

LANKA

GUARDIAN

Vol. 21 No. 5

September 1998

Price Rs. 15.00

COMRADE CHANDRIKA: ONE WOMAN SHOW

— *Mervyn de Silva*

THE ASEAN BUBBLE

— *Gamini Corea*

PROTECTING THE PRESS

— *Sinha Ratnatunga*

WORLD BANK: MIXTURE AS BEFORE

— *Chakravarthi Raghavan*

CARDIOLOGY: DON MICHAEL'S BEST SELLER

KOSOVO: ESSAY IN CONFLICT RESOLUTION

D. J.: MAN AND MEDICINE MAN

— *P. R. Anthonis*

EGO AND SHAM: *U. Karunatilake*



HIGH PRIEST

*As priests, they confront more often
Lives adversities. Being called
To officiate when tragedy strikes
Rather than when someone chooses to celebrate
Some traditional cause for celebration
Or even some inane frolic.
The inanity on one hand and tragedy on the other
Being different solutions to the same equation
Indicating that the Universe is sometimes out of control
Of the Formless Ones who thought it out or that
Those who thought it out should adopt
A new set of axioms, a new Mathematics.*

*This High Priest
Has come to this same high hall
For well nigh seven decades, going back
To when he was an ordained adolescent,
Envyng the young lay-folk
Flirting over choice alms dishes which didn't tempt him
So much as the world of titillation
In their ballet of eyes.*

*Now High Priest and nearly ninety
Calm, meditative, but observant of the human condition
Envyng no more
Those who twittered in this high hall
He is no boy now, no young intellectual
No mature preacher in the prime of life
He is High Priest true, but an old man
Who has had his ringside seat for the show
Seeing curly headed pages,
Clowns, and make-believe princesses
Make their debut, in this high hall,
Sprout proud in the spin down in the fall.
Blind right through and now dreaming dreams
On burrowed time,
While he, withdrawn and watching from outside
Decides that the Formless One's programmes
Need new dimensions, a replayed Plan
For dismantling of human ego, and sham.*

U. Karunatilake

LIVING ON CHANDRIKA CHARISMA

Mervyn de Silva

The economy, stupid. While President Chandrika Kumaratunga had a very successful visit to New York to address the 53rd U.N. General Assembly sessions, the picture at home was far from encouraging. In New York, she also had an opportunity to meet Indian prime minister, Atul Bihari Vajpayee. Since her speeches and interviews focussed on "terrorism" the President and her foreign minister Lakshman Kadirgamar seized the opportunity to present the PA's case.

But the economic scene at home was far from encouraging. In the west, "Ceylon" is still "Lipton's tea garden". Tea prices have a twelve month low. The chairman of the Tea Traders Association, Mr Michael de Zoysa has predicted that 15 factories may have to close. Why? Russian buyers are pulling out — the financial mess in Yeltsin's Russia. The Russian crisis is so serious that President Yeltsin had to find a new Prime Minister, Yevgeny Primakov.

The P.A. has now decided to introduce a special credit insurance cover for Sri Lankan tea bound for Russia. As it is, Russian tea buyers who control all tea imports to the Commonwealth of Independent States — the former Soviet Union — owe Sri Lankan exporters over

20 million US dollars. Meanwhile defence spending rises as the frontpages report. And of course are high casualties.

There is also trouble in the constituent parties of the Peoples Alliance (P.A.). More than half way in the six-year term, the P.A. should be glad it has survived the disagreements. The spotlight is on Athauda Senewiratne. Predictably, LSSP General Secretary Batty Weerakoon told the press "it is an internal party matter" — of course, that is why it is also a PA matter. When a party of three MP's is faced with internal disputes (Yes, it happens in the best of families) "I cannot discuss even with my wife" said Asst. Secretary Wimalasini de Mel.

And the LSSP is not the only party facing such problems. Srimani Athulathmudali, leader of the United Lalith Front is quite annoyed, surely, with Ravi Karunanayake M.P. He attended a UNP sponsored conference on 'free and fair' elections. And the UNP leader Ranil Wickremasinghe, is exploiting these divisive tendencies. Thus, his well-attended CONSULTATION!, a smart move.

We regret to announce the death of Prof. A. J. Gunawardena, a regular contributor.

LANKA

GUARDIAN

Vol. 21 No. 5 September 1998

Price Rs. 15.00

Published by
Lanka Guardian Publishing Co. Ltd.
No. 24B, Union Place
Colombo 2.

Editor: Mervyn de Silva
Telephone: 447584

Printed by
Ananda Press
Colombo 13.

CONTENTS

| | |
|---|----|
| Lessons from the Asian Financial Crisis | 2 |
| Muzzling the Media | 3 |
| Human Rights Sri Lanka in 1997 | 8 |
| The Northern Ireland Accord as Model | 11 |
| World Bank Selling Old Medicine in New Bottles | 15 |
| Cardiology Dr. Don. Michael's Text Book | 18 |
| Appreciation Dr D J Attygalle | 19 |
| The Kuala Lumpur Declaration on Kosovo | 20 |

Lessons from the Asian Financial Crisis

Gamini Corea

The central fact is that Asia became very dependent on foreign investors, whose concern was not whether a country had its fundamentals in order, but what other speculators were thinking.

The explanation frequently cited in the international media for the Asian financial crisis – poor economic 'fundamentals' – simply is not convincing.

It is implausible that the Asian tigers could have sustained rates of expansion so high and for so long, nearly transforming their economies, while all the time the so-called 'fundamentals' were not right. Certainly there were weaknesses and excesses, but these were not so common as to cause a re-enactment of this crisis in country after country.

If anything was wrong, it was the fact that the nations exposed themselves excessively to footloose speculative movements of capital and to short-term capital flows, with no regulations or control mechanisms set up in advance. This was partly because of the prevailing philosophy of openness to all kinds of financial flows.

For many years this produced positive results and people applauded. But the immediate causes of the current crisis have not been an over-investment in real estate, or the corruption and crony capitalism, that we read about – which are to be found in all the economies in the world, not only in East Asia.

The central fact is that Asia became very dependent on foreign investors, whose concern was not whether a country had its fundamentals in order, but what other speculators were thinking.

Dr Gamani Corea is a Sri Lankan economist and was the secretary-general of the United Nations Conference on Trade and Development (UNCTAD) from 1974 to 1984. He is currently chairman of an ad hoc panel of economists appointed by the Non-Aligned Movement to study the position of developing countries in the world economy.

This created a very volatile situation and ultimately a chain reaction of crises.

Absence of Regulatory Mechanisms

One of the major lessons to be drawn from the present situation is that there is an appalling absence of any kind of mechanism to moderate and regulate these developments once they appear to get out of hand.

There is no ex-ante preventive system internationally to monitor the situation, anticipate possible weaknesses and take action. Instead there is an ad hoc and ex-post response.

Unfortunately any kind of preventive regulations by governments, or even by international organisations, is considered contrary to the prevailing liberalisation philosophy. The result is a very large exposed and vulnerable economic area.

If there is to be an international legacy from this crisis it should be the establishment of mechanisms to monitor and react in time. This should top the list of the agenda for the evolution of the international financial system.

No Serious North-South Dialogue

There are other issues. One of the casualties of the great euphoria about globalisation and liberalisation has been the debate on international development cooperation: there have been no serious negotiations on a North-South basis for the last 15 years!

All the changes which the South has been pushing – tariff preference for developing countries, concessional aid targets, commodity stabilisation arrangements, codes for the transfer of technology and restrictive business practices – have been put aside. As a result, the whole burden of action, and virtually the whole focus of attention, is now being placed on the internal domestic policies of developing countries.

Developing countries are told that now there is an express train called 'globalisation and liberalisation'. If they get aboard, they will be carried on a great distance; but, if they fail to do so, they will be left behind and marginalised.

The secret of boarding is in their own policies: if they liberalise, deregulate, privatise, balance their budgets and so on, they would be beneficiaries of the process.

The North-South dialogue thus has been replaced by a sort of 'do-it-yourself kit' for developing countries which are told that they don't need big discussions and conferences on international cooperation, aid flows, the terms of trade and so on.

Multilateral Actions Needed

Nevertheless, it remains as true as ever that developing countries need economic environment that is supportive of the development process and stability in the world economy. This will not come about through the country-by-country implementation of internal structural adjustment policies alone.

There are major issues that can only be addressed through multilateral actions, and a revival of discussions and negotiations on these is clearly needed. One of these is the international financial system and the way it should evolve. This must be the subject of inter-governmental actions rather than of national policies alone.

There also are other issues: trade, capital needs, debt relief, regionalism and global environmental concerns that involve an inter-dependent world and affect both developing and developed countries.

(Continued on page 7)

Muzzling the Media

Sinha Ratnatunga

Background

Muzzling the media in Sri Lanka has been a favorite sport of any party in power. Pious promises made while in opposition dissolve like so much chaff in the wind when those in opposition succeed to governance.

The once eager flag bearers of media freedom then make unscrupulous use of laws and practices to tame journalists still further. It is Sri Lanka's tragedy that this has always been the case. Present developments do not seem to signal any appreciable change.

Abuse of legislation to subvert the media in this country has a long and melancholy history. Paradoxically, it was with the granting of independence that the country saw the state first imposing restrictions on the media. Periods of press censorship imposed in 1959, 1958, 1959, 1968 and 1971 were an ominous harbinger of worse things to come.

In 1955, the government enacted the Official Secrets Act which prohibited disclosure of official secrets which were defined in a vague and general manner. But it was the United Front Government of Prime Minister Sirimavo Bandaranaike in the early 1970's which earned for itself the dubious reputation of using enacted law to control the media in a systematic manner. Increasingly, conscious of the political inconveniences of allowing independent journalism to flourish, the United Front Government introduced two barbaric pieces of legislation which almost thirty years later remains a sword of Damocles posed over a free press. The Press Council Law of 1973 imposed legal constraints on newspapers by prohibiting publication

of Cabinet decisions, Cabinet documents, certain defense, security and fiscal matters.

This posed serious problems for newspaper reporting as in modern journalism "the leak" from the executive or government sources is a central aspect of keeping the public informed of decision making. Moreover, this allows politicians to "float ideas" so that public reactions can be ascertained before final decisions are made. Predictably therefore, the bill invoked furious protest which was heightened by the subsequent introduction of another obnoxious law which nationalised the Associated Newspapers Ltd. (ANCL), popularly known as Lake House. The law vested 75 percent of the shares of ANCL in the Public Trustee on behalf of the Government. Both the Press Council law and the ANCL (Special Provisions) Law was challenged in the Constitutional Court but was given the legal stamp of approval.

Meanwhile the Government of the day given increasingly to "a little bit of totalitarianism" proceeded to more drastic measures of taming the press, when it sealed under Emergency Regulations, the printing press of Independent Newspapers Ltd. To prevent the regulation being challenged in Court, an emergency regulation was gazetted the same day precluding the Court from inquiring into the validity of the Law.

What damage the United Front Government did to the media outside its control and influence was continued by successive governments. In a singularly hypocritical manner, the UNP Government headed by President J.P. Jayawardene which swept into power in 1977 did not hesitate to make use of laws abusing media freedom, which they themselves had once condemned as being draconian. Lake House continued to be a state monopoly and the Press

Council Law was utilised to scare independent journalists into submission. In fact, it was only after 1980 that section 10 of the law which prohibits disclosure of Cabinet secrets was actually exercised by the Government to bring prosecutions against particular journalists. Three prosecutions were launched in respect of two English Language newspapers, but the cases were compounded in court upon the newspapers tendering apologies. Meanwhile, notwithstanding their indignation over the United Front Government closure of the Independent Newspapers Ltd., the UNP Government did not hesitate to take over the Times Group of Newspapers under the Business Acquisition Act in August 1977, and run it into bankruptcy.

The Jayawardene regime went on to further perfect the art of muzzling the media. During the run up campaign to the Referendum of 1982, a state of emergency was imposed and a censorship clamped down on the press. Several small Opposition newspapers and printing presses were sealed, the climax of which came when the Government ordered the seizure of some 20,000 copies of leaflets put out by a group of Sinhala and Buddhist clergy. The seizure was challenged in the Supreme Court and in the landmark 'Pavali Handa' case, the Supreme Court rebuked police officers responsible for the seizure and ordered compensation to be paid to the petitioners.

Several other proposals to control the media were put forward by the Jayawardene Government. These included a astonishingly bizarre suggestion that all newspapers should be ordered to pay a sum of money as compulsory insurance against defamation, the premium in each case to be decided by Cabinet. Then came another restrictive proposal in 1984 which contemplated prohibiting



Sinha Ratnatunga, Editor Sunday Times, prepared this memorandum for the Editors Guild of Sri Lanka.

the use of pseudonyms in print journalism. Both proposals were dropped after vigorous opposition by the public and the press.

But the UNP Government succeeded in implementing other laws that had a detrimental effect on the functioning of a free press. President Jayawardene saw it as his duty to strengthen Parliament in which he held his monolithic majority, against all perceived challenges.

Accordingly, the period 1978 – 1987 saw several amendments being introduced to the Parliamentary Powers and Privileges Act which gave unjustified powers to Parliament. The first amendment was rushed through as "urgent in the public interest" and minus opposition support. The first exercise of its new judicial powers in the Ceylon Observer case made Sri Lanka's Parliament, the laughing stock of the world. In this case, journalists were hauled up before the House for the publication of a photograph of the then Foreign Minister A C S Hameed under a misleading caption. A leading lawyer of that time S Nadesan Q.C. criticized this action by Parliament and was himself charged with breach of privilege. Fortunately the case was referred to the Supreme Court which held that he had committed no offence.

The original Act, formerly of impeccable credentials was again amended so as to provide for a new offence of willfully publishing words or statements uttered in the House after the Speaker had ordered them to be expunged from the Hansard. Two subsequent amendments imposed an enhanced punishment for offences of breach of privilege, besides providing that members would be able to criticize judges in the House without being responsible for contempt of court. All these amendments were vigorously opposed by civil libertarians, including the Civil Rights Movement at that time.

The Jayawardene Government and later President Ranasinghe Premadasa experimented with various other devices

of media control which included preferential or discriminatory practices in the allocation of newsprint quotas, disbursement of state sector advertisements and government grants. Intimidatory pressures were brought to bear on the press as the war in the North intensified and Southern insurgents threatened the stability of the entire country. Personal violence was perpetrated on journalists, the most well known example being the killing of reputed journalist Richard de Soyza. The Premadasa era saw the emergence of tabloid journalism which sought to project a mere radical and independent image than the mainstream press.

By the 1990's, years of government intimidation of the media had resulted in journalism being diminished in quality both as sources, and outlets of information. Undue state interference and overt political patronage of journalists had resulted in a lowering of professional standards, self censorship and the loss of credibility the convoluted Sri Lankan media laws comprising of legislation imposed adhoc and at the whim and fancy of particular Governments only added to the confusion.

Some principles on media policy and freedom of speech were laid down by the Supreme Court in the exercise of its fundamental rights jurisdiction. However, the Court could only go thus far and no further, constrained as it was by statutory and constitutional limitations.

Moreover, the innate conservatism of the Supreme Court has restrained it from being judicially activist in protecting the rights of the media. For example, the Court has stated contrary to modern law, that the press industry being a corporate body does not enjoy freedom of speech, only individuals do. The judicial attitude towards matters relating to contempt of court has also been restrictive, holding that even "scandalising the judiciary" can amount to contempt of court. Publication of articles relating to matters pending in a court of law which has the effect of prejudicing the public or interfering

with the trial process has also been said to amount to contempt of court.

In isolated instances however, the Supreme Court has upheld the importance of free speech. Two important examples are the **Janagoshha** case and the **Joseph Perera** case. In the first instance, the Court upheld the validity of the actions of opposition members to demonstrate their dissatisfaction with the Government by claiming the right to make a loud noise at a specified hour of the day. In the second instance, an emergency regulation was thrown aside on the ground that it unconstitutionally vested police officers with an overly broad discretion to censor without proper guidelines.

In general therefore, Sri Lankan media policy as a whole remained in a sorry state when the Peoples Alliance Government was elected to power in mid 1994. Promotion of a new democratic media culture had been a key item in the PA manifesto. Following the parliamentary elections, the government appointed its own representatives to the boards of state media organisations. Social and political issues which previously had been discussed in the smaller "alternative press" were now given broader coverage in the state owned media. Working journalists spoke of a new sense of freedom.

This however was not to last for long. The assassination of UNP Presidential candidate Gamini Dissanayake and more than fifty five others in October 1994 just weeks before the elections brought a sudden change in government relations with the media. As a result, the government was faced with mounting opposition to ongoing peace talks with the LTTE. Its response was to exert intense pressure on the state owned media and to mount a wave of Government manipulation and censorship of the press which was to worsen as time went on.

Direct interference with the content of news reporting included the remaking

of the front page of the *Dinamina* issue of 28 October 1994 by the staff of Temple Trees, then Prime Minister Chandrika Kumaratunga's Office. The Editor of a Sinhala language weekly "Trishula" was charged with incitement to violence under the Prevention of Terrorism Act after publishing an article on 7th November 1994, where he called for the Sinhala people to "to rise" up and fight for their rights which he suggested were being threatened by the government negotiations with the LTTE. A magistrate later dismissed the charges.

Meanwhile the Non Formal Educational Service of the Sri Lanka Broadcasting Corporation which made adventurous attempts to provide the public with a diversity of views on matters of public interest, was abruptly stopped in 1995 and its Director interdicted from service. In a bold judgment delivered recently, the Supreme Court has held that the stoppage of the broadcast was arbitrary and clearly wrong. In subsequent developments with regard to media, Editors of the newspapers were taken to the fourth floor of the CID and interrogated, others were attacked by unknown assailants. Two criminal defamation suits were launched against the Editors of two English language mainstream weekly newspapers.

In February, 1995, antagonising the media still further, the government announced that it was setting up a committee to formulate a code of ethics for journalists, the President publicly referring to journalists in the country as "having the freedom of the wild ass". Later this proposal quietly faded away to oblivion.

In the context of this increasing alienation between the Government and the media, Government promises to implement media freedom seem illusory. There appears to be a perceptible gap between words on paper and action in reality.

Four committees appointed by the

government in late 1994 to suggest implementation of a healthier media policy have all submitted their reports to the government. The Committees reported on the following issues; broad-basing ownership of Associated Newspapers Limited to make it an independent media organisation, the establishment of a Media Training Institute, improvement in the financial status of journalists and suggested recommendations relating to reform of the laws affecting media freedom. Though the Government through its affable Media Minister has given a promise that these reports would be implemented, their fate remain uncertain.

Recommendations of the Media Law Reform Committee

The Media Law Reform Committee comprising of eminent lawyers, academics and journalists submitted its report recently to the government. The Committee had the unenviable task of attempting for the first time, to put some order with regard to the plethora of chaotic media legislation enacted for well over forty years.

The Committee identified its main goals as being;

- a. Freeing the existing media from government/political control
- b. Creating new institutions aimed at guaranteeing media freedom as well as raising the standards and quality of a free media.
- c. Promoting a new democratic media culture.

The Committee placed special emphasis on the need to update Sri Lanka's media laws so as to bring them into line with international standards. Sri Lanka ratified the International Covenant on Civil and Political Rights (ICCPR) in 1980 and thus assumed a legal obligation to reform her domestic laws accordingly. But much has yet to be done before journalists in Sri Lanka can exercise the freedom of speech which they are entitled to as a matter of right

under International Law.

The Geneva based Human Rights Committee (HRC) which is a reporting body comprising of eminent independent experts set up under the Covenant recently commented on the disparity between international media laws and those in force within Sri Lanka. The HRC then went on to make several suggestions as to how Sri Lanka's media laws could be reformed when Sri Lanka presented its Third Periodic Report before it in Geneva during July 1995. It should be noted that Sri Lanka is due to present its Fourth Periodic report before the Committee in September 1996. Undoubtedly, the Committee will not hesitate to examine to what extent its suggestions have been given effect to. The remarks of the Human Rights Committee carry considerable weight in international fora, and Sri Lanka would do well to spruce up its act before September 1996.

The recommendations relating to reform of our media laws by the Media Law Reform Committee incorporates all the suggestions put forward by the Human Rights Committee. The Media Reform Committee also gives particular attention to the recent proposals on constitutional reform put out by Justice Minister G L Peiris in May 1995.

Examining constitutional guarantees to free speech the Committee points out that the Sri Lankan provisions fall far short of standards stipulated in the ICCPR. Article 14 of the Constitution protects the rights of citizens to freedom of speech and expression including publication. The Media Reform Committee suggests a better formulation of the right to free speech which would include freedom of information in its broader sense. This would mean the freedom to seek and impart information and ideas of all kinds regardless of frontiers, orally or in print. The Committee appears to feel that this would provide safeguards against indirect restrictions on the media such as abuse of govern-

mental control over newsprint. The Committee points out that the Justice Ministry draft is deficient in this respect. Instead, it recommends following an earlier draft (1994) of the Ministry of Justice and Constitutional Affairs.

Constitutional provisions relating to free speech are also criticized by the Committee on the basis that the right is restricted on a number of grounds that are considerably broader than permitted under the ICCPR. Our law restricts freedom of speech in the interests of national security, public order, protection of public health or morality and a number of other matters relating to parliamentary privilege, contempt of court and defamation.

The Justice Ministry draft in May 1995 also contains an additional restriction specified as "..... in the interest of maintaining the authority of Parliament". The Media Reform Committee recommends strongly that this additional restriction should be deleted. The Committee notes with satisfaction however that the Ministry draft specifies that each of these restrictions must be shown to be necessary in a democratic society. This would enable the courts to apply some objective standard of reasonableness when considering the validity of any laws or administrative action. The court could take into consideration whether the law strikes a proper balance between social needs on the one hand and the rights of the individual on the other. This has in fact been the position for a long time under Indian Law.

The Media Reform Committee goes on to emphasize that when the right to free speech is departed from in times of emergency, it must only be in the case of an emergency that threatens the life of the nation.

The Committee also looks at judicial review of legislation. At present Article 16(1) of the Constitution states that the courts cannot review existing laws even

if they seriously violate the constitution. The Committee points out with disapproval that the May 1995 draft retains this provision, and though the draft permits judicial review, it is limited to a period of two years. The Media Reform Committee recommends that Article 16(1) should be abolished and the two year time period be deleted.

Proceeding to provisions of the Penal Code that offend the right to free speech, the Committee is of the view that section 479 which deals with criminal defamation should be repealed. The Committee points out that the possibility of a prosecution can discourage criticism of government, ministers and policies and the expression of political dissent. The call to repeal section 479 has been repeatedly made by international human rights bodies monitoring developments in Sri Lanka. The most recent such call was made by Article 19 the international watch dog body on freedom of expression in its March 1995 publication titled "Silent War – Censorship and the Conflict in Sri Lanka".

At present defamation could be prosecuted either as a civil or criminal offense. Notwithstanding the availability of a civil action for damages successive governments have often used the resources of the state to initiate criminal prosecutions against luckless journalists.

Other jurisdictions more advanced than ours have long since jettisoned the offence of criminal defamation. Law Reform Commissions in Australia, Canada and New Zealand have recommended the abolition of criminal defamation, even though it is rarely resorted to in those countries. In England too, the offense exists in law but is extinct in practice. The press have limited protection that the permission of a High Court Judge must be obtained for the prosecution. For this permission to be given there must be an exceptionally strong prima facie case, a very serious libel and the public interest should require

institution of criminal proceedings.

In the United States, the Supreme Court in its landmark 1964 decision **New York Times Co. Vs Sullivan**, "constitutionlized" the law of defamation, recognizing that defamation actions could unduly inhibit free expression. The court declared that it was considering the case against "the background of a profound national commitment to the principle that debate on public issues should be uninhibited, robust and wide open". The court recognized that some erroneous statements are inevitable in such a free debate and therefore "they must be protected if freedom of expression is to have the breathing space that it needs to survive".

Sullivan held that public officials could not recover damages for defamation regarding their official conduct unless they proved that the defamatory statements were both false and made with "actual malice". The term "actual malice" consists of "knowledge that the defamatory statement was false or reckless disregard of whether it was false or not". The US Supreme Court now has extended the **Sullivan** principle to cases involving public figures. Like public officials, the court has reasoned that public figures invite the comment to which they are exposed and have access to the media to counteract false statements. Resorting to criminal defamation in these instances would be inappropriate.

Sri Lanka's Media Law Reform follows this progressive trend in thinking of the US Supreme Court. The Committee emphasises that even if Section 479 of the Penal Code is not repealed, it should be amended so as to vest the decision whether to indict or not with a judge of the High Court with properly severe guidelines that would discourage frivolous prosecutions.

Commenting on the law relating to Parliamentary Privilege, the Media Reform Committee suggests a return to

the 1953 position which vested power to impose sentences of imprisonment or fines on errant journalists only in the Supreme Court. It outlaws amendments to the original Act enacted after 1978 which gives Parliament additional unjustified powers. The Media Reform Committee comments that in fact parliamentary privilege should not be retained as an accepted restriction on the right to free speech.

"In our view, neither Parliament nor its members require any special protection as regards defamation over and above that enjoyed by ordinary citizens. In fact it has been repeatedly held by the European Court of Human Rights that the limits of acceptable criticism are wider as regards politicians than as regards a private individual" the Committee says.

Apart from the law relating to Parliamentary Privilege, the Committee also deals with contempt of court principles. The Committee points out that most democratic countries are now advocating a greater freedom of expression with regard to criticism of the judiciary, and recommends that only abusive or scurrilous comment about a judge as a judge or of an imputation of impropriety or corrupt bias or an attack on his integrity as a judge be prohibited. That the present law needs to be changed in this respect is very apparent with the public, the media and even the lawyers being uncertain about the exact scope of contempt of court.

Meanwhile, press censorship under emergency rule is singled out for some particularly scathing criticism by the Committee. "The exercise of this discretion by the Competent Authority has often been arbitrary, erratic and illogical" the Committee states. Sri Lanka should instead follow the Johannesburg principles on censorship law and principles (1995). Those principles state that censorship of the press cannot be imposed unless the Government can show that

it is proscribed by law and is necessary in a democratic society to protect a legitimate national security interest. The censorship law must be accessible, unambiguous, drawn narrowly and with precision. Censorship cannot be used as a cloak to prohibit information unrelated to national security, as for example to protect a politician from embarrassment or exposure of wrong doing, to conceal information about public institutions or to suppress industrial unrest.

The Committee deals with other aspects of Sri Lankan media policy as well. It recommends that the entire Official Secrets Act and the Press Council Law be repealed. Instead, a Media Council Law should be enacted with precise safeguards that would enable the Media Council to function as an independent body that monitors the both the print and electronic media.

The need for adequate laws to protect the confidentiality of journalistic sources of information is also pointed out. "the absence of such protection is a serious impediment to investigative journalism and the exposure of public scandal and wrong doing" remarks the Committee. However, in a fair balance of the principles involved, the Committee recommends also that individuals should be given the right of reply in order to protect them against false media reports.

That Sri Lanka media policy should also incorporate a Freedom of Information Act is stressed by the Committee. This Act would grant journalists public access to Government held information which is withheld due to bureaucratic procedures. In India, the Supreme Court has already recognised this right to know as an integral part of the constitutional right to freedom of information.

Other recommendations of the Committee include doing away with the power of the customs department to ban books or journals from abroad that contain articles of "sensitive interest". Inciden-

tally the Committee records that it was unable to find any legal basis on which the customs officials exercise such power.

Commenting on the responsibility of state run or public funded media, the Committee points out that while private media is entitled to decide the content of what should be published or broadcast, it is different with regard to the state media. The state media is obliged to reflect a pluralism of views. The interest of the states and the public at large has to be distinguished from the interest of whatever the political party at power at this time.

"Political opponents also have the fundamental rights to have their views aired over the state media" says the Committee. It then goes on to recommend provisions that ensure the structural independence of the Sri Lanka Broadcasting Corporation and the Rupavahini Corporation.

Members of the committee appointed to advise the government on the reform of laws affecting media freedom were Mr. R. K. W. Goonesekera (Chairman), Prof. Shirani Bandaranayake, Mr. Rohan Edirisinghe, Mr. Lucion Rajakarunanayake, Mr. Jayampathi Wickramaratne, Mr. Victor Gunawardene and Ms. Sunya Wickramasinghe.

Lessons from ...

(Continued from page 2)

The present situation presents developing countries with a challenge: they must reshape their platform to reflect the changing world scene. They need also to harness their numerical strength and cohesiveness in multilateral fora.

Otherwise they will lack an agenda of their own, and their responses to world trends and events, at best, will be reactive.

(T.W.N. Features)

Sri Lanka in 1997

A summary of the U.S. Human Rights Report — L.S.T.

1. Introduction

The relentless armed conflict in the North East continued to provide the backdrop for any assessment of Sri Lanka's human rights status in 1997. Indeed, as the year ended, the prospect of any end to the "war for peace" looked all the more remote. Although in October 1997 the People's Alliance (PA) government had placed its final proposals for constitutional reform before parliament, by the year's end it was evident that there was little chance this draft could actually be enacted; and even if it was, it was still unclear how the proposals for devolution could be implemented effectively without the consent of the Liberation Tigers of Tamil Eelam (LTTE), who remained a potent force on the battle-field.

The consultative processes which the PA had initiated after winning power in 1994 now both appeared to have failed. First, talks with the LTTE had been abruptly ended when, in April 1995, the LTTE had suddenly announced its withdrawal from the process and blown up two naval ships, heralding a return to armed hostilities. Second, the Parliamentary Select Committee on Constitutional Reform had failed to reach consensus on a constitutional path that might offer a way out of the war and into new structures of governance. In October, the government had presented the results of its own deliberations and consultations to parliament in the form of a proposed draft constitution. The opposition United National Party (UNP) rejected the proposals, however, while failing to present any clear alternative proposals of its own. The LTTE, too, announced its rejection of the proposed "package". The

whole process of constitutional reform – which had been a crucial element of the 1994 PA election manifesto and its conflict-resolution strategy – was stalled.

2. The conflict and human rights

The ongoing conflict has had a dramatic impact on the lives of people living in the North East, and also has serious consequences for people living in other areas of the island. There was no let-up in the intensity with which the war was fought in 1997; indeed, fighting intensified from May, when government troops launched a new offensive with the objective of securing a land route through the Vanni to Jaffna (which had not been achieved by the end of the year). There was also no diminution of the impact of the conflict in human rights terms. As described in the chapters on the internally displaced and the integrity of the person, very large numbers of people remained displaced from their homes as a result of the conflict; indeed, for many people, displacement has now become the "norm". Many people have had to move several times as the arena of fighting has shifted, never able to re-establish a secure life for themselves and their families. Shortages in the supply of essential items – including food and medical supplies – to areas under LTTE control also caused further movement of civilians. Indeed, the food-supply situation in the Vanni caused considerable concern during the year. On the one hand, the government failed to supply the level of food it had agreed was necessary to fulfil minimum nutritional requirements and obstructed the passage of numerous other items; on the other hand, the LTTE appropriated some of the supplies that were sent¹. The procedures used by the military to permit the transport of supplies to the Vanni were said to be burdensome and secretive.

Caught between the two sides, many displaced civilians have become pawns of war, vulnerable to insecurity in the supply of food, clothing, sanitation, health care, housing and education.

It is clear that people living in large parts of the North East are unable to access a wide range of rights to the extent that they are enjoyed in many other parts of the country. This should mean that people in these areas are given particular priority in assessing their human rights and humanitarian needs. Instead, however, there is a serious lack of accurate, comprehensive data on the conditions under which people in the North East live. Indeed, two factors in particular raise serious concern that it may be government policy to restrict the flow of information relating to such matters from this area of the country. These are: first, the strict controls on access to the North East imposed by the military, which prevent independent reporting on conditions in these areas; and second, the periods of direct censorship on reporting relating to the conflict which the government has imposed at times (although not in 1997 itself). In human rights and humanitarian terms, in contrast, it is precisely the most vulnerable sections of society which need closest monitoring and clearly targeted policies to redress their plight.

The Economic, Social and Cultural Rights Committee, which monitors adherence to the International Covenant on Economic, Social and Cultural Rights, has repeatedly stressed the fundamental importance of the state's obligation to monitor the extent to which the rights guaranteed in the covenant are realised. According to the Committee, several objectives are served through such monitoring. These include creating the basis for developing clear and targeted

policies reflecting the priorities of the Covenant and – equally importantly – facilitating public scrutiny of government policies with respect to these rights, and enabling the involvement of various groups in society in the formulation, implementation and review of these policies².

Certainly, in a situation where areas of territory are effectively controlled by the LTTE and structures of government administration have broken down, it would be a very difficult task indeed for the government itself to gather this kind of comprehensive data. But if the government is to fulfil its obligations to civilians living within these areas, it must ensure that all available means of gathering and collating appropriate information are utilised. It can only do this if it lifts the restrictions that for the past three years have hampered access to the conflict areas by journalists and non-governmental organisations (NGOs). It is a basic principle of international law that there should be no impediments to the free flow of information on human rights and humanitarian issues, and that "national security" concerns cannot legitimately be used to impose such impediments³.

The relative paucity of information on conditions in these key areas of the island necessarily has consequences for a report such as this, which must often rely on official documents and secondary sources and cannot remedy a serious information-gap. It makes the task of scrutinising the government's fulfilment of its obligations to protect the people's rights all the more difficult. Official statistics on many social and economic matters simply fail to include the North East at all, and this has been the case for several years. The purportedly "national" indices which might be used in assessing Sri Lanka's state of human rights, particularly in relation to social and economic rights, are generally skewed by this lacuna: "national" data on such issues as literacy levels or access to health care generally exclude some of the most deprived sectors of society. The "Sri Lanka" which is repre-

sented by such summary data too often only reflects part of the country; the North East almost ceases to exist in such representations.

The Committee on Economic, Social and Cultural Rights, which scrutinised the Government of Sri Lanka's adherence to the ICESCR in April 1998, also chastised the government for failing to provide statistics relating to the North East in its initial report to the Committee. It observed that,

the absence in the report of statistics relating to the north and east of the country can only reinforce the view of the Committee that the question of discrimination in relation to economic, social and cultural rights with respect to ethnic groups, remains the central issue of the armed conflict in Sri Lanka⁴.

Against the background of conflict, 1997 saw continuing reports of violations of humanitarian law by both parties to the conflict. As described in the chapter on Integrity of the Person, the number of reported disappearances remained high: Amnesty International reported some 80 disappearances during 1997, while the US State Department reported at least 125. Whichever is correct, that disappearances continue at such a high level makes clear that the preventive measures taken by the government so far are inadequate and need to be considerably strengthened. Continuing extrajudicial executions and torture also need to be addressed. Most importantly, impunity for involvement in a disappearance, an illegal killing or torture must not be allowed to prevail.

Grave abuses by the LTTE also continued at high levels. The assassinations in July of two members of parliament – Anunasalam Thangathurai of the Tamil United Liberation Front and Mohamed Maharoof of the United National Party – once again emphasised the fragility of democracy in the East. Among other victims of LTTE attacks were civilians who died in a bomb attack on the World Trade Centre in Colombo in October, while in Jaffna several people

were killed who were suspected of providing information to the army. The LTTE also took a number of people hostage in 1997, including 35 Muslim and four Sinhala villagers from Irakkakandy in Trincomalee District, all of whom were released later in the year. Shipping in the North East was also threatened by LTTE attacks, and the LTTE took prisoner nine crew members from a passenger ferry in July. Two Indonesian crew members were soon released, but the fate of the Sri Lankans is not known.

As described in the chapter on emergency rule, the state of emergency remained in force throughout the year, with different parts of the country affected at different times. Of particular concern was the use of emergency provisions on matters with no evident connection to security concerns, and the fact that the text of the regulations remained inaccessible to the public and members of the legal profession, making it hard to know the content of the law in force at any time.

3. The government's Constitutional proposals of October 1997 and fundamental rights protection

In October 1997, the government presented the final version of its proposals for constitutional reform to parliament. The developments contained in the proposals in relation to fundamental rights protection are discussed in several chapters in this report, but particularly in Chapter [x] on fundamental rights. Of particular note are the provisions to incorporate social and economic rights into the Constitution, and the recognition of children as a group requiring special protection. Such new developments in constitutional thinking in Sri Lanka are reflected in this volume in discussions of the rights of the disabled (which do not receive explicit recognition in the constitutional proposals, but which received statutory recognition in 1996 and are discussed in this volume for the first time), the right to education, the right to health and children's rights. Another crucial issue in the Sri Lankan context – the right to equality of opportunity

is discussed for the first time in Chapter [x], which includes a detailed critique of the contents of the constitutional proposals in relation to this issue.

Other issues

Another group of people who are particularly vulnerable to human rights violations are migrant workers, the majority of whom are women. While the abuses to which they are subjected take place in other countries and need to be addressed within the framework of human rights protection in those jurisdictions, the Sri Lankan government nevertheless still has responsibilities towards its nationals working abroad. In addition, as it is government policy to promote migrant labour as a form of employment, and as labour is now a significant export from Sri Lanka and major foreign-revenue earner, it is incumbent upon the government to try to ensure that migrant workers' rights are protected to the fullest extent possible. The situation of these workers, and the steps the government has taken so far for their protection, are discussed for the first time in this report in Chapter [x].

Two further issues discussed here have been the subject of regular discussions in Law & Society Trust *Sri Lanka: State of Human Rights* reports. The government's manifesto pledges on freedom of expression remain unfulfilled; indeed, far from proposing a more liberal environment for the media, the government's Broadcasting Bill was declared unconstitutional by the Supreme Court in [add month] and had to be withdrawn. A Parliamentary Select Committee on media reform was established following this judgment, but instances of media harassment continued to be reported.

Workers' rights are addressed in Chapter [x], which updates the discussion provided in earlier years, and again draws attention to the poor conditions and lack of union rights which workers in the Free Trade Zones continue to experience.

National mechanisms for human rights protection

The members of the new National

Human Rights Commission were appointed in March 1997. Legislation to create the Human Rights Commission had been passed in July 1996. The Commission began to function around June 1997 and – among its broad range of other responsibilities – has taken over the role of the former Human Rights Task Force (HRTF), which was disbanded in June. As discussed in the chapter on Emergency Rule, there was considerable concern that the HRTF was dissolved well before the Human Rights Commission was ready to take on its crucial role. The Human Rights Commission received an average of over 200 complaints a month from early June to the end of November, took over 1,900 cases from the Sri Lanka Foundation's Center for the Elimination of Discrimination when it eased operation in the summer, and also has fundamental rights cases referred to it for review by the Supreme Court. By the year's end it was said to have completed preliminary investigations into between 50 and 75 cases⁵. Some human rights monitors have expressed concern that the Human Rights Commission may not be able to deal effectively with its very broad remit. They say that unless the Commission sets itself clear priorities reflecting the issues of greatest need within the Sri Lankan human rights situation, and unless it is proactive, exercises the full range of its powers and pursues its inquiries through to a proper conclusion, it risks being swamped with complaints that could more effectively be dealt with by other mechanisms, such as the Ombudsman, and may lose its potential to have a beneficial impact on human rights practice.

International developments

Sri Lanka finally took the welcome step of ratifying the (first) Optional Protocol to the International Covenant on Civil and Political Rights in October 1997, fulfilling a promise the government had made over a year earlier. Human rights organisations had long lobbied for this step to be taken to enhance human rights protection in the country.

In September, the UN Special Rapporteur on extrajudicial, summary or arbi-

trary executions visited Sri Lanka. He visited the North East, among other areas, and made a number of recommendations for the prevention of such killings and to end the climate of impunity that has long prevailed in Sri Lanka. In his conclusion, he lists a range of perpetrators of such killings, highlighting the extent to which resort to lethal and illegal force has permeated Sri Lanka: "the armed forces and police themselves, who kill suspected insurgents and civilians perceived as supporting them; LTTE members who kill members of the security forces, members of opposing factions, those who refuse to continue the armed insurgency or to continue to support the LTTE, including civilians; paramilitary organizations allegedly linked to the security forces (home guards) who are also responsible for extrajudicial executions." His findings and recommendations are discussed more fully in the chapter on Integrity of the Person.

Notes

1. United States State Department, *Human Rights Report 1997*, "Sri Lanka"
2. See General Comment No. 1 (Third Session, 1989), [UN Doc. E/1989/22], reproduced in Nadesan Centre, *Interdoc No. 1*, Third edition (Colombo, December 1995).
3. See "The Johannesburg Principles on National Security, Freedom of Expression and Access to Information", adopted on 1 October 1995 by a group of experts in international law, national security and human rights, convened by ARTICLE 19, the International Centre against Censorship, in collaboration with the Centre for Applied Legal Studies of the University of the Witwatersrand, Johannesburg.
4. Committee on Economic, Social and Cultural Rights, "Consideration of reports submitted by States Parties under Articles 16 and 17 of the Covenant: Concluding observations of the Committee on Economic, Social and Cultural Rights: Sri Lanka", UN Doc. E/C.12/1/Add.24, 13 May 1998.
5. US State Department, *Human Rights Report 1997*, "Sri Lanka".

The Northern Ireland Accord as Model

Thomas G Fraser

(University of Ulster)

Introduction

The political Agreement reached in Northern Ireland on 10 April 1998 is seen as marking a new departure in the political and constitutional history of Northern Ireland, and of the island of Ireland. The Agreement was reached between the two sovereign governments of the United Kingdom and the Republic of Ireland. More importantly, it was reached amongst most of the political parties in Northern Ireland, parties of widely different ideologies, representing two traditions which had been locked in bitter dispute for at least a century. It was also agreed to by three political parties representing armed groups which had been engaged in violence for thirty years. By the time the Agreement came into effect, the Northern Ireland situation had claimed 3,247 lives and cost billions of pounds to the British exchequer. Northern Ireland has been western Europe's most intractable ethnic dispute since the Second World War. The purpose of this lecture is to identify the nature of the Northern Ireland problem, to examine previous attempts at resolving the conflict and why they failed, and to explain the forces which generated the present peace process. Finally, it will analyse the Agreement, identifying the key elements which are currently forming the basis for political and constitutional compromise. To what extent can this provide a model for other divided societies?

The Northern Ireland problem

There are at least three Northern Ireland problems, which are interlocked. Any solution has to address all three.

1. The Irish-British problem

Ireland's problem has been that it has been both too close and too far from

Britain. It was far enough away to retain its own identity. That difference of identity was sharpened in the 16th century when the three elements of Britain, England, Scotland and Wales, became Protestant, while Ireland remained Catholic. But Ireland was too close to Britain, only twenty miles at the nearest point, to escape the attentions of its larger neighbour. Over the centuries, the British saw Ireland as essential to their security. In 1801, during the wars with France, this was recognised by the formal Union of the two countries, which became the United Kingdom of Great Britain and Ireland. This Union ultimately failed. In the 19th century Irish nationalists asserted a distinctive Irish identity and argued that the Union had failed Ireland economically. The Great Famine of 1845-1849 in which one million died and one million emigrated seemed to confirm this. In 1919 the War of Independence began, which ended in the Anglo-Irish Treaty of 1921, and independence in 1922.

2. The Nationalist-Unionist problem

But Irish Nationalism was not straightforward. As it developed, Irish Nationalism had certain defining elements:

a. Economics. Nationalist economists argued that an Irish parliament in Dublin would promote Irish interests, unlike the Union parliament in London.

b. Culture. Nationalists wished to safeguard and promote a distinctively Irish culture against the dominant British culture. This included such elements as literature, Irish sports, and, above all, the Irish language. Culture was increasingly defined in Irish or Gaelic terms. They drew their inspiration from the myths and legends of the Irish past.

c. Territory. Since Ireland was geographically an island, Nationalists believed it was entitled to national self-determination.

d. Religion. The prime generating force behind Irish Nationalism was religion. Some Protestants were Nationalists, but overwhelmingly Nationalists saw Catholicism as marking them out as distinctively Irish.

Ulster Unionism

In the early 17th century, large parts of Ulster were settled by Protestant settlers from Scotland and England. The purpose of this Plantation of Ulster was establish a community which would identify with British interests in Ireland. Native Irish were dispossessed of their land and a bitter conflict broke out. Crucial events took place in the period 1688-1690. In the conflict over the British throne Irish Catholics supported the Catholic James II, while Protestants rallied to William III, Prince of Orange. During the 105-day siege of Londonderry in 1688-1689, Protestants defended the city against an Irish Catholic Army. On 12 July 1690, William III defeated James II at the decisive Battle of the Boyne. These events confirmed a Protestant Ascendancy in Ireland for the next hundred years and are still vital to understanding the current situation. In the 19th century, Ulster industrialised, unlike the rest of Ireland. Ulster Protestants formed the Ulster Unionist movement which refused to identify with Irish Nationalism, seeing their future as linked with Britain. Why?

a. Economy. Ulster's industries were linked with British markets and resources.

b. Culture. Protestants identified with British culture, especially the English



language. Their inspiration came from the Siege of Londonderry and the Battle of the Boyne, events which Nationalists saw as leading to their subjugation. Protestants commemorated these events, especially through the formation of the Orange Order, an exclusively Protestant order whose name honoured the memory of King William III, Prince of Orange.

c. Territory. For Unionists the national territory was not Ireland but the British Isles.

d. Religion. Protestants formed 25% of the Irish population. An Irish parliament in Dublin would inevitably lead to Catholic domination.

3. The **third dimension** to the Northern Irish problem which needs to be noted is a continuing tension between constitutional politics and **violence**, what in Ireland is called 'physical force'. These have been difficult to reconcile.

The solutions

Partition

In 1920, the British government passed the Government of Ireland Act. This envisaged setting up a parliament in Dublin for 26 overwhelmingly Catholic and Nationalist counties. The six predominantly Protestant and Unionist counties of Antrim, Armagh, Down, Londonderry, Fermanagh and Tyrone were to remain part of the United Kingdom, with a devolved parliament and government in Belfast. This was to be called Northern Ireland. In addition, there was to be a Council of Ireland to foster future Irish unity and discuss matters of concern to both parts of Ireland. The Government of Ireland Act is the basis of the present structure of Ireland, especially Northern Ireland.

What were the defects in the partition solution?

a. The fundamental problem was, and remains, that the six counties of Northern Ireland were far from exclusively Protestant and Unionist. Two counties, Fermanagh and Tyrone, had Catholic majorities of 55%. The second largest city, Londonderry, had a Catholic majority of 66%. Overall, the Catholic/Nationalist popula-

tion of Northern Ireland was 34%; it has since grown to 42%. The Catholic community was too small to challenge for effective power, but too large to be assimilated into the Protestant structures of Northern Ireland. The Catholic minority looked to the day when Ireland would be re-united and remained overwhelmingly Nationalist in belief. The Agreement is the most recent attempt to deal with this dilemma, which is at the core of the Northern Ireland problem.

b. The system of government left Catholics excluded from political power. Although sovereign authority remained with the British parliament in London, to which Northern Ireland sent members, effective power was exercised by the local parliament in Belfast. This was set up on the 'Westminster model' but this rests on the principle that political power changes with the wishes of the electorate. In Northern Ireland this was never the case, since Unionists were always in the majority. Not only did Nationalists never form the government, but permanent Unionist control meant that patterns of discrimination built up which favoured the Protestant community and left the Catholic minority even more alienated and marginalised.

c. This was compounded by economic decline. Economic difficulties meant that the Protestant majority was less inclined to make gestures to the Catholic minority which might win support for Northern Ireland.

1968-1972. The collapse of the 1920 settlement

In the years 1968-1972, Nationalist frustrations in Northern Ireland finally boiled over. In 1968 Civil Rights protests demanded the removal of the most obvious Catholic grievances. In 1970 there was serious rioting between Catholics and Protestants, with a number of deaths. This had the following results:

a. The British army was used in a peacekeeping role, which meant that effective responsibility was passing from the devolved government in Belfast to the government in London.

b. At the end of 1969 the Provisional Irish Republican Army (IRA) was formed, initially to defend Catholic areas from

Protestant attack. By the summer of 1970, the IRA had engaged in hostilities to end partition, beginning attacks on both the British army and the locally-recruited police force, the Royal Ulster Constabulary (RUC). By 1972, the IRA had become a formidable force. Its political wing was Provisional Sinn Féin.

c. Under the pressure of these events, the Ulster Unionist Party fell apart. By 1972, there was the Ulster Unionist Party, led by the Northern Ireland Prime Minister Brian Faulkner, but this was badly split. A rival party, the Democratic Unionist Party, was formed by a Protestant clergyman, the Reverend Ian Paisley. Two armed groups were formed on the Protestant side, the Ulster Defence Association (UDA), and the Ulster Volunteer Force (UVF), which carried out attacks against the IRA and the Catholic community. The fragmentation of the Unionist community was to prove a major difficulty in finding a settlement, and still does.

d. A new constitutional Nationalist party, the Social Democratic and Labour Party, was formed. Opposed to violence, it had to compete with Sinn Féin for Catholic votes, especially in the 1980s and 1990s. Hence, it was also difficult to find a common voice on the Nationalist side.

New solutions

In 1972, faced with a deteriorating security situation, the British government abolished the government and parliament in Belfast. Its strategy was to find a constitutional structure which would meet the wish of the Protestant majority to remain part of the United Kingdom, while giving Catholics some say in government and acknowledging their sense of being Irish.

The Sunningdale Agreement, 1973-1974

The major attempt by the British and Irish governments to create a new structure was the Sunningdale Agreement, reached with Brian Faulkner's Unionists and the SDLP in December 1973. It proposed to set up a new devolved Assembly, with an Executive in which the Unionists and SDLP would

share power. The Agreement included a Council of Ireland. The Executive worked for five months until it was overthrown by a major strike, organised by Protestant workers and supported by the UDA and UVF. Why did the settlement fail?

a. The negotiations did not include the Democratic Unionists, the UDA and UVF. Brian Faulkner's Unionist Party also split on the Agreement. The political base for the Agreement in the Protestant community proved too small. Faulkner could never deliver sufficient Unionists – the other parties to the Agreement failed to understand this.

b. Protestants who might have supported sharing power with the SDLP would not agree to a Council of Ireland. Faced with the IRA campaign, they felt they were being pushed into a united Ireland – this was the basis of the May 1974 strike.

Stalemate and the political rise of Sinn Féin

Politics stagnated until 1981 when IRA prisoners began a Hunger Strike. Bobby Sands and nine other prisoners died. During the Hunger Strike, Sands won the constituency of Fermanagh-South Tyrone to parliament in London. In November 1981, Sinn Féin articulated a new strategy of the armale and the ballot box. In 1983, the Sinn Féin leader Gerry Adams won the West Belfast seat in parliament. At the same time, the IRA campaign continued. In October 1984, it came close to killing Prime Minister Margaret Thatcher in a bomb attack.

The Anglo-Irish Agreement, 1985

In an attempt to move the political situation forward, the British and Irish governments entered into negotiations. Amongst other objectives they hoped to sustain the SDLP in the face of the advance of Sinn Féin, and to shock the Unionists into the need to negotiate. The Anglo-Irish Agreement left Northern Ireland within the United Kingdom, but set up structures which would give the government of the Republic a consultative role in Northern Ireland's affairs. But the overall effect was to embitter Unionists, especially as they had been

deliberately excluded from the negotiations. The result was to delay real negotiations on Northern Ireland's future.

Political progress

In 1991-1992, the British government began a new political initiative, marked by two policy statements. The first, in 1989, was that the IRA could not be defeated by political means alone. The second, in 1991, was that future discussions would focus upon three relationships, those within Northern Ireland, those between Northern Ireland and the Irish Republic, and those between the British and Irish governments. This structure was ultimately embodied in the Agreement.

Within Northern Ireland, two strands were developing. The first was an escalation of violence. The strategy of the UDA and UVF was to attack Nationalist targets to convince the Catholic population that there was too high a price to pay for the IRA campaign. In an incompetent attempt to attack the UDA leadership the IRA killed ten innocent people in Belfast in October 1993; in retaliation the UDA killed seven people near Londonderry.

Despite such violence, political moves were being made. In December 1993, the British and Irish governments issued the Downing Street Declaration. This tried to send signals to both paramilitaries. To Nationalists it conceded that it was 'for the people of Ireland alone, by agreement between the two parts respectively, to exercise the right of self-determination on the basis of consent, freely and concurrently given, North and South, to bring about a united Ireland, if that is their wish'. Unionists were reassured that such self-determination 'must be achieved and exercised with and subject to the agreement and consent of a majority of the people of Northern Ireland'.

Breakthrough

These moves were reinforced in discussions between the leader of the SDLP, John Hume, and the Sinn Féin President, Gerry Adams. On 31 August 1994, the IRA announced a complete ceasefire,

to be followed on 13 October by the UDA and UVF. Those ceasefires were partly an admission that no side was winning the armed struggle. In response, in February 1995 the British and Irish governments issued the Framework Documents. These sustained Northern Ireland's position in the United Kingdom, but with strong all-Ireland bodies at governmental and civil service level intended to win Nationalist support. Unionists were slow to grasp that the Documents reinforced their position.

In fact, progress proved uneven. The British government and the Unionists tried to insist on the decommissioning of IRA arms prior to substantive negotiations. In February 1998, the IRA ended its ceasefire with a large bomb in London. In May 1997, a new British government with a strong majority was able to move ahead. In July the IRA ceasefire was restored and substantive negotiations were able to take place. These involved all the main political parties, though not the Democratic Unionist Party or the smaller United Kingdom Unionist Party, which between them represented 40% of the Protestant electorate.

The Agreement

The negotiations had an independent chairman, the American Senator George Mitchell. Those taking part included the British and Irish governments, the Ulster Unionist Party, the SDLP, Sinn Féin, the moderate Alliance Party and the Women's Coalition. Two parties associated with the UVF and the UDA also took part, the Progressive Unionist Party and the Ulster Democratic Party.

The Agreement brokered by Mitchell was concluded on 10 April, only after direct involvement by the British Prime Minister, Tony Blair, and his Irish counterpart, Bertie Ahern. In many respects it reflected the earlier Framework Documents, though there were noticeable moves in the Unionist direction, especially in acknowledging 'that while a substantial section of the people of Northern Ireland share the legitimate wish of the people of the island of Ireland for a united Ireland, the present wish of the people of Northern Ireland, freely exerci-

sed and legitimate, is to maintain the Union and, accordingly, that Northern Ireland's status as part of the United Kingdom reflects and relies upon that wish; and that it would be wrong to make any change in the status of Northern Ireland save with the consent of a majority of its people'. Two points need to be noted here. Firstly, in accepting this Nationalists, especially Sinn Féin, were marking a historic compromise with partition. Secondly, the basis of the Union was now firmly placed on the consent of the people – this was seen both as a guarantee to Unionists and a reassurance to Nationalists that Britain had no other interest in Northern Ireland. It enabled Sinn Féin to see the Agreement as a transitional phase to a united Ireland. To facilitate both political traditions certain constitutional changes were to be made. On the British side, the 1920 Government of Ireland which embodied British jurisdiction and had partitioned Ireland was to be repealed. Instead, it was 'declared that Northern Ireland in its entirety remain part of the United Kingdom and shall not cease to be so without the consent of a majority of the people of Northern Ireland voting a poll'. For its part, the Republic of Ireland agreed to repeal Articles 2 and 3 of its 1937 Constitution which claimed jurisdiction over the whole island. It recognised 'that a united Ireland shall be brought about only by peaceful means with the consent of the people, democratically expressed, in both jurisdictions in the island'.

The Agreement set out now principles for the internal government of Northern Ireland through a 108-member Assembly, elected by proportional representation. Governmental responsibilities would be allocated according to party strength in the Assembly and mechanisms were set in place to ensure that key decisions would have all-party support. Key decisions would require either 'a majority of these members present and voting, including a majority of the unionist and nationalist designations present and voting; or a weighted majority (60%) of members present and voting, including at least 40% of each of the nationalist and unionist designations present and voting'. The Assembly was

to have legislative and executive powers, though parliament at Westminster also retained the power to legislate for Northern Ireland. The Executive was to be headed by a First Minister and a Deputy First Minister, elected on a cross-community basis. They would preside over an Executive Committee allocated to parties on the basis of the number of seats they held in the Assembly. Those elected to office had to be pledged to democratic, non-violent means.

These complex mechanisms were necessary to assure Nationalists that there would be no return to the Unionist-dominated parliamentary system which had existed between 1921 and 1972. Nationalists would not have agreed otherwise. Nationalists had their Irish identity and aspirations acknowledged through the operation of a North/South Ministerial Council, drawn from the Assembly and the government in Dublin. Its decisions were to be by agreement, an essential condition for Unionist consent. It was to deal with matters of potential all-Ireland interest such as aspects of agriculture, transport, tourism, and educational qualifications. Finally, there was to be a British-Irish Council, representing the British and Irish governments, the Northern Ireland Assembly, together with the devolved parliaments in Scotland and Wales. This, too, would deal with such issues as transport links, cultural issues and the environment.

Further key elements dealt with human rights and equality. In particular, the British government pledged itself to 'take resolute action to promote the (Irish) language'. Other aspects were more contentious, especially for Unionists. The section on the decommissioning of arms required all parties 'to reaffirm their commitment to the total disarmament of all paramilitary organisations, and 'to use any influence they have, to achieve the decommissioning of all paramilitary arms within two years'. It was a crucial point for the IHA that they should not be seen to be surrendering to the British authorities. On the controversial issue of policing, the Agreement set out arrangements for an Independent Commission 'to make recommendations for future

policing arrangements'. This clearly involved the future of the Royal Ulster Constabulary, which was 93% Protestant. Undoubtedly the most contentious element was the section on prisoner releases, vital if Sinn Féin, the Progressive Unionists and the Ulster Democratic Party were to endorse the proposals. This set out a schedule for advancing the release dates for prisoners belonging to paramilitary organisations observing a ceasefire, and certainly within two years. Finally, it was explicitly set out that the various elements in the Agreement were 'interlocking and interdependent' – political parties would not have the luxury of choosing which parts they accepted and which they did not.

It was a complex Agreement in which it could be argued that Nationalists had made the greater compromises. But the SDLP and the great majority of Sinn Féin endorsed it, as did the Alliance Party and the Women's Coalition. The outright rejection of the Democratic Unionists and the United Kingdom Unionists was predictable, but less so was that of other sections of Unionism. The Progressive Unionists and the Ulster Democratic Party gave full support, implying the backing of the UVF and UDA. But while the Ulster Unionist Party leader, David Trimble secured the backing of his party's ruling council, there was a dangerous erosion of support. Even before the negotiations were concluded, key members of his negotiating team had been unable to follow him into acceptance. Interestingly, their main objections were to the provisions on prisoner release and arms decommissioning, rather than the constitutional arrangements. This posed a serious threat to the Agreement's acceptance by the Protestant electorate.

On the Nationalist side it was immediately clear that supporters of the SDLP and Sinn Féin would vote overwhelmingly for the Agreement. But polls conducted by the British government indicated a large measure of unease amongst Unionists and supporters of Trimble privately indicated their concern over the possible outcome. In the end, it took a substantial personal commitment by British Prime Minister Tony Blair to

reassure Unionists over prisoner releases and arms decommissioning. When the referendum was held in Northern Ireland on 2 May, the Agreement was endorsed by 71.2% of the electorate. The result seemed to show that the Unionist section of the electorate had backed the Agreement, albeit by a narrow margin. The elections to the Assembly, held on 25 June, broadly confirmed this picture. Of the parties supporting the Agreement, the Ulster Unionists won 28 seats, the SDLP 24, Sinn Féin 18, Alliance 6, the Progressive Unionists 2, and the Women's Coalition 2. For the opponents, the Democratic Unionists won 20, the United Kingdom Unionists 5, and Independent Unionists 3. Potentially, the new First Minister

designate, David Trimble, was in the difficult position of commanding a Unionist group of 30 against a combined Unionist opposition group of 28. This clearly reflected continuing unease in the Protestant community over the Agreement.

Even so, the referendum was the most significant electoral result in Northern Ireland's history. Nationalists had voted to work within a partitionist structure, while Unionists had endorsed an arrangement to share power and operate joint bodies with the Irish Republic. A majority of Unionists had come to terms with the reality that the only effective Union was one which politicians in London could uphold and one which

made Nationalists feel included. Opposition certainly remained amongst a substantial section of the Unionist population, but most Unionist politicians seemed willing to accept the verdict of the referendum. Less predictable was the reaction of extreme sections of the IRA which opposed a settlement giving less than a united Ireland. It was this group, calling itself the Real IRA, which exploded a major bomb in the small town of Omagh on 15 August, killing 28 people. The widespread reaction against this action in all sections of the community forced even this group to suspend its operations. There is now no significant armed group which has not ceased its campaign.

World Bank Selling Old Medicine in New Bottles

Chakravarthi Raghavan

A UK-based non-governmental group has dismissed the World Bank's disavowal of a 'minimalist state' in favour of an 'effective state', as nothing more than 'a repackaging and updating of its neo-liberal agenda' and 'clever political manoeuvring'.

GENEVA:

The World Bank's disavowal of a 'minimalist state' and promotion of an 'effective state' is no more than a repackaging and updating of its neo-liberal agenda, and promotion of a state role to safeguard corporate interests, according to a just published briefing paper of the Bretton Woods Project (BWP), a UK-based group tracking the social and environmental impacts of Fund/Bank financing and schemes in the Third World.

The Bank, which through the 1980s promoted the 'minimalist state' concept under its Structural Adjustment Programmes, produced in 1997 its *World Development Report (WDR-97)*, a mea culpa of sorts that said the Bank favoured

an 'effective' rather than a 'minimalist' state.

The political significance of the WDR's rejection of a minimalist state, amounts to little in the face of abundant evidence that neo-liberalism has been less about stripping back the state than about redirecting it: disavowing a minimalist state that has never existed constitutes clever political manoeuvring rather than a U-turn, says the briefing paper, titled *The World Bank and the State: A Recipe for Change?*, by Nicholas Hildyard of the Cornerhouse Public Outreach and Research Unit.

An appendix to the paper notes that in the 1950s, the Bank saw the state as an engine of development and its role as primarily a project-lending institution. From 1958, when India and Pakistan came centre-stage, the Bank began programme lending, and by the

mid-1960s changed its tone and became critical of the Indian state, and pushed for liberalisation and programme lending for manipulation of entire economies.

Under Robert McNamara (1968-1981), the Bank became more powerful, with McNamara's 'war on poverty' providing a more aggressive intervention in affairs of states, and trying to kick-start growth by sharply increased capital flows. McNamara's long-term non-project aid to developing countries in return for structural adjustment, unveiled at UNCTAD-V in Manila, provided the setting for a minimalist state. Then came the late 1980s, when the Bank, while still promoting a rollback of the state, became concerned with the quality and not just quantity of the state capacity – with the 1989 Bank report on sub-Saharan Africa blaming the failure of SAPs on failure to implement the programmes, with problems emanating from poor government.

Chakravarthi Raghavan is Chief Editor of SUNS (South-North Development Monitor), a daily bulletin, and Third World Network's representative in Geneva.

And in 1993, while the publication of the East Asian Miracle spurred expectations of a radical change in approach and acceptance that in North-East Asia selective state intervention had contributed to growth, the Bank's document failed to fully endorse the role of states in development. Developing countries were advised not to follow the East Asian example, while a 1995 report, 'Bureaucrats in Business', failed to make any mention of the 1993 perspective of the state role.

While calling for an effective state, the *WDR-97*, the Hildyard paper notes, begs the key question of 'effective for whom?', acknowledges that different groups may have conflicting views of the role of the state, but fails to engage those different views or discuss their validity. Instead it 'adopts a tone and language implying that neo-liberal policies are self-evidently superior to other development agendas'.

In a preface to the paper, Alex Wilks of the BWP says that although, in the preparations for the *WDR-97*, the Bank team went through a process of holding extensive consultations, those consulted felt that the Bank team was not prepared to address more fundamental arguments, for example, on the relative strength of TNCs and governments or the universality of market models.

Not only NGOs, but also some academics and officials, Wilks says, were disappointed that the final *WDR* omitted some of their key criticisms and concerns, an omission explained by factors including:

- * The predominance of economists on the *WDR* team and in the Bank in general, who are not capable of tackling complex issues of political economy;
- * The *WDR* being a staff report, the Bank staff have veto powers and can prevent mention of the Bank's own responsibility for problems under review; and
- * The Bank was established to promote globalisation of trade and integration of economies and, whatever problems it

identifies, the solutions are likely to emphasise further liberalisation and internationalisation of economies, rather than alternatives.

Referring to Bank President Wolfensohn's plea at the 1997 annual Fund/Bank meetings for an end to 'name calling' between civil society and multilateral institutions, and recognition by both sides that they share 'a common goal', Wilks says, 'Whilst the common goal is described vaguely as "development", agreement may be possible. But the mainstream Bank view of the political and economic routes to development still appears very different to those of most civil society organisations'.

The Bank's latest view of an effective state, the BWP study says, is for reforms to establish a foundation of law, maintain macro-economic stability, invest in basic social services and infrastructure, protect the vulnerable, and protect the environment. States are also advised to establish effective rules and restraints, foster competition and increase 'citizen's voice and partnership with the private sector'.

While the *WDR-97* has been welcomed in many quarters as a rejection of the Bank's free-market fundamentalism, 'in fact it represents less a change of direction than a repackaging and updating of neo-liberalism, in the face of a popular backlash against the policies promoted by the Bank,' says the paper.

The *WDR-97* fails to engage with critics of neo-liberalism or with alternative approaches to development. There is nowhere any discussion of substantive points raised by anti-poverty groups about the role Northern states could play in relieving Third World debt nor any discussion of the many proposals of trade unions and others to address the state's role in securing labour rights in a globalised economy.

The *WDR-97* is also silent on the issues of states implementing international and national controls on TNCs, on NGO proposals to reform the WTO in

order to address inequities in the world trade system or on the fundamental criticisms of neo-liberal theory and economics made by Japanese aid community and others.

The paper notes that at an early stage in the *WDR* production process, Kenichi Ohno of Saitama and Tsukuba Universities of Japan, had provided the Bank with a remarkably candid background paper summarising current discussions among officials and academic researchers responsible for Japanese aid policy, and raising some fundamental concerns and criticisms of the Bretton Woods institution's approaches and arguments.

But most of these were not discussed in the *WDR*, and the Ohno paper is merely listed in the bibliography, and a few of the concerns raised emerge in a muted form in the *WDR*.

The BWP briefing paper cites extensively from the Ohno paper, including the view that the East Asian solution to the vicious circle of weak government and economic backwardness is for 'authoritarian developmentalism' in the early stages of modernisation. It also quotes Ohno's critique that while an appropriate development strategy must fundamentally vary from one country to another, and the 'path to market' is unique to each country, and though the Fund and the Bank argue that their SAPs are different for each country, 'the difference extends only to the intensity of individual items in the set menu – tight budget, subsidy cuts, monetary restraint, positive real interest rates, exchange rate devaluation, price liberalisation, raising public utility charges etc. The original menu does not change. This approach ignores the fact that each country requires a different menu and the effectiveness of each policy is case-dependent'.

In demystifying the minimalist state approach, the paper argues that far from doing away with state bureaucracy, neo-liberal policies have merely reorganised it.

At national and international levels, neo-liberal policies have led to a massive transfer of resources and power away from public institutions to private ones – benefits that have accrued to the private sector, particularly the TNCs, through privatisation, deregulation, re-allocation of subsidies and pooling of national sovereignty to form new trade blocs.

The TNCs have used privatisation of state companies to squeeze out competition in domestic or export markets, as evidenced by the way transnational tobacco firms bought up tobacco firms in East Europe.

On the GATT/WTO agreements and their effects, the paper points out that 'US corporations now lobby the US government to target EC regulations while their subsidiaries in Europe lobby the EU to target US regulations'.

In many cases companies are actively involved in writing new investment and environmental rules, the paper says, and cites the case of the Philippines, where a new mining code introduced in 1995 was influenced by transnational mining firms.

The WTO/GATT agricultural agreement was supposedly intended to remove US and EU export subsidies to prevent dumping of agricultural surpluses on world markets. But the way the agreement was drawn up and implemented illustrates the way 'free trade rhetoric has served as a convenient smokescreen for vested interests'. It cites an OXFAM study that as a result of the agreement, rich country subsidies were left largely intact, and the EU and US have been able to maintain and even increase the level of their subsidies – through so-called direct payments.

While the neo-liberal reforms of the 1980s and 1990s did result in some measurable gains from a conventional economic perspective, and even some ordinary people may have benefited from the dismantling of bureaucratic regulations, 'the economic booms that helped create billionaires and bring consumer

gadgets to the middle classes have been at the cost of growing social and economic exclusion of others'.

The numbers in absolute poverty are growing in the North and South, as are income disparities. Globalisation and liberalisation have also increased regional inequality. SAPs, imposed by the Fund and the Bank in exchange for loans, have consistently caused hardship.

Even in the US, where jobs have been created, the majority of jobs are poorly paid and the benefits system is harsh. Even the official US unemployment figures – an estimated 6.543 million or a 4.8% unemployment in May 1997 – is challenged by the AFL-CIO (American Federation of Labor and Congress of Industrial Organisations), which puts the figure at closer to 12 million.

And in the South, the flexible labour policies have become 'a euphemism for creation of jobs at sub-poverty level wages'.

Referring to the various responses to the globalisation and neo-liberalism – ranging from the chauvinistic xenophobic nationalism (of Pat Buchanan in the US, Zhirinovskiy in Russia and the Bharatiya Janata Party in India), through that of mainstream think-tanks like the Brookings Institution, the Japanese government, non-governmental coalitions and movements to 'reclaim the commons' and for a 'cosmopolitan localism', the BWP papers says the WDR-97 is clearly a response to these wide concerns from many quarters.

'A closer reading of the Report, however, and consideration of the wider international and historical context in which it has been written, suggests that in many important respects, the WDR-97 constitutes not so much a sea-change in Bank thinking as a repackaging and updating of the neo-liberal agenda.

'The political significance of the Report rejection of a minimalist state, for example, amounts to little in the face of now abundant evidence that neo-libera-

lism has been less about stripping back the state than about redirecting it. Disavowing a minimalist state that has never existed constitutes sharp political manoeuvring rather than a U-turn'.

Reflecting the Bank's continued neo-liberal framework, the WDR-97 views an effective state almost exclusively through the lens of economic efficiency, and its benchmark for 'effectiveness' of political processes, procedures and institutions is whether they act as lubricants or potential barriers to free market economic reforms and fiscal discipline. It grossly over-simplifies the complex political, social, cultural and economic landscape in which states and markets operate, and depoliticises the debate over what constitutes an effective state.

While the text of the report is littered with arguments for limiting the scope for arbitrary action by the state, this analysis does not extend to the private sector, and in fact portrays companies merely as engines for growth.

It makes little or no mention of the 'capricious, unaccountable or arbitrary action by the corporate sector or of the political influence that companies wield... (it) does not also advocate controls which might check abuse of corporate power'.

Despite the considerable evidence submitted to the WDR team on the inappropriateness of promoting a single universal approach to reform, the WDR gives space to one view only 'of what constitutes an effective economy and an effective state... the approach to reform is only marginally less formulaic than previously'.

And throughout the WDR, the Bank seems more interested in telling others, particularly developing country governments, what to do rather than assessing its own roles and how they have undermined states' capacity to plan and fund development. There is no analysis of why the Bank's interventions to support privatisation and public sector

(Continued on page 19)

Dr. Don. Michael's Text Book

"Auscultation of the Heart: A Cardiophonetic Approach" written by Dr. Tantramuladige Anthony Don Michael and published by McGraw-Hill has almost sold out its first edition in three months. Auscultation refers to diagnosis of heart condition using the stethoscope and is derived from the Latin word *auscultare*, or to hear. Dr. Don Michael received his training in the Sri Lankan medical faculty and in England, under the auspices of Paul Wood and Aubrey Leatham, two giants in the field of clinical cardiology. The book that he has written was commissioned by McGraw-Hill for a specific reason. Firstly, his preeminence in the field of bedside diagnosis was their driving reason in asking him to write a book on this subject which would help American physicians to more effectively make a diagnosis without extensive testing. These skills were learnt in Sri Lanka and London.

Three decades in the United States have witnessed a decline in the bedside diagnostic skills of the U.S. doctor. Several authors have written extensively in the U.S. concerning this phenomenon and have decried the deterioration of American medicine and its devolution into a state in which cardiologists needed expensive tests to come up with a diagnosis. This is stated aptly by H.J.C. Swan, MD, Professor of Medicine, who wrote the forward of Dr. Don Michael's book, in which he stated that technological advances have come at the price at relative neglect of auscultation. Stethoscope virtuosity was the hallmark of a clinical cardiologist. This has been replaced by the high-tech cardiologist who spent time on tests and not on patients.

Arriving at a point in time when there is a limitation on the availability of tests due to cost containment, the book is extremely timely. Dr. Don Michael, in creating the book, is also responsible for using his vocal and musical skills in translating heart sounds into a language. This phenomenon was the basis of

the innovative approach that he took in creating the book. Referring to Dr. Don Michael's book, Dr. James A. Shaver, Professor of Medicine at the University of Pittsburgh Medical Center, and author of a chapter in Braunwald's textbook of cardiology, states that the breakthrough teaching tool used by Dr. Don Michael simplifies heart sounds and murmurs into their phonetic roots, enabling identification of telltale sounds of heart sounds with confidence. The methodology applied was to glean the sounds from an electronic stethoscope, invented by a young Sri Lankan engineer, Niren Abeyesundere, a son of Dr. Don Michael's guru in medical college, Dr. Nihal Abeyesundere. From these recorded sounds, it was possible to replay these sounds into an acoustic spectrograph, which enabled the sounds to be translated phonetically into the actual sounds. Thus, the book employed this technique to teach a sound by creating a sound.

- The textbook is concise, reviewing basic physiological principles step by step.
- It provides a complete textbook of cardiology with a history of physical findings and antecedents to auscultation for use at the bedside.
- It provides the means of selecting appropriate tests that relate to clinical findings.
- It incorporates a multimedia, 3.5" diskette which can be installed onto a laptop computer, and matched with the heart sounds as well as a sound card which carries the phonetics.
- It provides sections on the physics of sound, the physiology of hearing, stethoscopes, and describes the findings heard through a stethoscope in both the urgent care department of a hospital as well as in the doctor's office in the hospital.

The book was reviewed by the Journal of American Medical Association and given a high rating. Dr. Vincent J. Fellitti of Kaiser Permanente Medical Care Program, in San Diego, California, writes, "The author, who is manifestly an expert, has written a well organized book that will be use both to beginners and to experienced practitioners and contains traditional and clearly written chapters based on heart sounds and auscultation of murmurs, as well as other cardiac phenomenon. In addition, a useful computer diskette is provided which acoustically presents examples of basic auscultatory findings into its own chapter. Dr. Don Michael has also created an ingenious method of phonetically describing heart sounds and murmurs that is in advance over the unusual but uncertain descriptors like blowing and harsh." Later on in this review, Dr. Fellitti also compared the book to the classic work on auscultation by Drs. Levine and Proctor Harvey, and states that the book has incorporated modern technology to upgrade this work.

Dr. Don Michael is a Sri Lankan, a Peterite, and is a Professor of Medicine at UCLA who has consistently in the past thirty years brought teams to Sri Lanka, shown his loyalty to his country, and has been intimately interested in the education and welfare of cardiology in Sri Lanka. He was honored as Vidyajohi and listed among the 50 greatest Sri Lankans since independence, and served as consul in California. Consisting of ten chapters, 399 pages, is augmented by the floppy diskette, the pocket portable sound card, and is priced at \$ 39.95. A sign of its success is the fact that it is already into its second printing within three months of its introduction. Dr. Don Michael has gifted a copy to Her Excellency, the President, and this was acknowledged with thanks.

C.R.H.

Dr D J Attygalle

*'Bonus magis corendoquam
fruendo Sentitur'*

*"A good thing is appreciated
more when it is lost than when
it is being enjoyed"*

This can truly be said of late Dr. Don Jinadasa Attygalle – affectionately termed 'Jins' – It is one year since we lost him – words are inadequate to express our sense of a great void – an emptiness – even whenever I pass Castro Street, I turn to the gate and feel a tremendous emotion which I am unable to describe. Our friendship and our reciprocal respect and admiration of each other for achievements that we have passed through – wells up in our hearts.

His father and my father were very great friends and daily visiting my father and he received the cup of plain tea which my mother used to serve him herself. Of course, they both had a great respect for each other, especially having two sons, medical students at a time when no Free Education was existing. His father had one son already with us and the younger son was also to be cast to medicine. Both families must have made sacrifices to get us educated, I was already Surgical Registrar of the General Hospital when Dr. D.J. Attygalle came as a House Surgeon having passed in the first class with distinctions in some subjects, which was the only passport to appointment at the General Hospital, Colombo. Having done a very useful period in many outstations he came to the Pathology Department – the best foundation for a future physician. This appointment gave him another benefit. Here it was that he met his future partner Daphne Kanakarathna, herself a great intellect.

Another personage also possessing a very superior intellect, joined them.

Daphne's brother, son of late Mudliyar Kanakarathna, later was Ambassador in USSR and USA and UN and then India and at present Governor of Southern Province. Having left for UK immediately after their wedding 'Jins' in due time returned with double M.R.C.P. London and Edinburgh and she with Ph.D. When he joined the visiting staff of the General Hospital, Colombo, I was already a well established surgeon in the G.H.C. Years of similar intellectual lives brought us together and by and by we developed a reciprocal respect and admiration. Daphne in her turn became Professor of Pathology, Dean of the Medical Faculty and Acting Vice-Chancellor of the University of Colombo. Jins was a real epitome of good manners and deep learning.

His clinical background and well laid foundation of Pathology gave him almost a divine gift, an uncanny ability to diagnose and treat with minimum of so-called modern tests. He was a very good listener and quickly his analytical mind gave the treatment with very few drugs. He changed whatever was given – a master of his action with a deep attachment to Buddhist philosophy and customs.

He was always with a smile full of humour and wit – never had he quarrelled, if occasion arose – as two were necessary for this hateful discipline, he would never supply the second party. His patients stuck fast to him with affection and respect. He stood in utter contrast to carbon copies of Harley Street of new arrivals. Amongst his vast number of patients were five Prime Ministers, Governor Generals, Presidents, Cabinet Ministers and yet he did not lose touch with voiceless poor masses. He treated everyone with the same interest. His attention to the domestic staff was a personal one. After Daphne died he

treated my wife like a sister and would telephone to replace even a cook that has left. So great was our attachment. We both miss him. He has departed but has left a sweet fragrance that time will not dilute or easily be erased.

We still live in the line from the poem by Totagamuwe Sri Rahula Thero of great scholastic fame:

"Nethinetha Kandulu Randawa"

"Repressing the tears that keep on welling"

May you both attain the Supreme Bliss of Nibbana.

Dr. P. R. Anthonis

World Bank

(Continued from page 17)

reform have a very high failure rate or whether the Bank and other aid agencies are appropriate institutions to define the role of the states in societies where they themselves have no democratic mandate and are extremely unaccountable.

'Given such omissions, many have questioned the Bank's motives for raising the issue of the state in such a prominent way,' says the BWP paper. 'One interpretation is that the Bank is following its own institutional imperatives: by focusing on the "ineffectiveness" of states, the Bank is able to use the state as a scapegoat for failures that should properly be ascribed to the failure of market-led reforms.'

There is also a concern, voiced by many NGOs, that the Bank is seeking to bolster its position as a provider of North-South finance and advice in an age where the private sector is increasingly taking on the task of "developing" the South. The fear is that it is seeking to carve out new rules as a supranational authority which oversees the politics as well as economics of Southern States'.

T.W.N. Features

The Kuala Lumpur Declaration on Kosova

A consultation on Kosova was held in Kuala Lumpur on 3-4 April 1998. It was initiated by the International Movement for a Just World with the co-operation of the Institute for Policy Research.

The Deputy Prime Minister of Malaysia Dato' Seri Anwar Ibrahim officiated at the Consultation which was attended by 250 participants, among whom were diplomats, administrators, politicians, social activists, academics and students.

The seven speakers at the Consultation were from Kosova itself, Albania, Macedonia, Bosnia and Herzegovina and Malaysia.

After almost two days of intensive and extensive discussion the Consultation adopted a declaration henceforth known as "The Kuala Lumpur Declaration on Kosova".

The Kuala Lumpur Declaration on Kosova :-

- 1) Expresses profound concern over the critical situation in Kosova brought about by the aggressive, belligerent attitude and approach of the Serbian leadership in Belgrade towards the Kosova Albanians.
- 2) Deplores the state backed terrorism of the Serbian leadership to suppress peaceful and legitimate political and social activities of the majority community in Kosova.
- 3) Condemns in particular the massacre of 80 Kosova Albanians, including many women and children, in early March 1998 by Serbian security forces.
- 4) Calls upon the Serbian leadership in Belgrade to desist from the use of force and from committing any act of violence whatsoever, against the people of Kosova. Martial law

imposed upon Kosova should be immediately lifted and the Serbian army and para military forces should withdraw from Kosova.

- 5) Calls upon the Serbian leadership in Belgrade to release all prisoners held in conjunction with the political struggle of the Kosova Albanians and to refrain from committing human rights violations in Kosova, or in other areas under its control.
- 6) Urges the Serbian leadership in Belgrade to cease to obstruct the rights of the Kosova Albanians to education, health care, employment and the media.
- 7) Urges the Serbian leadership in Belgrade to initiate serious negotiations with the leaders of Kosova on the future of Kosova. All issues pertinent to the conflict including the question of independence for Kosova should be discussed. The negotiations should be conducted under the auspices of an international mediator.
- 8) Calls upon the Kosova Albanian leaders and people to continue to use peaceful means to pursue their goals.
- 9) Calls upon the Kosova Albanian leaders to continue to guarantee the rights of the Serb minority and other ethnic minorities in Kosova in any negotiations aimed at resolving the Kosova conflict.
- 10) Calls upon United Nations and its Secretary General in particular to remain engaged in the process of seeking an early, just and durable solution to the Kosova conflict and to appoint a special rapporteur.
- 11) Calls upon the international community to use whatever leverage

they have with the Belgrade leadership in order to persuade it to enter into unconditional negotiations with the Kosova Albanians under international mediation with appropriate guarantees.

- 12) Calls upon the international media organisations to maintain a regular objective and balanced focus on the situation in Kosova so as to serve as a moral driving force for peace and justice and for the promotion of human dignity in the region.
- 13) Calls upon the Contact Group countries and the international community to impose economic sanctions on the Belgrade leadership and to identify and implement other types of sanctions aimed at the government rather than the people of Serbia and Montenegro.
- 14) Calls upon the Malaysian government to continue to give importance to the Kosova issue and mobilise international public opinion to ensure that justice prevails in Kosova.
- 15) Urges the International Movement for a Just World, the Institute for Policy Research and other NGOs to initiate and organise a Humanitarian Fund for Kosova which will be used to purchase food, medicines and other basic necessities for the people of Kosova.
- 16) Bearing in mind the tragedy of Kosova and the Balkans, calls upon the leaders and citizens of multi-ethnic societies every where to respect the religion, language and culture of the different communities that comprise their societies and to develop mutual trust and understanding among them.

SUBSCRIPTIONS

The annual subscription rates of the LST Review have been revised due to rising costs of production as follows:

Local: Rs. 600/=

Overseas:

| | |
|----------------------------------|---------|
| South Asia/Middle East | US\$ 30 |
| S.E. Asia/Far East/Australia | US\$ 35 |
| Europe/Africa | US\$ 40 |
| America/Canada/Pacific countries | US\$ 45 |

Individual copies at Rs. 50/- may be obtained from the Trust at No. 3, Kynsey Terrace, Colombo 8, and BASL Bookshop, 129, Hulftsdorp Street, Colombo 12.

Spiral bound and indexed copies from Volume I - VII are also available.

Enquiries: *Librarian*
Law & Society Trust
No. 3, Kynsey Terrace
Colombo 8
Tel: 686845/691228
Fax: 94 1 686843

CURRENT ICES PUBLICATIONS

AMONG MY SOUVENIRS, by Regi Siriwardena. 1997. 187p. Rs. 200.00

CIVIL DISOBEDIENCE AND OTHER ESSAYS, by Neelan Tiruchelvam (Tamil). 1997. 216p. Hardcover: Rs. 300.00; Paperback Rs. 200.00

CIVIL SOCIETY IN SRI LANKA: A SYMPOSIUM. (English & Sinhala). 1997. 38p. Rs. 75.00

CULTURE AND POLITICS OF IDENTITY IN SRI LANKA, edited by Mithran Tiruchelvam and Dattathreya C.S. 1998. 186p. Rs. 350

THE DEATH OF COMMON SENSE? SOME IDEAS ON SOCIAL, CULTURAL AND POLITICAL TRENDS IN SRI LANKA, by Sasanka Perera. 1997. 182p. Rs. 175.00

DEMOCRACY AND HUMAN RIGHTS, by Neelan Tiruchelvam (Tamil). 1996. 296pp. Hardcover: Rs. 300.00; Paperback Rs. 200.00

THE EFFICACY OF THE NATION STATE IN SOUTH ASIA: A POST NATIONALIST CRITIQUE, By Imtiaz Ahmed. 1998. 81p. Rs. 100.00

GOVERNANCE AND THE ELECTORAL PROCESS IN BANGLADESH, PARLIAMENTARY ELECTIONS 1996: REPORT OF SAARC – NGO OBSERVERS. 1996. 184p. Rs. 275.00

GOVERNANCE AND THE ELECTORAL PROCESS IN PAKISTAN: NATIONAL ASSEMBLY ELECTIONS 1997, edited by Jeevan Thiagarajah. 1998. 215p. Rs. 300.00

IDEOLOGY AND THE CONSTITUTION: ESSAYS ON CONSTITUTIONAL JURISPRUDENCE, by Radhika Coomaraswamy. 1996. pp178. Hardcover: Rs. 300.00; Paperback Rs. 200.00

LIVING WITH TORTURERS AND OTHER ESSAYS OF INTERVENTION; SRI LANKAN SOCIETY, CULTURE AND POLITICS IN PERSPECTIVE, by Sasanka Perera. 1995. 89pp. Rs. 150.00

POLITICS AND CULTURE: FACES OF A NEW ERA (Sinhala), by Neelan Thiruchelvam. 1998. 145p. Rs. 150.00

REDISCOVERING A SOUTH ASIAN COMMUNITY, by Rehman Sobhan. 1997. 59p. Rs. 100.00

SRI LANKA: THE DEVOLUTION DEBATE. ICES, 1996. 255pp. Rs. 250.00

THIRD WAVE: GOVERNANCE AND PUBLIC ADMINISTRATION IN SRI LANKA, edited by M. Somasundram. 1997. 452p. Rs. 600.00

ALL ORDERS TO: International Centre for Ethnic Studies,
2, Kynsey Terrace, Colombo. Tel. 685085, 698048
E-mail: icesweb@sri.lanka.net