

Law & Society Trust

Annual Report 2006



Contents

About the Trust ▶ **3**

4 ◀ Message from the Executive Director

Programme Areas
Economic, Social & Cultural Rights Programme
Civil & Political Rights Programme
Human Rights in Conflict Programme

▶ **5-14**

14-15 ◀ Other Initiatives/ Collaborations

Seminars/ Discussions/ Consultations
Consultations/ Meetings attended by LST Staff

▶ **15-16**

17-19 ◀ Publications

Personnel ▶ **20-21**

22-25 ◀ Financial Statements

About the Trust

The Law & Society Trust (LST) is a not-for-profit legal research and advocacy organisation, founded by the late Dr Neelan Tiruchelvam in 1982, and incorporated under the Companies Act.

LST aims to utilise law as a tool for social change and a resource in the battle against underdevelopment and poverty. It is committed to improving public awareness on civil and political rights; social, economic and cultural rights, and equal access to justice.

LST 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. In Sri Lanka, the overarching presence of the conflict, the intensifying violation of human rights, increasing impunity and the breakdown of the rule of law are cross cutting issues that are prioritised in LST's activities.

LST conducts workshops, seminars and symposia and commissions studies and publications, in order to achieve its objectives.

Message from the Executive Director

As the Law & Society Trust concludes its 24th year, reflecting on the activities that have taken prominence during the year, I feel is essential. The year has been eventful in terms of the significant staff changes interspersed with the consistent continuation of LST's commitment towards using law as a tool for social change. I believe it is my duty to appreciate the efforts of Ms. Ramani Muttetuwegama as Secretary to the organisation and as the guiding force behind the Human Rights in Conflict Programme. She will cease to play an official role with us but will continue as an advisor and guide to LST's current and future initiatives. On the other hand, it is my pleasure to welcome Mr. B.Skanthakumar who takes on our Economic, Social & Cultural Rights (ESCR) Programme to guide as well as manage its present commitments and to innovate future directions.

Under the Economic, Social & Cultural Rights Programme LST has worked on The Access Initiative (TAI) with the Public Interest Law Foundation (PILF) as a new project area. As for the Civil and Political Rights Programme, several initiatives have taken place on the rule of law and the protection of civil and political rights, including a mission visit to the Maldives to present recommendations on the Maldivian legal system and procedures and participation at the 11th Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions in Fiji. LST has also been continuing its efforts with the Law, Human Rights and Good Governance Study Project to train Grama Niladharis in the Colombo, Kalutara and Nuwara Eliya districts. A special workshop was conducted for Grama Niladharis in Hambantota, Galle and Matara in reference to post-tsunami concerns in these districts. The programme has also closely worked with the Peoples' Movement for the Rights of Patients (PRMP) on advocating for a constitutional right to health.

The Human Rights in Conflict Programme worked on a truth seeking process in relation to the expulsion of Muslims from the North in 1990 by the LTTE specifically concentrating on assessing the feasibility and need for a Citizen's Commission and undertaking consultations with Northern Muslim women to document women's perspectives of the expulsion, conditions of displacement and future expectations. LST also commenced working on a project to monitor human rights violations and is working closely with INFORM and Rights Now.

Last but not least, LST's 'State of Human Rights: 2005' came out amidst many practical difficulties. We also had 12 issues (with two double issues) of the LST Review and one issue of the Appellate Law Recorder along with other publications such as the Legal Personalities Vol I and *Select Laws on State Lands* by Mr. R. K. W. Goonesekere, a much needed compilation of and guide to selected laws relating to State land in Sri Lanka.

We now look forward to the year ahead with plans of celebrating 25 years of LST's existence and to revitalise the vision of the late Neelan Tiruchelvam with the support of a new and energetic team.

(Mrs) Damaris Wickremesekera

Programme Areas

ECONOMIC, SOCIAL & CULTURAL RIGHTS PROGRAMME

The objective of the programme is to achieve respect for, to protect, and to promote economic, social and cultural rights. Three externally funded projects were managed within this programme area in 2006.

Farmer's Rights to Livelihood Phase II Years 2 & 3

In association with South Asia Watch on Trade, Economics and the Environment (SAWTEE) in Kathmandu, Nepal and in partnership with organisations in Bangladesh, India, Pakistan and Nepal, Year 2 and 3 activities of Phase II of the Farmers' Right to Livelihood (FRL) project were conducted with financial support from the Ford Foundation in New Delhi and Oxfam Novib in The Hague.

Phase II is concerned with research, advocacy and capacity building of stakeholders to protect farmers' rights through regulation of access to genetic resources, ensuring equitable sharing of benefits arising from commercial exploitation of genetic resources, and the increased participation of farmers in the decision-making process.

The 2006 National Dialogue or Workshop comprising participants from farmers' associations, community based organisations, government ministries, research institutions and academics, media and non-governmental organisations was held on 17th October at the Sri Lanka Foundation Institute in Colombo. The theme was *Traditional Crop Varieties and their Wild Crop Relatives in Sri Lanka* based on the 1st year research conducted on the same subject. There were 54 participants, one-third of whom were women, including participants from the North Central and Southern districts. Presentations were made by Dr. Gamini Hitinayake, Mr. Jagath Gunawardena and Mr. Piyal Marasinghe followed by discussion and debate.

The Research Report for 2006 consisted of a detailed survey of 'Traditional Varieties and Wild Relatives of Crop Plants in Sri Lanka', their geographical distribution and current usages by Dr. Gamini Hitinayake of the Plant Genetic Resource Centre in Gannoruwa, Peradeniya; as well as two studies by leading environmental lawyer and activist, Mr. Jagath Gunawardena, identifying threats to the protection of crop genetic resources such as bio-theft and bio-piracy as well as challenges posed by the World Trade Organisation's Trade-Related Intellectual Property Rights (TRIPs) Agreement as well as the Food and Agriculture Organisation's International Treaty on Plant Genetic Resources in Food and Agriculture (ITPGRFA). The report was published as *An Uncertain Future: Traditional Plant Varieties and the Crop Wild Relatives in Sri Lanka* and has been distributed to universities, research institutes and relevant government departments.

LST was also pleased to publish in December 2006 Ms. Asanka Perera's book on *Protection of Plant Varieties in Sri Lanka* hailed by President's Counsel, Mr. Kanag-Isvaran, as a "valuable study of considerable research and scholarship". This publication analysed the legal regime of plant variety protection in Sri Lanka in a comparative context through reference to Australia and the USA as well as international law as represented by the UPOV (International Union for the Protection of New Varieties of Plants) Convention and TRIPs (Trade-related Aspects of Intellectual Property Rights) Agreement.

Two Briefing Papers were researched and published in 2006 as advocacy tools. Ms. Ruana Rajapakse analysed 'The Human Rights Dimension in the Management of Genetic Resources', while Mr. Jagath Gunawardena critiqued the benefits of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA). Both papers have also been translated into Sinhala and Tamil to be accessible to key stakeholders such as farmers' groups and rural community based organisations.

The 2nd year Campaign Kit prepared by Mr. Jagath Gunawardena and titled *Safeguarding Our Crop Genetic Wealth and Protecting Farmers Rights* explained in simple language concepts such as access and benefit sharing, plant genetic resources, traditional knowledge, and bio-piracy. LST commissioned original cartoons to accompany the text which has also been published in Sinhala and Tamil and disseminated to stakeholders around the island.

LST was represented at SAWTEE's Second Regional Consultation on Farmers Rights (Phase II) in Kathmandu, Nepal from 4-5 July 2006 by an external resource person, Ms. Geethani Wijesinghe of the Environmental Foundation Ltd.

FRL Project Co-ordinator, Ms. Thiranthie Udakumbura, presented a paper on 'Law and Policies in Sri Lanka relating to Access and Benefit Sharing and Prior Informed Consent in Plant Genetic Resources' at the 9th Sustainable Development Conference in Islamabad, Pakistan held between 13 and 15 December 2006 and participated in a project partners meeting while there.

Linkages between Trade, Development and Poverty Year 2

The 'Linkages between Trade, Development and Poverty' project is a multi-country project involving 15 countries in South and South East Asia, Eastern and Southern Africa and Western Europe. It is co-ordinated by the Consumer Unity and Trust Society (CUTS) in Jaipur, India and is funded by the Department for International Development, United Kingdom, and the Ministry of Foreign Affairs, Netherlands. The project began in March 2005 and is to run till December 2008. It was co-ordinated at LST by Ms. Avanthi Weerasinghe (until June 2006) and Ms. Chamali Wickremeratne (until December 2006).

The aims of the project are to facilitate the cross-fertilisation of experiences and lessons learnt on the linkages between trade, development and poverty reduction in the developing countries, to develop appropriate policy responses as well as to advocate for development-oriented trade policies, based on learning from research and other activities by taking into account the interests and priorities of the poor sections of the society.

The activities in 2006 were the dissemination of the country background paper prepared by the Institute of Policy Studies through publication in *LST Review* (April and May 2006); commissioning of four newspaper format articles; commissioning and preparation of the campaign kit; organisation of a national dialogue; and networking.

The four articles were on the following topics: (i) 'Trade, Development and Poverty' (Dr. WG Somaratne, ADB/JBIC); (ii) 'Right to Development' (Rukshana Nanayakkara, University of Colombo); (iii) 'Trade, Development and Poverty' (Ranmini Vithanagama, LST intern); and (iv) 'Tailored Trade: One Size Fits Badly' (Damayanthi de Silva, freelance journalist). The national dialogue planned for 2006 was postponed due to unavoidable reasons and was subsequently held in February 2007.

Networking included the participation of ESCR Programme Head, Mr. B Skanthakumar at the TDP Regional Conference in Bangkok, held on 24 and 25 November 2006, on pro-poor trade policy initiatives in South and South-East Asia; and at the Centre for Trade and Development (CENTAD) 2nd annual conference on 'Trade and Development in South Asia: Multilateralism at the Crossroads', held on 19 and 20 December 2006, in New Delhi, India.

The Access Initiative (TAI)

The Access Initiative (TAI) is a global coalition of civil society groups promoting the concept that transparent, participatory and accountable governance is essential to achieving sustainable development. TAI works to hold national governments accountable through independent assessments of law and practice supporting access to information, public participation, and access to justice.

The Sri Lanka coalition was co-ordinated by the Public Interest Law Foundation (PILF) and partners included the Centre for Environmental Justice (CEJ), the Green Movement, and the Law & Society Trust. A training workshop was conducted at Ceylon Continental Hotel between 20 and 22 December 2005, attended by Ms. Avanthi Weerasinghe and Ms. Chamali Wickramaratna. This training workshop provided an introduction to the TAI programme and global network as well as to the TAI research methodology and software.

This project commencing July 2006 and ending in December 2006 took the form of an assessment based on 140 research questions, or indicators, that NGO coalitions use to evaluate their governments' provisions for transparency and accountability of decisions that affect the environment. These indicators were divided into four categories: *Access to information*; *Public Participation*; *Access to Justice*; and *Capacity Building*. The data is uploaded onto a website accessible to all partners in the global coalition.

LST was assigned three case studies: *Bulankulama and others v. Ministry of Industrial Development and Others ('Eppawala Case')*, *Environmental Foundation Ltd v. Urban Development Authority of Sri Lanka and Others ('Galle Face Green case')*, and the National Policy on Bio Safety.

The assessment took the form of interviews and field visits conducted by TAI project officer, Mr. Rajee Welgama, with government institutions and other stakeholders, analysis of judgements and official documents, and media review. Ms. Thiranthie Udakumbura was responsible for the uploading of data and participation in partners' meetings.

For the '*Eppawala Case*' study, officers in the Central Environmental Authority and affected people such as farmers and villagers were interviewed to assess the extent to which the responsible agency had given a clear description of its decision making process to the public; and to evaluate the extent of access to justice available to members of the public in environmental issues.

As regards the Bio-Safety case, the Draft National Policy on Bio-Safety was studied and interviews were conducted with officials from the Ministry of Environmental and Natural Resources. Environmental organizations and experts were also interviewed to obtain information on public participation.

For the '*Galle Face Green Case*' study, interviews were held with the Urban Development Authority and other relevant stakeholders. Media and documentary reviews were conducted to assess access to information.

CIVIL & POLITICAL RIGHTS PROGRAMME

The underlying rationale of the work of this programme is to ensure that civil and political rights, formally established in national and international law, are respected in fact and able to be enjoyed by average citizens. The ongoing work has a specific relationship to law and legal advocacy so that there is an infusion of practical legal knowledge into the work of LST with the objective of building bridges between academic research and practical initiatives and developments in the legal system in Sri Lanka. The work is focused around issues central to the implementation of the rule of law, domestic institutions of justice and respect for the constitutional process of governance.

Rule of Law and Protection of Civil and Political Rights

Several initiatives were undertaken in terms of the work in this component during the year, some of which were not programme-funded but undertaken in pursuance of the Civil & Political Rights Programme's commitment to the restoration of Sri Lanka's democratic process of governance and the safeguarding of the independence of constitutional institutions, including the judiciary.

Previously, shadow reports on the status of Sri Lanka's obligations in conformity with the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture (CAT) had been presented to the UN Human Rights Committee and the CAT committee in November 2004 and May 2005. Monitoring of key concerns in regard to endemic patterns of torture and the deterioration of institutions of governance continued during 2006 with collaboration and information sharing with two regional networks; i.e. the Asian Human Rights Commission (AHRC) in Hong Kong and the Commonwealth Human Rights Initiative (CHRI) in India. The programme collaborated in the drafting of an Asian Charter on Rights with the AHRC during this period.

The Civil & Political Rights Programme prepared two important Submissions to Parliament; firstly, comprehensive Representations to the Select Committee of Parliament examining Reforms to Parliamentary, Provincial Councils and Local Authority Election Laws addressing key issues in the statutory and the constitutional framework pertaining to elections in order to safeguard the right to vote as well as ensuring equitable gender representation.

Secondly, a draft Contempt of Court Act outlining substantive codification in the law of contempt as well as procedural safeguards against the arbitrary use of these powers was submitted. Both these Reports are available on the Trust's website for public perusal. Extensive submissions were also made by the Trust on the need to implement the 17th Amendment to the Constitution including the revitalisation of the Constitutional Council and restoring the constitutionality of the appointments process to the commissions on the police, the judiciary as well as the National Human Rights Commission. The totality of this programme work was unfunded.

A mission visit was made to the Republic of the Maldives in November 2006 on the initiative of Deputy Director and Head of the Programme, Kishali Pinto-Jayawardena, Consultant to the Programme, Dr. J. de Almeida Guneratne, P.C. and Executive Director of the AHRC, Basil Fernando. The mission visited the Maldives on the invitation of NOOR (Native Operators on Rights) a Male based informal activist network, which requested an objective and rigorous scrutiny of the Maldivian legal system, its laws and procedures. A report on the state of human rights in the Maldives, recommending comprehensive changes to the existing political and constitutional system as well as the prevalent laws and legal structures was published thereafter.

Networking during the year included representation by the Programme Head Kishali Pinto-Jayawardena at the 11th Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions which was hosted by the Fiji Human Rights Commission in Suva, Fiji, July-August 2006. A paper was presented by Kishali Pinto-Jayawardena on 'Crucial Issues Confronting the Independence of the National Human Rights Commission of Sri Lanka (NHRC)' at the Human Rights Defender Forum meeting hosted by the Geneva based International Service for Human Rights (ISHR) and the Fiji Human Rights Commission in collaboration with the Fiji Women's Crisis Centre (FWCC), Asia Pacific Women, Law and Development (APWLD) and Asian Forum for Human Rights and Development (FORUM-ASIA). The meeting was attended by Asia-Pacific activists, officials of the APF Secretariat and members of National Human Rights Institutions.

Good Governance Study Programme

The work engaged in by the Law & Society Trust over a period of time on law reform, access to justice and human rights has revealed a fundamental problem at the local administrative level: namely, lack of information of the basic legal framework. Indeed, the tragedy is twofold; at the level of central government, there seems to be no attention paid to village level governance and at another, most administrators at the local level make the most basic mistakes about their powers, existing laws and administrative procedures.

The vesting of powers or tasks at the grass-roots level sub-units of the governing order can be easily defeated if the officers responsible for executing such powers are incompetent in carrying out their functions or are unaware of the limits of their powers. This has been the uncontested reality in Sri Lanka where public criticism of officers such as 'grama niladharis' has been many and varied, ranging from allegations of corruption to fundamental incompetence.

The whole makes it virtually impossible for local administrative officers or 'grama niladharis' to render admirable service to the public. Given this current state of deterioration and corruption prevalent at the lower levels of the administrative ladder in Sri Lanka, past programmes by the Trust had concentrated on enhancing the skill and knowledge of the 'grama niladharis'. In continuation of this objective, training programmes were conducted during this year in three districts; Colombo, Kalutara and Nuwara Eliya. The trainings were supported by SIDA (Swedish International Development Agency) and were preceded by the finalising of a training module for the participants as well as an exhaustive analysis of the relevant laws and regulations pertaining to the powers and duties of the 'grama niladharis' including examination of the relevant case law in this regard. Senior legal practitioners, lawyers attached to government boards/departments and public administration officials were utilised as trainers. The programme consisted of two-day workshops for each participant group during the year in three districts during one year. In total, thirty workshops (in both Sinhala and Tamil languages and varying according to the targeted participation) were held. A special effort was made to ensure gender equity in the selection of the participants.

The topics covered in the workshops included; Administration & Administrative Law, Official Diary of Grama Niladaris, the Bribery and Corruption Commission Act, the Bribery Act, Tsunami (Special Provisions) Act, No. 16 of 2005, Bail Act, Fundamental rights, Divorce & Maintenance, Elders Act, Consumer Affairs Authority Act, Land Law & Section 66 Litigation, Legal Systems, Law of Evidence, Criminal Procedure Code & Legal Systems, Fundamental Rights, Law of Divorce and Maintenance, Civil and Criminal Laws of the Country, Consumer Affairs Authority Act No. 9 of 2003, Elder's Rights Act No. 9 of 2000, Government circulars relevant to disasters and Legal Systems and Judicial Structures of Sri Lanka.

Copies of all the relevant Acts, Amendments & important Circulars in printed form were distributed. In addition, videos, & overhead slides were used in lectures. Some of the printed material which was distributed included Hand Books on Bail Act, Administrative Law, Consumer Affairs Authority, Divorce Law, Fundamental Rights, Evidence Law, Criminal Procedure, Land Law, On Sec. 66 Litigation, & The Legal System, LST publications on Migrant Workers (Sinhala language), Pamphlets on the Official Diary of the Grama Niladharis, Briefing Paper on Farmer's Rights, pamphlets on Elders Rights as well as a specific publication finalised by the Law & Society Trust on the Powers and Duties of Grama Niladharis in the context of applicable statute law and judicial decisions. The resource materials also included extracts from the Constitution, Criminal Procedure Code, Evidence and the Penal Code. A special workshop was conducted in Hambathota, Galle and Matara in reference to post-tsunami concerns in these districts.

Considerable knowledge of the laws and acts, which are relevant to their duties (as opposed to a general training on law) was imparted to the participants. 'Grama niladharis' thereby identified their statutory powers, which had not been properly utilized earlier due to lack of awareness and gained a basic awareness of fundamental rights.

Most importantly, they were made aware of their value in the process of establishing good governance practices, involving therein an understanding that they can be made accountable if the duties devolved upon them in law are not properly carried out. The dire consequences of indulging in bribery or corruption were dealt with in detail.

As stated above, the training module was designed to project a specific focus not only on the precise powers that the 'grama niladharis' possess in terms of the applicable laws (as interpreted in relevant judicial decisions) as well as the duties imposed upon them by the same but also the important social role they are required to perform.

Generally, the project envisaged an ongoing assessment of its practical impact in terms of the expected objectives of the programme, (i.e. increased rights awareness/consciousness, increased knowledge regarding their powers, existing laws and administrative procedures), by administration of a questionnaire to the participants at regular intervals as well as administration of a post workshop questionnaire at the conclusion of the programme which combined elements of the first two questionnaires. The last questionnaire also incorporated new elements, including personal experiences of the participants where they shared their views and comments about the Programme as well their work and experiences with the public in the light of the training that they had undergone.

There is no doubt that these questionnaires, which formed an essential aspect of the training, were useful in evaluating not only the success of the programme but also in gathering information and perspectives that could be employed for a wider purpose rather than limited to training objectives only. An innovative element of the programme was the involvement of local level activists in each area where the trainings were conducted. These activists performed a 'monitoring element' in evaluating the performance of the individual 'grama niladhari' and ascertaining as to whether the trainings had practical impact on the performance of his/her duties in that administrative area.

Structured discussions with selected community leaders before, during and after the training programme enabled the better identification of the practical problems that citizens face in trying to deal with the 'grama niladharis' with whom they interact on a daily level. The input from these discussions also informed the issues to be identified at the workshops for discussion and debate. These focus group discussions contributed enormously to the structuring of the programme and in the proposals made by the activists and village leaders for the better enhancement of the programme.

The programme was specifically designed so that it would not be a mere lecture course that would have limited impact but rather, would be an interactive experience which would focus on drawing out the perspectives and ideas of the 'grama niladharis' themselves. As the detailed reports pertaining to the programme indicates, this objective was achieved in an extremely satisfactory manner resulting in the programme generating a high level of interest among the target groups. This was manifested in their attendance being maintained at consistently high levels throughout the programme and also by the substantive content of the discussions being rich and varied.

A forceful indication of the success of the programme activities was evidenced by the fact that all the participant 'grama niladharis' voluntarily purchased the booklet published on the *Statutory Powers and Duties of the Grama Niladharis* with an analysis of the relevant case decisions by Dr J de Almeida Guneratne, PC. This was judged to be a markedly successful part of the Programme as this was the first time that such a publication had been attempted in the administrative history of the country. The Trust proposes to further fine tune its contents and publish the whole in English, Sinhala, and Tamil to be used as valuable resource materials by government ministries and NGOs' working in this area. It is heartening that we have already received many invitations from various Government institutes and the Ministry of Public Administration and Home Affairs to this effect.

Advocacy for a Constitutional Right to Health

The programme engaged in discussions with the Peoples' Movement for the Rights of Patients (PRMP) on finalisation of a constitutional right to health and a draft national medicinal drug policy/regulatory authority for Sri Lanka, which initiatives are now being lobbied by the PRMP at the policy level with the Ministry of Health. This work was not programme-funded.

HUMAN RIGHTS IN CONFLICT PROGRAMME

Monitoring Human Rights Violations

A Project to monitor human rights violations was conceived in recognition of mounting daily abuses that remain unresolved. Building on existing networks of both Colombo-based and grassroots NGOs working in this area, the project seeks to document violations for a range of purposes: to help victims and families obtain justice; to understand and address the points at which national legal mechanisms are failing, and to advocate at a national and international level. LST's main partners in this project are Rights Now and INFORM Human Rights Documentation Centre.

In 2006 we began meetings with Rights Now and INFORM to establish how to proceed. We decided to link our work with the then-newly appointed Presidential Commission of Inquiry into Serious Human Rights Violations in order to monitor its functioning as well as use it as a forum to highlight serious human rights abuses. The cases within the Commission's mandate will be the basis for investigations into current and ongoing violations, via field visits and media research.

Community Based Transitional Justice Initiative on the LTTE's Expulsions of Muslims from the North in 1990

Assessment of Feasibility and Need for a Citizen's Commission

The objective of this assessment was to establish the necessity and the feasibility of a truth seeking process on the Expulsion of Muslims by the LTTE from the five districts of the Northern Province. The assessment was conducted from January to April 2006 and involved a series of meetings and consultations with the displaced community in Puttalam and other civil society actors concerned with issues of human rights, transitional justice, psycho-social well being, and Muslim issues within the peace process located in Colombo.

Three of the six meetings in Puttalam were with members of community based organizations working with the displaced, and were organized by the Rural Development Foundation (RDF). The other three were with mosque trustee boards and local communities and were organized by the Research and Action Forum for Social Development. The first set of meeting conducted, consulted heads of/representatives of civil society organizations, members of women's organizations, and youth engaged in civil society and NGO work (26 January 2006).

The second set of meetings was less formal and was with the trustee boards and community elders from three communities. The first consultation was with Krushikarma Welfare Center in Kalpitiya, where persons from the villages of Kulagkulam and Muthuwali now lived. Secondly we visited people in a resettlement colony that were from Nahawilu and Uluhapannam and people from different villages in the Musali DS division in Mannar that were settled in Puttalam town with community intellectuals that have settled into life in Puttalam and lived closely with the host community (6 April 2006).

A consultation was held with those involved with Psycho-social Work (17th March 2006) to ascertain issues that might be of relevance for any community based transitional justice process.

A consultation was also held with individuals engaged with Human Rights work and Muslims within the Peace Process in Colombo (21 February 2006).

One of the recommendations of the Draft Report was that there be more consultations with women and women's groups

In October 2006, The Asia Foundation supported a six month long project to conduct further consultations with Northern Muslim Women to document community concerns of importance to women.

Consultations with Northern Muslim Women

The Consultations with Muslim Women were done to ascertain women's perspectives of the expulsion, the conditions of displacement and their expectations for the future. Consultations were conducted under the larger project of formulating the citizen's commission with special emphasis on concerns of Northern Muslim women.

- The first stage of consultation was carried out with Women from Musali and Erukulampity in the Mannar District and Volunteer teachers at Alankuda Muslim Maha Vidiyalaya representing Jaffna, Mannar, Mulaitiwu Districts and Displaced women from Nachchikudah, which is situated in the Kilinochchi district (13 November 2006). It was emphasized here that the current consultations were to elicit the specific concerns of women in order that they are included in formulating the commission's mandate.
- The second day of consultation were carried out with organizations such as the Integrated Health & Environment Organization Women's Organization for Development, Equality, Peace and Temperance. (WODEPT), Community Trust Fund (CTF) and the Rural Development Foundation (RDF) (27 November 2006) and the third stage of consultation which was carried out with organizations such as the People's Secretariat, The Humanitarian Brotherhood Foundation, The Community Development Organization and The Research and Action Forum for Social Development.

The discussion that followed was open-ended and included specific questions from the researcher as well as providing a space for women to articulate their problems needs and aspirations that did not fall within the ambit of the researcher's questions.

At the conclusion of the consultations a document was prepared that reflected women's concerns in keeping with the International Human Rights Instruments, to which Sri Lanka is a signatory. The draft document was sent for feedback from the various organizations in order to ascertain if it adequately reflects the concerns aired by them and in what ways it may be made useful.

LST is currently formulating a proposal in partnership with five Northern Muslim organisations based in Puttalam, for a community based transitional justice mechanism. In connection with LST's work on the Northern Muslims and the proposed project on a community based transitional Justice Mechanism, Dr. Farzana Haniffa of LST attended a three day international workshop in Greensboro, North Carolina on International and Local Lessons In Truth-Seeking (6-8 July 2006).

OTHER INITIATIVES/ COLLABORATIONS

Assessment of Human Rights Jurisprudence

This project involved ascertaining how the efficacy of effective human rights litigation and the manner in which such litigation can be used to secure individual rights and social justice. The project was also based on the initial aims of making litigation an effective means of securing justice, and obtaining redress against human rights violations; evaluating the extent to which the issue in question has been addressed by the judgements selected for analysis; assessing the means by which international standards have been incorporated into Sri Lankan human rights law and policy via litigation; examining the impact of litigation on incorporation of human rights standards into policy making and law making; and developing strategies for enforcement of decisions, when they remain unimplemented. As such, the project involved the analysis of a selected number of petitions filed before the Supreme Court, the apex court of the country, leading onto the development of strategies relating to the further protection and development of fundamental rights through litigation processes.

Methodology

An analysis of 75 cases, selected mainly from the two Case Books on Fundamental Rights published by the Law & Society Trust in 1988 and 2004, was carried out. These cases were then clustered according to the non-governmental organisations that sponsored the case or the litigator involved. Relevant people from these organisations and the litigators concerned were then interviewed with the aim of gaining feedback into the cases, the current status of the litigant involved, the research issues concentrated on by LST and the findings to date. A further 25 cases were then analysed in line with the outcome of the interviews conducted, with the issues covered being expanded and recent decisions being included in the cases analysed.

Selected Government authorities, who were regular respondents in the cases analysed were also interviewed. Their responses, for instance, relating to the non-implementation of court orders, were to form an integral part of the study undertaken particularly in understanding the divide between the different organs of government as well the problem of having multiple agencies responsible for one topic or subject matter.

Research Areas

▪ Human rights and the Judiciary ▪ Evolution of the justiciability of Fundamental Rights: Supreme Court, Human Rights Taskforce and the Human Rights Commission ▪ International Instruments
Education as a right ▪ Elections ▪ Environmental Rights ▪ Right to Health

SEMINARS, DISCUSSIONS AND CONSULTATIONS

Takeovers and Mergers Code

A public discussion was held on 17 May 2006 on the 'Takeovers and Mergers Code' in view of its importance in protecting shareholders in a takeover or merger of a listed company. The discussion focussed on the main aims and an overall review of the Code, also touching on the implications of the proposed new Companies Act on the Code. The panel of speakers included Mr. Kanag-Isvaran PC, Ms. Marina Fernando, Director Legal & Enforcement of SEC, Dr. Harsha Cabral and Dr. Dayanath Jayasuriya.

Draft Mental Health Act

LST as part of its ongoing engagement with the Right to Health has been actively involved in attempts at law reform in the area of mental health by submitting its observations and recommendations on draft mental health legislation and policy, through a consultative process involving all stakeholders in the mental health field including NEST, Sahanaya and Sumithrayo.

In 2006, the Ministry of Health with the assistance and collaboration of the World Health Organisation (WHO) published a draft Mental Health Act (28 June 2006) inviting the public and the relevant stakeholders to submit their comments.

The Law & Society Trust hosted a consultation on 11 August 2006 inviting stakeholders to critically analyse the draft Act. The outcome of this consultation was a set of recommendations on the draft submitted to the Director of Mental Health, Ministry of Health. The observations included the absence of a rights based and patient-centred perspective; the weakness of promotion of mental well-being and prevention of mental illness and the scope and competence of the proposed Mental Health Authority. There has been no further legislative progress on its enactment at this time.

Ad-Hoc Group on Power Sharing

25 civil society organisations including the private sector engaged in issues of constitutional reform and devolution of power have met regularly since August 2006, facilitated by the Berghof Foundation for Conflict Studies in Sri Lanka. The objectives included achieving consensus among civil society organisations as well as co-ordinating responses to the All Party Representative Committee process initiated by the government. Dr. Farzana Haniffa, Ms. Dulani Kulasinghe and Mr. B Skanthakumar have participated on behalf of LST.

LST Forum

LST initiated a new series of monthly discussions on topical issues (LST Forum) on 14 December 2006 with a discussion on the *Emergency Regulations on Prevention and Prohibition of Terrorism and Specified Terrorist Activities of 06 December 2006*. The discussion was led by Ms. Suriya Wickremesinghe (Nadesan Centre for Human Rights).

Consultations/ Meetings attended by LST Staff

Ramani Muttetuwegama of LST, with Shantha Pathirana (Organisation for Parents and Family Members of the Disappeared), co-organised a Sinhala-language briefing for community based organisations on the UN Convention on Disappearances at the Centre for Society and Religion on 8 September 2006.

Ms. Amila Jayamaha represented LST at a meeting on "UN Reforms: Proposals for Gender Institutions of the UN organised by the Women & Media Collective (WMC) on 5 May 2006.

LST was represented by Ms. Jovita Arulanantham, Dr. Farzana Haniffa and Mr. BSkanthakumar at a de-briefing for NGOs following the October 2006 UN Human Rights Council sessions in Geneva, held at the Centre for Policy Alternatives (CPA) on 25 October 2006.

On 31 October 2006, senior Indian journalist, Mr. Kuldip Nayar, visited LST for a discussion on the current human rights concerns as a member of an Indian civil society delegation for peace in Sri Lanka. This visit was co-ordinated by the International Movement against Discrimination and Racism (IMADR).

Ms. Dilhara Pathirana and Mr. B Skanthakumar participated in an all-day conference at the Ceylon Continental hotel on the Right to Housing hosted by the Centre for Housing Rights and Evictions, Colombo on 1 December 2006.

The National Centre for Victims of Crime organised a discussion on the draft Bill on Protection of Victims of Crime and Witnesses at the Asia Foundation on 13 December 2006 attended by Ms. Tanuja Vijayashanthan and Mr. B Skanthakumar.

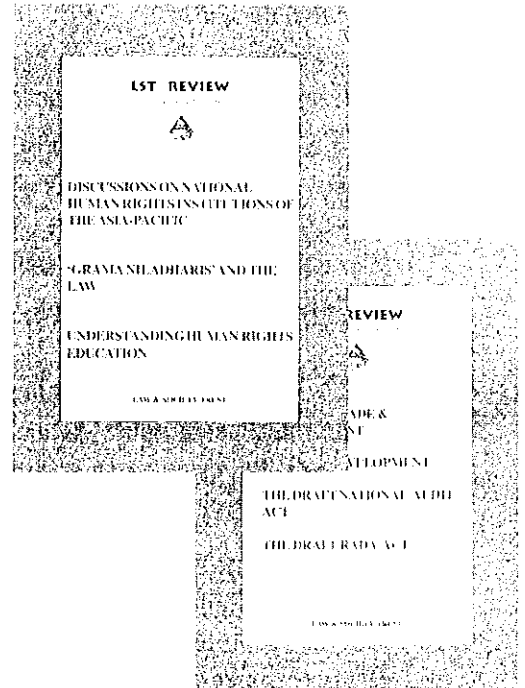
In December 2006, Ms Dulani Kulasinghe attended a week-long training of trainers on CEDAW, held in Bangkok, Thailand. The training was run by IRAW-Asia Pacific - trainers included Ms Shanthi Dairiam, current CEDAW committee member for Malaysia. Ms Kulasinghe is now part of a pool of CEDAW resource persons from whom IRAW will draw to do regional trainings, provide technical assistance or conduct other CEDAW related work.

LST Review (Jan - Dec 2006)

Twelve issues (with two double issues) of the Review were brought out during the year with papers, articles and case law focussing on a variety of issues from constitutional rights, national human rights institutions, international human rights law and treaty body monitoring, right to information, tsunami relief, right to development, health rights, migrant workers' and the impact of mother-migration.

Draft acts pertaining to contempt of court, national audit and a proposed Reconstruction and Development Authority (RADA) were also published along with accompanying discussions on their content.

Ed: Kishali Pinto-Jayawardena



State of Human Rights- 2006



Sri Lanka: State of Human Rights, an annual publication of the Law & Society Trust, seeks to set out the current status of human rights in the country and to assess the extent to which Sri Lanka has fulfilled its duty, in conformity with international obligations, to protect the fundamental rights of its citizenry. Thus, the report stands as an important milestone in highlighting both developments and setbacks in the status of human rights in Sri Lanka. Constitutional guarantees and other legal standards and obligations, both domestic and international, as well as the implementation and enforcement of those standards are appraised from a largely human rights perspective and the impact of inherent restrictions highlighted. The report also seeks to make recommendations aimed at bettering human rights standards and approaches in Sri Lanka.

Sri Lanka: State of Human Rights Sri Lanka: State of Human Rights 2006 focuses primarily on the tsunami and its aftermath. It covers issues pertaining to human rights implications of the tsunami, documentation arising out of the tsunami, judicial protection of human rights, Emergency Rule, Children's rights, political killings, the right to health, the

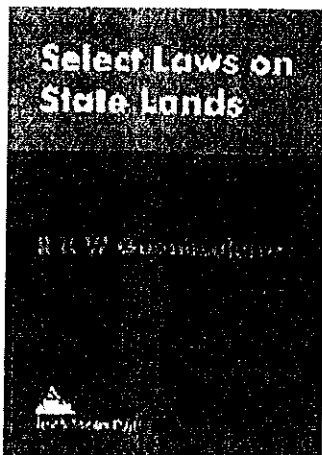
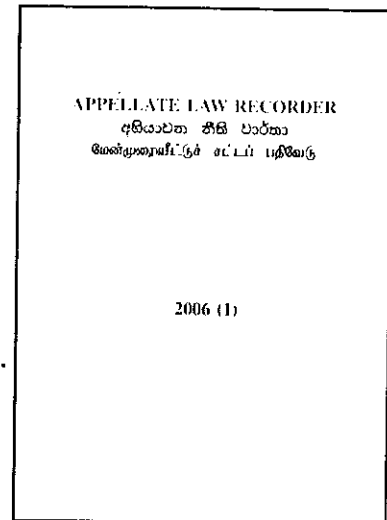
right to development and private land owners' rights in the context of the Land Acquisition Act. This report remains an integral part of ongoing attempts to ensure that the State and those non-state actors referred to in the report, actively uphold its constitutional and international obligations and responsibilities to respect, safeguard and strengthen human rights in Sri Lanka. It is further hoped that this report would serve to facilitate dialogue both between and within civil society organisations and the State in order to afford effective protection and promotion of human rights within the country.

Ed: Ms. Elizabeth Nissan

Appellate Law Recorder

This quarterly publication on relevant judgements by Sri Lankan courts in public, civil, criminal and constitutional law continued during the year. Novel features of this publication are the summaries of the judgements in Sinhala and Tamil, a glossary of words and phrases as well as the inclusion of critical reflections on the judgements published. The aim of this publication is to bring the development of the law closer to Sinhala and Tamil legal practitioners. This is a dire need as the official law reports are published only in English.

Ed: Dr J de Almeida Guneratne, PC.

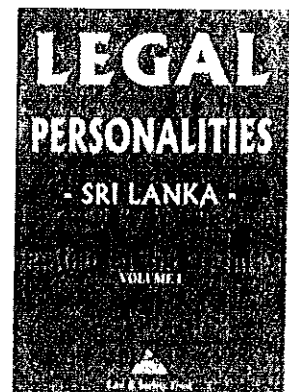


Select Laws on State Lands Mr. R K W Goonesekere

This book is a compilation of all the significant laws which deal with State lands. It is also an attempt to record the role that the law has played in effecting far-reaching changes in the utilisation of State lands and the significance of the role of the State at different times in political history. The laws have been grouped into seven chapters so as to facilitate easy reference by subject matter. The value of the compilation is enhanced by the inclusion of notes and citation of judicial decisions impacting on the statutes.

Legal Personalities Vol. I

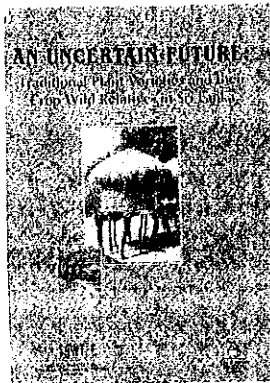
Legal Personalities is a compilation of a selection of lectures delivered under the auspices of the Law & Society Trust on "Legal Personalities of Sri Lanka". It includes chapters on Charles Ambrose Lorenz, T.B. Panabokke, Sir Muttu Coomaraswamy, H.V. Perera, Hector Alfred Jayewardene, S.W.R.D. Bandaranaike, Sir William Ivor Jennings and Sir Ponnambalam Arunachalam





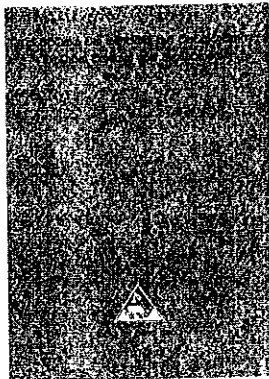
Protection of Plant Varieties in Sri Lanka by Ms. Asanka Perera

This book critically examines the Sri Lankan legal position with regard to protection of plant varieties and explores some issues closely related to Sri Lanka's agricultural economy.



An Uncertain Future: Traditional Plant Varieties and their Crop Wild Relatives in Sri Lanka

This research report is the outcome of Phase II of the Farmers' Rights to Livelihood Project in partnership with the South Asia Watch on Trade, Economics and Environment (SAWTEE) and consists of chapters on Traditional Varieties and Wild Relatives of Crop Plants in Sri Lanka, Traditional Crop Varieties and Crop Wild Relatives and Traditional Crop Varieties, Intellectual Property Rights and International Conventions.



Statutory Powers and Duties of the Grama Niladharis

A compilation of statutory powers and duties of the grama niladharis with an analysis of the relevant case decisions by Dr. J de Almeida Guneratne, PC. Available in Sinhala and Tamil.

Board of Directors	Justice P.N. Bhagwati Dr. Nissanka Wijeratne (Chairman) Mr. R.K.W Goonesekere Mr. Mohamed Hussein Mr. Kanag -Iswaran Mr. Walter Laduwahetty Mrs. Damaris Wickremesekera (Executive Director)
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Civil & Political Rights Programme

Deputy Director/ Head Civil & Political Rights Programme Editor LST Review	Ms. Kishali Pinto-Jayawardena LL.B (Hons.)(Colombo) Attorney-at-Law
Consultant to the Civil & Political Rights Programme	Dr. Jayantha de Almeida Guneratne PC LL.B, M.A (Int.rel), LL .M (Colombo), P.D.B.S, M.A (Bud.St) Kelaniya, Ph.D (Hwi, Pw)
Advisor to the Civil & Political Rights Programme	Mr. Basil Fernando LL.B (Col) Attorney-at-Law
Project Coordinator Law, Human Rights & Good Governance Study Project	Ms. Malkanthi de Silva LL.B (Colombo) Attorney-at-Law
Project Assistant	Ms. Charitha Unawatuna Attorney-at-Law

Economic, Social & Cultural Rights Programme

Head – Economic, Social & Cultural Rights Programme	Mr. B. Skanthakumar LL.B (Hons), LL.M (London)
Coordinator – Farmer’s Rights to Livelihood	Ms. Avanthi Weerasinghe LL.B (Hons), (Colombo)
Project Coordinator Right to Health Project	Ms. Chitralega Thavachelvam LL.B (Colombo)
Project Assistant – Farmers’ Rights to Livelihood Project	Ms. Chamali Wickremeratne (till November 2006) LL.B (Colombo)
	Ms. Thiranthie Udakumbura LL.B (Colombo)

Human Rights in Conflict Programme

Secretary/ Head Human Rights in Conflict Programme	Ms. Ramani Muttetuwegama LL.B (London), LL.M (Columbia) Attorney-at-Law, Barrister -at-Law (Lincolns Inn)
Consultant to Human Rights in Conflict Programme	Dr. Farzana Haniffa BA, MA, Phd
Researcher	Ms. Dulani Kulasinghe BA, MA

Library

Librarian	Ms. Pushpa Tennekoon B.A (Peradeniya), Dip. Library Science Documentation & Information Science
Research/ Library Assistant	Ms. Dilhara Pathirana LL.B (Colombo), Attorney-at-Law

Research Staff & Interns

Research Assistant	Ms. Amila Jayamaha Attorney-at-Law
Project Intern	Ms. Thiagi Piyadasa
Project Intern	Ms. Jovita Arulanantham
Project Intern	Ms. Sanjeewani Perera
Intern	Mr. Rajee Welgama
Intern	Ms. Kamani Perera
Intern	Ms. Ayesha Cassie Chetty
Intern	Ms. Nathasha Ariyadasa

Accounts & Administration

Senior Accountant	Ms. Sivayogachelvy Premarajah
Programme Assistant	Ms. Tanuja Vijayashanthan
Accounts & Administrative Officer	Ms. Janaki Dharmasena
Accounts Assistant	Mr. Prasanna Gajaweera
General Clerk	Ms. Achala Fernando
Transport/ Office Assistant	Mr. N.D.K.B Navaratne
Office Aide	Mr. Sumudu Priyankara

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Email: sjms@sjmsassociates.com
Web Site: www.sjmsassociates.lk

AUDITORS' REPORT TO THE MEMBERS OF LAW & SOCIETY TRUST

We have audited the balance sheet of Law & Society Trust as at 31st March 2006, and the related statement of income & expenditure for the period then ended, together with the accounting policies and notes from 1 to 18.

RESPECTIVE RESPONSIBILITIES OF DIRECTORS' AND AUDITORS'

The directors are responsible for preparing and presenting these financial statements in accordance with the Sri Lanka Accounting Standards. Our responsibility is to express an opinion on these financial statement, based on our audit.

BASIS OF OPINION

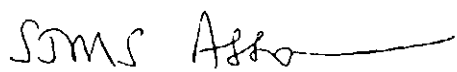
We conducted our audit in accordance with the Sri Lanka Auditing Standards, which require that we plan and perform the audit to obtain reasonable assurance about whether the said financial statements are free of material misstatements. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the said financial statements, assessing the accounting principles used and significant estimates made by the directors, evaluating the overall presentation of the financial statements and determining whether the said financial statements are prepared and presented in accordance with the Sri Lanka Accounting Standards. We have obtained all the information and explanations which to the best of our knowledge and belief were necessary for the purpose of our audit. We therefore believe that our audit proves a reasonable basis for our opinion

OPINION

In our opinion, so far as appears from our examination, the Trust maintained proper books of account for the period ended 31st March 2006, and to the best of our information and according to the explanations given to us, the said balance sheet and related statement of income & expenditure and the accounting policies and notes thereto, which are in agreement with the said books and have been prepared and presented in accordance with the Sri Lanka Accounting Standards, provide the information required by the Companies Act No.17 of 1982 and give a true and fair view of the Trust's state of affairs as at 31st March 2006 and of its surplus for the year then ended.

DIRECTORS' INTERESTS IN CONTRACTS WITH THE COMPANY

According to the information made available to us, the directors of the Company were not directly or indirectly interested in contracts with the Company during the year ended 31st March 2006.



SJMS ASSOCIATES
Chartered Accountants
Colombo

24th August 2006

**LAW & SOCIETY TRUST
STATEMENT OF INCOME AND EXPENDITURE
FOR THE YEAR ENDED 31ST MARCH 2006**

	Note	2005/ 2006 Rs.	2004/ 2005 Rs.
Income	3	4,624,309.88	4,691,194
Administrative Expenses	4	(1,435,660.94)	(770,224)
Finance Cost	5	<u>(36,447.54)</u>	<u>(52,768)</u>
Excess of Income over Expenditure Before Tax		3,152,201.40	3,868,201
Taxation		<u>(271,357.66)</u>	<u>0</u>
Excess of Income over Expenditure after Tax		<u>2,880,843.74</u>	<u>3,868,201</u>

**LAW & SOCIETY TRUST
BALANCE SHEET AS AT 31ST MARCH 2006**

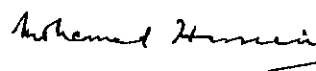
	Note	31.03.2006 Rs.	31.03.2005 Rs.
ASSETS			
NON CURRENT ASSETS			
Property, Plant & Equipment	6	5,218,730.76	5,238,510
CURRENT ASSETS			
Accounts Receivable	7	394,029.32	641,590
Deposits, Advances and Prepayments	8	759,220.08	521,500
Short Term Investments	9	35,910,509.98	29,598,226
Cash & Cash Equivalents	10	1,951,134.89	6,259,556
		<u>39,014,894.27</u>	<u>37,020,871</u>
TOTAL ASSETS		<u>44,233,625.03</u>	<u>42,259,382</u>
FUND AND LIABILITIES			
Revaluation Reserve	11	1,045,835.44	1,045,835
Unutilised Specific Purpose Grants	12	2,419,782.09	1,728,021
Funds	13	38,423,963.87	35,938,160
		<u>41,889,581.40</u>	<u>38,712,016</u>
DEFERRED LIABILITIES			
Provision for Gratuity	13	1,031,199.16	910,187
		<u>42,920,780.56</u>	<u>39,622,204</u>
CURRENT LIABILITY			
Accounts Payable	14	1,041,486.81	2,580,409
Tax on Grant Received		271,357.66	0
Bank Overdraft		0.00	56,769
		<u>1,312,844.47</u>	<u>2,637,178</u>
TOTAL FUNDS AND LIABILITIES		<u>44,233,625.03</u>	<u>42,259,382</u>

The Board of Directors is responsible for the preparation and presentation of these financial statements.

Signed for and on behalf of the Board


Directors

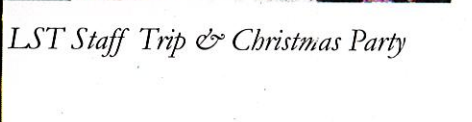
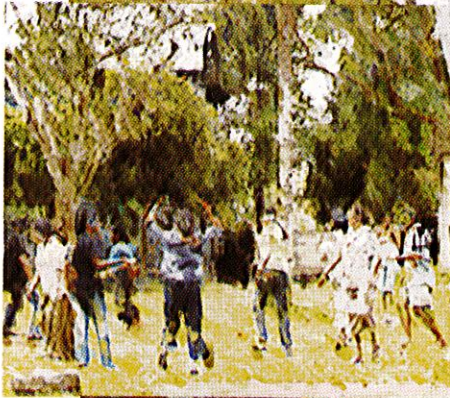
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Directors

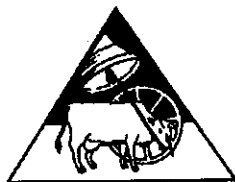
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GRANTS RECEIVED DURING THE YEAR

	2005/ 2006
1. Grants received from SAWTEE for Farmers Rights to Livelihood Livelihood Project Phase II 2 nd Instalment	2,464,318.50
2. Grant received from Swedish International Development Corporation Agency (SIDA) for Core Support of the Strategic Plan 2005/ 2006	9,338,000.00
3. Grant received from International Centre for Transitional Justice as reimbursement of expenses met by the Trust on account of workshop on Transitional Justice during the period 2004/ 2005	198,000.00
4. Grant received from the Asia Foundation for Human Rights Education Study	326,575.00
5. Grant received from the Asia Foundation for a Project on Assessment of Human Rights Jurisprudence in Sri Lanka	1,160,000.00
6. Grant received from Womens Link Worldwide Gender Justice & Armed Conflict Project on account of consultancy on remedies available for Violations of Womens Human Rights	298,187.80
7. Grant received from the International Centre for Transitional Justice for Assessment of Need and Feasibility of a Citizens Commission on the 1990 Expulsion of Muslims from the North	255,000.00
8. Grant received from CUTS for implementation of Linkages between Trade, Development and Poverty Reduction	<u>1,035,344.22</u>
TOTAL	<u>15,075,425.52</u>



LST Staff Trip & Christmas Party



Law & Society Trust

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Web: www.lawandsocietytrust.org