

REFERENCE
ONLY
LIBRARY
LST

LST REVIEW

Volume 9 Issue 132 October 1998



0131

ECONOMIC, SOCIAL & CULTURAL RIGHTS

ECONOMIC, SOCIAL & CULTURAL RIGHTS	
<i>FIAN INTERNATIONAL</i>	1
<hr/>	
NORTHERN IRELAND AND THE QUEST FOR PEACE	
<i>PROFESSOR PHIL THOMAS</i>	37
<hr/>	
DISCUSSION PAPER ON SELF HARM AMONGST THE YOUTH POPULATION	
<i>CHRISTOPHER FELSTEAD</i>	41
<hr/>	

LAW & SOCIETY TRUST

LST REVIEW

*(This is a continuation of the
Law & Society Trust Fortnightly Review)*

EDITOR

Dr Sumudu Atapattu

Law & Society Trust

3 Kynsey Terrace

Colombo 8 Sri Lanka

Tel: 94 1 691228/684845

Fax: 94 1 686843

e-mail: lst@slt.lk

Editor's note.....

In this issue we publish the report submitted by FIAN International of Germany on Economic, Social and Cultural Rights in Sri Lanka to the Committee on Economic, Social and Cultural Rights. In its report, submitted as parallel report to the country report of Sri Lanka, FIAN International looks at areas such as general nutritional status and the right to food; the impact of economic adjustment policies and income distribution; the plantation workers' right to an adequate standard of living; the right to food and housing in the war-torn Northeast; and the right to health. The research for the report has been conducted by a FIAN delegation to Sri Lanka in 1996. The Sri Lankan government should take a serious look at the data given in this report and take immediate measures with regard to the gloomy picture painted by FIAN International.

We also publish an article by Professor Phil Thomas of Cardiff University on the circumstances surrounding the recently enacted Terrorism and Conspiracy Act of UK. He discusses the salient features of the Act and questions why Tony Blair's government acted in such haste in adopting this statute.

Law & Society Trust organised a workshop on youth suicide in September and we publish here a summary of the proceedings of the workshop compiled by Christopher Felstead, intern of the Trust.



Reference: Sri Lanka's Initial Report (Art. 1-15) to the Committee on Economic, Social and Cultural Rights (E/1990/5/Add.32)

**Economic, Social and Cultural Rights
in Sri Lanka**

**Parallel report to the initial report of Sri Lanka
concerning Economic, Social and Cultural Rights
enshrined in the International Covenant on Economic,
Social and Cultural Rights**

Submitted at the occasion of the 18th session of the Committee on Economic, Social and Cultural Rights (27 April - 17 May 1998) by FIAN International, an NGO with consultative status with ECOSOC, working for the Human Right to Feed Oneself.

**Parallel information to the initial report of Sri Lanka
concerning Economic, Social and Cultural Rights
as enshrined in the International Covenant on Economic,
Social and Cultural Rights***

Introduction

This additional information to be submitted to the Committee on Economic, Social and Cultural Rights at the occasion of its 17th session leads up to a number of questions to be discussed with the Sri Lankan government at the 18th session in order to address some of what FIAN considers the most pressing areas of violation of the right to food and other economic, social and cultural rights in the country:

One focal point is the situation in the war-torn areas of Northern and Eastern Sri Lanka where food is used as a weapon against the Tamil population and even the Tamil refugees. Another point of concern is the situation of the Sri Lankan peasantry vis-a-vis deregulation and liberalisation. One of the most deprived rural groups is the plantation Tamils in the central part of Sri Lanka, who will provide another focal point for this parallel report.

This parallel information starts with some of the more critical data on the nutritional status in the country.

- I. General nutritional status and the right to food**
- II. Impact of economic adjustment policies and income distribution**
- III. The right to feed oneself**
- IV. The plantation workers' right to an adequate standard of living**
- V. The right to food and housing in the war-torn Northeast**
- VI. Right to health**

* FIAN International Secretariat, Heidelberg, Germany, April 1998.

VII. Additional Protocol to the Geneva Conventions of 12 August 1949, relating to the protection of victims of non-international armed conflicts (Protocol II)

This supplementary information is based on research conducted by a FIAN delegation to Sri Lanka in December 1996. In section I it makes use of data and assessments provided in the report "Sri Lanka: State of Human Rights 1993," published by the Law & Society Trust in Colombo.

I. General nutritional status and the right to food

(A) General data on malnutrition:

In Sri Lanka, the concept of poverty line is based on nutritional adequacy. The relevant poverty data provide, therefore, figures for the proportion of the population not receiving the minimum required nutritional level. These measurements are based on the analysis of Consumer Finance Survey data produced by the Central Bank (1953, 1963, 1973, 1978/79, 1981/82 and 1986/1987) and the Labour Force and Socio-Economic Survey conducted by the Department of Census and Statistics (1969/70, 1980/81, 1985/86). Surveys carried out after 1990 did not cover Northern and Eastern Provinces and there are certain problems about using 1986/87 data.

Available studies give a range of figures for the percentage of the population deprived of adequate nutritional standards. The data heavily depend on the methods used. Here are two (somewhat extreme) time series on the percentage of the population not receiving the minimum nutritional level:

- (a) Khan (1989): 11.8 (78/79), 39.2 (80/81), 12.2 (81/82), 28.6 (85/86)
- (b) Nanayakkara & Premaratne (1989): 57.3 (80/81), 44.7 (85/86)

The methodology that has expenditure data has yielded the lowest figure for the proportion of people not getting nutrition, use of income data gives a slightly higher proportion, and direct measurements of consumption patterns gives the highest figures. These figures vary from a low of 11.8% to a high of 57.3 per cent. If studies that use considerably higher minimum caloric levels are ignored, the data roughly shows that approximately one fourth of

the Sri Lankan population does not get an income sufficient to secure a minimum nutritional level.

(B) Regional Differences

A 1991 UNICEF study mentioned below pointed out the regional differences with regard to nutrition adequacy. Districts were classified as follows according to nutritional status:

Table 1: Districts classification according to nutritional status

Districts very bad	Districts bad	Districts not so bad
Trincomalee	Moneragala	Jaffna
Batticaloa	Hambantota	Mullaitivu
Amparai	Matara	Mannar
Badulla	Galle	Vavuniya
Nuwara-Eliya	Ratnapura	Anuradhapura
Kandy	Kegalle	Polonnaruwa
Matale	Kurunegala	Gampaha
	Puttalam	Colombo
		Kalutara

(C) Malnutrition of women and children:

The most disturbing information on nutritional status has come from studies that have looked at problems of specific vulnerable groups. These studies were conducted towards the end of eighties and show severe malnutrition problems among pregnant mothers, leading to low birth weights of the children of these mothers. In the words of a UNICEF study:

A low birth-weight child faces an up-hill battle for life from its first birthday. It has arrived without adequate resistance to infections and in the vast majority of such instances, into an environment teeming with disease causing agents, where personal and environment hygiene are poor.

Following are some of the highlights of such studies reported in a special UNICEF report on the situation of Children and Women in Sri Lanka (UNICEF 1991):

- (1) An anaemic condition among 65% of the pregnant mothers surveyed in one study.
- (2) Low weight gained by pregnant mothers. A study conducted in Gampaha District (1988/89) of 127 pregnant mothers revealed a mean energy intake of only 2050 kcal per day compared with the WHO recommended intake of 2550 kcal. Considering also the poor quantitative and qualitative aspects of the diet and the poor health status of the majority of women prior to pregnancy, it came as no surprise that 22% of these mothers delivered low birth-weight babies (i.e. weighing less than 2,500g at birth).
- (3) 46% of these mothers who delivered low birth-weight babies registered a weight gain during pregnancy of less than 6 kilogrammes. (i.e. less than half the weight gain observed in developed countries).
- (4) Malnutrition among children below 5 has reached 60% island wide.¹
- (5) The rate of low birth weight babies has reached 28%,² making Sri Lanka the third worst among all countries. About a third of the children in the critical age group of 3-35 months are under-weight for their age.³
- (6) Monitoring of low birth-weight babies born in four hospitals showed the following figures:

¹ UNICEF 1995.

² World Development Report 1993.

³ Government of Sri Lanka, Demographic and Health Survey, 1993.

General Hospital Galle	24.3% of 506 babies born in January/February 1989
General Hospital Anuradhapura	28% of 454 babies born in June/August 1989
General Hospital Batticaloa	20.5% of 487 babies born in April/June 1989
General Hospital Badulla	25.2% of 441 babies born in October/December 1989

- (7) A nutritional status survey of primary school children of the Colombo District, from the age group of 7 to 10 years found that only less than 10% of both male and female children receive the "normal" nutrition. The survey was conducted in February 1988.

For obvious reasons these conditions affect the poorer sections of the population much more than the upper income groups. As stated in the UNICEF Report,⁴ in the current situation in Sri Lanka, where a large population subsists:

On low incomes and whose purchasing power is steadily declining, the entirety of the poor have become vulnerable. Indeed nutritional assessments indicate that they have been adversely affected. Such a situation places poor pregnant and lactating women, infants and pre-school children in especially vulnerable circumstances.

(D) Some critical observations on the state report

In the state report submitted by the Government of Sri Lanka under the Covenant it is admitted that according to a recent survey 50% of the families do not earn sufficient income to cover their full food requirement. This survey as evident from the Table 9 of the report was on the basis of survey in 16 of 24 districts. The 8 districts in the North and East are not included

⁴ Children and Women in Sri Lanka - A Situation Analysis, UNICEF, Colombo 1991.

in the survey. Apparently those areas are not part of any plans for improvements in nutritional standards or for the implementation of any such programmes.

The report further states that "an important reason for this situation is the emerging trend towards spending money on high cost processed food items advertised in the media instead of locally available low cost foods." The Government report is silent on the malnutrition in the war-torn districts in the North and East where nearly a million people have been displaced and live on a dry ration supplied by the state which does not include any items of food that would go to improve the nutritional standard. Independent surveys reveal that under-nourishment and malnutrition specially among expecting mothers and children is as much as 70 per cent. No doubt, one of the attempts of the government to meet this situation is the Triposha programme, a supplementary feeding programme with the support of CARE/USAID. Reports indicate that this programme has not been reaching the North and East for the past couple of years.

II. The impact of economic adjustment policies and income distribution:

(A) The impact on malnutrition

In the 1970s, Sri Lanka used to be a country with an extraordinary standard in the implementation of economic and social rights. In 1977, despite its low per capita income (comparable to Benin and Haiti) its index of per capita food production since 1970 was + 13% (Benin - 8%, Haiti - 4%),⁵ its life expectancy was 69 (Benin 46, Haiti 51), Adult Literacy was at 85% (Benin 25%, Haiti 23%).

1977 was the year when Sri Lanka ended its old agriculture policy, which was protecting national agriculture producers and followed the policy recommendations of the World Bank towards liberalisation. (The measures included a reduction in food subsidies, and a stricter targeting of the food programmes).

There is some debate in the country on the impact of the development politics followed at present on nutritional level. Available studies on the early period

⁵ World Development Report 1979.

of liberalised policies in Sri Lanka (i.e. up to the early 1980s) generally conclude that there has been a deterioration in the nutrition standards of the poorer section of the population.

On the rate of poverty increase, Sri Lanka ranks as No. 1 among 114 countries in 1992.⁶ The same study reveals that the percentage of rural population below the poverty line (head count ratio) had changed from 13% in 1965 to 46% by 1988, while numbers of absolute poor in rural areas changed from 1,163,000 in 1965 to 6,101,000 in 1988. It further confirms that the largest category of the poor in Asia are small holders and Sri Lanka is among the Asian countries with nearly two third rural population against the total. Over 60% of them are engaged in small holder agriculture.

UNICEF in a study published in 1985 concludes that:

the bottom 30% of the population has had an uninterrupted decline in calorie consumption since 1969/70. By 1981/82, the middle 20% achieved consumption levels close to those they had in 1969/70, after experiencing [a] decline in the interim period. The top 50% after an initial set back in 1973, improved their intake rapidly between 1978/79 and 1981/82 to levels far higher than they had in 1969/70.

Jayawardena L. et al⁷ came to a similar conclusion regarding the poorest section of the population, concluding that:

the analysis of data on calorie consumption reveals that: (1) the consumption levels declined for all expenditure categories immediately after 1978/79; (2) the decline continued into 1981/82 with lower 30 per cent bearing the brunt of the decline; (3) urban and estate households suffered a higher degree of deprivation; (4) the estate sector was the worst affected; and (5) the percentage of ultra poor (people who spent 80 percent or more on food, yet fulfil less than 80 percent of

⁶ "State of World Rural Poverty," UN International Fund for Agricultural Development - IFAD.

⁷ *Stabilisation and Adjustment Policies and Programmes: Sri Lanka*, WIDER; Helsinki 1987.

the average calories requirement) increased between 1978/79 and 1981/82.

However, a World Bank study which covered the period up to 1985/86 using expenditure indicates a slight improvement between 1981/82 and 1985/86. According to these estimates it is only the first and second decile who have a consumption level below 2200 calories even in 1981/82. Of these two deciles the position of the second improves from 1981/82 to 1985/86. Similarly, the approach adopted by the World Bank shows an improvement in categories defined as "nutritionally at risk" and "ultra-poor."

- Households consuming less than 2000 calories per day per adult equivalent and spending less than 80% of their total expenditure on food (nutritionally at risk: 1980/81: 24%, 1985/86: 22%).
- Ultra-poor (Households consuming less than 2000 calories per day per adult equivalent, but spending more than 80% of their total expenditure on food): 1980/81: 5%, 1985/86: 3 per cent.

(B) A growing gap between the rich and the poor

In contrast to the difficulty of reaching definite conclusions about absolute levels of nutrition it is quite clear that the disparity between different social groups has widened. This is confirmed regardless of whether the computing is done on the basis of income groups or expenditure groups.

This growing disparity is confirmed by data for income distribution given in different surveys. From this data:

It can clearly be seen that the income share of the lowest 40 per cent of income receivers declined from 15.1 per cent in 1973 to 12.1 per cent in 1978/79, to 11.8 per cent in 1981/82 and to 7.1 per cent in 1985/86. The income share of the highest decile on the other hand rose from 30 per cent to 39.1 per cent, to 41.7 per cent and to 49.3 per cent respectively. It should be noted that in 1985/86 the top 10 per cent of income receivers had an income share nearly seven times higher than the bottom 40 per cent of income receivers, while in 1973 it

was only double the amount. Furthermore, the share of income accruing to the bottom 40 per cent of spending units declined from 19.3 per cent in 1973 to 16.1 per cent in 1978/79 to 15.3 per cent in 1981/82 and to a still lower figure of 14.1 per cent in 1986/87.⁸

In discussing this data it should be remembered that post-1983 figures do not cover the North and East. If we take into account the destruction in these areas and their concomitant impact on people's income, the disparity will be even more significant.

The World Bank's Reports underline these observations with the following three time series on the percentage of income received by the different strata of Sri Lankan society:

Poorest 20%: 7.5% (1970), 5.8% (1980), 4.8% (1985)
Second 20%: 11.7% (1970), 10.1% (1980), 8.5% (1985)
Richest 10%: 28.3% (1970), 34.7% (1980), 43.0% (1985)

The growing disparity in incomes is also accompanied by a drop in the real income of the poorer sections of the population. Once again available data show that:

the first five deciles have faced a continuous decline in real income during the 1978/79 - 1986/87 period while the upper groups have had a substantial improvement of the real income during 1981/82 and 1986/87.⁹

According to income and expenditure data given in 1985/86 Labour Force and Socio-Economic Survey only just over 20% of households had a monthly income above Rs. 2,500. Data for the average monthly income also showed that almost a 40% of the monthly total goes to 11.3% of the households.

⁸ Saman Kelegama, "Distribution of Income and Ownership of Assets: Trends in Sri Lanka." Pravada, Vol. 2 No. 8, September/October 1993.

⁹ Ibid.

III. The Right to Feed Oneself

(A) Unemployment

Reliable unemployment figures are hard to come by. A study in 1987 which looked at unemployment figures concluded an unemployment figure of between 1.14 to 1.17 million of the work force, which amounted to 17.45% to 17.9 per cent.

Generally it is agreed that unemployment declined to around 10% in the early 1980s from a high of 25% in the 1970s. However, it rose to about 18% in the late 1980s. According to estimates of the Sri Lanka Labour Force Survey for the first quarter of 1991 the unemployment rate was 14.1% of the labour force which amounts to 0.8 million people out of work.

Sri Lanka's unemployment picture has consistently shown certain distinguishing characteristics. Geographically, unemployment is concentrated in the wet zone districts of Colombo, Gampaha, Kalutara, Kandy, Nuwara-Eliya, Galle, Matara, Ratnapura and Kegalle. Close to 70% of the unemployment is concentrated in these districts. Unemployment is a much more significant problem among the relatively younger age group, female unemployment rates are much higher than male unemployment rates and unemployment is higher among the educated.

The Labour Force Survey of 1985/86 shows that the female unemployment rate (20.8%) was double that of the male rate (10.8%).

According to the Sri Lanka Central Bank Report for the year 1996 (the latest report) the unemployment rate was as follows:

1992	-	13.3%
1993	-	13.8%
1994	-	12.1%
1995	-	12.0%
1996	-	11.6%

From these figures it might appear that unemployment has declined, but it has not, for the following reasons:

- (1) No survey of the unemployed has been done in the North and East of the country where unemployment had been caused by denial of access to arable lands and sea for fishing and the closure of industries due to lack of electricity and mass exodus to other parts of the country and to foreign countries as well. As of January 1998, in the North and East of the country 193,253 families consisting of 787,632 persons stand displaced and live on "Dry Rations" provided free of charge by the government.¹⁰

According to the same source 36,540 families continue to live in refugee camps.

- (2) About 300,000 Tamils are in foreign countries. In India alone, there are 60,000 Tamils in 32 refugee camps in Tamil Nadu and another 40,000 live on their own outside the camps.

No survey has been done to ascertain the exact number in other countries. In 1996, 162,511 persons left the country for employment in foreign countries.¹¹

Discrimination in providing employment

There is no legal bar on the employment in the state sector of any ethnic group. The Constitution of 1978 protects against discrimination on grounds of race or religion. However, in practice the minorities are discriminated. The "Sinhala Only Policy" of 1956 reduced the access of Tamil speakers to employment in the Public Sector. In 1949, Tamil recruitment to the General Clerical Service stood at 40.7 per cent. From 1979 to 1981 it fell to 5.4 per cent. Even after the change in the language policy brought about in 1987 by making Tamil a language of administration, the intake of Tamil speakers to the public sector has not increased. This is borne out by the admission by the government that it is unable to implement the Government language policy due to lack of personnel in the public sector who could work in Tamil. At the same time in the North and East of the country vacancies in government

¹⁰ Report of the Ministry of Rehabilitation and Re-Construction.

¹¹ Foreign Employment Bureau of Sri Lanka.

departments, government institutions and in schools were not filled up for the past several years. This has reduced the chances for Tamils to get employment even in the areas in which they reside.

Employment of minorities

Ethnic group	% of the population	% in state services	% in provincial services	% in semi-govt. services
Sri Lankan Tamil	12.7	5.9	7.1	8.2
Up country Tamil	5.5	0.1	0.2	0.5
Muslim	7.37	2.0	4.6	1.0

Source: Sri Lanka: a Bitter Harvest, Minority Rights Group International

(B) The Sri Lankan peasants between feudalism and liberalisation

Access to land as a productive resource

Well over 60% of the population of Sri Lanka depends on agriculture for their living. The Paddy Lands Act and the Agrarian Services Act had to a great extent protected the tenant cultivators from unfair evictions from the land they cultivated. However, these acts do not cover state lands. Under the policy of privatisation of government holdings several tea estates have been handed over to companies.

In the agricultural sphere which is the largest economic sphere providing work for 49% of the economically active population (1990, World Bank), the traders rely on purchase of products below the cost price. Many attempts by the state and other agencies to regulate price mechanism have not been resolute enough to be successes. Suicides among the peasantry are high. In fact, the suicide rate in the country ranks among the highest in the world. Recent published statistics showed 70,000 suicides from 1983 to 1997, a number higher than the accounted for deaths in ethnic warfare during the same period. Vast numbers of these suicides have taken place among the poorest. Those who have died in the ethnic war on both sides also, for most part, belong to poorest sections of society.

Much of the indifference of state authorities to the poor is related to the caste-based character of the society where "lower caste" by definition are the socially weak. The consciousness in Sri Lanka has been deeply influenced by the land distribution of the feudal society. The landless were dependent on the land owners, usually referred to as "Radalayas." Many Radalayas oppressed the peasants with impunity. The impunity of the upper caste and people who belonged to a higher status than those known as "Samanya Minissu" (ordinary people) is a disturbing sign of the state's failure to implement human rights without discrimination.

While legally no one is immune from prosecution, in reality, many are. Thus, medieval practices still continue in the practical application of laws. *Radalayas* treated "Samanya Minissu" with contempt and use of violence against such people was a common practice. A farmer from Tambuttegama, Anuradhapura summed up what human rights means to poor people in the country side:

When the officer-in-charge of the police station shoots our cow and takes it to a party at his home, my mother prepares chilies and sends it through my father to the police officer's house. This is the way my father tells the officer that he bears no grudge for the police officer killing his cow. If the officer feels that there is some ill-will my father may face other problems.¹²

The impact of liberalisation

The liberalisation of agriculture meant for the peasant to be confronted by imports with whom he was unable to compete on the market - one reason being that such imported food was highly subsidised in its country of origin and did not include the external ecological and social costs implied in its production. Moreover, in order to "compete" farmers were strongly encouraged to use capital intensive agricultural technologies. This policy further disadvantaged the peasants compared to the landlords and bigger farmers - and the lack of capital on the side of the peasants contributes to their

¹² This incident and some of the other circumstances mentioned were reported by Sasanka Perera from the University of Colombo in his "Articulating Human Rights in the Context of Buddhist Ethics in Sri Lanka" published by the HURIGHTS OSAKA FOCUS, (Sept. 1997).

indebtedness and ultimate ruin.

Indebtedness among the peasants has reached dangerous proportions. In 1996 a considerable number of cultivators in the Polonnaruwa District has committed suicide. The situation of indebtedness could be attributed to the following factors:

- (a) Particularly in Dry Zone agriculture the present production has become capital intensive although under-capitalisation is still a characteristic of paddy production. The transformation of the rural economy in the direction of capital intensive and export oriented agriculture has been one of the major factors.
- (b) Attending to a current estimation a minimum investment of about Rs. 35,000/= is needed to cultivate a 3 acre plot in the colonisation schemes. Farmers have no option but to obtain credits from a variety of sources to cover the cost.
- (c) Although there are loan schemes theoretically available many farmers are not eligible to obtain them due to prior defaulting. Secondly, Banks have initiated a programme of rescheduling agricultural loans whereby easy repayment is possible. Many farmers (probably lacking information) did not make use of it and Banks have started legal proceedings for recovery.
- (d) If a farmer becomes ineligible for Bank loans he resorts to private credit transactions by mortgaging his future harvest where the interest rates are as high as 20 per cent. Once the harvest is over, the first thing for the farmer is to settle the interest on the loan. The shop keepers and suppliers of inputs also take their share from the harvest. After settling all those debits, the producer is left with only a few bushels of paddy which is hardly sufficient for his family consumption for the next six months. Therefore, indebtedness goes on in a vicious circle.
- (e) The capital intensive production is linked to a number of consequences detrimental to the small farmers. Paddy production is a comprehensive exercise which compels the

farmer to come into contact with a number of agents - capital owners and suppliers of capital, banks, suppliers of chemical inputs, traders and bureaucrats, all of whom were extraneous to the life of the peasants.

- (f) The State's system of agricultural extension services has almost collapsed, particularly in the North and East. The farmers are without advice and guidance. A new class of representatives of international agri-business has now replaced the extension officers of the State. A farmer will now go to a trader in agro-chemicals to explain him his problem.
- (g) The instability of the farmers to get themselves out of the debt-trap is also due to the unavailability of other economic opportunities outside the paddy cultivation. The farmers depended on dairy farming to supplement their income. Now since the pasture lands and jungle areas necessary for grazing cattle are "no go zone" in the North and East for reasons of security, there is a decline in dairy farming.
- (h) At present the total monopoly of the rice market in the hands of a few big traders has led to unbelievable large price increases in rice (with over Rs. 23/= per Kg of rice) in spite of rice being allowed to be imported free of duty.

The prices of rice, vegetables and other food crop prices have increased to an unprecedented level in the country. Although these prices affect the consumers in the non-production areas, the vegetable and other food crop prices offered to the small farmer producers remain very low. In fact, during early months of 1996 the prices of potatoes and vegetables in the country regions and onions in Matale District and other production areas dropped so low that farmers had to leave their crops unharvested, leading to very heavy losses and indebtedness. The trend of rice and vegetable farmers committing suicide due to heavy debts has not yet been overcome.

As a measure of overcoming these high prices and shortages the government allowed in 1996 duty free importation of 5000 metric tons each of onions, chilies, and potatoes.

Sri Lanka has already agreed to join the South Asian Trade Area (SAPTA) which would mean that these already vulnerable groups of small producers would have to face a serious threat of cheap and subsidised imports from India and other countries in South Asia being dumped. The situation of monopoly control in trade is very unlikely to allow a lowering of these prices of imports to the local consumer.

These factors will accelerate the process of destruction of small farmer food production, which is likely to destroy the long term potential in Sri Lanka for sustainable food security.

The economic costs and the social or human development losses that Sri Lanka has incurred in the 20 years efforts to attract and strengthen foreign and local private sector investments have been tremendous.

Cases of violations of the right to adequate food

The Eppawala rock phosphate project

The Eppawala rock phosphate project is a joint venture between the following companies: Freeport Macmorran IMC/Agrico, a US-based mining company with 65% equity, Toxen Company from Japan with 10% equity and Lanka Phosphate Ltd., representing the Government of Sri Lanka with 10% (free equity). The project, based on government's agreement, provides for exploration and export of Phosphate rock from Sri Lanka. In the Eppawala area, where these deposits are located, thousands of families are living in a considerable number of villages for several hundred years. Located in the heart of Anurdhapura District in the North Central Province, the area has one of the longest histories of settlement with a long established irrigated agriculture. It also has places of archeological, cultural and religious value and is considered as one of the centres of Buddhist Civilisation.

The project is viewed with concern by environmentalists and people's organisations. Fears have been expressed that the agreement is unfavourable, destructive and will result in environmental disaster. There are concerns that excavations proposed will adversely affect the livelihood of over 12,000 families who live in those areas and depend for their livelihood on the land. The process of working on this joint venture was begun in December 1992 and these negotiations with the foreign partners were started in March 1994.

The people of the country, particularly those living in the area, whose lives and resources would be affected were not informed of this process. The non-inclusion of any of the representatives of the people of Eppawala and the people of the country whose interests are at stake is a total betrayal of the interest of the people. Not only the people have been excluded from the negotiations but also local scientists who had made alternative proposals. Despite repeated protests by the people in and around Eppawala and by many people's organisations, no attempt seems to have been made to make an independent assessment of the impact on the environment and on the livelihoods of the people of Eppawala area. Similar excavations in other countries, we have found, have led to the total and irreparable destruction of not only the natural environment and livelihoods in the immediate project area and larger surroundings but also of irrigation systems, agricultural infrastructures and places of archaeological, cultural and religious value. There is also enough evidence in many countries of the world which shows that foreign companies without any concern for these impacts and damage have caused much destruction and damage that were permanent.

Another vital question of national importance arises: whether Sri Lanka can afford to loose and deprive its future generation from an extremely valuable resource which would otherwise be for use for many generations to come. In Asia, the unprocessed rock phosphate is of increasing value since this it has tremendous potential as an essential requirement to improve the soil fertility of the highland's acidified land to improve food production. In Sri Lanka, where possibilities of further expansion of land area for lowland irrigated agriculture are fast diminishing, use of phosphate will be a necessity and Sri Lanka cannot afford to loose it.

The problem of the Fishermen

Nearly 2/3 of Sri Lanka's coastal areas fall within the Northern and Eastern Provinces and well over 30% of the population depend on fishing for their living. Since the eruption of the ethnic conflict the Government severely restricted fishing in the coastal areas in the North and East for reasons of security. No fishermen could fish in those waters without the permission of the security forces and this permission is seldom given. Since those who violate these government's orders and enter the waters are severely dealt with, and often shot at, the fisherfolk has abandoned fishing for the last seven years and lives on the meagre rations provided by the state.

The Samurdhi Programme

In Sri Lanka the poor who formed 19% of the population in 1977/78 has risen to 39.5% in 1987/88. It may be relevant to note that it is during this period that Sri Lanka opted for an open economy and vigorously implementing this option.

The Government having realised this state of affairs initiated the Samurdhi programme which replaces the earlier relief programmes such as Janasaviya, Free Food Stamps etc.

The word Samurdhi means prosperity. This programme has been initiated by the present Government that was elected to office in 1994. This programme had been sanctioned by an Act of Parliament.

This programme unlike the earlier programmes of poverty elimination has several components - relief, and participation in development programmes. As relief assistance allowances of Rs. 1,000/-; Rs. 500/-; Rs. 200/-; Rs. 100/- are provided based on income and number of members in the family. At the same time the programme aims to implement family based economic development projects identified on the basis of the specific needs, skills, assets and other abilities of each family. Families will be provided with assistance to engage in small scale/cottage industries. This shall make them self-employed and self-reliant.

Groups selected from among the youth of the village will be entrusted with the task of identifying and implementing relevant projects.

The target group is 1.4 million families identified as poor in seven of the nine provinces. The funds are to be provided by the State, and the assistance of non-governmental organisations is also expected.

The criticism formulated with regard to the Samurdhi programme is not directed against the programme as such but against its implementation.

Here are some points of criticisms:

- (i) In the selection of officers for its working and implementation the Government had not been fair. In the South it is alleged that Government supporters are favoured.

- (ii) The northern and eastern provinces have not been included in the survey to identify the poor. It is here, however, where the poverty rate is fairly high owing to the specific situation. (See V below).
- (iii) This programme is not being implemented in North and East in the Tamil areas. Even though it is being implemented in certain areas in the East, the Tamils are being neglected and it is the Sinhalese who are the beneficiaries of this programme.

IV. The Plantation Workers' Right to an Adequate Standard of Living

More than a century and half ago the British colonialists started to bring the first groups of Indian (Tamil) immigrant labour to the Island (then Ceylon) to work on the plantations in the mountains of central Sri Lanka around Kandy and Nuwara Eliya. The immigration of such labour came to an end in 1939 when the Indian administration imposed a ban on the emigration of unskilled labour to Ceylon.

The plantation labourers' wages are paid monthly. Their wage, however, is based on the number of working days performed. As the work is seasonal work may not be offered by the management on every working day of the month. On days when no work is offered, the workers do not get paid. The management reduces costs by paying them only when they are considered to be needed and leaving them to fend for themselves on the other days.

An attempt to regulate these abuses was made in March 1974 when a law was passed compelling owners to provide a minimum of 109 days work in a six month period, or 218 days per year. This provision still makes it very difficult for the workers to budget for their expenses accurately, and helps to keep them in constant debt. And the number of working days still continues to be reduced. The workers have, on various occasions, resorted to trade union action demanding more working days.

Due to disunion in the trade union movement and the political manoeuvring of some union leaders proper wages for the workers have also not been established, even though a union leader (Mr. S. Thondaman) had been a Minister in the United National Party government for 17 years. Today Mr. S. Thondaman is a Minister in the cabinet of the ruling party.

In fact, the amount of money the plantation workers are left with for the month is hardly enough to cover basic necessities such as food, clothing and oil. The plantation workers are victimised by the state's failure to protect their right to an adequate standard of living. The plight of the female workers is by far the worst. Compared to the rest of the Island the state of the plantation workers' health is appallingly low. Malnutrition and anaemia are prevalent especially among the women.

The health facilities on the estates are poor. The estate dispensaries and hospitals have not been absorbed into the National Health Scheme, and they are ill equipped. Social and welfare organisations had to step into aid and improve the health and sanitary conditions in the estates of certain regions.

After the privatisation of the government owned plantations in 1992 there has been further underemployment and a deterioration in the standard of living of plantation workers. The government has failed to fulfil its promise given to the unions to enable workers to own their houses and garden plots and thereby prevented the liberation of the plantation workers from the position of bonded labour. Plantation crops is no longer a mainstay of the economy as three decades ago. In December 1992 all export duties on these crops were abolished, thus cutting the last financial link between the plantation economy and the government. This cannot justify the breach of the state's obligation to protect and fulfil an adequate standard of living for the plantation workers.

There is a sense of social insecurity amongst the plantation workers and the atmosphere is worsening with people losing confidence in the government. In the past many estate youth were employed in the city of Colombo but, due to the prevailing situation they are unable to live in Colombo. Under these circumstances they have been left with no alternative other than returning to their homes in the estates. The net result had led to the further swelling of the number of unemployed youth living in the plantations. The management companies do not seem to be interested in the welfare of the workers. The living and sanitary conditions are not improved and the management companies are not prepared to allocate funds to repair and maintain the living quarters of the workers.

Housing in the plantation sector

Adequate shelter has largely been denied to the Tamil plantation workers. The vast majority of the plantation workers still live in the 100 year old overcrowded and dilapidated barrack type line rooms. A recent survey on plantation housing carried out for the government revealed that there are 183,000 resident worker families in the plantations with a total population of 788,000 persons. The available number of housing units for this population is 178,000. It was estimated that only 2% of the housing stock is in good condition and a further 18% could be rehabilitated with minor repairs. At the other end, 4% of the housing stock is totally dilapidated and beyond repair while about 42% requires such extensive major repairs that perhaps only half that number could be rehabilitated.

Besides the housing shortage and the poor state of repairs of the existing dwellings, it is reported that 64% of the houses suffer from inadequate light and an equal percentage from poor ventilation. Only 12% of the houses have electricity, 52% have no paved access path and 42% no water source within 100 metres of the residence. Commenting on the present status of plantation housing, the survey concludes:

In many cases, estate residents are crowded into damp, smoky and dark hovels, severely affecting their health and creating enormous social and psychological stress.

The socio-economic survey of the Central Bank (1986/87) while coming to similar conclusions, focuses attention on the wide disparity between the quality of housing on the estates and elsewhere in the country. Some of the statistics in this regard furnished in the survey are reproduced below:

Housing was given high priority by successive governments in the mid-fifties. These governments embarked on a number of low cost housing projects on their own. At the same time facilities such as alienation of state land and soft loans for private house builders were provided by the state. The UNP government of 1977-94 went one step further and treated housing as one of its lead projects providing substantial investments for housing development. However, the benefits

accruing to the plantation workers from this major programme of the government were minimal.

The plantation workers have been prevented from buying any land in the country and, therefore, ownership to private houses. At the same time they were also excluded from numerous land settlement and colonisation schemes that were implemented since the 1930s and which benefited other sections of the population. Although both, the previous UNP government and the present People's Alliance government agreed in principle to vest the ownership of the line rooms in their present occupants, the right of equal access to land, an important resource, continues to be denied to this community.

	Urban	Rural	Estate
Self-ownership of housing %	74.7	93.9	1.7
Floor area sq.m per person	14	11	5
Households without latrines %	5.5	16.3	47.6
Houses with cemented floors %	87.8	56.2	20.1
Houses with Electricity	64.5	19.0	4.2

(Source - P.P. Manicam in Social Scientist Association, Background Paper on Human Rights in the Plantations, 1997).

The state of Sri Lanka needs to take urgent measures to put an end to the violations of the plantation workers' right to adequate food and housing.

V. The Right to Food in the War-Torn Northeast

(A) Background

The population in the northern and eastern part of the country is predominantly Tamil, whereas the remaining part is mainly Sinhalese. Most Sinhalese are Buddhists, most Tamil Hindus. The Sinhalese population

amounts to 74%, the northern Tamils (Jaffna-Tamils) to 12.6%, 7.1% Muslims, 5.5% are Indian Tamils.

Since 1983 the Liberation Tigers of Tamil Eelam (LTTE) have been fighting for an independent state to be established in the northeast of the country. The city of Jaffna on Jaffna peninsula in the very north of the country is the political and military centre of the separatist movement. 50,000 people have been killed in this civil war. By the end of 1996 there were 768,356 internally displaced persons (mostly Tamils); approximately 96,000 in India.

Food supplies to the North-East are controlled by the government. In the past the International Red Cross assisted with the passage of food shipments. As far as Jaffna was concerned red crosses were painted on the government-owned boats and the International Red Cross accompanied the shipments to Jaffna, the peninsula in the very north of the country, handing over the shipment to the Government Agent.

The Jaffna Medical Faculty conducted a survey of the nutritional standards of children in the Jaffna district in 1993 and found over 44,000 children in the district to be suffering from malnutrition.

The fishing activities of the Tamil fishing communities in the north east are severely restricted by the Sri Lankan military. This violates the fisherfolks' right to feed themselves, and confronts them with the menace of hunger and malnutrition. 90,000 fisher-families are reported to have lost their sole means of livelihood when the government barred civilian access to the coastal belt north of Mannar up to Trincomalee.

The war between government military and LTTE further escalated in 1995/96. In late 1995 government forces conquered the city of Jaffna. The peninsula itself had been under control of the LTTE since 1995. The military operations, with 2500 casualties, led to a new wave of some 500,000 refugees who from the city and peninsula of Jaffna. In May 1996 the government forces gained control over the peninsula, whereas the LTTE continues to control large part of northern and eastern Sri Lanka.

The government greatly restricted essential supplies such as food, medicine, fertilizers etc. As this cannot be attributed to infrastructural weakness in the area, there is reason for concern, that food could have been used as a weapon

against both the LTTE and the Tamil population remaining in the area. This amounted to a violation of the right to food and of the Geneva Convention IV to which Sri Lanka is a state party.

Due to the failure of the government to provide for adequate facilities to the increasing number of refugees in the Vanni District living conditions there are so appalling that most of the meanwhile preferred to return to Jaffna peninsula. Still some half a million refugees struggle to survive in the jungles of Vanni District. An equal number is stranded in the Eastern Province. There are reports of violations of civil and political rights perpetrated by the armed forces of both sides, as well as land evictions and massive displacement of people in the war zones, which amount to a violation of these people's land rights and right to feed themselves.

(B) The displacement of the population

Numbers displaced (approx.)

December, 1994	525,000
October, 1995	649,049
December, 1995	1,017,181
May, 1996	839,161
October, 1996	770,356
December, 1996	768,356

(Source: Ministry of Rehabilitation and Reconstruction)

According to the same source, at the end of 1997, 193,253 families of the Northern and Eastern Provinces consisting of 787,632 members were displaced and received state assistance of dry rations. Out of the displaced 36,540 families are in 370 Welfare Centres. The rest are staying with friends and relatives.

However, NGO and other humanitarian officials allege that there is a large number of people in Vanni who have not been taken into account in these figures since they do not receive any assistance from the government. Recently, a news report said that there were about 70,000 displaced persons

in Vanni not receiving any relief.¹³

In addition, it is estimated that about 200,000 people have sought refugee overseas, some of whom have applied for asylum. 100,000 refugees are estimated to be in South India.¹⁴

The right to food of the displaced Tamil population in the North and East of Sri Lanka is a matter of grave concern. The population is victimised by the war. There are reports of displacements of civilian population both by the government forces and LTTE.

The displacements were caused for example in the following manner:

(a) Constant military operations coupled with air raids and shelling of civilian settlements

Those made people leave their lands and take refuge in safe areas. To give a few such instances:

- (i) In the Valikmam North Division of the District of Jaffna, the entire population consisting of approximately 24,000 families have been displaced since 1990.
- (ii) In the District of Kilinochchi more recently in 1997 nearly 240,000 persons are displaced.
- (iii) In the District of Vavuniya nearly 480,000 persons are displaced.
- (iv) In the District of Ampara 70,000 Tamils are displaced since 1990.
- (v) In the District of Trincomalee, nearly 30,000 are displaced. Well over 50,000 acres of arable land in the north and west of Trincomalee Town are not approachable to the cultivators. They are denied access due to security reasons.

¹³ Poser Hits Refugee Life in Vanni, C. Kamalendran, "Sunday Times," April 1997.

¹⁴ *Sri Lanka: State of Human Rights 1997*, Law & Society Trust.

(b) Forcible eviction from arable lands and houses

These occur to establish new military camps and to extend the existing camps. A few such instances are given:

- (i) Palaly Airport in the District of Jaffna was converted into a military air base in the early part of 1980. Nearly 430 acres of land had been taken over partly for extension and partly to assure security. This is a very fertile area with highly productive red soil.
- (ii) Batticaloa Airport was similarly made into an airbase and 90 acres were taken over in 1990 out of which 70 acres were arable lands belonging to cultivation. Again in 1994 further 263 acres of land were taken over for this Airport. As a result 256 families who were cultivators had been evicted. According to a recent survey 40% of the families evicted are at poverty level.
- (iii) Refusal to compensate for seized arable lands.

It is the declared policy of the government to compensate the owners when private lands are used by the security forces. However, there are numerous instances of the state refusing to compensate. To quote one instance: Secretary Ministry of Defence has declined to compensate the owner of a 5 acre paddy land used by the security forces as sentry point at Sathutukondan in the district of Batticaloa. The owner of this plot of land had been denied the right to cultivate since 1990 and he is loosing a sum of Rs. 50,000/= annually.

In a letter addressed to the Member of Parliament of the area, the Defence Secretary states that "the lands around army camps cannot be allowed to be cultivated due to security reasons." However, this Ministry has not voted for allocation to compensate this type of losses, as they are of "temporary natures." A copy of the said letter is annexed.

(c) Attacks on the border lands of Eastern Province

The Eastern Province consists of three administrative districts namely; Amparai, Batticaloa and Trincomalee which had a high concentration of Tamil and Muslim populations. To the West of these districts lies the Sinhalese populated districts of Moneragala, Polonnaruwa and Anuradhapura. In between them are the border areas which were fertile land once cultivated but now abandoned to the advancing jungles which were part of the eastern Province.

Successive governments since independence have followed a policy of colonising these border areas with a mostly Sinhalese population brought from outside the bordering districts. The policy was motivated both by political as well as economic considerations. Politically the intention is that there should be no territory that could be called Tamil. Economically the land owning class, who held political power since independence, thought that the best way to solve the landlessness among the Sinhalese who might one day demand lands from them, is to shift them to the colonisation scheme in the distant Eastern Provinces.

There was resentment from the Tamils and there was considerable political agitation to stop colonising the East, but the governments went on. When the Tamil resentment took to violence since the 1980s, the Sinhalese settlers in those colonisation schemes were targets of attack by Tamil militant groups. The poor landless Sinhalese who were shifted to the Colonisation scheme from their traditional villages had been attacked by the Tamil militants on several occasions and hundreds have been killed.

Had this colonisation scheme been carried out without racial bias, it would have united all the three communities that inhabit the Eastern Province.

(C) Confiscation of property and demolition of dwellings

Prevention of Terrorism Act No. 48 of 1979 (PTA) and the existing Emergency Regulations (ER) already provided for forfeiture of property as one of the consequences of conviction for certain offences in addition to other penalties such as life imprisonment, imprisonment and fine. Under PTA any person who causes the death of a specified person or kidnaps or abducts or

commits an attack upon a person, is deemed to have forfeited all properties moveable and immoveable to the Republic.

Under Emergency Regulations any person convicted on the charge of conspiracy to overthrow the government could be punished with death or rigorous imprisonment and will forfeit all his property.

The present regulation - The Emergency (Confiscation of Property) Regulation No. 1 of 1996 published on 22nd August 1996 - has taken a step further and provides for confiscation in certain circumstances even when there has been no finding by a Court that an offence has been committed. The confiscation takes place by the Inspector General of Police certified by an approval of the Defence Secretary. The approval only has to state that from the information available to Defence Secretary the Secretary is satisfied that:

- * either the property had been stolen, purchased, acquired or retained for the purpose of furthering the commission of any offence, the punishment for which may include the forfeiture of the property of the offender, or
- * that the property belongs to, or is held on behalf of the person, including any person who is not to be found or who is dead, if such person is shown to have been involved in the commission of an offence. The punishment for such a person may include the forfeiture of the property of the offender.

It is important to note that the determination to deprive a person of his property is made by the Inspector General of Police. He may be acting with the approval of the Secretary, but without any investigation made by which he found that the alleged facts are proved. Neither does he need any finding by a Court of Law. The regulations require the Inspector General of Police to report the forfeiture after it is made to the appropriate High Court. The lawful owner of the property is allowed to make a claim to the High Court that he did not wilfully allow the use of his property for the commission of offence. If the claimant is a legal heir of a person who is dead he must establish that the dead person was not involved in the commission of an offence. The regulations further provide that in all such proceedings the certificate of the Inspector General of Police on whose initial determination the forfeiture takes place, shall be admitted as *prima facie* proof of the facts

stated therein and he shall not be called as a witness or examined by a court without his consent.

These regulations violate human rights norms in that:

- (a) A person is deprived of his or her property by a procedure other than an order of court.
- (b) The legal heir of a person whose property was forfeited is required to prove the innocence of a dead person and on matters on which he may have no personal knowledge.
- (c) The family of the dead person stands to suffer by the forfeiture in that on death the property had already passed to the family members by operation of law.

(D) Unlawful demolition of houses

There had been incidents of unlawful demolition of dwellings by the Police.

During the early part of July 1996, following the arrest of a person the police sealed her residence at Rasavalli Lane, Wellawatte (Colombo). After three days the Criminal Detective Bureau of the police using a bulldozer completely demolished the house with the household goods which included valuables. The said person stands charged before court for possessing arms and ammunitions. On 21st March 1997, the police tried to bulldoze a house at Boswell Place, Wellawatte. Due to protests by the residents and intervention of neighbours, police ploughed the compound damaging roofing and threw away a pile of bricks that was in the compound.

(E) Demolition of houses during military operations

- (a) The District of Jaffna in the 1980's had a population of 800,000. As at end of 31.12.97, it had dwindled to 473,279. Due to the ongoing war about 40% of the dwellings had been demolished. According to the records available with the district administration, Jaffna the number of houses demolished/partly damaged is given below:

	Demolished	Partly damaged	Slightly damaged
Permanent Houses	8,171	20,084	16,332
Semi-Permanent Houses	4,860	6,958	3,665
Temporary Houses	11,384	3,708	4,145
Total	24,415	30,750	24,142

Note: Houses under high security zones in the district are not included. About 25% of the land area falls under high security zone.

(b) Government launched a military operation code named JAYASIKURU last year to clear the 90 miles roadway from Jaffna in the North. This roadway is the main roadway that links Jaffna Peninsula to the main land. About 60 miles of this roadway runs through areas that were not in government control, but in control of LTTE, a Tamil armed group. According to government reports, the security forces have considerably advanced despite heavy resistance. Reports reaching from these areas indicate that 100 metres both sides of the road have been cleared with bulldozers demolishing several buildings including dwellings, to assure security for the road. No survey had been done to ascertain the damage caused to buildings. It is believed that hundreds of dwellings might have been demolished by bulldozers. This is borne out by the fact that 246,000 persons in the District of Kilinochchi, and 450,000 in the District of Vanni, the two districts through which this roadway runs, stands displaced.

(F) Detention Centres in Vavuniya

Vavuniya was previously the border town that marked the end of government controlled territory and the beginning of LTTE controlled areas. The crossing point is at Thandikulam slightly north of Vavuniya. Now the government claims that it is gradually extending its control to areas north of Vavuniya by the ongoing military operation code named 'Jayasikuru.'

According to reports of January 1997, about 10,500 persons have arrived from areas north of Vavuniya. They have been detained in 11 camps called 'Detention Centres' awaiting clearance either to come to the south or north of Sri Lanka.

NGO and humanitarian officials were unanimous in condemning the state of the detention centres. The people are crowded with poor sanitation facilities and little access.¹⁵

According to the 'Sri Lanka Monitor,' a publication of the British Refugee Council, approximately 50 young people have disappeared. At least one incident of rape was reported from the detention centres.

(G) Food used as a weapon

The government is using food as a weapon to fight the war. The required quantity of food and medicine does not reach the displaced. This has caused malnutrition and death due to starvation.

The U.S. Committee for Refugees (USCR) has been monitoring the situation in Sri Lanka for many years and has published several reports. In its report on Sri Lanka in 1996 it states that a USCR team met a number of people in the Vanni who told that they did receive food and they did not have the means to purchase. (The administrative districts of Vavuniya, Mullativu and Mannar are called Vanni).

The Sri lankan military and defence authorities play a crucial role in determining the extent and nature of humanitarian assistance to the displaced. Almost all supplies sent to the conflict areas (North and East) require clearance from the Ministry of Defence which takes months.

For example, in the second half of 1996 a large supply of medicine was held up because the Medical Board of the Ministry of Defence had not met. In October 1996, the commanding officer of Jaffna stressed the military's role in relief and rehabilitation efforts when he met some members of international humanitarian groups. He observed that rehabilitation and relief could be undertaken only in consultation with the military.

On at least three occasions the Ministry of Health has requested 'Medicine Sans Frontier's (MSF) to re-establish the damaged Jaffna Teaching Hospital. On all these occasions the Ministry of Defence had refused permission. Now

¹⁵ *Sri Lanka: State of Human Rights 1997*, Law & Society Trust.

the hospital functions.¹⁶

(H) Welioya colonisation scheme

Manal Aru now named Welioya is located between the Districts of Trincomalee, Mullativu, Vavuniya and Anuradhapura. The total land area is about 100,000 acres (154 square miles). Until 1983 it had several farms like Navalar Farm, Ceylon Theatres Farm, Kent Farm, Dollar Farm etc. All in all there were 16 farms. There were also individual buildings of 10 to 15 acres; all the inhabitants were Tamils. The Welioya colonisation scheme represents a most destructive and pointless attempt to tamper with an age of old population which had been living in those lands for several generations, through colonisation.

Towards the end of 1983, 13,208 Tamil families had been forcibly evicted by the military from 42 villages in Welioya area in which they are living for generations and they stand displaced since then. In addition, Tamil families who were living in Nedunkerny, an area adjoining to Welioya, also got evicted by the military from 18 villages in that area. No information is available as to the exact number of families that got evicted from these 18 villages. They are now scattered and live in various places as refugees. 3,000 families who were evicted are suffering in refugee camps hoping for the day they could go back to their villages.

After the eviction of the Tamils, 1,076 farmer families and 2,288 non-farmer families of Sinhalese origin were settled in these lands. This scheme had been under attack by the Tamil militant group, LTTE, on several occasions and in fact, several persons have been killed. The Sinhalese who were settled in their places live in fear of attack by LTTE. It is only the presence of the army in considerable number in Welioya that makes it possible for them to continue there.

VI. Right to health

According to NGOs and humanitarian officials, access to health care is poor. The Jaffna teaching hospital which had well over 1000 beds now functions with only one ward. In Vanni, besides the Vavuniya district hospital, there

¹⁶ Counter Point: 4, March 1997, Interview with Country Director of MSF.

is a hospital in Mallavi and another one in Akakarayankulam, both of which are severely overcrowded. The hospital in Vavuniya is unable to provide for the needs of the thousands of displaced persons who moved in from places north of Vavuniya. No additional facilities are provided to meet the new situation. The Kilinochchi hospital which is the biggest facility in the area does not function. Drugs are in short supply. There is also an acute shortage of staff. The Jaffna teaching hospital has only one specialist - an eye surgeon. The incidence of Malaria and respiratory tract infections is high.

According to University Teachers for Human Rights (UTHR) - Information Bulletin No. 12, 22 October 1996, medical supplies to Vanni were cut by 75 per cent.

The two-member team from the USCR observed:

Driving along roads in the Vanni, one sees mile upon mile of newly built shelters housing displaced people. While some appear fairly sturdy, many are flimsy and seem likely to withstand rough weather. Continued fighting and shelling, and inadequate nutrition, water, health care and shelter, all place the population at risk. Lack of economic opportunities and education compounds the problems.

VII. Additional Protocol to the Geneva Conventions of 12 August 1949, relating to the protection of victims of non-international armed conflicts (Protocol II).

The implementation of the International Covenant on Economic, Social and Cultural Rights could be strengthened by the ratification of the Protocol II to the Geneva Conventions.

The principle of protection of victims of internal armed conflict is already recognised by Common Article 3 of the Geneva Conventions, to which Sri Lanka is a party. However, the humanitarian provisions of Article 3 are further amplified in additional Protocol II to the Geneva Conventions, which relates to internal armed conflict. This Protocol, which was adopted in 1977 long after Sri Lanka had become a party to the main Conventions, has not yet been ratified by Sri Lanka. Local human rights organisations have urged the Government of Sri Lanka to ratify Additional Protocol II without delay. The

Protocol prohibits acts of terrorism and the taking of hostages. It contains detailed provisions relating to such matters as the protection of children (including their education, and their exclusion from participation in hostilities); the protection of the civilian population (including the prohibition of acts the primary purpose of which is to spread terror, the prohibition of attacks on objects indispensable to their survival such as foodstuffs, crops, livestock, drinking water installations and irrigation works, and the protection of cultural and historic sites and places of worship). Forced displacement of the civilian population is prohibited unless their security or imperative military reasons so demand, in which event measures must be taken relating to shelter, hygiene, health, safety and nutrition. Many other details are spelt out in this impressive humanitarian document. The ratification of this protocol will serve as an important guide to the armed forces in the conduct of their operations, and should help to check excesses. It will constitute a solemn commitment by the Government to ensure the maximum protection to the civilian population. It will have yet another effect. Its provisions, as a matter of international law, will immediately become legally binding on the LTTE, without in any way conferring legal status on it. (Indeed it is specifically provided that "Nothing in this Protocol shall be invoked for the purpose of affecting the sovereignty of a State or the responsibility of the State"). The LTTE is reported more than once to have announced its readiness to abide by the Geneva Conventions and Additional Protocol II; its conduct has shown that it pays humanitarian norms scant attention. The ratification of the Protocol by Sri Lankan government, if it does not result in any improvement in this regard, can only result in the exposure of the LTTE's claims, and in underlining that distinction which people have the right to expect between the attitude of the forces of a law abiding government and those of an extremist opposition group. It goes without saying that this step could also help create the climate for a negotiated peace.

Some possible questions to the government of Sri Lanka:

1. What state policies have been formulated to help reduce disparities between different economic sectors and among different economic groups?
2. What are your arguments to prove that the much published poverty alleviation programme called "Samurdhi Programme" is being implemented without any discrimination on grounds of ethnicity, religious or political affiliation?

3. What steps does the government propose to take to facilitate the early return of the displaced persons (estimated to be one million) to their original places?
4. Will the government take steps to release the arable land/houses forcibly taken over to open up military camps or to extend the existing camps?
5. Which are the measures planned to assure regular supply of food and medicine to nearly 300,000 refugees in Vanni in the northern part of Sri Lanka?
6. Is there a mechanism for speedy handling of grievances of small land holders who stand affected by privatisation of the agricultural sector?
7. What are the measures planned to protect the peasants who due to unrestricted import of food items are in debt and are unable to continue their cultivation profitably?
8. Which measures will the government take to implement the plantation workers' right to an adequate standard of living including food and housing?
9. Which measures will the government take to respect and protect the right to food of the farmers living in the areas which are prospected for the Eppawala rock phosphate project?
10. Which steps will the government take to respect the right to food?
11. Which measures will government take to assure that Tamils are not discriminated in state employment?
12. What are the steps the government will undertake to guarantee an adequate standard of living for the people forced to stay in the detention centres in Vavuniya?
13. Which mechanisms will government introduce to avoid that humanitarian assistance to the refugees in the camps is delayed by the Sri Lankan military and defence authorities?

Northern Ireland and the Quest for Peace

*Professor Phil Thomas**

Northern Ireland is the testing ground for civil liberties and the Rule of Law in the United Kingdom. But again, events have shown the fragility of these concepts. The Omagh bombing, resulting in the deaths of 29 innocent people, produced a collective wave of horror and revulsion for those responsible for the wanton murders. Paradoxically, it might have been the final acts of those desperate men of violence whose minority activities have shaped and tortured the lives of generations of Irish people. As the Good Friday Agreement offers real signs of peaceful co-existence so the gunmen decided to force Westminster politicians to return to repressive political solutions. Sadly, they could be proved correct if my fears arising from the new Terrorism and Conspiracy Act are correct.

I charge the government with acting in an anti-democratic manner by introducing the legislation with unnecessary and unseemly haste. It is an authoritarian populist action reminiscent of Margaret Thatcher and reflects a negative side of Blair. He can be simply too keen, too quick to present himself as the modern, populist man seeking fast, trendy solutions irrespective of longer term implications. Essentially, history states whilst such legislation might appear to reflect government concern and ability to respond quickly it is, in fact, at the best symbolic and possibly damaging to the fabric of society and to our basic understanding of justice. These are serious accusations which I seek to substantiate.

Parliament was recalled during the summer recess for the first time since 1992. Then there was a major international financial crisis to be addressed.

* Cardiff Law School, Cardiff University. September 1998.

On this occasion the Omagh bombing was presented as the reason for interrupting the MP's vacations. The Terrorism and Conspiracy Bill had been cobbled together. Clauses and ideas were taken from a failed Private Member's Bill in 1996 about international terrorism. The Conservative MP Nigel Waterson had introduced it to placate the ruffled feathers of the Saudi royal family [responsible for the major arms purchases from this country] smarting from anti-government faxes sent to Riyadh from a London 'safe' house by the dissident, Mohamed Al Mas'ari. This is the international dimension of the legislation to which I will return.

Blair opened his speech in the House of Commons by seeking to handcuff the members through sombre references to Omagh and his pledge to bring the murderers to justice. Perhaps it had slipped his memory that murder was already a punishable offence attracting an automatic life sentence. The complex Bill, made available to MP s at 6pm the previous night, was pushed through Parliament in 27 hours. A Whip was imposed on the Labour MP s. The Queen, on holiday in Scotland, proved exceedingly obliging. She gave her royal assent to the Act sometime before it had completed its Parliamentary passage.

Despite the sense of emergency engendered by Parliament's recall there was significant and steadfast opposition to the Bill. The usual suspects included Tony Benn who compared the procedure with the USSR: "What a way to treat Parliament... as if we're the Supreme Soviet just summoned to carry out the instructions of the Central Committee." The Conservative, Richard Shepherd, waded in: "not in the face of terrorism or anything should we abandon the liberty and freedom to discuss these measures. This is no way for the House to do its business. The government is acting manipulatively. We have been knee jerked here." Should you think the usual suspects stood alone add Lord Lloyd of Berwick, government advisor on emergency legislation. He had "grave doubts" about the new powers. Patrick Mayhew, former Northern Ireland Secretary from 1992 to 1997, declared "We are invited to make law which may turn out to be dangerous and therefore bad law for a purpose which will not be achieved in practice." Lord Cranborne, Tory Leader in the Lords, expressed "deep unease" with a Bill introduced in an "extraordinary hurried and ill prepared way." Even John Major seemed able to take a stand on this occasion when he expressed his caution about moving too quickly in the direction of emergency laws.

Northern Ireland figures prominently in previous emergency legislation. For example, anti-IRA measures were pushed through in 1939, again in summer recess, when terrorist measures in Britain were forecast. They did not materialise but the legislation did. In 1974 the Prevention of Terrorism (Emergency Provisions) Act was rushed through in record time after the Birmingham bombings which killed 19 people. Dafydd Elis Thomas MP told me at that time that despite his personal reservations it was more than person's seat was worth to vote against the Bill given the level of public outrage. In 1996 further terrorist legislation was passed to increase police powers. Yet, official statistics suggest that the sum of these laws has done little or nothing to uncover or apprehend terrorists over and above the regular criminal laws concerning acts of violence. They have certainly offered the police enhanced powers and opportunities to trouble law abiding citizens with Irish accents or associations. Major miscarriages of justice, including the Birmingham 6 and Guildford 4, have roots in inappropriate and criminal police activities underpinned by emergency powers. In 1974 the Home Secretary, Roy Jenkins, described the Prevention of Terrorism (Emergency Provisions) Act as "draconian". In his memoirs he wrote "I would have been horrified to be told at the time that it would still be law 20 years later."

Why did Blair respond in such a fashion? Was he anxious to keep in step with Bertie Aherne in the Dail in Dublin as the Irish initiated similar legislation? Was the imminent visit of Clinton and the need to show common cause over terrorism with the USA given the recent terrorist bombings in Nairobi and Dar es Salaam a sound reason? If so, since when does British domestic policy follow the time table of other nations? Was it intended as a supportive action for the Good Friday Agreement? Whatever the reason the government must feel embarrassed by Gerry Adams' commitment: "The violence that we have seen must for all of us a thing of the past, over, done with and gone." Subsequently, the real IRA has also declared a permanent cease fire. Assuming these statements hold true where does it leave the draconian legislation? The answer is, on the statute book, awaiting employment by police and security forces in Northern Ireland and on the mainland.

The details of the short Act include naming proscribed organisations and the power to identify a member of such an organisation on the word of a senior police officer who in turn need not identify the source of his information. A suspect's silence would corroborate the charge. The claim is that police

'knowledge' [for this also read, suspicion, prejudice, misinterpretation] can thus be turned into 'court evidence'. However, Lord Lloyd, who was involved in releasing the Birmingham 6, has stated "I do not see how it could work. A police officer's opinion is worth only what his sources will support. If he simply says 'this is my opinion' that is worth nothing in a court of law." Lawyers knowledgeable about the European Convention of Human Rights and the Human Rights Act of 1998 are limbering up to challenge this power.

The international dimension of the Act seeks to catch anyone who conspires in any act or other event which would be an offence under the law of the foreign country abroad, whether it be a democracy or dictatorship. So, for example, Mandela, Mahatma Gandhi, overseas CIA agents, Kenyatta, Lenin and Marx and other overseas dissidents would fall foul of this law. The question of who is a terrorist takes on a new dimension.

Finally, guess who said the following: "If we cravenly accept that any action by the government under the Prevention of Terrorism Act must be supported in its entirety without question we do not strengthen the fight against terrorism, we weaken it. I hope that no Honourable Member will say that we do not have the right to challenge powers to make sure that they are in accordance with the civil liberties of our country." Answer: Tony Blair, Shadow Home Secretary, 1993.

I rest my case.

Discussion paper on self harm amongst the youth population

*Christopher Felstead**

Introduction

The problem of suicide and self harm in Sri Lanka is very real. Sri Lanka has long had one of the highest rates of suicide in the world, and the incidence of suicide is greatest among young people aged between 15 and 30 years. A recent report indicated that during the period of the ongoing civil war in Sri Lanka, more people have died by suicide than have been killed in the fighting.¹ There is little consensus on either the causes of, or the solutions to the problem.

The Presidential Committee on Suicide recently made a number of recommendations aimed at reducing the number of attempted suicides and the number of deaths. In recognising suicide as a national problem requiring a national strategy, Sri Lanka is virtually unique in the world and this action should be applauded. A question, however, remains over the effectiveness of the proposals, and whether there is sufficient will to make them work.

Statistical analysis

Sri Lanka currently has the highest suicide rate in the world, with 47 deaths per 100,000 people.² Within this figure, rates of self harm are highest amongst young people, between the ages of 15 and 30. Between 1991 and 1995, the total number of suicides increased by 15% against a population

* Barrister, England and Wales; intern, Law & Society Trust.

¹ The Economist.

² ADDIC Journal, October 1997.

increase of 3.5%, whilst suicides in the most vulnerable age group - between 20 to 30 years actually declined by 15 per cent.³

Ingesting pesticides is by far the most common method used to commit suicide by people of all ages. Interestingly, however, Sri Lanka does not have a markedly higher attempted suicide rate than many other countries. The high number of deaths is due to a much higher fatality rate of between 10% and 30%, compared with a fatality rate less than 1% in the U.K.⁴

Self harm has manifested itself in a number of other ways. The rate of inpatient admissions for treatment for alcoholic psychosis has increased by over 40% between 1990 and 1995. Heroin use has grown massively in the last 15 years. Convictions for heroin use almost doubled between 1989 and 1996, when they stood at over 10,000. Further, a considerable amount of anger is directed outwards: between 1985 and 1995, the homicide rate increased by 30% to 7.5 homicides per 100,000 population.⁵

Reasons for Self Harm

It is not easy to identify what drives young people to self harm, and there has been very little research carried out in this area. The statistics for suicides in 1997 indicate that where a motive was identified, it was most commonly disappointment in love.⁶ Whilst this is a universal problem, it is clearly compounded by the social and caste system still prevalent in Sri Lanka. There are numerous reports of young people committing suicide when parents have barred them from seeing a partner who they deem to be unsuitable. Indeed, whilst many would feel that a society based around the concept of strong family groups would be beneficial to the stability and well-being of young people, it is clear that many young people feel trapped and stifled by their lack of personal freedom or choice.

³ Source: Sumithrayo.

⁴ Michael Eddleston, "Deliberate Self-poisoning in Sri Lanka - Improving Medical Management Through Clinic Research," *Journal of the Ceylon College of Physicians*, (1997), Vol 30 1 & 2, pp 11 - 17.

⁵ "Profile of Alcohol and Tobacco in Sri Lanka," *SOBER Sri Lanka*, 1997.

⁶ Source: Sumithrayo.

Mental illness is cited as the second most common reason for suicide.⁷ It is estimated that 70,000 Sri Lankans suffer from schizophrenia and this is particularly prevalent among the young.⁸ Mental health facilities are totally inadequate to deal with this, and further there is little education or tolerance of mental illness among the general population.

One can also identify a large number of other factors which may affect the attitudes of young people. They are on the whole well educated, with literacy rates high in Sri Lanka. However, there is also substantial unemployment and, perhaps more importantly, a perception amongst those born outside of the elite that advancement, both socially and at work, is difficult to achieve. This puts particular pressure on young people to succeed academically.

Poverty is not commonly cited as a cause of suicide, but the suicide rates are notably higher in the poorer rural regions, particularly in the North Central region. One gets the feeling that it must be a factor, perhaps compounding the difficulties felt in other areas and making them seem more acute.

There is also a wider social issue of the stigma associated with suicide. Many families would consider a suicide attempt by a family member as something which brings great shame on the family: thus, it is impossible to say how many actual and attempted suicides go unreported. There is a similar situation in hospitals, with most inpatients' notes mentioning poisoning as the reason for admission, and making no reference to the fact that it was self inflicted: this in turn means that that person is unlikely to receive any counselling or aftercare associated with his suicide attempt.⁹ An associated problem is the lack of education and awareness of suicide within society: it is something which is not spoken about. This, in turn, means that others are not aware of symptoms of distress which may be shown by someone contemplating suicide, and further that that person may feel that he has no one to talk to about his feelings.

⁷ Source: Sumithrayo.

⁸ Source: National Council for Mental Health.

⁹ N. D. Kasturiaratchi and others, "A Study of Suicide in Sri Lanka" (1997, unpublished).

Many working within suicide prevention have also criticised the role of the media. They claim that the media presents suicide as heroic, and further that they fail to tell the whole story associated with a suicide. This has led to the Health Education Board developing guidelines for suicide reporting in the media. Again, this is not a criticism unique to the Sri Lankan media: in preparing a national strategy on suicide in Finland, the role played by the media in evolving cultural attitudes and public discussion was recognised and discussed.¹⁰

One can also speculate about the link between the suicide rate and the ongoing civil war in Sri Lanka. Young people have grown up with the constant presence of the war, and many will have had relatives killed or injured: this must have an effect on their perception of the value of life. Further, cyanide capsules are widely distributed amongst LTTE fighters to be used if they are captured: this again perpetuates the myth of the noble self-sacrifice of suicide.

The report of the Presidential Committee on Suicide

The Presidential Committee established to consider ways of reducing the suicide rate made a number of recommendations, some of which have already been acted upon. One of the main recommendations was that access to the means of suicide, in this case pesticides, should be strictly regulated. At present they are widely available, often sold alongside food, and are poorly stored. Thus, they are readily available at hand should a person make a snap decision to commit suicide. However, others point out that this may have only a minimal effect as other means are also easily available, particularly yellow oleander seeds.

A further recommendation was that medical care should be improved: this is surely central to reducing the number of deaths by suicide. As noted above, the rate of suicide attempts in Sri Lanka is not markedly higher than anywhere else in the world: however, the fatality rate is far greater. Thus, it is perhaps in improving the standard and quality of medical care that the greatest advances can be made in the shortest time. However, this would require not only an improvement in the technical care given, but also a sea-change in the attitudes of medical personnel. Michael Eddleston notes that in Anuradhapura General Hospital, all patients admitted with self poisoning received forced

¹⁰ "Prevention of Suicide," United Nations, 1996.

emesis (induced vomiting) or gastric lavage (stomach pump) treatment in spite of any medical benefit which this may confer: indeed, he notes that it is often used as a punishment, and that he had seen a number of patients suffer cardiac arrest during this procedure.¹¹

Such advances in medical care would require extensive resources which would have to be found from other areas of an already over-stretched health care budget. Hence some may argue that such scarce resources should not be diverted away from other more deserving patients and towards those who have induced their own illness.

The Presidential Committee also recommended that appropriate treatment should be available to those with psychiatric disorders who have survived a suicide attempt. Again, this would require a massive shift in medical practice in Sri Lanka. One study showed that mental or personality disorders were diagnosed in over 65% of people who has attempted suicide, and that in most cases this had not been diagnosed prior to the suicide attempt.¹² Further, the only reason that any diagnosis occurred in this instance was due to the study taking place: the same study also indicated that virtually no patients admitted after attempting suicide were given any kind of psychiatric evaluation or professional referral. The study demonstrated a gross lack of concern among medical staff in documenting any details of a suicide attempt, or any social or psychological details of the patient.

One immediate effect of the Presidential Committee in this respect has been the setting up of a government-funded research centre, under Professor Hettige, to carry out research into the social and psychological aspects of suicide.

The Presidential Committee recommended that attempted suicide should no longer be a penal offence, and this is another area where action has been forthcoming. In April the Parliament voted to amend the penal code, and hence attempting suicide is no longer illegal in Sri Lanka. This should go some way to break down the stigma attached to suicide, and the barriers to those seeking help.

¹¹ Eddleston, *supra* n 4.

¹² Kasturiaratchi and others, *supra* n 9.

Further, the Presidential Committee has recommended that attempts be made to play a more proactive role in suicide prevention by improving the mental health and well being of the population, particularly among the youth and elderly, by providing counselling to individuals, and by educating communities in suicide prevention. Again, to effect such action will require a large change in attitudes towards suicides to a more understanding, less stigmatising attitude. For instance, it is very difficult for groups already taking a proactive approach to suicide prevention to talk to school children as teachers and principals, fearing a hostile reaction from parents, may refuse to allow them into schools.

This again is surely central to reducing the number of suicides, and indeed the Committee should have gone further and stressed that it is essential that psychiatric help is available to all those suffering from depression or mental illness as early as possible. Whilst the financial cost may be high, it would undoubtedly be far lower than the cost of treating those who have survived a suicide attempt. Further, help should be made immediately available to the relatives and friends of a person who commits suicides in order to prevent a suicide cluster developing. This would require an extensive mental health support network to identify and counsel those at risk.

Areas for discussion

Whilst Sri Lanka undoubtedly has a high rate of fatalities arising from suicide attempts, it is possible to argue that suicide in Sri Lanka is not so much a societal problem as medical one. Thus, it is likely that in the short term at least, the greatest reduction in the number of suicide fatalities would be achieved by improving emergency medical care. However, in a country with an already seriously over-stretched medical service, is treating people who have attempted suicide a priority?

Many would argue that a more proactive approach should be taken to educate the population to be more aware of the problems associated with mental health generally, and suicide in particular. Support groups such as Sumithrayo are already attempting to perform such a role, but face many barriers in trying to educate young people about the issues surrounding suicide. Thus, concerted governmental action would be necessary to support their role, and indeed the government has, on the advice of the Presidential Committee, established a research centre to consider the societal causes of and reactions to suicide.

Again however, this demands resources, and it may be argued that these should be directed to other areas. Further, without the widespread establishment of better mental health and suicide support facilities, is any significant proportion of the population going to be able to access any help at all?

It is arguable that the Presidential Committee has not gone far enough. Whilst raising a number of important issues, there is little of how the recommended measures will be implemented. For instance, the Committee will not be developed into an Authority with a permanent secretariat which could implement, monitor, and develop the strategy. Further, there is no separate sub-strategy focusing on the particular problems and difficulties raised by youth suicide. Having raised such important issues, it is essential that the results of the Committee are not disregarded or ignored. There needs to be an effective body to implement, monitor, appraise, and revise these recommendations, or it is very likely that many of them will simply prove ineffective.

It is clear that the issues surrounding suicide are a complex mix of personal and societal issues, and that a consensus of opinion on how to reduce suicide attempts and fatalities is difficult to reach. However, it is also clear that given the shocking number of deaths from suicide in Sri Lanka, particularly amongst young people, effective action must be forthcoming.

Forthcoming

SRI LANKA: STATE OF HUMAN RIGHTS 1998

For the first time, the report will cover

- * *Equal Opportunity*
- * *Rights of Persons with Disabilities*
- * *Right to Education*
- * *Migrant Women Workers*

In addition to the topics generally covered (freedom of expression, emergency rule, judicial protection of human rights, children's rights, internally displaced persons and integrity of the person).

Enquiries:

Law & Society Trust
No.3, Kynsey Terrace
Colombo 8
Tel. 691228/684845

Recent Publications

**SRI LANKA: POLITICS, NATIONAL SECURITY AND
THE VIBRANCY OF NGOs**
A Region-wide Research and Advocacy Project
to promote
the Freedoms of Association, Assembly and Expression in Asia

Rs. 75/=

THE DRAFT CONSTITUTION OF SRI LANKA:

Critical Aspects

Edited by
Dinusha Panditaratne & Pradeep Ratnam

Rs. 300/-

Enquiries: Law & Society Trust
3, Kynsey Terrace, Colombo 8
Tel. 691228/684845