

• **Role of Judiciary in the 3rd World** •

— **Scott Newton**

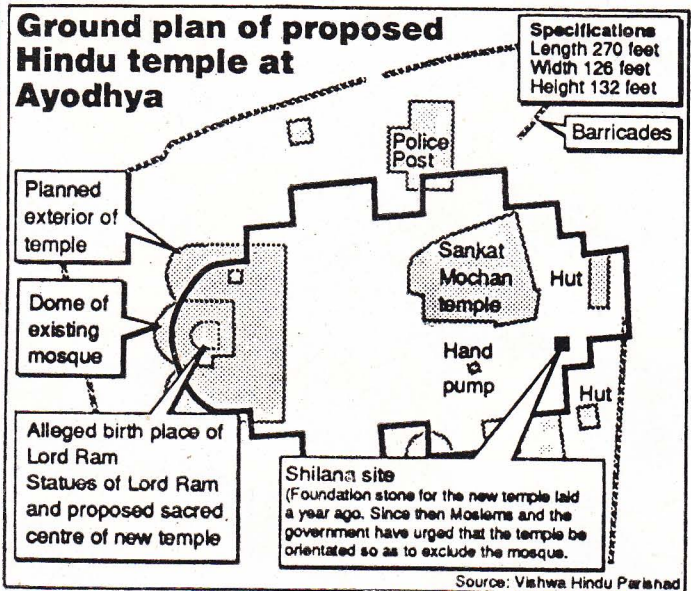
**LANKA**

# **GUARDIAN**

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**Whatever happened  
to the  
Russian Revolution ?**  
— **Hector Abhayavardhana**

**More marks for  
Marx than for  
Marxists**  
— **Reggie Siriwardena**



**India, LTTE in the UNP-SLFP Debate**

— **Mervyn de Silva**

**Tigers in Tamilnadu Politics** — **S. Murari**

**Indian Crisis: Six Basic Questions**

— **Bhabani Sen Gupta**

**Island Paradise in Flames** — **Deanna Hodgins**

**VSSP: ANNIVERSARY REFLECTIONS** — **Kumar David**



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## TRENDS

### BASL STEPS FORWARD

About 800 fundamental rights applications are to be filed before the Supreme Court by the Bar Association on behalf of detainees at the Boosa detention camp. The Human Rights Committee of the BASL has already filed 41.

The Supreme Court had earlier been petitioned by detainees at Boosa appealing for investigation into the circumstances of their detention. The SC had advised the Bar Association to interview those detainees and file affidavits on their behalf where the circumstances merited it.

### UNP INVITES ALL PARTIES

The United National Party (UNP) has invited representatives from all recognised political parties to attend its 36th annual conference on December 23. UNP General Secretary Ranjan Wijeratne has said in the letter of invitation: "Maintaining cordial relations with the alternative political parties whilst not alienating the respective party policies is conducive to the democratic process. This would promote brotherhood and understanding among the members and followers of different political parties".

### LECTURERS LEAVE AFTER TRAINING

The Auditor General has found that twenty-seven lecturers of the Moratuwa University have not returned after they were sent abroad for training or have left the University immediately after returning.

## BRIEFLY...

● This year's dent in the economy resulting from the Gulf crisis is expected to be Rs 6.5 billion due to falling remittances, lower tea income and higher oil prices. Meanwhile defence expenditure is expected to rise to 20 billion rupees. Expenditure on "displaced persons" is expected to exceed two billion rupees according to a government report.

But, the report prepared by the Ministry of Policy Planning said: "considering the resilience Sri Lanka has demonstrated under worse situations, obstacles of this nature should not cause undue concern."

● Sri Lanka's unemployed now total 1.3 million and could swell by another 300,000 if the north-east war continues, the WEEKEND said quoting Policy Planning Minister Wimal Wickremasinghe. However, the minister said that the 22 per cent rate would be reduced by a well planned economic development program which includes a five year investment program and a handloom development program.

● Tamil Nadu Chief Minister M. Karunanidhi has issued close down orders on LTTE offices in his South Indian state, following combined pressure from the central government and Rajiv Gandhi's Congress (I). And according to a report from London the Tigers are also to be thrown out of a flat belonging to the London Borough Council

of Camden which was used as their international headquarters.

Meanwhile, Lankapuvath quoting the Delhi based "Business and Political observer" said that the LTTE had threatened to murder former Indian Prime Minister and Congress leader Rajiv Gandhi for opposing the Eelam struggle.

● Speaker M. H. Mohamed wants the Government to delink the Northern and Eastern Provinces without a referendum. Mr Mohamed told the Sunday Times that a referendum was not possible under existing conditions. It could be done through parliament and on this issue the Government could obtain a two-thirds majority, he said.

A continued merger was the beginning of the division of the country, Mr Mohamed is reported to have said.

● On December 5 President Ranasinghe Premadasa gazetted an order under the Provincial Councils Act No. 42 of 1987 further postponing till August 22, 1991 the date of the referendum to decide whether the North-East merger should remain. The referendum was earlier postponed for January 19, 1991.

● "There are no Israelis in Sri Lanka", said Mr Ranjan Wijeratne, State Minister

(Continued on page 6)

## LETTER

### SWRD AND SINHALA

Poor Mr. Pathiravitane! I do think I have to stop answering him because the asperity of tone in his last letter shows he is upset that his sentimental loyalty to Bandaranaike has led him into making an ass of himself. So evidently he has to compensate by calling me names. I hope he will be wiser next time and not enter into controversy over incidents that he knows nothing about.

**Reggie Siriwardena**  
Colombo 4.

LANKA

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# SLFP-UNP Foreign policy debate

NEWS  
BACKGROUND

Mervyn de Silva

“India should be the corner stone of our foreign policy” said Mr. Anura Bandaranaike MP, the foreign affairs spokesman of the SLFP, when he spoke on the Foreign Ministry vote on the budget debate (10/12). Having traced the ruinous path taken by the 1977 Jayewardene government, and how it soon became a Delhi-Colombo collision course, Mr. Bandaranaike attributed the aggressive Indian response to the Sri Lankan situation to Mrs. Indira Gandhi’s wounded pride and India’s “obsessive” security concerns.

In large measure, these arguments also marked a return to an old track — the SLFP-UNP foreign policy debate, with its strong personal accent, the Bandaranaike-Nehru-Gandhi “special relationship”. While the polemical fire was directed at the J.R. era, President Premadasa’s India policy did not escape the Bandaranaike fustillade. “What happened to your Friendship Treaty? That country responded to it with a counter draft this January and since then the matter has remained in cold storage”.

On Israel however, the SLFP spokesman found himself, objectively at least, anti-JR but pro-Premadasa in as much as the SLFP had opposed the opening of an Israeli interests section, and President Premadasa had shut it down.

Both the Opposition Leader Mrs. Bandaranaike and the Foreign Minister Harold Herat, as well as prominent personalities like Messrs Anura Bandaranaike,

former Mahaweli Minister Gami ni Dissanayake, former Speaker Stanley Tillekeratne, Minister for Prison Reform Tyrone Fernando, former Deputy Foreign and Defence Minister Mr Lakshman Jayakody, stressed India’s key role.

But it was a remark by Mr. Stanley Tillekeratne, and a prediction by Mr. Anura Bandaranaike put the whole “India debate” in a new light. The former Speaker, Mr. Tillekeratne proposed that Sri Lanka should send a “peace mission” to Madras, to discuss the Sri Lankan Tamil issue, with DMK leader and Tamilnadu Chief Minister, Mr. Muthuvel Karunanidhi and other prominent leaders of Tamil opinion.

And in the course of his speech, Mr. Bandaranaike said:

“While the new Indian government of Mr. Chandra Shekhar is much dependent on the Congress(I), it is likely that Mr. Rajiv Gandhi himself will return to power in the near future. It is my hope that there will be no repetition of mistakes by the government from which we have all suffered”.

The same geo-political realities have once more thrust on us the Colombo-Madras-Delhi connection, or more accurately, the Colombo-Jaffna-Madras-Delhi connection. There’s a difference though, and it deepens Indian anxieties more than Sri Lankan. The LTTE link does not start in Jaffna and end in Tamilnadu. It stretches to Assam, in the strategic north-east.

A new dimension has been added to the insurgency in the

north-east with the coming together of three major secessionist groups, the ULFA, UNLF and the NSCN, and their pledge to sign a pact to form an “Indo-Burma Revolution Front” to make common cause for the “liberation” of the Indo-Burma region, says a *Times of India* report. The Indo-Burma region is described by the four groups as “the last of the colonial areas left to be liberated in the world”.

The insurgent groups have received arms training from the KIA (the Kachin Independence Army) now fighting for the independence of the Kachin region from Burma. The Chandra Shekhar government recently dismissed the State’s administration run by the Asom Gana Parishad (AGP). This promptly gave a new opportunity for the ULFA, the United Liberation Front of Assam to win more support for its slogan of “armed struggle”. The ULFA and AGP grew out of the same Assamese Students Movement.

Now the ULFA has launched a liberation struggle against the Indian government. On a visit to Assam recently, David Housego of the *Financial Times* wrote that the ULFA has established ties with “many Indian and non-Indian revolutionary groups including the Tamil insurgents of Sri Lanka”.

## ADVANI’S DEMAND

The BJP leader L. K. Advani has blamed the National Front of Mr. V. P. Singh for “the rise of militancy in Tamilnadu “and

demanding a "White Paper" on LTTE activities in the state from the Chief Minister, Mr. Karunanidhi. His demand, said an Indian agency report from Madras, was "disturbing" because it reinforces Mr. Gandhi's criticism that LTTE activity has become a serious threat after Mr. Karunanidhi took office. Mr. Advani told reporters:

"The Congress was responsible for the rise of militancy in Kashmir... but it is during the tenure of the National Front that the *ultras* gained strength in Tamilnadu and Assam".

Mr. Karunanidhi has to defend himself on another flank — the attack from the New Indian Navy chief, Vice Admiral Ramdas who had blamed the Chief Minister for permitting 'Tiger' cadres to slip into the state under the guise of "refugees". Mr. Karunanidhi's reply suggested how murky things really are on the Madras-Delhi scene. One obvious reason is Mr. Karunanidhi's strong suspicion that he, like the LTTE is only a part of the parliamentary ball-game as the major parties await the inevitable, a general election. Will Mr. Gandhi help his ally the AIDMK led by Karunanidhi's main rival, Jayalalitha, by persuading the Prime Minister to "fix" Karunanidhi before the next polls. Gandhi would like to have a State election at the same time as the next General election. Only the Centre can remove Karunanidhi but the Centre must have some reasonable excuse. LTTE mayhem in Madras and other anti-national activities would be quite sufficient grounds for Mr. Chandra Shekhar to knock off the Chief Minister for the duration. S. Murari, the Madras Correspondent of the Bangalore-based *Deccan Herald* summed up the situation in a recent despatch:

With the change of guard at the Centre, Chief Minister M.

Karunanidhi finds himself in the dock for failure to check the infiltration of armed Liberation Tigers of Tamil Eelam militants from Sri Lanka into Tamil Nadu.

The sequence of events since the Chandra Shekhar Government assumed office seem to indicate that the Congress (I), which is the power behind the throne, is building up a case to get the Dravida Munnetra Kazhagam Government dismissed so that elections to the State Assembly can be held along with the Lok Sabha poll when it is called. The All-India Anna DMK, which has 11 members in the Lok Sabha, is believed to have demanded that elections to the State Assembly be held whenever a Parliament poll is ordered as the price for its support to the Janata Dal (S) Government.

Immediately after the change of government at the Centre, the State Congress (I) Committee chief, Mr. Vazhapadi K. Ramamurthi, made the allegation that over 1,000 LTTE militants had infiltrated into Tamil Nadu to create unrest if the DMK Government was dislodged. The very next day, Vice-Admiral L. Ramdas, who is to be the next naval chief, told a farewell press conference in Madras that in the last three months the Navy had apprehended 100 Sri Lankan Tamils and handed them over to the State police but that they were all released within a day or two for unspecified reasons.

In reaction, Mr. Karunanidhi said that the revival of the campaign against the DMK Government had come close on the heels of the charge made by Congress (I) leader Rajiv Gandhi in the Lok Sabha, during the debate on the confidence motion sought by the V.P. Singh Government, that Tamil Nadu was dominated by the LTTE. Re-

ferring to the specific charge made by Vice-Admiral Ramadas, he said that in the last three months, over 30,000 Tamils from Sri Lanka had sought refuge in the State. Of these, 100 were apprehended by the navy and handed over to the State police but they were neither smugglers nor militants. Genuine refugees had been sent to various camps and the rest, who were Sri Lankan boatmen, were sent back to the island, the Chief Minister added.

## Chinese PM's visit

The three-day visit of Chinese Prime Minister Li Peng and a top-level delegation they includes his Foreign Minister, focusses attention on the increasingly close ties between Beijing and the Premadasa government. China has recently agreed to sell helicopter gunships, patrol boats, armoured vehicles and aircraft at "very reasonable prices". The deal followed the visit to Beijing of Prime minister D.B. Wijetunge, and a military mission.

Sri Lanka's defence budget has now risen to 300 million US dollars, the highest after the public service. But it is the top item of hard currency spending, before the arrival of the IPKF, few governments were ready to sell Sri Lanka arms openly for fear of alienating India. China has no such qualms.

With the resumption of fighting in June, the government seemed sure it could crush or at least contain the 'tigers' in a few months. But such hopes have been dashed. And MANKULAM proved that it's going to be a long war, even if the death toll at Mankulam has been much less than feared.

A Sri Lankan military mission led by Army Commander. Lt. General Hamilton Wanasinghe visited Pakistan earlier this month.

# An Ethnic Inferno in Island Paradise

**Deanna Hodgkin**

(Excerpts from INSIGHT cover story filed from Jaffna and Colombo.)

It is the oldest democracy in Asia, a modern-day treasure island in the Indian Ocean that was once a prime candidate for the next Asian economic miracle. But beneath the travel poster promise of serene white sands and palms and some of the best surfing in the world, racial hatred has eaten through the body of Sri Lanka.

Since June 11, a war has raged in the north and east of the island between the government and armed militants of the Liberation Tigers of Tamil Eelam, a self-proclaimed national army of Sri Lanka's minority Tamil population. The LTTE is fighting for a separate, Tamil-administered state. Despite fervent government denials, the fighting has a definite communal bent.

Bad blood between the majority Sinhalese and the Tamils goes back 2,500 years, to dynastic rivalries of successive Tamil Hindu and Sinhalese Buddhist kingdoms. The rhetoric is as extravagant as the killing is brutal. "What you see—the helicopters flying around and strafing marketplaces, shooting at civilians—it's a manifestation of a phenomenon of genocide," says Tamil Tiger spokesman Anton Balasingam from the edge of his bunker. Back in Colombo, the capital, the former defense minister, now minister of education, scoffs at that claim. "The LTTE can't tell me they're a victim of genocide," Lalith Athulathmudali says. "They've killed more Tamils than the Indian army, the Sri Lankan army and the other militant groups put together."

This conflict has escalated into what both combatants cal

a battle to the death. "We will push the LTTE into the salty waters of the Palk Strait," says Defense Minister Ranjan Wijeratne. "We will fight until the last cadre," respond liberation leaders.

It is another of the Third World's dirty little wars that few in the peaceful, prosperous West bother themselves about—part of the neglected cycle of human misery that includes Joseph Stalin's 1930s Ukraine adventures, Nigeria's Ibo Rebellion, the Turkish and Armenian wars. Despite the recent democratic developments in Eastern Europe and hopeful noises, of late, about the democratic potential of the postcrisis Persian Gulf sheikhdoms, the continuing use of terror against civilians in scenic, democratic Sri Lanka has taken place by and large without remark.

## A Walk Through Jaffna

The main streets of Jaffna, the northern peninsular town that for centuries has been the center of Tamil culture, are bloodstains and broken pavements. Helicopters have strafed the Rev. Green Memorial Hospital, the only medical center operating on the peninsula. Children scream "Heli!" and scatter when the Bell 420s go nose-down over the neighborhoods spitting storms of bullets. Fractured terra-cotta roof tiles and telephone poles bent double fill the wide avenues that used to connect the bustling commercial center. Chipmunks steal cough drops from a pharmacy whose brick walls have spilled over adjoining properties. The air is chopped by shock waves from navy shelling, air force bombing and the gunfire of

fighter planes. Army mortars fired by troops advancing from outside the town arc to Earth, creating dirt fountains. Schools, vacated for an indefinite summer break, shelter close to 1 million displaced Tamils.

At night, the broken streets fill with refugees toting all they can carry. Fights break out in the mile-long line of families waiting to leave Jaffna. The atmosphere is charged with fear, as desperate families battle to pay the equivalent of a week's wages for each space aboard one of the fishing boats that violate the government-imposed curfew.

For most Tamil refugees, crossing the lagoon is a trial run for an even riskier ocean crossing, to refugee camps in India, from the Jaffna lagoon, the refugees walk nearly 100 miles to illicit ports of departure.

## Sad History

Sri Lanka's Northern Province begins at the tapered tip of the island, where several small islands lead into a peninsula that widens into the mainland. The white beaches of the north turn into the dusty, scrub-covered interior that in turn leads to a center of jungles and swamps. The province's majority population is Tamil. Roughly one-third of the way down, the center of the island is divided into the North Western, North Central and Eastern provinces. (Northern and Eastern provinces were merged into the Northeastern Province as part of negotiations between the government and the Tamil rebels in 1987. The merger is contested by the more militant members of the Sinhalese community.) The agriculturally rich East is populated in roughly equal parts by Sinhalese, Tamils and Muslims. It is also the site of a major prize, Trincomalee Harbor, one of the finest deepwater harbors in the world. The Central Province fills the core of the island, while the Uva, Sabaragamuwa, Western and Southern provinces make up the south. The central and the southern regions are mostly Sinhalese.

The Eastern Province is, in many ways, a key to the current struggle. The Tamil Tigers claim the East as part of their homeland. Government strategy has focused on uncoupling the East from the North, to destabilize the Tigers' campaign for a combined province as a separate state. "The East is claimed by the Tamils, the Sinhalese and the Muslims," says a government minister. "It is the result of an artificial demarcation by the British." The LTTE, for its part, says the East was deliberately imbalanced by the interjection of Sinhalese settlers sent by the government. The Sinhalese respond that there were never Tamil establishments more than four miles from the coast, that the East was traditionally part of the Sinhalese Kandyan kingdom. Eastern Province Muslims point out that who arrived first is less important than who has lived there for the past few centuries, as they have.

The liberation group counts as constituents the island's Muslim community, a group that has developed its own agenda over the past decade, not always in line with the separatists. The business boosterism of President Ranasinghe Premadasa has won over more than a few Muslims the traditional urban merchant class.

Moreover, there are Tamils and then there are Tamils. The so-called estate Tamils are Southern Indians imported during the years of British rule to create and staff the rubber, coconut, coffee and, later, tea estates of Central and Eastern Sri Lanka. The Eastern Tamils do not always throw in their lot with their Northern kin. "The lives of estate Tamils are not so prosperous," says Vijay, a worker at the Melfort tea estate who asks that his last name not be divulged for fear of rebel reprisal. The estate is at the beginning of Sri Lanka's central hill country, in Pussellawa, a vertical, green town of tea-covered hills that must be taken in low gear. "My family? I don't know where we're from.

I guess India, but we've lived here a long time," he says.

The estate Tamils' lack of interest highlights a fundamental historical divide within the Tamil community, one the government has exploited to its own advantage in this most recent fight. Many Sinhalese say the separatists' claims of unity with the Muslims and outrage over the estate Tamils' plight are feigned indignation.

### Tiger Massacres

Massacres of Sinhalese and Muslim villagers in the hundreds have become a feature of the recent fighting. The Muslims and Sinhalese blame the LTTE, and the Eastern Province Tamils are increasingly siding with their neighbors, rather than their relations up north. A gruesome massacre Aug. 3 at a mosque at Kattankudy, in which 140 died and 125 were wounded, has become a focus for finger-pointing. Who really was responsible?

The government blames the Tamil Tigers. "It was not done by us," counters the Tigers' Mannar Island area leader, Dharmendra. "It was done by the government, so they would get arms from the Islamic countries. When it happened, the defense minister was in Libya, a strange coincidence." The government denies involvement in the killings, and most Western diplomatic sources seem convinced of the government's claims.

After the massacre, the government began an aggressive program of arming and giving rudimentary training to young Muslim men as members of the Muslim Home Guards. Knots of young boys stack their bicycles against trees at the Sri Lankan army's Vavuniya outpost. They return shortly with new rifles and fistfuls of bullets wrapped in their bright plaid sarongs. The number and regularity of killings have increased in the East since the arming of the Home Guards.

Residents of Batticaloa, the lagoon-straddling Eastern town long a site of militant clashes, speak of factions within the

(Continued on page 28)

### BRIEFLY...

(Continued from page 1)

for Defence refuting a newspaper story. A representative of the newspaper who was present at the minister's news briefing said that the source of the information was the Speaker, Mr M. H. Mohamed. "The Speaker has talked out of turn", the minister said.

● Army top brass led by the Commander, Lt. General Hamilton Wannasinghe visited Pakistan on a "special mission". Official sources did not disclose the content of the mission, but said it was successful.

● A total of 472 security personnel had been killed and 1620 others injured in the North-East since fighting broke out in June this year, Defence Secretary General Cyril Ranatunga told a press briefing. In addition to that 106 services men were missing in action, he said.

The number of civilians killed was 672 and the number injured was 290; confirmed figures of LTTE casualties were 2040 killed and 530 injured.

● A senior military officer said last week that more than 2,000 Sinhala youths detained for suspected JVP activities had now been released, and a little over 4,000 were still under detention. Hardcore activists will not be released.

Meanwhile there were reports that several released detainees were abducted and murdered by unidentified death squads.

● The case for the petitioner (Mrs Sirimavo Bandaranaike) in the presidential election petition was closed last week after her counsel led the evidence of 549 witnesses.



## The Rise of the LTTE

Public enemy No. 1 grew out of a series of events beginning in 1956, when politician Solomon Bandaranaike, riding a regional wave of postcolonial nationalist fervor, was elected prime minister on a Sinhala-nationalist platform. The first piece of legislation he passed, the Sinhala only Bill, made Sinhala the island's official language, separated students into schools for Tamil or Sinhala instruction and put English-speaking Tamil civil servants out of work.

"Well, if the Tamils are so bloody smart that they can master English under the British, why can't they learn Sinhala?" asks a highly-placed Sri Lankan diplomat. In an earlier time, the Tamils might have swallowed their pride and accepted Sinhala. But the 1940s and 1950s were a regional renaissance for national and ethnic pride—the time of Gandhi, Nehru and Jinnah. Language riots raged in Colombo and in other cities' and the tradition of racial combat flared again.

At one of those riots in 1958, a 4-year-old boy watched in horror as Sinhalese demonstrators tortured his favorite uncle. While the man was still alive, they set him on fire. That child, Velupillai Prabhakaran would grow up to create and lead the militant separatist Liberation Tigers of Tamil Eelam. Says one cadre: "If they put education quotas to block our progress, leave our northern homelands economically undeveloped, rob us of our language rights and shoot us down when we don't obey, what other choice do we have but to separate? They aren't treating us as citizens, so why should we try to be citizens? This is what Mr. Prabhakaran asks us."

Prabhakaran and 30 teenage companions from his Jaffna Peninsula fishing village formed the LTTE in 1972, roughly in the form of Fidel Castro's early guerrilla organization. The rebel group grew in number and strength, training for guerrilla

warfare at remote jungle bases. An aggressive capitalization plan of bank robberies and shake-downs of northern businesses financed a growing store of arms.

Despite its bold strokes, or perhaps because of them, the LTTE was not party for all Tamils. In 1976, the Tamil United Liberation Front, a non-violent political coalition of Tamil parties seeking an independent state of Eelam in the North and North-east, passed a resolution calling for a separate Tamil state. Elected to the National State Assembly, now the Parliament, United Liberation Front leader Appapillai Amirthalingam became opposition leader. In a country where the historical meaning of opposition politics has usually been that of a smattering of leftists (including exotic breeds, such as Trotskyists and Bolsheviks) and a few ethnic minority-based parties unable to coalesce, Amirthalingam made coalition seem possible, if only by force of personality (he was assassinated last year by the LTTE).

The election of Junius Jayewardene, a pro-Western pragmatist, as prime minister in 1977 spurred Tamil hopes for a solution to the growing conflict that had resulted in anti-Tamil riots in 1956, 1958 and 1977. Jayewardene held discussions with Amirthalingam and others on the potential for a devolution of the central government's powers to the North and East through a provincial council scheme.

Yet by 1983, two more anti-Tamil riots had stoked communal anger. The negotiations had produced little substance. "We kept talking, kept waiting for them to give what they said they'd give us, but nothing happened," says LTTE leader Yogaratnam Yogi. The moderate Tamil party was under pressure from the militants for lack of results, just as Jayewardene was feeling squeezed by a militant Sinhalese group, the Janatha Vimukthi Peramuna, or People's Liberation Front. That group's Marxist Sinhalese mili-

tants felt that Jayewardene was too lenient with the Tamils and any concession in the direction of the north would rob the south of its entitlement. The Sinhalese militants had led an unsuccessful armed revolt in 1971, in which thousands died.

Lightning struck in 1983, when Prabhakaran and 13 Tiger guerrillas attacked a Sri Lankan army convoy just outside Jaffna. The news of 13 soldiers killed by the increasingly violent Tamil rebels sparked a five-day riot throughout central and southern Lanka, in which more than 1,000 Tamil civilians lost their lives. One hundred thousand Tamils lost their homes in an eruption of burning and plundering.

"The continuing communal violence devalued democratic ideals and strengthened the appeal and seeming legitimacy of armed revolt," says Neelan Tiruchelvam, a Harvard-trained Tamil lawyer in Colombo and former parliamentarian. He says segregated schools contributed to racial hatred based on ignorance of the other culture. "This transformed many formerly moderate Tamils into militant separatists."

Rival Tamil militant groups sprang up, but by 1986 the LTTE had crushed them and announced that it had taken over the civil administration of the Northern Province. The Tigers do not bother denying that it was bloody. "Of course, in Colombo, they will say that these fellows are wiping out all the opposition," says Tamil Tiger spokesman Balasingam. "But this is a life-and-death struggle for us, for our people. We are facing genocide. We can't tolerate traitors, informants; otherwise we will perish."

But traitors and informers were not the only ones on the Tigers' blacklist; Sinhalese colonists in the Eastern Province were frequent victims of massacres in late 1986 and early 1987. "It was terrible," says an elderly woman who sells bread—when it is available—at the Batticaloa bazaar in that Eastern city. "Bodies in the lagoon, smoking bodies on the road. No one can touch, or whoever does this will come for you." (To be continued)

## New Govt has DMK on the defensive

S. Murari in Madras

With the change of guard at the Centre, Chief Minister M. Karunanidhi finds himself in the dock for failure to check the infiltration of armed Liberation Tigers of Tamil Eelam militants from Sri Lanka into Tamil Nadu.

The sequence of events since the Chandra Shekhar Government assumed office seem to indicate that the Congress (I), which is the power behind the throne, is building up a case to get the Dravida Munnetra Kazhagam Government dismissed so that elections to the State Assembly can be held along with the Lok Sabha poll when it is called. The All-India Anna DMK, which has 11 members in the Lok Sabha, is believed to have demanded that elections to the State Assembly be held whenever a Parliament poll is ordered as the price for its support to the Janata Dal (S) Government.

Immediately after the change of government at the Centre, the State Congress (I) Committee chief, Mr. Vazhapadi K. Ramamurthi, made the allegation that over 1,000 LTTE militants had infiltrated into Tamil Nadu to create unrest if the DMK Government was dislodged. The very next day, Vice-Admiral L. Ramdas, who is to be the next naval chief, told a farewell press conference in Madras that in the last three months the Navy had apprehended 100 Sri Lankan Tamils and handed them over to the State police but that they were all released within a day or two for unspecified reasons.

In reaction, Mr. Karunanidhi said that the revival of the campaign against the DMK Government had come close on the heels of the charge made by Congress (I) leader Rajiv Gandhi in the Lok Sabha, during the debate on the confidence motion

sought by the V. P. Singh Government, that Tamil Nadu was dominated by the LTTE. Referring to the specific charge made by Vice-Admiral Ramdas, he said that in the last three months, over 30,000 Tamils from Sri Lanka had sought refuge in the State. Of these, 100 were apprehended by the Navy and handed over to the State police but they were neither smugglers nor militants. Genuine refugees had been sent to various camps and the rest, who were Sri Lankan boatmen, were sent back to the island, the Chief Minister added.

But by Mr. Karunanidhi's own admission, the Navy has been highly selective in apprehending suspects. It is, therefore, hard to believe that not one of the 100 persons caught turned out to be a militant. Vice-Admiral Ramdas has said that it is difficult for the Navy to identify militants because they do not wear any uniform and that it is for the State police to flush them out. Mr. Karunanidhi also gives the same excuse. And in the same breath adds that the militant movement is not an overnight phenomenon but one that has been there since 1983. Yet, he seems to overlook the point that a police force which has been keeping a close watch on the militants for the last seven years should be able to identify them much more easily.

Mr. Karunanidhi also says that as many as seven co-ordination meetings were held in the last one year and in none of them did the Navy accuse the State police of inaction. Yet, how could defence personnel be expected to speak out when the V. P. Singh Government had given a *carte blanche* to Mr. Karunanidhi and even condoned his boycott of the reception accorded to the last contingent of the Indian Peace-Keeping Force returning from Sri Lanka?

The Chief Minister had then said he could not receive a force which had "massacred" over 5,000 fellow Tamils.

Such was Mr. Karunanidhi's total support to the LTTE that the Tigers were able to get away with the murder of two policemen in Ramanathapuram in February and the massacre of the Eelam People's Revolutionary Liberation Front chief K. Pathmanabha and 15 others in June. The State police was said to have facilitated the escape of the killers and, to this day, no progress has been made in the investigations into the two incidents. Vice-Admiral Ramdas did not thus seem to be far off the mark when he pointed out that the State police lacks the will to act.

Mr. Karunanidhi and Revenue Minister K. Manoharan, who met Prime Minister Chandra Shekhar to discuss the law and order situation in the State following the latter's warning that "events will take their course" if the DMK Government does not act, contend that things are far better in Tamil Nadu than Punjab or Jammu and Kashmir. And the Chief Minister often points out that the M. G. Ramachandran Government in 1987 gave Rs. 4 crore to the LTTE to buy arms and the Indira Gandhi and Rajiv Gandhi Governments allowed the militants to run training camps in the State.

However, there is one vital difference. The militant leadership was then directing the war from the State whereas now the leaders have all but been eliminated and LTTE chief V. Pirabhakaran is no longer beholden to India.

This is not the first time that the DMK Government has been attacked for soft-peddling the threat posed by the incursion of LTTE militants into Tamil Nadu.

**HUMAN RIGHTS****Sri Lanka under scrutiny**

At the last meeting of the National Integration Council held in Madras in September, Mr. Rajiv Gandhi said: "The Union Government appears to have abdicated its responsibilities towards the Tamils in Sri Lanka and the protection of the sovereignty of our nation. Sri Lankan militants have been given such a free run of such large parts of Tamil Nadu and the territorial waters off the Tamil Nadu coast that the peaceful mores of our democratic way of life are being gravely threatened. The militants have brought into Tamil Nadu politics a cult of violence, a culture of guns and an ethos of terror not known before."

The Bharatiya Janata Party, which held its National Executive meetings in Madras in April, expressed similar concern over drug trafficking, gun running, smuggling and other illegal activities.

But Mr. Karunanidhi was able to brush aside such criticism because he had Mr. V. P. Singh on his side. The change at the Centre has emboldened his critics to attack him with renewed vigour.

Mr. Karunanidhi is yet to adjust to the new reality. A few days ago, the United News of India correspondent in Rameswaram put out a story about the alleged interception of a boat carrying armed militants to Tamil Nadu. The Home Secretary promptly called the UNI Chief Reporter in Madras to issue a denial. Not satisfied with that, the Chief Minister's office "advised" UNI to withdraw the story.

State Congress (I) leaders make no bones about the fact that they are building up a case for dismissal of the DMK Government. Another indication of this is the cooling off in relations between Mr. Karunanidhi and Congress (I) leader G. K. Moopanar. The usually soft-spoken Mr. Moopanar has even said that Mr. Karunanidhi's days are numbered.

*(Continued on page 28)*

A four-member investigative mission comprising two Members of the European Parliament, Christine Oddy and Alex Smith, a Belgian lawyer Bernad Dewitt and a Dutch lawyer Corjan Schoorl went into the question of widespread violation of human rights visited Sri Lanka from 27 October to 4 November.

*The following are their conclusions:*

1) Although the army and authorities deny responsibility for the killings and disappearances, the scale is such that the State cannot be absolved from responsibility. The State has either failed in its duty to maintain law and order or has condoned the activities of the security forces.

2) The Government claims that the JVP problem was resolved in December 1989. It claims that any problems of violence are now restricted to the North and East of Sri Lanka. According to the Government, the situation is normalised in the South, but it is apparent that many killings and disappearances continue.

3) It seems clear to the delegation that many people are affected by a climate of fear and terror in the country. If this continues, it is feared that there will be retaliation and blood baths in the future.

4) Fear of economic collapse has fuelled the intimidation and the continuation of the underlying climate of violence and repression.

5) The growth of human rights groups illustrates an increasing will to find a solution to the problems of the country through peaceful and democratic means.

6) For a lasting solution, mutual trust and harmony among various communities should be promoted. No distinction should be made on the basis of caste, race, ethnicity, religion or language. Human, civil and democratic rights of all communities should be guaranteed in actual practice by the state, legal process and law and order forces in the country.

**RECOMMENDATIONS**

1) According to President Premadasa the latest foreign aid package to Sri Lanka shows that the Government's programmes and policies are endorsed by the whole world. (Reported in the Sri Lanka Daily News, Monday October 29th, 1990). Despite the European Council of Ministers' Declaration of October 1990 linking aid to human rights in Sri Lanka which we welcome we feel that there must be a real mechanism to identify progress in human rights and law and order, before any further aid packages are agreed.

2) We support the visit of the United National sub-committee on Disappearances and Human Rights which was accepted by the Minister of Defence for February 1991.

3) We support an investigation into disappearances by an independent body and would support the resolution of the Sri Lanka Bar Council for an enquiry by an independent Commission.

4) We wish to encourage increased cooperation between the Government and the International Red Cross.

# Russian Revolution Re-examined

Hector Abhayavardhana

I was very interested in Comrade Gajameragedera's characterisation of the problems confronting us as problems of the world rather than as problems pertaining merely to one or other of its parts. I think it is very true and unless we are able to face these problems from that angle we shall not be able to grapple with their essence.

It should be remembered that the steps which the Soviet Union and the countries of East Europe, and perhaps even those of the western capitalist world, are being forced to take today do not spring entirely from a constructive trend. They are not entirely constructive steps that they seek to take to mend the breakdowns that have occurred in various directions. Perhaps it is true to say that these steps have been motivated by the fear that, if they leave things as they are, that would open the way to the disintegration of a whole epoch of progress or attempted progress in various parts of the world.

I make this statement most particularly with reference to the Russian Revolution. The Russian Revolution, as we know, was not predicted for that time and in that sense it had an unaccounted birth. It was an event that occurred because of a coincidence of a host of problems which could not otherwise find even temporary solution. The problems of the Russian State that was set up were also interlaced with world problems and together they provided the Russian leaders with the opportunity to step out boldly and take their fate in their hand, looking at the

opportunity that they had been gifted with as an opportunity to overhaul the world. But this bold evaluation of their tasks, however logical and relevant to their outlook, was nevertheless an over-estimation of their capacity and the capacity of the Russian people and the new revolutionary State. In other words, the Russian Revolution was a revolution that was fated to fail in its tasks from its commencement considering their enormous magnitude. These tasks could not be carried out because the principal task that was set for the Revolution was nothing less than that of overhauling the world as a whole.

Lenin understood that the Revolution in Russia could not triumph by itself. He had the perspicacity to see that he and the Bolshevik Party had set before themselves an impossible task in relation to Russia. But he believed that there was a road along which they could march toward's the revolution's goals. This was the road of perseverance with the spread of the revolution throughout the countries of the world. Lenin believed that Germany, which still was the most crucial country for deciding the fate of Europe at that time, would be able to bring about a revolution within itself that could provide all the support that was necessary for the achievement of the Russian Revolution's tasks. When the first intimation of the developing revolutionary situation in Germany began to reach him, Lenin revived the hopes that had temporarily been submerged by the collapse of his earlier endeavours, especially in regard to Poland. Soon he announced that the German Revolution had begun and that it was necessary to prepare an army of three million men to go to its aid. In other words, Lenin believed that apart from

the social factors that were involved in Germany, the Russian Revolution could emerge in a military role which would supplement the social factors and perhaps propel the German revolution to success. But this too was an over-estimation.

Today when we look back at the steps that were taken to form the Third International and the manner in which they were taken, it becomes clear that no very great care was exercised in preparing the foundation for the development of national revolutionary parties as sections of the International. It was somewhat facetiously assumed that once the groups that were admitted into the Third International from the different key centres of Europe, were integrated in the body of the Third International, the latter would be able to provide the principal impetus that was needed by the revolutionary process in the world as a whole. Most of the small groups that appeared in Europe and America as the parties of revolution, did not have any real influence in the political process of their countries. In some cases, potential leaders of Revolution who had already some approval from working class and intelligentsia elements in their countries, were left out on the basis of preferences or prejudices of Zinoviev or other Russian leaders of the Comintern. Lenin's prospects for the spread of the Revolution under the banner of the Third International were therefore also based on an over-estimation of the actual capacities of that organisation.

Apart from the German Communist Party, there was no communist party in any of the other countries that were represented in the Third International that could undertake even partially to sponsor the emergence of a

*(Speech given at a seminar organised by the Workers and Peasants Institute in honour of Dr Newton Gunasingha. Other speakers were DEW Gunasekera, Bertie Gajameragedera, Sumanasri Liyanage and Dayan Jayatileka.)*

world leadership of the Marxist revolution. As for the German Communist Party, there was more or less complete rejection of the invitation to join the Third International. Rosa Luxemburg was firmly opposed to entanglement in its affairs and succeeded in getting the entire Central Committee, except one, viz Brandler, to veto the idea of going to Moscow. To join the Third International, said Rosa Luxemburg, would be to enter "that Russian Shop". She made criticism of the autocratic ways of the leadership of the Bolshevik Party and the fierce hatreds that were reflected in their internal disputes. She doubted that the Bolshevik Party could provide the best atmosphere in which an enterprise like that of World Revolution could flourish. Brandler defied his Central Committee and joined the Third International with a small group of followers. But even he later regretted the step he had taken and, in the course of a conversation with Isaac Deutscher, confessed that he had ignored the great contribution which the German Marxists had made to the cause of communism in the world; that he had forgotten that the German Party had its own vision of Marxism and that even Lenin owed much for his interpretation of imperialism to the prior work of Kautsky. He said that he and others like him had been overwhelmed by the great weight of the contemporaneity of the Russian events. Whether that is true or not, the divorce between the German communists and those of the Third International proved to be an important factor in the failure of the revolution in Western and Central Europe.

I would also like to mention that from the start, beginning with Lenin, there was a certain Euro-centrism which characterised the outlook of the leaders of the Third International. Tan Malaka, the leader of the Indonesian Communist Party, described with dismay the scarce regard that was shown him at the inaugural sessions

of the Comintern. He said that when he got up to speak, Zinoviev who was in the chair informed him that he had just five minutes in which he had to make his speech. So Tan Malaka observed "yes; five minutes for me to explain to you what is happening in my country. Do you know how many days it has taken me to make the journey from my country to Moscow? It has taken 17 days to get here and you ask me to speak for 5 minutes". Similarly on the question of national revolutions in Asian countries there was a distinct tendency to minimise the importance of the struggles that were taking place, especially in India. M. N. Roy had a number of sharp exchanges with Lenin on the question of the place of the Indian and Asian struggles in the programme of the Third International. He said that to regard the revolution as a purely European one was not only to make a mistake, but to downgrade the significance of the struggles in Asian countries.

The Russian Revolution, therefore, was the product of a whole number of factors, all of which were not homogeneous. Some of them were contradictory and in that sense the tasks the Third International and the Bolshevik Party took on their shoulders were complicated and even distorted by these factors from the start. When you regard subsequent events in the light of these remarks, it is perhaps no great surprise that a number of mistakes were made. Many of them were not mere mistakes but measures that were wrongly motivated or extraneously influenced and by their very nature were bound to fail. One of the earliest and most fatal mistakes was the attempt to march the Red Army to Warsaw to liberate Poland from Pilsudski, when Lenin was at the height of his power. This military approach was repeated, as we have earlier mentioned, in Lenin's reaction to the German events on the early 1920s. Similar if

character and even more catastrophic in consequences was the continuing intervention of Stalin and the Comintern in China. Nor did the trail of tragic decisions by the Soviet State and the Comintern end here. They continued almost to the commencement of the present series of events in the Soviet Union and Eastern Europe.

It is possible to conclude from this that the Russian Revolution in the first place could not succeed on its own and, secondly, could not perform successfully the leadership of the World Revolution through the Comintern that it set up to overcome its national disability. What we are witnessing today is only the recognition, for the first time frankly and candidly, of this bare truth. The Russian Workers' State, it must be admitted, made heroic endeavours to ward off this fate in the period between the Russian Revolution and the end of the Second World War. The cost was enormous both to the revolutionary movement and to the common people of the Soviet Union. In the post-war years the pace of civil and military development was stepped up even further until it reached its zenith in the late 1970s or early 1980s. Beyond which it was impossible to proceed without increasing the perils of existence for the Russian State, its glacis countries of Eastern Europe and even the world as a whole.

What we are now witnessing in the Workers' States of the Soviet Union and Eastern Europe is a belated recognition of the reality. The point has been passed where the Soviet Union could rely on her armed forces and the additional strengths of the countries of Eastern Europe to take on the rest of the world in a military struggle as the means to the spread of international revolution. It would be a mistake, however, to consider that this admission of weakness has been one sided, i. e. confined to Russia

*(Continued on page 20)*

# The Judiciary and Political Development : Indian Lessons

Scott Newton

SCOTT NEWTON a researcher at the Harvard Law School and a one-time intern at ICES Colombo, examines the role of the judiciary in developing countries in the tasks of political development, taking his examples mainly from the Indian experience but also drawing on that of Sri Lanka for comparison.

Most treatments of political development overlook the role of the judiciary. This is certainly understandable on empirical grounds, since an independent judiciary is not commonly to be met with in developing societies. But the dearth of examples should not blind us to their significance. I hope to show that an understanding of the potential role of the judiciary — whether or not it is realized in particular circumstances — helps determine our understanding of the very process of development itself.

In this paper I would like to explore the nature and scope of the judiciary's role in political development. At the conclusion I hope to have identified a number of discrete developmental functions which the judiciary exercises — some which it shares with other political institutions, some which are unique to it. This paper will not seek to verify or falsify hypotheses of the importance of the judiciary in realizing development either in particular cases or as a general rule, nor will it attempt quantitatively to isolate the judiciary's putative contribution to the attainment of developmental goals. Rather, it will seek to articulate a general conceptual framework for understanding the number and variety of ways in which the judiciary can help shape the processes of political development. The statistical

sample that forms the basis for my analysis here is necessarily a very limited one, as I explain below. Nevertheless, since what we are really doing is looking at highly specific phenomena in the hope of enlarging our understanding of the "natural history" of political development, the multiplicity of potential forms it can take, this shouldn't pose a problem.

Let me state at the outset that I do not propose to view an active, independent judiciary as a necessary ingredient, a condition *sine qua non*, a 'functional requisite' in the developmental process. Such a contention is easily refuted: there are numbers of developed societies where the judiciary plays (and has historically played) a subsidiary role in both the growth and maintenance of political institutions and in the regulation of the political process. My approach here is close to the process model suggested by Dankwart Rostow in "Transitions to Democracy: Toward a Dynamic Model". Indeed, perhaps more than any other major political institution, the judiciary is necessarily an evolutionary one. A legislature can immediately bring forth laws, an executive can right away set about its business of administration. The courts, though, have to wait until cases are brought before them. In this sense they are by definition a "reactive," rather than proactive institution. There is a time lag built into the judicial process, at least in jurisdictions where law is judge-made: precedents accumulate over time, and a body of interpretation is only gradually built up. This characteristic of gradualism doesn't only apply to what the courts make or produce, it applies equally to what the courts do — that is, the role they play: the influence and

power they wield.

We should also make clear initially that in examining the role of the judiciary we are at the same time examining the role of constitutionalism. By constitutionalism I mean the regulation of the political process and the ordering of public life in a nation by boundary conditions, procedural rules, and fundamental values which are inscribed in a written character. Such a charter places *a priori* limits on the scope and role of government. However variably these limits may be interpreted, they nonetheless always constrain governmental action. This is not to say that in societies without a written constitution the judiciary has no role worth examining to play. In such circumstances it can still monitor the consistency and formal propriety (validity) of legislation (its conformity with the legislative body itself) and the compliance of executive organs and agencies with provisions of legislation. However, it is only where the judiciary as an institution mediates between enabling principles of supreme and uncontested legitimacy — such as are unique to written constitutions in a legally rationalized age — and the actual day-to-day conduct of government that it can have a **decisive** or **formative** role in political development.

In our inquiry we will be looking principally at apex courts — that is, Supreme Courts or courts of ultimate appeal. We do so because the issues of greatest moment in shaping the course of political development are constitutional issues, and it is only Supreme Courts which exercise ultimate jurisdiction over such issues. We should understand, however, that the character of the higher judiciary is often reflective of that of the judiciary in general. Therefore, though we confine our attention largely to the Supreme Courts, we are also looking past them to the nature and developmental functioning of the judicial system as a whole.

Of the several over-arching or macro-level goals toward which we might suppose political development strives, two stand out as chiefly amenable to the instrumentality of the judiciary. They are political participation and democracy on the one hand, and socio-economic equity on the other. Clearly these goals are not wholly separable. Indeed socio-economic equity is in many ways a pre-condition for political equality, since access to political resources is largely a function of access to resources in general: one must have the wherewithal to make one's voice heard. However, political equality is perhaps the *via regia* (if we may borrow a monarchic metaphor) to socio-economic equity: one has to have a say in the distribution of society's goods in the first place if one seeks to make that distribution more equitable. Equality and equity thus tend to run together, in-so-far as they both involve primarily **distributive** issues — the sharing of power and goods. As we shall discover, the judiciary is an institution singularly adapted to addressing such issues. There is one further developmental goal, to the extent derivative of those already mentioned, which the judiciary is in a position to help realize: stability. As we shall explore below, in multi-ethnic societies the Court has the potential to help maintain the social, and in particular the communal, peace.

We will be considering two major modes of judicial influence on the processes of political development, on the first of which the second is premised: judicial review and judicial activism. Judicial review is the scrutiny of actions of the other branches of government for their adherence to or deviation from the constitutional principles which bind them. Judicial activism is the assumption by the Judiciary of a policy-setting role through encouraging or even soliciting litigation in furtherance of social goals. Judicial review is usually secured early in the

history of a politically consequential judiciary, since it is a *sine qua non* of judicial constraint on the operation of all other governmental functions in the first place. Judicial activism, on the contrary, usually arrives late in judicial history and reflects a late twentieth-century conception of the wider social, rather than narrower political, accountability of government, and in particular of the urgency of corrective redistribution. In developing societies, however, judicial history is greatly compressed as compared with its slow maturation in societies such as the U.S. As a result, these two modes of judicial influence may not be widely separated either temporally or conceptually.

Caveats and qualifications issued, we can now turn to the concrete material to be analyzed. The judiciary, such as we have defined it above as a boundary-making and policy-setting institution, expresses a conception really only found within the Anglo-American legal tradition. Thus we have a limited field of study. Only former British (and American, in the case of the Phillipines) colonies provide the soil in which a developmentally effective judiciary might take root. The civil law tradition which the former Continental colonies inherited is a comparatively limited one of statutory interpretation, and does not allow for an expansion of Judicial influence and power over time: the judiciary has a set place in the scheme of things which it isn't in a position to alter.

In point of fact, in only one major developing society has the judiciary emerged as a formidable and fully coordinate branch of government. This of course is India, with its robust though at times embattled constitutionalism. India will occupy by far the largest share of our attention, for the history of the Indian Supreme Court is a compendium of the major issues bearing the developmental role of the judiciary: fundamental

rights and security prerogatives, federalism and center-state relations, fundamental rights and social policy, preferential treatment of the disadvantaged in employment and education, minority rights (both to participation and to self-determination) and social pluralism in the context of nation-building, public and private equality. The struggle to establish judicial review in India was a long and protracted one, and though the activist era of social action litigation was opened not so long ago, its antecedents reach back through modern Indian political history. We will explore each of these issues and the vicissitudes of Indian judicial history at some length, distilling where we can general features of the developmental role of the judiciary and identifying the functions we spoke of above.

Though India will constitute the bulk of our analysis, we will bring in at suitable points material from Sri Lanka by way of running comparison. Sri Lanka bears an almost identical institutional and colonial legacy to India's. At Independence it was in some respects even more felicitously circumstanced for the growth of a developmentally effective judiciary. It was a smaller, significantly more literate and less sharply hierarchized society, with less salient ethnic and religious cleavages (at least initially), and deeper experience of self-rule (having enjoyed universal suffrage for 15 years before independence). Nonetheless Sri Lanka has failed notably to develop an assertive judiciary. What India did that Sri Lanka did not, and vice-versa, will help illuminate our general inquiry.

## JUDICIAL REVIEW

The contest over judicial review in India has been waged over four decades. The institutional character of the Indian judiciary was molded by that contest. The story is full of twists and turns because the principle of judicial review has been applied in the service of differing visions of the judicial role.

The *point d'appui* of judicial review has been Article 32 of the Constitution which provides for original jurisdiction of the Supreme Court in cases of the violation of fundamental rights, themselves articulated in Articles 14-29. Among the rights enumerated are those to equal protection, general freedom (including criminal procedure), religious freedom, and cultural and educational rights (minority rights). The right to property (spelled out in Articles 19(f) and 31) which loomed especially large in the early history of the judiciary and the battle for judicial review, was subsequently removed.

The struggle for judicial review in India is marked by a high degree of politicization. This makes it difficult for us to disentangle the political motivation of the Court (its interest in furthering some particular political agenda) from its constitutional motivation (its interest in holding the other branches of government to the limitations prescribed by the Constitution), on the one hand, and its institutional motivation (its interest in building up the strength of the judiciary as an institution), on the other. The judiciary has always been very much a politically interested actor, rather than a disinterested umpire. This confusion of political and constitutional/institutional roles can be seen as a reaction to certain features of the Indian Constitution itself, which is a very unusual document. The Indian constitution in addition to providing for fundamental rights, also sets out Directive Principles. This is a constitution which is not only constitutive, but directive — that is, it prescribes a social program or agenda. We cannot adequately appreciate the role of the judiciary and constitutionalism in Indian political development unless we grasp that the Constitution itself explicitly addresses the task of development. The government of India is charged with the responsibility not solely of governing the nation, but of restructuring society. Though these Directive Principles are

aspirational and not justiciable, they proclaim a fundamental orientation for the polity and impose powerful general obligations on all branches of government. There is nothing in the American system with which this constitutionalized progressivism may be compared.

The government of India early set about actualizing these Directive Principles by putting in place redistributive policies which sought directly to challenge the economic status quo—chiefly by an ambitious program of land reform, a clear priority in view of the medieval conditions inherited from the British raj. The Directive Principles posed a standing threat to vested interests. The policies deriving from them—policies thus not merely constitutionally sanctioned but mandated—ran head on against the fundamental right to property also enshrined in the Constitution, in the view of the Supreme Court. It intervened to protect the rights of property owners from infringement in the name of advancing social welfare by voiding land reform legislation. In doing so it assumed a high political profile as a dependable champion of the landowning elite. Thus the initial developmental role of the judiciary as it staked its institutional claim by judicial review was largely a negative one. That is, at the same time as the judiciary sought to emerge from pupillage and assume adult, autonomous status as an institution by asserting judicial review, it was acting in the service of conservative political goals at odds with development (if we assume that socio-economic equity was the principal developmental goal at issue here).

The battle over judicial review was joined, however, when Parliament sought to circumvent the Court's review of legislation by amending the constitution. The question of fundamental rights versus Directive Principles (a question of interpretation) was superseded by the question of parliamentary supremacy versus judicial review (a question of the authority to interpret). The

very first amendment to the constitution (in 1950) placed legislation acquiring certain holding (those of zamindars and the like) beyond the reach of judicial review and established a judicially-immunized schedule into which Parliament could place new legislation at its discretion in future. The Court waged a running battle with Parliament during the 50's over the meaning of "compensation", but it was not until 1967 in *Golak Nath* case that the Court sought to limit Parliament's amending power and upped the stakes dramatically. The Court held that only a new Constituent Assembly, and not Parliament, had the competence to amend the fundamental rights entrenched in Article 3. As the Rudolphs point out, by this time the Court was not obstructing the government's progressive social policies; rather, it was countering the government's increasing encroachment on the judicial branch. If the Court was on the offensive in the 50's and early 60's, from the late 60's on it was on the defensive. When it resumed the offensive post-Emergency, it did so in the name of development, not in resistance to it. Thus the "defensive" period is in a sense the forge in which the mature, developmentally effective judiciary took shape.

Parliament passed the twenty-fourth amendment in response to *Golak Nath*, specifically reserving to itself the right to amend fundamental rights provisions. In turn the Court in the 1973 case of *Keshavananda Bharati* rejected the fundamental rights argument of *Golak Nath* in favor of a new "basic structure doctrine," which limited the parliamentary amending power to matters not involving the Constitution's essential features—one of which was judicial review. This decision was a particularly strategic one: it forbore to challenge the legislature directly on the fundamental rights issue and chose instead to secure its own institutional integrity for the future.

In 1975, however, the Court found itself facing a challenge



of unprecedented proportions in the National Emergency declared by the Prime Minister. She called for a judiciary committed to her ambitious "Twenty-Point Programme" of social reform, which the Emergency ostensibly served to safeguard. She forced the judiciary into a double bind. It could co-operate and thus appear to advance the cause of development but at the price of its *de facto* autonomy. Or, it could defy the Prime Minister, appear to retard the cause of development, and in the process risk institutional suicide. The false opposition of development and judicial review which had dogged the Court from Independence and for which it was in some measure itself responsible, provided the Emergency regime with a vise in which to clamp it. In the event the Court did nothing to impede the Emergency by way of judicial review. By choosing not to act when it might have (yet another instance of institutional strategy), it emerged at the other end with its reputation somewhat tarnished but with judicial review largely intact.

We might step back for a moment to consider the larger issues at stake in judicial review. In our account of Indian judicial history thus far, it might seem as though judicial review were only a neutral instrument at the disposal of the particular inclination of the sitting Court. We should understand, though, that judicial review is not only of instrumental significance in political development, but of substantive significance as well — or rather its very instrumentality is of substantive significance. In our discussion of judicial activism below, we will see how judicial review in India really comes into its own when it broadens its scope to include (that is, (internalize) the Directive Principles rather than challenge them. Let us anticipate somewhat by elucidating the relationship of this broadened (or "substantive instrumental") concept of judicial review to political development.

In *Democracy and Distrust*, John Hart Ely advances a theory of judicial review as "representation-reinforcing and participation-oriented." Judicial review, for Ely, does not serve to safeguard supposedly "fundamental values" which legislators or administrators may seek to warp or betray. Rather, it acts as a referee, insuring that the political players stick to the rules and don't bend them or cheat. What judicial reviews, we might elaborate on Ely, is behavior: how government acted, not what it came up with (or only as much of the latter as sheds light on the former). The business of judicial review is to insure fair play, or equality, which is difficult to sustain because it is an unstable equilibrium: somewhere, at every moment, somebody is trying to gain an unfair advantage at somebody else's expense, so the whole operation (of government) requires constant readjustment. A referee's work is never done. Now we can well imagine that in a developing society, where the prevailing inequalities are staggering and have barely begun to moderate (the legacy of colonialism), and moreover in a developing society like India's which has been rigidly hierarchical for millennia, this readjustment is likely to be a good deal more laborious and frequent. Chief Justice Bhagwati writes:

"The judicious and sustained use of this power (judicial review) to further the cause of social justice has come to be regarded by many as not only beneficial but imperative in a developing country where there is large-scale poverty and ignorance. The judiciary has to play a vital and important role not only in preventing and remedying abuse and misuse of power but also in eliminating exploitation and injustice."

The Indian Supreme Court through its long wrestling match with Parliament over judicial review did not just secure for itself the institutional wherewithal to help the processes of

political development should it subsequently decide to do so (as it seems to have post-Emergency). In staking out and defending the constitutionally warranted separation of powers, it enforced the very same rules — no trespassing on the domains of others, no unfair advantage — which it would later apply comprehensively to the relations among Indian citizens and between them and their state. Thus judicial review performs a standing or structural developmental function as a bulwark of constitutionalism (because the developmental goal of participation and democracy is at the same time a constitutional requirement) before it performs specific functions by enabling the judiciary in effect to help chart developmental policy and to set priorities.

The decision in *State of Rajasthan v Union of India* (1977 A. I.R. 1361) in the wake of the Emergency advising the Janata Government of the constitutionality of dismissing nine duly elected State governments for the purpose of holding new State Assembly elections, while neither notably edifying nor sound, nonetheless brings into relief another key developmental function of the judiciary: its role in the proper apportionment and regulation of powers between the federal center and the separate states. Here the Court failed to defend the principle of local autonomy against encroachment by the center. As a result, when the tables were turned with the return of Congress to power in 1980, the new Union Government could dismiss another nine State governments (with Janata majorities) with impunity. In another controversial case, *Surya Union of India* (1982 A. 1982 Rajasthan 1), the Court upheld as constitutional the President's dismissal of a State Governor without cause. These negative examples point up the unique responsibility of the judiciary in the maintenance of federalism. In as much it is the nature of central governments not merely to resist any decentralization of power but

further to augment power at the expense of local governments, the latter are helpless unless they can appeal to a constitutional arbiter. The judiciary serves as the primary check on center expansionism.

If we turn for the moment to Sri Lanka, we can see the institutional consequence for the judiciary and the constitutional consequences for the nation as a whole when the principle of judicial review is not established. If in India the struggle for judicial review — a successful one — has been waged in and through a constitutional framework, in Sri Lanka, the struggle — an unsuccessful one — has been waged outside — by the successive replacement of the constitutional framework itself. Sri Lanka has been governed under three Constitutions since independence. The vision of constitutionalism which has prevailed in Sri Lanka is instrumentalist, rather than consensual. That is, the framework of government has been altered to serve the political agenda of the government in power, rather than functioning as a durable structure for all governments. As Radhika Comaraswamy has noted, "the three Constitutions... greatly reflect the normative ideas which were present in a given era." The changes over the course of the three documents are by no means ill-advised or deleterious ones: many were progressive (though a number seem decidedly retrogressive). The difficulty lies not in the nature of the changes so much as in the fact of the changes, which undercuts the constraining principles of constitutionalism in the first place. When a Constitution is indistinguishable from an elaborate statute, mutability reigns and stability recedes.

The reasons for the comparative feebleness of the Sri Lankan judiciary are many and complex, reaching back into the country's distinctive political and legal culture, its "evolutionary" transition to independence, and the absence of an adequate vehicle for cultural nationalism

such as Gandhi created in India. The style of government Ceylon inherited at Independence, embodied in the largely British-drafted Soulbury Constitution, was elitist and conservative. In stark contrast to its Indian Republican counterpart it provided no progressive societal vision or developmental mandate in the form of Directive Principles, nor any set of fundamental rights. The same legal and political culture which had brought forth the document had produced a judiciary which was its own predilection reserved and cautious. At the same time, an undiluted majoritarian principle made for a Parliament stridently insistent on its exclusive decision-making prerogatives and unwilling to suffer judicially-imposed restraint.

The dearth of a Bill of Rights may have played an important role in preventing the growth of "rights consciousness" in post-Independence Sri Lanka. In contrast to India where fundamental rights cases under the Constitution filled the Indian Courts, the Sri Lanka Supreme Court has yet to make definitive decisions on such diverse issues as freedom of press, or gender equality. Without the anchor of a Bill of Rights, the possibility of an activist judiciary as a vehicle for social reform was rendered remote. In addition, the fear that the judiciary would protect such vested rights to property prevented early activists from demanding greater independence for the judiciary."

The 1972 Sri Lankan Republican Constitution shackled a judiciary already self-fettered. It strictly limited review of executive action and removed review of legislative action from the Court's jurisdiction altogether and placed it with special body, the "Constitutional Court" (imposing a 24 hour window of scrutiny on the latter in the case of "urgent" legislation and providing for parliamentary override of any decision). This Constitution, like the Indian one, gave expression to a deve-

lopmentalist approach, but specifically denied the judiciary any viable role in the developmental process. The 1978 Constitution, which replaced a Westminster system with a Presidential system (or rather added the latter to the former), substantially loosened the bonds on the judiciary, by eliminating the Constitutional Court and reinstating unrestricted judicial review of executive action. By strengthening the Bill of Rights, the new Constitution at least provided the soil for the growth of civil rights jurisprudence. However, it maintained the judiciary in its subordination to the legislature by allowing scrutiny only of bills, not of enacted legislation, and within 24 hours in the case of legislation which was deemed to be urgent by the Government.

Contrasting the post-independence histories of the Indian and Sri Lankan judiciaries, we can see clearly the interdependence of constitutionalism and judicial institutionalism. The judiciary can only secure developmental efficacy on the foundation of a sure and stable Constitution, but it is itself responsible for consolidating that foundation by building up its institutional strength. In India the freedom of amendment which Indira Gandhi sought for parliament in the seventies struck directly at the extra-political, transcendent status of the Constitution. The Indian judiciary, however, had acquired for itself the institutional wherewithal to resist. The Sri Lankan judiciary had never proved itself an institution to be reckoned with by the time of the sweeping constitutional changes of the seventies (which themselves represented only the culmination of a tradition of unchecked legislative power) and so was powerless to oppose them. In India, legislative-judicial tensions reached the stage of crisis, demonstrating to the world that at least "mighty opposites" were here engaged. In Sri Lanka, the contest was never really joined in the first place.

(Continued on page 28)

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# Socialism after the Deluge

Reggie Siriwardena

The deluge came in 1989 and washed away the wreckage of the Communist states in Eastern and Central Europe with it. Will this be followed by an earthquake in the Soviet Union next year? The signs are ominous: the threat of famine in the winter unless there is substantial aid from the West, coupled with the centrifugal forces of the assertive regional nationalisms. But it is not these prospects of which I wish to speak now, nor do I want here to return to their causes — a ground that I have covered already on other occasions.

At the end of November the Soviet regime officially proposed dropping the word "socialist" from the country's name, and replacing it by "Sovereign". This is surely an appropriate time in which to discuss the crisis in socialist consciousness everywhere that has arisen with the events in that part of the world, and this is what I really want to do in this talk.

I am going to approach this subject first by asking what it has meant — at an existential level — to be a socialist, a Marxist socialist. In the non-Communist world, that is, for where Communist regimes were in power, there could be good careerist reasons for joining the party. But elsewhere being a Marxist involved the judgment that the achievement of a socialist society was a humanly desirable end that was worth devoting one's life to — maybe even, in some parts of the world, risking imprisonment, torture or death for. This was an ethical and moral commitment. But the second implication of being a Marxist was the assumption that socialism was the direction in which historical development was progressing; and this was an intellectual commitment. These two commitments were not equivalent, for there was no logical contradiction in holding that the his-

torical process would lead to socialism, but that one didn't feel any compulsion to do anything by way of political action towards this end. I can think of at least one person among my acquaintances whose position has been just that, and I am sure there are others. But equally, it wasn't sufficient to believe that socialism was a desirable state of society to make one a Marxist. For Marxists have always held that wanting to create a socialist society merely because it was humanly or morally a good thing was to be not a Marxist but a utopian socialist. Socialist thinkers before Marx had shown why socialism was to be desired, but Marx had for the first time demonstrated scientifically socialism would be the outcome of the historical process, through the contradictions inherent in capitalism itself. That was Engels's thesis in his "Socialism Utopian and Scientific", and it has since been reiterated in dozens of Marxist texts. But it is just that conviction of the necessary collapse of world capitalism as a result of its own contradictions that is being called in question today. If Marxists have awaited the terminal crisis of capitalism for at least seventy-five years, that exercise seems now as doubtful as waiting for Godot. An honest Marxist like Fred Halliday, writing recently in NLR, has to recognise that the cold war has ended with the victory of one side, with the triumph of capitalism.

Of course, even before the dramatic events of 1989 it should have been evident that there was something seriously wrong with the Marxist hopes of the imminent demise of capitalism. If, according to the Marxist analysis, a social order collapses when the relations of production have become a fetter on the growth of the productive forces, then there was no sign that world capitalism had reach-

ed such a limit. On the contrary, in the post-war era, Western capitalism has not only expanded immensely but has transformed itself through new technological revolutions. It was precisely the fact that the socialist economies were left far behind in technological innovation and dynamism that was at the heart of their crisis in a world economy that had become increasingly interdependent.

I recall reading in 1988 an interview in *Literaturnaya Gazeta* with the Rector of Moscow University. The journalist who was interviewing him asked: 'How many personal computers does the University have? The Rector replied, 'What are you asking? We have one!' And he went on to add: 'Of course, you wouldn't ask this question of the head of a foreign University — it would be like asking, "How many telephones do you have?"' That question and response were a simple measure of the lag between the Soviet Union and the advanced West in respect of the new information technology.

To say that Marx was wrong in expecting the speedy death of capitalism is only to say that he was human and fallible. It is not so much Marx as Marxists who are to blame for converting his analyses and predictions into articles of faith. Supposing it were possible to bring back to life a Victorian physicist, one of Marx's contemporaries. If one were to tell him about the relativity of space and time, about the indeterminacy of sub-atomic particles and about the wave-particle duality, he would think he was not in the twentieth century but in the crazy world of Lewis Carroll's *Through the Looking Glass*. And that concerns a science in which the object of study — the material world as seen by physics — is, at least in the scale of human history, unchanging. How much greater should be the need for constant re-examination of our concepts and theories in the field of social science where the object of study is always in the process of change? Yet

in the mainstream Marxist movement a demand for such a re-examination has always been condemned as 'revisionism', and that is because Marxism ceased to be a science and became a religion.

But what direction should this rethinking take today, in the aftermath of the deluge? We have to consider the fact that no victorious socialist revolutions have taken place in the advanced capitalist world and that all such revolutions have been confined to countries where capitalist relations of production were relatively little developed. In this light a possible and reasonable hypothesis is that what we have known as socialist revolutions are an alternative way of carrying through an industrial revolution for societies that have failed to produce a strong bourgeoisie. This isn't a new idea: one of the people who advanced it several years ago was the late G. V. S. de Silva. In fact, it would appear that the post-revolutionary statified economies in Russia or China were a more extreme example of a phenomenon that is everywhere observable in the Third World — that where the bourgeoisie is undeveloped, the state has to take the lead in the process of industrialisation.

But in the post-diluvian era, we have to go further than that. We have seen that socialist revolutions produce a state that can carry through the primitive accumulation of capital that the industrial revolution requires. This is effected through a combination of centralised power, total mobilisation of resources, creation through mass education of the skills that an industrial society needs, forced savings, rigid labour discipline and political coercion. But what is apparent today is that this very development soon undermines the basis of the political and economic structure that made it possible in the first place. We have seen this clearly in the post-Stalinist Soviet Union, where the one-party state, political and cultural regimentation, and the satisfied economy can no longer satisfy the needs of a people

who have emerged out of their immemorial backwardness. And, after Tiananmen Square, who can doubt that China will, sooner or later, face a similar crisis?

To say this is not to argue, like Fukuyama, that liberal capitalism is the end to which all societies will converge. In fact, Fukuyama's thesis of 'the end of history' seems to me open to objections very similar to those that can be made to the Marxist view of socialism as the culmination of the historical process. Except in the short run, history can scarcely be a predictive science, because one must always be prepared in this realm for the new, the unforeseen and the unpredictable. All I am saying is that socialist revolutions have to be seen only as a short-cut, at an immense human cost, in the process of modernisation and industrialisation — not as the creation of a new society and a new man as they were believed to be. There is more than a mere witticism in the joke that is reported to be popular in Eastern Europe: 'What is socialism? Answer: The period of transition from capitalism to capitalism.'

One can fill out the insight contained in this joke by noting that in Poland, Hungary or Czechoslovakia, many of the former party officials are becoming the new owners and directors of the enterprises they used to administer in the name of the people. I have no doubt the same situation will be repeated in the Soviet Union whenever privatisation takes place. This is inevitable in the absence of a developed class with large-scale capital and business experience. However inefficient the Communist bureaucracies may have been, they were the main possessors of managerial expertise in their societies, they will be directing the transition to private ownership, and they will be in the best position to take advantage of it for themselves.

Watching the transition to capitalism in the former socialist bloc, I recall something that

Trotsky once said. He remarked that if a tile had fallen off a roof in Zurich in the early months of 1917 and killed Lenin, the October Revolution might not have triumphed because the Bolshevik party would have bungled it. If that had happened, Russia might have survived as a weak and dependent capitalism, perhaps a semi-colony of British and French capital. But if the Soviet Union is going to end anyway as a weak and dependent capitalism — dependent now perhaps on German and American capital — the same direction in which its former satellites are already going, one wonders whether the quixotic enterprise of the October Revolution was really necessary. The same end might have been reached less painfully and without the loss of about 20 million lives. Perhaps it's a pity that tile didn't fall in Zurich.

The belief that the locomotive of history will take society along a ready made railroad to socialism has now obviously to be abandoned. This isn't a tragedy at all, for that belief wasn't merely naive, it was also profoundly dangerous and destructive in its effects. I said at the beginning of this talk there were two components in the Marxist commitment to socialism. One was the affirmation of socialism as a worthy human goal; the other was the faith in the historical process as leading to that end. One of the great contradictions of the Marxist movement was that the second element could sometimes negate the first.

In Marx's own writings, there is sometimes a deep-seated paradox: he accepts as historically necessary and even progressive certain developments by which he is morally outraged. One of the clearest examples of this is in his letters on India, where British rule, whatever its crimes, is seen as 'the unconscious tool of history' in bringing about a social revolution. Marx resolved this contradiction by asserting that it would be only in the socialist future that human his-

tory would 'cease to resemble that hideous pagan idol who would not drink the nectar but from the skulls of the slain'. (There seems more than a touch of European racism in the allusion to the 'hideous pagan idol', but let that pass.) What is relevant for my immediate purpose is that Marx's approach provided the paradigm by which his heirs and successors could justify massive violence on the basis of its supposedly progressive results — and acting not as 'unconscious' but as conscious and deliberate instruments of history. It was history (often spelt with a capital H and anthropomorphised) which was invoked to justify the Stalinist or the Pol Potist terror. The finest exposition I know of the moral contradictions involved in this mode of thinking is in that magnificent novel, Arthur Koestler's *Darkness at Noon*, which was published 50 years ago this month. It is the most brilliant example, since Dostoevsky's 'The Grand Inquisitor', of the equivalent of a philosophical inquiry carried out through the medium of a work of art, and the passage of half-a-century has made it not less but more meaningful.

The undermining of the belief that the objective forces of history will lead to the collapse of capitalism is all to the good. If we opt for socialism (however we may define it today), we have to do so fully as an act of human and moral choice and not as something given to us by the movement of history. The old antithesis that Engels made between socialism utopian and scientific turns out to be false. Socialism has to be scientific in the sense that it has to be based on an understanding of real social processes, but at the same time it is not an end proposed for us by impersonal laws of history, it involves human judgments and choices, and these include ethical ones.

But what is there that can be salvaged from the tradition of socialist thinking? The one-party state, the dictatorship of the proletariat, the statification of the economy — these have

already been rejected or are in the process of being rejected by Communist regimes themselves. It is evident today that a socialism that is not based on the right of the people to choose freely their governments, that does not uphold the rule of law, that does not guarantee freedom of speech and expression, that does not protect the rights of ethnic minorities, is not a higher stage of society but one which retrogresses from the advances made under liberal capitalism. It has also been established by experience that centralised state-owned economies are wasteful, clumsy and inefficient, that they stifle initiative and ultimately become a curb on productivity, while limiting the consumer's freedom of choice. Further, the concentration of economic power in the hands of the state gives it a lever that can be used to control every citizen and is therefore incompatible with political freedom.

But in the rejection of the statified model of socialism, we should beware of joining in the idolisation of the free market. The market is the best mechanism for satisfying consumer needs in respect of material goods, but it would be most dangerous to treat it as the arbiter of education, of health or of culture. Most people other than the dogmatic believers in the virtues of free competition would accept the need for state responsibility for such welfare services as health and education, or the duty of the state to protect the poor and disadvantaged. The question of culture is more controversial. Political regimentation of culture in the Communist states has given state participation in this sphere a bad name. But this is because the one-party state made it possible to use State intervention in the arts to control their content, because the absence of an independent civil society meant that there was no cultural activity outside the State sphere, and because the totalitarian political ideology evacuated cultural independence of all meaning. However, even under Communist rule state

munificence and the absence of the profit motive in respect of culture did make possible a great efflorescence of some of the performing arts where the political content was less significant. Moreover, in the liberal democracies of Western Europe state subsidies to the arts have long existed without any fear that they are an encroachment on the freedom of the artist. What we need to do, therefore, is not to exclude the state's role in culture but in this field, as in that of education, to build political traditions that will protect pluralism and intellectual independence.

There is nothing new or original in what I am proposing as the surviving and viable heritage of socialist thinking, because these are the familiar ideas of social democracy. Whether in the advanced western world or in the developing third world, the goals of social democracy have not lost their relevance as a restraint on the predatory character of unrestrained capitalism and as a defence of values that cannot be left to the impersonal laws of the free market. The long opium dream of remaking the world through socialist revolution is over; let us address ourselves to the more modest and realistic aims of social democracy.

**Russian . . .** (Continued from page 11)  
and the Eastern European countries alone. The challenge of another major war is no less a challenge to the capitalist powers of Europe, America and Japan. Gorbachev emerged as the leader of Western communism because he understood this. He knew it is futile for any country, communist or capitalist, to tread the path of military preparation for another war. It was Gorbachev's initiative that paved the way for far-reaching measures of disarmament and the relaxation of military tensions in the world generally. The question of defeat or surrender does not therefore arise in relation to the political path that Gorbachev has newly mapped out. The steps he took and still pursues were wholly appropriate to the times.

# Finding shelter for the homeless millions

Stanley Senaratna

When house construction is planned out and undertaken seriously the chief sponsors become the news and information media both written and spoken. There are two types of propaganda: (1) The populist variety and (2) the analytical type which consists of a large volume of reliable information. What is important is the collection and the sorting out of objective data on the basis of an independent research project. When persons who are closely associated with the production process and implementation programmes are at the same time assigned the task of evaluation of the progress achieved, the information published is naturally not free from some degree of unwitting bias. Who is the organiser or operator who would hesitate to embellish his record a little to earn the plaudits of the public? An independent unprejudiced evaluation is, therefore, necessary in order to establish a benchmark of the progress achieved both nationally and internationally.

Let us first examine the international picture which undoubtedly reflects and shapes global strategy. What is of topical interest today is not the widespread publicity given to the observations of persons like the Sussex Institute scholar Mick Moore who places the problem of poverty in a predominantly national focus. Mr. Moore was indeed faced with the dilemma coloured by his own radicalism on the one hand and an ultra-liberalism on the other. What is of more crucial value for all the developing countries is the magnificent Report of the South Commission presented in Caracas by the former Tanzanian leader Julius Nyerere entitled "Challenge to the South" in August, 1990. According to this Report, the

well-being of man must be in the centre of any development efforts. We are at the crossroads of a truly dramatic moment for the Third World. The decade of the '80s, for the quality of life in the undeveloped world, is substantially worse. The number of people living in absolute poverty rose to 1,225 billion. Rural dwellers made up 80 per cent of those living in absolute poverty and misery.

What is most significant is that the foreign debt of the Third World rose to figures in excess of a trillion dollars. "Challenge to the South" shows that while the South needs the North, its technology, its science, its finances, the latter in turn may not do without the former for it not only needs the South's resources and raw materials but its numerous human assets. After all two-thirds of the world's territory and its population are in the South. In the words of the South Commission, which comprised 28 prominent figures, some of whom had even collaborated with the earlier Willy Brandt Commission and who laboured for three years to produce this valuable document, "mankind is in need of a process of self-sustained growth accomplished through the participation of the people acting in defence of their interests, as conceived and executed under their own control". To quote further from this Report: "The international economic order is inequitable, unjust and exploitative of the weak and the poor, it extracts capital from the poor of the South, and pays that capital to the rich of the North through the so called workings of the market — a market which is controlled by the North". Now what is the corollary in Sri Lanka within a world enmeshed by debt and privation.

In the following paragraphs, we hope within the limits of the data available to answer adequately some of the basic questions regarding the stock of housing, its growth and its relationship to need. If the programmes carried out over the past 10 years are examined, we can arrive at some basic formulae upon which to build the evaluation 'contrivance'.

In the fifties and sixties housing construction in Sri Lanka was largely dependent on loans issued by the Housing Department for middle-class houses. Institutions such as the State Mortgage Bank also helped in channelling loans to the applicants. A major orientation of policy took place in the seventies. This resulted in the break-up of the hold of the landlord and made available a significant number of houses to those who had lived in them for long periods as tenants. There was also a great deal of encouragement given to the replacement of urban slums by flats, although the private sector did not take the ceiling on the ownership of houses with much relish. Private sector development did not therefore take place on any large scale till the mid-1970s.

In the seventies and the eighties the Government suddenly came up with two major development programmes: the Hundred Thousand Houses Programme followed by the Million Houses Programme.

The two programmes were based on two different concepts — the first was State sponsored and the second was a scheme of self-help development which could claim some kinship to the schemes which were in operation in the seventies. The Hundred Thousand Houses Programme commenced in 1978 and was concerned

with a few major schemes such as Radolugama (2,000 houses), Mattegoda (1,100 houses) as well as smaller ones. The smaller schemes were electoral projects, while rural housing projects came under the Gamudawa programme.

The Census of 1981 places the housing stock existing at that time in the region of 3,000,000. During the last 9 years the total of housing units that were added to the main stock has been only 26,000 per year on the average.

This has to be compared with an assumption in the report furnished by the U. S. Agency on International Development on a study compiled in 1981 that Sri Lanka's housing requirements were 150,000 new units in urban and 100,000 new in the rural areas annually until the year 2000. The performance indicates a major shortfall of housing units per year. This means that the programme was able to reach on the average only about 20 per cent of the housing requirements per annum.

There was much internal discussion on the progress of the 100,000 Houses Programme and even some adverse external criticism. Eventually, the new programme named the "Million Houses Programme" was launched. This latter programme replaced the responsibility of the State with a scheme of self-help. There was thus a basic change of concept in construction from the national angle with the introduction of this programme. The Million Houses Scheme made provision for a grant of Rs. 7,500/- through Thrift Societies or direct from the National Housing Development Authority. This was to be utilised to buy some very essential construction material and to employ labour more on a self-help pattern. The aim of the programme was to tap local skills and materials throughout the country. This programme was started in 1984 and covers

rural, urban, Mahaweli and other major irrigation scheme areas and estates.

If we make a conservative estimate of 150,000 units per year as the essential need of the people there is approximately a shortage of 100,000 units a year not covered by the official programme. How best can this shortfall be met? This can be solved by one or two methods:

- (1) Individual effort by savings and finance, or
- (2) Loans from commercial banks.

According to the latest information we have, about eight million savings accounts have been opened by the National Savings Bank. This is nearly 50 per cent of the population of this country. What the magnitude of these savings accounts are and how other banks too have contributed to the savings pool do not appear to be clear from this casual estimate. But what is incontrovertible is the fact of the feasibility of the people's potential capacity to effect capital formation for a task which is of inestimable national importance.

Referring to housing finance from the banking sector, the Finance Ministry stated recently "it is known that Commercial banks in general do not wish to commit any significant part of their resources in long term lending for considerations of liquidity and particularly in a time of high and volatile interest rates, a 15 or 20 year commitment would not be appealing to them".

The US Aid Agency in its report of the mid-'80s took a particularly bleak view of the housing for the poor. It commented as follows:- "Most houses for the poor are inadequate. High room and house occupancies, high per acre densities in the urban areas, poor construction in terms of material and foundations and lack of such basic services as water and sanitary facilities". The report added "therefore Sri Lanka's urban

housing problem is increasingly serious as demonstrated most vividly by the large and growing slum and shanty areas of Colombo which contain nearly 50 per cent of Colombo's people and which result in an economic and social segregation of the occupants".

The Department of Census and Statistics issued the Census of population and Housing which is the only reliable count of the country's housing stock. It has also produced a district-wise distribution of housing units by type of house — permanent, semi-permanent and improvised. These figures indicate a rise in percentage of the housing units only in Colombo and the major towns where there is a concentration of population, while they decrease in all other Districts which are either sparsely populated or are utilised for large-scale cultivation of commercial crops such as tea and rubber. The estates are of course the worst affected in the matter of housing and the horrible conditions of estate labour are certainly a disgrace to the authorities as the estates are still the leading export earner.

In 1974-75 the oil-price hike adversely affected Japan which had blossomed into a highly industrialised power and could be considered on par with West Germany. As regards developing countries of which Sri Lanka was one of the poorest, there were constraints in the area of import tariffs, restrictions and sudden parity changes. In the face of the new economic situation which arose, even international institutions such as the World Bank and the IMF were powerless in their attempt to extend measures of support to the more deserving of their membership.

At any rate with the political overturn in 1977, the developed countries rallied to the assistance of the new regime as Sri Lanka happened to be a focal point even in relation to the new strategy. It is somewhat surprising that the housing sector real

*(Continued on page 28)*



# The NSSP: Questions of Time in History

Kumar David

An Anniversary is a moment in Time and a 13th Anniversary is a reasonable moment to draw up a balance sheet. However, such a wide canvas is beyond the scope of this short article. Instead, I have selected two specific topics to write about because they are likely to be of interest to the perspicacious reader who has noted the NSSP's growing political importance. They are, a) the background to the NSSP's sense of political timing and tactics, and b) the place of the NSSP in relation to the dilemma of the national question in Sri Lanka.

It is no secret that I am a member of the NSSP and could easily have been bound by the natural requirements of ordinary party discipline. However, it will be of interest to the readers of this article to know that no party whip was laid down, no controls were applied, and I was allowed to develop my ideas freely and in public. Even this small example is a measure of the inner intellectual strength of the party. These are important qualities at the present time when great challenges are being posed to socialism and marxism world-wide and at home. But let us leave all this aside, my task in this paper is to discuss the NSSP, not to praise it.

## Which Anniversary?

The first interesting issue in respect of time is, what anniversary are we celebrating? Where do we trace the origins of the party to? To 1964, to the early 1970s or to 1977? To my mind the true origin lies in the early 1970s. Although many of us suffered our first devastating shock when the LSSP capitulated to coalition politics in 1964, we were all, at that time, too young and immature, to develop a meaningful political alternative. Hence, import-

ant as it was, 1964 is pre-history in relation to the origin of the party. On the other hand 1977 is merely the formal date off an official split. As a political movement and as alternative political programme, the NSSP originated in the Vama Samasamaja movement of the early 1970s. We should, therefore, be celebrating our coming of age, our 21st Anniversary, not our 13th.

The impatient reader may feel some annoyance at all this "useless" chronology — he may well ask, "What is the significance of this?". The answer lies in the fact that some of the strengths and weaknesses of the party can be better understood from the particular circumstances of its origin. I will elaborate and develop these ideas in the remainder of this article, but let me first state these as three simple points.

At the origin of the movement lay a determination to reject all forms of unprincipled compromise resulting in a hard commitment to long term objectives. Linked to this was the belief that the national question was the litmus test between civilisation on the one side, and the political pigsty of either racism or opportunism inhabited by all other parties of the centre and right and most other parties of the left as well.

Since the betrayals of the old left was the usual starting point of analysis there also developed a strong feeling that through its own will and determination a revolutionary leadership could turn around objective historical reality by significant degrees.

It was in the discussions and struggles, both internal (within the LSSP), and external (mainly against a rising JVP challenge, but also other Maoist, Trotskist and Tamil militant groups), in

the early 1970s, that these positions were worked out and consolidated. Organisationally too, the basic structure, the role of CC, the PB and so on, of the Vama movement, have stamped themselves indelibly on the party. Hence, the early 1970s mark the true origin of this remarkable organisation which is destined to play an important role in Sri Lanka's political history.

## The Subjective in History

Although historical materialism remains the only sound and scientific approach to an understanding the larger issues of social reality, it is also true that much that has passed for marxist analysis in recent years has been too rigid and have not properly accommodated the importance of individual political personalities. For example, the role and impact of personages such as Thatcher or Lee Kwan Yu have not been adequately assimilated into available marxist examinations of Britain or Singapore, respectively. Marxism can benefit from theoretical advances on this topic as well other issues such as the effect of uncertainty and indeterminacy in politics. These remarks refer to a wider international discussion and are not directly related to the NSSP.

Actually these remarks are meant to introduce an exactly opposite problem. Let me explain. There is a common understanding among all sections of the left who condemned "coalition politics", about how severe the damage was. It is common in these circles to explain the entire miserable state of the left movement for nearly three decades since then as a consequence of these betrayals. Not just the state of left politics but also other calamities such as the ethnic disaster are explained the same way. Now, I consider this type of analysis to be excessively reductionist.

This error is precisely the opposite of what I was complaining about in the previous paragraph. It ignores many crucial, if you like "objective", social and economic developments which lie at the root of social crisis. By reducing everything to this one factor, that is the errors of the old left leaders (the subjective in history), we are failing to develop a full, rounded and adequate understanding of social dynamics and class and race issues. I will return to this matter when discussing the national question but another brief comment first.

The NSSP leadership has sometimes been accused of being too subjectivist; of believing that by its own determination, struggle and sacrifice more can be achieved than is actually possible in a given situation. For example, there has been much discussion in left circles about whether the 1980 General Strike was a mistake and whether it would have been better to avoid these losses and setbacks. The correct answer to this particular question is not the point here. The point I am making is that overestimating the positive potential of the "good" subjective factors is just the other side of the coin from overestimating the harm done by the "bad" ones.

### The NSSP and the National Question

If the readiness of a country for socialism as a higher form of civilisation is to be measured by the existence of a marxist party which has passed the test on the national question, then Sri Lanka and the NSSP are ready. Unfortunately, the objective universe is more complex, the truth is that the NSSP has passed the test, Sri Lanka continues to fail it. There exists a political leadership and a programme adequate for this task, the nation, however, is not ready to accept it. The reason is not because people can still recall the betrayals of old left leaders in 'ancient' times. It is because of more fundamental issues of mass (Sin-

halese and Tamil) consciousness and of socio-economic, class and state dynamics.

Elsewhere<sup>1</sup> I have examined these issues at some length, but a brief summary of the conclusions, without the supporting arguments since space does not permit, may not be out of place here. The first new premise is that ethnicity, like class, is a basic category of analysis in modern historical materialism. Second, ethnicity, like class, is a changing and evolving category — for example Goth and the Vandal "ethnicity" of old became German nationalism of a later day — and only a concrete history decides which ethnicities become activated and which lie dormant. We also observe that in Sri Lanka there was a significant, material (objective) rise of rural and urban petty-bourgeois influence and power, that the ideology of this class is always necessarily narrow and divisive, that the Sinhalese bourgeoisie entered into an alliance with this class in order to secure state power, that the state itself was thereby transformed into an instrument of racist politics, and that consequently the Tamil people were marginalized and excluded from the nation state.

The NSSP, in the early 1970s, was the first political entity to properly cognize these events. Initially there was a simple adaptation of the old Leninist ideas about the Right to Self-Determination and an appraisal of Marx's thoughts on the Irish and Polish questions. (In the following years a few smaller left parties and some contributors to magazines like the Lanka Guardian came to appreciate the significance of the NSSP's pioneering stand and adopted a similar position). Although the NSSP has even up to now

been unsuccessful in its efforts to establish a base among the Tamil people, it is still unique as the only organisation that has succeeded in linking together a principled position on the national question with mass politics in the Sinhalese South. Through the difficult period of state terrorism and Tamil counter-terror, the civil war, the Indo-Sri Lanka Accord and now the renewed assault on the people of Jaffna, the NSSP has remained a beacon of civilised values in an otherwise dark and murky world. To resist chauvinism in the Sinhalese South and simultaueously, to maintain before the Tamil people the rightness of a liberation struggle and the wrongness of terrorism was an important achievement.

I will conclude with a short personal comment on a larger dialectic about the ethnic conflict. It is my personal view on this matter that it is the people, not the party, who are not ready to find a way out. The consciousness of the great majority of the Sinhalese and Tamil people is still deeply tainted by racist ideology. Racism is one of the deep facts of life in Sri Lanka arising from root causes which I have briefly noted in a previous paragraph and discussed more fully elsewhere. Racism suffered a major set-back with the 1987 Accord but it is still far from fully defeated. The role of petty-bourgeois ideology and the alliance between this and the ruling classes and parties (UNP and SLFP), the foolishness of the LTTE, and the lack of a proper left-alliance, all make the struggle a difficulty and uphill one, whether the NSSP can overcome these obstacles single-handed (at least single-handed since Vijaya Kumaranatunga's assassination) remains to be seen. Irrespective of the outcome, however, a beacon has been lit, and it gives us a little satisfaction to know that the future historian can look back at this, at least, with some pride.

(Continued on page 28)

<sup>1</sup> "ETHNICITY: Identity, Conflict, Crisis", Edited by Kumar David and Santasilan Kadirgamer, Arena Press, Hong Kong, 1989.

"Reality and Choice: Sri Lanka, is there a way out?", Capital and Class, No. 40, Spring 1990.

# Transitional Turmoil

Bhabani Sen Gupta

What's happening to Indian politics? How does one explain the crisis of government in Delhi? Is it a repetition of the melancholy collapse of the Janata coalition of 1977: is the rift between the Janata Dal and BJP because of personality clashes or are there fundamental factors of politics pulling the allies apart? Is political instability at the centre a signal of larger and deeper instabilities working in the depths of the Indian society? Are we on the threshold of a period of longterm instabilities of government at the national level? If so, are we facing a crisis of the political system of parliamentary democracy?

There are other anguishing questions too: The militant Hindu wave created by BJP in the Hindi belt raises serious questions about the vitality of secularism in our democracy. Is India going towards atavistic Hindu revivalist politics? How strong are the combined forces of BJP, VHP, Bajrang Dal, RSS and Shiv Sena in our political universe? Why is it proving to be so difficult to raise a second national political party at the centre of Indian politics, which can effectively compete with the Congress-I? What kind of realignment of political forces is taking place behind the clash and clang of party politics? Finally, where is Indian politics heading as a result of the current turmoil?

Among the intellectuals and the larger middle class to which they belong, there is an air of despair and despondency about political leadership. V P Singh's decision to reserve 27 per cent of jobs in the central government and public sector undertakings has deeply alienated vast segments of the middle class who perceive the reservation as a dire threat to job prospects of their children. The fear becomes a nightmare at the possibility of the quota system being extended to education institutions. V P Singh is suddenly seen

by an overwhelming majority of the middle class as a political leader who would not hesitate to bring down the entire power structure to gain political leadership of the backward castes and classes. The entire power structure built around parliamentary politics during the last 40 years is seen to be crumbling down just because a prime minister opens a passage to the power structure for a vast segment of the population that have no chance of getting into it without affirmative discrimination in its favour.

In Delhi's upper middle class neighbourhoods, men and women who have all these years quietly prided in their secular convictions have suddenly discovered in BJP, and, particularly, in the militant Hinduism of Lal Krishna Advani, a protector of jobs and of educational interests of their children. The middle class has not been slow to realise what propelled Advani to ride his rathayatra through the heart of the Hindi belt. The purpose was to defeat V P Singh's design to divide the Hindu backwards and the Hindu forwards and thus deal a severe blow to BJP's mass support base. The same design frightens the Congress (I) too but it is quite unable to counter the design in the manner that comes naturally to BJP.

An objective analysis of the political paralysis in Delhi must take into account six major processes of change that are now active in India's political economy.

First, the challenge that has built up to the single dominant party rule provided for long years by the Congress. In the last ten years, a dynastic crust was added to the single party dominance. At the state level, the Congress is no longer the dominant political party. It is now in power only in three states, in one of them, Maharashtra, with a minority government. However, at the national level, the creation of an alternative to Congress rule is pro-

ving to be extremely difficult. In other words, the political forces at work in India have not so far been able to put together a durable second party or coalition of parties at the centre of the political spectrum to compete effectively with the Congress (I). Coalitions cobbled up by political factions to provide a national alternative tend to fall apart before they can coagulate into an enduring combination. The reasons are difficult to find. The political parties have been created around personalities whose competitive ambitions to gain at one another's expense get the better of their effort to stay together. Secondly, the parties are not democratically organised; leaders are not restrained by the party members from acting according to their whims and preferences. Above all, while political parties have been adequately socialised, political power has not; party leaders still believe that political power, when it is in their grasp, is their own property rather than the property of the entire membership of the political parties.

The challenge to the domination of Indian political life by the Congress Party will, however, continue until a credible and durable alternative emerges at the national level. In the sociological and cultural context of Indian politics, the alternative can only be a coalition of political parties opposed to the Congress. Even as coalitions fail, the learning process goes on, and attempts to innovate coalition designs will not be abandoned. The first successful attempt was in 1977, the second, a very different design, in 1989. Neither have been very successful; maybe the third attempt will meet with greater success.

The second process of change, visible clearly at the state level, is the emergence of multiparty rule. All significant political parties are now in power in the states leading Indian politics a rainbow colour. This means an unprecedented scale of participation in the governance of the country. It also means an unprecedented level of popular mobilisation by political parties

competing at the national and local levels. It is not easy to foresee a situation in which a single political party, even the Congress, will regain control of the vast majority of the state governments. The Congress hold on state politics began to crumble in 1968. It was restored in 1972 after Indira Gandhi's emergence as India's Joan of Arc after the defeat of the Pakistan army in Bangladesh. It crumbled again in 1977-78, not to be restored since.

The third process of change is related to the second. It is the snapping of the symmetry of the politics of the north and the south. This process began in 1977-78, when the Congress lost the north but was able to retain the south. Later, in the mid-80s, the Congress lost the south but was in power in the north. The elections of 1989-90 brought the north under the political sway of the National Front coalition, but the Congress was able to retain power in two of the four southern states. In the north too, the Hindi belt has emerged as the contending ground of political parties—currently, the Congress (I), Janata Dal and BJP. The gaggle of states in the north-east, including West Bengal and Assam, have turned into political pastures of a number of parties including the left groups.

Fourthly, a deep and enduring cleavage seems to have developed between political parties and the electorate. The electorate is now too vast, too diverse, too mobile in its loyalties, too assertive of its judgment of political parties and their leaders, especially those in power. The traditional vote banks have dissolved; hence the competitive attempts of political parties to mobilise new support bases. Competing political parties are also trying to steal away segments of each other's electoral supporters. Vishwanath Pratap Singh is determined to break up the traditional support base of the Congress by weaning away the minorities, the backward castes, harijans and tribals. He is also striking at the Hindu

mass base of BJP in northern India.

This is a very significant development at the base of Indian politics. The middle class, though large and most assertive, does not bestow election victories on political parties. For this parties have to depend on the poor mass of Indian people, especially those who live in the village and urban slums. Since 1969, there have been continuing attempts on the part of political parties, especially the Congress, to mobilise the poor and the weaker sections of the population with attractive and emotive slogans like 'garibi hatao'. The Janata Party, while in power in 1977-79 armed itself with the report of the Mandal Commission to politically mobilise the backward castes and classes. It wasn't able to implement the commission's recommendations. All political parties, the Congress included, swore by the Mandal commission, but none was ready to translate its recommendations into the language of the Indian power structure. Rajiv Gandhi's slogan of unity and integrity of the country might have meant something to the middle class, but carried no emotive message to the poor and the eternally deprived. In the elections of 1989-90, the Congress lost much of the vote of the poor and the minorities. Now, in 1990, V P Singh has stirred the hornets' nest by selective implementation of the Mandal Commission's recommendations. A job quota in the central government and public sector undertakings is much more concrete than a mere 'garibi hatao' slogan which, in any case, was found to be ineffectual in removing poverty. An unprecedented competition among political parties has now begun for the enduring support of the poor voter who will ironically, determine who runs the government mainly for the benefit of the non-poor.

The fifth process of change is a greater democratisation of India politics. This is evident in the number of political parties in power at different levels of

government, in the mass pressure for the benefits of government for the poorer sections of the people, in the capture of power at the state level by the rich and middle peasantry, in the growing dichotomy between urban and rural interests, the latter becoming increasingly assertive of their numerical power, in the mass mobilisation by political parties, and in the stern electoral verdict of the voters. If the electorate's loyalties have become very mobile, its size has increased manifold and millions of young voters have come into the voting business.

Democratisation of the political process has created a load of demands on the political system and its managers which the latter are reluctant to concede. The most important demand is for decentralisation and federalism, a manifestation of which is the demand for greater autonomy for states, and for the creation of states to enable organised ethnic groups to govern themselves. Those who have built the power structure, especially those who have presided over it since the death of Nehru, see in these demands a threat to India's unity and integrity. In reality, it is a threat to the concentration of power and resources at the centre since 1972. It is also a threat to the mind-frame of the national power elite which sees itself as the guardian and protector of the India state, if not its proprietary owner. A struggle has been joined between the urban-middle class power, structure and the masses of Indian people for a fundamental restructuring of the Indian polity around federalism, decentralisation and sharing of power and resources. It is basically a struggle for extended democracy, with people governing their own political life rather than being governed by the elite from above.

The sixth and final factor that create pressures on the political process can, in one word, be described as lumpenisation. It is the accumulated weight of several strong negative developments of the last 40

years — the dark world of crime fed by black money, drugs, guns and the smuggling of goods, a cohort of jobless youth easily drawn to the dazzle of crime, the growing nexus between criminals and politicians; in short, the entire process of slow development mainly keyed to the benefit of the haves. Lumpen values have infiltrated the political process. These values, adopted by ruling political parties, particularly the Congress (I), have eroded democratic institutions and eaten into the vitals of our democracy. In the absence of any determined organised attempt to arrest the influence of lumpen elements, lumpenisation goes on increasing rather than diminishing. There is hardly any political party in power at any level of our political life, including the CP(M) in West Bengal, Tripura and Kerala, that is free of the influence of lumpen elements.

If this analytical anatomy of Indian politics is broadly correct, it leads to several hypotheses. First, we are in transition from the single dominant party system to a multi-party, and therefore, a more democratic regime. We are also groping for durable coalitions at the centre. Our coalitional experience in the states is now reasonably mature unlike our experience at the centre. We are also in the difficult process of erecting a political party at the centre of the political spectrum that can compete with the Congress Party singly or in coalition with other groups. We are in the midst of a great struggle for democratisation of the political process with progressive federalism and decentralisation.

We are locked in a struggle between the middle class power structure backed by industry, academe, the print media, the scientific-technological community and, of course, the military and the vast mass of the poor people who live in the villages and urban slums. They

are not the poorest of the poor, the bottom 20 per cent of our population. They have received some education and some spill-over effect of development, have learnt to formulate demands and press for the recognition of their demands by the power elite, and who have, above all, realised that in our democracy they have the ultimate power to make and unmake the rulers.

The transitions are proving to be long and hardy, at times and at places, violent and bloody. That's how nations in Europe grew into mature stable democracies over hundreds of years. They went through endless realignments and many revolutions, and they had the luxury of waging wars of short and long duration, which acted as levelers, and catalysts of political and social change. Their wars paced up technological inventions and innovations while empires injected life blood into the political arteries of their developing democracies. They drew upon one another's experience. There were numerous mingling of races, cultures and languages as the European state system came into being in a long interlocking of conflict and cooperation. Nineteenth century Europe, with which our democratic experiment is comparable, did not care much for stability.

We are denied many of the advantages the European states enjoyed, the most important being time. We must accomplish in 50 years what they took 300 years to attain. We have to do without the leveller of wars, and of course, in India there has been no social revolution in 4000 years. There is little that we can draw from the political experience of the mature democracies. We have to make our own innovations and experiments because our multicultural, multinational political milieu is unique in the world as a nesting ground for parliamentary democracy. We have to work out change in a society that

generally resists change if it is not slow and incremental.

Hegel wrote that "the owl of Minerva, which brings wisdom, flies out at dusk. It is a good sign that it is now circling round nations and nationalism." If this is a dusk in India's political development, the owl of Minerva is flying. Out of the turmoil and anguish of the present, our democracy will hopefully emerge stronger and stabler in the years to come.

## The judiciary . . .

*(Continued from page 16)*

Out discussion to this point has exclusively treated review of legislative action. Even where such review is not established, however, the judiciary still can play a key monitoring role with regard to executive actions. Executive abuses of one sort or another are the state actions which most directly and injuriously impinge on citizen's lives (one might say the state is chiefly known by its truncheons and taxes), robbing the state of its legitimacy and retarding political development. Developing societies present rampant opportunities for abuse of executive authority because the disparity in power between the mass of the citizenry (typically impoverished and resourceless) and the agents of state power is very great. Here again we observe a notable difference between the judiciaries of India and Sri Lanka. In India, at least in the post-Emergency era, the Court has not flinched from subjecting state action to scrutiny and (frequently) repudiation, as will explore as length below in our discussion of fundamental rights litigation in the age of judicial activism. In Sri Lanka, the Court's approach to review of executive action has been guarded, to say the least.

**NEXT: Judicial Activism**

## New Govt. . .

(Continued from page 9)

Mr. Karunanidhi has in turn launched a blistering attack on Mr. Moopanar, using the Mandal Commission report as a weapon. Coming to Mr. Moopanar's rescue, Mr. Ramamurthi has said that Mr. Karunanidhi is now projecting himself as a champion of the backward classes for political reasons. In 1982, when the entire Opposition led by Mr. Charan Singh staged a walk-out after the Indira Gandhi Government turned down a request for a debate on the Mandal Commission report, the DMK did not join in it, he points out. In fact, from 1980 to 1984, the DMK was on the side of the Congress (I) because Mr. Karunanidhi wanted Mrs. Gandhi to withdraw the corruption cases against him, alleges Mr. Ramamurthi.

It is well known that despite tall talk, Mr. Karunanidhi, like his predecessor, MGR, has been kow-towing to the Centre to avoid a repeat of 1976 or 1980. In fact, after his return to power in February 1989, Mr. Karunanidhi kept a low profile until the Congress (I) lost the November elections and Mr. V. P. Singh became Prime Minister.

Yet, it is now argued that Mrs. Gandhi was able to topple two governments in the State and get away with it because her regime was strong and Mr. Chandra Shekhar cannot afford to do so. To be on the safe side, Mr. Karunanidhi felicitated Mr. Chandra Shekhar when he took over, and the Prime Minister, in his reply, said his Government was for cooperation, not confrontation. But his statement in the Lok Sabha, warning the Tamil Nadu and Assam Governments, was probably meant to show, who calls the shots.

The spectacular showing of the AIADMK-Congress (I) combine in the last Lok Sabha elections having proved to be no avail following the defeat of the Congress (I) at the national level, the two parties have now believe there is no

way the DMK Government can be removed unless Assembly elections are held simultaneously with the next Lok Sabha poll. With Mr. Chandra Shekhar in no position to resist such a demand, Mr. Karunanidhi, whose performance in office has not been the most pleasing by any standards, is on a very sticky wicket.

## Finding shelter. . .

(Continued from page 22)

output which had a growth with an annual rate of 2 per cent during 1970-77 suddenly spurred to an annual average rate of 19.05 per cent during 1978-80. In an economic sense this resulted in construction costs increasing over 3 times the prevalent rates at that time. After 1980, the Government was compelled to adopt deflationary measures which were not really helpful to the country's economy. Immediately after the deflationary measures reflected in the Government's budget estimates were adopted there was a 3 per cent decline in output in the construction industry. The Economic Review of June 1988 states as follows regarding the growth rate of construction: "after rising by an estimated 28.3 per cent in 1978, 20.9 in 1979 and 11 per cent in 1980 a contraction in the high growth rate of the construction sector came at a time when increased domestic capacity was coming on stream in response to the price increases and apparent attractiveness of the sector". The Economic Review has given as causes for the cost increase: "material and manpower shortages, the industry's low capacity, inadequate planning and poor management of the construction works, etc." At that time the output of trained construction workers from the various centres amounted to only 6,000 persons per year and this low output could hardly improve the situation within the short space of time.

Therefore in 1981 the World Bank initiated a construction Industry Training project (C.I. T.P.) to train construction indu-

stry skills. The Bank estimated that potential for employment was about 140,000 in 1979 and would double by 1984 and increase further to 340,000 by 1985. The anticipated expansion in the building construction sector however did not take place and these estimates of training requirements had to be heavily scaled down. "The basic problem was a lack of a defined long term policy for the development of the local industry. In fact it was not even treated as an industry in policy formulation."

(To be continued)

## An Ethnic . . .

(Continued from page 6)

Muslim community there and revenge killings between the three ethnic communities that used to co-exist. Golden, ripe fields of paddy sway in the musky heat of late summer before the monsoon. "No one can harvest the rice this year," says an elderly Muslim woman, returning from prayers at the massacre victims' graves. People go to the paddy, they disappear." The Catholic bishop of Batticaloa speaks sadly of the disappearance of one of the Jesuits, the Rev. Herbert, an American citizen. "We have an idea of who might be responsible for the death of Father Herbert, but in the Eastern Province there are so many suspects. No one can be sure."

## The NSSP. . .

(Continued from page 24)

### Conclusion

Although two interesting and important issues have been raised here it has been possible to discuss them only briefly, and perhaps on occasion only enigmatically, within the scope of this short article. If the ideas are a little controversial, well that is not accidental, because the hope is that they will stimulate some discussion. This would be healthy, to be productive the discussion must also be theoretically rigorous, and I leave that to my readers.

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