



To live in dignity

**SRI LANKA : Thirty-five years of the
Universal Declaration of Human Rights**

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THE separatist movement in the northern part of Sri Lanka and the spate of violence and terrorism that it spawned led to the intensification of both Legislative and security measures to deal with this problem. These measures have during the past 2 years come under the scrutiny of international organisations concerned with human rights such as Amnesty International and the International Commission of Jurists.

Sri Lanka's Ambassador to the United States of America sets these events in proper perspective with his review of Sri Lanka's human rights record during the past 35 years.

HUMAN Rights are deeply respected by the people of Sri Lanka. They have consistently sought—through the Government and through Government-supported institutions—to promote and protect these rights.

As a Government, we have introduced many safeguards, including solemn constitutional safeguards, which not only entrench human rights but also prevent their abuse.

Democracy is the strongest guarantee of fundamental rights, and Sri Lanka has an assured place among developing countries which have preserved and practised democracy.

We will continue to preserve democracy in our land, in the highest and purest form.

J. R. Jayewardene,
President of Sri Lanka.

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COMMEMORATION

HUMAN dignity became, officially, a universal human objective only 35 years ago.

Long cherished ideas and ideals found international and formal recognition in the Universal Declaration of Human Rights, adopted as a resolution of the United Nations General Assembly on December 10, 1948. In the same year, but 10 months earlier, a small Asian state—Sri Lanka, then “Ceylon”—obtained its own international recognition as it emerged from suppressed dignity. On February 4, 1948, Sri Lanka ended 443 years of colonial servitude.

During the 35 years from 1948, the Universal Declaration has inspired and emboldened all of us who believe that the quest for human dignity in its widest, deepest sense is what the story of civilization is all about. During those same 35 years, Sri Lanka has attempted to preserve and protect human rights in all aspects of the country's life, and has built up a record of achievement—despite blemishes, glitches, and failures.

On that original Independence Day in 1948, Sri Lanka's first Prime Minister, Don Stephen Senanayake, said :

“ We have learned to value the right of individual liberty, the right to the protection of person and property, to freedom of speech, to the free exercise of religion. We value the privilege of equality before the law, of trial by one's peers, of equality of opportunity to fulfil one's personality. ”

Much of the country's performance in the three and one half decades since, falls within that framework of rights and duties, a framework that is distinctly and remarkably similar to what the Universal Declaration also outlines. So it is appropriate that Sri Lanka should commemorate the 35th anniversary of the Declaration, with a vigorous sense of renewal. The brief account on the pages that follow of my country's attempts to develop an environment in which men, women, and children live in dignity, commemorates both the Universal Declaration and our own approach to its ideals.

Some analysts claim that the Universal Declaration is limited. They argue that it is a reflection of Western rather than universal beliefs: It is excessively individualistic, it does not adequately champion the rights of the community which strengthens and supports the individual, it neglects the influence that religions must exercise on the development of just societies, and it does not recognize the Gandhian assumption that "all rights to be deserved and preserved, come from duty well done."

Other analysts argue that Sri Lanka's failure to reach all its human rights objectives—its years of economic travail, the difficulties it has continued to experience in trying to move out of the "less developed countries" category, and its periodic eruptions of violence, for instance—have eroded the country's record.

The thrust of these assessments is that imperfection is a fact of human life. But, of course, in the ups and downs of human history, perfection is an oddity. Societies are flawed, as are documents and doctrines. They had best stay that way, or there will be nothing left to strive for.

As part of its striving, Sri Lanka takes a comprehensive or integrated approach to human rights. We do not squeeze ourselves into the discomfort of narrow perspectives. The preservation of human dignity requires a careful balance between different sets and sub-sets of rights and responsibilities. To accentuate, or belittle, one at the expense of others is illusory.

For the past 35 years, Sri Lanka has sought to combine the provisions of the Universal Declaration and subsequent covenants in domestic law and practice. Human rights in their different manifestations are entrenched in the Constitution, in the Penal Code, and in various anti-discriminatory laws. The rights of the people have been further protected by judicial decisions and interpretations, which have the force of "case law." The Government has set up the Sri Lanka Foundation whose primary task is to promote human rights and their protection.

As we look back on the past 35 years, we do not claim for ourselves either continuous success or exclusive rights to political virtue. We do claim for ourselves, however, the virtue of effort.

Ernest Corea
Ambassador.

THE POLITICS OF DIGNITY

"Sri Lanka's adherence to the democratic process has earned it the respect and admiration of the American people. Much of the world stands to learn from Sri Lanka's success in maintaining a democratic system in the face of challenges arising from a culturally diverse population, and the demands for development."

— Ronald Reagan.

"Americans have been particularly impressed by your well established democratic practices and large voter turnout which has averaged over 80 per cent during the last 16 years. Such a fine turnout coupled with your more than 50 years of universal suffrage provides a fine example for democratic nations."

— Thomas P. O'Neill.

DEMOCRACY, a military ruler in a developing country once said, "is for phlegmatic people in the West." Indeed. But democracy, with all its complexities and contradictions, is also for all those who revel in the unmatched exhilaration of participatory politics.

Human dignity is particularly well served by a democratic structure of government because, as Thomas Jefferson reminds us, democracy is "the only form of government which is not eternally at open or secret war with the rights of the people." The Universal Declaration is stirred by the spirit of democracy which touches many of its Articles including some that do not directly affirm *political* rights. Explicitly, participatory democracy as a human right is written into Article 21 which pronounces the right of everyone to "take part in the government of his country, directly or through freely chosen representatives."

Sri Lanka's record in the vast and crucial areas of human activity affected by the provisions and implications of Article 21 is exceptional*. Participatory democracy in Sri Lanka provides the people with

* "Since its independence in 1948, Sri Lanka has adhered to democratic principles with a constance and determination that is rare in Asia or the developing world. Power has changed hands peacefully following several national elections, which attests to the breadth and depth of the conviction in Sri Lanka that sovereignty resides in the people as a whole."

— Stephen J. Solarz,

Democracy & Adult Suffrage in Sri Lanka.
"Congressional Record" — Oct. 26, 1981.

opportunities and mechanisms to rule themselves, at all levels from the centre to the periphery. Men and women are equally involved in this process. Two women were elected to the very first Legislative Council formed under universal suffrage in 1931, and have been very much involved in politics, since. Women have not had to "fight" for the right to be politically active. For politics is open to all. The only exception is that would-be members of Parliament must be committed to national integrity and formally oppose, by way of a solemn oath, separatism; a natural exclusion in a small country, as the experience of other countries shows.

Even the smallest units of local government consists of members freely voted into office. Democracy extends as well to trade unions, co-operatives, social clubs, academic societies, and so on. The country's own traditions combined with the influence of modern liberalism excluded any other possibility.

Sri Lanka's political culture is strongly influenced by Buddhism whose tenets and principles incline towards many characteristics of modern democracy. The Dhamma or doctrine was frequently imparted through a process of discourse, not of didactic imposition. Tolerance, including obviously tolerance of viewpoints, is central to the Buddhist tradition. Buddhist Councils which met over 2000 years ago to discuss matters of doctrinal interpretation were structured very much like a modern parliament. A doctrinal resolution had to pass through "three readings" before it was formally adopted by majority vote. Within Sri Lanka itself, history records that democratic practices were well known at the grassroots level.

even in feudal times*. Not surprisingly, therefore, when the British colonial government introduced universal suffrage to the country in 1931, the people of Sri Lanka took to the ballot box with accustomed ease.

In the seven general (national) elections since independence, political power has passed from one party or group of parties to another six times**. The people guard their political rights ceaselessly and exercise them with enthusiasm. Voter turnout at both national and local government elections is usually over 70 percent and has often been over

* See Marshall R. Singer, *The Emerging Elite: a Study of Political Leadership in Ceylon*, MIT Press, Cambridge, Massachusetts, 1964.

** In December 1982, the Government called for a national referendum, as provided for by law, on a constitutional amendment to extend the term of sittings of Parliament by six years. At the referendum voters approved the extension by a 54 per cent majority.

80 per cent. Politicians and governments, for their part, dare not be unresponsive to the people's needs and moods. Non-formal institutions of democracy, such as voluntary "watchdog" organizations, are also active.

With the spirit of democracy firmly and unalterably rooted in local tradition, Sri Lanka has been able to take the existence of democracy for granted, and to move ahead with innovations designed to strengthen democracy and make the exercise of the people's political rights more and more effective. Broadly speaking, these innovations have taken two forms: Laws to ensure that elections are free and fair; and constitutional changes and refinements. Electoral laws are under continuous review, both by the people and by governments. The laws have been changed so much during 35 years of independence with each change meant to purify electoral procedures, that today's laws bare only minimal resemblance to the elitist-oriented electoral laws inherited from our colonial past. Any attempt to tamper with the laws would provoke instant public reaction.

The constitution with which Sri Lanka began its post-colonial life was a foreign ("Made in England") product, although it was democratically accepted by the country. That constitution retained Sri Lanka's link with the British crown through a largely titular Governor General, but did not curtail national sovereignty. It introduced us to the structures and institutions of parliamentary government, and enabled us to experience and overcome the growing pains of participatory democracy in a modern context. Nevertheless, it lacked the authority and character that reside only in a "home grown" constitution.

In 1972, accordingly, a Constituent Assembly devised a new constitution which turned Sri Lanka into a Republic. Any future constitutional development – amendments, replacements or whatever – would continue to bear the strength of domestic origin. With external derivation eliminated, and domestic constitutional origins established, the people's acceptance of proposals for a new, domestic constitution to replace that of 1972 was signified by an overwhelming mandate at the general (national) election of 1977, when the present government was voted into office.

An executive presidency was established by the new constitution. The parliamentary system was kept intact, but the Executive President receives his mandate to rule directly from the people who elect him, and not from a parliamentary majority. The new constitution also made

specific provision for a powerful and independent judiciary. Actions or proposals by the government are subject not only to judicial review, but may be referred back to the people at a referendum.

Fundamental rights, in all their variety, are uniquely protected by a provision of the constitution which enables a private citizen to seek not just judicial redress but judicial protection in advance against a perceived and imminent threat to his or her rights by executive or administrative action.

Commenting on the way in which the constitution of 1978 protects human rights, an academic has said :

“The section on fundamental rights when taken with the provisions for an Ombudsman (Article 156), the independence of the judiciary, and the restrictions on the exercise of the emergency powers is by far the most extensive charter of freedom that this country has had in all its history.” *

Laws, including constitutional laws, can be manipulated, or subverted. Laws are applied truly in the spirit of their creation only when society accepts, respects and, indeed, cherishes them. Such laws – vibrant and benign – reflect a societal consensus, and continue to influence that consensus.

Human dignity and democracy are inseparable. So, today, are democracy and Sri Lanka.

* A. Jeyaratnam Wilson : *The Gaullist System in Asia*. Macmillan, London, Pages 170, 171.

RELIGION AND SOCIETY

“Concord alone is commendable, in this sense that all should listen and be willing to listen to the doctrines professed by others.”

— *Emperor Asoka.*

“The insights and perceptions of the Universal Declaration could be enhanced by the religious perceptions and dimensions of the major religions and their value systems.”

— *Final Report,
Seminar on
Religion
and Human
Rights in
Sri Lanka,
1982.*

IN a secular age, the influence of religion on society is not uniformly recognized. However, many societies – or, at any rate, sections within those societies – continue to believe that unless the influence of religion is maintained in more than passing fashion, society's norms will crumble leaving perhaps anarchy in their place. Applying this assumption to the broad area of human rights, the point has been made that the moral or ethical overtones of society are no less important to the perpetuation of human rights than laws which enshrine those rights.

The impact of religion and culture on human rights was examined and determined by representatives of Sri Lanka's major religions – Buddhism, Hinduism, Islam, and Christianity (Catholic and Protestant). They concluded that–

“All major religions speak to the mind and heart of man ; they call for a change of mind and heart, a Movement away from self-centredness and self-awareness a just society cannot be built or maintained by unjust men ; or a peaceful society by men who do not know peace.” *

In the spirit of that conclusion, the religious component of human rights in Sri Lanka requires that three strands be harmonized. First, the strand of mutual tolerance, so beautifully encapsulated in an Asokan Edict. Second, the strand of religious freedom, spelled out in Article 18 of the Declaration. And third, the strand which requires that religion's positive influence on man and his environment be ensured.

Societies in which church and state are kept separate from each other might not concede the importance of the third of these strands. The Sri Lankan consensus is different. The freedom to practice the religion of one's choice and the capacity to respect religions other than one's own, are not ends in themselves. They are means to the end of continuously revitalizing society.

As with democratic politics, history is on Sri Lanka's side in the matter of religious tolerance and religious freedom. Sri Lanka's religious and cultural history would no doubt have provided the backdrop for the development of indigenous attitudes of religious tolerance. Even today, despite the periodic eruption of linguistic controversy and communal conflict, divisiveness on religious grounds is rare. Interfaith groups have moved fast to counter divisive trends. This is a continuation of the mood and style reported by the Arab geographer Al-Idrisi who visited Sri Lanka

* *Religion and Culture in the Development of Human Rights in Sri Lanka*. Monograph Series, No. 4, Sri Lanka Foundation, Colombo, 1982, Page viii.

in the 12th century and said that the royal council of the time was multi-religious, consisting of 16 members – “four Buddhists, four Muslims, four Christians, and four Jews.”*

The same multi-religious approach is evident today. Four major religions – Buddhism, Hinduism, Islam and Christianity – co-exist, maintain high profiles, and in some areas are assisted and supported by the state. Religious leaders, clergy and laity, co-operate in many humanitarian projects. Priests of all faiths are given places of honour at public events. Religious prelates sometimes make joint representations on major issues to the President and other State officials. With two exceptions including J. R. Jayewardene, President of Sri Lanka, all Sri Lanka’s heads of government since independence have been products of Christian missionary schools. Mr. Jayewardene was educated at a public (State) school.

Religions have co-existed down the years in Sri Lanka, with Buddhism taking a leading role. Hinduism has been so much a part of ancient history that shrines dedicated to gods in the Hindu pantheon are found within many Buddhist temples, and remain the focus of independent ritual and worship. Reports by Arab travellers suggest that Islam has been known in the island from about the 10th century. Remains of a Nestorian cross show that Christianity was known to Sri Lanka even earlier. Subsequently, Christianity was re-introduced by successive colonial regimes—Dutch, Portuguese and British.

Buddhism counts over 10 million adherents, *i.e.*, approximately 70 per cent of the population. Partly because of the numbers, but much more important because Buddhism and the State apparatus have always been intertwined except during the colonial interregnum, Buddhism occupies a special place.

The 1978 constitution reaffirms this position, while simultaneously protecting the religious rights of non-Buddhists. The constitution gives Buddhism “the foremost place” and, accordingly, the state is enjoined to “protect and foster” Buddhism. This is not to be at the expense of other religions. Two sections* of the chapter on Fundamental Rights ensure this. “Freedom of thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice,” are recognized as fundamental rights. In the same spirit, all Sri Lankans, whatever their particular religious beliefs, are guaranteed the right to manifest those beliefs in public or in private, through “worship, observance, practice,

* Christian Zuber : *Sri Lanka. Island Civilization*. Editions Delroisse, Page 108.

* Articles 10 and 14 (i) (e) faithfully represent the spirit of the Universal Declaration’s Article 18.

and teaching." These are entrenched, justiciable rights. Additionally, the Penal Code contains a chapter which sets out specific punishments for offences against religious freedom, tolerance and respect. Major holy days of the four religions are national holidays.

Practical measures have been taken to ensure that the State's support is available to adherents of Hinduism and Islam who together form some 32 per cent of the population. Very early in the life of the present government a Division of Hindu Religious Affairs was formed in the Ministry of Regional Development. This Division organized the first World Hindu Conference held at Colombo in April 1982. Some 600 delegates from 16 countries attended. The full cost of the Conference (in the region of \$ 84,000) was met by the Sri Lanka Government. Subsequent to the Conference, an International Hindu Centre was opened in Colombo, as resolved by the Conference.

Other highlights of the Division's activities include the provision of grants to Hindu temples which need such assistance, funds for rebuilding Hindu temples damaged by a cyclone, publishing religious books, and republishing sacred texts that are rare or out of print. The Division is also helping to build a pilgrim's rest at the holy shrine of Kataragama, in southeastern Sri Lanka.

A Division of Muslim Religious Affairs was established in 1981. Its main functions have been to support the country's mosques, to nurture Arabic Schools and colleges, to assist Moslem women's organizations, and to arrange the annual pilgrimage to Mecca for Sri Lankans wishing to under that religious obligation. Christian churches are active in Sri Lanka and the influence of Christianity is greater than the numbers would suggest.

Religious freedom, religious tolerance, and the influence of religion are all protected, as the Universal Declaration and local traditions require.

MORE THAN BREAD ALONE

"Considerable progress in social development has been made since independence in 1948. Successive governments pursued generous social welfare policies.... The living standard for the average person in Sri Lanka is significantly better than in most of the neighbouring countries of South Asia."

—US Department of Commerce

“Social justice and free enterprise. The twain are meeting in Sri Lanka, and the outcome could be an example to lands that act as if you can't have one if you have the other.”

—*Christian Science Monitor*

RELIGIONS impose on some classes of their adherents disciplines meant to divert them from material desire, even need. Most religions also exhort and inspire their followers to work resolutely against human deprivation.

The biblical parable of the loaves and fishes celebrates the joy of shared abundance. Giving alms to those who need is considered a meritorious act by both Hindus and Buddhists. The Prophet Mohamed asked his follows to safeguard themselves “against penury.”

All societies concede that poverty is sickening ; vast income disparities, obscene. Societies in which the world's major religions are deeply and firmly rooted feel repulsiveness of poverty very strongly*.

This explains the country's continuing emphasis on social justice ; and emphasis sometimes unequal to the country's resources and, therefore, its actual capacity to sustain the emphasis.

Those who choose to approach human rights questions from the squeeze of a single and narrow perspective sometimes forget (or choose to ignore ?) that human dignity is indivisible. It cannot be assured, protected or even contemplated without adequate provision for man's social and economic rights to be delivered to him.

Eleven of the Universal Declaration's 30 articles have a direct bearing on the social and economic aspects of life. Arguably, Article 28 could even be said to have freshadowed more recent proposals for a New International Economic Order. Certainly, Article 22 is all-encompassing in its insistence that every member of society is entitled to the “economic, social and cultural rights indispensable for his dignity and the free development of his personality.” Those who respect the Declaration are expected to protect the economic and social rights of man with the same ardour they apply to political rights. The wholeness of man is weakened when his material wants are neglected, or when those wants are supplied only to a section of the people.

* Representatives of Sri Lanka's religions place in the order that follows five areas they consider particularly important to fundamental human rights : (1) Hunger, Health & Housing, (2) Work and Employment, (3) Education, (4) Freedom of speech and information, (5) Participatory Democracy including the rule of Law.—*Monograph Series, No 7, Sri Lanka Foundation, Colombo 1982, Page 151.*

Sri Lanka's response to that exhortation falls into three broad areas : an attempt to develop the country's human resources, a search for distributive mechanisms, and currently (from 1977 onwards) a thrust in the direction of "growth with equity."

Sri Lanka practiced what is now known as a "basic needs" approach to development long before international institutions discovered the phrase, and well before the "new directions" (in development assistance) legislation was adopted by the US. Sri Lankans were acting in terms of their own inner impulses, and responding to public needs, when they adopted human resource programs. "The roots of Sri Lanka's social progress go back at least before independence and to some extent to its Buddhist heritage." in the opinion of a foreign expert**.

Education was imparted to the people at temples, schools, and other institutions of learning throughout the country many years before Christian missionaries established an English language based system of education in the country. Ancient Sri Lanka was a flourishing irrigation-based, agricultural society. Food production was basic to social organization and the records of neighbouring countries suggest that pre-colonial Sri Lanka was an agricultural exporter. The use of wood to build sluice valves, the construction of stone slabs that fitted exactly, the choice of the most appropriate points at which to dam rivers, and so on, all bear witness to the existence of advanced technology in the past. That technology was surely passed on through a system of education and training. Similarly, Sri Lanka's indigenous systems of medicine were being practiced long before the explorer Vasco da Gama's flotilla crossed the Cape of Storms in 1497 and moved into Asia, carrying shipboard First Aid boxes.

True to the principles and practices of the past, after independence Sri Lankan governments lavished considerable amounts of money on human resource building. Education has been free from kindergarten through University. Health services ranging from preventive care to hospitalization and surgery have also been free. Food subsidies (a ration of the staple cereal rice, and other basic items) were introduced by the British colonial government during World War 2. These subsidies were continued.

*The phrase has been used by a USAID report to describe current economic policies in Sri Lanka. See *Sri Lanka : The impact of PL 480 Title I Food Assistance*. US Agency for International Development, Washington DC, Oct. 1982, Pages 7-9.

** Paul Isenman, *Basic Needs : The Case of Sri Lanka*. "World Development", Vol. 8, Pergamon Press, London, Pages 237-258.

The search for distributive mechanisms was based on the belief that public services must not produce profits for private pockets. The State intervened in many ways to pursue this principle, and this resulted in a rash of nationalisation. Everything from transport to textiles was or became state owned. Parastatals mushroomed, as the most common device of distributive justice. The trend grew during the years when two Marxist parties formed part of the coalition government that ruled Sri Lanka.

By 1977, when the present government was installed in office with an unprecedented landslide election victory, it was clear that unless economic organization was drastically altered, those welfare services which helped develop our people's personalities would have to end. Our rates of growth simply could not sustain them. A major spurt of growth was a pre-requisite for equity.

A new set of development programs was therefore introduced in 1977. These included a massive river basin development project, the Accelerated Mahaweli River Development Program. The largest multi-purpose river valley development scheme ever attempted in Sri Lanka, the Mahaweli Program seeks to bring some 650,000 acres of new land under cultivation, to provide ensured water for another 200,000 acres of existing agricultural land, to create approximately one million jobs, and to make our country self-sufficient in agriculture. This is to be done by damming the Mahaweli Ganga or river, storing its water, and diverting it to irrigation and the production of hydro-electric power. The Mahaweli Programme is a plan of vision designed to bring about radical changes, through the combination of modern technology and the use of our own human resources, in as brief a time as possible. The new programs also include the adoption of free market incentives to revitalise food production while raising rural incomes; the redirection of some subsidies from the consumer to the producer; incentives and guarantees to release the creative energies of the private sector, both local and foreign, as part of industrialization and the attack on unemployment*; the introduction of liberalized fiscal policies; and a nationwide program to build homes for the homeless combined with a village re-awakening movement.

* The general election of 1956 saw the victory of a populist coalition supported by groups whose predecessors had held positions of power and prestige among the Sinhalese in pre-colonial times.

Each of these different approaches to human welfare has had a number of significant results. Although critics point out that the "basic needs" approach consumed vast quantities of the country's scarce resources, they concede that the people's quality of life was raised much higher than is usual in countries with similar national income and growth rates. Literacy is in the region of 85 per cent, life expectancy at birth is 67 years, infant mortality has dropped from 140 per 1,000 births to 37, population growth has dropped from over 3 per cent per year to some 1.7 per cent, and the daily intake of calories is close to Western norms.

The intrusion of statism in economic organization took its own toll. Some parastatals are considered parasitic. At the same, the search for distributive mechanisms established an egalitarian philosophy in the public mind. Land reform, perilous and controversial elsewhere, has been introduced without great political turbulence or dislocation.

The result of the policies introduced in 1977 has been an almost spectacular increase in agricultural production and, consequently, rural income ; a substantial reduction of unemployment ; job creation through the industrial investment of the private sector, both local and foreign ; protection of the poorest of the poor through carefully targetted food and fuel subsidies ; and protection of the people's quality of life through the perpetuation of those social programs (health and education, for instance) required to do this. At the same time, the river basin development and housing programs hold out the promise of changing the face of the hinterland.

Development programs have been undertaken in such a way as to benefit the population as a whole : men, women and children of all communities. Special care has been taken to promote the Status of Women. Laws prohibit discrimination. A Ministry for Women's Affairs and a Women's Bureau, serve as the focal point of development activities specially catering to women's interests. A Parent's Charter, child protection law, universal education, and local traditions nurture family life and children.

Economic and social projects and programs serve the whole country but some projects are specifically directed at areas in which the bulk of the country's main minority community lives*.

* The language provisions of the constitution "represent a watershed in the development and growth of the Sri Lankan state," in the opinion of a Sri Lankan Tamil jurist. See N. Satyendra, *Language in the New Constitution*. Ceylon Daily News, October 4, 1978.

Despite several years of efforts, Sri Lanka remains a poor country. The impact of external events over which developing countries have no control has made the development process arduous. Still, Sri Lanka has persevered. What it has achieved in the years since independence, in terms of the quality of life of its people, recent growth rates, changes in patterns of agriculture, and job creation, are substantial. What is most substantial, however, is its continuing and unbroken commitment to striving for an environment in which human dignity can flourish.

THE RITES OF LANGUAGE

“For the first time in history, Tamil has been recognized (by Sri Lanka’s Constitution of 1978) as a national language for legal, administrative, parliamentary and educational purposes, while linguistic discrimination has explicitly been forbidden.”

—*The Statesman, India.*

“Sri Lanka has managed its communal tensions more effectively than many nations with similar diversity.but not without significant communal strife.”

—*Aid Evaluation Team.*

POLITICS, religion, and socio-economic factors are closely interwoven in the Universal Declaration, but nowhere is there reference to language rights in heterogenous societies. Presumably, the states represented by the bulk of the 48 delegates who voted to adopt the Declaration were monolingual.

Yet, before the Declaration was signed and after, language—which by any definition, should serve as a unifying force—has been the cause of divisive bitterness and sometimes violence, in many countries across the world. Sri Lanka has not been an exception.

Conflict over language and language rights in Sri Lanka has to be set against the background of colonial rule, when Sinhala (the language of some 74 per cent of the population) and Tamil (the language of Sri Lankan Tamils and Indian Tamils who together make up 18 per cent of the population) were both superseded by foreign languages.

During the 152 years of British rule, the third and final phase of colonial domination, English was the language of administration, the language of commerce, and the medium of instruction in urban schools. Consequently, it also became the language of the local elite to whom the baton of power would pass at independence.

During the long runup to independence, only the English-educated were eligible for appointment to those positions in the public services open to the "natives." The record shows that members of the Tamil community were able to acquire positions in the colonial administration disproportionate to their numbers in the population as a whole. This is demonstrable. It is also old hat, to be sure, and it is mentioned here not in an attempt to re-open old wounds but to provide the necessary background to later events and trends.

Inevitably, the politics of language would agitate Sri Lanka when the colonial presence was removed. There would then be a need to revitalize local languages and restore them to proper use. Few Sri Lankan politicians were farsighted enough to suggest that the peoples of Sri Lanka should plan ahead for that time. One of them did. He drew attention to the problem in the forum of the people's representatives. As amended and adopted by the Ceylon State Council on May 25, 1944, the operative parts of a resolution moved by J. R. Jayewardene (now President of Sri Lanka) reads :

- (a) That Sinhalese and Tamil should be made the media of instruction in all schools.
- (b) That Sinhalese and Tamil should be made compulsory subjects in all public examinations.
- (c) That legislation should be introduced to permit the business of the State Council to be conducted in Sinhalese and in Tamil also.
- (d) That a commission should be appointed to choose for translation and to translate important books of other languages into Sinhalese and Tamil.
- (e) That a commission should be appointed to report on all steps that need be taken to effect the transition from English into Sinhalese and Tamil."

The resolution was adopted by a vote of 27 to 2, but never got beyond the statute book. The colonial administration balked. The Western-Oriented-Gentlemen who formed the local elite accused Mr. Jayewardene of attempting to bring the languages of the kitchen into the bureaucracy. He was doing just that, because the "languages of the kitchen" were the languages of the people. Had he succeeded, the country might have been saved much pain and anguish.

English retained its pre-eminent position until July 1956 when the Official Language Act (more commonly known as the Sinhala Only Act) displaced the English-language from its official position with decisive swiftness.

With hindsight, it has been claimed that the Sinhala Only Act was ill-conceived; it dislocated the administration, divided society, deprived the country of access to an international language, and laid the foundation for years of communal politicking.

With hindsight it has also been claimed that the Sinhala Only Act was a populist government's * inevitable response to a groundswell of demands for a restoration of the linguistic, cultural, economic, and religious rights of the country's majority. The Act was very much a deliberate attempt to reduce the power and status of Western-Oriented-Gentlemen. It also caused the Tamil minority to fear the loss of its colonial pre-eminence.

The future can pass judgement on these two claims. For the present, it is sufficient to note that by 1977, the "language question" was high on the national agenda. The Constitution of 1978 deliberately sought, therefore, to secure the language rights of the Tamil-speaking minority without at the same time destroying the rights of the Sinhala-speaking majority.

Language rights ** were entrenched in the constitution both in the charter of fundamental rights. (Chapter 3) and in a separate chapter on language (Chapter IV). An infringement or feared infringement of language rights could thus be taken to the courts, just as with any other human right.

The constitution, while retaining Sinhala as the official language, grants constitutional recognition to Tamil as a National Language. Flowing from this recognition, language rights apply across the board in almost every area of public activity, as the following summary demonstrates :

- *The Legislature.*—A Member of Parliament or of a local authority can speak and perform all his functions in either of the national languages. *Section 20.*
- *Education.*—A person has a right to be educated in either of the National Languages. In fact where one National Language is a medium of instruction in the University, the other National Language also has to be made a medium of instruction. This provision confers a constitutional right on a member of the Tamil community to be educated in the medium of the Tamil Language from the primary stage to the University. *Section 21.*

* See *Sri Lanka's Turnaround: How One Country Plays the Incentive Game*. "Dun's Business Month", New York, November 1982, Page 40, 41.

** See Annex II.

- *Administration.*—In the Northern and Eastern Provinces the Tamil Language also is a language of administration and transaction of business. In other parts of Sri Lanka a citizen is entitled to communicate and transact business with all agencies of government in either of the National Languages. *Section 22.*
- *Publications.*—All official notifications, Proclamations, Gazettes, etc., have to be published in both National Languages. *Section 22 (4).*
- *Examinations.*—At an examination for admission for employment in the government, or the parastatal sector, a candidate is entitled to be examined in either of the National Languages. *Section 22 (5).*
- *Legislation.*—All legislation has to be enacted and published in both National Languages. *Section 23.*
- *Courts.*—In the Northern and Eastern Provinces proceedings in Courts shall be in the Tamil Language, while in any court of the Island, any party or applicant or lawyer can submit pleadings in either of the National Languages. *Section 24.*

Nor have language right been restricted to paper. In actual practice, Tamil-speaking Sri Lankans have been able to move ahead in the public sector, the parastatal sector, and the private sector, without hindrance, without discrimination. In public service, thus, 34.9 per cent of the engineers, 28.9 per cent of the surveyors, 35.1 per cent of the doctors, 38.8 per cent of the veterinary surgeons, 30.2 per cent of the medical technicians, and 33.1 per cent of the accountants, are Sri Lankan Tamils. Several important positions in Government including positions in the state's legal apparatus, are held by members of the Tamil community. Neither ethnic origin nor language competence has been a barrier to them. Many Sri Lankans are bilingual.

The numbers game can be played ceaselessly, but nothing is to be gained by labouring the point. The simple fact is that since 1978 the entrenchment of language rights in law, and their adoption in practice, has been exemplary. Few multilingual nations in the world provide constitutional protection to language rights, through what is in effect a Charter on Language, as Sri Lanka did in the constitution of 1978.

If language has continued to be a focal point of tension despite the singleminded establishment of these rights, it is because purveyors of ill-will have been equally singleminded in their determination to maintain tension.

STALKED BY TERROR

Sri Lanka "finds itself the target of 'destabilization' efforts, conducted by a relatively small but well-organized and well-financed group of terrorists."

—*Wall Street Journal*.

"We, of course, are aware of and cannot condone the violence accompanying persistent demands for a separate state by members of the Tamil minority in Sri Lanka and we recognize the right of the Government of Sri Lanka to bring to trial those responsible for this violence."

—*Orville H. Schell*.

BY all the rules of reason, relations between the two main communities in Sri Lanka should have stabilized and been strengthened under the impetus and inspiration of the 1978 constitution. And, if laws alone are considered unequal to the task, there were also a series of attempts by the government which formulated that constitution to pursue a dialogue with leaders of the Tamil community. Optimistic and hopeful expectations have, alas, not been fully realized. There are many reasons for this, the most significant of them being the intrusion of terrorism into communal politics*.

Inter-communal tensions have exploded into violence five times since independence. On each such occasion, a single unfortunate incident served as catalyst to mob fury. Each time, moreover, the fury abated almost as suddenly as it erupted. The ugly violence of July 1983 lasted six days; similar clashes in other countries have been spread over several months.

Terrorist violence is another matter. Terrorism is organized, lethal, ruthless, well-funded, and has the clearly-defined political goal of attempting to dismember the state of Sri Lanka. Terrorists have killed, burgled, intimidated, destroyed and, overall, conducted themselves in such a manner as to disrupt and threaten to destroy the human rights of everybody else in the country. This threat to human rights is rarely commented on by foreign observers. Throughout these depredations, the terrorists' collaborators abroad have conducted a two-pronged collusive

* For an account of the emergence of terrorism, as a factor in Sri Lankan politics, see *Beyond Conflict*, Embassy of Sri Lanka, Washington, D.C., August 1983.

program : attempting to give the terrorists "heroic" status by whitewashing their crimes as blows for "freedom", on the one hand, and supporting their crimes with a variety of resources, on the other.

Politically ignorant in some cities abroad have succumbed. The government and peoples of Sri Lanka have had to take a much harder-headed approach to a problem actually in their midst. Terrorism is repugnant and contrary to all the norms of civilized behaviour. Hence, the number of international Conventions designed to thwart terrorism. Terrorism, when it takes place within national boundaries, has to be countered with all the resources—political, military, diplomatic, and so on—at the State's command, in the interests of the human rights of the population as a whole. What government can stand by idly when terrorists destroy that most precious of all human rights, the right to life? Terrorism has claimed over 100 lives in Sri Lanka.

Several countries grappling with terrorism have used a combination of extraordinary laws and security operations to protect the people. Sri Lanka's diplomats abroad reported extensively on such special laws, when it became clear that the threat posed by terrorism to the peace of the land and the security of the people was so severe that it required extraordinary countermeasures. These analyses and the relevant legislation in democratic countries were carefully studied by Sri Lanka's lawyers, including some who have spent a lifetime fighting in the courts and in legal chambers to protect fundamental rights. They found that democratic societies grappling with the terrorist affliction were inevitably compelled to curtail some existing human rights legislation, so long as extraordinary threats to a nation's integrity persisted.

The fact that such curtailment might be needed in the larger interests of society is conceded in international covenants.

The particulars of such reports are less important than their fundamental misperceptions, caused primarily by self-constricted vision. A visiting group (any group) which enters a country (any country) to examine Issue X and nothing else, sees only what it wants to see. Frequently, it ends up like the bureaucrat who attended an international conference in a distant city across the seas, and told his colleagues when he returned that the city he visited consisted of a large airport, a long road, and a hotel with a basement massage parlour.

Reporting on Sri Lanka, impressionable and superficial foreign observers choose to ignore or fail to realize that constitutional and other legal safeguards continue to protect even suspected terrorists and/or their accomplices, detained under the *Prevention of Terrorism Act*, however execrable the alleged actions of the suspects might have been.

The right to *habeas corpus* applies to any persons detained under the *Prevention of Terrorism Act*, just as to anybody else. Writs on behalf of detainees have, in fact, been sought and any knowledgeable observer familiar with the unyielding independence of Sri Lanka's judiciary would realize that if detention cannot be justified, the courts would swiftly order a suspect's release.

The *Prevention of Terrorism Act* also allows the Court of Appeal to order the release of a detainee on bail, if the Court, the country's highest appellate body, is juridically persuaded that bail is warranted.

Visiting missions have alleged torture against detained terrorists. Torture is a word with a specific and grave meaning. It should not be tossed around with playful semantic abandon. Torture is prohibited under the constitution and any person who can make a charge of torture stick has the full benefit of the law from which to seek and obtain redress. The existence of free legal aid and the fact that almost every Sri Lankan political party is crammed full of lawyers, makes it very easy for a truly offended person to seek redress. Sri Lankans know their rights, and do not hesitate to exercise them, or to ensure that they can be freely exercised. They are also aware of and respect the power and independence of the judiciary. No less than 83 alleged human rights violations have been taken to the Courts since 1978.

In Sri Lanka, as an American assessment puts it :

"Basic human rights are protected by the 1978 constitution, and due process is a hallmark of Sri Lanka's legal system inherited as part of the British Colonial legacy. National security concerns have led the Government, however, to resort to extraordinary measures to deter and combat terrorism."*

These special measures have been written into the *Prevention of Terrorism Act*. Given Sri Lanka's profound and demonstrable commitment to the political rights of man, it is clear that this Act would

* US State Department *Human Rights Report*. 1982.

never have been drafted, but for the grave, continued, and continuing provocation posed by terrorism. The Preamble to the Act itself makes that abundantly clear. *The Act will not stay in force for one single day after the threat of terrorism ends.* As recently as in July this year, President Jayewardene proposed withdrawing the Act, as part of an overall political package under which separatist politics and its handmaiden, separatist terrorism, would end. Unfortunately, separatist politicians copped out of attending the conference at which this package of proposals was to be discussed.

Itinerant missions including, most recently, one from a London-based group, "Amnesty", have criticized the *Prevention of Terrorism Act* and have alleged that human rights violations are committed under cover of the Act. A report by "Amnesty" published in mid-1983 does not stand up to scrutiny. Coaches and horses can be driven through its claims and conclusions. These were based on alleged evidence collected second hand through interpreters whose impartiality remains to be assessed. Those hearing and collecting "testimony" were ignorant of local languages, and could therefore make no independent assessment. They were strangers in a foreign land, captives of their political contacts. How the "witnesses" were selected and produced for them is another matter. At no stage was the alleged evidence juridically tested. The "investigative process" preceding the visiting team's rush to judgement lasted all of nine days. Even rabbits don't produce that fast.

Several detainees have petitioned the courts alleging torture. Their statements have been found to be self-serving. On one celebrated occasion, a detainee actually attempted to persuade a court that the fading marks of injuries received in a motorcycle accident were signs of torture.

Servicemen and policemen are no more, or no less, angelic than any other members of society. In Sri Lanka, as in many other countries, excesses by law enforcers are by no means unknown. These are not condoned by the government which has acted to impose discipline—reprimands, dismissals, legal proceedings—against law enforcement officers taking the law into their own hands. Other safeguards, such as regular visits to places of detention by senior officers, and the institution of administrative committees to which complaints can be initially addressed, have also been set in place. This has been done in the face of angry public opinion, concerned that the life of the State itself is jeopardized by terrorism which should therefore be given no quarter.

Those who place terrorism on their blind side, and comment only on what they spot from their narrow perspective as a violation of the sacred rights of terrorists substitute effect for cause. They lunge towards disaster when they conduct their exertions solely with the assistance of groups with discernible domestic political motivations.

Misguided missions erode the credibility of the organizations they represent. That is their problem. They also lose whatever opportunities are open to them to influence events in a positive and constructive way. That is Sri Lanka's loss.

LOOKING AHEAD

SRI Lanka's first native-born Governor General once said of his country that there, "the sun rises in the morning, and sets in the evening..... and it sometimes rains." In London, England, a BBC producer looking for a title to a documentary film on Sri Lanka he had planned was inclined to accept the suggestion, "Island without problems." The assumptions of placidity underlying the Sri Lankan comment and the British assessment were in the eyes of the beholder.

Sri Lanka has had its share and more of problems, crises, and turbulence. Foreign observers have sometimes picked on these in perplexity. They have examined one critical phase of life or another, become obsessed by it, and gone away either confused or despondent, or both. They have asked such questions as : How can a people inspired by a philosophy of tolerance indulge in the very opposite ? Will the traditions of democracy survive ? How can the emergence of terrorism be explained ? And so on, and so on Sri Lankans themselves ask the same or similar questions—which is what counts.

Each time the country has been through an experience contrary to its character, Sri Lankans have picked themselves up from the debris, looked the issue in the eye, and tried harder than before to resolve it. Perceived weaknesses in the democratic structure have led to its strengthening. Eruptions of communal unrest have been followed by a search for accommodation. Economic difficulties have been followed by the espousal of new policies. All these in the interests of a single, overall goal : a life of dignity for the people.

Can the trends of the past 35 years be disturbed or destroyed in the future? Two dangers hang over them, ominously. First, the danger of terrorism, and the backlash it evokes, tearing the social and political fabric apart. Second, the danger of external economic factors dislocating the domestic economy.

If these two dangers are averted, a revised version of this background note 35 years from now will look back with pride on 70 years of continuous homage to the dignity of man.

ANNEX I

Sri Lanka is a signatory to the following International Conventions on Human Rights :

The International Covenant on Civil and Political Rights.

The International Covenant on Economic, Social and Cultural Rights.

The Convention on the Prevention and Punishment of the Crime of Genocide.

The Slavery Convention of 25 September 1926.

The Protocol Amending Slavery Convention.

The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

The Convention on the Nationality of Married Women.

The International Convention on the Elimination of All Forms of Racial Discrimination.

The International Convention on the Suppression and Punishment of the Crime of Apartheid.

The Convention on the Elimination of All Forms of Discrimination Against Women.

The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriage.

ANNEX II

SPECIAL DEVELOPMENT PROJECTS

Development projects in Sri Lanka are so designed as to benefit the country as a whole. River basin development, Malaria control, nutrition programs and so on are directed at all Sri Lankans. In a special effort to ensure that the Tamil community, the country's largest minority, gets the fullest possible benefit of development, several projects have been directed at areas where the population is predominantly Tamil. These projects include :

- **Integrated Rural Development**

Planned development of forestry, horticulture, irrigation, fisheries, livestock and infrastructure.

- **Jaffna Market Town Water Project**

To provide a portable water system for the towns of Chavakachcheri and Point Pedro, and to prepare a Master Plan for water supply and sanitation in the entire northern province.

- **Livestock Development Project**

To uplift the economic and social conditions of small farmers in Trincomalee, Batticaloa and Amparai by establishing a base station for livestock development, improving fodder land, and improving milk collection, marketing, etc., by co-operatives.

- **Paddy Marketing and Storage Project**

To locate three paddy (rice) milling and storage complexes in Oluvil, Weeramuni and Sittandi.

- **Vavuniya-Mullaitivu District Water Supply**

- **Trincomalee Water Supply Project**

To construct and put into operation a water supply scheme to cater to the full requirements of the town of Trincomalee.

- **East Coast Fisheries Project**

To construct a fisheries harbour complex at Valaichchenai, and supply fibre glass boats to fishermen in the Valaichchenai area on credit.

- **Valaichchenai Paper Mill**

To instal an affluent treatment system at the existing paper mill.

- **Forest Resources Development Project**

- **Mannar Water Supply Scheme**

- **Eastern Region Coconut Rehabilitation Project**

To rehabilitate coconut plantations devastated in November 1978 cyclone, and to diversify agriculture in the region.

- **Goat Development Project**
- **Amparai Group of Towns Water Supply Project**
To conduct a feasibility study.
- **Jaffna Project for Women's Bureau**
To assist income generating projects for women.
- **Cyclone Reconstruction of Eastern Region**
- **Community Forestry Project**
To establish wood plots in 19 villages in the Batticaloa district.
- **Rural Electrification Project**
To provide 30 villages in the Jaffna district, 10 villages in Batticaloa and nine villages in Trincomalee with electricity.
- **Livestock Development Project**
To establish a farmer training centre and strengthen existing rural veterinary centres in the Jaffna district.
- **Primary Health Care Project**
To construct and upgrade of health centres in the Mullaitivu district.
- **Technical Education Project**
To upgrade the Jaffna Polytechnic and the laboratory facilities at the Junior Technical Institute, Samanthurai.
- **Cement Production**
Expansion of the Kankesanthurai Cement factory.

ANNEX III

SOURCES

The origins of the quotations which appear at the front end of each of the main sections of this Background Note are as follows :

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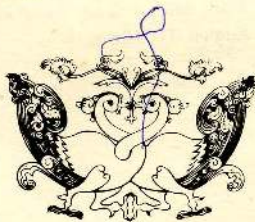
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