

LANKA

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## GUARDIAN - MARGA SEMINAR

# PRESS FREEDOM

● G. L. Peiris ● H. L. de Silva ● Lakshman Kadirgamar

**A Russian Journey :** *Mithran Thiruchelvam*

## CONSTITUTIONAL CRISIS

**Mervyn de Silva**

**A. Jeyaratnam Wilson**

**C. Suriyakumaran**

**J. R. YEARS** — *ARDEN*

**BRAIN DRAIN, TAXATION AND THE PRIVATE SECTOR**

— *C. P. de Silva*

**CAN'T A POTTLE PLAN HELP ?**

— *A. C. S. Candappa*



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## TRENDS

### Another wait

Public servants who expected a 40 per cent salary increase this month will have to wait for it till January next year. "While the government has been able to secure the commitment of foreign aid donors to support the development programmes, the realisable local funding has not been adequate to meet all demands", a government announcement said.

Things will be better, presumably, after six months. The withheld increase will be given with arrears then, these state employees have been told.

### Tourism up

In the last month of the winter season tourist arrivals in Sri Lanka recorded a six per cent increase over the same period (May) last year. There were 22,368 arrivals in May 1993.

In the first five months of this year 172,752 foreign visitors arrived in Sri Lanka, according to Tourist Board statistics. This was 10 per cent more than the corresponding figure for last year.

### Free degree course

Those in the queue for admission to the nation's residential universities can now opt for a free course at the Open University, the University Grants Commission announced. The Open University's course fee will be borne by the UGC. The offer is open to those students who qualify for university entrance on the results of the GCE (Advanced Level) Examination of 1990 onwards.

## Briefly. . .

### A Jaffna man

Calling himself "still a Jaffna man" notwithstanding his high profile and association with high finance, Finance Secretary R. Paskaralingam ('Paski' to his friends) told *Sunday Times* interviewer Roshan Peiris that wheeler-dealer allegations thrown at him by the political opposition were "all lies". The cool and soft-spoken 'Paski' challenged his critics to confront him with specific charges without throwing around veiled and wild allegations.

About the controversial Air Lanka airbus deal the Finance Secretary Said: "Tell me this. Who is giving the kick-backs and to whom. I am certainly not the recipient of any kick-backs."

About the story that he flew out of the country on the day President Premadasa was assassinated, Mr Paskaralingam said that arrangements had been made much earlier for him to leave on May 1 to finalise the agenda for the Sri Lanka Aid Group meeting in Paris.

### Funds short, holidays too much

A shortage of capital has led Sri Lanka to high interest rates and double digit inflation, the Economist's Vice President Samuel Moon said in Colombo. There were also too many holidays in this country, he said.

Mr Moon urged Sri Lankans to go out into the world and canvass for investors. The competition was rough, he said, the investment pie was getting smaller, and countries like Vietnam and Thailand were aggressively competing to attract investment.

Meanwhile President D.B. Wijetunga said at the same forum, the Economist Roundtable Conference (Lanka Oberoi - June 29 to July 1) that investor confidence

was at its peak as a result of Sri Lanka's liberal economic reforms. "Market capitalisation transactions on the stock market have considerably increased. Despite recession in most developed countries we have continued to see our economy grow" he said.

### PM reveals talks

Prime Minister Ranil Wickremasinghe said at the Economist conference with the government that official and unofficial talks were going on with Tamil groups to determine what additional powers could be given to provincial councils as a means of solving the north east problem. The LTTE was the only Tamil group not participating in the discussions, he said.

(Continued on page 9)

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## DRUGS ?

Amendment to Drug Regulation No. 34 of 1984 in Govt. Gazette Extraordinary No. 722/3 of Monday the 6th July 1992.

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# Constitutional crisis: Prabhakaran's move

Mervyn de Silva

Two assassinations in the ten days that shook Sri Lanka, and what do we see. The post-78 constitutional structure is cracking up. Presidential or parliamentary system; National government; Amendments to permit cross-over in Parliament; the dissolution of the DUNF or a new DUNF role in a larger coalition, enjoying the status of the "independent" CWC of Mr. Thondaman, the super minister? And what of the major Opposition party, the SLFP? Its quarrels are out in the open. Mr. Neville Fernando would like to see a 17th Amendment to the constitution that would remove the present restriction on members of parliament quitting the party which had nominated them. The mother-and-son quarrel is now out in the open, on the front pages of the daily papers or on the editorial page of the Sunday press. These rows have also spread to the courts where Mr. Tilak Karunaratne, key 'Anura supporter' appealed against his dismissal from the The pro-Anura group may have sufficient votes to give the government a two-thirds majority.

A DUNF deal with the UNP could mean that the Chief Minister of the all-important Western Province exposed to the danger of being ousted. The Chief Minister, is none other than Ms. Chandrika Kumaranatunge, the real architect of the SLFP-led united front, the left-inclined P.E.P. Some UNP tacticians think it would be better to keep Ms. Kumaranatunge in the post if only to explode the myth of a dynamic, and disciplined organiser. If she succeeds in the Western Province, her claims to PEP nomination as the presidential candidate next year will be greatly strengthened. On the other hand, if the UNP-DUNF alliance gets going, that combination can see that she really cannot deliver the goods — an efficient city administration. She can reverse the Chinese tactic of surrounding the cities from the countryside. She can storm the rural areas from the metropolis. Or so the counter argument will go. The statement

by Mrs. Srimani Athulathmudali made it plain that Mr. Lalith Athulathmudali's supporters plan to maintain the party's separate identity. The former national security minister was the favourite candidate of the cosmopolitan professional class which President Premadasa alienated. But I doubt very much that the martyred Lalith has the makings of an S.W.R.D.

It would appear that Anura is far better placed to make his own tactical move — the amendment moved by Dr. Neville Fernando. Then it's only a question of numbers, enough votes for a two-thirds majority to remove the punitive J R restriction on traitors or cross-overs.

What is the most politically significant lesson to be drawn from the current confusion. It is useful to remember the evolution of the present crisis. What started this train of events was the assassination of President Premadasa, or as I said at the start two assassinations in the course of ten days. It is the impact of that double-blow to the system that has produced the prevailing uncertainty, confusion and fevered debates. In that

sense, Mr. Prabhakaran is the playwright.

By killing these two leaders he has brought to the surface a myriad 'contradictions'. As these interact, the confusion gets more confounded. Each conflict breeds other conflicts, causing fissures in an organised body such as a political party. e.g. the DUNF, the island's newest party. thus, the emergence of a loyalist Lalith faction. Factionalism in turn means splits,.... fissure. The LTTE is pursuing the war by other means — causing confusion in the ranks of the enemy, exploiting and sharpening internal divisions, from personal ambition to policy disagreements.

The UNP impressed the world by its smooth Premadasa-Wijetunge transition. But now the political scene, and perhaps the UNP scene too, are marked by disagreements, bitter tactical debates, personality conflicts etc. Prabhakaran is a master of the art of war. This is his doing. The rest is constitutionalism, and here, Prof. A. Jeyaratnam Wilson, has intervened with a letter to the L. G. We also have a contribution from Prof. C. Suriyakumaran.

## UN PEACE

*Lapping with the voicess of fresh Dead  
In the murk, the restless water shreds  
This night's fireflies  
And old Star Wars of a thousand light years.*

*On the battle fields over stilled war cries  
Cold constellations glitter.  
Each Peace, Tribal-negotiated, bitter  
Resented and remote. Fairer far  
And warmer the Old Cold War*

U. Karunatilake

# The post-assassination impasse

A. Jeyaratnam Wilson

The assassination of President Premadasa left a vacuum. Praise has been showered that the transition has been smooth. This is only partially correct. Notwithstanding the peaceful transfer of power, a vacuum has been created which has presumably been recognised by the appointment of one of the island's sharpest intellects, K.N. Choksy, as Minister of Constitutional Affairs. His path will not be strewn with roses.

There is a number of roadblocks involved in any effort to restore Parliament to a dignified role, re-introduce prime ministerial government and return the presidency to its pre-1979 position as the ceremonial head of state with a few more powers than he had in his earlier incarnation. There is the benign hope that the Opposition will cooperate in this endeavour and all will be well — a return to Westminster from the Gaullist interlude.

The present political situation is fraught with unpredictable consequences. President Wijetunge is not merely a lame duck but a sitting duck. Under the constitutional amendment for the election of the omnipotent leviathan, the executive president, the latter could resign after his fourth year in office and face the electors at a favourable time in the same way as a prime minister. President Wijetunge does not have this choice. He has two years to go, not four. How does one resolve this? To ensure a probable return of the UNP, a prime minister with full fledged powers has to be installed. He could probably then win against the present divided Opposition. Under the earlier system, a victorious executive president could rally the electors behind his party on the simple principle, "that the presidential candidate has won, let us, the electors, reap the benefits of that victory by giving his party, as well, a majority in Parliament." The question of contradictory majorities as in France did not arise.

Now comes the Catch 22 question. Will the Opposition put its head into the noose by cooperating in providing the two-thirds

majority? The Supreme Court for its part may or may not require a referendum. If it did, the passage of the amendment in a referendum will be easy but only if the Opposition cooperated.

What arguments will the Opposition bring against a Choksy package of constitutional amendments? Numerous. Not merely a restoration of priministerial authority and accountable cabinet government. They will demand other reforms to be included. Perhaps they will ask for the abandonment of proportional representation which is dear to the hearts of the UNP as well as many other changes. They, the Opposition, have their battery of constitutional lawyers and experts. A deadlock will ensue.

So what will happen? Parliament will, in accordance with the Constitution, be first dissolved. Whichever party wins will however have a second chance, a "go" at the Presidency. The UNP candidate is unlikely to be President Wijetunge. We will have two formidable gladiators from the rival parties. Whoever wins, UNP or SLFP,

will not get the two-thirds majority from the Opposition to change the constitution. Any change should, it will be demanded, be a full scale revision, not a mere tinkering with the system. Ranil Wickremasinghe with his impeccable record would be a formidable UNP choice. So would Chandrika Kumaranatunge, if she was the oppositions agreed candidate.

There is one other way out but it will not be realistic. President Wijetunge can delegate or transfer the bulk of his powers to the Prime Minister. But constitutionally he is still the head of the Cabinet. The transfer/delegation will not be constitutional. Any recalcitrant minister can rightly insist that he takes his orders from the chief executive, the President not the Prime Minister. So can bureaucrats. The electors could get wise to the subtle differentiation.

If the Opposition wins, the same dilemma presents itself. So like it or not, the Gaullist presidential system will last longer. It will take longer for Westminster to be restored.

## Alas the L.S.S.P.

*They all died outcasts;  
Thus history all glitter outlasts.  
Colvin alone escaped being full pariah  
To clutch the old-school-tie with new umpire.  
For this he lost much respect  
Among those who now didn't know what to expect.  
N.M. lost his secure Ruwanwella  
And nothing was heard from Cotta Road, Borella.  
Doric, the eloquent academic,  
Was reduced to second language mimic.  
The people's heroes were neglected dogs,  
Treated as alien ideologues.  
Then they died, their poor second string,  
Mangy and mediocre, entered the half-ring.*

Patrick Jayasuriya

# On Central Government

## C. Suriyakumaran

Three 'Scenarios' are herein set out for considering, either as a 'mix' of them, or choosing one of them:

### Scenario I

- (1) The Presidency ceases (December '94)
- (2) Revert to the so-called Westminster model.
- (3) Appoint a Tamil Deputy Prime Minister (perhaps an additional, Muslim Deputy Prime Minister).
- (4) Provide for minimum required minority Portfolios (including, say, 2 from basic ministries like Finance, External Affairs, Home, Lands, Industry, Planning, etc.).
- (5) Reintroduce the Executive Committee System (pluralistically constituted) in charge of portfolios, with Minister as Member and Chairman.
- (6) Devolution (not confusing with Ethnic issue) needs honest recognition by Central Government of intentions and policies.  
Matters involved include, especially, Functions and Finance at Provincial level; Pradeshiya Sabha authority; and the old Gam Sabha, etc., — even for good Central Government.<sup>1</sup>
- (7) (a) Revert to original voting system; or use modified proportional/preferential (the present term 'preferential' is a misnomer) system;<sup>2</sup>  
(b) Abolish Bonus Seats, or allot to Group forming the Administration.
- (8) Preferably, hold all Elections together, and on ONE DAY.

### Scenario II

- (1) Retain Presidency (as representation of National identity, Security, and Policy).
- (2) Appoint Tamil Vice-President.
- (3) Appoint Muslim Deputy Prime Minister.
- (4) Prime Minister and Ministers to assume full responsibility for Subjects.
- (5) Prime Minister appoints his colleagues (in consultation with President).
- (6) As at No. (4) of Scenario I.
- (7) As at No. (5) of Scenario I.
- (8) As at No. (6) of Scenario I.
- (9) As at No. (7) of Scenario I.
- (10) As at No. (8) of Scenario I.

### Scenario III

- (1) Executive Presidency continues.
- (2) As at (2) of Scenario II.
- (3) As at (3) of Scenario II.
- (4) As at (4) of Scenario II.
- (5) As at (5) of Scenario II.
- (6) As at (4) of Scenario I.
- (7) As at (5) of Scenario I.
- (8) As at (6) of Scenario I.
- (9) As at (7) of Scenario I.
- (10) As at (8) of Scenario I.

### NOTE

- (i) For specific provisions which are new and look unconventional, modalities can be found.
- (ii) All points above can be adequately elaborated as desired.

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1. Several CRDS Studies, Monographs, Reports of Provincial Councils thinking, and other references are available.

# The Noose Tightens

**G. Nikam**

It took just a few tablets of Brufen, the powerful pain-killer, to create dubious history and plunge the entire country into political chaos. Dhanu, the 'human bomb' who assassinated Rajiv Gandhi had fallen ill on May 20, 1991, a day before the Sriperumbudur operation was to take place. Weak and dizzy, she was treated at Madras nursing home where Padma, one of the accused, was working as a nurse. Had it not been for the Brufen which helped Dhanu recover, the operation may have been called off.

The militants also did not rely on their own dedication to the cause to carry out the fiendish plot. The three key women involved in the conspiracy — Dhanu, Subha and Nalini — went to a temple near Villivakkam a day before the operation to seek the blessings of the deity for the successful execution of the plot, according to the case made out by the Special Investigation Team (SIT) before the Special Court trying the accused in the Rajiv Gandhi murder case.

The lengthy opening statement of the prosecution, which took four days to complete, provides the first indication of the mass of evidence gathered by the SIT. This includes several diaries, account books and correspondence seized from LTTE militants and their sympathisers. The diaries of Sivarasan, the 'one-eyed Jack' who masterminded the assassination, show that he had kept accounts of gold brought in from Sri Lanka, the money spent on the mission and money disbursed to the other accused.

The conspiracy, according to the prosecution, was hatched by LTTE chief V. Pirabhakaran, its intelligence chief Pottu Amman and deputy chief of the women's intelligence wing Akhila at Jaffna between July 1987 and May 1991. One

of the two groups who formed the actual team to assist the assassins landed in India in September 1990, eight months before the assassination. The first group consisting of Vijayan, his wife Selvalakshmi and her father Bhaskaran rented three houses. They were followed by the second group, consisting of Robert Payas and his family, and Jayakumar and his wife Shanthi.

Later, Sriharan, a hardcore LTTE member, landed in Kodaikkarai on the Vedaranyam coast and was received by Shanmugham, a local smuggler and LTTE sympathiser. He contacted Padma's family, her daughter Nalini and son Bhagyanathan. Meanwhile, Muthurajan, a local Tamilian and LTTE member close to Padma's family, introduced Bhagyanathan and Perarivalan, who were assisting the Tigers' political wing, to Nishanthan, an LTTE intelligence wing member.

The core group of nine members, including Dhanu, Sivarasan, Subha and Nehru, landed in India on May 1. They started operating from the three rented houses and conducted a dry run on May 7 when V.P. Singh was in Madras, to assess the scale of security for a former prime minister. The SIT has also got hold of letters purportedly written by Dhanu and Subha to Akhila and Pottu Amman after the dry run. The letters were seized after Sriharan who was to have taken them to Jaffna abandoned his trip as the boat which was to take him to Jaffna did not arrive. The bag containing the letters was buried in a pit in Kodaikkarai. According to the prosecution, on May 20, 1991, the details of the assassination were worked out and specific tasks were assigned to different people at Padma's house.

Regarding the motive behind the conspiracy, the prosecution points out that

since the Indo-Sri Lankan Accord was signed between Rajiv Gandhi and Sri Lankan President J.R. Jayewardane, Pirabhakaran felt that he had been "stabbed in the back". The sending of the IPKF to Sri Lanka had also enraged the LTTE leader and anyone who supported its continuation was seen as a "traitor" — TULF leader Amirthalingam and EPRLF leader K. Padmanabha were murdered to reinforce the message.

There were other reasons for Pirabhakaran developing bitter hatred for Rajiv Gandhi — the death of Dileepan, a senior LTTE functionary who died fasting in September 1987, and the cyanide-induced suicide of 12 Tigers captured by the Sri Lankan navy.

Following the prosecution's case, the defence has also presented its arguments. But the actual trial, which will start after the charges are framed, is likely to take some time. The defence is waiting for a Supreme Court judgment on several similar petitions challenging the validity of the Terrorist and Disruptive Activities Act. "Whatever the ruling, it is very important for us", says S. Doraiswamy, one of the defence counsels, without bothering to elaborate.

But the 26 accused who have been lodged in the high security Poonamallee sub jail-cum-special court complex on the outskirts of Madras don't show any signs of tension or apprehension. Though individual fenced enclosures have been built inside the special court hall, they are allowed to sit on the benches outside these enclosures during the hearings. And all of them, when they appear for the hearings, are dressed immaculately in neatly-ironed clothes and look cheerful. But the cheer could fade fast, as the court battle begins its long and arduous course.



PRESS FREEDOM (1)

# NEEDED: A Sound Policy Framework

Professor G. L. Peiris

(Vice-Chancellor and Professor of Law, University of Colombo)

I pointed out recently that it is a measure of our national calamity that the assassination of political leaders has become today the principal instrument for changing the destiny of our country. I suggested that, if we are in earnest about reducing the degree of violence and cynicism in our public life, nothing calls for our attention in a more urgent and compelling manner than practical ways and means of breathing new life into, and buttressing by every possible method, our basic institutions.

Pre-eminent among these institutions is the media. The role of the media in disseminating information, in commenting on contemporary events, in moulding public opinion and in responding to the challenge of investigative journalism is demonstrably crucial in the context of fortifying participatory democratic values.

While this is true of all media, electronic as well as print, in the setting of modern society, my purpose here is to focus upon problems connected with the Press even though some of the reflections made in that connection would no doubt apply, *mutatis mutandis*, to the electronic media.

Section 3 of the German Lander Press laws declares: "The Press fulfils a public function, in that in matters of public interest, it collects and disseminates information, presents criticism and commentary, and otherwise contributes to the formation of public opinion."

The special role of the media forms the basis of extraordinary privileges guaranteed to the media by the Basic Law of the Federal Republic of Germany. Article 5 of the Basic Law of Germany explicitly protects the rights of publisher, editors, journalists and readers to freedom from government interference with the right to express and disseminate opinion and to gather information from generally accessible sources. Special institutional guarantees to the mass media have been interpreted in Germany as including positive

government obligations to further media diversity requiring both an "external plurality" (such as competition among many newspapers) and "internal plurality" (diversity in the composition of boards of newspaper companies). These special protections have been justified on the ground that the media have a special "public function" to inform public opinion and to act as a "public watchdog".

There are other countries where the freedom of the Press has been entrenched in constitutional provisions representing the fundamental law of the land. This tradition is strongest in the Nordic countries. The Constitution of Sweden includes the Freedom of the Press Act of 1949, the Instrument of Government of 1974 and the Freedom of Speech Act of 1991. This entails a consequence of far-reaching practical importance. Because the Freedom of the Press Act is part of the Swedish Constitution, even relatively insignificant alterations in the legal structure relating to protection of the freedom of the Press are required to be passed by parliament, in identical bills, on two occasions separated by a general election. The result is that the voters are thereby invariably assured of the opportunity of deciding upon the proposed changes.

By contrast, the Constitution of Sri Lanka, like the Constitution of India, does not contain any explicit guarantee with regard to the freedom of the Press. Freedom of expression is guaranteed in general terms by Article 14 of Chapter 3 of the Sri Lankan Constitution of 1978 which protects, as part of its Bill of Rights, "freedom of speech and expression, including publication." Although the right to receive information is not expressly included, the Supreme Court of Sri Lanka held, in *Visuvalingam v Liyanage*, that the right of the public to know is necessarily implied in the right to freedom of expression.

The absence of unequivocal constitutional guarantees in respect of Press free-

dom reminiscent of the German and Swedish models in the provisions of the Constitution of Sri Lanka, is not, to my mind, a decisive or overriding factor. What is of far greater significance than the formal structure of the constitutional instrument is the political and legal culture of the country, itself the product of tradition, convention, and an intricate milieu of unwritten agreements and understandings.

If there is to be genuine vigour and vitality in the media, the prime requisite is the lack of inhibition. This cannot be brought about, quite obviously, by the black letter law contained in legislation or in administrative regulations. The political and social mores of the country must be conducive to the spontaneous expression of opinion, the reflection of differing viewpoints in the media and tolerance of dissent.

There are many reasons why the incultation and development of these values can be considered to determine conclusively the tranquility and wellbeing of our nation during a period of unprecedented turmoil and upheaval in its history. One of these reasons — and, by no means, the least important — was articulated a few months ago by the Supreme Court of Sri Lanka in the *Jana Ghosha* case where Justice Mark Fernando aptly commented that the expression of dissent provides a safety valve which may well discourage major conflagrations in the future. Mr. Justice Fernando observed: "Stifling the peaceful expression of legitimate dissent today can only result, inexorably, in the catastrophic explosion of violence some other day."

It has to be recognized in a spirit of candour that pontification about such moral values as courage and self-sacrifice will make little contribution in the world of reality to the furtherance of Press freedom. Journalists, like other people, live and work in a social context: they have to contend with strains and pressures, and they respond necessarily to the stimulus

(The Prime Minister, Ranil Wickremasinghe, M.P. was the chief guest)

of factors which are part and parcel of their social and cultural environment. These have to be addressed with a view to removing, or at least diminishing, excrescences and constraints, if we are to create the conditions in which journalists have practical capability to achieve the objectives of their profession. In other words, it is the business of society, and not merely of journalists themselves, to take the initiative in creating the conditions which represent a *sine qua non* for pragmatic realisation of the ideal of Press freedom.

I would suggest that a viable strategy to accomplish this objective must contain a diversity of elements, chief of which are the following:-

(i) identification of the anomalies and restraints embedded in the constitutional, legislative and regulatory framework pertaining to the functions of the Press, and appropriate action designed to remove these deficiencies;

(ii) suitable action directed towards recognition of confidentiality in respect of journalists' sources of information — an indispensable requirement if independence and effectiveness of journalists is to become a reality;

(iii) remodulation of attitudes to the law of defamation so as to reduce the 'chilling' effect which inevitably discourages and even stultifies initiative among journalists;

(iv) the provision of adequate facilities which would enable journalists to enhance their professional and technical expertise;

(v) the availability of adequate and realistic scales of remuneration which would attract talent and quality into the ranks of practising journalists.

In identifying these components of a coherent and opportune media policy for Sri Lanka, and for many aspects of the ensuing discussion, I wish to acknowledge my profound indebtedness to the research already carried out on this subject by Article XIX — the London-based International Centre against Censorship.

I deal with each of these aspects in turn, highlighting the shortcomings which now exist and possible approaches to the removal of the deficiencies identified.

## (I) The Constitutional and Legislative Framework

### (a) Constitutional Provisions

Article 15 of Chapter III of the Constitu-

tion of Sri Lanka enumerates the circumstances in which fundamental rights may be restricted. Article 15(2) declares: "The exercise and operation of the fundamental right (to freedom of expression) — shall be subject to such restrictions as may be prescribed by law in the interests of racial and religious harmony or in relation to parliamentary privilege, contempt of court, defamation or incitement to an offence." It may be noted that the restrictions set out in Article 15(2) are appreciably broader than those permitted by the International Covenant on Civil and Political Rights, to which Sri Lanka has acceded.

Especially remarkable is the circumstance that, while under the International Covenant, freedom of expression and other fundamental rights may be restricted only if "necessary" to promote certain enumerated interest — namely, respect for rights and reputation of others and the protection of national security, public order, public health and morals — in Sri Lanka, by contrast, restrictions are not only not required to be necessary, but they do not even have to be reasonable.

This is altogether different in effect from Indian law. As recently as 30th March 1989, the Supreme Court of India, handing down its judgment in the *Ore' Oru Gramathile* case, declared emphatically that any restrictions had to be reasonable, and "justified on the anvil of necessity and not the quicksand of convenience or expediency."

On the other hand, in *Malalgoda v Attorney-General* the Supreme Court of Sri Lanka stated: "In Sri Lanka the operation and exercise of the right to freedom of speech are made subject to restrictions of law not qualified by any test of reasonableness. Neither the validity nor the reasonableness of the law imposing restrictions is open to question unlike in America or India."

Moreover, the restriction on freedom of expression in the interests of Parliamentary privilege and contempt of court go well beyond the restrictions authorised by the International Covenant.

### (b) Emergency Exceptions

Article 155(3) of the Constitution of Sri Lanka continues the authority vested in the Head of State, initially set forth in the Public Security Ordinance of 1947, to declare a state of emergency. In terms section 7 of this Ordinance, Emergency Regulations prevail over all other laws except the Constitution.

Article 14(1) of the Emergency Regulations prohibits publication of any matter which, in the view of the Competent Authority, "would or might be prejudicial to the interests of national security or the preservation of public order or the maintenance of supplies and services essential to the life of the community or of matters inciting or encouraging persons to mutiny, riot or civil commotion, or to commit breach of any law."

## (c) National Legislation

### (1) The Press Council Law

The Sri Lanka Press Council Law, No.5 of 1973, provided for appointment of a Council "to regulate and to tender advice on matters relating to the Press in Sri Lanka, for the investigation of offences relating to the printing or publication of certain matters in newspapers and for matters connected therewith or incidental thereto." The Press Council has quasi-judicial powers and may order an apology or correction of an untrue or distorted story, and may censure a proprietor, printer, publisher, editor or journalist for professional misconduct.

One of the objectionable features of the Press Council Law concerns section 16 which makes it an offence for newspapers "to publish details of Cabinet proceedings or decisions without prior authority or to publish false reports about issues under consideration by any Minister or Ministry." The effect of this section is clearly to inhibit the free flow of information and to place overwhelming constraints on political reporting.

Secondly, Section 12(a) authorises the Press Council to find any person in contempt who "without sufficient reason, publishes any statement or does anything that brings the Council or a member thereof into disrepute during the progress or after the conclusion of any inquiry conducted by such Council." A person found in contempt by the Press Council is liable to be punished by the Supreme Court as if he or she has committed a contempt against the Supreme Court itself.

The repugnant character of this provision is accentuated by the composition of the Press Council. The seven-member Council is composed of the Director of Information and six members appointed by the President. While one of the appointees is to be a representative of the working journalists and another, a representative of the employees of the newspaper businesses, the remaining five members are appointed by the Government.

# LAW AND FREE EXPRESSION: Some Problem Areas

H.L. de Silva

- (1) The freedom of speech and expression including publication is now guaranteed by the Constitution which means that its exercise cannot be restricted except by law enacted by Parliament for the purposes specified in Article 15(2). Two of the areas that are of special interest are defamation (libel and slander) and contempt of court. The word "law" in this Article is narrowly defined in Article 170 to mean only enacted law and does not include common law or judge-made law. But neither the law relating to defamation or contempt of court in Sri Lanka have been the subject of statutes made by Parliament. Notwithstanding this omission the right of freedom of speech and expression continue to be controlled by the laws relating to defamation and contempt of court which remain in non-statutory form.
- (2) This anomaly is evident in regard to the scope of such defences as truth and public benefit and fair comment which are available when sued for defamation. As it now stands in the common law, the plea of truth or justification will fail if some of the statements are incorrect although the rest of the publication be substantially true. In the U.K on the other hand section 5 of the Defamation Act, 1952 provides that the defence of justification will not fail only reason of the truth of every allegation not being established if the words not proved to be true do not materially injure the Plaintiff's reputation, having regard to the truth of the remaining charges. There is similar provision in regard to fair comment.
- (3) Similarly, the law of contempt of court should be reduced to an enactment which defines such offences as scandalising the court somewhat more narrowly, allowing greater freedom of expression.
- (4) Although Parliamentary Privilege is now an Act of Parliament, the whole of it is not spelt out and remains opaque. What is more an offending journalist cannot always expect the case to be tried by a court of law as the changes made in 1978 enable Parliament to try an offender and impose punishment for breaches of privilege. Furthermore truth or justification is not allowed as a defense which ought not to be the case.
- (5) Court in Sri Lanka are inclined to grant heavy damages for defamation in the case of politicians on the basis that they are well-known public figures and their reputations suffer more widespread damage. This should not be the case as they have absolute protection for even reckless statements made in Parliament while members of the public have had to be extremely careful when commenting on public figures. This is not so in countries such as the U.S.A. as there is much greater latitude allowed where criticism of public figures is concerned.
- (6) The prohibition imposed by the Press Council Law against publication in a newspaper of any matter which purports to be proceedings of a Cabinet meeting or a Cabinet decision seems an unwarranted restriction of press freedom because their publication in any other form as not been made illegal. Nor is its oral dissemination made an offence. This restriction goes far beyond the kind of interest — defence secrets and national security which is protected under the Official Secrets Act.
- (7) The protection against compulsory disclosure of sources of information relating to any news item published

in any newspaper is now confined to proceedings taken under the Press Council Law. There is a strong case for extending the protection even in respect of judicial inquiries and police investigations, for which amendments to the Criminal Procedure Code and the Evidence Ordinance are necessary.

- (8) The sale to members of the public of the large shareholding in ANCL now in the hands of the Public Trustee is long overdue and was envisaged under the ANCL Law and would be in accord with the current popularisation measures being carried on in other areas.

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## Briefly . . .

*(Continued from page 1)*

"We are confident that we can find a solution. We are confident that we can gradually build up a consensus among our people", the Prime Minister said.

## Newsprint duty down

The government has announced that the Customs duty on newsprint has been reduced to 10 per cent of the CIF value, which is what it was before it was doubled recently. The increase was met with strong protests by the media outside government control.

## Sacked MP petitions court

Expelled SLFP MP Tilak Karunaratne has petitioned the Supreme Court challenging his expulsion. The court has issued notice on SLFP leader Mrs Sirimavo Bandaranaike and 36 other respondents granting them time till July 16 to file objections.

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This paper by the eminent President's Counsel was submitted at the request of the Seminar organisers.

# Contempt of Court

Lakshman Kadirgamar

In terms of Article 14 of the Constitution, every citizen is entitled to the freedom of speech and expression including publication. Yet where the exercise of this right would be calculated to create a risk of prejudice, either to a particular trial or to the administration of justice generally, that freedom must, in the interests of society, be curtailed. The law of contempt of court operates untrammelled by the fundamental right of freedom of speech and expression contained in Article 14 of the constitution. (Per Wanasundera, J. in *Hewamanne vs. De Silva*).

Finally the Supreme Court decided that the article in question was way beyond the permitted limits of comment since it tended to obstruct or impede the proceeding before the Court and because it tended to bring the administration of justice into disrepute.

Whilst proceeding on the basis that our Supreme Court has, after a comprehensive discussion of the relevant authorities, declared and, in fact, re-affirmed our law concerning the principle of sub-judice, I wish to raise the following questions as to whether our settled law is in a satisfactory state:

(1) The Court said that an objective test should be applied to ascertain the meaning of the words in question — that is by the meaning in which reasonable readers of ordinary intelligence, with an ordinary man's general knowledge and experience of worldly affairs would understand them, unfettered by any strict legal rules of construction. Is not the immortal Citizen Perera our ordinary man? What that poor, battered, bruised, permanently bewildered man, suffocated by the cost of living and permanently preoccupied with mere survival have thought of the Divaina report? Would not the thousands of Citizen Pereras who support the respondent's party have thought that the MP in question was merely expressing a highly partisan view of his own? Would they really have thought it of 'little or no use to say anything more in the case? Would those of them who were potential witnesses have really considered it futile to testify just because an MP of the opposing party had said that his party's case was proved, when those witnesses were prepared to testify against all odds through fanatical lo-

yalty to their own party? Our Citizen Perera does not need to know Latin to know that there are two sides to a story.

- (2) A very important question to my mind is whether our appellate judges would be influenced by the kind of statement made by the MP in the Divaina case. As we have seen from the above quotations British judicial opinion is divided on the question of media opinions influencing their judgments. Australian and Canadian judges, for instance have categorically stated that they are immune to the deleterious effect of media comment. Our Supreme Court said that what is relevant is not the fact that the judges will be actually or probably prejudiced but that the nature of the statement was such that prejudice might result. I do not believe that our experienced judges are so fainthearted as to be coerced or misguided by some media comment. In reality the position adopted in England is essentially one of policy and in any event risk of undue influence is more than outweighed by the importance of promoting freedom to comment upon or criticize court judgments.
- (3) Is the exclusive judicial function of the Court to determine cases really usurped by an unbalanced and patently partisan opinion expressed by some politician? I cannot believe that is so. Is the expression of such an opinion really a pre-judgment of the pending case? If that be so in every home and on every streetcorner, every day, thousands of contempts would be committed? Are thousands of Citizen Perera's really 'arrogating to themselves the right to adjudicate upon matters that are before a court of law' every time that they express the opinion that they would decide a case one way or the other.
- (4) On the other hand, conducting a trial by media in parallel with a legitimate trial might well prejudice the conduct of the legitimate trial.
- (5) We do not have a statute dealing with contempt of Court. Many other countries do. Perhaps the time has come for us too to consider such legislation.
- (6) To a contempt charge is there a defence of public interest? The answer for Sri Lanka appears to be no. Once

it has been established that a publication is calculated to create a real risk of prejudice or, possibly, that it amounts to a prejudgment then the common law admits to few defences. Liability is strict so that provided the defendant can properly be said to have 'published' the offending material it is no defence to say that he did not intend to prejudice proceedings or that he was unaware that proceedings were pending or imminent as the case may be or even (in some cases) that he was unaware of the contents of the publication.

- (7) It has been recognised for some time in Australia that the de facto creation of a real risk of prejudice does not invariably mean that a contempt will be established. In a nutshell it seems to be accepted that if through public discussion of matters of public interest, supervening litigation might incidentally but unintentionally be potentially prejudiced, no contempt will be committed.
- (8) The Contempt of Court Act of 1987 in the United Kingdom has changed the common law in important respects.

The Act provides that 'the strict liability rule applies only to a publication which creates a substantial risk that the due course of justice in the proceedings in question will be seriously impeded or prejudiced'.

To establish liability under this section it is clear, by reason of s1 (which confines the strict liability rule to interference with the course of justice in particular legal proceedings), that the offending publication must be shown to create a substantial risk of serious impediment or prejudice to particular legal proceedings. Hence, it is insufficient to show that the publication creates a risk of interfering with the due course of justice as a continuing process. It is also clear, because of the requirement of 'a substantial risk of serious prejudice' that there can be no such thing as a 'technical contempt' under the Act.

'A publication made as or as part of a discussion in good faith of public affairs or other matters of general public interest is not to be treated as a contempt of court under the strict liability rule if the risk of impediment or prejudice to particular legal proceedings is merely incidental to the discussion'. (To be continued)

# Role of the Private Sector

C. P. de Silva

**B**riefly put, the role of the Private Sector is to be the engine of growth. The policy of this government is to have growth with equity; not growth at the expense of equity or equity at the expense of growth, but growth with equity.

As a laudable goal the government is aiming at achieving the status of an NIC by the year 2000. While this goal may turn out to be unattainable it is one worth having as its pursuit must result in a spirit of urgency which is all to the good.

It is important for all of us to appreciate the magnitude of the task before us. Sri Lanka today has a per capita income which is about one third that of Thailand, and less than one tenth that of South Korea. 30% to 40% of our population are living in poverty. About 13% of the workforce are unemployed. Under-employment is an equally big problem.

If we are to aim at doubling our per capita income and reducing unemployment to a socially acceptable level of 5% by the year 2000 we need to grow at about 9% per annum in the coming years. The magnitude of this task can be appreciated when we consider that our average rate of growth during the last decade has been about 4.1%. This growth has been achieved by annually investing about 23% of our Gross Domestic Product. To double our growth we would need to double our investment rate given our historical levels of productivity of capital. Such investment would need a tremendous increase in the level of national and foreign savings. Increasing national savings substantially would place an intolerable burden on the poor, while increasing foreign aid substantially would not be easy in the present international context where Eastern Europe and the Commonwealth of Independent States are also in grave need of aid. While these are the prospects with regard to aid it was estimated by one of our most eminent economists in August last year that even if direct foreign investment were to quintuple it would add only 5.8% to gross investment.

Thus we come to the conclusion that what we need to strive for is to increase the productivity of capital through an increase in efficiency. This can only come from privatisation on the one hand and the

rapid expansion of the Private Sector on the other.

Recognising the above reasons why the Private Sector has to be the engine of growth the government has taken a number of steps to promote it.

One of the most important is that it is treating the Private Sector as a partner where some previous governments looked upon it as an adversary. There is a much closer dialogue between the government and the Private Sector today than ever existed in the past. Among examples of this improved dialogue are the monthly meetings that the Secretary to the Treasury has with import/export trade chambers. The Private Sector representatives at these meetings have been greatly impressed by the decisiveness and vigour with which the Secretary to the Treasury has cut through red-tape and dismantled bureaucratic barriers when they have been brought to his notice. A similar monthly meeting that is greatly appreciated is that with the Deputy Secretary to the Treasury to sort out tariff issues.

The involvement of the Private Sector in establishing policy has become a hall-mark of this government. A number of Commissions have been set up with representatives of the Private Sector on them. Among them are the Taxation Commission, the Industrialisation Commission, the Banking Commission and the Securities and Exchange Commission.

The New Strategy for Industrialisation unveiled by our Prime Minister in his role as Minister of Industries, Science & Technology in 1989 was worked out by him in close consultation with experts in the private sector.

The government, with the help of USAID, has taken steps to develop the Capital Market. A Securities and Exchange Commission has been established to regulate the stock exchange. The stock market of this country saw an extraordinary boom in 1991 as a result of its liberalisation. Today there are fewer restrictions on foreign investment in shares in this country than in South Korea.

The government has progressively, but rather slowly, brought down the rates of income tax in order to facilitate growth and in the expectation of greater compliance.

Recently it has further liberalised exchange control by freeing the rupee on the trade account. The removal of controls

on capital transfers is expected in the not too distant future.

This brief introduction to the role of the Private Sector would not be complete unless I touch on some of the constraints to its expansion. The ones I shall mention are not in any order of importance.

The first is the very high rates of interest that prevail today. When government offers a return of around 22% on Treasury Bills it is inevitable that bank rates would be higher. While we all appreciate that these rates are necessary to fight inflation which is rightly recognised as the greatest evil, it still makes things very difficult for business. Expansion, even survival, becomes problematic in these circumstances.

While the reduction in the rate of income tax is welcome, it is regrettable that what the government has given with one hand it has taken away with the other. The surcharge of 15% which was declared to be temporary when it was introduced still continues, and the Defence Levy has been increased. What is worse is that Tax Holidays have been removed without commensurate reduction in the tax rate which is still much too high. There still remain anachronistic anomalies in tax legislation such as the add back of all entertainment expenditure and the disallowance of depreciation on cars provided to managers. These are relics of the Age of Socialism.

As serious as this is the discrimination against Private Sector employees who have to pay tax on their remuneration unlike their public sector colleagues. This is an unwise and inequitable attempt to compensate for the low salaries in the public sector. The way to compensate Peter is not to rob Paul. Nowhere in the world, where market forces prevail, do public servants earn the same salaries at their equivalents in the Private Sector. There are good reasons for this which it will take too long for me to explain.

Connected with taxation, though not directly the consequence of it, is the lack of managers as a result of a continuous brain drain that has taken place over the last few decades. The main reason for the brain drain is the very much higher remuneration that managers with professional qualifications can earn abroad. There is no way in which Sri Lanka would in the foreseeable future be able to match foreign salaries. But in these circumstances,

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*The writer is Chairman Lanka Orix Leasing Company Limited.*

discriminatory taxation may tip the scales for those who are on the brink of emigration. A particularly pernicious type of taxation is the taxation of Private Sector Provident Funds. These savings which have already been seriously eroded by inflation are further taxed at the time of payment. This gives rise to much bitterness as the pensions of public servants which are based on their last few years salaries (and have therefore to some extent been adjusted for inflation) are not. In addition to taxing the payments to employees when they retire the government also taxes the income of the Provident Fund itself. The whole process is most unwise as the amount of revenue collected by these means must be insignificant and could never compensate for the demotivation that it causes private sector employees. If the private sector is to be the engine of growth, the managers on whose performance everything would depend should not be demoralised.

It is strange that while deregulation and privatisation are going on apace, and liberalisation is the order of the day, the government still does not permit Private Sector firms to establish Approved Private Sector Provident Funds as it did in the past. New companies are compelled to enrol their employees in the state provident funds which have less favourable terms than Private Sector Provident Funds, and do not give a satisfactory return on investment in these inflationary days.

Other constraints to the development of the Private Sector are well known and do not need much elaboration. The infrastructure for instance needs improvement. This applies particularly to roads, power and telecommunications.

The exchange rate is still managed by the Central Bank instead of being market-driven. This has resulted in difficulties for export firms. As export-led growth is an integral part of our strategy, this needs looking into.

The last constraint I shall touch on is the lack of stability in policy, particularly fiscal policy. There is too much tinkering with taxes in the quest of increased revenue. Two cases in point are the many changes that have taken place in the handling of Capital Gains on the sale of shares, and the proposed decrease in the allowance for depreciation on commercial motor vehicles. The latter change, which has still not become law, is against the advice of the Taxation Commission and is said to lack even the support of the Department of Inland Revenue. That particular recommendation is said to have come from a foreign expert.

In conclusion I must correct an impre-

ssion that I may have created by ending my speech on the subject of constraints and dwelling on them at some length. Let nobody in this hall imagine that the Private Sector in this country is about to expire. The positive steps that the government has taken are so many and so important that the Private Sector as a whole is doing well. I have dwelt at some length on constraints in the belief that constructive criticism is more valuable than sycophan-

tic praise. It is my hope that the policy makers present here will pay heed to the points I have made and take action to still further improve the already salubrious environment for the expansion of the private sector. The fact that I can voice criticisms in such a forum without fear is the greatest compliment that can be paid to our government. Freedom and democracy are very much alive in this country.

## The Scholar's Tale

### Part I

*Scholars tales are often rough Commentary  
Since personalities twist views to wax contrary  
Scholars tales of Scholars will be good fun  
If their Theories on each Story can be strung*

*The Colleague whom this Tale is all about  
Was once Spright and lusty, prone to shout  
His Ideals in our ears and make us feel  
Scorched by his Revolutionary zeal*

*His sensibility then was quite enough  
To earn a First from one you could not bluff  
His sensibility since has grown finer still  
He does his old time Heroes on a grill*

*The Soviets he declaimed, vied the Old Czar  
Of great Russian dominion from afar.  
Even Trotsky he dropped after a brief flirtation  
While his old Professor retained this funny fixation.*

*Our Hero now moved in rare orbits of Thought  
Swung from Satre to Mao and then to Pol-Pot.  
From his Classical theory of the Universality of Culture  
The dialectic of Non-Self against the Vulture  
Of primitive Blood, he then retrogressed  
To a premise even Malthus never guessed.*

*At a hushed audience in the Hall  
He fired his Global canon ball  
Transnational Stocks in his Field Equation  
Multiplied on the multiplicity of Nation  
The Variables were each splintered population  
And Arms-flow the engine of Salvation.  
From cycles of Slump, Recession and Repression  
To rescue Capital from Non-Proliferation.*

(Contd.)

**U. Karunatilake**

# Welfarism and Communalism

A. Jeyaratnam Wilson

Unfortunately in internal policies after his death, first his wife, and then his nephew, Felix Dias, took to confrontational politics with the FP, notwithstanding their pre-election pledges to Chelvanayakam that they would implement the BC Pact. Then they proceeded to violate the Master's policy on the schools' question. Wife and nephew nationalised the schools, causing a perilous crisis with the Church. The government was only pulled away from the edge of the abyss because of Nehru's good offices in despatching Cardinal Valerian Gracias to mediate the issue. Nehru's interest arose from his affection and respect for Bandaranaike. Bandaranaike definitely had not wanted to enter into either of these Stygian waters.

Bandaranaike's concept of "the common man" had numerous implications. In the first instance he meant the common people of the island as a whole, not necessarily "the common Sinhalese man". He was, like all Sinhala leaders, UNP and Marxist, an opportunistic Sinhala "communist", probably the least communalist of them all. He therefore manipulated communal forces to ride to his great victory of 1956. That he was not the obvious choice of the Sinhala chauvinists was evidenced when the Sinhala Movement offered the leadership to Dudley Senanayake. The latter declined. But from public utterances at the time, he successfully undermined Sir John Kotelawala's stand on parity of status. Along with cousin R. G. Senanayake, the two pushed the UNP to adopt Sinhala as the only state language.

Secondly Bandaranaike like all political leaders was seeking power. For example, even the urbane and sophisticated Leslie Goonewardene told me in the early sixties that they (the LSSP) too were "after power" and would compromise on "Sinhala Only" (he knew I was of the Tamil community). The UNP, for their part had only skimmed the political surface when

it sought ensconcement. Bandaranaike cleverly went beneath that layer to tap a rich vein of support.

Though Bandaranaike was not aware, the evolution of the philosophy of "the common man" that he propounded, was similar to that of his contemporary, President Soekarno. The latter stated that in his youth he had encountered "an Indonesian philosophical peasant" named "Marhaen" and he claimed that it was the very "ideals" of that common peasant "Marhaen" that he was trying to persuade Indonesia's elites to reflect on and to articulate in concrete terms.

Thirdly Bandaranaike was the Olympian aristocrat who sought to identify himself with the poor in his country. This was quite unlike the UNP who perceived of themselves as the natural rulers. The latter were a collection of parvenus, suburbanites with a liberal sprinkling of feudal and proprietorial people, mixed with Colombo's petit and bourgeois elements. Bandaranaike directed his appeal to the layers beneath, the dispossessed and the despairing. He had always cared for these people even when he made his debut in politics in defeating A. E. Goonesinha in a municipal election, around the early thirties.

In concrete terms, Bandaranaike had Parliament enact social legislation which was a harbinger of the institutions of a truly social democratic welfare state. The Paddy Lands Act is a monument, though it was not properly implemented and its essential features emasculated by interests in his cabinet and by forces outside. The nationalisation of omnibus transport and the Colombo harbour were indicators of the shape of things to come.

It was more than a misfortune that Bandaranaike had vengeful obstructionists in the UNP. In addition he had to contend with chauvinistic Sinhala Buddhist "disappointees" within his own party. The UNP, led by "Dudley Hamu",

Bandaranaike's scoffing description of Senanayake, along with other scheming leaders placed every possible impediment in his attempts to reconcile with the Tamils.

The immediate "disappointees" within his own circle, the Buddhist chauvinists and the Mettananda faction tried to coerce him. In desperation, Bandaranaike accused Mettananda of being rebuffed, alleging that the latter had sought an ambassadorial appointment to Burma. The machinations of the monk-politician, Buddharakhita and his brother, are public knowledge. And Vimala Wijewardene, Buddharakhita's nominee in the cabinet was no easy colleague. The Eksath Bhikkhu Peramuna (the United Front of Buddhist monks) had hoped he would go further in his Sinhala Buddhist policies and felt frustrated. He became a lonely figure and obtained very little support from his colleagues who were scheming against him all the while. C. P. de Silva may have been able to help, but he fell sick and was too involved in his grand strategy of making the Eastern Province a Sinhala colony. In the end Bandaranaike's colleagues let him remain in the hot seat.

In the choice of his cabinet colleagues he was unfortunate. But he could not avoid these. He was indebted, politically-speaking. Stanley de Zoysa, "the flannelled fool" as he was once referred to by a fellow parliamentarian (Vivienne Goonewardene) was not the best for the finance portfolio. C. P. de Silva was an avowed Sinhala communalist. Vimala Wijewardene was more a mouthpiece of Buddharakhita. R. G. Senanayake was the Trojan horse. W. Dahanayake no doubt in keeping with Bandaranaike's broad objectives resisted the demand for the nationalisation of schools but had the chutzpah (shameless audacity) to want to replace Bandaranaike. M.W.H. de Silva was sober, moderate and judicious.

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# The Freedom of the Press (Continued)

Arden

None of these events inhibited Jayewardene from continuing to plonk on about the vital need for a free and independent press under a democracy. In March 1984, at a meeting in Minuwangoda, he said: "The U.N.P. government has not and never will restrict the freedom of the press, unlike previous governments". (The Island 24 March 1984).

In March 1984 the Minister of Justice, Nissanka Wijeyeratne, announced that the Press Council Law was to be amended in order to prevent what he called "crude" journalism. To achieve this end the government intended to ban the use of pseudonyms. (The Island 24 March 1984).

"There is no intention by the government to close down any press" explained the Minister, "but crude journalism in the form of innuendo must be stopped. Petty-minded people in little places are peddling degrading servile matter to men and women of our society. Why can't they, like the British press, be bold enough to write under their own names and also name the people concerned without resorting to innuendo? To rectify these errors once and for all, new laws will have to be introduced". (Ibid).

In June 1984 the cabinet approved a memorandum by the Minister of Justice "to ban the use of pseudonyms in newspapers and other publications". (SUN 7 June 1984).

"Journalists or other writers will be required to disclose their names, once amendments to the Sri Lanka Press Council Law No. 5 of 1973 to give effect to these proposals are approved by parliament. According to Dr. Wijeyeratne's memorandum these amendments are meant to prevent irresponsible statements that are published in the newspapers under pseudonyms. Under this amendment, no person shall submit any article or report for publication to any proprietor, printer, publisher or editor of any newspaper, unless he has stated his name. It also provides for the Press Council to require every proprie-

tor, printer, publisher or editor to refuse to accept for publication any report which does not specify the name of the person writing such article or the name of the reporter. Any proprietor, printer, publisher or editor who permits the publication of such an article or report will be guilty of an offence and will on conviction be liable to be punished with a fine not exceeding Rs. 2,000 or with imprisonment of either description for a term not exceeding one year, or both such imprisonment and fine". (Ibid).

At public meetings the president continued to proclaim his government's wholehearted commitment to freedom of the press, "without which democracy could not function".

In January 1986 the president told the government's parliamentary group that the newspapers could publish anything they wanted and that he was against press control. (The Island 8 January 1986).

On 15 March 1986, addressing a U.N.P. seminar, President Jayewardene said: "Political leaders have a duty to be honest and tell the people the truth, falsehoods cannot last for long in a democracy... Sri Lanka is a democratic country. There is freedom of the press, freedom of the judiciary, freedom to hold meetings, and freedom to oppose the government". (Daily News 17 March 1986).

In February 1987, speaking at a school in Hiniduma he said: "The U.N.P. will never stifle the press because freedom of the press is very essential under a democracy". (The Island 7 February 1987).

On 12 January 1986, the Sunday edition of The Island carried a report of an interview with Mrs. Sirima Bandaranaike, the leader of the S.L.F.P. She said that parliament was an illegal body because the referendum which had extended its life by 6 years had been won by intimidation, thuggery and impersonation.

On 31 January 1986 parliament referred this report to its Committee on Privileges.

On 11 July 1986 the Committee presented to parliament its report (Parliamentary

Series No. 91 of 1986) containing its recommendations. On 5 May 1987, parliament, in terms of the recommendations, decided:

- a. the maximum fine of Rs. 5,000 laid down in the Parliament (Powers and Privileges) Act should be imposed on the editor of The Island for the offence of committing the breach of privilege of publishing a defamatory publication reflecting on the proceedings and character of the House;
- b. The newspapermen concerned be severely warned against a repetition of such offence: and
- c. The editor be directed to publish an unconditional apology in the newspaper concerned".

Parliament took no steps against Mrs. Bandaranaike; presumably it was not considered prudent to do so.

Soon after this episode, amending legislation was drafted removing the statutory ceiling on the penalties parliament could impose on offenders against parliamentary privilege. In September 1987, while an island-wide emergency and a total press censorship were in operation, the Parliament (Powers and Privileges) Amendment bill was passed into law. Henceforth any person whom parliament judged was guilty of a breach of privilege (even as unintended and trivial a breach as in the celebrated case of the mixed-up caption) could be, under the law, pauperised into beggary on the orders of a parliament which was both complainant and judge in the case.

The opposition pointed out that the bill was "a direct hit at journalists and press freedom" and that such legislation would "breed terrorism" and "further devalue parliament". It was ignored.

This law was enacted by a parliament whose life had been extended by questionable means and which contained a substantial number of members who had been nominated by the ruling party and had never faced the voters at an election.

## THE SANSONI COMMISSION

In his haste to get on with matters he considered urgent priorities, the P.M. found time to make one concession to the exigencies of the ethnic problem. Under the provisions of the Commissions of Inquiry Act (not to be confused with the Special Presidential Commissions Act No. 7 of 1978) Mr. M.C. Sansoni, a retired Chief Justice, was, on 9 November 1977, appointed by President William Gopallawa:

1. to ascertain the circumstances and the causes that led to, and the nature and particulars of, the incidents which took place in the Island between the 13th day of August, 1977 and the 15th day of September, 1977, and resulting in —
  - a. death or injury to persons:
  - b. the destruction or damage of property belonging to, or in the possession of, any person, or any State Institution or the State;
2. whether any person or body of persons or any organisation, or any person or persons connected with such organisation —
  - a. committed or conspired to commit:
  - b. aided or abetted in or conspired to aid or abet in the commission of: or
  - c. in any manner assisted, encouraged, or were concerned in or conspired to assist or encourage in the commission of, any of the acts referred to in paragraph (1): and
3. to recommend such measures as may be necessary —
  - a. to rehabilitate or assist in any other manner the persons affected by such acts: and
  - b. to ensure the safety of the public and to prevent the recurrence of such incidents.

This wave of violence occurred some weeks after the new government had taken office and was distinct from the violence that was going on during the final days of the outgoing government.

The Sansoni report was published in July 1980.

The report gives a detailed account of how the T.U.L.F. leaders, and especially Mr. Amirthalingam, set up and encouraged the youths of Jaffna to acts of violence. The Commissioner found that the main cause of the disturbances was the Eelam cry and he quotes Rev. Fr. Paul Caspersz, a Roman Catholic priest closely involved in the Movement for Inter-Racial Justice and Equality (MIRJE) who supports this view. On this same subject, he cites Rev. Fr. Tissa Balasuriya, another R.C. priest working with the Centre for Society and Religion, as having said:

"The area of Eelam is about a third of the land surface of the whole island and in 1971 it was occupied by only about two million persons, or less than one-sixth of the entire population; it will have a coast-line of about three-fifths of the entire coastline and about 85% of the entire population will be cramped into two-thirds of the entire land surface.

At the last (1977) general election 67% of the voters in the eastern province cast their votes against the T.U.L.F. so that this party cannot claim that it received a mandate for Eelam in respect of that province".

The commissioner rejects the view submitted by Mr. Amirthalingam and the Federation of Tamil Trade Unions that communal disharmony between the Sinhalese and the Tamils cannot be prevented except by separation into two distinct states.

He finds that in many instances the law enforcement machinery of the state (in particular the police) "failed to discharge its functions of protecting the victims and preventing incidents". In some places the police had been inadequately equipped with men and vehicles; but in others police were on the scene carrying guns but inactive while the violence was going on.

There were cases of subordinate police not co-operating with their senior officers. The commissioner's explanation is that there had been political interference with both the selection and the training of new recruits to the force. There had been cases of politicians giving oral orders direct to police officers by-passing the

correct channels. Mr. Sansoni points out that police inactivity can be a strong incentive to a mob to continue with its violence.

In the tea plantation areas, after the take-over of the estates by the then government, Indian Tamil citizens of Sri Lanka were thrown out of their estates by politicians and the land re-allocated to landless Sinhalese peasants. This had been followed by a wave of communal terrorism in which some workers of Devon Estate had been shot; there had been looting, arson and physical violence on Sanqhar and Delta Estates. These incidents were prior to the period covered by the commission's terms of reference but Mr. Sansoni points out that the case against the 42 accused in the Delta Estate violence was still pending in July 1978!

The commissioner found that some members of parliament had been behind the incident and recommended that political violence had to be stamped out speedily. Perhaps his most important recommendation was that confidence should be restored in the law enforcement agencies and the public should be able to have confidence that the police would act surely and swiftly at the least sign of communal disturbances or public hooliganism, or as soon as rumours began.

As the disturbances of 1981, and again 1983, were to show Mr. Sansoni's recommendations might never have been made for all the attention they ever got from the government. Political interference with the police, thuggery by government M.P.'s, law-breaking by police officers to curry favour with the government — these became well-established features under the U.N.P. government, receiving, in two internationally publicised cases, the *explicit* approval of the president himself. These were the Pavid Handa case and the Vivienne Goonerwardena case in which two police officers who were found by the Supreme Court to have acted unlawfully were given instant promotion on the orders of the president. Paul Sieghart, Chairman of the British Section of the I.C.J. commented: "The conclusion is inescapable that he (the president) was deliberately seeking to teach the judges a lesson, in order to make them more pliable to the executive's wishes". (More about these events later in this narrative.)

# Dreams and Delusions: Riding the "Great Siberian"

Mithran Tiruchelvam

"When the trains stop, that will be the end", warned Lenin in the height of the Civil War. In the vast, endless steppes of the former Soviet Union, railroads formed the veins through which the life blood of communism flowed and spread. Troops were mobilized, convicts and dissidents exiled, natural resources tapped and entire cities built through a massive network of railroads. On a wet evening in May, in a rash fit of excitement and adventurism, I embarked on the longest, most famous and romantic of Russian train rides: the Trans-Siberian.

After many gruelling hours of air travel transit stopovers, I felt a curious sense of nervous exhilaration as the Aeroflot flight from Seoul descended upon Khabarovsk, in the Russian Far East. Over 8500 km and seven time zones east of Moscow, Khabarovsk marked the start of my Trans-Siberian train ride. It took two hours of patient anticipation, for the loading trucks to pull in the luggage across the lonely, greyish airfield. I whiled away the time watching a group of impatient American businessmen grunt and swear under their nostrils about the delay in service. Foreign investors from Japan, South Korea and the USA had swarmed in after the collapse of communism, all eager to exploit the hidden mineral resources in this desolate corner of the world.

On leaving the airport I was accosted by the first of many street children I was to encounter in Russia. These were capitalism's casualties. The boy was no more than ten years old, and as I meandered towards my taxi he extended a lean helping hand at my bags. I declined his assistance. After weighing it in his mind, he pulled out a button picturing Lenin as a youth, and gifted it to me. He then pointed at my ruminating mouth and queried, 'chewing gum?' I smiled, giving him my last piece of gum. Within moments he had vanished, swallowed up in the thickets of a swelling crowd.

The next day, armed with a box of tea bags, assorted canned food and other essentials, I boarded the 'Rossiya', otherwise Train No.1, the west-bound Trans-Siberian express. The train, itself, was pea-green with two horizontal red bands around it. Each carriage was embellished with a metal plaque embossed with a golden hammer and sickle against a brown and yellow globe, and a red star over all. Certain things seemingly never changed; the plaque on these trains was

the coat-of-arms of the defunct USSR.

Seated alone in my two-berth compartment, the carriages swaying backwards and forwards in a gentle rhythm, the landscape unravelling its strange contours outside, I basked in hearty self-satisfaction. This serene solitude was, however, soon disrupted when a large, stocky, determined looking conductress barged into my compartment and started rambling in Russian.

Fortunately, I had my phrase book open at page 13, 'Some Basic Expressions'. After skimming through the Russian equivalents of 'What is your telephone number?', 'Thank you it has been a wonderful evening', 'Excuse me. May I park here?' and 'Shall we dance?' I sensed that my efforts had failed to impress my staid companion. She finally settled the matter, grabbing pen and paper and frenziedly scribbling down the magical numbers '150'. In the ensuing game of charades I learnt that '150', far from being some cryptic code, was the cost in roubles for my bed linen. At the current exchange rate of 1100 roubles to a dollar, this meant that it cost around six rupees and fifty cents. Behind that tough exterior of the conductress, however, lay a heart of gold. She often expressed concern for my welfare, made me late-night cups of tea and even presented me with a selection of souvenirs and pamphlets on the train. Beauty, after all, was only skin deep.

Down the railway line to the east the sky was a flaming red, with the forest silhouetting an impenetrably black wall against it. Then the sun came roaring up, flooding the forest to the left of the track with a lurid light as if it was on fire, turning the telegraph wires into glistening silver threads. The soul of Russia seemed to lazily awaken.

My first night on the 'Rossiya' had been a comfortable and restful slumber. The next morning, ambling through the narrow corridors in search of an elusive toilet, I noticed the stares of curiosity from fellow travelers. Disheveled, unshaven and dressed in blindingly bright tracksuits and pyjamas they resembled a lost circus troupe. "The prudent traveler in the former Soviet Union carries soap and toilet paper", recommended a recent edition of the 'National Geographic' journal. Stepping into the dark, stinking toilet, one tended to heed this as sound advice. However, for all its shortcomings Russian toilet paper can prove a hardy yet inexpensive

alternative to wall paper. The toilet seat had been cut from a flat and splintery piece of plywood. One wondered, how did these people send rockets to Mars?

As the day wore on I found myself sharing the compartment with a shaggy-haired young Russian. Whenever he smiled, he flashed a set of sparkling gold teeth. Conversation, though handicapped, proved not entirely impossible. 'Going to Moscow?', he asked. 'No' I replied, 'Irkutsk'. We shared our food, though my bland tinned cheese poorly compensated for his delicious brown bread and potatoes. Later, I learnt that sharing food and hospitality with strangers was a common virtue among train riders. Sweet ladies sprang into compartments offering you pastries, walking down the corridor people beckoned you to join them in a drink. Marx would have, no doubt, pegged it on the moral superiority of the proletariat. Meanwhile, the 'Rossiya' is rolling across the mighty Amur River and through dry, barren country; the high hills of China never far away.

On Russian trains there are loudspeakers in all the coaches mostly broadcasting music, sometimes news or comment. The drone is always in the background, and the Russians appear not to notice it. Nowadays, one is exposed to an ear-bashing array of western-tailored, Russian 'pop'. No Tchaikovsky for the faint-hearted. A Russian version of the 'Lambada' proved a popular prescription of torture. I plugged my ears, and read 'The Complete Dramatic Works of Samuel Becket'.

Just after I awoke on the third day, the 'Rossiya' made a 12 minute stop at a place called Skovorodino. I got out for a breath of fresh air and some exercise. On the platform, pear-shaped old ladies dressed in black coats, black felt boots and white headscarves, were peddling tulips, red cabbages, boiled potatoes and sausage. Elsewhere, other equally ancient protagonists of free enterprise sold ice-cream, yogurt and milk. A number of male passengers sloped off behind a woodpile, to emerge after a while carrying bottles of vodka. Bare-bodied young soldiers, their nakedness clothed in an intricate tapestry of tattoos, squatted on the ground smoking unfiltered cigarettes. And soon the 'Rossiya' was rolling again.

In the course of that day the 'Rossiya' penetrated some of the wildest and least inhabited country on the entire Trans-Si-

berian track. It burrowed its way through endless, mountainous 'taiga', dense forests of pine and fir: running down the left bank of the splendid Shilka River. It raced along the foot of cliffs and across ravines, passing a few scattered houses and at one place, on the far bank, an old white church. In the immensity of the Siberian forest, amidst the ubiquitous silver birches and dazzling white moon, there were wolves and wild dogs — farther on I saw their skins being stretched on frames. Later I caught a glimpse of a large deer, a haunting image of majestic beauty. And here I sat in my cozy corridor seat, waiting for Godot.

While the blackness of night overwhelmed the view, the 'Rossiya' entered the fringes of the arid Gobi desert, with Manchuria and Mongolia well into the south. As day four dawned, the 'Rossiya' climbed into the Trans-Baikal region, the true Siberia, on one of the last major climbs left in the world. It swayed and swerved through the Yablonovyy Range, where summits reached 9000 feet. The air had grown colder, the forest denser. Somebody in the corridor exclaimed, 'sneg'. Snow.

The city of Ulan Ude, junction for travellers from Peking, lay in a wide flat valley marking the confluence of a plethora of diverse people. On the station platform I lingered alongside Mongols, Russians, Chinese and the nomadic Buryat, Buddhists with a strain of ancient paganism. Later, the 'Rossiya' crossed the Selenga, and it looked as though the wilderness went on forever. Mountain streams coursed out of the forest, and chunks of ice as big as cars floated on the river. The Russian with gold teeth, like a bear emerging from deep hibernation, suddenly spoke. 'Baikal', he whispered pointing out towards a tiny blue speck in the far reaches of the landscape.

Baikal, the oldest and deepest lake in the world, contains one-fifth of the earth's fresh water. It is said to be the most beautiful sight in Russia. Reflecting a clear summer sky, the lake that day was luminous and blue, framed against granite crags and evergreens. I thought at first that it was an ocean, its scale too vast to imagine, its beauty and character too subtle to define.

Hours later, as a freezing wind blew across the fierce Angara River, the 'Rossiya' rolled into Irkutsk, the Paris of Siberia. I left the train, with the stout conductress and the gold-toothed Russian waving madly from the doorway of their car. It was a sad farewell. I would never see them again.

The next day with the sun behind my back, I boarded Train No. 10 on yet another adventure, this time to Moscow.

# TOWARDS A GOOD SOCIETY

## — a Pottle Plan

A. C. S. Candappa

I have described this plan as 'Pottle' meaning 'compressed' and it is intended to be implemented quickly, if at all, because time is running out for all of us as citizens of this once resplendent isle. It is common knowledge, that, even 45 long years after independence we have either stood still or gone back. Surely, enough is enough. This article is by no means a dissertation — it is only the briefest of plans, which, if the 'powers that be' reckon is of some worth, the experts/specialists from the Institute of Policy Studies and similar agencies could put meat on it — and most important, implement it. We must have the courage, even at this late stage, to act responsibly so long as the country and its people eventually benefit. As it is, we have to hang our heads in shame at the way this country has been run so far. Politics, admittedly, has been the country's bugbear for a very long time. Power is a very heady wine in Sri Lanka especially. Was it not Douglas Hurd Britain's Foreign Secretary who said that "Politics is a drug worse than alcohol. It is impossible to give up. Either you are kicked out or you are carried out". We need statesmen — in the post-independence era, with the solitary exception of DS, possibly, we have had none else, though Dudley and Sir John were honest men. SWRD and Mrs B were honest too, but, how pragmatic were they?

The world's longest reigning Prime-Minister, until recently, Lee Kuan Yew of Singapore has always shown a soft corner for Sri Lanka in his public references to the island. There was a time during the early days of his office when he used to refer to Ceylon (as it was then) in glowing terms and as a model for others to emulate, but, later on, the references were less complimentary as things in Sri Lanka turned sour. During election time, Sri Lankan politicians usually auction to the public non-existent resources. Lee has often expressed a genuine sadness at the developments in Sri Lanka and also an

unmistakable readiness to help when the need arose. He has said that 'Everytime I read about Sri Lanka, I ask myself: could they not have stopped it before it got to this stage, because, at this stage it is not stoppable'. Remember SWRD espoused Sinhala as the official language way back in 1956. What a mistake it was, as later events showed and all this from a well-educated Oxford returned man. He did not understand that once you open a 'Pandoras box and unravel what the British took nearly 200 years to put together in an amalgam, you may never put the thing back again. The 1956 watershed was a disaster. As for Mrs B, except for her excellent foreign policy including her wise relations with India the rest of her record domestically was lamentable eg. the take over of plantations, schools and ushering in a closed economy, which, to say the least, was so simplistic. Then came the Jayawardena era with all its many evils. There was some little good too and a fair analysis may be seen from an article which appeared in the 'Lanka Guardian' of September 89. That apart, there is an excellent analysis of 'the JR Years' in the Lanka Guardian of May 15 by 'Arden' where he writes of JR's delusions of monarchical grandeur etc. There could not be a finer article on the JR era in recent times.

The Premadasa era is too well known to need recounting here. Briefly to the plan now —

### (1) FREE PRESS

There is a clamour for a free press and it is widely acknowledged that a free press is vital for democracy. So long as the press clings to truth and avoids tendentious writing democracy in this country is assured of a vibrant existence. A Press Council consisting of three working editors of English, Sinhala and Tamil newspapers assisted by three able public men could monitor the press in the sense of ensuring that their guidelines are followed for the greater good of the community. "Truth is sacred, but comment is free". Investigative journalism on corrupt politicians and public officials etc should be encouraged and not hidden from public view. A reputable newspaper reveals not just what is going on in politics, finance, sport, the arts, environment, fashion, religion etc but also

#### Note

\*(Pandora — a beautiful woman to whom Jupiter, in order to punish the theft of heavenly fire by Prometheus gave a box containing all the ills of human life, which, on the box being opened, spread over all the earth!).

manages to comment on the happenings inside government and between governments, in the nooks and crannies of power. By talking to readers like a well-informed but highly opinionated friend a national newspaper does wield great influence on its readers. The motto of the 'New York Times' comes to mind i.e. 'All the news that's fit to print.

## (2) ECONOMIC DEVELOPMENT AND EMPLOYMENT GENERATION

The road to Economic development and Employment Generation we are on, as directed by the late President, seems good, though a few flaws have to be excised with time, notably, the ultra ambitious 200 garment factories programme of which perhaps 50 would prove eventually viable. The availability of overseas markets will determine their ultimate fate. Quality is the uppermost factor for buyers (besides price) but the labour component in the new factories is very largely untrained and chosen by committees which are largely political. The factory proprietors who are the best judges of their recruits have evidently had no hand in recruitment, so it will take the better part of 2-3 years for these new hands to acquire skills. Privatization is a good move but we must make sure that, in the process, we don't sell our all for a mess of overseas pottage. Our sound economists in this country could advise the government here.

Employment generation both in the rural and urban areas of the island should be given the very highest priority because the youth of the land need jobs and if they have it then the country staves off a certain revolution. Agrobased industries, dairy farming units, poultry farming, inland fisheries, prawn farm culture for exports etc with emphasis on other self-employment ventures must be encouraged. The Ministry of Trade and Employment must work hard on this, manned by a small but dedicated team of Economists who will deliver the goods within a specified time-frame. The need for a sound Agricultural Policy is important. We must grow more rice, onions (large & small), a variety of fruits and vegetables on a mass scale, chillie, sugar etc aiming at self-sufficiency. We should cultivate mangoes, pineapple etc on a plantation scale chiefly for export just like India does. This policy, which is obvious to anyone, will open many employment opportunities especially for our youth.

Side by side, we will need a preferential scheme of tariffs slightly modifying the present open economy. Just to give two mundane examples. For instance, bees

honey in 500 gr bottles attractively packaged comes from Australia and Canada. From Australia comes "Capillano" and from Canada "Billybee". We have bees honey too available here but in most unattractive bottles with no smart label etc. We could bring out an equally nice bottle with quality honey and an appealing label selling at Rs.75/-. The imported variety in a 500 gr bottle (with the tariff adjusted) will sell at Rs.150/- - 200/-. Here is one small opportunity for a youth society to work on. Then it is ridiculous to allow the free import of old newspapers from Singapore and Malaysia when we have enough and more old newsprint here. In this instance, a total ban is only just sensible.

Whilst it is true, that local industry must face competition, be cost-effective and adaptable there are merits in a protective cover for selected industries in the context of existing conditions. As has been pointed out by the National Chamber of Commerce two cases needing examination are, for eg. bicycle tyres and water pumps. If local industry has to face unequal competition by way of cheap and sub-standard imports a review of the present import policy is necessary.

The hand-outs must stop because you make a people inert and lazy. Give a man a job and then certainly help him to build a house on easily repayable 15-20 year loans from rural banks at low interest. Just giving a man a house without employment to maintain his house and family will be a failure.

## (3) EDUCATION

Only the other day, Higher Education Minister, Mr A C S Hameed told a gathering at the opening of a school hall in his electorate 'that a high literacy rate is not necessarily indicative of a high quality of education'. How right he was and well said.

The need to re-structure our education is of great importance also from the ethnic angle and the crying need for a 'weld' language. The main urban schools could voluntarily start being essentially one-language from Year 1 in 1994 with English as the main medium of instruction and Sinhala/Tamil as compulsories. French, German and Japanese as optionals could be taught in the higher classes, if we are serious about achieving NIC status in the year 2000. We shall have to be able to communicate in more than one international language by the next century. Great emphasis on Mathematics and Science skills is essential. After all, if international schools are sprouting all over why not let

some of the main schools in Colombo for a start teach English as the weld language. It may not be practical to do this islandwide however. In the rural areas both in the South and North, studies could continue in Sinhala or Tamil with English classes interspersed. A small fee should be levied in all schools so that the education they get will be valued. Bright children however should be handpicked and given scholarships which would include board, lodging, clothing, books etc. At the University entrance level 15 of the brightest and best chosen on an all island basis could qualify for overseas specialised university education at state expense. The universities chosen could be Oxford, Cambridge (also some of the Redbricks) Harvard, Yale, Caltech, MIT etc. Once qualified, the state must offer them the highest positions in various areas of government with good remuneration so that they could make a positive contribution towards the betterment of the country.

Hand in hand with this we must take a long hard look at the state of University education today. There is a felt need to rehash most of the courses and introduce new ones like Taxation, Valuation, Real Estate, Money Broking etc. We will have to concert some of the existing University Colleges opened recently in various parts of the country into Technical Institutes to train much in demand carpenters, masons, printers, electricians, plumbers, welders etc and see that they are paid much, much more than our white collar drones. This will help raise the 'status' of these trades.

There is no denying the fact that University education must be co-related to employment. Otherwise, students are bound to be frustrated. The Arts stream with an 'overkill' of Pali, Sinhalese, Tamil, Sanskrit, Philosophy etc should be changed. Our educational experts both within the Universities and outside would know how this must be best done.

## DRUG EDUCATION

Drug abuse amongst youth is undeniably growing and must be tackled. The government can enlist the services of some of the N.G.O's. Dr A T Ariyaratne's recently much maligned Sarvodaya Movement would gladly help with their expertise I am sure.

The encouragement of various sports activities amongst our youth which has been going on for some years must be encouraged even more. Studies with sports does produce more rounded citizens.

# Is Marxism Relevant ?

Harkishan Singh Surjeet

Though the bourgeois press, as expected, tried to ignore the seminar, albeit even adversely commented on it,

The seminar and its deliberations drew the attention of the communists worldwide. The seminar has in effect fulfilled the yearning of communists for a discussion on the validity of Marxism in the background of the setbacks suffered by socialism with the disintegration of the Soviet Union and the collapse of the socialist regimes in the east European countries.

It was precisely in the background of the developments during the last few years, and the massive propaganda blitzkrieg launched by imperialism and its spokesmen, that the holding of such a seminar was proposed. This imperialist propaganda offensive sought to depict that socialism is dead, communism has no future and that capitalism is the last stage in the evolution of human society. Its paid scribes sought to negate the history of the last 150 years, that had seen the discoveries of Marx shedding a new light on philosophy, political economy and the social sciences. The study and works of Marx that brought a hitherto unknown approach to understanding and comprehending contemporary developments, were sought to be challenged.

Through his analyses and theories, Marx not only uncovered and exposed exploitation and prophesied the historical inevitability of overthrow of the exploiting class and its replacement by a better social order, he also at the same time took a keen interest in the struggles and mass movements going on at the time. His works on the Paris Commune, the civil war in France, and the Mutiny of 1857 in India are two outstanding examples of this.

Subsequently, Lenin furthered this theory by his analysis of imperialism, characterising it as the highest stage that capitalism could reach. The **Bolshevik Party** headed by Lenin successfully carried out the Russian Revolution that heralded a new era. It was an example of concrete application of the Marxian theory to the concrete conditions prevailing in Russia at that time.

The emancipatory role that this revolution played and the inspiration that it provided to the struggling peoples the world

over, is all part of history. In the erstwhile Soviet Union, hitherto unknown rights — to work, to education, to health-care, housing, and immense other social security measures, were provided. The provision of these social security facilities in the erstwhile Soviet Union, had its impact on the capitalist countries, forcing the capitalists in these countries to provide their workers some sort of social security network.

The inspiration that the October Revolution provided, played a crucial role in triggering and achieving the independence of a large number of colonies and semi-colonies. Wedded to a cause, the Soviet people throughout the Union heroically fought, defeated the fascist hordes, while incurring heavy human and material losses.

Suffice it to say that the map of the world today would have been different had it not been for the theories of Marx, the emancipatory role that they played in liberating humanity. This however is not to imply that Marxism-Leninism has been always correctly applied to the concrete conditions prevailing in both the erstwhile Soviet Union and the countries of east Europe. Had this been the case, the setbacks and reverses would not have taken place.

While some communist and workers parties, faced by the might of the imperialist propaganda, have given in and changed both their signboard and programme, others are in the midst of confusion. The parties that still adhere to the basic tenets of Marxism are evaluating the past and are trying to arrive at conclusions that will help them overcome the distortions and deviations that have led to the creation of the present situation.

It was in the background of the setbacks and reverses suffered by socialism that the CPI(M) in its ongoing process of analysis adopted a Resolution *On Certain Ideological Issues* at its 14th Congress held in January 1992. The resolution, now widely appreciated, encouraged us to take the process further. In order to facilitate an exchange of opinion and experience between communist and workers parties, and defend the basic tenets of Marxism, the July 1992 Central Committee meeting of our party decided to organise a seminar. Prior to this decision, to explore the possibilities, this writer visited many European

countries and Cuba, and had discussions with the parties concerned. The idea having found response from various parts of the globe, the CC decided to go ahead with the seminar.

It is, without doubt, impractical to have a single guiding centre for the international communist movement. The resolution adopted by the Communist International as long ago as 1943, had categorically opined against this. Subsequently, however, efforts were made to impose such a guiding centre.

It was clear that while all parties were engaged in evaluating the latest developments and nobody could claim to have arrived at final conclusions, efforts should not be made to convene a seminar. This was made clear during the consultations with these parties and it was also agreed that no party would have to commit itself to any document emerging from the discussion.

Out of the total 30 parties to whom we extended an invitation, 20 parties including the CPI(M), were represented at the seminar, while four parties, unable to send their representatives, sent their contributions in the form of papers, which formed part of the seminar papers. Five parties sent messages expressing their inability to participate owing to critical political conditions in their respective countries. Among them were the Communist Party of the Russian Federation and the Communist Workers Party of Russia, who were unable to participate as they were confronting a difficult situation consequent to the results of the referendum. While both these parties had intimated having sent their messages, we received only one. The Communist Party of China too greeted the seminar. In its message it expressed its adherence to the science of Marxism and wished the seminar a success.

The response to the seminar therefore was overwhelming, and the initiative thus was a reflection of the urge and desire of the communist and workers parties the world over.

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*The Communist Party of India (Marxist) recently organised an international conference on MARXISM. We next publish reports from Cuba and Vietnam.*

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