



LAW AND SOCIETY TRUST

Fortnightly Review

No 3 Kynsey Terrace, Colombo 8

June 1st 1991 - Issue No 18

OBJECTIVES

The Law and Society Trust Fortnightly Review keeps the wider Law and Society community informed about the activities of the Trust, and about important events of legal interest and personalities associated with the Trust.

THE STATE OF HUMAN RIGHTS IN SRI LANKA

by Dr. Deepika Udagama

An essay-review commenting on the following recent publications:

- The 8th April 1991 Report on Sri Lanka, submitted under article 40 of the International Covenant on Civil and Political Rights, and the U.N. Press Releases of the Human Rights Committee examining the Report on April 9th and 10th 1991.
- The extract on Sri Lanka from the 1990 Human Rights Impact Statement issued annually by the U.S. State Department.
- The August 1990 report of Anthony Heaton - Armstrong, Observer appointed by the International Commission of Jurists, on the Magisterial Inquiry into the Homicide of Richard de Zoysa.
- The University Teachers for Human Rights (Jaffna) publication "The Politics of Destruction and the Human Tragedy", Report No. 6 of February 1991.
- Neville Jayaweera, "Sri Lanka : Towards a Multi-Ethnic Democracy?", the 1991 Report of the International Peace Research Institute, Oslo.

To put the case mildly, the human rights record of Sri Lanka in the past few years is an extremely tarnished one. The metamorphosis of Sri Lankan society from a genteel, non-violent entity into an almost primitively brutish one, where might is considered right, is truly astonishing; perhaps, not that astonishing if one analyses the multitude of socio-political and economic

factors which gave rise to the crises. What is beyond comprehension is the latent potential in a seemingly non-violent society to resort to extreme levels of brutality with relative ease as evidenced by the activities of all sides to the violent conflicts in the North/East and the South. Could this evil genie ever be bottled and eventually destroyed?

Traditionally, states have resorted to the adoption of constitutional and/or statutory guarantees of human rights coupled with judicial or administrative remedies as the major means of protecting and enforcing individual rights and liberties. Sri Lanka also has adopted that model. What is ironic, however, is the development in Sri Lanka of institutional mechanisms

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for the protection of fundamental rights almost simultaneously with the institutionalizing of violence as a means of suppressing political dissent.

The 1978 Constitution of the Democratic Socialist Republic of Sri Lanka incorporated a justiciable Bill of Rights (Chapter III), vested the Sri Lanka Supreme Court with fundamental rights jurisdiction (Article 126) and made provision for the creation of the institution of the Parliamentary Commissioner for Administration (Ombudsperson—Article 156). The Court of Appeal was vested with the power, *inter alia*, to issue writs of *habeas corpus* (Article 141). This same period witnessed the beating up of academics, university students, trade unionists and also the harassment of Supreme Court justices (who had earlier held against the government in a fundamental rights case) by violent elements who by all appearances seemed to enjoy official tolerance.

It is also significant that in 1980, amidst all those goings on, the government thought fit to ratify the International Covenant on Civil and Political Rights (ICCPR). That treaty is a major component of the International Bill of Human Rights. It recognizes universal human rights norms and imposes international legal obligations on ratifying states to 'ensure to all individuals within its territory' the rights recognized in the Covenant without discrimination (Article 2(1)). The Covenant further requires ratifying states to ensure an effective remedy when a guaranteed right is violated (Article 2 (3)(a)) and also to ensure that the competent authorities shall enforce such remedies when granted (Article 2(3)(c)). It recognizes, *inter alia*, the right to life, liberty and security of person, freedom from retroactive penal legislation, freedom of thought, conscience and religion, freedom of expression including the right to information, freedom of association and assembly and prohibits discrimination on grounds such as race, colour, sex, language, religion, political or other opinion, national or social origin, property or other status.

In addition to the ICCPR, Sri Lanka has so far ratified eighteen other international human rights treaties including the International Covenant on Economic, Social and Cultural Rights and the four Geneva Conventions on the Laws of War of 1949. It will be a grave oversight on my part if I do not mention that under Articles 55 and 56 of the United Nations Charter all member states are under a legal obligation to promote and protect human rights within its territory. Sri Lanka has been a member of the United Nations since 1955.

International legal obligations of Sri Lanka, both under treaties and customary international law, to promote and protect human rights within its territory certainly nullify arguments advanced by some that the manner in which the government treats its subjects is purely an 'internal matter' not warranting any type of international scrutiny. By voluntarily undertaking legal obligations on the international plain, the government has, either expressly or tacitly, opened itself up for

external examination vis-a-vis the discharge of those obligations.

I. UN HUMAN RIGHTS COMMITTEE EXAMINES SRI LANKA REPORT

It was to fulfill such an obligation that Sri Lanka was called upon to submit a report to the U.N. Committee on Human Rights (the Committee) on measures the government has taken to protect rights recognized under the ICCPR. Article 40 obligates all ratifying states to submit periodic reports to the supervisory body established by it—the U.N. Human Rights Committee made up of eighteen independent experts.

The first report of Sri Lanka came up for examination by the Committee in 1983. The second report due in 1986 was submitted, however, in 1990. In April of this year, the Committee examined Sri Lanka's report and provided the government an opportunity to present its case in oral hearings held in New York. It is unfortunate that the local media hardly paid any attention to those proceedings because it represented a very rare occasion in which the government had to stand up and defend its human rights policy before an impartial and independent international body seeking cogent and coherent answers to informed questions. The questions are asked with a view to ascertaining a government's commitment to ensure recognized rights to its subjects, (rather than to embarrass a government in public), and to employ quiet diplomacy in assisting the government in improving the state of human rights in that country.

The Committee expressed concern at the brevity and incompleteness of the initial report submitted by the Sri Lankan government in early 1990. A more detailed 'supplement' was submitted by the Attorney General (AG), Sunil de Silva, PC, the head of the government delegation when he appeared before the Committee. As the Committee had no time to prepare to review the supplement adequately, it was not considered part of the formal Sri Lanka report. Aside from the government's report, the Committee was informed on the human rights situation in Sri Lanka through U.N. Working Groups and Rapporteurs on areas such as involuntary disappearances, extra-judicial executions and torture and also reports submitted by human rights NGOs such as Amnesty International and Article 19.

Of particular concern to the Committee were confirmed reports of mass involuntary disappearances, incidents of extra-judicial executions, torture in detention, violation of due process rights under the Prevention of Terrorism Act (PTA) and Emergency Regulations (ER), and the operation of vigilante groups. Questions on substantive law focussed on the compatibility of the Sri Lanka constitutional Bill of Rights and the provisions of the proposed Seventeenth Amendment with the ICCPR. Commenting on the Bill of Rights the expert from Jordan remarked that it seemed to be a case of "what you give with one hand you take with the other."

Particular attention was focussed on provisions of the PTA and ER. While sympathizing with the government regarding the difficulties it faced due to violent insurrections in the country, the expert nonetheless pointed out that emergency measures taken to deal with such exigencies had to be within the framework of the law. Article 4 of the ICCPR (popularly known as the 'derogation clause') provides that a ratifying state may derogate from its obligations under the instrument only:

(a) if an emergency which threatens the life of the nation exists; and

(b) to the extent strictly required by the exigencies of the situation.

Furthermore, Article 4(2) stipulates that no derogation is possible even during times of emergencies from the right to life, freedom from torture or cruel, inhuman or degrading treatment or punishment, freedom from slavery, freedom from imprisonment for inability to fulfill a contractual obligation, freedom from retroactive criminal legislation, right to recognition as a person before the law and freedom of thought, conscience and religion.

Provisions in the PTA which provide for a person to be held in custody for 72 hours before being produced before a Magistrate, detention of a person for upto 18 months, the possibility of admitting confessions and moving a detainee from one place to another without notification were singled out for criticism as being at variance with ICCPR provisions. ER 55 B-F relating to post mortems and inquests and those which create retroactive penal offences were also criticized on the same ground. Most experts were of the opinion that some ERs derogated from non-derogable rights, and therefore were in clear violation of international obligations.

On the subject of remedies, the Committee questioned the effective availability of the writ of habeas corpus, and the constitutional remedy under Article 126 of the Sri Lanka Constitution. Regarding accessibility to the Ombudsman by an applicant, the expert from Sweden expressed his bewilderment as to why an aggrieved party had to go through his/her Member of Parliament. He also questioned whether MPs were aware of the ICCPR and its provisions.

Queries were also made, inter alia, regarding freedom of expression and the status of women.

The AG in response drew the attention of the Committee to the violent conflicts in the North/East and the South, and pointed out the difficulties encountered by the government in discharging its human rights obligations. He also explained the necessity to derogate from certain rights under the emergency situation.

On substantive law, Mr. de Silva stated that the Sri Lankan constitutional Bill of Rights enshrined the provisions of the ICCPR (however, a perusal of Chapter

III of the Constitution points to the fact that the right to life, liberty and security of person, the right to privacy, freedom from slavery and slave-like practices, and the rule against double jeopardy recognized in the ICCPR have not been accorded the status of fundamental rights). The AG added that the proposed Seventeenth Amendment to the Constitution was aimed at bringing the constitutional provisions further in line with the provisions of the ICCPR.

Commenting on public awareness of human rights standards, the AG pointed out that the government had distributed literature on the UN Charter, the Universal Declaration of Human Rights, the two international Covenants, the UN Code of Conduct for Law Enforcement Officers and Rules of Behaviour in Combat to members of the armed forces and law enforcement agencies. The UN Standard Minimum Rules for the Treatment of Prisoners was also applied in the country.

The AG admitted that certain ERs did depart from the Covenant. For example, retroactive criminal offences he stated served as deterrents--conduct which was not harmful when normalcy prevailed assumed terroristic proportions in a time of emergency; retroactive criminal offences encompassing those acts were essential to deter future occurrences. Derogation from a non-derogable right certainly amounts to a serious violation of international obligations and the statement by the AG appears to be a justification of such violations. That is certainly an unsatisfactory state of affairs.

Responding to queries regarding remedies, the AG pointed out that an individual had recourse to several remedies. He cited Supreme Court review under Article 126 of the Constitution, relief through the office of the Ombudsman and the Commission for the Elimination of Discrimination and the Monitoring of Fundamental Rights and review of legality of detention either through habeas corpus or through review by the Advisory Board and Advisory Committee set up under the PTA and ERs as available remedies.

Addressing grave concern expressed by the experts regarding the difficulties inherent in availing oneself of the writ of habeas corpus and Supreme Court review under Article 126 of the Constitution due to threats against attorneys representing applicants and the practical difficulties faced by applicants to come to Colombo to file applications, the AG reassured the experts that allegations of assaults or threats made against legal counsel were investigated and they were given police protection if they so requested (often the complaints by attorneys point to involvement of the police in issuing threats, see ICJ report on the Richard De Zoysa case discussed infra) and that there were no undue delays in handling habeas corpus applications. The Constitution has now been decentralized so as to enable Provincial High Courts to issue habeas corpus. At any rate, stated the AG, Colombo was not more than 200 miles from the most distant part of the country, and so even having Colombo as the center of

filing the petitions would not pose a problem. It is submitted with due respect that such a position fully ignores the practical difficulties faced by many in availing themselves of the available remedies. In fact, the existing procedures and institutional structures should be reassessed and suitable changes made taking those practical difficulties into consideration if the remedies are to have a far-reaching salutary effect.

It is also significant that the Sri Lanka delegation justified the position that the Ombudsman should be accessed through an MP as "he is an additional remedy...and individuals had access to other remedies." Such a position clearly defeats the rationale underlying the institution of Ombudsman. Such reasoning gives rise to the question as to why restrictive additional remedies are created at all. Additional remedies should be created with a view to broadening the reach of remedies to aggrieved parties by simplifying the legal process and encouraging recourse by increasing accessibility.

The AG stated that the government was aware of allegations that extra-judicial executions had been occurring in Sri Lanka. But not all disappearances and extra-judicial executions can be attributed to the misconduct of the security forces. There were cases pending against services personnel, but in most cases there could be no indictment for lack of information. Further, the AG stated that preventive detention is employed only in exceptional circumstances. Those detained on suspicion of terrorist activities were moved from place to place without prior notice to prevent the possibility of associates attempting to rescue them.

The general comments of the experts at the concluding session of the hearing focussed on the absolute necessity of bringing emergency measures to combat terrorism within the law (provisions of the PTA were strongly criticized) and the proposed Seventeenth Amendment in line with the ICCPR. The experts were mainly concerned that the new limitation clause in the proposed amendment were far broader than those envisaged by the ICCPR.

II. U.S. STATE DEPARTMENT AND ICJ REPORTS

Reports of widespread extra-judicial executions, abductions and causing of involuntary disappearances and the use of torture to extract confessions by the security forces and vigilante groups (with alleged ties to the security forces), and the difficulties experienced in obtaining redress recorded in the U.S. State Department Country Report on Sri Lanka, 1990, are clearly at variance with the calm assurances of the Sri Lanka delegation to the Committee. Also cited are widespread arbitrary detentions and restrictions on freedom of speech, assembly and association as other major human rights concerns. Significantly, the report also documents abuses committed by the LTTE and the JVP.

At the same time the report indicates growing government concern regarding its much-scrutinized and maligned human rights record and credits it with taking

some ameliorating steps. Those are the establishment of 'independent surrender' committees to facilitate the peaceful surrender of JVP suspects, permission granted in late 1989 to the International Committee of the Red Cross (ICRC) to render humanitarian assistance, the establishment of a high-level human rights task force to inquire into alleged violations of human rights and to promote the discipline of members of the security forces who commit human rights violations and the invitation extended to the Working Group on Disappearances of the UN Human Rights Commission to visit Sri Lanka in 1991.

The International Commission of Jurists (ICJ) report on the Magisterial inquiry into the killing of journalist Richard de Zoysa authored by ICJ observer Anthony Heaton-Armstrong in no uncertain terms calls for the establishment of independent commissions of inquiry to investigate excesses by security forces personnel if any credibility is to be lent to government efforts to control the widespread incidence of such excesses. States the author-- "[i]f the State is not seen to take a firm stance against this type of activity [unlawful abductions and killings by security forces] private citizens will inevitably take the law in their own hands and attack the servants of the state." (p.23)

Commenting on the police 'investigation' and the role of the AG in the aborted magisterial inquiry into the killing, Heaton-Armstrong points out that both the Police and the AG's Department were unusually on the defensive. The underlying 'unshakable' assumption on which they proceeded was that the SSP identified by the deceased's mother could not have been involved in the incident at all. He points to the futility of having the Police investigate itself. If the inquiry was to be impartial suggests the author, the SSP, under the circumstances, should at least have been transferred out until the conclusion of the case.

The U.S. State Department report too hints that the best means of checking violations by security forces is through independent investigative commissions. It points out that although at least 22 cases were instituted against security forces personnel between 1988-90, none had been resolved by the end of 1990, partly due "to the killing and intimidation of witnesses".

III. THE JAFFNA REPORT

A recurrent argument raised by the government is that its human rights critics, such as NGOs and donor governments, do not criticize human rights abuses by bodies such as the LTTE and the JVP. Certainly, the violence and mayhem pervading Sri Lankan society is attributable not only to the security personnel and vigilante groups, but also to anti-government forces such as those named above. Of course, as to who first institutionalized violence is open for debate, but then, it is a question which does not serve a valuable purpose as today the purging of violence from all segments of society should be a national priority.

In a refreshingly candid assessment of the violence prevalent in the North and the East of the island, the University Teachers for Human Rights (Jaffna) in its current report, The Politics of Destruction and Human Tragedy: September 1990-January 1991 (February 1991), eloquently portrays the tragic predicament of peace-loving peoples in the region caught in the unbridled violence unleashed on them both by the government forces and the LTTE. Rather than merely record the violence, the report provides an astute analysis of the genesis and the continuation of the 'ethnic crisis' which today has become a multi-dimensional crisis enveloping the entire country.

While engaging in a scathing criticism on the LTTE's intransigence and its cult of violence, the report nonetheless point out that "[i]n a crisis such as ours, the state should be held principally responsible for the state of affairs and its actions, and the pusillanimity and moral failings of the leaders must be exposed and questioned. In the case of so called liberation movements like the JVP, the LTTE and others which have shown very clear signs of degeneration, do we need to wait for them to become state powers themselves before we criticize their atrocious conduct?" (p.10)

Undoubtedly, it is the government which is under a paramount legal duty to protect the rights of all its subjects under all circumstances. The people have entrusted the government, and not groups such as the LTTE and JVP, with the responsibility of maintaining law and order while protecting individual rights and liberties. The government is in possession of a vast machinery no other group has: it can enact laws and punish transgressors including those who claim to have established a parallel government within the country. The answer to the government's perennial question then is that the international community and NGOs primarily concern themselves with governmental conduct because international human rights law itself--which gives those entities the right to criticize--imposes obligations on the government and no one else. Many international observers have rightly expressed grave concern regarding the abuses perpetrated by anti-government groups, but they correctly attach primary responsibility to the government's legal obligations under international law to promote and protect human rights. The government can take all measures within the law to apprehend and punish transgressors including anti-government militants. But who can effectively prosecute a government when it transgresses the law?

International legal responsibility to protect human rights attaches to non-governmental entities only in the context of a civil war. Common Article 3 to the Geneva Conventions on the Laws of War of 1949 (all of which have been ratified by Sri Lanka) imposes an obligation on 'each Party to the conflict' in the case of armed conflict not of an international character to refrain from specified acts such as the taking of hostages, murder, mutilation, cruel treatment and torture and extra-judicial executions. It provides that the imposition of such legal

obligations 'shall not affect the legal status of the Parties to the conflict'.

It could be stated that the LTTE clearly comes under the stipulations of the above provision. That common responsibility does not, however, detract from the overall responsibility of the government under the Constitution and international law to safeguard the rights and liberties of all its subjects.

IV. SOLUTIONS: THE PRIO REPORT

The perception that human rights violations in the country occur only in the context of the 'ethnic conflict' is naive and overly simplistic. The phenomenon of gross violations of human rights in Sri Lanka is all pervasive and has painfully affected the lives of all--Sinhala, Tamil and Muslim. Even if the ethnic issue is solved, one cannot unfortunately come to the logical conclusion that all or most human rights violations will cease.

From a political standpoint, however, after the crushing of the JVP, the major conflict which cries out for resolution is the secessionist movement in the North and the East. Inherent in that resolution is the finding of ways and means of accommodating minority rights within the framework of a unitary state. Such a solution would no doubt address some crucial human rights concerns of Sri Lankan society.

In his report Sri Lanka: Toward a Multi-Ethnic Democracy? researched and written under the aegis of the International Peace Research Institute, Oslo (PRIO), Neville Jayaweera concludes that the best path conflict-weary Sri Lankan society can tread is that of multi-ethnic democracy. He distinguishes that form of a state from a 'hegemonistic' state and a state with a 'national identity'. A hegemonistic state is described as one in which one of the ethnic groups, whether by reason of superior numbers, or economic power, or colour, or historical circumstances, assumes a dominant role within the society, using the state apparatus and its resources to consolidate and perpetuate its dominance. 'National identity', on the other hand, denotes a consciousness, or a sense of identity, "transcending the ethnic identities that comprise a multi-cultural formation." (p.32) The so called 'melting-pot' theory falls into this model.

The recommended model, that of a multi-ethnic state, is one in which there is an absence of dominance by a constituent ethnic group. Also, the melting-pot concept does not hold sway in such a state--each ethnic group preserves its identity and exists harmoniously respecting each group's rights and identity. Switzerland is offered as an example of a multi-ethnic state.

Describing the current Sri Lankan state as a hegemonistic one dominated by Sinhala-Buddhist interests, Jayaweera concludes that the establishment of a multi-ethnic state within a democratic framework is the best means of survival as a nation. There is at

present, he points out, a greater degree of preparedness in many quarters to shed hard-line positions and compromise; in other words, there exists a growing consciousness that a multi-ethnic society is the viable solution to the 'ethnic crisis'. That fragile potential should be tapped by the government and responsible segments of society to lay the foundation for a multi-ethnic democratic state. He urges the building of institutions and sensitizing the masses to make such a state a reality.

The tragic and painful experiences of the past decade have certainly compelled, if not convinced, some sections of the Sri Lankan polity that the best way to proceed is through the promotion of tolerance and respect among the various ethnic groups and the necessity for peaceful co-existence within a unitary state. Some gave expression to those sentiments by supporting meaningful devolution of power to the provinces. Since the writing of the PRIO report, however, talks between the LTTE and the government have broken down and both parties are engaged in fierce fighting. Certainly it will be a herculean task to bring the LTTE back to the negotiating table. Even if that were possible, the question arises as to whether the LTTE represents the true aspirations of the Tamil people any longer. The Jaffna University Teachers' Report points to the contrary. It, in fact, expresses the crucial need for the emergence of a democratic Tamil leadership.

CONCLUSION

Whatever means and modalities are employed to peacefully solve the 'ethnic crisis' and also improve the human rights situation in the country, all attempts will come to nought unless there is a genuine commitment on the part of the government as well as society as a whole to do the needful.

A survey of the human rights situation in the country leaves one with the uneasy impression that there is a great degree of emphasis on form rather than substance. In other words, as the AG pointed out to the UN Committee, Sri Lanka can boast of an array of laws and institutional mechanisms adopted to protect human rights. But have we shown an actual commitment, a genuine desire, to promote a political culture with ingrained liberal values wherein one could peacefully agree to disagree and solve problems in a civilized manner without coming to blows? This dichotomy is a fact of daily life in Sri Lanka.

Protection of human rights and peace are inextricably interwoven. If things are to change, as they must, all must make a concerted effort to peacefully bring about that change. The state must, of course, prove its *bona fides* by not merely enacting better laws and creating new institutions, but also by instilling a strict sense of discipline among state officials including armed forces personnel and punishing those guilty of violations. On the part of the public, perhaps due to the cathartic experiences of the recent past, there seems to be a growing consciousness about the value of human

rights and the need for effective vindication of those rights. That consciousness has to be transformed into vigilance by a well-informed public. It also must translate into greater tolerance and respect for others' rights. Sustaining democracy is hard work; but it's worth it.

A LETTER FROM BHAKTAPUR

by Dr. Neelan Tiruchelvam

Bhaktapur, Lalitpur and Kathmandu are the three districts in Kathmandu Valley, corresponding to the three Medieval Kingdoms which preserved their distinct character before the unification of Nepal by Gorkha invaders in 1768. The district of Bhaktapur covered an area of about 119 square miles with a population of 159,000. It had a relatively high male literacy, about 46%, and a female literacy of about 18%. There were 2 constituencies, 99 polling booths, and a total electorate of 103,683 persons. The district is dominated by the Newari people who constitute about 55% of the population, while the Brahmins and Chhetris constitute about 27% of the population. The Newaris have a Tibeto-Burmese linguistic and ethnic heritage, while their neighbouring people are of Indo-Aryan stock.



The medieval town of Bhaktapur is the centre piece of the district, preserving its district character and identity

as one of highly preserved capitals of the Malla Kingdoms. The town is said to have been designed in the 8th century, and between 14th and 16th centuries became the capital of the entire Kathmandu valley. The 'city of devotees' inhabited by about 50,000 people is a showpiece of medieval Newari town life. Some have described the experience as analogous to going back on a time machine. Gioranni Schibler has pointed out that "Newar town planning with its many typical features must be described as the single great cultural achievement of the people". Bhaktapur is an intricate network of about 24 interlocking squares linked together by alleys and bazaar areas neatly paved with stones and bricks. The multi-tiered residential buildings embody intricate wooden carvings and adornments and are linked to public areas imaginatively providing space for recreational and cultural activities. Bhaktapur is a symbol of Newari architectural and artistic excellence. Towering over the entire area is Nepal's tallest temple (Nyatapola Temple) dedicated to a mysterious Tantric deity Siddhi Lakshmi. The temple consists of carved wooden columns supported by five symmetrical roofs, and a central staircase flanked by ten stone guardians. From the golden gate in Durbar square, the public areas in the town are embellished by stone statues of Dhurga and Bairava bronze replicas of the Malla kings and their consorts, and innumerable works of skilled craftsmanship particularly in the ritual courtyards. Bhaktapur was before the unification of Nepal a compact urban community supported by highly productive agricultural settlements. Scholars have pointed out that the Newari reached high levels of agricultural production by combining excellent irrigation techniques with traditional methods of soil fertilization.

The three candidates we met on the day prior to the elections were representative of the three major political formations in the district. Mr. Narayan Man Bijuache is the founder of the Mazda Kissan Party, which was the most influential left group in the Bhaktapur district. We located the party office in one of the smaller squares in Bhaktapur surrounded by a row of shops and boutiques. We climbed three floors up a creaky wooden staircase, and were ushered into a balcony overlooking the square. It was the national headquarters of the Madhi Kissan Party, and consisted of a wooden table, with a telephone placed in a red wooden box. Party volunteers rushed around the room, and a hurried telephone call was placed, Rohit located and advised of the arrival of the international observer group. Ambassador Bhatt whispered to us that Rohit was a legendary figure who commanded enormous personal influence, due to his long period of identification with the cause of the peasantry. Behind the wooden table, there was a row of books. I checked out the titles and they were almost entirely the works of Mao Tse Tung. The other party functionaries made polite conversation. A photographer who had accompanied us circulated copies of colour photographs that he had taken of a previous visit by a Japanese delegation. Rohit arrived in a few minutes. He had a commanding presence, but spoke softly and coherently. He had been a political activist and been in the forefront of the peasant movement. From 1964-66, he was engaged in the

agitation against the agrarian tax system and was jailed for two years in 1966. He attempted to reactivate the peasant struggle and was compelled to go underground in 1980. He lived in exile in India for about 5 years. He had visited China on one occasion. Years of struggle had not scarred him, and there was no trace of anger or bitterness in him. His political party was committed to the application of Marxist-Leninist analysis and Maoist thought to the socio-economic conditions of Nepal.

The principal left group was the Nepal Communist Party (United Marxist-Leninist). NCP (UML) was a left adventurist group which only recently recognized the value of a Parliamentary approach. Although there was no joint left front on the basis of a seat adjustment, there was a possibility of cooperation between the left parties in the event of the left being able to form a government.

The decline of socialism in Eastern Europe had no bearing on the historical conditions of Nepal. Communism in Eastern Europe emerged in the aftermath of the second world war as a reaction to Nazism. The conditions in Nepal were different. The party did not believe in the blind application of doctrinaire ideology. Mr. Rohit had a particular interest in the problems of the peasantry in Bhaktapur. The laws relating to tenurial rights and succession consolidated the arbitrary control of land owners over the peasantry. He was particularly concerned about the predicament of Newari people whom he said suffered deprivation due to inadequate housing, overcrowding, insanitary conditions, and poor medical facilities. He felt that Bhaktapur was an area which is socially and economically backward relative to Lalitpur and Khatmandu. Since integration, the whole district has become neglected and even the language and culture of the Newari people received very little encouragement. Despite this poverty, there had been strong peasant organizations in Bhaktapur, and the people were politicized and were in the forefront of the struggle against the Panchayat party system in 1990. During the pro-democracy movement, Bhaktapur had been one of the focal points of clashes between the Panchayat supporters who had constituted themselves into a 'Peoples Movement Suppression Committee'. On the second day of the movement, the committees had endeavoured to compel shopkeepers to keep their shops open. There were clashes between the Panchayats and the reformists and the police fired at the demonstrators killing four persons, and apprehending several more persons. The corpses were not handed over to the relatives of the deceased. Mr. Rohit expressed serious apprehension that restoration of democracy would result in the resurgence of ethnic animosities. He particularly felt that in the Tehrai region, the problems of the peasants were being given a communal orientation since the leadership of the Tehrai political parties were largely land owners.

Mr. Jaganath Acharya was a 62 year old Brahmin landowner who lived in the rural outskirts of the Bhaktapur district. He had a pleasant engaging manner

and was an old style Nepali Congress liberal who had successively contested the entire District of Bhaktapur during the last elections held in 1959. He had been arrested several times during the past three decades, and complained that his political pursuits had led him to neglect his agricultural lands. It was clear that Mr. Acharya had an easy rapport with his constituency and would draw on the traditional support base of the Nepali Congress. He was polite but seemed disinterested in a serious discourse on the nature of electoral politics or of the agrarian problems in Bhaktapur. He had no real apprehensions about the electoral process or about his own prospects. 'People were politically conscious and not even money could sway their thinking', he added.

The candidate of the National Democratic Party (Thapa) was Ganesh Bahadur Kathri, who is 55 years old, and had been for several years a prominent figure under the Panchayat system. He looked harassed, unshaven, and was defiant in his criticism of the interim government. He felt that there would be no free and fair elections in Bhaktapur for three important reasons. Firstly, there had been a multiple registration of voters in the electoral register so that out of 50,000 voters in constituency No.2 at least 10,000 were bogus voters. Indelible ink could be easily erased, and the Nepali Congress had equipped itself to do so. Secondly, he felt that neither the interim administration nor the district officials were conducting the elections in a fair and impartial manner. Even the coalition partners of the Nepali Congress were complaining that state controlled electronic media has been appropriated to propagate the viewpoint of the Nepali Congress. The law and order machinery has been utilized to harass his supporters. In an incident between the Nepali Congress and Thapa Group, it was his supporters who were arrested. The Panchayat culture continued to persist. In that district officials received instructions on the telephone from party leaders and conducted themselves in a partisan manner against his party. The third reason was that the limit on electoral expenditures imposed by the electoral laws, (Rs.75,000/-) was unrealistic, and was flouted by the Nepali Congress. He felt that his opponents were spending ten times more than the maximum envisaged by the election laws.

THE DEVELOPMENT OF POLITICAL CULTURE IN SRI LANKA 1931 - 1991

by Dr. Jane Russell

PART II

I will now move on from the strictly material to the more spiritual plane and look at religion. In 1931 there was no state religion as such in Ceylon. The Anglican church had been disestablished in the 1870's I believe, (please correct me if I'm wrong). Its establishment in the first place had been a patent absurdity, the pandering by the Colonial Office to the missionary lobby, and it should be noted that the time when

Anglicanism was being made the official religion of Ceylon, George Turnour, the British A.G.A. in Ratnapura, was undertaking the translation of the Mahawansa, thereby ensuring the literary survival of the greatest Theravada Buddhist document extant. Thus one committed individual may repair the injustice of an entire bureaucracy,

The situation in 1931 therefore was administratively-speaking a religious free-for-all. The Buddhist clergy, in the shape of Mohottivatte Gunananda had taken the Catholic clergy head-on in the 'Panadura Debate' and generally speaking, had come away with all the laurels. Olcott and the Theosophists had come and gone, having successfully propagated the doctrine of the Buddhist lay school, and leaving behind them the Buddhist flag, Bhakthi Gee and the concept of Buddhist lay organizations as their legacies. They also left their spiritual heir in Anagarika Dharmapala, who was still an influential figure in 1931. So Buddhism was 'on the up and up' in 1931 but it would face a powerful adversary in the Catholic church on the way to its goal of being re-established as the state-aided, 'national' religion, a goal finally reached in 1972. However, it would require the politicisation of a segment of the Sangha to regain its lost establishment status, which would in its turn lead to Buddhism losing some of its supra-mundane qualities and aura.

In 1991, there is a Ministry of Buddha Sasana, an unthinkable idea in 1931, and it may be that with the setting up of this Ministry, the full circle has been run and the Sangha can retire into its earlier role of educationalist and exemplar and look to itself and its Vinaya. For it must have been noted that the recent political assassination of publicly-esteemed members of the Sangha by young-Sinhalese is the end result of a trend that has its roots in the entry of monks into the political arena.

I shall leave the explosive topic of language until the end of discussion and meanwhile talk of less controversial things: of cabbages rather than kings.

Diet, and in particular vegetarianism or shades of it, is what concerns me here and now. And I must say at the outset that I have no statistics whatsoever to back up what I'm going to say and if anyone here has any data on this topic, I should be very grateful to know about it. Suffice to say that my impression is that there were more pure vegetarians, in percentage terms, in Ceylon in 1931 than in Sri Lanka today. It would be interesting to know how far the 'lesser evils' in the flesh-eating lowerarchy, that is the consumption of fish (dried, tinned and fresh) as well as chicken and eggs, have penetrated into the diet of the population, especially the village populace. Are terrorists, for example, vegetarians? Or are they fishtarians? Or do they tuck heartily into a pork curry or a beefsteak before an ambush? What are military personnel fed on?

But if I am right in surmising that more flesh is consumed in Sri Lanka in 1991 than in 1931, the planting raj notwithstanding, what impact has this had

on the population? Are they growing more muscular, larger-framed, more aggressive, less spiritual? That this is a more than moot point might be gathered from the recent debate stirred up by the request of the Mahanayakes that all inland fisheries projects be phased out. Of course, in 1991 the kind of processed food available, such as hamburgers, sausages, tinned fish and so on, can cause even the nauseous-minded vegetarian to think twice about taking to the eating of flesh, just as the earlier-persecuted vegetarian in the west can now benefit from the soya revolution. In Sri Lanka, transport and distribution systems have also been improved to the point where even isolated villages can have their iced cookies and Jack mackerel tins: And advertising, not just of the products themselves, but also of the lifestyles that promote these products, reaches into the deepest hinterland via newspapers, radio and TV.

So the question that this "marketing revolution" poses is: have western mores made significant inroads into Buddhist, Hindu and Muslim dietary habits? Have they ridden roughshod over taboos? I am a great believer in the dictum that "you are what you eat". Richard Burton, the English Arabist and explorer of the White Nile, observed "By a man's diet, you may learn his nationality....".

Certainly, the attachment of the average Sri Lankan to plain jak, milk-rice and the staples unique to Sri Lankan cuisine such as string-hoppers, egg and plain hoppers and pittu and the abundant use of coconut in the food, both as gravy and relish, seems stronger, especially among the urban middle-class, than it was in 1931. Then it would have been considered the depths of slovenliness for any self-respecting member of the English-educated class to eat without a knife or spoon and fork. But the use of these implements not only makes eating the local cuisine physically difficult, it necessarily sets up cultural alienation.

In most English-educated households in 1931, at least one meal per day consisted of the Anglo-Dutch regimen of soup followed by fish or meat courses and a dessert - the kind of menu you can still find in the traditional government Resthouse. Whether this is the case among today's middle-class or even the upper middle-class, is questionable. The fact there is a very successful Sinhala pop-song called "Lunu Dehi", another unthinkable idea 1931, adds generally to the impression that the traditional Sinhala diet has made a distinctive comeback in the past few decades.

Please do not think this is a frivolous question - something I have thrown into the middle of the lecture for light relief or to see if you're still awake; with the growth of the ecology movement world-wide, the style of nations' diets will become more and more a matter of political concern. It is, for example, a sobering thought that one American beef-bull eats up far more of the world's resources than a vegetarian Hindu person in India. It may be that the western world will have to learn new dietary habits and agricultural practices from the traditional societies of Asia, Africa and the

Americas, if human society as we know it is to continue. Let us hope that those societies will not have lost contact with their traditions by the time they come to be fully appreciated.

And while we are on the subject of sobering thoughts, what about alcohol and other narcotics like cigarettes, beedis or betel?

1931 marked the height of the Temperance movement in Ceylon: this movement, which had grafted a Buddhist rubric about forbearance from intoxication onto a Salvation Army style organization and campaign, met with great success for a period of about twenty-five years. Mass meetings with revivalist-style speakers were organized in large villages and small towns all over the island and thousands, particularly of young people, 'took the pledge'. It was only the fact that the toddy-tapping (and drinking) population escaped relatively unscathed from the scourge of the 1934 malaria outbreak that killed off the movement, as it once and for all proved the efficacy of drinking the Vitamin-A enriched toddy.

In 1991, alcoholism is rampant. Despite massive taxation, tightish police and excise controls and heavy fines on illicit brewers and dealers, the bootleg liquor industry is booming. The legal liquor trade is also doing good business, as a look at the profits of any of the Sri Lanka distilleries or breweries would reveal. But where kasippu is concerned, it is virtually a 24 hour business, catering for all from the toddler to the dodderer. When allied to the spreading heroin culture, which (having started in the slummier back-lanes of Slave Island, Panchikawatte and the Pettah) has engulfed the suburban college student population and is now being carried, like a virus, by released IRC's to the villages, we have a medico-cultural plague of the epidemic proportions unknown since the last great malaria outbreak referred to earlier. The irony resides in the fact that Nature's disease has been replaced by ones invented by man.

But here again, we have pinpointed a significant, if not to say, grave difference between the political culture of 1931 and its counterpart of 1991. And it is, above all, one that must add to the general level of aggression, misery and frustration within the society, from top to bottom. And it is one which would also ex-acerbate whatever tendencies to corruption exist already within the political system, as even a superficial analysis of the political cultures of Colombia, Sicily and the inner cities of the West would suggest.

But why should such a marked change in alcoholic and other narcotic consumption have taken place in these last six decades? Certainly, the tension arising from the pressure on the economy by an exploding population would be one explanation. But I should also link it to the fact that Buddhist and Hindu spiritual leaders have lost contact with and influence over their adherents in the matter of alcoholic consumption and the use of stimulants and narcotics generally. These clergy are now faced with the task of finding new ways to convince

their followers of the benefits of moderation: possibly by encouraging spiritual outlets, firewalking for example, for the release of tensions and frustrations which accumulate more rapidly in time-conscious modern society.

Societies, like China in the 19th century and inner cities of the West today, where a significant proportion of the population come under the sway of narcotics or stimulants, show a tendency to fall into disarray, to lose their vitality and drive and finally to become victims either of external predators or puritanical revolutionaries arising from within. In this regard, it is significant that the JVP should have attacked kasippu dealers and closed arrack taverns and cigarette distributors as part of their 1989 campaign to purify village political culture.

Our final word on this subject: the temperance movement is played out in Sri Lanka as a political phenomenon but there remains a certain reluctance within the culture to accept drinking alcohol as "respectable". It is still considered impolite for a villager to drink liquor openly: he turns away to down his 'shot', and it has reached levels of palpable hypocrisy in public life such that the public figure will wrap his whiskey glass in a handkerchief to disguise the colour of the liquid inside at diplomatic cocktail parties. Whether the taboo against imbibing alcohol in public will go the way of cigarette smoking, which for men at least seems to have become an acceptable social pastime in 1991 Sri Lanka, remains to be seen.

I will deal with one other purely socio-cultural matter, before going on to discuss (albeit briefly) the question of language, and that is dress.

In 1931, the suit, worsted and worn with waistcoat, shirt with winged or button-down collar, necktie and pin, watch and chain, braces, socks in silk or wool held up by suspenders and finally leather spats or boots was considered 'de rigueur' for public figures in Sri Lanka. To those of you who are accustomed to seeing S.W.R.D. Bandaranaike in 'Arya Sinhala Anduma', I would recommend looking at photos of him as a young man, in the late 1920's and 30's, when he was one of the most fashionably dressed men-about-town. (In passing, it should be noted that there was a deviation among the Jaffnese or Colombo Tamil 'politicos' who sported a long Indian style jacket with trousers and silk turban and shawl and of course Anagarika Dharmapala, who had his own, unique style of dress - a romantic-looking wraparound cloth that suggested a Buddhist robe).

Obviously, the sartorial gap between the be-suited elite (or the be-shorted and knee-socked equivalent in the up-country) and the great mass of Ceylonese males in their Indian cotton sarongs and banians or vertis and shawls was almost un-bridgeable. The adoption of so-called 'national dress', the white sarong and long cotton Indian-style shirt worn with sandals, a type of dress most readily associated with the Gurunnanse or village schoolmaster, was an attempt by the elite, or rather certain members of the political vanguard within it, to

bridge this gap.

It is however odd, as pointed out by Michael Roberts, that the adoption of a simpler, more village-style of dress should have been accompanied by the disappearance of the 'konde' or top-knot, the time-hallowed tradition in men's hair dressing. It would seem to suggest that the national dress movement was in actuality an artifice, imposed on the culture from above rather than springing from the cultural roots. And so it was. Basically, it was copied from Gandhi's 'khaddar and chakra' campaign by which Gandhi hoped to unite the masses with leadership of the Indian National Congress in the 1920's and 30's. Although this seemed a very successful tactic at that time (Tagore was one of the few Indians to find the whole campaign absurd), it is questionable whether Gandhi's vision of a nation of self-supporting village republics was suited to the Sri Lankan context.

However, as a symbol of solidarity between the elite and the villager, the national dress movement gained many adherents from its early beginnings in the 1930's, culminating in a wholesale adoption of the all-white dress by large sections of the educated populace in 1956. (Indeed, it is still popular today among the more elderly section of the political elite - those for whom the '56 revolution remains a potent memory.) Meanwhile, among the villagers, the 'konde' was being hounded onto the barber saloon floor as a symbol of an unacceptably outdated tradition, ironically enough, just as the hippies of the 'spoilt west' were introducing long hair as the fashion for young men.

In terms of the purely autochthonous, the only form of dress which truly tried to bridge the gap between the elite and the mass (or urban and village) cultures was the mixture of Mudaliyar's coat with silver buttons; sarong worn over a pair of trouser bottoms, suspended from below the knee, which peeped out beneath the hem of the sarong and either boots or sandals, the entire 'kit' being topped by a sizeable 'konde' held in place by a prominent tortoiseshell comb. It is a sign of the urban elite's alienation from village culture that this mode of dress became the butt of jokes in the very popular 'Singlish' comedies enacted in Colombo and other towns in the sixties and seventies, comedies in which E.C.B. Wijesinghe so excelled as a comic actor.

Finally, we come to language, the thorniest topic in the range of political cultural characteristics which I shall look at this evening.

There are three languages operating widely in Sri Lanka in 1991, as there were in 1931; Sinhala, Tamil and English. The question of language, then as now, was tied up with key areas of administration; first, education; second, the courts and third, the general day-to-day administration. In 1931, English was the official language but all three languages were used in these three key areas. It was more a matter of emphasis than anything else. For example, anyone attending a court case in Ceylon in 1931, and there is an excellent one described by Leonard Woolf in "Village in the

Jungle", would have found that the defendant or plaintiff was asked questions in his vernacular tongue, the answers to which were translated into English by the court interpreter for the benefit of the judge and other members of the court. Lawyers made their submissions in English and the important proceedings went along in that language, the final result or judgement being conveyed in translation to the defendant or plaintiff by the interpreter.

I would aver that though the situation has improved for the non-English speaker in the courts of 1991, it has not changed very markedly. For whatever reason – the difficulty of rendering English and Roman-Dutch legal terminology in the vernaculars or the intransigence of the legal profession in safe-guarding their privileges – in terms of the courts, the '56 revolution has yet to make its full impact.

In education, however, this is not the case. The changes there have been dramatic. All subjects, even English, are now taught through the two vernaculars up to university level in all schools in the state system. But in 1931, there were many schools, indeed the majority of schools, which taught subjects in the vernaculars up to the school-leaving age, which was either 12 or 14 in 1931, I'm not sure which. These vernacular schools served as 'feeders' for the brightest students to gain admission to the English-medium state schools like Royal College, Colombo. Besides the English-medium state schools, there were private or semi-private schools in the English-medium, some charging very low fees as they were effectively subsidized by the church or temple. These schools, such as Wesley, St. Patrick's, Ananda, Trinity, Kingswood, Dharmaraja, Jaffna College, St. Joseph's etc. also took in large numbers of scholarship students from the vernacular schools.

The University College, which was set up soon after the first world war, prepared its small complement of students for the University of London exams in the English medium. Professor Marrs, who was the British Principal of University College in 1931 and after whom Marrs Hall at Peradeniya University is named, made a speech at the 1937 Convocation from which I should like to give you a quotation;

"Some critics would mark down a reform in the medium of instruction as the chief need of the present situation. If a person should be educated at all stages through the medium of his own language, the solution of the problem in Ceylon would have to be a completely different system of education in the Sinhalese and Tamil areas respectively. There would still remain the problem of mutual intelligibility between the two communities, and English would remain the medium of communication with the outside world. The situation seems to drive Ceylon politically into bilingualism or trilingualism, and one may safely prophesy that the medium of instruction in the Ceylon University and the politically unifying influence among the educated classes will continue to be

English".

The political situation prevailing in 1991 appears to have vindicated Marr's prophecy. Not that bilingualism or tri-lingualism in education, if not the administration generally, isn't possible or desirable. On the contrary, a glance at the Swiss and Canadian federal systems would suggest that multilingualism is a perfectly viable option. And in terms of broadening educational horizons and fostering an acceptance of the "global village" concept, multilingualism is eminently to be desired. But it costs a great deal of money, time and effort to bring effective multilingualism into operation and the decision-makers in Ceylon/Sri Lanka over the past six decades have not had the surplus time or money to consider it as the 'soft' option. It has therefore remained the difficult option and while it has been paid great lip-service, it has in fact been pushed down the scale of priorities, behind economic and social development and more recently, considerations of security. Instead, Sri Lanka has been forced back into taking the route mapped out by the rather smug Marrs of using English as the medium of intelligibility (the so-called 'link' language) between the Sinhala and Tamil-speaking communities, as well as the medium of a communication with the outside world.

Thus in 1991, we find a profusion of English tutorials all over the island providing crash courses in pidgin English. Moreover, there are copies for sale in every wayside kiosk of the "Follow Me" guide to the D.I.Y. English course being conducted over TV and radio by TEFL experts sent from England under the inspiration of the English Principal of a private and exclusive English-medium school catering for the children of expatriates and very rich Sri Lankans. From the 'Sinhala Only' shibboleth, which was first heard in the State Council in the early thirties, we seem to have come the full-circle – at least where education is concerned.

However, this is not the end of the story; the security considerations mentioned earlier have become extremely significant in the past five or six years, in terms both of money spent and blood spilt. As exemplified by the terms of the Indo-Lankan Accord of 1987 and its accompanying documents, trilingualism has ceased to be an option. It is now a necessity, if Sri Lanka is to retain its territorial integrity and sovereignty.

It is on this prophetic note that I shall end my lecture this evening. I would be the first to admit that I have hardly begun to evolve a comprehensive analysis of Sri Lanka's political culture in the 20th century but, to use an ecological image, I have started to recognize the shape of the forest from the general conglomeration of trees that make it up.

Meanwhile, I should like to thank you very much for accompanying me on this investigation and the Bandaranaiké Centre for International Studies for offering me the opportunity to air my ideas.

PRINTED AT THE L. & S.T.

