

LANKA

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Black Knight
It's your move

TRENDS

Toning down

Gam Udawa will no longer be the grand show it was. Beginning this year, June 23, it will be toned down. The annual event co-inciding with former President Premadasa's birthday was to be held at Mihintale this year and among the invitees was to be Indian Vice President K. R. Narayanan. But in keeping with the government's decision now to modify the scale of this event the Indian VIP and other foreign dignitaries will not be attending.

No special status

State control and interference in state owned banks have been reduced and the privileges they enjoy will be eliminated by legislation, Deputy Secretary to the Treasury K. Shanmugalingam told a meeting of "Aid Group" ambassadors. After that, state banks and private banks will operate on the same level and under the same game rules.

Briefly...

A new minister speaks

A newly inducted cabinet minister, K. N. Choksy (State and Constitutional Affairs) said in an interview with the Sunday Island's Stanley Samarasinghe that President J. R. Jayewardene was a strong leader who re-established the UNP on a strong base and that President Ranasinghe Premadasa was a power-house of innovative ideas and action who had wanted quick results.

About his new portfolio of Co-

stitutional Affairs Mr. Choksy, a lawyer, said that it was always good to re-assess any law after its practical effects had been known; and a constitution is "living law".

Asked to comment on widespread criticism that Executive Presidential system was a failure, Minister Choksy said that he did not agree that people claimed that the system had not produced results. Mr Choksy did not seem to think that the present constitution was authoritarian in character and said that he did not recall President Wijetunge saying that it was when (according to the interviewer) the President "indicated his readiness to do away with the authoritarian character of the Constitution".

PM calls for media reform

Prime Minister Ranil Wickremasinghe told a Lions' convention in Colombo that a revamped print and electronic media was called for to keep abreast of changing values. Sri Lanka society was changing very rapidly; the changes may not be dramatic but they were very real, the Prime Minister said.

"With the literate and educated population we have, they are looking for some intellectual stimulation in what they see and in what they read. So clearly the press, the TV and the radio have to change to satisfy this demand; it is a very desirable thing.

"People who are in this mood of looking for alternatives, opportunities and choices would find too much control or bias, etc., oppressive", he said.

800 million dollars sought

A five-man delegation led by Prime Minister Ranil Wickremasinghe will go to the Paris Aid Group meeting on June 18 to ask for US \$ 800 million to help Sri Lanka meet serious economic problems. Sri Lanka received 800 million dollars last year too.

In preparation for this journey Foreign Ministry officials were briefing Colombo based envoys of the donor countries. An official source told *The Island*: "We want to tell them that economic reforms and liberal policies of the late President Premadasa's administration will continue."

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UNP: More Continuity than Change

Mervyn de Silva

How quickly the death of two politicians can change things, the whole climate of politics. Needless to add, President Premadasa and DUNF leader Lalith Athulathmudali were no ordinary politicians. Strong personalities, the mutual hostility of these tough, determined and daring men, influenced the political agenda of 1993, and the highly charged inter-party conflicts.

The heat is off now. It is this dramatic atmospheric change which underlines a fact of which we were not fully conscious when they were alive.

The new D.B. Wijetunge administration is also stamped by the presidential personality but what a striking contrast. It is not just low profile. It is almost faceless. In that sense, the style is the man is the government. That is most obvious of course in the media. In fact, the media, especially the electronic has more or less worked this near-miracle.

The Prime Minister, Mr. Ranil Wickremasingha, is the spokesman and the most public figure. But veteran UNP'ers, contrasting the current scene with the Jayawardene and the Premadasa regimes, speak of a decision-making *troika*: President, Prime Minister and Party Secretary, Sirisena Cooray.

The other significant change may be loosely described in terms of modern communist history. The "personality cult" period has come to an end. And yet those who concluded that this also represented a sharp "ideological" rupture, a break with the past, need to reconsider that too hurriedly reached conclusions. The rather quick changes in of personnel in sensitive posts, corporations and ministries, were taken as a deliberate signal of a dramatic rupture with the past four years. But once the new men moved into their new places, things became to look familiar. Looking back, the only noteworthy sign of change is a greater reliance on the civil service, the established bureaucracy which itself has changed a lot in the post '56 (Sinhala as the sole official language) period. With

the 1970 United Front administration (7 years) and the Jayawardene Constitution of 1978 and the Jayawardene years (1977-1988) there has been steady politicisation of the bureaucracy.

What is more noteworthy is the change in style. While the patriarchal, so-called Gaullist Jayawardene did dominate the two UNP regimes his ministers did enjoy a certain latitude. (In some cases, it became licence). The Premadasa period may have been short but it did result in a more centralised day-to-day decision-making process. Only in part was it the logical extension of a strong-willed presidential personality. It was equally the direct result of a ruler in a hurry..... so much to be done and so little time.

The Executive Presidency was very, very Premadasaist. More so than the 1978-88 was Jayawardenist. This is why the first fortnight personnel changes looked like a conscious break with the past. In any case, changes at the top ceased in a month's time. The transition was extraordinarily smooth. To use an American expression, President D.B. hit the ground running.

PREMADASA RESTORED

If there was any impression of de-Premadasa fication, it was soon erased in the second month of the Wijetunge presidency. The condolence speeches of party secretary, and Housing Minister Sirisena Cooray (*Daily News*, page 3, 9/6) and Prime Minister Ranil Wickremasingha (*DN* page 12) made that very clear.

"I am not making these statements as a customary tribute paid to the dead" announced Mr. Cooray in the third para of his peroration. "He saw power as a positive force.... To him power was a tool to translate his vision into reality. He saw power as a positive force.... Without power, we will only be theorists, dreamers and futile talkers... "It was this particular approach to power that was least understood by his critics. His political opponents missed the vision that drove him to gain and

accept power and saw only his use of power as Executive Presidency ..."

Prime Minister Ranil Wickremasinghe concentrated more on the Premadasa contribution than on the personality, and measuring the achievement in terms of "goals" — peace (JVP, LTTE "wars"), discipline and prosperity, the 'war' on poverty. The pervasion of poverty in a country that was naturally blessed with abundant resources was a perpetual riddle to him. Finally, the defence of Sri Lankan sovereignty — in the case of the IPKF, the closure of the Israeli interests section, and the Gladstone affair.

Prime Minister Ranil Wickremasinghe and party Chief Sirisena Cooray were together again at Mirisavetiya, and once more "the spirit of Premadasa" was inspired by the two chief speakers.

WHITHER DUNF?

It is not possible, nor useful, to concentrate on the Premadasa phenomenon without reference to his principal antagonist, Mr. Lalith Athulathmudali, also assassinated, just 8 days earlier. While each merits study in terms of their contribution to the island's political history, the months before these tragic events were a culmination of a process which began with the abortive impeachment move, an initiative closely associated with the former National Security Minister.

1993 belonged to these 2 personalities rather than to the government's main traditional rival, the SLFP of the Bandaranaiques. In any case, the disarray in the SLFP had increasingly acquired a comic opera character.

Despite the presence of another nationally known personality, former Minister Gamini Dissanayake, the newly formed DUNF was almost another "one-man show". Lalith was strategist, spokesman, main platform attraction, and Presidential candidate.

The double-murder removes both the target and the sharpshooter. The political drama had been gradually turned into a

grand duel — Premadasa and Lalith. While the same issues — the national question and the separatist insurgency, the economic (the impact of the IMF-World Bank strategy) relations with India, and the donor group, democracy and human rights — continue to influence national politics, the contest for power is once more UNP vs. the SLFP-led coalition. The DUNF is now the wild card. It is not only cooperating with the SLFP but planning to share power in the Western province, and hopefully in the North-west and South. All this may depend on court decisions. Meanwhile, some DUNF stalwarts, it is said, are examining another option, an obvious choice — returning to the parent party now that the cause of the split (a personality rather than policy) no longer exists. That could mean a UNP-controlled Western province — explaining perhaps, Mr. Anura Bandaranaike's extraordinary exhibition of macho mauling of sister Chandrika in the Sunday papers.

PEACE MISSION TO JAFFNA

An international peace mission led by a Tamil bishop from Malaysia, a Buddhist scholar-monk from Thailand and a Filipino Catholic bishop visited Jaffna, for talks with the Tamil "Tiger" leader, Mr. V. Prabhakaran. If Mr. Prabhakaran agrees to a ceasefire the "peace envoys" are ready to talk to the government to end the fighting and discuss the possibilities of a negotiated settlement of Sri Lanka's harrowing ethnic conflict. The mission includes a British academic working in Brunei.

The "peace" envoys will also try to persuade the LTTE leader to release the Sinhalese policemen now in "Tiger" custody. Some of the 39 taken captive by the "Tigers" have started a hunger strike. If some of them die, the police force will be demoralised said a senior spokesman. A few months ago, a similar mission by the newly appointed Anglican bishop of Colombo, bishop Kenneth Fernando failed. The bishop, a Sinhalese, was pilloried by the Colombo press. The condition of the policemen may ensure stronger official backing for the international peace mission, if the LTTE is more responsive this time.

AID GROUP MEETS

Sri Lanka will ask the world bank-sponsored aid consortium for 800 million US dollars as aid in 1994. The "aid group" meets in Paris on the 18th. The 5 member delegation will be led by prime minister, Mr. Ranil Wickremasinghe. The "consortium" consists of 12 countries and 3 donor agencies. Last week president D.B. Wijetunge addressed heads of diplomatic missions in Colombo. President Premadasa's liberal policies and market reforms will not be changed" he assured the donor community.

Anticipating some criticism about the war against the separatist Tamil "Tigers" and soaring defence spending, the President assured the donors that his government "will quicken the peace of negotiating a settlement". Military spending has now reached 23 billion rupees, nearly 500 million dollars. On democracy and human rights, President Wijetunge pointed to the report on the recent Provincial Polls by an international observer group. The report said that the 70% turnout, the behaviour of all political parties after the traumatic shock of 2 assassinations, and the conduct of the election officials were praiseworthy.

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Water Colour

*Water is so bland
Turning Village into island for a painters hand.
Landscape for a cultivated Evening
At a Five Star-lit gallery gathering.
Subject Matter
For bright blank chatter
Lively, though,
Of High heeld boring the parquet floor.*

*Paintings take ripples from the oar,
Take boats glide but not the sigh of woe
For the fresh sown paddy under the calm flood
Innocent with its reflected trees and cloud,
Not the sigh of man, woman and water
For what comes after.
The dry ration the bare thatchless rafter
The wattle skelton of the hut.
The painting does not also hold the laughter
Of days gone past.*

U. Karunatilake

The Role of the Professional Class

Hector Abhayavardhana

The only real city in Sri Lanka, Colombo has importance both as the administrative centre and the socio-economic area in which the processes of modernisation are most advanced. There was a time when Colombo residents had a unique character. But the spread of urbanisation has today removed much of that. One of its lost properties is the large concentration of manual labour, belonging to several ethnic groups, that lived in the city in indescribably wretched conditions. Large numbers of them were driven back to Tamilnad or Malabar in the course of sustained anti-Indian campaigns. Most of the native workers found themselves systematically pushed out of Colombo by rising rents and increasing land-sales to outlying rural areas or even distant towns. The exodus of the lower middle classes from Colombo began more recently to adjacent suburbs, the population of which has multiplied in line with contemporary social changes. A vast mass of the very poor continues to cling to the slums and ghettos of the city, sustaining themselves on odd jobs, pavement hawking or the varied attractions of the underworld. They are too demoralised to destroy the picture of Colombo that the other classes have drawn. Finally, Colombo has an important place for numerous concentrations of ethnic minorities who play a notable role in the promotion of private businesses and in the professions. Though the actual numbers of businessmen, administrators and professionals may not be as large as some of the other classes, the importance of the role played by them sets their mark prominently on the face of the capital city.

The significance of the victory in the Western Province of the combination of the People's Alliance and the DUNF in the capital of the province is also the capital of the country. No less significant is that, while the PA-DUNF was able to win in a majority of parliamentary constituencies outside Colombo city, it was unable to win in any of the city constituencies. Almost all parliamentary constituencies in the Western Province, outside Colombo city, have a predominantly Sinhalese lower middle class character. Until 1977 most of them on the sea coast supported the Left or a combination of the SLFP and the Left. Colombo city was somewhat different. The business, administrative and professional classes were

the cream of the middle classes and provided the backbone of the political regime of the UNP. With, perhaps, the exception of the sections that were unionised by Left trade unions, the bulk of the lower middle classes formed their political attitudes after their upper strata. In the suburbs of Colombo the majority of the people were with the PA-DUNF. In the city electorates, it would seem, the lower middle classes were not numerous enough or influential enough to form a majority for the same PA-DUNF.

The point is that the business and professional classes did not break with the UNP and, instead, voted for it eventually. The explanation of this that suggests itself is that these classes are unable to identify their interests with the politics of the Opposition political parties of today. The Opposition parties have their own demagoguery that often seems a compensation for refusal to engage in serious and, perhaps, painful and unsparring investigation of their own grave problems.

We have referred to the business, administrative and professional classes as the cream of the middle class and the backbone of the political regime of the UNP. If this is correct, it may be asked, how can it be considered strange that these classes refused to move with the rest of the people in voting against the UNP? The answer to this that for brief period prece-

ding the Provincial Council elections and in the course of the elections, the UNP itself was undergoing the severest crisis of its lifetime. Ranasinghe Premadasa was always an outsider in the UNP. He was the real leader of the uprooted population of the slums and the growing numbers of the unemployable and the pauperised. He was a talented leader, uncompromising, militant and energetic. He was also a demagogue, born to popularity with the crowd. Most of the conventional leadership of the UNP were too conscious of class to be able to overcome their cultural alienation from the mass of people. In the crisis of the UNP that began in 1956 Premadasa was the only mass leader who could walk the streets. J. R. Jayewardene was an organisation man with little or no mass appeal. He could not rouse discontent in the feelings of people to bursting-point. That was Premadasa's forte and this indispensability to the UNP. The UNP needed him, but not as its leader. This was made clear when, under Jayewardene's executive presidency, Premadasa was Prime Minister with the power of a single Ministry of Local Government. He would not have been President had he not joined hands with the JVP and stirred up an insurgency ostensibly directed at the Indo-Lanka Agreement and the Indian armed intervention. There were no takers when the Presidency fell vacant. The conventional UNP leaders had no experience in organising counter-banditry to put down massed bandits in arms. Even after nomination by the UNP, it was no cake-walk to the Presidency for Premadasa. Terror was necessary to prevent some people from voting and others to vote the way they were required to. Only Premadasa had access to such forces outside the law. The UNP could never have won the Presidential election without an atmosphere of terror during the polls. The JVP, which was out for the head of Jayewardene at that time, would not have provided this atmosphere except for Premadasa.

With the Presidency taken through the application of force, Premadasa was not going to rule except through force. He had no use for parliament. In any case it had no power. The resources of the state were to be used for fortifying the Presidency and perpetuating the occupancy of its incumbent. That was priority number one.

Priority number (2) was to keep the extensive resource of Buddhist religious institutions and their priestly personnel functioning on round-the-clock duty as apologists and propagandists of the executive-presidential state. Priority number (3) was to build up an effective state monopoly of the mass media, especially the electronic media. Fourth priority was to shift the emphasis of economic policy from the production of goods to the production of votes.

It was no accident that for the purpose of implementing the new UNP programme President Premadasa needed new agents and new implements. He had to purge the top ranks of the party, beginning with his Cabinet ministers. He had to invade the autonomy of all Government institutions, administrative, commercial, financial, industrial etc. and build his own agencies within them to carry out his commands without hesitation. He had to launch witch-hunts even against private bodies and individuals so that no trace of opposition could remain anywhere. In doing all this he was destroying civil society and democratic structures whose further development was essential to the programme currently proclaimed as the UNP's purpose: viz. the liberalisation of the economy, the promotion of private enterprise and the attraction of foreign investment. Worst of all, Premadasa's executive presidentship was destroying the old UNP and replacing it with an army of the demoralised and uprooted dregs of society and the underworld, manipulated by command from above.

It was a serious matter for the business and professional classes that their political party should be going through such degradation. It seemed so unrelated to their needs, in fact to cut across them. Maintaining the UNP in power was important for them, but not merely for the purpose of clobbering the heads of their opponents. The economy was being sustained by the steady inflow of nearly 1 billion dollars of foreign loans and assistance from year to year. The war against the Tamil Tigers drags on without the slightest indication that it can bring military victory, while escalating costs of the war have long passed beyond what the economy can bear. Meanwhile the gun culture generated by the war makes impossible the practice of vitally needed democratic and pacific values. Even more serious is the instability of governments, especially in the face of the distrust of the youth in the availability to them of any kind of worthwhile future.

What kept these classes tied to the UNP was the latter's commitment to maintaining the lifeline from the international

lending institutions by adherence to IMF prescriptions. There were recent indications, however, that demagogic considerations were straining these critical relationships and threatening stability of the economy. There also seemed to be concern about the havoc caused by inflation, itself considerably induced by lavish mis-spending and waste of funds in need of careful conservation. Impatience with the Premadasa Government's refusal to correct itself appeared in the early stages of the Provincial Council election campaign to be leading to drift among the business and professional classes away from the UNP. Perhaps this drift was halted by the assassinations of Lalith Athulathmudali and President Premadasa. It is possible that there was even a movement back to the UNP after the Premadasa assassination.

The point is that the business and professional classes did not break with the UNP and, instead, voted for it eventually. The explanation of this that suggests itself is that these classes are unable to identify their interests with the politics of the Opposition political parties of today. The Opposition parties have their own demagoguery that often seems a compensation for refusal to engage in serious and, perhaps, painful and unsparing investigation of their own grave problems. It was a widely held belief in the first two decades after the last war that the government could discharge the role of drawing up and implementing plans to pull an economy out of recessions and depressions into which it had fallen. Not only Socialists and Communists, but even bourgeois economists like the Keynesians held fast to this view. In countries like ours, however, even in such times, the thought of state intervention in the economy was considered heresy, if not Communist subversion. The lines were sharply drawn between constitutionalists and revolutionists. And since the business and professional classes were still being born, such as existed were clearly aligned with the opponents of state intervention. On the other side, under the influence of practice in Communist states, state action was considered all that was necessary to begin ushering in the Socialist society. The key role of the professional classes could be substituted by the powerful action of the state.

Attitudes and ideas have changed since then. The nineteen eighties have seen the achievement of the global economy, which has broken down the national barriers that stood in its way and made the unified world market the most powerful determining force in worldwide economic activity. With the state pushed to the background, the international lending institutions have made a fetish of freedom from

state influence and control and seek to make developing countries abjure state assistance even where it can be of productive value. Without fetishism, however, the globalisation of economy has provided developing countries with a prospect of developing their economies by promoting maximum integration of their economies in the world economy. This is because the driving force of economic growth is no longer the duplication of productive capacity, but the relentless pursuit of technological innovation. The possibility of participation in this pursuit is provided by the key factor of foreign capital investment, the vehicle of which must be constituted by the native business and professional classes.

The role of the new middle classes thus becomes crucial for the development of economy in countries like Sri Lanka. But this is not a mere matter of making locally available a package of money incentives and legal guarantees. The fact is that Sri Lanka does not today provide the necessary environment for large investment of foreign capital. Such an environment has to be both economic and political and has to be built up systematically by the state. None of the major political parties has shown great awareness of this task. Fifteen years of UNP government have been disastrous in this light. Politics has become hopelessly mixed up with religion, making rational approaches to basic problems that much more difficult. The attempt to solve ethnic problems by denying their existence and using military force where no consensus can be found has led to the break up the state. Total reliance on the IMF and World Bank has become a cover for doing nothing about building urgently needed infrastructure and promoting new relationships. The fact is that political leadership is utterly bankrupt.

If the Opposition parties have an inkling of understanding of these problems, they will base their strategy on a new approach to the new middle classes as the key factor in the development equation. The important functions that must be discharged by the state in making the economy both more self-reliant and acceptable for foreign investment must be clearly outlined. Nor should it be concealed that stable government is impossible without bringing the Tamil people of North and East and on the plantations into a national coalition — a possibility that the UNP deliberately sabotaged in 1977 with a five-sixths majority in Parliament and the TULF as the principal opposition party. Unfortunately chances that are so wantonly thrown away seldom find it easy to return.

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Ties with India Will Improve — PM

Interviewed by V. Jayanth

Question: How do you perceive the results of the Provincial Council elections? Which are your weak spots?

Mr. Wickremasinghe: We are satisfied with the results of the Provincial Council elections. In all the seven Provinces where there was polling, the UNP obtained about 47 per cent of the votes cast. Our weak spot was the Western Province, where we lost ground in the suburban areas. Both the city and the rural areas have voted with the UNP. We have made inroads into the rural areas which were till now the stronghold of the SLFP. This was because of the comprehensive policy worked out by President Premadasa for the rural areas.

Why has the UNP tried to grab power in two Provinces where you did not have a majority?

The UNP has not tried to grab power in any Province. In four of the Provinces the UNP had an overall majority and had to be called upon to form the administration according to the Constitution. In three Provinces no party had an overall majority. Even the DUNF campaigned in the Provincial elections claiming to form a Government. There was no alliance with the SLFP. The Governors of these Provinces had to use their discretion to determine who should be called to form the Government. In each of these cases both the UNP and the People's Alliance of the SLFP staked a claim for Chief Ministership. There was a revolt in the SLFP as a result of Mrs. Bandaranaike's decision to support Mr. G. M. Premachandra of the DUNF as Chief Minister of the North-Western Province. In these circumstances, both Mr. Jayawickrema Perera and Mr. Amarasiri were confident that they could form the administration in the two Provinces where there was dissatisfaction in the SLFP. That was what made the SLFP opt for legal action instead of demonstrating its majority in the Council, thereby strengthening the claims of our Chief Ministers.

The Governors seem to have acted in accordance with the existing Constitutional precedents. After the general elections of 1947 and March 1960, the leaders of

the single largest parties in Parliament were asked to form the administration despite claims by other parties. On this basis they seem to have called Mrs. Chandrika Kumaranatunga also to be the Chief Minister of the Western Province.

There is a new Minister for Constitutional and State Affairs now. What is his agenda?

Even as an MP, Mr. K. N. Choksy had been handling Constitutional matters for the Government. Constitutional reforms will be necessary if a political solution is arrived at in respect of the North-East. There is also the need to look at the manner in which members are elected to Parliament and Provincial Councils as there is dissatisfaction in the system of three preferences for candidates. A rationalisation is required in the three-tier system of administration — national, provincial and local government. Even if other Constitutional reforms you are talking about are not there, there is quite a lot on the agenda now.

The international observers for the Provincial elections recommended greater access for the Opposition to the electronic media. Are there any moves to take a fresh look at some openness in television and radio?

Their recommendations can be taken up by the Parliamentary Select Committee on elections. At present, the law does not make any provision for use of electronic media for Provincial elections. They are provided for in the national elections.

The Sri Lankan Government seems to be suffering from a want of credibility. You call the Scotland Yard to bolster up the police, a Commonwealth Commission to probe the killing of military leaders and international observers to monitor your elections. How do you plan to restore popular and political credibility of the Government?

It is not a question of political credibility. The Government felt and President Premadasa was of the view that the police should call in assistance from any foreign/international agency such as Scotland Yard. It was the first assassination of a political leader in Colombo after the JVP

days of 1988-89. We wanted to know who was responsible for the assassination of Lalith Athulathmudali. It was felt that an outside agency would only strengthen investigation. The Commonwealth Commission was appointed on a request by the widow of Maj. Gen. Denzil Kobbekaduwa, as she had a doubt about the cause of the blast that killed her husband and other senior officers. Premadasa felt that this request should be granted. Of course, the Opposition tried to capitalise on this, but it could not succeed.

In the assassination of Lalith Athulathmudali, it is now clear that some of the DUNF leaders had interfered with the witnesses. Further, the bodyguard of Lalith was allowed to make a false statement to the police. A magisterial inquiry has concluded that the bullet found in the body on Mughalan Road was fired from the gun of the bodyguard and furthermore, the bullet removed from Lalith's body was found to match the one in the gun recovered from the body of the suspected assassin. Some of the local dailies have not even published these findings. It is obvious that a part of the media is also being involved in the campaign against the Government.

With many parties dissociating themselves from the Parliamentary Select Committee on the North-East issue, does the Government have any alternative line of action? How do you propose to proceed with the search for a solution?

The Chairman of the Select Committee plans to have discussion with all parties. Therefore a national consensus can be worked out. The main question that has to be resolved is the unit of devolution. If the Muslims in the East and the Tamils can come to a compromise, it can be accepted by all. They must work on that.

Why has there been no credible, authentic information on the investigations into the two assassinations? We were told it will unfold after the elections. But there is more silence now.

I am sure the police will reveal the information at a time they consider appropriate. There was some dissatisfaction in

V. Jayanth is Colombo correspondent of the Hindu.

the last media briefing that a fuller statement was not made. The police have to decide when they can divulge the details.

There seems to be an attempt by this Government to "clean up" the image and change some of President Premadasa's practices. Do you see any significant change in its functioning?

There is a change in style. This is inevitable in a Presidential system when there is a change of President. But there is no going back on the basic policies. We will make changes only where necessary. Decentralisation and democratisation will go on.

If it is established that it is the LTTE which is behind Premadasa's assassination, will you review your position and pursue a military option?

We are at present pursuing a military strategy of disarming the LTTE cadres and bringing larger areas under Government's control. This will have to continue till there is peace. Once the police reports are received we will be able to establish who was responsible for his killing.

Is it true that your Government nearly agreed to extradite the two LTTE leaders charged with conspiring the assassination of Rajiv Gandhi?

Extradition is possible only under the law. We have so far not even received a request from the Government of India.

Do you envisage any further interaction with India on the LTTE front? Are you seeking any expertise on investigations as the first case of a human bomb was in Tamil Nadu in Rajiv Gandhi's assassination?

We have not sought any expertise from India with regard to the investigations.

How do you see relations with India in future?

I am sure relations with India will improve. Both nations face common problems and in the next decade both of us are to achieve higher standards of living. South Asia has a lot of potential which can be tapped if we work together. In the last few years relations between India and Sri Lanka have improved and they will continue to do so. Economic relations strengthen political relations. Therefore the liberalisation programme pursued by the Prime Minister, Mr. P. V. Narasimha Rao, will only strengthen political relations.

The Administrator as Artiste

Ajith Samaranayake

Donald Abeysinghe has died not in his autumn but the summer but perhaps his symbolic demise is most emblematic of the winter of our current discontents. He was an administrative officer who reached the very height of his profession but was cruelly deprived of his ultimate due. That this itself was a paradigm of the national condition not so long ago in Sri Lanka is the measure of our collective tragedy.

Donald Abeysinghe was quite proud of his origins and used to talk with nostalgia of the Kandyan provinces he was born to. He came from a family with roots in the soil but was able to receive an English education which propelled him after his university career at Peradeniya not merely to the administrative service but also the intellectual and cultural life of Colombo. From St. Sylvester's College in Kandy, Donald proceeded to Peradeniya where he studied English and immersed himself in the heady intellectual life of the late fifties and early sixties. It was at Peradeniya that he imbibed his love of literature and the arts which found its culmination in the magazine, 'Sanka' which he edited.

Donald Abeysinghe represented the best currents of the bilingual intellectual which the last few decades has produced. Quite at home with the latest trends of thought he was equally at home with both English and Sinhala. He was a great lover of Sinhala music, both classical and modern, whose range captured anything from Amaradeva to Karunaratne Divulgane and proceeded to encompass Hindi music as well. He was an exceptional singer of Amaradeva's Songs.

As an administrative officer he reached the heights of the Sri Lanka Administrative Service. Starting off as an Assistant Commissioner of Immigration and Emigration where he served at Thalaimannar, he was also an Assistant Commissioner of Local Government, Land Commissioner, Director of Social Services and Secretary to the Ministry of Social Services.

In the latter capacity he served two Ministers, Asoka Karunaratne and J.L. Sirisena. But perhaps he will be best

remembered for his role as Director of Pensions where he excelled himself systematising the whole Department in the wake of the dislocation caused by the General Strike of the mid-seventies. The cause of the pensioner was always close to his heart thereafter.

Donald also enjoyed a close and cordial relationship with journalism. In the sixties and seventies he used to review plays and films regularly for the now extinct 'Daily Mirror' and the 'Observer'. Often he used to recall with undisguised nostalgia how he would go for a play and come back the same night and write his review on deadline. In later life, however, Donald did not write at all. The heart was willing but the flesh was too weak. My personal view is that he missed the pressure of the deadline.

Donald was the victim of a monstrous dilution of values which had overtaken the political executive in recent years. A bohemian in his ways he led a rather unconventional life for a staid SLA's mandarin.

Yet in the last years of his career he was a model administrator who won the hearts of his Ministers. But still in 1990 Donald suffered such a setback in his career that he chose to retire rather than serve under such conditions.

As a result he lost his official car and official residence and had to make do with a pension only. But yet he chose not to surrender.

The last few years of his life Donald spent as the Director of the Centre for Regional Development where he actively interested himself in the issues of the devolution of powers. But that was no recompense for the injustice done to him. It is an ironical paradox and perhaps a gesture of fate that Donald's life should have come to a close at the comparatively young age of 59 even as the rule of that regimen which caused him such heartache should have expired. The tragedy, of course, is that this also should have involved the demise of that small, sprightly and enormously selfconfident man who took upon himself the task of manning that peculiar intersection where the administration touches both journalism and the arts. (Island)

Pakistan: Towards a New Political Culture

Mushahid Hussain

A month after the third dissolution of the National Assembly in 5 years by a President using his discretionary powers, there is also some silver lining on an otherwise murky horizon. This silver lining is indicative of the qualitative changes that have taken place in Pakistani politics, and by extension, on the popular political consciousness, which makes Pakistan a politically different country than, say, the 1950s. Then Ghulam Ishaq Khan's political role model, Ghulam Muhammad did with impunity what Ghulam Ishaq Khan has sought to replicate in what is increasingly seen as an abortive historical action replay 40 years later.

This silver lining which is a combination of several factors including resistance to the diktat of a hopelessly-divided and increasingly shaky Establishment plus new-found tolerance and self-respect among politicians among the political forces, could cumulatively result in the evolution of new "rules of the game" in Pakistani politics.

Three aspects of the evolving situation in Pakistan since the dissolution of the National Assembly and dismissal of the Prime Minister and his government are noteworthy. These include the fact that it has been largely a "season of surprises" in Pakistani politics, the differences in the situation in 1993 from the last dissolution in 1990 as well as the emergence of new factors in Pakistani politics.

The series of surprises in the last one month are pertinent since they had upset the carefully-prepared script of the veteran intriguers and conspirators of the Pakistani Establishment who based their gameplan on assumptions whose validity has been knocked by ground realities. Some of these surprises include:

A month after the third dissolution of the National Assembly in 5 years by a President using his discretionary powers, there is also some silver lining on an otherwise murky horizon. This silver lining is indicative of the qualitative changes that have taken place in Pakistani politics, and by extension, on the popular political consciousness, which makes Pakistan a politically different country than, say, the 1950s. This silver lining which is a combination of several factors including resistance to the diktat of a hopelessly-divided and increasingly shaky Establishment plus new-found tolerance and self-respect among politicians among the political forces, could cumulatively result in the evolution of new "rules of the game"

* The April 17 speech of Nawaz Sharif as Prime Minister of Pakistan in which he did some plain talking of a kind not normally heard by the people of Pakistan from their government leaders and that too on the official electronic media. That speech touched an emotive chord among the Pakistani people and its resonance has been amply felt in the degree and depth of popular resentment at the action of President Ghulam Ishaq Khan which came a day later;

* The political alliance between Benazir Bhutto and Ghulam Ishaq Khan was also a surprise, more so to the PPP leadership as well as its rank and file. Their respective political U-turns apart, senior and respected figures like Yahya Bakhtiar, PPP Vice-Chairman, Sheikh Muhammad Rashid and former Law Minister, Iftikhar Hussain Gilani have all expressed their

reservations in one form or the other to this alignment with GIK. Another surprise has been the role of Yahya Bakhtiar pleading the case of Nawaz Sharif in the Supreme Court while Iftikhar Hussain Gilani has won the admiration of many as a principled democrat who has shown consistency and commitment in national politics which cannot be said for many of his colleagues in the PPP whose lust for office took precedence over principles;

* There is an interesting role reversal among the political forces as well with the PPP's populist mantle being taken over by those whom the PPP had disparagingly dismissed as "products of the Establishment", while the PPP itself sits uncomfortably in the same Cabinet with those like the son of Jam Sadiq Ali and other proteges of GIK.

The second interesting aspect of the

present political situation in Pakistan is the situation as it exists today as opposed to the one that existed in 1990. Unlike 1990, when the Army and the President were together in what were generally perceived to be a "joint operation" against Benazir, this time around, in 1993, the Army has been neutral and non-partisan, not taking sides politically. The Chief of Army Staff, General Abdul Waheed's maiden comment on the night of the dissolution on April 18 was instructive when he said "it is up to the courts to decide whether the dissolution is constitutional or unconstitutional." As a national institution committed to the constitutional path, it is clear that the Pakistan Army cannot be expected to serve as a political prop for a President whose term of office expires in six months and whose own credibility is at such an all-time low that none of his own political allies are willing to publicly support him in any of his actions or to push him in his eager desire for a second term of office. The President has fallen from the pedestal, swiftly and surely and that too in a manner which makes his political resurrection untenable. In this context, the Army's role of being neutral and non-partisan which has been repeatedly reaffirmed by the Chief of Army Staff is commendable and praiseworthy and represents both its best institutional interests as well as the national broader interests.

Given this context, Pakistan is witnessing aspects which are new and different in its politics. It is these aspects which provide the basis of the silver lining in Pakistani politics. Three such aspects are important. First, there is the emergence of two major national political leaders in Pakistan today in the form of Benazir Bhutto and Nawaz Sharif, who, incidentally, represent the same "born free" new generation in Pakistan which is a product of the post-independence period. Interestingly, this new generation leadership whose respective vote-banks cut across provincial boundaries, is facing an oligarchy which represents an old generation whose mindset is shaped by the wheeling-dealing of the 1950s.

Benazir Bhutto herself on two recent public occasions has noted this new reality of herself and Nawaz Sharif as the two major national political leaders of consequence. It is perhaps no accident that both have refrained from criticising each other publicly while Benazir Bhutto has made her first public criticism of the President when she told a May 10 news conference in Karachi that "a third party will not be allowed to deprive Nawaz Sharif or myself from coming to power." She specifically stated that this "third party" was not a reference to the Army.

In this context of a generational turnover of national leadership, the role of National Assembly Speaker, Gohar Ayub has been that of a trail-blazer for democracy. He has shown political courage and commitment to defy a President who is out of tune with national realities. And Gohar Ayub has also shown that he has the political vision to tell the Indians the plain truth on Kashmir which he did during his recent visit to New Delhi when he publicly became the first Pakistani leader to tell Indians on their home ground the harsh reality about Kashmir. He warned the Indian journalists that "Kashmir will bleed India. It is a plebiscite that Kashmir needs. Not an election. In an election you will not get free votes but only quislings." Gohar Ayub's remarks in India on the situation in Kashmir are also a manifestation of a new kind of Pakistani leadership which is not suffering from any inferiority complex vis-a-vis India which may have been the case in the past. It is such a leadership that has also demonstrated the confidence and the courage to take on an Establishment which was once perceived to be all-powerful and virtually invincible.

The second major qualitative turn in national politics is the emergence of economic development as a political issue, courtesy Nawaz Sharif's 29 months in office where his policies were seen to be touching the lives of the common man in a manner that economic development and economic policies had not done in the past. This is again a positive development because if the economy is a political issue, which Nawaz Sharif has ensured it has

become, then those who are the beneficiaries of such economic policies, including the common man, will then have a stake in the democratic process. With democracy and economic development going hand-in-hand, a new kind of constituency has been created and it is certainly not confined to politicised business and trading community of this country alone, but the middle classes, unemployed youth, women and landless peasants as well.

Finally, in terms of the silver lining in the present situation, there is the failure of the "ethnic card" which the Presidential camp sought to play. They presented the President as a "symbol of federation" representing the smaller provinces against the Punjab. In reality, for the first time, the Punjab has presented a political and populist face to the other provinces which has enabled them to give political support to the ousted Prime Minister. This is evident from the role of such parties as the Awami National Party (ANP), which has a power base in the Frontier and Balochistan, the Pukhtoonkhawa Milli Awami Party (PMAP), led by Mahmood Khan Achakzai and the Pakistan National Party (PNP), led by Mir Bizen Bizenjo, both with a power base in Balochistan, plus support which is emerging from Sindh politicians.

This is indicative of a healthy and positive pattern of Pakistani politics where, instead of polarisation between the Punjab and the smaller provinces, which is what the President and his camp tried to create, there is greater convergence among them. Such a development is a major political plus for Pakistani national unity and it is an important factor upsetting the calculations of those who not only had misread the popular mood but who felt they could take the people for a ride. Once again, the people of Pakistan have proven themselves to be smarter than rulers.

An internationally reputed journalist, Mushahid Hussain has been appointed Press Adviser with Cabinet rank, to Prime Minister Nawaz Sharif. His articles have appeared quite frequently in this journal.

The Ethnic and Cultural Dimensions

Neelan Tiruchelvam

The purpose of this presentation is to outline some human rights concerns relating to ethnic conflict and its implications for a policy of human rights and development cooperation.

Ethnic conflict has contributed to some of the most serious and persistent violations of human rights in many parts of South Asia. Most of the serious violations relate to disappearances, torture and extra-judicial killings and arbitrary and indiscriminate arrests have been linked to on-going ethnic conflicts.

In the recent history of the Indian subcontinent, ethnic violence has become an increasingly common phenomenon. From the Pathan-Bihari clashes in Pakistan to the anti-Sikh riots in New Delhi, anti-reservation stir in Gujerat and the Sinhala-Tamil conflict in Sri Lanka, racial violence has left a trail of destruction of property and human life. The emotional and psychological scars that remain after such outbreaks are in fact more destructive than the physical damage. The sense of community within a plural society is often shattered by the cruelty, terror and suffering unleashed by the forces of mob violence.

The competition for scarce resources and economic opportunities has fuelled antagonisms arising out of the sharp cleavages of race, caste, tribe, religion and language. Fragile political institutions have failed to accommodate adequately the demands for power and resource-sharing by marginalised ethnic and religious groups. Policies to advance national cohesion have been pursued at the expense of the linguistic and cultural traditions of

minority groups. Ethnic discontent began manifesting itself secessionist movements resulting in repressive responses by the State posing serious social justice and human rights concerns. These problems have been further compounded by millions of internally displaced persons, and the flight of refugees from internal conflict.

But more recently there has been a growing awareness of the universality and complexities of ethnic problems and the need for concerted action to devise strategies, programmes and structures for the management of ethnic conflicts. Several multi-ethnic polities have incorporated federal forms of devolution into constitutional and political orders. In the evolution of these constitutional models there has been continuing conflict between unitary and federal efforts, and centralised and decentralised forms. In India, the federal polity is based on division into linguistic states, while in Malaysia there is a Federation of States headed by local rulers and new territories which were given special concessions. The former Nigerian model provides an interesting contrast, with the overlap of certain regional and tribal groupings in the demarcation of states. The diverse ethnic, tribal and regional groupings have varying perceptions of federalism, and these perceptions have tended to shape the conflicts and tensions in the operation of federalism in each of these societies. There is a growing debate within each of these societies on the need for structural rearrangements to strengthen the federal character of these polities. These efforts have been directed towards the need to redefine centre-state relations in educational and cultural policy, police powers, resource mobilisation and redistribution, emergency and residual powers. Such efforts and problems evoke basic issues relating to equitable power sharing between ethnic groups, and the

failure to address these issues boldly has accentuated secessionist demands by disaffected ethnic and other sub-national groups. Federal and quasi-federal models of devolution also have a relevance to strife-ridden societies such as the Philippines, Pakistan and Sri Lanka, which have recently enacted new constitutions or are on the threshold of redesigning their present constitutional framework.

The question of self-determination which have been often asserted by ethnic minorities in the course of armed struggle or non-violent political agitation have been most problematic. Nations state become extremely defensive in the context of such assertions and often have recourse to extreme measures of repression to contain ethnic demands which they perceive would result in secession or disintegration.

Another focal point of ethnic conflict has been preference policies directed towards disparities in access to education and employment and in economic opportunities. These policies are often founded on competing perceptions of deprivation which in turn give rise to rival notions of social justice. India, one of the most complex and hierarchically structured societies, has a constitutionally mandated policy of preference towards weak and vulnerable minorities and tribal groups. Policy makers and judges have had to grapple with issues of bewildering complexity in defining the constitutional limits of such policies, balancing the interest of historically depressed caste and tribal groups with those of economically backward classes. Preference policies directed in favour of a politically assertive and dominant majority such as the New Economic Policy in Malaysia pose qualitatively different socio-political issues relating to the legitimate limits of preference policies based on proportionality.

Dr. Tiruchelvam is Director of the International Centre for Ethnic Studies, Colombo, presented this paper to the Human Rights Sub-Committee of the European Parliament.

The international community must accord highest priority to evolving principles, and concepts with regard to minority protection which will gain universal acceptance and contribute towards the peaceful resolution of conflicts. It must be emphasised that given the evolving and changing nature of ethnic identity and the content of ethnic demands and to the shifting balance of power between ethnic groups, most structural arrangements would remain fluid and transigent. There is therefore the need to continuously renew and reconstruct these arrangements to respond to new challenges and demands.

Ethnic conflicts pose fundamental issues relating to human rights and social justice which need to be addressed within the framework of the Community's policy on human rights and development cooperation.

First, the United Nations recently adopted a Declaration on Minorities which emphasises the need to respect and promote ethnic, cultural and linguistic identity without any distinction. It also emphasises the right of person belonging to ethnic, linguistic minorities to protect themselves against any activities which may threaten their existence or the full enjoyment of human rights and fundamental freedoms. In pursuance of this Declaration, the state should be encouraged to ensure that minorities participate effectively in political arrangements at the national and regional level. The Commission should therefore ensure that national policies and programmes in aid recipient countries are planned and implemented so as to ensure that minorities participate fully in the political, economic progress and development of their countries. Programmes of development cooperation should be reviewed so as to ensure they do not adversely affect the interest of ethnic groups and indigenous people by forcibly displacing them from their traditional habitat or result in disturbing the demographic balance in the regions in which they predominate. Programmes of developmental assistance should also endeavor to heal the scars of civil wars, and internal conflicts by assisting in programs of rehabilitation and reconstruction and by encouraging projects which provide emotional and psychological support to those who have

been traumatised by ethnic violence. Developmental assistance program also need to address issues of regional imbalance and ensure that regions in which ethnic minority predominate secure an equitable share of external developmental assistance.

Second, human rights policies and developmental assistance should be able to assist in addressing the underlying causes of ethnic conflict. This would include programs of research into the economic, social and ideological origins of ethnic conflict and educational programs which are intended to promote attitudes of tolerance and mutual respect in multi-ethnic societies. Such programs could include educational programs in schools and universities, to media programs directed towards a much more wider constituency.

Programs can also include the sharing of information and technical assistance to promote constitutional reform, building of new institutions such as Language Commissions, Minorities Commissions and the design of autonomy or devolutionary arrangements which are responsive to the political aspirations and socio-economic needs of the ethnic groups. Such programs could also include the strengthening of the formal institution of the state such as the judiciary to address more effectively problems relating to ethnicity, and to empowering civil societies institutions which are committed to the advocacy of group rights, the documentation of human rights abuses and to education, dissemination of information on questions of inter-racial justice and equality.

Third, an important area relates to conflict resolution and conflict avoidance. The international community needs to be active in the resolution of internal conflicts which have destabilized several nation states and even pose a threat to regional stability. Such international concern should primarily be directed towards strengthening of domestic political processes for conflict resolution both at the state and non-state level. Where the domestic processes appeared to have exhausted themselves, international community needs to be in a position to facilitate political contacts between contending groups and to encourage such groups to work constructively towards a durable solution.

Fourth, Community and Member States should adopt a policy on diversity which is analogous to that adopted by some private philanthropic Foundations. The objective of such a policy on diversity should be to promote pluralism and equal opportunity and to end discrimination based on ethnicity or gender. Such a policy includes the encouragement of projects designed to strengthen plural societies and to increase opportunities available to minorities and historically disadvantaged groups. Partners in development cooperation should be encouraged to promote diversity in the management and staff of organisations receiving and implementing aid. Partners should be required to clarify their goals with regard to diversity, the scope of their efforts to achieve diversity, and the barriers that exist to achieving diversity. Diversity concerns should include ethnicity, gender and national origins. While there is need for sustained efforts, strategies may need to be modified to the needs and challenges of particular societies.

Fifth, if the Community and Member States are to be effective in maintaining this policy, there is a need for both credibility and consistency. Credibility is related to the ability of the North to ensure that the 'South' within its national borders that groups such as refugees, migrant workers and its own under-class, are not subject to discriminatory or arbitrary treatment. There can be no such credibility if there is conspicuous disparity between domestic practices and international policies on human rights questions. The issue of consistency arises when there is selectivity with regard to the countries who are subject to punitive measures. Is the decision to suspend or terminate development assistance based solely on human rights considerations or is it more probable that factors such as geo-political importance, the economic model pursued by the recipient country and the domestic politics of the donor country are likely to influence such decisions?

S. W. R. D. Bandaranaike: The Best Man

A. Jeyaratnam Wilson

The answer is no. Bandaranaike was not the progenitor of Sinhala communalism. Robert Bernays in his *The Naked Fakir* had made a reference to him as a future prime minister. Rumour had it that Anthony Eden who was in Oxford at the same time had observed that he was of the same calibre. It is doubtful that Bandaranaike needed such promptings.

However it could be safely said that Bandaranaike was the one Sinhalese statesman who tried hard to come to grips with the communal problem with a view to finding a resolution. Sinhala communalism really emanated from the Senanayake brothers of whom D. S. was the exemplar. F. R. quarreled with Arunachalam and referred to him as highly egotistical or words to that effect. Probably these were the times when the Sinhalese leaders were trying to push out the Tamil "interlopers", Arunachalam and Ramanathan. D. S. took over from Ramanathan as the spokesman for the Unofficial Members, the latter being allegedly looked upon as more the representative of the Tamil interest.

D. S.'s twin policies of disfranchising the Indian plantation workers and launching state aided colonisation schemes weighted in favour of the Sinhalese in the traditional Tamil areas initiated the process of the disintegration of the island state. Besides D. S. was a class politician who safeguarded the propertied interests.

Bandaranaike was undoubtedly seeking power and in this pursuit, like all the Sinhala political leaders, he was amoral. It was no fault of his that he caught (to use an old adage) the UNP leader bathing and walked away with his clothes. But to continue with the analogy, he adjusted these clothes, to suit his political framework.

Bandaranaike subscribed to the neo-classical school of liberal political thinking. Neo-classical liberalism implied a belief that the duty of the state is to be paternalistic, not a mere night watchman, and to ensure minimum living standards for the common man. This was essentially a pre-1914 modification of the "New Liberalism" that was overtaking the Britain of

those years under the leadership of Lloyd George on the one hand and the Campbell Banderman and Asquith ministries on the other.

Being an intellectual, Bandaranaike struggled for certainty. Partly his self-doubts lay in that the man himself could not define clearly his political goals. He therefore dwelt on vague generalisations. Bandaranaike lacked political convictions because he was too much the rational man and found no difficulty in seeing the other side's point of view. To this extent he was refreshingly free of dogma.

Of no other prime minister, as of S. W. R. D. Bandaranaike, could it be said that he had to climb Disraeli's greasy pole in the most insurmountable of circumstances. He made the great decision and the correct one, when, as he himself claimed he "conquered himself". He crossed over to the Opposition in 1951. Until then he had been a pawn on D. S.'s chessboard.

Bandaranaike was wise enough to maintain his Sinhala Maha Sabha (SMS) as a component of the UNP and not dissolve it. When he made the historic break, he used his SMS to pass the Madampe Resolutions as preconditions for his group remaining in the UNP. D. S. did not concede. Bandaranaike made this the issue.

James Manor's view in *Bandaranaike: The Expedient Utopian* (Cambridge, 1989) that his relationship with his father, Sir Solomon, coloured his approach to Sir Andrew Caldecott and to D. S. Senanayake is somewhat inappropriate. The latter two would have had no compunctions in cutting him off in the prime of his political career. This is hardly father-like. On the other hand Nehru looked on Bandaranaike as a younger brother. When Bandaranaike died, Nehru ordered all departments of state in New Delhi to close for the rest of the day as a mark of respect for the dead leader.

Bandaranaike's contribution to post-independence Ceylon has to date not been properly assessed. He presented the progressive Sinhala electors with a democratic middle-of-the-road alternative. Towards this end he fulfilled his role as

Leader of the Opposition, 1952-56, effectively. Educated in the British tradition, he could not have sparkled better than as a parliamentarian and one of the legislature's best debaters.

Quintessentially a liberal, he would not have been the Alexander Kerensky as Ceylon's various Marxists hoped. He was never one of them. And he was scornful of their doctrines. He was not averse however to use these Marxists to forge political alliances. As evidence of the former, he once remarked in the 1931 State Council that Dr. S. A. Wickremasinghe was a "kirimutti socialist". For N. M. Perera he was less charitable referring to him as "the obscure son of a more obscure father", in repartee. The LSSP in turn scourged him with whips of scorpions when he arrived at power.

The Marxists gave him interminable trouble through massive strikes during 1956-9. They presumably expected that they could ride to power on a wave of unrest and anarchy. In the context of those times, as Prime Minister, he determinedly withstood huge crises brought on the state by Marxist trade unions. Bandaranaike was more the democrat. He had no propensity to coerce or use violence. Rather he sought to assuage and compromise.

Being a middle of the roader with the expected uncertain feeling on political matters, Bandaranaike tended to be more the eclectic. He did not therefore have a consistent political philosophy. But he had a social conscience. He did not approve of the privileged oppressing the poor. To this extent he had feelings for the common man. In office, he translated this worldview into a coherent and benevolent legislative program. Borrowing presumably J. B. Priestley's (the playwright) phrase when the latter delivered a funeral oration for H. G. Wells, Bandaranaike claimed that he had ushered in "the age of transition". (Priestley referred to H. G. Wells as "the prophet of the age of transition".)

Bandaranaike's conversion to Buddhism, basically on intellectual convictions than, as alleged, by his opponents for political advantage, led him to maintain a Christian worldview throughout his politi-

cal career. Neither ruthless nor politically devious, he was accommodative of oppositional forces. He is reported to have once told his wife that he was a better Buddhist than she. The teller of this story in whose presence the remark was made (Denzil Pieris) told me that Bandaranaike spoke in the context of his earlier Christian upbringing.

That he planned on allying with the Marxists, he told me and another university friend (Shelton Kodikara) in early 1959, when we met him in Horagolla and successfully sought his patronage for the Ceylon Institute of World Affairs which we were founding. To my question whether he hoped to win the next general election he said, he did not expect to obtain a majority but that he planned on remaining Prime Minister as "head of a different kind of 'set up' ". I think he had in mind a coalition with Ceylon's assortment of Marxists. With their support, he would accomplish many other tasks that needed to be done. This could have been possible given his centrism and the fact that Sri Lanka's Marxists were really liberal left wing socialists.

Bandaranaike was, as a practical statesman, a hard headed pragmatist. Having arrived at power, he planned on a democratic system which would deny the vested interests electoral advantages in the future. He therefore proceeded with a package of reforms which adversely affected the rich and the privileged. The latter had the electoral system perversely designed to maximize their opportunities. Bandaranaike ended it.

A revolutionary democratisation of Ceylon's electoral regimen followed. The reforms ensured that "the common man" would have no difficulty in casting his ballot. There would be a *one-day* general election, instead of the prevailing method of staggering the elections and providing for the safe UNP constituencies to poll first so that party could gallop to victory on the initial momentum. Electoral booths close enough for people to walk to, a ban on the use of hired private transport which gave an advantage to the wealthy classes and their candidates and the obliteration of the display of propaganda banners which again, only the rich could afford, provided for free and fair elections. What was more, the 18 year-olds were enfranchised.

NEXT: SWRD and Tamil Issue

THE J. R. YEARS — (4)

The Nadesan Case

Arden

The comic opera did not end there.

Mr. S. Nadesan, a senior attorney, a long-time senator and one who was closely associated with Sri Lanka's Civil Rights Movement, wrote and published in the SUN (the only English national daily that had not been brought under government control, presumably because it was anti-S.L.F.P. in its policy) a reasoned criticism of the episode. The first instalment of the four-part article appeared on 27 February some weeks after Jayewardene had been sworn in as the by-constitutional-amendment-deemed-to-have-been-elected Executive President.

The speaker referred the article to the Parliamentary Committee on Breaches of Privilege to examine it for possible breaches of privilege. On the committee's advice the speaker sought the opinion of the attorney-general. The attorney-general opined that "there was sufficient material to warrant the taking of further steps under the act against Mr. Nadesan in respect of the offence of publication of a defamatory statement reflecting on the proceedings and the character of the house".

It may be that the Attorney-General had expected that once he had given his opinion the house would proceed to use its judicial and punitive powers to deal with Mr. Nadesan. However, for some reason which was never made evident, the very house that had been so eager to use its new powers against the two editors, resolved that "the attorney-general do make an application in that behalf to the supreme court under section 23 of the Parliament (Powers and Privileges) Act No. 21 of 1953".

However, for some reason which was never made evident, the very house that had been so eager to use its new powers against the two editors, resolved that "the attorney-general do make an application in that behalf to the supreme court. . .

In this predicament the attorney-general was hard put to it to make out a case. He picked out 16 paragraphs of the article which he claimed "In themselves and in combination with other statements... were defamatory, reflecting on the proceedings of the house... and that he (Mr. Nadesan) has thereby committed an offence under Section 22 (2) of the Act". The attorney-general prayed that the supreme court be pleased to

- a. cause notice to be served on the respondent to show cause why he should not be punished for the said offence: and
- b. deal with the respondent according to the law.

The paragraphs the attorney-general considered defamatory of parliament were the following which he culled from Mr. Nadesan's article:

- a. "This practice was not followed in this instance. The Hon. Speaker said that

he had seen the picture referred by the Minister and was satisfied that there was a *prima facie* case of a breach in privilege and he requested the Leader of the House to move a motion in regard to the matter under the powers the House had derived the day before".

- b. "The Leader of the House did not move that the matter be referred to a Select Committee for consideration and report as to whether there was a breach of privilege or not. Nor is there any indication that he sought the advice of the Attorney-General. Instead he moved the following resolution".
- c. "This motion states that the caption to the picture was intended and calculated to bring Mr. A.C.S. Hameed into disrepute and thereby constitutes a publication of a defamatory statement concerning a member of the N.S.A. in respect of his conduct as such member. This appears to be a mistake. What the motion should have said is that Mr. A.C.S. Hameed had made a complaint to this effect. Otherwise it would mean that the Assembly had prejudged the issue without hearing the defence. But despite this mistake the motion was passed without debate or dissent".
- d. "A basic principle of natural justice demands that a person accused of an offence should be given adequate opportunity to examine and study the charge, to consult competent lawyers if need be and get full advice as to the legal position before he shows cause. This principle of natural justice was not observed in this case. In less than two hours it will not be possible to get competent legal advice in a complicated matter involving the law of defamation and the proper construction of the provisions of the Privileges Act".
- e. "But this plea did not apparently commend itself to the rest of the committee and nothing came of it and the committee proceeded to perform its judicial functions. The amended Section 27 says that the N.S.A. shall have the power and jurisdiction to punish summarily any breach of privilege".
- f. "The word 'summarily' is used here in a technical sense that a Magistrate's Court hears cases summarily. This does not mean that the principle of natural justice as to giving adequate time to show cause does not apply. It must be mentioned that the two persons on whom notice had been served did not ask for an adjournment and one of them said that he had consulted a lawyer".
- g. "On this material it is clear even if the publication is defamatory of Mr. Hameed in respect of his conduct as a member, that Mr. Harold Pieris is guilty of no offence. It is a basic principle of our law that *mens rea* or the guilty mind is an essential element in respect of all penal offences. There are certain exceptions to this rule but this offence does not come within those exceptions. In this case apart from *mens rea*, Mr. Harold Pieris did not make the publication in question as he was not officiating as editor on that day. It would be a sufficient answer to a charge of defamation against the editor of a newspaper if he shows that the libel was published in his absence and without his knowledge and that he entrusted the temporary editorship of the paper to a competent person. This is a basic principle found in reported cases. Apart from law reports, it is plain commonsense that if an editor is off duty or on leave he cannot be held guilty of a publication with which he had nothing to do".
- h. "On this material it will be apparent that Mr. Cooray did not have the *mens rea* or guilty mind requisite for establishing the offence. It is difficult to understand how the N.S.A. found Mr. Cooray, who had not merely spotted the mistake but had seen that the sub-editor corrected it on the page proof, guilty of the offence and fine him Rs. 1000. Both editors did the best they could in the short time given to them within which they had to show cause".
- i. "Therefore such a matter must be carefully and patiently examined and investigated by any judicial body and the pros and cons fully considered before it arrives at any conclusion".
- j. "According to Mr. J.R. Jayewardene the House did not know exactly what the crime was the two suspects had committed because the House did not go into the details of it and the merits of the defence. If this is correct the House, without knowing exactly what crime the two suspects had committed, proceeded to consider the question of what punishment should be inflicted upon them, and decided to impose a fine of Rs. 1.000 each".
- k. "This was the fine that the N.S.A. considered appropriate to impose on two editors one of whom was not officiating as editor on the day of the publication and the other of whom did not have the requisite *mens rea* and had done all he could have done to ensure that the Observer carried a true and correct publication".
- i. "The three reasons adduced for imposing the fines are untenable and cannot bear examination".
- m. "The resolution of the committee which was agreed to by the House does not appear to accord with the facts set out by the two editors in their explanations".
- n. "The resolution of the N.S.A. states that the fine of Rs. 1.000 each be paid to the Ceylon Deaf and Blind School before February 6, 1978. This order to pay the fines to the Deaf and Blind School appears to be an illegal order".

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Current Options and New Mechanisms

Kumar Rupesinghe

INTRODUCTION

With the end of the Cold War, the collapse of the Soviet Union and the diminished threat of a nuclear confrontation between superpowers, actual and potential internal conflicts have emerged at the top of the global agenda. With about 35 major conflicts currently underway, some experts are predicting that total could rise to as many as 48. The majority of these conflicts involve a struggle for self-determination, although many are rooted in a multiplicity of political, social and economic factors.

Self-determination conflicts were not absent during the Cold War period. However, the break-up of the multi-national and multi-ethnic Soviet Union is comparable to the decline of empire and the Decolonisation process after the 2nd World War. The acceptance by the international community of these new states is likely to encourage other groups within existing states to press self-determination claims.

From the perspective of conflict resolution, the issue must be seen as part of a complex matrix with both positive and negative aspects and outcomes. Conflicts involving the issue of self-determination have been categorised into those involving anti-colonial self-determination, substate or trans-state self-determination, indigenous self-determination or representatives self-determination. Some states are faced with a number of internal self-determination claims involving ethnic, religious, linguistic or indigenous groups.

Demands for various forms of self-determination and resistance to those demands have often led to violent conflict, gross violations of human rights and massive refugee flows. In fact, most of the estimated 33 million internally displaced

and refugees in the world in 1992 had fled internal conflicts. Forecasts indicate that the total number could rise to 60-80 million by the end of the century.

It is evident that the evolution of national and international mechanisms to peacefully manage internal conflict has been slow and extremely limited, thus creating a situation in which contestation and violence are seen to be the only options for those seeking to advance claims for self-determination.

Despite the reference to "We the people of the United Nations" in the world body's Charter, the UN system has historically been a construct of, for and by governments, primarily concerned with ensuring state sovereignty and territorial integrity. International action to promote human rights has largely been aimed at the protection of individuals within states, not groupings of peoples, or ethnic, religious, or linguistic minorities. In fact, the UN club of governments has been loath to address in any comprehensive way the effective protection of collective rights within states.

However, as the late founder of International Alert, Martin Ennals, pointed out in 1991 in his paper on Democracy and Self-Determination:

Times...have changed. As politics is the 'art of the possible', so international law must also relate to 'the recognition of the actual'. Ideas which had no hope of being accepted as international law in the period of the Soviet centralist control over what is now seen by many as an empire, are already being debated, negotiated, even fought for, by peoples who perceive themselves to be colonised and deprived of their right to self-determination.

In part related to the precipitous break-up of the Soviet Union and Yugoslavia, but also related to conflict generated humanitarian tragedies such as Somalia, the plight of Kurds within Iraq, and the siege

of Bosnia's Muslims, the concept and practice of non-intervention in sovereign states has been replaced by an awareness that in some circumstances, particularly where there are gross violations of human rights or humanitarian disasters, including the protection of civilian victims of internal conflict, active intervention is also an international responsibility. Though no rules have been developed to identify the circumstances in which the International Community should act.

In a world where millions of people who are considered or consider themselves peoples, nations, ethnics, or indigenous groups are deprived of effective political means of fulfilling their own projects or visions the conceptual and institutional gap between the nation state system and the great diversity of human society is central to an increasing number of violent conflicts. However, the question is whether any ethnic group have the political means to fulfil their aspirations irrespective of its compatibility with the obligations of the larger society.

To close this gap and foster the development of a peaceful, multi-ethnic and plural new world order, we need to clarify our understanding of such concepts as sovereignty, identity, democratisation, state formation and self-determination. A better understanding of the complexity of these constructs and their possible application is essential if we are to develop preventive frameworks within a global system which succeed in balancing the need for an orderly but flexible international system with the demands of sub-national or trans-national collectivities.

In writing this paper I am aware that many scholars, legal experts and political leaders have set views on the meaning and import of the phrase "self-determination of peoples" in the United Nations Charter and other documents of international law, as well as on how, or whether, to differentiate between peoples, ethnic groups, minorities and nations. Those

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views are often at odds and much confusion and ambiguity remains. However, I am of the view that a clear distinction must be made between minorities and peoples but will not address these conceptual issues in this paper.

The starting point for the resolution of conflicts and potential conflicts must be effective communication, not just to the satisfaction of international lawyers, but to the people who are so often the victims of conflict. That is why it is essential for the non-government community — the representatives of "We the people of the United Nations" — to work together to develop frameworks for the clarification of issues of self-determination, as well as for the peaceful ventilation, initiation or resolution of conflicts based on claims of self-determination.

1. ACTUAL AND POTENTIAL CONFLICTS

The issue of claims for self-determination can be found in all types of conflicts: inter-state conflicts, governance and authority conflicts, identity conflicts and resource-based ones. Often at the core of the most intractable and protracted of conflicts are the issues of ethnic identity and the clash of visions of different groups and a lack of communication between them. In many instances, the environment in which conflicts take place are non-egalitarian and lacking rational discourse, in part, because in multi-lingual and multi-cultural states different meanings are attached to the discourse, making it fragmented, disjointed and multi-faceted.

In the developing world, many states still in their formative stages lack a solid tradition of governance and respect for the rule of law. These governments are often ill-equipped to utilise the range of peaceful options that might be available to them. Politically, the issue of self-determination, whether it is interpreted to mean the ability to act independently in international relations, greater local or regional autonomy, equitable participation in a federative state system, outright independence or some other variant, is seen by political leaders around the globe as a threat to national security and it is the fragility of the state in formation on the one hand and the force of claims for self-determination which is at the heart of the problem.

Historically, the concepts of sovereignty and centralisation of the power of the state have been closely related. To protect the perceived interests of the state, political leaders have sought to concentrate more power in central institutions. Standardisation has also meant that cultures and languages have been absorbed, eliminated or incorporated as states modernise. But in recent decades, with the globalisation of communications, economic activity and culture, even governments have come to realize that in order to control developments which transcend national boundaries, supranational institutions have to be created resulting in the pooling of sovereignty, thus diminishing the real power of individual national governments. The ultimate outcome of this communications revolution remains to be seen, but it is readily apparent that the ability of governments to control information, economics and culture is dramatically shrinking and will have a serious impact on the sovereignty of nation-states as it is now understood.

It is one of the great paradoxes of the late 20th century that while millions around the world are struggling (and too often dying) for the means of expressing their goals and influencing the course of their lives, millions of others, secure in the material prosperity of what has been named the "democratic zone" are being led to give up more and more sovereignty to supranational organisations in the interests of further economic growth and international peace.

As well as this external erosion of sovereignty of the state, many governments are also being challenged by the loss of their monopoly on violence. Here, new transnational and national actors who traffic in sophisticated arms, or drugs, or both, have emerged as lethal opponents of law and order, massive dispensers of arms to the general population and political groups, which undermines the legitimacy and effectiveness of governments. This massive proliferation of small arms, as well as the equally worrisome increased use of mercenaries in internal conflicts, have serious negative implications for their peaceful resolution.

Given the rapidly changing international landscape since the end of the Cold War, particularly the emergence of about 20

new nation-states in Europe, Soviet Asia since 1990, the international community as a whole must press forward with the search for the middle ground in what is essentially a political minefield, keeping in mind that any lasting solutions must be rooted in internationally accepted standards of human rights.

Looking at existing and potential conflicts, the self-determination component is evident worldwide in the former Soviet Union, the Balkans, throughout Africa, the Middle East, Asia and the Pacific, Europe and Canada.

In the case of the former Soviet Union, ethnicity, economic and social collapse, and demands for greater self-determination have created a potentially catastrophic mix. As of mid-1992, there were an estimated 276 ethnic conflicts in the former Soviet Union, 4,000 people had died, mostly women and children, and one million people had become refugees. In the Balkans, the rallying cry of self-determination for Slovenes, Croats, Bosnian, Kosovars, and the counter-reaction by Serbs — who also argue that their attempts to create a Greater Serbia or protect ethnic Serbians are based on a claim of self-determination — threaten the entire region with a generalized war. Western Europe, already having difficulty coping with refugee flows from the former Yugoslavia and racist reactions to newcomers and more established immigrants, could be faced with even greater social and political pressures.

In Africa, self-determination movements, many of them seeking greater representation within existing states or democratic reform, are in many instances being led by politicians who use ethnicity as a mobilizing agent. Challenges to the existing order are evident in Nigeria, Angola, South Africa, Mozambique, Liberia, Cameroon, Zaire, Chad, Kenya, Ethiopia, Morocco and elsewhere. The human suffering, economic devastation, and the setbacks to development that have already stemmed from internal wars in Africa are staggering in their dimensions. In Somalia alone, an estimated 30,000 people died and 2.5 million were internally and externally displaced within 18 months in 1991 and 1992.

In India, Sri Lanka, Afghanistan, the Philippines, Bhutan, Bangladesh, Indone-

sia, China, Cambodia, Burma and elsewhere in Asia, sub-state, trans-state and representative movements for self-determination are also challenging the status quo. In India, the upsurge in Hindu fundamentalism, which led to an estimated 1,800 deaths in recent rioting, can be seen, in part, as a clash of projects — primacy for Hindus versus the secularism of the modern Indian state. This development of Hindu fundamentalism will have major consequences for the region.

In fact, no region of the world has been, or apparently will be, immune to self-determination conflicts. Given the scope and number of claims for greater self-determination worldwide, as well as their potential for escalation into violence, it is evident that the global community needs to develop mechanisms which will help ensure that conflict does not inevitably lead to violence.

2. A BRIEF SURVEY OF EXISTING MECHANISMS

In the post-war era, the concept of self-determination was seen to be limited to decolonisation or the protection of existing states from interference by others. The 1945 UN Charter references to self-determination of peoples are generally understood in that context and they set out as a principle and not an enforceable right. Articles dealing with Trust and Non-Self-Governing territories call for governments to assist "peoples" yet to attain a full measure of self-government, although the territories were to be treated as whole political entities. Parallel to the doctrine of non interference in the national affairs of states, has been the development of norms and mechanisms to protect and promote the human rights of individuals within existing states based on internationally agreed standards.

However, the emphasis has always remained on individual, not collective, rights, and on the primary responsibility of nation-states to enforce protective measures. The Secretary General of the Council of Europe, Catherine Lalumiere, summed up this approach in a recent speech, but also noted the emerging concern of the international community with violations of human rights and the new-found willingness to intercede:

The state should be the principal custo-

dian of human rights; its role is to respect and enforce those rights... It was because the state has often failed in its role of custodian of human rights and been transformed into an instrument of oppression that the international community was given a watching brief over the behaviour of states. These can no longer shelter behind the cosy screen of non-interference. Human rights have ceased to belong to the domain of 'domestic affairs'. Respect for human rights is a duty of every state, not only towards its people but also towards the international community.

Within the United Nations system there are several mechanisms relevant to a discussion of claims for self-determination. These include procedures to foster decolonisation (the International Trusteeship System and the Special Committee on Decolonisation); human rights treaty oversight bodies such as the Committee on Human Rights; the Commission on Human Rights, its Sub Commission; and the procedure for membership of new states in the UN. Also pertinent to a discussion of self-determination and conflict prevention are the Conference on Security and Co-operation it's newly-established High Commissioner for Minorities and the use of CSCE principles in recognition of new states.

In reviewing the existing mechanisms, which are being offered as a check list of developments in the UN Standard setting within existing bodies will take a long time to develop and there is an urgent argument for a new mechanism to the a new mechanism to be developed alongside of this.

a. The International Covenants

After the surge in decolonisation in the 1950s and early 1960s, the right to self-determination is clearly enunciated in Article 1 of the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights in 1966: "All peoples have the right to self-determination. By virtue of the right they freely determine their political status and freely pursue their economic, social and political development". Thus emerged the right of people to self-determination as a human right, and as a freestanding precept, beyond the confines of normative practices on decolonisation. India who benefi-

ted from self-determination as freedom from colonisation entered a formal reservation on the right of self-determination thus underlining the common fears of many multi-ethnic states by seeking to restrict its applicability to "peoples under foreign domination", not to "sovereign independent States or to a section of a people or nation — which is the essence of national integrity". In contrast, several Western states, reflecting the evolution of the concept of self-determination from one of external self-determination and decolonisation, objected to the Indian position on the grounds that self-determination should apply to "all peoples".

b. The Committee on Human Rights

Under the International Covenant on Civil and Political Rights, states are obliged to provide civil and political rights to their citizens, including freedom of religion, freedom of speech, freedom to associate, fair trial, security of the person, and freedom from torture. Two separate provisions allow individuals or other states to bring complaints against states in relation to non-compliance with treaty obligations. As of mid-1992, however, 105 states had ratified the Covenant and 67 states had become parties to the Optional Protocol dealing with complaints from individuals. The tasks of the quasi-judicial Committee on Human Rights under the Covenant are to examine international disputes (a Pandora's Box that has never been opened), hear periodic state reports on human rights, and process legal cases brought by individuals against states party to the Optional Protocol. The Committee produces "views" on the compliance of states with their human rights obligations under the Covenant. The views are not legally binding, but do contribute to jurisprudence.

In its examination of periodic State reports the Committee deals almost inevitably with the issue under Art. 1 and continued application of self-determination for post colonial situations. A dual doctrine has emerged whereby internal self-determination is seen as a States responsibility to their own people in terms of a right to determine their own political, social and economical destiny. External self-determination in confined to foreign policy action by states to ensure this right is in respect of remaining areas of racist or colonial occupation.

The Committee has also rejected the equation of 'minorities' with 'peoples' on the basis that these are provided for by two discrete rights in the covenant i.e. Art. 27 and Art. 1 respectively.

Group or class actions are not possible under the Optional Protocol; actions can only be brought by individuals. Although some groups have claimed they were "peoples" under Article 1 of the Covenant (Micmacs and the Lubicon Lake Band and the Samis of Sweden), the Committee has ruled it cannot address such issues because the existing procedures are only applicable to breaches of an individual's human rights.

c. The Declaration on Minority Rights

In December 1992, the General Assembly adopted the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The Declaration enjoins states "to protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity" (Article 1). It subsequently enumerates the rights of "persons belonging to minorities" and the obligations of states towards them.

It should be noted, however, that in the Declaration's preamble the promotion and protection of rights of persons is seen as contributing "to the political and social stability of States in which they live". And, in Article 8,4, the Declaration states that nothing in it "may be construed as permitting any activity contrary to the purposes and principles of the United Nations, including sovereign equality, territorial integrity and political independence of States".

d. The Commission on Human Rights

The Commission on Human Rights, made up of state representatives, acts as a human rights oversight body reporting to the ECOSOC. The Commission produces resolutions and reports on the whole range of human rights issues, hears complaints on human rights violations within member countries, from member States, NGOs and other groups, and has developed various thematic procedures to investigate particular country situations and practices violating human rights and report back to the Commission. The Commi-

ssion has a number of limitations, including the fact that it is a political body made up of representative of states and yet has limited input into political decisions made at the UN in New York in respect of the UN's new Agenda for Peace. The Sub-Commission and the Prevention of Discrimination and the Protection of Minorities, made up of independent experts has heard representations from bodies claiming to represent peoples seeking the right to self-determination.

There are various Working Groups including the Working Group on Indigenous Populations which is currently elaborating a Draft Declaration on the Rights of Indigenous Peoples.

e. The Special Committee on Decolonisation

Established in 1961, the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples currently follows application of the Declaration to 17 Non-Self-Governing Territories, mostly in the Caribbean and Pacific regions. The Committee provides reports to the General Assembly, which has produced a number of resolutions and decisions related to the right of peoples and nations to self-determination and independence, as well as on the responsibilities of administering powers to create conditions conducive to the free exercise of the right to self-determination and independence.

f. The Trusteeship Council

The Trusteeship Council, which operates under the authority of the General Assembly and includes the five permanent members of the Security Council, is an outgrowth of the League of Nations trusteeship system, which was used to deal with territories detached from the defeated powers in World War One. As stated in the UN Charter, its International Trusteeship System is aimed at furthering international peace and security, promoting progressive development towards self-government or independence, and encouraging respect for human rights and fundamental freedoms. In 1991, with the independence of Micronesia, the last of the original 11 Trust Territories to attain independence or self-government, the system became dormant.

g. The CSCE's High Commissioner on National Minorities

In December 1992, the Conference on Security and Co-operation in Europe appointed its first High Commissioner on National Minorities, former Dutch foreign minister Max van der Stoep. The High Commissioner is mandated to provide "early warning" and "early action" in regard to "tensions involving national minority issues that have the potential to develop into a conflict within the CSCE area, affecting peace, stability or relations between participating states. The "early action" function involves "contact" and "consultations" with the parties to a conflict — essentially a preventive diplomacy role.

h. International Recognition

Ultimately, new states and governments must pass the test of international recognition if they are to survive. In general, international law defines a state as having a delineated territory, a permanent population, control by its own government and the capacity to engage in formal relations with others. Recognition of a state imposes a duty on other states to respect the former's territorial sovereignty and the citizenship of its inhabitants. UN membership and membership in other multilateral organisations, confirms a state's legitimacy. To attain UN membership, a state's application must be approved by a majority vote of the Security Council and a two-thirds vote of the General Assembly. Recognition of a government by other state governments, however, is totally discretionary.

With the precipitous break-up of the former Soviet Union and the former Yugoslavia, the international community has begun setting out what amount to criteria for recognition of states based on factors such as respect for existing borders, support for democratic processes, the rule of law and protection of human rights. In cases where nuclear weapons have been involved, as in the Ukraine, the criteria have also stipulated that the Ukraine take steps to ensure the safety of weapons of mass destruction and implementation of arms control treaty conditions agreed by the Soviet Union. However, such criteria have been developed on an ad hoc basis and inconsistently applied.

(To be continued)

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