

The Jaffna university
and its vice chancel-
lors

Page 5

NORTHEASTERN HERALD

Hakone peace talks signal
new security role for
Japan in Asia

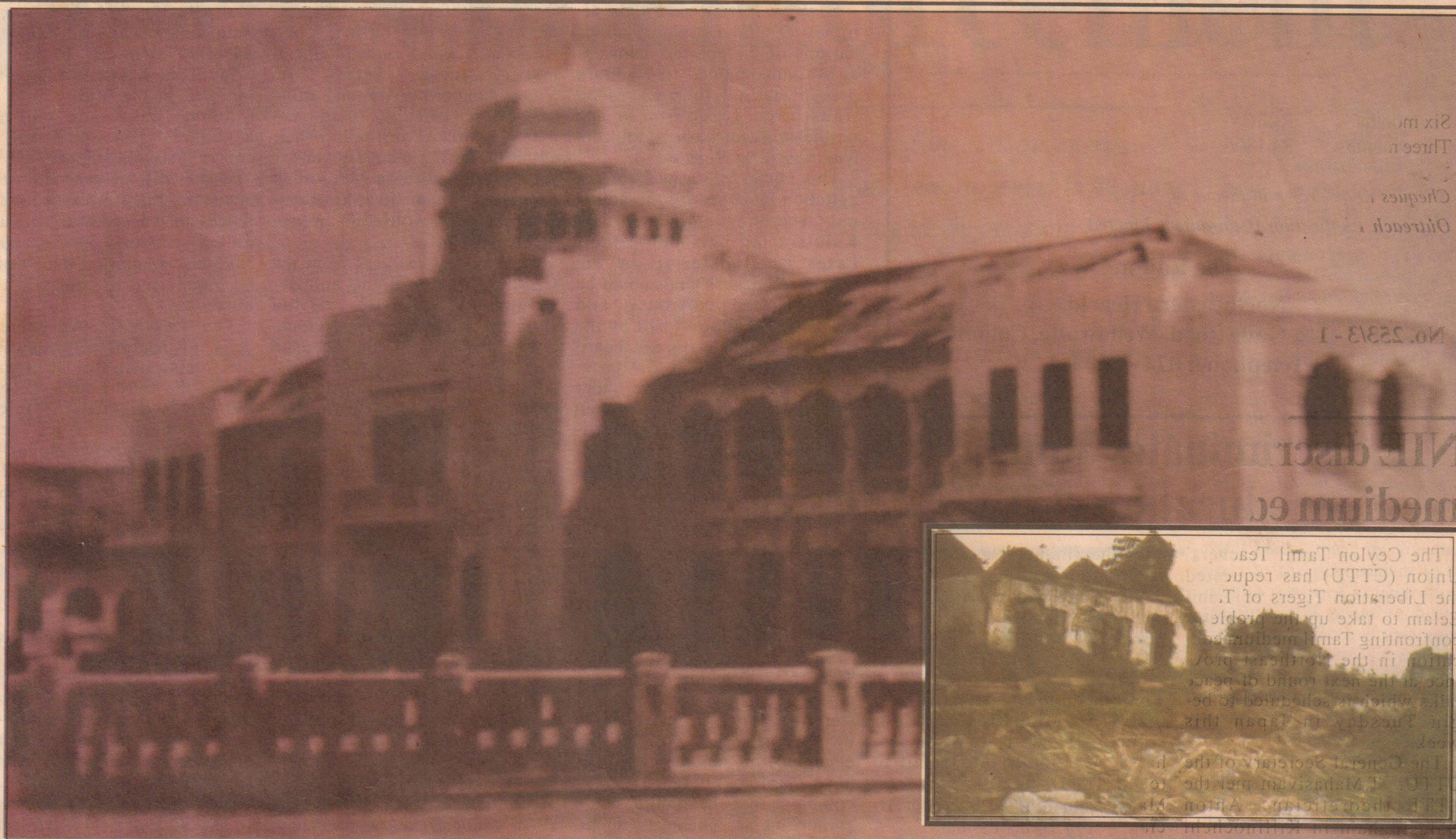
Page 6

Registered as a Newspaper in Sri Lanka

Vol: 01/34

March 21 - 27, 2003

Price 12.00



Jaffna Municipal Council's majestic buildings of yesteryear reduced to a dumping ground today (inset)

Pic. by S. Somitharan

Navy framing suspects for ceasefire violation?

By a Staff Correspondent

Human rights activists believe the navy and police are making moves to frame the three persons arrested off the Trincomalee coast early Saturday morning for transporting ammunition, by planting incriminating evidence against them.

This follows mounting suspicion that the navy is under orders to make every endeavour to scuttle the peace process by adopting a confrontational attitude towards the Liberation Tigers of Tamil Eelam (LTTE), failing which to use even fraudulent means to show up the Tigers as violating the Ceasefire Agreement.

The navy arrested the three persons at around 2:30 a.m. last Saturday morning on suspicion they were transporting ammunition. However, there was no ammuni-

tion found on their person when they were arrested nor in their boat, a human rights activist told the Northeastern Herald. They had in their possession only a mobile phone and global positioning system (GPS) equipment.

GPS equipment is not military equipment and is definitely not among the banned items under the Ceasefire Agreement. Even fishermen are authorised to use it to determine their position at sea by using the coordinates transmitted via satellite.

The navy later claimed however one person had confessed the boat had been carrying ammunition, which was later taken up by the police stating the men had confessed to carrying ammunition, which they had dumped into the sea. The harbour police also said they had found an ammunition box lock in the possession of one of the arrested.

The three men were produced before the Trincomalee magistrate and acting district judge, Anton Balasingham and enlarged on one surety bail on Saturday. The case is due to come up on 31 March.

Meanwhile sources said the navy was using divers to salvage the ammunition boxes the security forces say had been dumped by the three men in the sea. "They can produce any box of ammunition - even what might have been left behind by the British during World War II - and claim it had been salvaged from the sea," said sources who did not wish to identify themselves.

Though the navy and police claim the three arrested persons had confessed to throwing the ammunition overboard, under the evidence ordinance no confession made before a police officer can be proved against a person accused of any offence, "provided that any fact as

deposited is discovered in consequence of information received from a person accused in any offence in custody of a police officer whether it amounts to a confession as relates distinctly to the fact thereby discovered, may be proved."

There is however a separate procedure where if a suspect wishes, his or her confession may be recorded without compulsion by a magistrate in the immediate presence of the accused.

"We are not sure what the navy will bring up claiming to be evidence they have picked up from the bottom of the sea. It will be very tricky if they try to frame these three accused," said the human rights lawyer.

There have been at least two other incidents, both which ended with loss of lives where the navy accosted LTTE boats, which it says carried munitions. In the first inci-

dent off the Delft coast the SLMM discovered a 23mm antiaircraft weapon after which three LTTE cadres committed suicide. In the second incident more recently, 11 LTTEs were killed when the navy opened fire at a craft it claims that did not identify itself properly. The LTTE says however the Sri Lanka navy without any provocation had sunk its merchant vessel.

Under Ceasefire Agreement, both the government and the LTTE can arm themselves but the navy is bestowed the authorisation to stop and check any vessel it feels might be violating the sovereignty or the territorial integrity of Sri Lanka.

LTTE's chief negotiator Dr. Anton Balasingham is on record that the navy was being used by President

Chandrika Kumaratunga to scuttle the peace process.

**NORTHEASTERN
HERALD**
SUBSCRIPTION FORM

Name:

Address:

Six months Rs.360/-

Three months Rs.180/-

Cheques to be drawn in favour of:
Outreach Publication (Guarantee) Limited
The Editor
Northeastern Herald
No. 253/3 - 1/2, Galle Road, Wellawatte, Colombo 6.
Telephone: 074 - 510441

NIE discriminates Tamil medium education -CTTU

The Ceylon Tamil Teachers' Union (CTTU) has requested the Liberation Tigers of Tamil Eelam to take up the problems confronting Tamil medium education in the Northeast province at the next round of peace talks which is scheduled to begin Tuesday in Japan this week.

The General Secretary of the CTTU, T.Mahasivam met the LTTE theoretician Anton Balasingham in Killinochchi during the weekend and brought to his notice the discriminatory actions shown towards the development of Tamil medium education by the National Institute of Education (NIE), which is established

with the financial assistance of Japan, sources said.

NIE is engaged in writing Tamil medium textbooks distorting the history of Tamils in the island. NIE has not appointed Tamil scholars to write textbooks to Tamil medium education. Instead the NIE authorities have recruited persons to translate Sinhalese textbooks into Tamil to teach Tamil medium students, Mahasivam told LTTE theoretician Anton Balasingham.

The NIE has not ensured equal opportunity in education to Tamil medium students. Instead NIE administration is implementing several projects undermining the development of Tamil medium education, Mahasivam has reiterated.

Accused apply to AG for case transfer to NE

Lawyers will forward to the attorney general individual applications of 54 persons who are at present detained in Kalutara prison, asking their cases be transferred to courts in the northeast, legal sources told the *Northeastern Herald*.

This comes in the wake of an agitation launched by the political prisoners detained in Kalutara jail demanding their cases be transferred to the northeast because trials could be concluded expeditiously and they may be allowed bail by the judges if their cases are heard in the high courts in that province. All the accused are under trial indicted in high courts in the south for offences committed under the PTA.

The 54 political prisoners who were those left behind after the others had been either acquit-

ted, or transferred to other prisons, began a hunger strike two weeks ago, which came to an end last Saturday after A. Vinayagamoorthy, MP, and attorney-at-law visited the prison and persuaded them to give up their agitation on the pledge given by the AG to Batticaloa MP Joseph Pararajasingham that the transfers of cases would be implemented.

On Monday, lawyers from the Centre of Human Rights and Development (CHRD) visited Kalutara and prepared individual applications of all the accused persons to be handed over to the AG. In their applications the accused said they wanted transfers because their families could visit them in prisons of the northeast more easily than at Kalutara.

However, persons accused in 'major' cases such as the Dalada

Maligawa bomb blast, Dehiwela train bomb blast and the attempt on the life of President Chandrika Kumaratunga and indicted in the high courts of Colombo and Kandy, will not have their cases transferred to courts in the northeast.

Meanwhile, persons from the upcountry areas arrested for offences in the northeast but indicted in courts in the south have also requested their cases be transferred to courts in the northeast.

The Ceasefire Agreement does not specifically mention the freeing of political prisoners as the Indo-Lanka Accord did. However, after the agreement came into effect there have been concerted moves by the government to expedite the release of all those taken into custody under the PTA.

SLA vacated schools in HSZ still closed

The Eluthumadduval North Maruthankulam Government Tamil Mixed School in the northern Jaffna district has not started functioning even after the Sri Lanka Army troops who occupied the school premises have vacated. Villagers complain that the school authorities are unable to repair the damaged buildings and restart the school, as the school is located in the Sri Lanka Army High Security Zone (HSZ).

A similar situation prevails in other parts of the Jaffna

peninsula as education authorities are unable to repair damaged buildings to restart these schools, which are in the high security zones, sources said.

Meanwhile, the Sri Lanka Navy (SLN) Monday vacated the office complex of the Neduntheivu Pradeshya Sabah (PS), which it had been occupying to provide security to cadres of the paramilitary group, Eelam People's Democratic party (EPDP).

The SLN provided accommodation to the EPDP members in the Neduntheivu PS office

complex against the wishes of the villagers. The villagers conducted a sustained picketing campaign against the presence of EPDP members in the Neduntheivu office complex demanding that they should vacate from the area, sources said.

The SLN detachment that functioned in the Neduntheivu PS office complex comprising the local market and library withdrew to the main SLN base in Karainagar around noon Monday, the sources said.

Resettlement should be about more than just politics

While the attention of the peace talks and in the international community focuses on the internally displaced Tamils of the northern peninsula, the Tamils of the east, forced out by the Muslim Home Guards of the Sri Lanka Government have been forgotten. Residents of Tamil villages destroyed in the colonization of the east told TamilNet of their desire, and current inability, to return home.

The resettlement of the eight hundred thousand odd internally displaced people has featured prominently and consistently at the ongoing talks between the Sri Lankan government and the Liberation Tigers of Tamil Eelam. And, on this issue at least there appears to be consensus that steps ought to be taken to ensure that all displaced people are able to return to their former homes.

It is a position that has been expressed by the American Deputy Secretary of State, Richard L. Armitage, who had this to say at a seminar held at the Cen-

tre for Strategic and International Studies in Washington on February 14 this year. "The Government of Sri Lanka must institute reforms that address the legitimate aspirations of the Tamil people. This means allowing Tamils the simple right to stay in their own homes and to pursue a living, such as fishing in coastal waters, without prejudice or harassment."

However, it appears that attention is primarily focused on the resettlement of the Muslims driven out of Jaffna and Tamils who fled into the Vanni in the wake of the Sri Lankan army's occupation of the Jaffna Peninsula. Very little is said about the displacement of thousands of Tamils in the East whose displacement not only precedes the other much talked about displacements but has occurred consistently over a prolonged period. It was a process that set in motion deliberately by the Sri Lankan security forces ably assisted by Muslim home guards and politicians since 1990 and has continued almost unabated until the war ended in 2001.

The Tamils of Ampara district suffered the most as it was from there several thousands of Tamils were evicted, having been subject to well planned atrocities designed to drive them out of their homes. The atrocities cited by analysts include massacres, destruction of homes and property and the disappearance of young Tamils taken into custody. All these acts were carried out during this period by Muslim home guards, operating in tandem with the Special Task Force (STF) of the Sri Lankan Government.

The devastating effects of the forced displacements, disappearances and atrocities committed against the Tamil people are painfully plain to anyone who cares to take a cursory day trip to the east. The horrendous nature of these atrocities were brought home to many when 25,000 war widows gathered to remember their losses in Batticaloa International Women's Day, March 8.

The displacement of Tamils in Ampara has been compounded by the forced acquisition of prop-

erty by unscrupulous Muslim businessmen who have either taken over Tamil property by paying monies far below market prices or moved into villages abandoned by Tamils, say residents. It is estimated that well over twenty Tamil villages have been taken over in the Ampara district as a direct outcome of the terror tactics carried out by the STF and the Muslim home guards. The 'take over' of the villages has more often than not been accompanied by either the destruction of Hindu temples or the building of mosques in such villages to impose Muslim 'ownership' say the villagers.

The impassioned plea by 74-year-old Murugappa Thangarasa said it all. Thangarasa's displacement from the village of Thangavelauthapuram was preceded by the disappearance of young Tamils taken into custody, atrocities, harassments and indiscriminate shelling. Soon the entire village abandoned their homes. Despite his steadfast resolve to stay in his village home,

Thangarasa was forced to leave. With the advent of 'peace' he is anxious to resettle in his own village, but there is little progress to date to make this happen.

Displaced Tamils in the East need to return just as much as the displaced Tamils and Muslims of the Jaffna peninsula. Unless this becomes an integral part of the resettlement program, the much touted 'normalcy' is likely to remain a cynical exercise in politics, say analysts. The Ampara Tamils, unlike the Jaffna Peninsula Tamils or the Muslims, have no champions to press their cause and it would appear they are destined to remain destitute in the land of their birth, say the residents.

"It is time that action is taken so we, along with other displaced Tamils, can return to our homes and regain what is rightfully ours," a resident told TamilNet. "It is time that the question of resettlement is handled not only as an exercise in politics but with justice for all." (TamilNet)

Inappropriate arrogance by misreading the past

By Bertram Bastiampillai

Those who know not their past imagine it filled with conceit, and grow arrogant. A grave deficiency in the kingdoms that flourished in pre-Portuguese Sri Lanka was the lack of a standing army. This made Sinhala rulers vulnerable. When a regular force was eventually established, comprising mostly South Indian mercenaries, it could not be used to install control or authority over the recalcitrant rulers of the peripheral areas of the centre of royal power. Neither was the administration any more useful as a mechanism to oversee and manage the provinces. For instance, between Anuradhapura, the centre of power, and southern Ruhunu, the relationship was rather loose and the hold tenuous. Control or management of the outer provinces by the royal power in Anuradhapura was weak, except on rare occasions.

Strong centralised rule was more the introduction and legacy of British rulers, especially after 1833. The earlier Sinhalese kingdoms were not, in the strict sense, centralised. They tolerated particularisms, which were unique to different geographical areas and their inhabitants. Furthermore, chiefs or notables with particular titles impinged upon the central authority of the king, leading to power struggles, thereby preventing monopoly or the concentration of authority in the hands of the sovereign. Centralised government and or central control were an exceptional rarity.

Weakening of centralised royal authority, the prevalence of particularism (and its tolerance), vested initiative and enterprise in smaller and more localised geographical entities like the districts and villages and the

The practice and trend of distinguishing Sinhalese from the Tamils as an ethnic group and calling the Sinhalese a pure and unmixed race were developments of more recent times during periods of extreme nationalism. Earlier, no one was embarrassed by the links that existed in several spheres between the Tamils and Sinhalese through the major impact of the Hindu religion and the language of Hindu scriptures, Sanskrit

chiefs in charge of them enjoyed much power and responsibility, as scholars like Professor K. M. de Silva clearly show.

Moreover, except for strong rulers who were few and far between, others were distracted by successive and regular disputes over succession. Further, threats from nearby South India grew and ultimately consumed the Anuradhapura kingdom. The tendency to ally with one South Indian power in its quarrels with another was a factor leading to Sri Lanka being invaded in the 9th century.

It was the Tamils in the country who started this enterprise by first allying with the Pandyan power that invaded the country. Later, to pre-empt Chola hegemony, the South supported the Pandyans doing a *volte face*. This earned the Chola wrath. Till the mid-10th century there were Chola expeditions to Sri Lanka but by the end of the 10th and the start of the 11th centuries, the Cholas grew more ambitious and aggressive and subdued the Sinhalese kingdom, which was brought under their direct rule.

The Cholas ruled Rajarata as a province (Cholamandalam) and the capital was shifted from Anuradhapura to Polonnaruwa to be more secure. Though the Sinhalese opposed Chola

control and government over their land, the ambitions of Ruhunu were an obstacle to unity the Sinhalese needed to expel the foreigners. Divisions among rival aspirants to be the Sinhala ruler of the entire island and support to one or the other aspirant by Sinhalese notables in Ruhuna, helped the alien Cholas. 'Sinhalese unity' was not there as a rule and is mostly a figment of the imagination.

Tradition says that Mahinda and his team introduced the Theravada Buddhist canon, pride of Sri Lanka, when they visited the island from India bringing in the faith. The Pali commentaries and canonical texts in Sri Lanka were compiled around the 5th century after Christ by Buddhagosha, probably a South Indian Brahman converted to Buddhism, while Buddha Datta and Dharmapala were Buddhist scholars not from Sri Lanka but visitors from South India who contributed much to Sri Lankan Buddhism.

Not only Buddhism, but also pre-Buddhist cults, Hinduism and Tantric Buddhism that were popular among the people in the early period of Sri Lanka's history were introduced from India. It has to be noted that just because Buddhism spread, Hinduism was not submerged or eclipsed en-

tirely. Hinduism survived and influenced the growth of Buddhism. In latter years of Anuradhapura, Hindu influence on Buddhism grew visibly stronger.

It was in the early Christian era that Hinduism from South India established contact with the Buddhist faith in Sri Lanka. (Later on however, South Indian political influence on the island's governance also facilitated a Hindu impact on Buddhism). Hindu ceremonies, forms of worship and rituals exerted strong influence on religion in Sri Lanka. Around the 10th century, Buddhism assimilated Hindu practices and Buddhist mythology absorbed Hindu deities like Upulvan, Saman and Natha. Thus Buddhism was tolerant, as it should have been and the idea of 'pure,' 'unadulterated' Buddhism has been more a wish and not reality as learned Prof. Silva too shows.

Even the earliest Buddhist shrines in Sri Lanka were modelled on Indian edifices and the arts and crafts in the island owe a debt to India for their form and structure. The Buddhist stupas were based on North Indian models. With time however, they gained, be it in arts or crafts, a singular Sri Lankan impression. Architecture in stone borrowed a style inspired by South Indian example. For instance, the much-praised motif associated with the elaborate and ornate moonstone seems to have been borrowed from the South Indian Andhra area. The early Buddha images are indebted to Amaravati or Vengi but the later Buddha statues bore specifically pronounced Sri Lankan characteristics. Yet, their Indian origin was undeniable.

An Indian influence was quite noticeable during the Anuradhapura years in sculpture too. For example, the sculptures rock cut in Isurumuniya called the 'Lovers' and 'Royal ease' bear features of the North Indian Gupta and South Indian

Pallava style. Even painting was probably based on Indian traditions but later modified to fit local genius. Pristine purity was absent and dilution and fusion were there in form, craft and art.

The Sinhala language that has a distinctive script received an impetus from Pali and Buddhism introduced from the neighbouring sub-continent of India. Later on, in the Anuradhapura period, Sanskrit with its rich idiom, vocabulary and vitality enriched and left an indelible impression on the Sinhalese language. Historians acknowledge considerable Tamil influence on the vocabulary, idiom and grammatical foundations of Sinhalese. Cross-fertilization among languages has been the norm in history.

The practice and trend of distinguishing Sinhalese from the Tamils as an ethnic group and calling the Sinhalese a pure and unmixed race were developments of more recent times during periods of extreme nationalism. Earlier, no one was embarrassed by the links that existed in several spheres between the Tamils and Sinhalese through the major impact of the Hindu religion and the language of Hindu scriptures, Sanskrit. The links between Buddhism and Hinduism owing to blending of ritual and language were clearly accepted without being abashed.

The early history of the island demonstrates that both the Tamils and Sinhalese had close and intimate connections in more ways than one. The assertion that Sinhala-Buddhists owe nothing to the mostly Hindu Tamils was a product of an ill-informed, ultra nationalist debate. And the attempt to derogate Tamil citizens, who can trace an ancestry from India as much as the Sinhalese can, grew out of an intolerant extremism. History proves this to be unjustifiable arrogance.

USA: President Bush sanctions another killing

As he prepares his country for war in Iraq, President George Bush has maintained his support for state-sanctioned killing at home, Amnesty International said after former soldier Louis Jones was killed by federal executioners in Indiana earlier today.

"We deeply regret that the President has once again failed to offer human rights leadership on this fundamental issue," Amnesty International said. "His repeated assertions that the USA will stand firm for the 'non-negotiable demands of human dignity' were drained of meaning as Louis Jones was taken from his cell and injected with poison by government employees."

Louis Jones, a veteran of the 1990/91 Gulf War, was sentenced to death in 1995 for the murder of Tracie Joy McBride, a private in

the US army. Jones's unsuccessful clemency petition to President Bush included evidence that this decorated soldier suffered from personality-altering brain damage related to "Gulf War Syndrome" as a result of his exposure to toxins during that conflict. Louis Jones always expressed his remorse for the murder and his responsibility for it. His clemency petition had asked for his death sentence to be commuted to life imprisonment without the possibility of release.

"We recall President Bush's promise, upon inauguration, to be a president who would speak for 'greater justice and compassion'," Amnesty International said. The organization acknowledged the suffering that the murder of Tracie McBride will have caused, but also noted that even the jurors at the 1995 trial held that Louis Jones's

own daughter would be harmed by the emotional trauma of her father's execution.

Louis Jones was the first person to be sentenced to death under a 1994 law which greatly expanded the federal death penalty, and thereby contradicted international human rights standards which seek to progressively limit the scope of capital punishment.

"More than 100 countries have turned their backs on this cruel and irrevocable punishment," Amnesty International continued. "What the US Government has done today sets it apart from a clear majority of nations."

Louis Jones was sentenced to death by a jury of 11 whites and one black in a federal court in Texas. He was African American and Tracy McBride was white.

After the trial, two jurors came

forward to say that the jury had been thrown into confusion by an erroneous sentencing instruction by the judge, which led them, wrongly, to believe that a lack of unanimity on either death or life imprisonment without parole would result in the court imposing a lesser sentence. The sole African American juror was subsequently singled out for particular pressure by the majority in order to get her to change her vote from life to death. Four US Supreme Court Justices - one short of a majority - voted that Louis Jones should receive a new sentencing hearing because of the trial judge's error.

"Louis Jones's death sentence survived the appeals process despite the fact that every appellate judge who has reviewed his case has agreed that the trial court misstated the sentencing options avail-

able to his jury," Amnesty International said.

"We regret that President Bush appears to have failed to grasp that the power of executive clemency exists precisely to compensate for the rigidity of the judiciary."

During George W. Bush's five-year governorship in Texas, there were 152 executions in that state. After taking office in the White House, he allowed federal executions to resume in 2001 after nearly four decades without them, despite the failure of his administration to explain widespread geographic and racial disparities in federal capital sentencing. It still has offered no such explanation. The killing of Louis Jones was the third such execution of the Bush presidency.

(Amnesty International)

Monitors says no evidence sunk ship carried weapons

Concluding an investigation into the sinking last week of an LTTE-owned vessel by the Sri Lanka Navy, international ceasefire monitors Monday confirmed the ship was a merchant vessel and said there was no evidence it was carrying weapons as claimed by the Navy. The Sri Lanka Monitoring Mission (SLMM) said it had not been informed in time of the interception of the vessel by the Navy and could not rule on the incident as it occurred almost 200 miles from Sri Lanka's shore, in area where the United Nations Convention on the Law of the Sea applied.

The full text of the SLMM press release follows:

Subject: LTTE Merchant ship sunk by Sri Lanka Navy - SLMM Determination

Course of Events - Versions of the Government and LTTE

At 10.00 on the morning of March 10th 2003 Sri Lanka Monitoring Mission (SLMM) received information from the Sri Lanka Government's Secretariat for Coordinating the Peace Process, that the Sri Lanka Navy (SLN) was engaged in a sea incident around 240 nautical miles off the East coast of Sri Lanka. The SLN was said to have intercepted an unknown merchant ship believed to be a Liberation Tigers of Tamil Eelam (LTTE) vessel. Major General Tryggve Tellefsen, the Head of SLMM, immediately contacted the Sri Lanka Navy Commander and requested that the Navy would keep the merchant ship under close observation, maintain a certain distance from it and avoid any confrontation until a SLMM monitor had been moved to the scene. The Navy Commander informed the Head of SLMM that a firefight had already taken place between the vessels. At 10.10 SLMM contacted the LTTE Headquarters in Kilinochchi via telephone, and asked if LTTE had information on any LTTE vessel in this area. The question was to be relayed to the LTTE leadership as soon as possible.

According to the SLN report on the incident, "the Sri Lanka Navy received credible information on 09th March that a LTTE vessel carrying warlike material was approaching the Mullaitivu coast with the objective of unloading weapons at mid sea onto small boats." According to SLMM interviews with members of the Eastern Naval Command and the Captain of the SLN vessel, "The suspicious vessel was visibly detected 185 miles from the coastline... at 06.30 on the 10th March... and ... The suspect vessel, which conformed to the intelligence received, was

Asked why SLMM was not informed and a monitor called to the scene, the Navy Commander, members of the Eastern Naval Command and the Captain of SLNS Sayura have stated that they did not know it was a LTTE vessel but were only informed about a "suspicious gun running vessel". This is contradictory to the initial press release from the Ministry of Defence and also the SLN report on the incident, which both state "The SLN received credible information on 09th March that a LTTE vessel carrying warlike material was approaching the Mullaitivu coast".

identified around 07.45... at approximately 185 miles North East of Mullaitivu." There was radio communications between the vessels. The SLN claims that the information from the LTTE crew on the ship's cargo, registration and crew was characterized by discrepancies. The SLN also claims that the vessel did not have a national flag or a visible name on the ship and because it did not follow the SLN orders to stop; "The SLN vessel fired warning shots over the bow of the LTTE ship at approximately 09.00-09.30, and subsequently received fire from the LTTE merchant ship. The SLN fired back at the ship using all her weapons... and ... the suspect vessel caught fire and became disabled around 10.30."

At 12.00 the LTTE leadership contacted SLMM and confirmed that an LTTE merchant ship was engaged in a sea incident with the SLN. The LTTE stated to SLMM that; "the ship is sailing in international waters, the SLN has no right to intercept it and we ask SLMM to intervene." In interviews with SLMM, LTTE later stated that; "this was a merchant tanker of approximately 700 tons, 8 meters wide and 61 meters long. It had 11 crewmembers, all members of the Sea Tigers, and was operated by an independent shipping company supporting LTTE financially. The ship had a legal cargo of diesel and was sailing in the direction of India. At 11.30 its position was 220 miles East of Trincomalee." The LTTE has not been able to inform SLMM about the name and registration of the tanker or its port of departure.

The LTTE states that at approximately 14.00 it received a message from the tanker via the LTTE Sea Tigers, that it was "under attack, on fire and sinking." The SLN states that the LTTE merchant vessel sank 195 miles East of Mullaitivu at 15.09. The sinking of the ship can be seen

from the video produced by SLN. However, it still remains unexplained what actually caused the ship to sink.

SLMM Findings

SLMM inquiry team found around 30 fresh bullet marks on the superstructure and bridge of SLNS Sayura, the SLN vessel involved in the incident. SLMM inquiry team also met and questioned three servicemen of the SLNS Sayura, that were wounded in this incident, on their return from sea early morning 11th March. The SLN video taken by a SLN vessel arriving to the scene after 11.00 cannot be considered entirely impartial evidence, as it is taken and produced by one party to the conflict. However, on that video, the front and back of the hull of the LTTE merchant ship can be seen quite clearly. At the time of filming, no flag or name is visible and the same applies to the front of the bridge and the mast of the ship. On the other hand in the intelligence the SLN received on the LTTE merchant ship it is stated that the ship's name is MV KOIMAR. The SLN report states "the suspect vessel... conformed to the intelligence received". On the SLN video it can also be seen that the LTTE merchant ship had isolated fires on the front deck, in front of the bridge and on the aft, until it sank.

Asked why SLMM was not informed and a monitor called to the scene, the Navy Commander, members of the Eastern Naval Command and the Captain of SLNS Sayura have stated that they did not know it was a LTTE vessel but were only informed about a "suspicious gun running vessel". This is contradictory to the initial press release from the Ministry of Defence and also the SLN report on the incident, which both state "The SLN received credible information on 09th March that a LTTE vessel carry-

ing warlike material was approaching the Mullaitivu coast".

The Government of Sri Lanka accuses LTTE of carrying warlike material in a merchant vessel claiming that the LTTE has violated paragraph 1.7 in the Ceasefire Agreement. Additionally the Government claims that LTTE has committed a breach of the United Nations Conventions on the Law of the Sea, by neither flying a flag of any state nor displaying any name on the ship. The LTTE accuses the Government of Sri Lanka of engaging in an offensive operation against its commercial ship and thus, committing a breach of paragraph 1.3 in the Ceasefire Agreement. The LTTE claims that the incident happened 220 miles off the East coast and that the Government of Sri Lanka does not have any authority in international waters according to the abovementioned UN convention.

Conclusion

The Head of SLMM is the final authority to interpret the Ceasefire Agreement. However the Head of SLMM does not have authority to interpret the United Nations Convention on the Law of the Sea. It is the assessment of SLMM that both parties had enough time to inform the SLMM and to request SLMM to take immediate actions on this matter before the situation escalated and the actual confrontation took place. This is especially the case with the SLN, which has stated in their report that they had credible information on a LTTE vessel approaching the Mullaitivu coast already early on 09th March. Regrettably neither of the Parties informed SLMM until it was too late to prevent the clash. This is especially disappointing in the light that the Government of Sri Lanka and LTTE set up SLMM with the Ceasefire Agreement, in order to conduct impartial verification, in-

quiries into alleged violations and to assist them in the settlement of any dispute that might arise.

Both Parties have requested the Head of SLMM to give a ruling on this incident. SLMM first and foremost bases its rulings on first hand verification of its monitors and non-contradictory information given by both Parties. SLMM cannot say for sure if this incident could have been avoided. Similarly, SLMM has no proof if the cargo of the LTTE vessel was warlike material, like the Government of Sri Lanka has stated, or diesel, as the LTTE has stated. However, if the SLMM had been involved in this incident as an impartial monitor, it would no doubt be in a better position to make a ruling on the behaviour of the Parties and what took place. Most importantly, the outcome of the incident might have been different if SLMM had been involved earlier. With all this in mind, ruling only one of the Parties to be responsible for this specific incident is not possible.

To avoid similar incidents in the future, SLMM has advised the Parties to work out a safeguarding mechanism and procedures to be applied under such circumstances. SLMM has already informed the Parties about its availability to facilitate such a meeting between them and assistance in working out such procedures.

Major General Tryggve Tellefsen, Head of SLMM, states: "The Ceasefire between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam has not been without difficulties, effort and tolerance of the two Parties and the people in Sri Lanka. But it remains in force. Eleven members of LTTE lost their lives off the East coast of Sri Lanka on the 10th of March. Four servicemen of the Sri Lanka Navy were wounded. The Ceasefire is still in force. I would like to convey my deepest sympathy to families of the cadres that lost their lives. I wish the wounded SLN servicemen quick recovery. The Government of Sri Lanka and the LTTE leadership have once again shown their dedication to a negotiated settlement to this conflict. For that they deserve respect. We urge the Government of Sri Lanka and the LTTE leadership to respect the Ceasefire Agreement, avoid confrontations and refrain from any offensive military operations. You have created SLMM to monitor the implementation of the Ceasefire Agreement and assist in solving disputes that arise. Employ it as such. You have our unlimited support."

The Jaffna university and its vice chancellors

On 19 March Professor Balasundarampillai handed over to Professor A. Mohanadas the reigns of the office of vice chancellorship of the University of Jaffna. Professor Balasundarampillai served for two full terms and will be remembered for the way he widened the University of Jaffna. Under him, the Jaffna University saw many changes. Almost, most of which were within the Arts Faculty. He created new departments of Psychology, Arts and Design and established links for the University of Jaffna with British universities. Assuming office after the vice chancellorship of Professor K. Kunaratnam, a great physicist and a man known for his strength of his convictions, Balasundarampillai had to face the problems that arose with the Armed Forces taking over the administration of the Peninsula.

But the change over was smooth and Balasundarampillai's personality helped to smoothen the change.

This brings me to the point of importance of the Jaffna University and the place it occupies in Jaffna Society and perhaps Sri Lanka Tamil Society as a whole.

University of Jaffna at its beginning in 1974 when Parameshwara College Jaffna and Jaffna College Vaddukoddai were taken over to constitute the Jaffna campus of the University of Sri Lanka. It was a dream come true for the educationists of Jaffna for there had been clamoring for a university for quite sometime. Jaffna had the distinction of having Jaffna College, the higher educational institution run by the American Mission with one of the best libraries in the country. In spite of the resentment of the take over of the major Protestant Christian institutions, the campus was given a firm foundation and a good start by Professor Kailasapathy as its first president. He along with Professor Indrapala provided a firm foundation for the development of Arts and Humanities. It is important to remember the services of Professor Kanagasabapathy, the first dean of the Science Faculty who was responsible for recruiting some of the very eminent Tamil scientists and mathematicians teaching at Peradeniya and Colombo. Thus came Kunaratnam, Maheswaran, Tharmaratnam and others, under whom the Science faculty met great strides. Kailasapathy and Indrapala in spite of the criticism they faced built up an Arts faculty with a difference. That soon earned the reputation of being a respected institution. At the time the Jaffna campus was started, there was also a Sinhala Stream and even to this day the University of Jaffna has a very good col-

This column wishes to highlight those omissions and inadequacies, which have led to neglect and an alienation of Tamils in Sri Lanka. The writer is not for creating further divisions, but earnestly hopes to heal those already there.

Only from later history we know how Mahinda Wijesekera and other Leaders arose from within the Vidyothaya. Like wise at Thirunelvely too the Tigers, the PLOTE, EROS and more importantly the EPRLF had their base. It was not so much of an underground activity hatching plans secretly against the State and the Security Forces. There were open discussions about the political future of the Tamils with Sinhala intellectuals like Newton Gunasinghe, Dayan Jayatilake and others addressing the Tamil students

lection of Sinhala books reminding us of the wide base. Professor Sucharita Gamalath was professor of Sinhala with such distinguished scholar as Sunil Ariyaratna were teaching Sinhala.

Jaffna University was also given a Medical Faculty and Professor Hoover, a veteran biochemist was placed in charge of organizing the Medical Faculty. Jaffna University soon became more than a regional university. It was perhaps more national in spirit than some of the national Universities.

Equally, if not more, important was the fact that the University of Jaffna and its campus was also the fertile field in which the seedlings of the Jaffna militant youth movements began to take shape as a well developed youth organization. The year 1974 is a landmark in the escalation of the violence on the people by the security forces. 1974 was the year the Fourth International Conference in Tamil was held in Jaffna and six Tamil youths were electricuted to death. Today after quarter of a century, one should read Ravi's "Kalam Ahi Vantha Kathai" (The story of the aging of Jaffna) referring to how youth militancy had to become a way of life in Jaffna and in the Tamil Districts. The Jaffna Campus very much like the Vidyothaya Campus was the centre of youth militancy. If the JVP in its early days found Vidyothaya and its Gangodawila environs a suitable place for their development, the youth militants of Jaffna also found the Thirunelvely Campus and its environment a stimulating centre for developing themselves. As much as it was in Vidyothaya, in Jaffna too the University Teachers did not know what was happening. Only from later history we know how Mahinda Wijesekera and other Leaders arose from within the Vidyothaya. Like wise at

Thirunelvely too the Tigers, the PLOTE, EROS and more importantly the EPRLF had their base. It was not so much of an underground activity hatching plans secretly against the State and the Security Forces. There were open discussions about the political future of the Tamils with Sinhala intellectuals like Newton Gunasinghe, Dayan Jayatilake and others addressing the Tamil students. If I remember right the famous teacher trade unionist, a close relative of Rohana Wijeweera was also there. It was a hive of intellectual activity and no distinction was drawn between

The history of the University of Jaffna seeing along with the history of the Universities of South especially those of Peradeniya, Colombo, Ruhunu and that of the University of the Southeast shows that the Universities of Sri Lanka had played a tremendous role in widening and deepening the base of democracy in this country. The implementation of free education without a truly nationalist foresight has led the Sinhala, the Tamil and the Muslim youth viewing each other as their enemies

the Art, the Science and the Medical Faculties – all of them joined together. And looking back retrospectively the Front Liners for each of the major groups had from within the Jaffna University. Santhosam and Ravi of the LTTE, Varatharajaperumal and Gunasingam of the EPRLF, Vasanthy of EROS and Ravi of the NLFT are all from Jaffna University. The 1977 riots and the change of Government saw many

changes in the Jaffna University. The Sinhala students left under very disappointing conditions. Professor Vidyanathan took over as the second President and thereafter in 1979 as the first Vice Chancellor. He was a man of very rare combination. Basically a Tamil Nationalist. He was a product of the Peradeniya days when Sarachandras, Nadarajahs, Stanley Kalpages, Vidayanathans, Ariyapalas, Sathasivams, Murugesapillais, Hettiarachchis and Kanapathypillais could live together and interact with each other in spite of their different intellectual make ups.

The period Vidyanathan was in charge of the University of Jaffna 1978, 79 to 1989, 90 saw the Jaffna University developing in a very encouraging manner. Vidyanathan in spite of his widely known weakness for a good drink was a wonderful Vice Chancellor. He was a senior don, more than that he was a leader who made every one with him feel that they have a major share to contribute to the well-being of the institution. It was during this period that especially 1979 to 1983, 84 that Jaffna Medical Faculty became a well respected institution with Professors Sriharan, Sivasooriyar, Sivagnanasundaram, Victor Benjamin and others of such eminence and reputation serving on the staff. It was during this time that the Jaffna University Staff,

to happen to the University of Jaffna. And in spite of some of the deeply felt situations arising within the University, the University continued. Vidyanathan very tragically had a distressing end to his Vice Chancellorship and Professor Thuraiarah, the eminent Professor in Engineering from Peradeniya and the Open University took over the office. Under Thuraiarah, the University of Jaffna continued to strengthen itself. There was a wonderful rapport between the students, the staff and the administration. The sudden withdrawal of Professor Thuraiarah due to ill health coupled with extremely unsettled security situation created problems for the University and it was during that time Professor Kunaratnam took over. A firm man with equally firm convictions he did not carry on for long. It was that stage Balasundarampillai with his experience in administration as Dean Arts became the Vice Chancellor.

Professor Balasundarampillai's tenure of office will be remembered for the work he did in the extension of the university's buildings and activities. The most important is that he has always been well informed and deeply interested in the problems of higher education. It was that which enabled him to widen the base of the University of Jaffna. The challenges facing his successor is to provide the depth these changes call for. The history of the University of Jaffna seeing along with the history of the Universities of South especially those of Peradeniya, Colombo, Ruhunu and that of the University of the Southeast shows that the Universities of Sri Lanka had played a tremendous role in widening and deepening the base of democracy in this country. The implementation of Free Education without a truly nationalist foresight has led the Sinhala, the Tamil and the Muslim youth viewing each other as their enemies.

Let us not blame the products of the Universities for what their architect of education are responsible for, but there is something worse is happening to undermine all these advantages and that is the cry to bring English back and worse still privatize higher education.

Let us pray to God that these architects be given the wisdom to correct the mistakes in the edifice built and not to completely pull it down. Looking at the intensity of their self-adoring conviction, no human being can succeed in convincing them. Only God can, if He is there.

Students and the Administration came virtually to an unsigned pact that non of their activity should lead to the closure of the University. This was not a decision formally arrived at or even publicly discussed. It emerged out of the experiences the Tamil Community had to face. The writing on the wall was very clear. Universities in the South were closed for almost 2 ½ years. No sector of the University of Jaffna wanted that

NORTHEASTERN HERALD

No. 253/3 - 1/2, Galle Road, Wellawatte, Colombo 6

Telephone: 074 - 510441
Email: neherald@yahoo.com

Exploring other fallback positions

We are yet to know the outcome of the current round of peace talks between the Sri Lanka government and the LTTE, expected to officially conclude today.

But did they address the question that stares us in the eye right now – the inability of the south deliver on its promises when the government displays pathetically little political will to do so?

In a hard-hitting interview in a Sunday newspaper, Dr. Anton Balasingham accused the UNF government of slumber. This might not come as a surprise to anyone who has followed the progress of the government over the past one year or so, but takes on a new dimension since it comes from the mouth of one who has gone out of his way to sympathise with the dilemmas facing the Ranil Wickremesinghe ministry.

While the government slumbers, the opposition in the south identified with President Chandrika Kumaratunga has been active. Not only was the rally called by the SLFP-JVP successful in attracting an estimated crowd of over 200,000, which might not be enormous but is significant, it also pushed a clear message that the UNF was selling the country to the LTTE and the only hope of retrieval was the president.

The position of the president and the SLFP-JVP has been reiterated by the navy's policy of relentless battle against the LTTE, apparently with the intention of provoking hostilities and thus wrecking the Ceasefire Agreement. It is well known that navy commander Rear Admiral Daya Sandagiri is carrying out the president's orders in enforcing a tough line.

These positions emerging in the south from the two main political parties – UNF and PA – are not without precedent. For almost the entirety of Sri Lanka's post-independence history, the Sinhala polity has maintained these two faces: one, of a well-intentioned party, which is beleaguered by chauvinist forces, and the other, the chauvinist forces themselves.

A recent example of this was the configuration of forces in 1994-1995. As Kumaratunga negotiated with the LTTE claiming – we now know her real intentions were mala fide – that the UNP was scuttling her efforts, the UNP went on a venomous campaign, spearheaded by Anura Bandaranaike that painted her a Tamilophile, even representing her in illustrations with a *pottu* and *vibuthi*.

The situation is not substantially different today. The PA in 1994-1995 did not deliver and the UNF today, despite making statements soothing to Tamil ears, has not delivered much either. The details are tedious but we have Balasingham's statement confirming the lack of progress in the present peace process.

The only difference is that whereas in 1994 the UNP was relegated to the opposition from where it continued its propaganda against the talks, Kumaratunga today is very much part of the structures of governance and well able to direct her sinister and malevolent campaign against the ceasefire through official channels.

The crux of the matter lies in how the situation changed soon when war resumed in April 1995. Kumaratunga quickly assumed the guise of a Bellona, while the UNP, shedding its anti-LTTE rhetoric quietly began probing the possibilities of beginning a dialogue with the Tigers.

Therefore, though there is a perception today that if the UNF is defeated in an election it will mean a return to war, it should be understood that parties displaying intransigence while in opposition, may not necessarily do so always. With no other option open, Tamils might have to explore the possibilities of speaking to the parliamentary opposition including the PA, to have even a fallback position, rather than negotiating only with a 'sleeping' UNF.

Hakone peace talks signal new security role for Japan in Asia

By D. Sivaram (Taraki)

The peace talks in Hakone are the first of its kind for Japan. It is historically very significant in that it is Japan's first direct attempt to settle an internal conflict in the Asia Pacific region. 'The Hakone Process' will be the first to portend the emergence of the Japan-US security alliance as the chief military-economic force in the Indian Ocean region.

This is why India, China and Russia appear to feel that Sri Lanka's peace process is being appropriately choreographed to provide a solid handle to the Japan-US Alliance in the Asia-Pacific region.

In this context the 'Hakone Process' is viewed as an important stage in US effort after the Cold War to 'induce' Japan to play an active and dominant security role in the Asia.

Japan's constitution prevents it from raising an armed force for offensive purposes or for operations outside its territory.

But with 240,000 members, Japan's so-called "Self-Defence Forces" (JSDF) represent one of the most formidable armed forces in the world today: and yet Article Nine of Japan's Constitution explicitly forbids the maintenance of "war potential". In short, the US wants Japan to be its pro-active proxy in the Asia Pacific Region, militarily and politically.

The declassified section of a Rand Organization Study on US strategy for Asia done in 2001 states: "The United States should support Japanese efforts to gradually become a normal state, which would allow for national participation in collective self defence, expand its security horizon beyond its territorial defence, and permit Japan to acquire appropriate capabilities for supporting coalition operations". In the near term, access strategy for Asia should centre on increasing opportunities for deployments and exercises and on the development of contingency agreements with a number of potential security partners in the area."

The following sections of a joint declaration between the President of the US and the Prime Minister of Japan in 1996 reaffirming their mutual defence treaty of 1952 would reveal the close military ties between the two countries.

"The Prime Minister and the President agreed that the two governments will jointly and individually strive to achieve a more peaceful and stable security environment in the Asia-Pacific region. In this regard, the two leaders recognized that the engagement of the United States in the region, supported by the Japan-U.S. security relationship, constitutes the foundation for such efforts.

The strong Alliance between Japan and the United States helped ensure peace and security in the Asia-Pacific region during the Cold War. "Our Alliance continues to underlie the dynamic economic growth in this region." The two leaders agreed that the future security and prosperity of both Japan and the United States are tied inextricably to the future of the Asia-Pacific region.

(a) The Prime Minister and the President agreed that the most effective framework for the defense of Japan is

close defense cooperation between the two countries. This cooperation is based on a combination of appropriate defense capabilities for the Self-Defense Forces of Japan and the Japan-U.S. security arrangements. The leaders again confirmed that U.S. deterrence under the Treaty of Mutual Cooperation and Security remains the guarantee for Japan's security.

(b) The Prime Minister and the President agreed that continued U.S. military presence is also essential for preserving peace and stability in the Asia-Pacific region. The leaders shared the common recognition that the Japan-U.S. security relationship forms an essential pillar which supports the positive regional engagement of the U.S". (1996)

A US defence official said recently: "if we were to withdraw our forward-deployed forces from the Asia-Pacific region, a vacuum would quickly develop. There would almost surely be a series of destabilising regional arms races, an increase in regional tensions and possibly conflict." A document from the US Defence Department in May of 1990, A Strategic Framework for the Asian-Pacific Rim, made the same observation and suggested that US military, political, and economic policies "should evolve to avoid such a possibility and to support our unique and stabilising role."

Troop withdrawal figures were revised and now envisaged a cut in the current total Asian-Pacific deployment of 135,000 by up to 15,000. Whilst the US Department of Defence was under intense budgetary pressure to follow a path of systematic reductions there was also the full awareness that any drawback could lead to the creation of a power vacuum in the area. Several Southeast Asian nations had expressed fears of an extension of Chinese, Indian, or even Japanese influence in the region if the US was to significantly withdraw.

China had consistently made any number of territorial claims to areas in the South China Sea (such as the Spratley Islands) and had barely patched over differences with Japan over the Senkaku Islands (part of Okinawa Prefecture). In both cases potential oil deposits were at stake. Although China dominated and seemed to be intent on transforming the South China Sea into the 'All China Sea,' she was by no means alone.

Almost every nation in Southeast Asia is pursuing some territorial claim with a neighbour. In American eyes, regional threats to international commerce (such as jurisdiction over important sea lanes) and conflicts over resources could escalate if it were to reduce its presence. The US had its own economic interests in the region to protect and therefore had a high stake in ensuring continued stability.

During the Iraq crises from 1990-91, not only did the US disregard almost unanimous opposition in the region and use its bases in the Philippines and in Okinawa to dispatch supplies and forces into the Persian Gulf, but it also encouraged Japan to play a more active military role by sending its SDF to assist in the operation. Nations in Southeast Asia categorically rejected any move that might lead to a militarily resurgent Japan.

The threat of a reduction in the US presence gave further credence to the idea that the US was preparing Japan for an enhanced military role. There was great opposition to the Japanese Government's Peace-Keeping Operations (PKO) Bill in Okinawa. Undoubtedly, as far as a further reduction in its military presence is concerned, the US would be "damned if it did, and damned if it didn't." On the one hand, it has to take account of the fact that its presence does ensure a measure of stability in the region that is beneficial for its own interests. On the other, this presence will be dependent on the will of Congress to continue forking out the necessary military budget.

The US will surely be looking towards the establishment of a cooperative security system between the nations of this region that will allow it to withdraw further, but there seems little hope of this on the horizon. The US has problem enough in encouraging the ASEAN states to standardise their defence equipment. This is based on the fact that each state concerns itself with individual threat perceptions. As Sheldon Simon has illustrated, "Contrast Singapore's emphasis on forward defence with Indonesia's defence-in-depth; Thailand's concern with land-based threats from the north and east with Malaysia's focus on maritime security; and finally, the Philippines' focus on counterinsurgency with the rest of ASEAN's orientation towards conventional warfare"

All of these considerations have led the US to the conclusion that it will have to remain in the region, yet this will involve an even greater extension of the ally's responsibility to defray the US's costs. Japan has risen to this task. The total US budget for the maintenance of its forces in Japan is somewhere in the region of \$7.5 billion per year.

In 1991 Japan contributed some \$3 billion towards these costs, but by 1992 this figure was closer to \$3.7 billion. This year, 1995, Japan is to pay \$5 billion. This includes virtually all local labour costs, utilities costs, land leases, and facility construction costs. On top of this the Japanese Government is obliged to pay the so-called kichi taisaku hi, or base maintenance expenditures, which, for example, involve compensation to persons whose property has been damaged, and moneys directed towards the reduction of base-related noise pollution.

The latest official Defence Department report on policy for the East Asia-Pacific Region states that, "Because of a programme of cost-sharing with our allies, it is actually less expensive to the American taxpayer to maintain our forces forward deployed than in the United States."

The early decades of the 21st century may see the emergence of Japan as the main military/economic force in the Asia Pacific Region – a firm basis for US power projection in Asia.

Hakone is intended to be a turning point for Japan in this sense. But will it be the same for the LTTE?

Wanted: organisation of ex-political prisoners

By J. S. Tissainayagam

Last week, this column dwelt on that amorphous entity known as southern Sri Lanka's civil society and its lack of interest in dealing with the burning issues of the day such as the impending re-imposition of the death penalty, the possible introduction of the Prevention of Organised Crime Bill or the abolition of the PTA. The article went on to say it was comic there were NGOs forming a part of that civil society, which had displayed a similar disinterest when Tamils were undergoing harrowing ordeals in the hands of the security forces but were now enthusiastic about working in the Tamil areas to help them develop.

The words of LTTE theoretician and chief negotiator, Dr. Anton Balasingham, when he spoke at the ceremonial opening of the LTTE courts complex in Kilinochchi last week reflects the derision with which the Tigers hold NGOs working in the northeast. He said on that occasion, "They drive around in luxury vehicles and talk a lot of nonsense, but do not deliver... They only dole out mugs, plates and mats to our people." Though he had not specifically mentioned it, the contempt of the LTTE is not confined to local NGOs, but also extend to the INGOs as well that work in the northeast, especially in the Wanni.

Though there are a number of NGOs – from those providing relief (mats, mugs and plates!) to others active in human rights and development – it might be interesting to look at some of the organisations that evolved as a direct result of the conflict, the suffering and tragedy the Tamil people of the northeast underwent over the past two decades. As such, I do not refer to human rights organisations that came up due to the gross and persistent violation of human rights in the Tamil areas, but to others that are peculiar to specific circumstances and to a locality, whose work, though linked to human rights, was more narrowly focused.

Perhaps the most unique among them is the Missing Persons' Guardian Association (MPGA). It was formed as a result of the atrocities committed by the Sri Lankan security forces in Jaffna after Operation Riviresa led to the area coming under the control of the Sri Lankan army. After the fighting was over and the army occupied Jaffna the LTTE retaliated with a series of deadly attacks targeting not only the military's rank and file but also its top brass. The military in turn unleashed a systematic campaign of terror and violence that was

The inability on the part of political prisoners to be able to form into an organisation and work together with human rights institutions and the international community to pressurise the government into looking at the concerns that are of immediate relevance to detainees, while also intervening in issues that will have an impact on the community at large, should be remedied.

studded with enforced disappearances and extra-judicial killing.

It was as a consequence of this the MPGA was formed. Jaffna at that time, readers will not doubt remember, was virtually cut off from the world outside. Except for the few stories that managed to penetrate the veil of censorship, the military managed to stifle all reporting of such atrocities. The increasing repression had to find an outlet because human rights activists were largely silent as were the members of parliament representing the Jaffna district. There was no alternative but for the formation of the MPGA.

One of the early acts of the MGA was to resort to legal action demanding information of the whereabouts of their missing relatives. The statement made from the dock by one of the convicted in the Krishanthi Kumaraswamy rape and murder trial alleging the presence of a mass grave at Chemmani was a boost to the campaign of the MPGA when a link was made between the mass graves and the disappearances.

However the hype turned out to be a disappointment. Only 18 bodies were found in Chemmani of which three were identified. Ever since, the state maintains there is no evidence of the disappeared and has tried various devices whereby what is an embarrassing episode for the military may be closed. It has even offered to certify the death of those who disappeared and thereby allow their families to claim monetary compensation. But the MPGA, has to its credit, refused to be drawn in and accept compensation, insisting the state tell the Tamils and the world what happened to the estimated 400-600 people who disappeared during those fateful months following Operation Riviresa.

It might however be argued the MPGA has been of limited efficacy in a broader sense. For instance there was no concerted move on its part to lobby against the appointment of Major General Janaka Perera as Sri Lanka's high commissioner in Canberra, or Major General Sri Lal Weerasooriya who was appointed Sri Lanka's high commis-

sioner in Islamabad, despite both officers serving in Jaffna when the disappearances occurred. Weerasooriya was security forces commander, Jaffna, and Perera commander of the Special Forces (SF) Division, allegedly responsible for security operations that led to the disappearances and killing in Jaffna. While the MPGA and other human rights organisations specialising in the northeast failed to take up the issue, the Asian Human Rights Commission (AHRC) took up another set of violations allegedly committed by the army when Perera was directing counterinsurgency operations against the JVP in the late 1980s.

An organisation that also evolved due to necessity arising from the darkness and misery facing the Tamils of the northeast in the late 1980s was the Mothers' Front (MF). The MF rose from the systematic targeting of males for extermination by the security forces – both Indian and Sri Lankan – that led to boys and men being compelled to either emigrate or remain indoors (if they were not either dead or behind bars). The MF during those years was the centre of mass protests against the atrocities committed by both Sri Lanka army and the IPKF.

When we look at the cliché that 'necessity is the mother of invention' coming true in the cases of the MPGA and MF, it is surprising that Tamil political prisoners who have been held in their 1000s in detention centres throughout the country almost since the PTA was introduced in 1979 are yet to form an organisation or lobby group, which could be an effective body in furthering the cause of both detainees and ex-detainees held both under the PTA and normal law.

Human rights activists claim that though prisoners mount wave after wave of protests including hunger strikes, the moment they leave confinement are not heard of again. There are a number of individuals who were held behind bars under the PTA that have branched out into professions, including that of journalism, but it appears that a body representing former

prisoners has not emerged.

International experience however is quite different. The IRA for instance has strong bodies of activists displaying solidarity with detainees (who are given prisoner-of-war status) and are incarcerated in the various prisons scattered throughout Britain. Ex-detainees play an important role in these organisations by campaigning for the release of those still serving time, for better conditions in prisons and on providing support for the families of the prisoners. Some of them even intervene, or at least lobby, on behalf of prisoners of conscience in other countries, such as an Irish organisation is doing now on behalf of Turkish political prisoners detained by the authorities in that country.

The African National Congress (ANC) when it was fighting the apartheid regime in South Africa used the campaign for the release of detainees to focus on the cruelty inflicted by the then regime on coloured people in general and the ANC in particular.

Why is it that all those released after being incarcerated under the PTA are shy of forming into a collective that could do much for them, in terms of lobbying the government for better conditions in prisons, pursuing cases where human rights violations have taken place and punishing perpetrators, or helping to rehabilitate the victims?

One reason could be that many of the youth who come into the security forces dragnet are innocent civilians taken in by the police or military, charged only on the basis of involuntary confessions made because of torture, and put behind bars. It might be the moment they are given liberty these youth lack the militancy to carry on the struggle on behalf of others in similar plights.

But this theory does not hold water always because it is well known that one of the most fruitful recruiting grounds for the LTTE is from those unfairly targeted by the state. If so, the lack of a proper organisation might be the reason why these ex-prisoners are unwilling to coalesce into a body that fights for prisoner rights and lobbies the government for reform.

Second, there are number of in-

stances where the area police, the military, and/or the Tamil paramilitary keep ex-detainees under surveillance. Some are also rearrested, apparently for fresh crimes. This could lead to ex-detainees preferring to keep a low profile rather than getting under the skin of the law enforcement authorities after their release.

Third, it could be the lack of proper political education. Though there are classes for LTTE members when they join the movement, the movement itself has not stressed on building a mass base for which a sound political education to even those that are not essentially members, is vital. It could mean the importance of non-military civilian agitation in the struggle like the Tamils' for statehood is not being stressed sufficiently. There are organisations ranging from the Wanni Lorry Transporters' Association that mounted an agitation against the economic embargo of the Wanni, to the University of Jaffna's International Students' Union of Tamil Eelam who demonstrated against the reopening of the Jaffna library, but one gets the feeling they are ad hoc bodies and directly under LTTE control.

Finally one is also forced to resort to the cultural argument – prisoners who stood shoulder-to-shoulder in prison do not have the sense of community to take up the matter of fellow prisoners once they are themselves free. A human rights activist said in conversation that political prisoners in Kalutara jail who numbered around 600 mid last year have dwindled to around 50 today due to court acquitting them. But not one of those discharged seemed interested in plight of those who are still in detention and were their colleagues at the barricades just a few months ago.

The inability on the part of political prisoners to be able to form into an organisation and work together with human rights institutions and the international community to pressurise the government into looking at the concerns that are of immediate relevance to detainees, while also intervening in issues that will have an impact on the community at large, should be remedied.

It will be a pity while this fragile season of peace totters forward, to forfeit an opportunity to form such a body. After all, let us not forget the PTA is yet to be repealed and there are no institutional checks yet forbidding the government and the security forces from turning on the heat by resorting to mass arrests and detention as they have done so many times in the past.

The Bloody Sunday Inquiry

Soldier recalls "an appalling slaughter"

By Fern Lane

A former British Army Major told the Saville inquiry on Monday that the Paras were a "dreadful and ghastly" regiment consisting of "savagely trained terrorists" who took pleasure in "legalised murder" and whose treatment of civilians on Bloody Sunday was "beyond description". The damning comments were contained in the personal, contemporaneous diary of the Coldstream Guards officer who submitted it to the inquiry where it has been made public for the first time. In it, he wrote that Bloody Sunday "was the shame of the army in Ireland. We will never live it down."

In his statement, the soldier, identified as INQ179, said that during his second tour of duty he had been based largely in the communications centre at Fort George and that the "general philosophy" of his regiment had been to try to "win over the hearts and minds of the Irish people, particularly the Roman Catholics, who were very hard done by indeed". It was, he said, preferable to "be at peace with the residents of Londonderry, not at war with them".

On Bloody Sunday itself,

INQ179 said he had witnessed arrested civilians being brought back to Fort George and treated brutally by paratroopers, an account entirely consistent with the evidence of those who were arrested - and of a significant number of other British Army soldiers who were also disturbed at the violence inflicted on detainees.

"I was so appalled by what I had seen the paratroopers do to the civilians that I told my commanding officer what I had seen," said INQ179. He was told to make a written report, which he did, although he did not know what had become of it. His diary records that he "saw the snatch squad of the Parachute Regiment (1st Battalion) bring in civilian prisoners. [T]he way these savage, trained terrorists treated those civilians was beyond description."

The entry for 30 January 1972 continues: "Today has been an appalling slaughter of Irishmen in the streets. Thirteen people, mostly boys and young men, shot down by the Parachute Regiment. Words cannot describe what a dreadful and ghastly regiment that is. I was horrified by what I saw in their treatment of prisoners."

The following day, 31 January, he wrote: "Yesterday is already being called 'Bloody Sunday', and in-

deed it was. There is something quite horrible in seeing young men shot down by totally undisciplined troops, who take a pride and pleasure in this legalised murder."

On 1 February, as the British government and army propaganda machine began to swing fully into action, INQ179 wrote in his diary: "The horrors of Sunday will live on for many months and probably years. World opinion has been utterly shocked by what happened and I myself no longer believe in the military propaganda that is put out, and we are told to believe."

Under questioning by Alan Roxburgh for the Inquiry, INQ179 said that the comments he made in his journal were "accurate" because he had no reason to fabricate or exaggerate what had happened or what he had seen.

"This diary I never believed would ever be seen by anybody else again," he said. "At the time that I made these comments I myself was in a slightly unstable emotional condition. My father had unexpectedly died about three weeks before that, so I was feeling a bit distressed about that; I did not like serving in Londonderry. It does not alter the fact that what I wrote was probably fairly accurate, but it was never intended that anybody else should see it, so I was not trying to

score Brownie points by writing this and then producing it later. It is extremely distressing for me that this diary has had to be made public."

Also on Monday, a former paratrooper, INQ2003, told the inquiry that he had fabricated claims, made in a television interview, that he had shot and killed Jackie Duddy on Bloody Sunday. He said that he had not been in Derry on the day, having been the only member of Mortar Platoon to have been left behind. When asked why he had lied to the journalist, Paul Mahon, INQ2003 said that it was "because it did not mean anything to me". He said that he had a drink problem and agreed with Counsel that on occasion this made it difficult for him to "distinguish fact from fiction".

INQ2003 did say, however, that he clearly remembered another soldier the Mortar Platoon, Soldier T, telling him shortly after Bloody Sunday that one of their colleagues, Soldier H, "had freaked out" after going into the Bogside.

In his statement to the inquiry, INQ2003 said that Soldier H "fell apart that day. He shot a guy with his hands up and then one lying on the ground."

"This was not done. Soldier T was angry about it. He was very

disturbed and did not like what he had seen." INQ2003 also told the inquiry that Soldier H was known afterwards by the nicknames "Rentakill" and "Two Mags".

"There was a lot of rivalry between the platoons and this sometimes ended up with punch-ups in the bar and barracks. That was normal regiment life."

There was always a lot of banter about who started shooting first in Londonderry that day. Even two or three weeks afterwards there was high euphoria and the level of banter was high. The Mortar Platoon would say that they started it by dropping Jack Duddy. Anti-Tank would disagree and say no; they started it. However, the comments about what Soldier H did would usually stop the banter."

The inquiry also heard last week from a former paratrooper that three senior British Army officers, including Colonel Derek Wilford, commander of 1 Para, clubbed together prior to Bloody Sunday to buy a bottle of whisky as a prize for any British Army soldier who succeeded in arresting Bernadette McAliskey, then Devlin, on the day of the civil rights march.

(An Phoblacht)

NGOs urge states to use U.N. charter to prevent attack

By Thalif Deen

Non-governmental organisations (NGOs) condemned the U.S. decision to abandon multilateral diplomacy in favour of a unilateral military attack against Iraq on Tuesday, with some calling for an emergency session of the General Assembly to try and prevent war.

"We owe it to future generations not to walk away from the United Nations at this critical time, for these new challenges - and the new standards that may come out of them - are as important for large states as they are for small ones," said William Luers, president of the New York-based U.N. Association of USA (UNA-USA).

"The majority of Americans value the work of the United Nations, and they value their country's participation in the United Nations," he added.

A survey conducted in the past week and released Tuesday by the Washington-based Pew Research Center for the People & the Press revealed that majorities or strong pluralities in the United States and five of eight European countries said they believed the United Na-

tions still plays an important role in international peace.

On Monday, U.S. President George W. Bush announced his decision to abandon all diplomatic efforts at the U.N. Security Council aimed at disarming Iraqi president Saddam Hussein of his weapons of mass destruction, and told the leader he must leave the country in 48 hours or face an attack.

But a coalition of NGOs, including Earth Media, the Centre for Constitutional Rights and Greenpeace International, is urging U.N. member states to uphold the U.N. charter by holding an emergency session of the 191-member General Assembly "to avoid an illegal war against Iraq".

The Assembly has a right to meet at an emergency session, the coalition argued, because the Security Council remains split on the issue of how to maintain international peace and security.

The U.S. decision to pull out of the Security Council was prompted by its failure to garner the nine votes it needed for an ill-fated resolution sponsored by the United States, Britain and Spain, which sought legitimacy for a military attack on Iraq.

Under the U.N. charter the 15-mem-

ber Security Council is entrusted with the task of declaring war and peace. But in a now-famous resolution called "Uniting for Peace" adopted in November 1950, the General Assembly stepped in to authorise U.N. enforcement action in the Korean War.

That resolution has been invoked 10 times in the 58-year history of the United Nations. The United States used it to pressure the then Soviet Union to cease its intervention in Hungary in 1956.

According to the resolution, "if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to members for collective measures, including in the case of a breach of peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security."

Under the resolution, the Assembly would virtually take over the

mandate of the Security Council to enforce international peace and security.

"If the Security Council cannot agree on Iraq, the whole issue should logically be moved to the General Assembly, which is a more democratic body," says Michael Ratner, president of the Centre for Constitutional Rights. Ratner said the Assembly, not the 15-member Security Council, really represents the will of the international community.

"It's time the United Nations fully exercised its mandate and united as a whole to defend its founding principles and stop the impending attack on Iraq, which would be the most horrific example of unilateralism. It must take this last chance for peace," said Steve Sawyer of Greenpeace International.

The International Association of Lawyers Against Nuclear Arms (IALANA) has circulated an appeal - signed by more than 300 lawyers worldwide - against the "preventive use of force" by the United States.

The signatories include Christopher Weeramantry, a former vice president of the International Court of Justice in the Hague.

John Burroughs, executive direc-

tor of the Lawyers' Committee on Nuclear Policy, said the Bush administration's reference to the need for "regime change" in Iraq as the reason for using force is barred by the U.N. charter, which prohibits "the threat or use of force against the territorial integrity or political independence of any state".

Burroughs, an adjunct professor of international law at the Rutgers University Law School in New Jersey, said that in cases of large-scale internal violence or humanitarian catastrophe, some would argue that human rights triumph over state sovereignty, and therefore justify armed intervention.

"That has not been a principal rationale of the Bush administration, and while the Iraqi regime's historical record is grisly, large-scale internal violence of the kind experienced in Rwanda and the former Yugoslavia is not presently occurring," he added.

"The assertion that the United States can act as enforcer of a Security Council edict, without consent of the Security Council, has no merit," he added.

(IPS)

Japan deepens Sri Lanka peace role

Along with hosting the sixth round of direct talks between the Liberation Tigers and the Sri Lankan government, Japan this week signaled its determination to play a leading role in bringing peace to the strife-torn island when one of its top diplomats joined Norwegian officials at the negotiating table. Japan's deepening involvement in the peace process was this week welcomed by the Liberation Tigers.

Yasushi Akashi, one of Japan's most senior diplomats with considerable experience in leading United Nations efforts in Cambodia and Bosnia, joined delegates from both sides and Norwegian diplomats led by Deputy Foreign Minister Vidar Helgesen, to formally open the talks in the hot spring resort of Hakone on Tuesday.

On Wednesday, Akashi joined the negotiating team and facilitators to discuss the progress of the

Sub-Committee on Immediate Humanitarian and Rehabilitation Needs in the North and East (SIHRN). The SIHRN is spearheading efforts to resettle almost a million displaced people and refugees in the north and east.

The hosting of a round of the Sri Lanka talks marks a major shift by Japan from its traditional aid policy to become a stronger political force in South Asia, AFP quoted diplomats as saying.

Japan had earlier even declined to extend reconstruction aid to Sri Lanka until the warring parties reached a final political settlement to the conflict. But Japanese diplomats in Colombo said that policy has now changed.

"We want to help consolidate the peace process... and help rehabilitation and reconstruction work even before a final settlement," Japan's ambassador to Sri Lanka, Seiichiro Otsuka, said.

"The peace process is enhanced

by Japan's involvement," the LTTE's Chief Negotiator, Anton Balasingham, told the Tamil Guardian newspaper shortly after meeting Akashi for an hour Tuesday morning.

"This is the first time a major Asian power has involved itself in the ongoing effort to end [Sri Lanka's] ethnic conflict," he said. "It is also the first time Japan is actively involved in contributing to an ongoing peace process."

Two months ago, Akashi visited Kilinochchi along with World Bank Vice President for South Asia, Ms Meiko Nishimizu. At the time, the leader of the LTTE, Vellupillai Pirapaharan expressed his gratitude to the senior officials for their support for the rehabilitation effort in the northeast. However, Sri Lanka's President Chandrika Kumaratunge cancelled a scheduled meeting with Yasushi Akashi, citing "other political commitments."

Japan's new role in the peace

process was "crucial" as it would encourage both parties to deepen their commitment to the peace process and assist in building international support for reconstruction and rehabilitation efforts, Balasingham told the Tamil Guardian newspaper.

"The talks in Japan will be keenly watched by the international community before committing large sums at the June aid meeting," an Asian diplomat in Hakone this week told AFP.

Japan's main concern at the talks is the issue of humanitarian aid and reconstruction because the peace talks are expected to lay the groundwork for the international donors' meeting Tokyo will host in June, Kyodo news agency quoted Japanese officials as saying.

Japanese diplomats have been attending meetings of the SIHRN in the Vanni in the past few months.

A delegation of the Infrastructure Development Institute of Japan

(IDI), led by Yoshiyo Yabe, Senior consultant and Director of Planning Department of IDI, undertook a fact-finding mission in the northeastern province from February 26 till March 6 to study rehabilitation and development plans for the region.

Describing Japan's role as host in the latest peace talks as a "milestone" in its efforts to promote peace, the officials said the talks are expected to offer Tokyo a "good chance" to clearly show its commitment to Sri Lanka's peace process.

On Tuesday, Akashi hosted a luncheon for the negotiators and facilitators at another location in Hakone, located in the foothills of Mount Fuji. As the LTTE team was unable to attend the meal as the members were preparing for the talks later that day, Akashi is to host the Tiger delegation to lunch on Thursday, officials said.

Indigenous people voice concerns over traditional rights to water

Indigenous groups from around the world meeting at the Third World Water Forum here say their traditional rights to water resources have been virtually ignored as governments build dams and industrialise their communities.

Representatives of indigenous peoples are using the week-long meeting to appeal to the international community to listen to their voices, which are often drowned out by other interests.

"Outsiders come into our territories to take away our land and water. (Modern developments) damage forests, which are necessary to protect ground water," Santos Norato, a Mayan from Guatemala, told AFP Tuesday.

Dressed in a traditional black wool jacket, decorated with rows of colorful beads, he said many indigenous communities are worried about the expanding commercialisation of water management and distribution.

"We are concerned about privatisation of water," he said. "We regard water as a community good. But big companies disagree and take away water from our land for commercial purposes."

Similar comments were echoed by other indigenous people attending the forum, which has attracted an estimated 10,000 participants along with ministers from more than 150 countries to try to find solutions for global water problems.

They complained that their communities — and traditional access

to water — have been affected by government policies and modern projects that ignore their culture and surrounding natural environment.

"Dams have made traditional ways of life impossible," said Masanori Toyooka, representing the aboriginal Ainu people of Japan, where virtually all major river systems have been dammed.

"We can no longer catch salmon, and our ancestral land was turned into the bed of a reservoir," he said, sporting a patchwork cloth tribal hat.

"The rights of indigenous people to protect our own culture are too often violated. What can we do to pass on our traditions to our children and grandchildren?" he said.

Indigenous groups currently lack political strength to lobby international bodies and governments, said Eleanor Bang-oa, a representative of the Tebtebba people in the northern Philippines.

But tighter networking among different groups may help them raise their voice and protect their rights to manage water in their own communities, she said. "We must communicate among indigenous groups," said Bang-oa, who comes from a rice farming village in a mountainous area. "We should build the capacity of indigenous people so that they can do research and collect data to manage water resources on their own," she said.

Others emphasized the importance of traditional, organic farming as a way to protect ground water, rather than intensive, industrialised agriculture using chemical fertilisers that can pollute the environment. (AFP)

Warning against use of cluster bombs in Iraq

Persian Gulf: U.S. Cluster Bomb Duds A Threat

Dangerous explosive duds from cluster munitions used by allied forces in the 1991 Persian Gulf War are still being found and destroyed in Kuwait at the startling rate of 200 per month, according to official documents obtained by Human Rights Watch.

Human Rights Watch released a new briefing paper today warning against the use of cluster bombs in Iraq.

Documents from the Kuwait Ministry of Defense show that 2,400 explosive cluster munition duds were found and destroyed in Kuwait in 2002, and a similar number the previous year.

"The use of cluster munitions in Iraq will endanger civilians for years to come," said Mark Hiznay, senior researcher at Human Rights Watch and author of the new briefing paper. "Cluster bombs also threaten U.S. and friendly soldiers during combat."

Human Rights Watch has issued detailed analyses of the U.S. use of cluster bombs in the Persian Gulf War, in Kosovo, and in Afghanistan.

During the 1991 Gulf War, the United States and its allied coalition dropped bombs containing about twenty million submunitions, and also reportedly fired artillery projectiles containing more than thirty million submunitions. These resulted in millions of hazardous duds, each functioning like an indiscriminate antipersonnel landmine.

At least eighty U.S. casualties during the war were attributed to cluster munition duds. More than 4,000 civilians have been killed or injured by cluster munition duds since the end of the war.

Human Rights Watch called attention to four particular types of U.S. cluster munitions that have had high failure rates in combat or in testing:

The Multiple Launch Rocket System (MLRS) with M77 submunitions has had a failure rate of 16 to 23 percent. Each standard volley of twelve MRLS rockets would likely result in more than 1,200 explosive duds.

155mm Dual Purpose Improved Conventional Munition (DPICM) artillery projectiles with M42 and M46 submunitions have had a failure rate of 14 percent.

Rockeye CBU-99/CBU-100 air-dropped bombs with Mk 118 submunitions. This Vietnam-era cluster munition was used extensively in the 1991 Gulf War and has accounted for a very large percentage of the explosive duds subsequently encountered. Almost 20 percent of the cluster munition duds found in Kuwait in 2002 were from Rockeye bombs.

The CBU-87 Combined Effects Munition with BLU-97 submunitions had a failure rate of at least 7 percent in Yugoslavia and Kosovo in 1999. More than 10,000 air-dropped CBU-87s with more than 2 million

submunitions were used in the Gulf War; more than 1,000 with over 200,000 submunitions were used in Afghanistan.

The United States has cluster munitions containing more than one billion submunitions in current stockpiles, including more than 434 million 155mm DPICM artillery submunitions and more than 309 million MLRS rocket submunitions.

Human Rights Watch has called for a global moratorium on use of cluster munitions until the humanitarian problems are addressed. Short of that commitment, Human Rights Watch urges that the United States, United Kingdom, and others that may deploy cluster munitions in Iraq take the following steps:

Prohibit the use of any cluster munitions in attacks on or near populated areas;

Suspend use of and withdraw cluster munitions that have been tested and identified as producing high dud rates;

Refrain from using or transferring out-of-date types of cluster munitions in an effort to "clean the closet" of stockpiles;

Record, report, track, and mark known or suspected cluster munition strike areas; and,

Preserve this information so it can be disseminated quickly in clearance efforts. (HRW)

Rachel Corrie: a victim of Israeli policy and US complicity

By Henry Michaels

The more the circumstances surrounding the murder of Rachel Corrie, the 23-year-old American student killed by an Israeli military bulldozer March 16, become known, the clearer it is that the Israeli government bears direct political and legal responsibility, and that the Bush administration is its political accomplice in her death.

Corrie, an extraordinary young woman, was deliberately crushed to death for trying to prevent the demolition of Palestinian homes in the refugee town of Rafah, in southern Gaza.

She is a victim of the Sharon government's violence in the Gaza Strip, which has gathered pace in tandem with Bush's preparations to invade Iraq. Not only is the Israeli slaughter of Palestinians being carried out with the tacit sanction of the US government, the US Consulate in Tel Aviv explicitly refused to demand protection for US citizens and other international volunteers trying to halt the bulldozing of houses and killing of innocent civilians.

Two conclusions are inescapable from the evidence produced so far. The first is that Rachel Corrie's killing was a premeditated act approved by the upper echelons of the Israeli regime—the culmination of a series of confrontations in recent months with International Solidarity Movement (ISM) "human shields." The second is that the US government is complicit, having rejected repeated requests to intervene on behalf of the volunteers.

Eyewitnesses have refuted Israeli military claims that Corrie's death was an accident caused by her own actions. Her fellow volunteers have confirmed that she was highly visible to the Israeli soldier who twice drove the giant US-supplied bulldozer over her body.

"She was wearing a fluorescent orange jacket and was plainly visible," Greg Schnabel told journalists. "The bulldozer approached but she stood her ground. Then it pushed up a pile of dirt beneath her feet. She struggled to stay on top of the mound. At that point she was raised up to a level where she was probably looking the bulldozer driver in the eye."

Based on the reports given by Schnabel and the six other activists who were with Corrie, the ISM media coordinator Michael Shaikh stated:

"The Israeli Army are attempting to dishonour her memory by claiming that Rachel was killed accidentally when she ran in front of the bulldozer. Eye-witnesses to the murder insist that this is totally untrue. Rachel was sitting in the path of the bulldozer as it advanced towards her. When the

She is a victim of the Sharon government's violence in the Gaza Strip, which has gathered pace in tandem with Bush's preparations to invade Iraq. Not only is the Israeli slaughter of Palestinians being carried out with the tacit sanction of the US government, the US Consulate in Tel Aviv explicitly refused to demand protection for US citizens and other international volunteers trying to halt the bulldozing of houses and killing of innocent civilians.

bulldozer refused to stop or turn aside she climbed up onto the mound of dirt and rubble being gathered in front of it wearing a fluorescent jacket to look directly at the driver who kept on advancing.

"The bulldozer continued to advance so that she was pulled under the pile of dirt and rubble. After she had disappeared from view the driver kept advancing until the bulldozer was completely on top of her. The driver did not lift the bulldozer blade and so she was crushed beneath it. Then the driver backed off and the seven other ISM activists taking part in the action rushed to dig out her body."

It is inconceivable that an individual Israeli soldier would commit such a crime without prior discussion and approval at the highest official levels, military and civilian. Although Israeli army and settler paramilitary units have been responsible for the deaths of 2,181 Palestinians and the injuring of another 22,218 since September 2000, this is the first time that a US citizen has been killed.

Corrie's murder was not an isolated incident. A month earlier, on February 14, the ISM reported an incident in which activists were nearly killed after the US Consulate refused to intervene. On that day, seven volunteers (three American, three British and one Dutch) came under Israeli rifle and machine gun fire when they approached bulldozers.

The ISM media office immediately made an emergency call to the US Consulate to request that it alert the Israeli military that international peace activists were coming under fire from Israeli troops and ask for restraint, a standard ISM procedure in such circumstances. The consular representative Ingrid Barzel refused to do so. "We do not accept any responsibility for anyone who ignores our travel advisories and illegally enters the Gaza Strip," she replied. When a similar request was made to the British consulate, an official promised to phone back, but did not.

Soon after, a bulldozer trapped two activists in the corner of a building, but found its path blocked by rubble. Before it resumed its advance, the two es-

caped and stood on some barrels next to the building to photograph and film the destruction, but the bulldozer then began ramming the barrels.

Israeli policy

The house demolitions are part of Israel's "Apartheid Wall" policy toward the Occupied Territories. Palestinian communities are being sealed from the outside world by a massive series of walls, complete with towers from which military sharpshooters can monitor their activities. The wall under construction near Rafah stretches along the entire length of Gaza's border with Egypt. To give the snipers in the wall's towers clear fields of fire, the Israeli occupation forces intend to demolish all the houses within 70-100 meters of the wall.

Rachel Corrie died trying to save the home of Dr. Samir Nasrallah, who had engaged in no hostile activities and had been charged with no offence. His house was demolished because, like 600 others that have been bulldozed in Rafah, it lay within Israel's planned "security strip." Nasrallah was offered no compensation or alternative housing and had no right of appeal to a court.

Despite Israeli government claims, the vast majority of demolitions have nothing to do with alleged terrorism. According to UN figures, less than 600 of the 10,000 houses demolished since the occupation began in 1967 involved security suspects. The policy, designed to leave families homeless, impoverished and traumatized, is illegal because international law forbids the demolition of houses by an occupying power.

During February, Israel forces nearly set a new record for killing Palestinians, mostly civilians, in a single month. According to the Palestinian Ministry of Health, Israeli assaults killed 82 Palestinians, 50 in the Gaza Strip and 32 in the West Bank, and wounded another 616.

Just two days after Corrie's death, Israeli troops killed 11 Palestinians, including a toddler and a 13-year-old boy, in raids on the Gaza Strip. In one raid, some 30 armored vehicles with bulldozers and infantry advanced several

hundred meters into the Nusseirat refugee camp just south of Gaza City.

Israeli Prime Minister Ariel Sharon has stepped up the killing since his re-election in January, particularly in Gaza. The Israeli military has conducted unprecedented armored operations there, repeatedly attacking deep into refugee camps. Sharon appears to be preparing a full-scale invasion of the Gaza Strip to complement the reconquest of the West Bank last April.

Continuing Palestinian resistance in Gaza stands in the way of Sharon's scheme to confine the Palestinians to small, disconnected apartheid-style Bantustans surrounded by hundreds of Israeli settlements. With the Bush administration poised to invade Iraq, Sharon has evidently calculated that the time is ripe to reoccupy Gaza, even if it provokes further suicide bombings, which his government can use as a pretext for even larger actions.

US complicity

Rachel Corrie went to Palestine, in part, because she strongly opposed the US war against Iraq and understood that Israeli aggression was likely to increase when the US attacked. In one of her last emails to her family, sent on February 7, she wrote:

"I've been having trouble accessing news about the outside world here, but I hear an escalation of war on Iraq is inevitable. There is a great deal of concern here about the 'reoccupation of Gaza.' Gaza is reoccupied every day to various extents, but I think the fear is that the tanks will enter all the streets and remain here, instead of entering some of the streets and then withdrawing after some hours or days to observe and shoot from the edges of the communities. If people aren't already thinking about the consequences of this war for the people of the entire region, then I hope they will start."

"People here watch the media, and they told me again today that there have been large protests in the United States and 'problems for the government' in the UK. So thanks for allowing me to not feel like a complete Pollyanna when I

tentatively tell people here that many people in the United States do not support the policies of our government, and that we are learning from global examples how to resist."

Her message also expressed some of the horror and compassion that motivated her actions:

"I have been in Palestine for two weeks and one hour now, and I still have very few words to describe what I see. It is most difficult for me to think about what's going on here when I sit down to write back to the United States—something about the virtual portal into luxury. I don't know if many of the children here have ever existed without tank-shell holes in their walls and the towers of an occupying army surveying them constantly from the near horizons."

Corrie's friends and colleagues have been joined by Amnesty International in demanding an independent investigation into her death. After initially shrugging off the killing, the US State Department has cynically called for an Israeli government inquiry, but refused to condemn the incident. Likewise, the Israeli military has now promised an investigation, while still declaring in advance that Corrie's death was not intentional.

Any inquiry conducted by Israeli military or civilian authorities will be a sham, conducted with the Bush administration's connivance. A United Nations investigation would be no better, as last year's cancellation of its inquiry into the Jenin refugee camp massacre demonstrates. Every crime carried out by the Israeli government has been whitewashed with Washington's assistance.

Amnesty International and other international, Israeli and Palestinian human rights groups have reported repeatedly on Israel's use of lethal force—its indiscriminate attacks on civilians, extrajudicial executions and unwarranted destruction of civilian property by bulldozers and other equipment, resulting in deaths of innocent bystanders. The US State Department's own Country Reports on Human Rights Practices for 2002 confirmed many violations and cited US-supplied helicopters, fighter aircraft, anti-tank missiles and flechettes being used as weapons to commit human rights abuses.

The Sharon government's atrocities can continue only because they have the backing, explicit or tacit, of the White House. Only a truly international tribunal, completely independent of Washington and other governments, can lay bare the truth of Rachel Corrie's death and the Israeli regime's record of war crimes. (WSWS)

HRC crippled without powers of enforcement

"Chartered in 1996 under potent legislation, the Human Rights Commission of Sri-Lanka (HRC) failed to meet expectations during its initial three-year mandate. The operations of the HRC were ineffectual, hampered by internal division and administrative lethargy. This period of "toothless" weakness extended into the beginnings of the next commission. However, since last year's meeting of the Asia Pacific Forum of National Human Rights Institutions in September 2001 in Colombo, the HRC has shown noticeable improvement in its strategic vision, although practical problems remain in abundance."

By Brian Thamboo

The above criticism appeared in an article National Human Rights Commission of Sri Lanka: jettisoning an Unproductive Past," in the volume National Human Rights Institutions in Asia Pacific Region, a report of the Alternate NGO Consultation on the Seventh Asia Pacific Regional Workshop on National Human Rights Institutions, published by Asia Pacific Human Rights Network (APHRN) (November 2002).

The Human Rights Commission of Sri-Lanka (the Commission) is subject to criticism like the above from many quarters in civil society. Reasons for such criticism are based on Commission's failure to use the powers vested in it by the Human Rights Commission of Sri-Lanka Act No 21 of 1996 (the Act) under which it was established. Apart from this, certain provisions of the Act itself is a barrier for the effective function of the Commission.

Guidelines for the National Human Rights Institutions are spelt out in the principles relating to the status and functioning of National Institutions for the Protection and Promotion of Human Rights (Paris Principles). The United Nations Commission on Human Rights endorsed these principles in 1992. The General Assembly of the United Nations by its resolution A/RES/48/134 of 20th December 1993 adopted these principles

Establishment of the Commission

As mentioned above the Commission was established under the Act, and the Commission started to function from 1997. The Preamble of the Act declares that this is an Act to provide for the establishment of the Human Rights Commission of Sri-Lanka to set out powers and functions of such a Commission and to provide for matters connected therewith or incidental thereto.

The Act is divided into four parts. Part I of the act deals with the establishment of the Human Rights Commission of Sri-Lanka, while Part II, Part III and Part IV deal with powers of investigation of the Commission,

the staff of the Commission and other general matters related to the Commission respectively.

Background of the Commission.

Before the establishment of the Commission there were institutions established to safeguard fundamental rights. The Human Rights Task Force (HRTF) and the Commission for the Elimination of Discrimination and Monitoring of Fundamental Rights were the predecessors to the Commission. The HRTF was established in accordance to an Emergency Regulations and functioned until it was taken over by the Commission.

The Commission for the Elimination of Discrimination and Monitoring of Fundamental Rights was established in 1986 in accordance with the Commission for the Elimination of Discrimination and Monitoring of Fundamental Rights Regulations of 1986. The Chairman of the Sri-Lanka Foundation proclaimed these Regulations on 17 June 1986 under and by virtue of powers vested on the Foundation by Section 19 of the Sri-Lanka Foundation Law No 31 of 1973. The main object of the Commission for the Elimination of Discrimination and Monitoring of Fundamental Rights is to work towards the elimination of unlawful discrimination and to monitor the observance of fundamental rights. For this purpose it was vested with powers to study and investigate alleged discriminatory acts and to prepare a report on them. Among these three institutions, the Human Rights Commission of Sri-Lanka is the most powerful, vested with wide range of powers and established by an Act of Parliament.

Appointing members of the Commission

The President appoints members to the Commission under [Section 3(2)] on the recommendation of the Constitutional Council. While the Constitutional Council recommends persons suitable to be appointed as members of the Commission, the final decision of appointment will be the President's, who is a member of a political party. One of the members so appointed shall be nominated by the President to be the chairman of the Commission [sec-

Therefore, the Commission can be entrusted with the power of investigation even in respect of the rights guaranteed in instruments to which Sri-Lanka is a party. This will be inline with the Paris Principles which state that a national human rights institution shall be given as broad a mandate as possible which shall be clearly set forth in a constitutional or legislative text specifying it's composition and it's spare of competence

tion 3(4)] a member of the Commission shall hold office for a period of three years [section 3(5)]

Until the establishment of the Constitutional Council the majority political party or parties appoint the members of the Commission. [proviso to section 2(2)] Now as the minority parties are represented in the Constitutional Council the interests of the minority communities will reflect in the Council's selection [section 2(2)] of members to be recommended to the president for appointment as members to the Commission. The first batch of such members based on the recommendation of the Constitutional Council will be appointed to the Commission from year 2003.

Act fails to guarantee independence

South African Human Rights Commission Act No 54 of 1994 (Section 4) deals with independence and impartiality of the Human Rights Commission of South Africa. Section 4(1) states that a member of the Commission or a member of the staff of the Commission shall serve impartially and independently and exercise or perform his or her powers, duties and functions in good faith and without fear, favor, bias or prejudice and subject only to the Constitution and Law. Section 4(2) states that no organ of the state or anybody may interfere, hinder or obstruct the Commission and Section 4(3) states that all organs of the state shall afford the Commission such assistance as may be reasonably required for the protection of the independence impartiality and dignity of the Commission. Failure to comply with sections 4(2) and 4(3) are offences and punishable with fine or imprisonment for a period of six months under Section 18 of the South African Human Rights Commission Act.

Such provisions are not included in the Human Rights Commission of Sri-Lanka Act and should be introduced to protect the independence of the Commission, and the independent function of its members.

Further the Constitution of the Republic of South Africa, Act 200 of 1993, Article 115 provides for the establishment and appointment of the Human Rights Commission of South Africa. According to Article 115(3) the president shall appoint a person to the Commission who is nominated by a joint committee of the houses of parliament composed of one member from each party represented in parliament and willing to participate in the committee, and approved by the National Assembly and the Senate by a resolution adopted by a majority of at least 75 percent of the members present and voting at a joint meeting. The members of the Commission from among their number shall as often as it becomes necessary elect chairperson and deputy chairperson of the Commission. This system of appointment will pave way for an effective and impartial function of the Commission.

Another concern raised about the Human Rights Commission of Sri-Lanka is the member's involvement in their own profession during the period they serve as members. This may question the effectiveness of the Commission. Provision should be included in the Act to temporally release a member appointed to the Commission from his employment to serve as a full time member of the Commission and once his term expired he should be reinstated in his previous job. In the Human Rights Commission Act 2053(1997) of Nepal, Section 4, Chapter 2 states that the Chairperson or member of the Commission shall not be entitled to carry on professional business as long as he/she holds of-

fice in the Commission.

Powers of the Commission

Powers of the Commission are listed in Section 10, 11, 12, and 14 of the Act. These sections provides a broad range of powers to the Commission including the power to inquire and investigate complaints related to fundamental rights and provide resolution by mediation or conciliation. Provide advice and assist the government in formulating legislative and administrative directives, make recommendation to the government regarding measures to ensure national laws and administrative practices are in accordance to international human rights norms, make recommendations to the government in the need to subscribe to international treaties, and promote human rights education and awareness. Apart from this, by virtue of powers vested on the Commission under Section 14 of the Act the Commission may on its own motion or on a complaint made to it, investigate an allegation of infringement or imminent infringement of fundamental rights. Further the Commission can inquire and report to the Supreme Court on any matter that the Supreme Court refers to the Commission arising in during the hearing of an application (Section 12).

The Act under which the Commission was established conflicts with certain provisions of the Paris Principles. The mandate given to the Commission by the Act in relation to its investigative powers is to act only in respect of the rights guaranteed by Chapter III of the Constitution of Sri-Lanka as fundamental rights and restricted to the administrative or executive actions of the state. Chapter III of the Constitution guarantees only a few rights as fundamental rights. Sri-Lanka is a party to several international human rights instruments and by becoming a party to these instruments Sri-Lanka is expected to implement the provision of these instruments.

Therefore, the Commission can be entrusted with the power of investigation even in respect of the rights guaranteed in instruments to which Sri-Lanka is a party. This will be inline with the Paris Principles which state that a national human rights institution shall be given as broad a mandate as possible which shall be clearly set forth in a constitutional or legislative text specifying it's composition and it's spare of competence.

For the more effective function of the Commission, it should be strengthened in Provincial Level Section 11(b) of

Count. on page 12

HRC crippled ...

Count. from page 11

the Act, which provides for the appointment of Provincial Sub-committees of the Commission. The Commission can delegate such powers to the provincial sub-committees. No such appointments have been made until now.

Recommendations of the Commission

A serious concern about the Commission's functioning is regarding its recommendations. The Commission after investigating a complaint may make recommendations under Section 15 (3) and (4) of the Act. The Commission can make such recommendations after an investigation, if the investigation discloses infringement or imminent infringement of fundamental rights. However, what the complainant can do with this recommendation remains a question, as the Commission does not have the powers of enforcement.

Even the previous bodies established to monitor fundamental rights violations in Sri Lanka faced the same plight. Paragraph 2 of the Regulations of the Commission for the Elimination of Discrimination and Monitoring of Fundamental Rights laid down powers of the said Commission to study, investigate and to hold public hearing on the alleged discriminatory acts and to prepare reports thereon. The Commission could receive, investigate and endeavour to relieve by mediation or such other means as it specified in the regulations, discriminatory acts, but no provision in the regulations provides for enforcement. The Secretary Ministry of Public Administration issued a Public Administration Circular No 25/95 of 19 July 1995 to give certain validity to the decisions of the Commission for the Elimination of Discrimination and Monitoring of Fundamental Rights. By this circular the secretary requested, all ministry secretaries, heads of departments and heads of corporations and statutory boards to make representations to the Commission in respect of matters pertaining to their institutions in a responsible manner and comply with the decisions of the Commission.

The Ministry of Public Administration has, up to now, issued no such circular requesting the implementation of the recommendations of the Commission. Issuance of such a circular may make the recommendation of the Commission meaningful to a certain extent. The effective way to implement the recommendation of the Commission is to amend the Act, and provisions for implementation of recommendations should be included in the Act.

Issuances of binding deci-

The Supreme Court may refer a matter arising in the course of a hearing of an application made to the Supreme Court under Article 126 of the Constitution to the Commission for inquiry and report (Section 12). The Commission shall inquire and report to the Supreme Court on the matters referred to it. Further, the Commission may investigate an allegation of an infringement or immanent infringement of a fundamental right of person or group of persons on its own motion, or on a complaint made to it by an aggrieved party (Section 14). After its establishment the Commission investigated several such issues on its own motion as well as based on the complaints received by the Commission. According to statistics available, the number of investigations pending before the commission at present is approximately 6000.

sions are a requirement under Paris Principles. According to the Principles, the function is entrusted to a national human rights institution based on seeking an amicable settlement through conciliation, or within the limits prescribed by law through binding decisions, or where necessary on the basis of confidentiality along with other action that can be taken. The Human Rights Commission under the Act has no power to make decision but only make recommendations. According to available statistics, concerned parties implement most of the recommendations of the Commission. The Act stipulates only the following mechanism in respect of its recommendation. According to Section 15(7) of the Act the Commission can require any authority or person to whom a recommendation is addressed to submit a report within such period the action is taken, or proposes to take to give effect to such recommendation and it shall be duty of every such person to report to the Commission accordingly. If a person fails to report to the Commission, the Commission shall make a full report of the facts to the President of the Republic who shall cause a copy of such report to be placed before Parliament [Section 15(8)]. The Act fails to stipulate the action that can be taken by the President or by the Parliament in such an event. Provisions may be included in the Act enabling the President or the minister in charge of the institution to whom the recommendation was addressed to issue directives for the implementation of such recommendations.

The Human Rights Commission Act No. 54 of 1994 of the South African Human Rights Commission Section 7(2) states that all organs of state shall afford the Commission such assistance as may be reasonably required for effective exercising of its powers and performance of its duties and functions and a person who fails to afford the Commission such necessary assistance shall be guilty of an offence under Section 18(i) of the Act. Further Article 116(3) of the Constitution of Republic of South Africa Act 200 of 1993 states that the Commission shall be competent to inves-

tigate on its own initiative or on receipt of a complaint, any alleged violation of fundamental rights. If after investigation the Commission is of the opinion that there is substance in any complaint made to it shall in so far as it is able to do so assist the complainant and other persons adversely affected thereby to secure redress, and where it is necessary for that purpose to do so it may arrange for or to provide financial assistance to enable proceedings to be taken to a competent Court for the necessary relief, or may direct a complainant to appropriate forum. Similarly, provisions can be introduced in the Act enabling the Human Rights Commission of Sri Lanka to give binding effect to its recommendation.

Power of inquiry and investigation

The Supreme Court may refer a matter arising in the course of a hearing of an application made to the Supreme Court under Article 126 of the Constitution to the Commission for inquiry and report (Section 12). The Commission shall inquire and report to the Supreme Court on the matters referred to it. Further, the Commission may investigate an allegation of an infringement or immanent infringement of a fundamental right of person or group of persons on its own motion, or on a complaint made to it by an aggrieved party (Section 14). After its establishment the Commission investigated several such issues on its own motion as well as based on the complaints received by the Commission. According to statistics available, the number of investigations pending before the commission at present is approximately 6000.

In practice the Commission inquire into matters referred to it by the Supreme Court by a member of the Commission. A member of the Commission carries out even the investigations under Section 14 of the Act. At present, certain other officers of the Commission are allowed to carryout investigation as the Commission delegates its powers to such officers under Section 24 of the Act.

The above practice of inquiry by the Commission was disputed in the Supreme Court in Jayasinghe and others Vs R S

Jayarathne, Secretary Ministry of Public Administration and others [(1999) 2 SLR 385], and the Supreme Court held that "Section 2 of the Act establishes the Commission as a body Corporate, which "shall" consist of five members. It would appear that the Commission must act through all its members, because the Act makes provision neither for a quorum nor for the delegation of the powers of the Commission to one or more of its members. Section 7 only enables the Commission to act notwithstanding a vacancy or a defect in the appointment of a member. The purpose of a reference under Section 12 was thus to enable this Court to obtain the benefit of the collective wisdom of all the members of the Commission and not just its notes of investigation." This judgement gave validity only to inquiries that held before the commission (Before all its members)

This judgement made particular reference to inquire under Section 12 of the Act. The same principle may apply to the investigation into alleged immanent infringement or infringement of fundamental rights of the Commission, under Section 14 of the Act, as Section 14 of the Act empowers only 'the Commission' to investigate allegation of infringement or imminent infringement of fundamental rights. No such inquiry or investigations of the Commission are held before all its members. It is difficult for all the members to sit together at the same time and place to hear inquiry or investigation. Soon after the above-mentioned judgement the then Chairman of the Commission suspended hearing inquiries referred to the Commission by the Supreme Court. Therefore amending the Act to make way to hold inquiries by one member of the Commission is essential. Although three years have lapsed from the date of the judgment no action has been taken by concerned parties to ratify this situation or to amend the Act accordingly.

Section 2 of the Act states that "There shall be established a commission which shall be called and known as Human Rights Commission of Sri-Lanka. The Commission is a body corporate and shall consist of five mem-

bers. Therefore the Commission means all its members. The Act should be amended to specify a quorum for such inquiries or investigations.

The fund of the Commission

The other important issue that matters to the Commission is the Fund of the Commission. Section 29 of the Act provides that the state shall provide the Commission with adequate funds to enable the Commission to discharge the functions assigned to it by the Act. Funding plays an important role in the independence of the Commission. The state by controlling the funds can interfere with the functions of the Commission.

To safeguard the independence of the Commission funding should be in accordance to the Paris Principles. Paragraph 2 of Part B of the Paris Principle states that the national institution shall have an infrastructure which is suited to the smooth conduct of its activities in particular adequate funding. The purpose of this funding should be to enable the Commission to have its own staff and premises in order to be independent of the government and not be subject to financial control which might affect its independence. To achieve this, the Commission can, apart from the funding provided by the government, be allowed to raise finances independently. To overcome this situation the Act may be amended to allow the Commission to raise funds independently from donor agencies, provided that the Auditor General is empowered to audit the accounts.

Such authority to raise funds independently is vested on the Human Rights Commission of Nepal. Section 7 of the Human Rights Commission Act of Nepal 2053 (1997), which deals with the financial arrangements of the Commission. Section 7(1) states that the Commission may obtain such means and resources from different agencies by way of grants as are required for the performance of its function. Accounts of the Commission shall be audited by the Auditor General states Section 7(5). The amount of financial assistance received can be expended in accordance with the terms agreed upon between the donor agency and the Nepal Human Rights Commission according to section 7(3).

Conclusion

In order to make the Human Rights Commission of Sri-Lanka a more effective, more independent and impartial institution, it is necessary in the light of the above to strengthen the powers and functions of the Commission by providing greater strength. This may be achieved by amending the Act after considering of above facts.