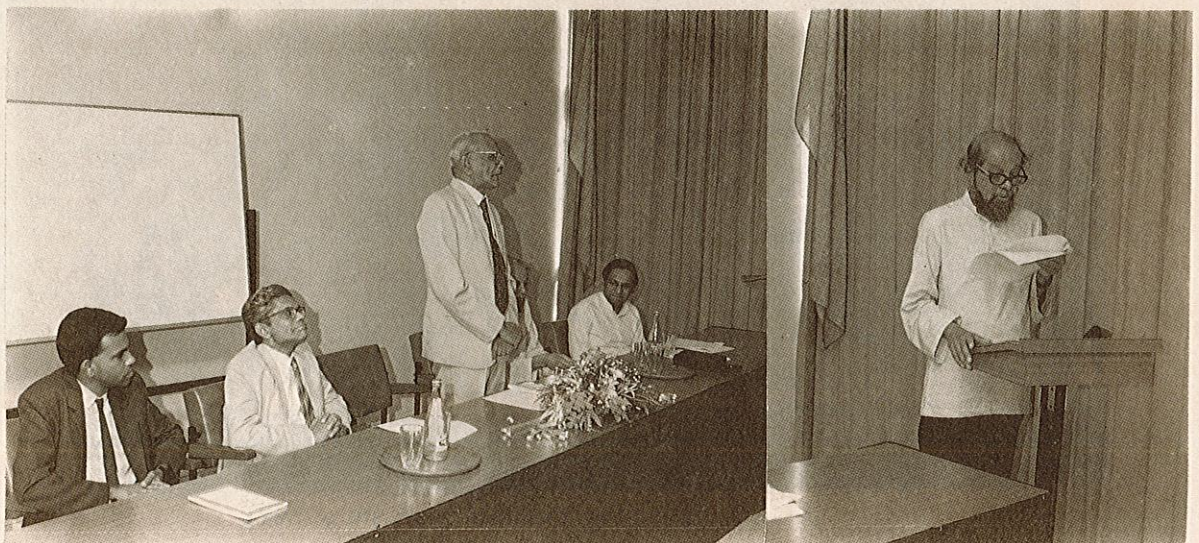


CIPART WORKSHOP

The workshop conducted by the Trust under the CIPART project

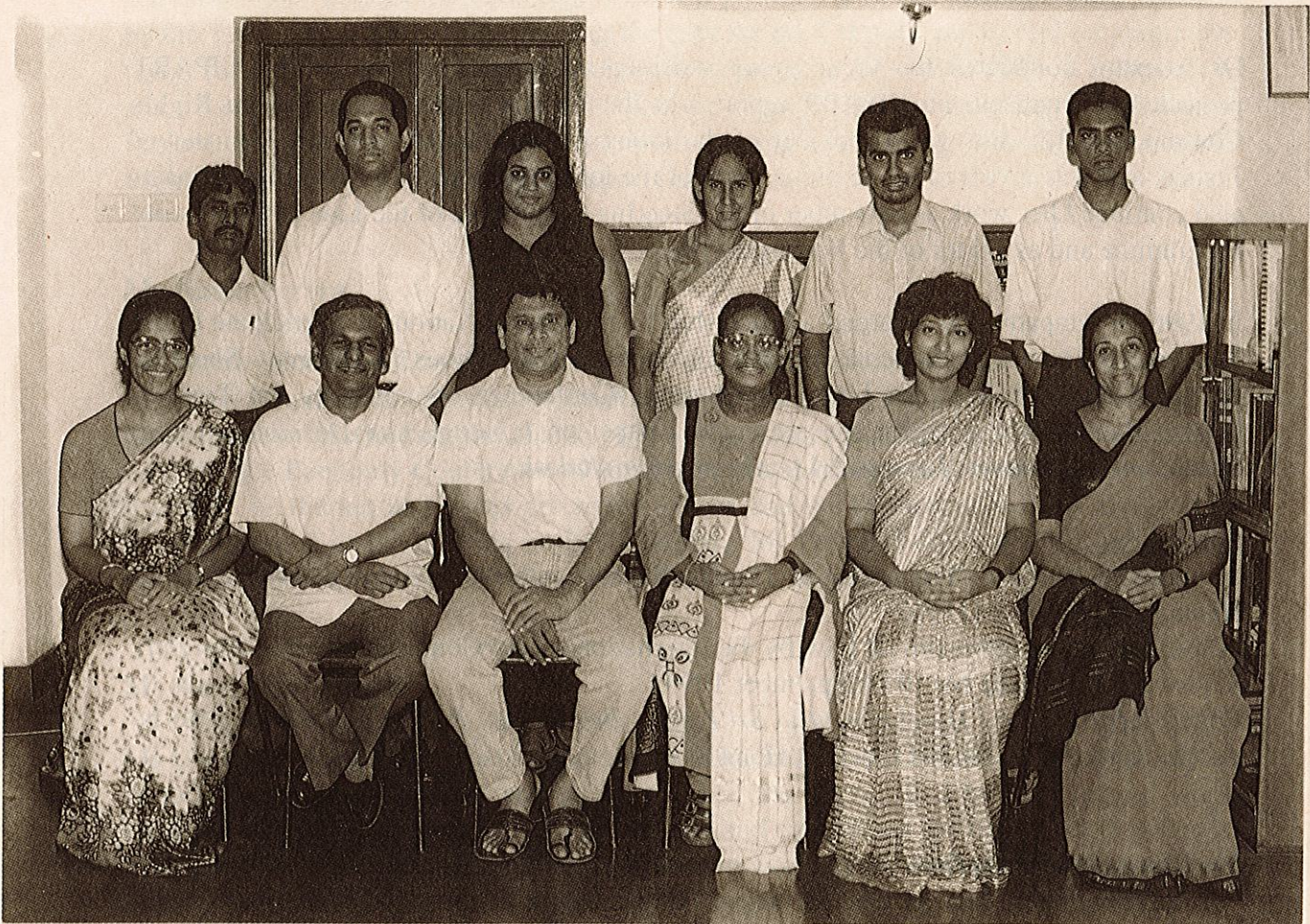


*The launching of Justice A.R.B. Amarasinghe's book,
Our Fundamental Rights of Security and Personal Liberty*



*The launching of Prabath de Silva's book, Leonard Woolf: A British Civil Servant as a Judge in the
Hambantota District of Colonial Sri Lanka (1908-1911)*

TRUST STAFF



seated: (left to right)- Devampika Karunasekera, Neelan Tiruchelvam, Vijaya Samaraweera, Dharshini Sivanathan, Sumudu Atapattu, Damaris Wickremesekera

standing: (left to right)- P. Chitravel, Chulantha de Silva, Sunila Galappatti, Hema Ekanayake, Niranjan Ganeshwaran, M. Mohan

missing: Menique Amarasinghe, Tilaka Fernando, Navin Perera, Selvi Premarajah, Manjula Soysa, D.A. P. Rajapakse.

STAFF ACTIVITIES, PUBLICATIONS ETC.

Dr Sumudu Atapattu

Dr Atapattu conducted the focus group meetings and the workshop of the CIPART project, and finalised the CIPART report. In the Trust's work on the Human Rights Commission Bill, she was a member of the lobby group that met with the Minister of Justice, and was involved in the preparation of the lobby document. In 1996, Dr Atapattu also continued her work as a member of the Steering Committee of the Law and Economy Programme and as Editor of the Fortnightly Review.

In 1996 Dr Atapattu was awarded a fellowship by the United Nations to participate in the 38th International Law Seminar organised by the United Nations in Geneva. She also participated in the Regional Law and Economy Conference organised by the Trust in Dhaka, Bangladesh, at which she presented a paper on *Infrastructure Development and Environmental Impact: Laws in Sri Lanka and Bangladesh*.

Publications:

co-authored "Judicial Protection of Human Rights" published in *Sri Lanka: State of Human Rights 1995*, (1996).

"Development of International Law by the International Law Commission" in *Fortnightly Review*, Vol. II, Issue No 107 (September 1996)

Edited *Infrastructure Development in Sri Lanka: Regulation, Policy, and Finance* (to be published by Asia Law and Practice, Hong Kong.)

Ms Dharshini Sivanathan

In 1996, Ms Sivanathan was the co-ordinator for the Trust's programme with the South Asia Watch on Trade Economics and Environment. She was involved in the compilation for publication of the State of Human Rights report, and is the co-ordinator for the publishing of its Tamil translation as well as for the Trust's series of booklets on Health and Human Rights. Ms Sivanathan worked on the book launches held by the Trust, as well as the National Law and Economy Conference 1996, the Regional Law and Economy Conference 1996, and the CIPART project. She also assisted in the formulation of the budget for the bid for the Uganda Institutional Capacity Building Project.

Ms Menique Amarasinghe

In 1996 Ms Amarasinghe prepared the Trust's lecture series on Legal Personalities for publication. Ms Amarasinghe carried out research for the 1995 State of Human Rights Report, and co-ordinated several discussions, including the preparation of the lobby document on the National Human Rights Commission Bill. She also worked on the CIPART project and attended a training workshop organised by CUTS in Calcutta, on the Impact of International Trade Agreements.

Publications

co-authored "Judicial Protection of Human Rights" in *Sri Lanka: State of Human Rights 1995* (1996)

Ms Devampika Karunasekera

Ms Karunasekera joined the Trust in 1996, and became extremely involved in its activities. She worked on the compilation and processing of the project reports handled by the Trust. This involved processing the data for the CIPART report and preparing the report for presentation. Ms Karunasekera was responsible for similar tasks in compilation and for handing over the Trust's bid for the Uganda Institutional Capacity Building Project. In 1996 she was also involved in the printing and binding of the State of Human Rights Report 1995 and the Annual Report for 1995.

Mr Navin Perera

Mr Perera joined the Trust in the latter half of 1996, as the co-ordinator of the Law and Economy Programme. He was responsible for co-ordinating the activities of the Steering Committee in determining the course of the programme, and for organising the National Law and the Economy Conference 1996. Mr Perera also organised several discussions at the Trust, on themes and issues pertaining to Law and the Economy, and was involved in the organisation of the meeting on Laws Delays. Mr Perera co-ordinated the publication of the book, *Infrastructure Development in Sri Lanka: Regulation, Policy and Finance*.

Ms Sunila Galappatti

Ms Galappatti joined the Trust in September 1996, and has since been involved mainly in editorial work on the reports and publications of the Trust. In 1996, her regular work included editing, writing up discussion sessions and conducting interviews for the Trust's *Fornightly Review*, while she was also involved in work on the various programmes of the Trust. At the end of the year, Ms Galappatti began the writing and compilation of the Trust's annual report for 1996.

Ms Tilaka Fernando

In 1996, Ms Fernando was responsible for the training of an intern from Bangladesh, who was attached to the library for a period of three months, on the library and documentation systems used at the Trust. She also represented the Trust at a workshop conducted by NOVIB in Chiang-Mai in November, on Women's Human Rights.

Dr Vijaya Samaraweera

Dr Samaraweera is in Sri Lanka on a Fulbright Fellowship and spends three days a week at the Trust, as a visiting fellow. After joining the Trust towards the end of 1996, he undertook a review of the State of Human Rights reports of the Trust.

Publications

"Reporting upon the State of Human Rights in Sri Lanka in 1995: A Review Essay" in the *Fornightly Review*, Vol. VII, Issue No. 101 (December 1996)

SUMMARY OF ACCOUNTS

Statement of grants received and expenditure
for the year ended 31 March 1996

GRANTS RECEIVED	Rs.	Rs.	Rs.
Unutilised grants brought forward from previous year for continuing projects			17,131,223
Grants received during 1995/96 (Note 1)	7,151,908		
Other receipts	<u>1,752,119</u>		
		8,904,027	
LESS - EXPENDITURE			
Project Expenditure (Note 2)	9,276,707		
General Institutional Expenses (Note 3)	<u>902,710</u>	<u>10,179,417</u>	(1,275,390)
Unutilised grants carried forward			<u>15,855,833</u>

Notes

1. Grants received during the year 1995/96

- Grant received from NOVIB to meet core expenses	3,318,450
- Grant received from USAID to meet CIPART Project expenses	755,500
- Grant received from CIDA for Human Rights Intern - Mr. S. Muggah	54,000
- Grant received from International Centre for Law in Development to meet "The Culture of Collective Rights in Asia" Project Expenses	505,050
- Grant received from NORAD for National Law & Economy Conference '95 - 1st instalment	314,350
- Grant received from World Health Organisation to meet HIV/AIDS Project Expenses	485,000
- Grant received from Forum Asia to meet Regional Conference Expenses	229,724
- Grant received from Alliance Lanka for the HIV/AIDS Law & Ethnic Project Expenses - 1st instalment	19,650

- Grant received from NOVIB on account of State of Human Rights Report 1994	1,470,184
	<u>7,151,908</u>

2. **Project Expenses during the year 1995/96**

- NOVIB Core Expenses	1,046,428
- Ford Foundation - General Support for Human Rights and Legal Literacy Project Expenses	2,598,599
- Ford Foundation - Evaluation of ICJ Project Expenses	932,509
- Ford Foundation - Partial Support for expert consultations to help set follow up agenda to the 1993 World Conference on Human Rights	899,979
- Human Rights Intern - Mr. Muggah	54,000
- CIPART Project Expenses	547,825
- National Conference on Law & Economy Expenses	201,066
- International Centre for Law in Development Project Expenses	335,496
- Reimbursement from FORUM ASIA on Regional Consultation Workshop Expenses	233,108
- South Asian Paralegal Training Project Expenses	650
- Copenhagen & Beyond Conference Expenses	245,978
- "State of Human Rights Report" Project Expenses supported by CIDA grant	678,345
- "State of Human Rights Report" Project Expenses supported by NOVIB	1,470,124
- HIV/AIDS Project Expenses	32,600
	<u>9,276,707</u>

General Institutional Expenses

- Staff & Other Institutional Overheads	<u>902,710</u>
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BOARD OF DIRECTORS

Dr. Nissanka Wijeyaratne
former Sri Lankan Ambassador to the Russian Republic & former Minister of Justice.

Mr. Walter Laduwahetty
Attorney-at-Law, former 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 Wickramasekera
Secretary, Law & Society Trust.

STAFF

Accountant

S. Premarajah

Administration

Hema Ekanayake

Niranjan Ganeshwaran

Amali Abhayaratne (to March 1996)

Librarian

Tilaka Fernando

Programme Staff

Menique Amarasinghe (to September 1996)

Manjula Soysa (to August 1996)

Dharshini Sivanathan

Sunila Galappatti (from September 1996)

Navin Perera (from September 1996)

Devampika Karunasekera (from March 1996)

Consultants

Sumudu Atapattu, LL.M (Cantab), PhD (Cantab), Attorney-at-Law

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

Deepika Udagama, LL.B (Cey), LL.M (Berkeley), JSD (Berkeley)

Kanya Champion, BA (East Carolina), JD & MA (The American Uni.)

Visiting Fellow

Dr Vijaya Samaraweera on Fulbright fellowship

Interns

Matthew Starnes McGill University, Canada
(June- August 1996)

Rawnak Jahan ODHIKAR, Bangladesh
(August- November, 1996)

