

**Review of The National Community Policies and
Legal Framework Affecting Broadcasting**

by

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REVIEW OF THE NATIONAL COMMUNICATION POLICIES AND LEGAL FRAMEWORKS
AFFECTING BROADCASTING BY SABINA KELAART, SRI LANKA.

The United Nations General Assembly in its Resolution No. 59 of 1946 stated that "freedom of information is a fundamental human right and is the touchstone of all the freedoms to which the United Nations is consecrated...Freedom of information requires as an indispensable element the willingness and capacity to employ its privileges without abuse. It requires as a basic discipline the moral obligation to seek the facts without prejudice and to spread knowledge without malicious intent..."

Article 19 of the Universal Declaration of Human Rights further emphasized this concept by stating that "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers". Thus it seems to encompass two elements, namely the right to inform and also the right to be informed.

The Sri Lankan constitution of 1978 although guaranteeing the freedom of expression in general terms has no provision regarding the freedom of information and the right to receive information, despite the fact that Sri Lanka is a signatory to both the Universal Declaration of Human Rights and to the International Covenant on Civil and Political Rights. However the Supreme Court in **Visuvalingam v Liyanage** in 1983 claimed that the right of the public to know is necessarily implied in the right to freedom of expression.

The Constitution states that "Every citizen is entitled to ..(a) the freedom of speech and expression including publication"*. Restrictions on this right maybe 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" [15(2)], or, in the interests of "... national security, public order and the protection of public health or morality, or for the purpose of securing due recognition and respect for the rights and freedoms of others, or of meeting the just requirements of the general welfare of a democratic society..[15 (7)] (for the purpose of this paragraph 'law' includes regulations made under the law for the time being relating to public security). It may be noted at this point that the restrictions set out in Article 15 (2) are appreciable broader than those permitted by the International Covenant on Civil and Political Rights to which Sri Lanka has incidentally acceded. Especially remarkable is the circumstance that, while under the International Covenant, Freedom of Expression and other fundamental rights maybe restricted only if "necessary" to promote certain enumerated interests - namely, respect for

* The Constitution of 1978, Fundamental Rights, Chapter III, section 14(a).

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. Moreover, the restrictions on freedom of expression in the interests of parliamentary privilege and contempt of court go well beyond the restrictions authorized by the international covenant.

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 of 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".

Within this legislative framework one hardly feels it necessary to reiterate that the need to communicate is fundamental to human nature, as the more complex and organised human nature becomes, the greater is the need to know and the need to communicate. Consequently, it seems inevitable that the means of communication also tends to become more complex and sophisticated. Inextricably linked with these developments or at any rate influencing the extent or speed of these developments would obviously have to be the socio-cultural and political environment of the country concerned. Thus it is of paramount importance that these elements are conducive to propagate and encourage forms of national communication.

Sri Lanka is an island nation comprised of a multi ethnic, multi religious and multi lingual people. Colonized successively by the Portuguese, the Dutch and the British, she derives her laws from both indigenous and western sources, introduced during her years of foreign rule. Our national communication policy is based on a centrally planned and controlled system. As far as the communication policy formulation is concerned, the Cabinet of Ministers is the supreme body, headed by the Executive President. Several Cabinet Ministries and State Ministries exercise competence over communication matters. It, therefore, goes without saying that the development and promotion of the communications sector, depends to a great extent on the initiative, directives and competence of the government.

RADIO BROADCASTING

Sri Lanka (then Ceylon) was perhaps the first British colony to introduce radio broadcasting just a few years after its inauguration in Europe. The arrangements made for a broadcasting service in Great Britain in 1923 involved the granting of a license

to the British Broadcasting Company for the establishment of stations in different parts of the country. This sparked of unusual interest in a number of British colonies. In Sri Lanka a Committee was appointed under the chairmanship of the then Postmaster - General, Mr M.S. Shrestha, to report on the feasibility of radio broadcasting. The recommendations made by this committee marked the first step in outlining the radio broadcasting policy and also had a tremendous influence on the subsequent development of broadcasting in the country. The committee reported inter alia that

- [a] Broadcasting should be permitted in Ceylon, and every facility for it should be accorded to the public
- [b] Broadcasting should undoubtedly be under State control though not necessarily operated by the State, and, under normal conditions, it should be left to private enterprise.

Thus in other words although it was recommended that radio broadcasting should necessarily be under the control of the Government, licenses might be issued to the private sector to operate a broadcasting service. These recommendations received the approval of the Government and a press communique issued on May 24th 1924 announced the Secretary of State's approval of the introduction of "Wireless broadcasting" in Ceylon. The first experimental broadcast was done on 22 February 1924.

The policy established in the early 20's has continued till very recently without any change. Broadcasting was inaugurated under the full control of the Government and no private broadcasting station was ever allowed to operate a service. This policy did not change at all with the creation of the Corporation in 1967 under the auspices of the Broadcasting Act No 37 of 1966. This Act states that broadcasting should be owned, operated and controlled by the Government, with all members being appointed by the Minister and subject to his general or specific directions. However, section 44(1) spells out that the "Minister may, if he considers it necessary so to do and after consultation with the Corporation, issue to any person a license for the establishment and maintenance of any private broadcasting station in any area of Sri Lanka". However, all programs broadcast by these are to be subject to the control and supervision of the Corporation.

Thus, until the formation of the Ceylon Broadcasting Corporation on 05th January 1967 whereby Radio Ceylon was reorganized as a public corporation, the broadcasting service had been the sole responsibility of Radio Ceylon functioning in the capacity of a government department. Previous to this, since 1924 until the establishment of Radio Ceylon in October 1949, radio broadcasting had been under the jurisdiction of the Department of Posts and Telecommunications and broadcasting had been carried out under a license issued by the Postmaster General in terms of section 4(1) of the Telecommunications Ordinance No 50 of 1944. The fear that the future continuance of Radio Ceylon as a Government Department would not be conducive to its proper development or efficient

service to listeners, and the fact that the Treasury seemed to be exercising the same controls over its financial expenditure as over other departments, despite the fact that Radio Ceylon warranted special treatment; contributed to the reconsideration of the organizational structure of the radio broadcasting system. It was also argued that the creative nature of Radio Ceylon's functions demanded an organization and control which was far more flexible and autonomous than those of other Government Departments.

The 1965 Commission on Broadcasting, subsequently referred to as the Hullugalle Commission also saw the need for a new structure of broadcasting in place of a government department. After a careful consideration they recommended the incorporation of a Broadcasting Corporation which was to be a body corporate and capable of holding property, both movable and immovable and also capable of suing and being sued in such name [sect 2(2) SLBC Act 1966]. The functions of this corporation were

- "a) to carry on a broadcasting service within Sri Lanka and from time to time develop, extend and improve the service in the public interest
- b) to exercise supervision and control over programs broadcast by the corporation
- c) to advise the Minister in respect of matters relating to broadcasting; and
- d) to exercise and perform such powers and duties in relation to broadcasting as are conferred or imposed on it by or under the Act. [Sect 3(1)]"

However as far as (b) was concerned it was the duty of the Corporation to satisfy itself that as far as practicable, the programs broadcast by the Corporation complied with the following requirements [sect 3(2)]

- "a) That nothing is included in any such programs which offends against good taste or decency or is likely to incite to crime or to lead to disorder or to offend any racial or religious susceptibilities or to be offensive to public feelings;
- b) that the programs maintain a proper balance in their subject matter and a high general standard of quality; and
- c) that any news given in the programs (in whatever form) is presented with due accuracy and impartiality and with due regard to the public interest."

Under clause 6(1), the Minister is empowered to appoint five members, one of whom shall be designated the Chairman of the Corporation. Every member of the Corporation shall unless he/she vacates office earlier due to death, resignation or removal; shall hold office for a period of four years. Clause 19 provides for the

appointment of a Director General, who is to be the chief Executive Officer of the Corporation. Thus the Chairman, Members of the Board and the Director General of Broadcasting are the primary figures who determine the daily content of broadcasting. They are assisted by the Directors in charge of the language services and the specialized divisions. As the SLBC Act gives unequivocal powers to the Government in power and to the Minister in charge of broadcasting, it is mandatory for the Corporation to comply with the general policy of the Government in power along with any general policy or special direction given by the Minister in relation to its policy. Thus if one attempts to summarize the influence on policy decisions and action taken, the list would have to include the ideology of the government in power, the SLBC Act No 37 of 1966, policy directives issued by the Minister of Information (or the Minister in charge of the subject of Broadcasting), instructions received from the Ministry Secretary, the security situation in the country (eg; emergency, curfew, news censorship, etc) and the pressures brought upon them by various interest groups.

The Executive President and his Cabinet of Ministers share the full responsibility of formulating broad policies for Sri Lanka. The Minister in charge of broadcasting would therefore convey the policies of the government to all institutions coming under his purview. The Minister would be assisted by a Secretary who is normally a senior member of the Sri Lankan administrative Service. In the same way that to the Minister holding weekly meetings with the heads of institutions within his responsibility, so too does the Secretary with the Chairman and the Director General of Broadcasting.

The subject of broadcasting has never been the sole domain of a Ministry of Information. The subject instead has been the responsibility of several Ministries since the formation of Radio Ceylon. For example, Radio Ceylon has come under the Ministries of Posts and Telecommunications; Posts and Broadcasting; Posts, Broadcasting and Information; Finance; Education and Broadcasting; Defence and External Affairs; and Information and Broadcasting. The fact that the subject of radio broadcasting had been assigned to several Ministries over a period of 18 years (1949 - 1967) shows the different conceptions of the role of broadcasting held by the various Governments in power. For instance while some treated it as just a means of adjusting portfolios to meet political ends, others took it more seriously and gave it a place of some importance.

The SLBC Act requires the Minister in charge of the subject of Broadcasting to appoint members to the Board. Although the Act does not specify the qualifications of individual members, it has been the practice so far to appoint individuals who are pro-government and who have contributed to the party victory one way or the other. On the other hand the multi ethnic nature of Sri Lankan society had also been given some weightage.

Another vital factor with regard to broadcasting policy is the

selection and appointment of the SLBC Chairman. It has been customary to appoint someone closely identified with the ruling party and one who can command the confidence of the government in power.

News Broadcasting

When radio broadcasting was inaugurated in 1924, news broadcasts occupied a significant place. There was a 10 - minute news bulletin. However most of the news bulletins were carbon copies of the news items which appeared in the daily press [Dinamina, December 17, 1984]. In the early days there were only English News Editors and Reporters and the emphasis was usually given to foreign news. The bulletins were prepared in English and had to be translated into Sinhala and Tamil by the announcers.

When Ceylon achieved Independence in 1948, the Radio Station was expected to play an important role. The Broadcasting Authorities recognizing the enthusiastic demand for news broadcasts introduced three news bulletins a day. This was further increased as time went on. For instance in 1956, the News Unit produced five ten-minute bulletins on six days of the week and four bulletins on Sundays, one of which was a digest of the week's news. In December 1957, a state of national emergency caused by floods, enhanced the importance and usefulness of news bulletins. As all other means of communication had been interrupted, the radio remained the only means of contact, and the broadcast of all emergency information was centralized in the news unit. Subsequently the News Section was elevated to the rank of a separate Division on October 1, 1959. Consequently, the News Room was no longer a part of the Programme Division, but started functioning immediately under the control of the Director-General of Broadcasting. [DG 1959,p.49]

In the 1950's Radio Ceylon depended for its foreign news on Reuters and the Press Trust of India. As regards local news, the material was obtained from the newspapers. The Weerasooria Commission on Broadcasting frowned on the practice of depending on newspapers. Those who did give evidence before the Weerasooria Commission complained of the paucity of local news, and rural listeners in particular complained that they were not interested in world events except in so far as they affected local conditions.

At the time of the inquiry of the 1965 Hullugalla Commission on Broadcasting, there were many criticisms on the content of the news bulletins. These centered to a large extent on the tendency to rehash items that had already appeared in the newspapers, and also on the concentration on foreign news as opposed to local news. Also the presentation of news was criticized as being too literary, in that the sentences were too long and the constructions, clumsy [written for the eye as opposed to the ear]; mispronunciation of words and names of people and places, and that the presentation itself was generally untidy and amateurish [1966,p.56].

With the change over from a Department to a Corporation, the News

Division underwent a basic transformation, and in the main, radio as a mass medium was geared to mobilizing public support for a programme of economic reconstruction. The News Room was elevated to the status of a Directorate and a post of Director of News and Publications was created and under him there was a News Editor, Deputy Editors and an Editor of Publications.

The Wajirabuddhi Committee of 1980 noted the presence of unwanted details and irrelevant material in the Bulletins and "...when it comes to Government news, the bulk of it revolves around future activities and very little is devoted to past or present activities....Rarely do news bulletins talk about 'waste and corruption'. We also notice a glaring absence of news relating to social problems ...There should be adequate coverage of news items which are of immediate significance to people" [1981, p. 25]

Another issue relates to the role played by the SLBC in a national crisis. A frequent complaint has been that the SLBC newscasts do not give the true picture of a political crisis, national disaster or a general strike. Mr MDD Peiris, Chairman/DG (July -December 1978) once asked the following rhetorical questions in this regard -"Do we give statistics just because it is factual of the number of people killed or the number of houses or shops broken or looted;... or do we try to play these things down a little and emphasize in our news bulletins more positive aspects such as the call of responsible political and religious leaders for unity and harmony and of highlighting actions of persons, organizations and institutions, which were dedicatedly working to bring the situation under control?" (1977). Mr Peiris's contention was therefore that "policy" could not be formulated in a void and the Corporation could not be guided by a set of abstract principles to follow the path of cold logic". Thus it would seem that as long as the broadcasting authorities were not untruthful or deceitful, their choice of material would have to be adjusted to the needs of the occasion and in making their choice, there was a need to exercise both judgement and discretion.

Broadcasting and development

As early as 1930 the broadcasting authorities in Sri Lanka showed a reasonable interest in the promotion of national development through broadcasting. Proof of this was seen in the Administration Report of the Postmaster-General which stated that in 1930 a series of lectures on agricultural subjects arranged by the Director of Agriculture and various experts of the Agriculture Department were begun. [PMGs Report, 1930, p.9]. The Vaithianathan Commission on Broadcasting in 1941 seems to have been of the opinion that the frequent broadcasting of talks would bring about greater interest in national development, or at least lead to desirable changes in peoples behavior. For instance it stated that "...it is of the highest importance that the educational benefits which radio brings should be available to the Villagers to help create a healthy public opinion on matters of vital importance to the country..."[Vaithianathan Committee on Broadcasting (sessional

paper XVII - 1941)].

Mr Neville Jayaweera [Director General under the UNP Government from June 1967 - May 1970] was perhaps the first Director-General of Broadcasting to emphasize and appreciate the role of radio in national development. "...Although Ceylon has had broadcasting for over 30 years, its responsibilities in relation to its social and economic environment have not been considered until recently...Broadcasting was treated primarily as a means of cultural diffusion; its larger potential as a catalyst for social change had not been exploited...it has the capacity to shoulder responsibility for helping improvement". In laying out his strategy for making people actively involved in development, Mr Jayaweera claimed that if the scope and meaning of a plan were reduced to comprehensible terms such as subsidies, shortages, wages, welfare facilities, agricultural practices etc, and if the plan aimed to achieve these goals, they must be converted into understandable categories, both in terms of benefits and sacrifices and subjected to public debates and criticism. Thus because his era coincided with a massive grow-more-food campaign launched by the Government in power, programs with the prime objective of promoting paddy cultivation, at the same time attempting to give peasants a feeling of participation in a programme of national reconstruction were designed.

When the UNP was defeated by the SLFP at the 1970 General Elections, a Commission of Inquiry was appointed to inquire into measures that should be adopted to secure, in the national interest a more efficient use of mass media by the Government. In examining the issue of using radio in national development policies, the Commission reported that "...Talks, discussions and quiz programs were made to highlight urgent economic and social programs". Plays and songs with a new meaning were put over to divert the minds of listeners to the more serious problem of their environment.It was alleged that the information disseminated over the radio was exaggerated if not false (1972 p.49). The late Dr N.M.Perera criticized the entire exercise condemning it as a "false campaign". He added that if one were to believe the radio, the country would have already reached self-sufficiency in rice, "...So far as your food production broadcasts are concerned the only person, I think, who has outdone you is Mr Goebbels himself..." [Hansard Aug 31, 1969, p. 574]. Mr Jayaweera in answering his critics asserted that "...It was sometimes claimed that statistics about the food drive were false. They were only as false as the Agriculture Department made them false....there were no statistics given on the radio which were any different from the statistics put out by the Department of Census and Statistics and the Central Bank...". The Propaganda Officer of the Agricultural Department, who was summoned before the 1970 Commission, admitted that some of the statistics were not strictly correct. Thus the Commission was of the view that the main criticism was the distinct political slant and the fact that there was no dispassionate examination of problems whether they were economic or social.

With the SLFP coming into power, they decided to continue the tradition of development broadcasting, the SLBC policy was described as attempting to project the attitudes of the government toward development and to create "the feeling that we (the people) and the state are the same" [Gunaratne, 1978,p.266]. Thus a separate "Development Unit" was established in the SLBC in 1971. The Unit was charged with working in close co-ordination with the other statutory organization and was assigned the prime task of "development broadcasting". Mrs Bandaranaiyake, the then Prime Minister and her Cabinet drew up the Five Year Plan (IE a five year development plan) (1972-1976). The task of giving adequate publicity to the Plan and making the people fully aware of it fell on the SLBC. Thus a wide range of programs were broadcast on this subject. The UNP members of Parliament and others, through the press were highly critical of this campaign of development-broadcasting as being nothing but false propāganda.

When the UNP government came into power in July 1977, no particular ideology of development broadcasting was pursued. However Mr Anandatissa De Alwis, the former Minister of State/Information, explained the objectives of development broadcasting of the UNP government in these terms; " We should have special campaigns, which serve development needs. For example, in agriculture, the media must be put at the service of the farmers. If they have problems in getting water, fertilizer or other inputs, these should be mentioned over radio. Our policy, therefore, is to talk, say, to the farmers as well as to give them the media to talk back to us. Let us publicize their problems. Such publicity would definitely evoke a response which would ultimately help to solve the problem". [Goonasekera, 1978,p.78]. As a result, various stages of the Mahaweli accelerated project, viz. Kotmale, Jaya Ganga, Randenigala and Lunugamvehera were prominently featured in several broadcasts, Activities relating to the Gam Udawa programme (Village Re-awakening) and the Prime Minister's (Mr R.Premadasa) Million House Project were highlighted in a series of programs.

However it would seem that the incessant criticisms clearly showed that the campaigns of development broadcasting had a vital missing link, i.e. credibility, and this was to a large extent caused by the political slant given to each campaign. The news broadcasts and current affairs programs too were not exempt from these charges. Radio broadcasting and, as we shall see, TV broadcasting as well, were not able to wean themselves away from the influence of party politics. In fact Dr Anandatissa De Alwis, the Minister for State/Information (1978-1988) revealed the uncomfortable juxtaposition of politics and broadcasting in Sri Lanka when he answered his critics in parliament in Dec 6th 1978. He recounted how each party in power had used the medium of radio broadcasting to further its own interests.

Educational Broadcasting

Educational broadcasts although first mooted as far back as 1927, have never really got off the ground. The 1970 Commission on

Broadcasting stated that "the Schools Broadcasting Service, inaugurated in 1931, which should have been a powerful instrument for furthering the aims and ideals of the Free Education System introduced in 1945, did not make any impact either on teachers or on pupils". The Commission was also of the opinion that the general lack of enthusiasm on the part of the Broadcasting Corporation and the Education Ministry had contributed to the neglect of radio, which was a pity as it was one means of filling some gaps in the educational structure which could not be easily filled by the state due to financial restraints. For instance Radio has not so far been used effectively as a means of teaching English as a second language. In the face of scarcity of well trained and qualified English teachers in the rural areas, the education service can fill a vital need to the nation by organizing and conducting a series of well planned and well presented English programs on a continual basis.

Music Programs, Cultural Continuity and Change

When radio broadcasting was set up in June 1924, there was a marked lack of any established popular music tradition in the country. Thus in the early days the broadcast time was monopolized by the English programs and English artistes. Radio has since then, made a tangible impact in the field of indigenous/folk music. Realizing the potential of folk music in creating a Sinhala music tradition, the Radio Station initiated the recording and broadcasting of folk music, and songs by local artistes.

TELEVISION BROADCASTING

The Sri Lankan governments decision to establish an island wide television network was perhaps one of the most significant decisions in the field of mass communication in Sri Lanka - perhaps even more significant than the decisions resulting in the establishment of the telephone in 1857, and radio broadcasting in 1925. However both Radio and television broadcasting in Sri Lanka until very recently were state monopolies. The Sri Lanka Rupavahini (Television) Corporation [SLRC] was created by Act of Parliament and came into operation in 1982. This Act is virtually a carbon copy of the SLBC Act with minor alterations relating to definitions. The SLRC Act No 6 of 1982 sets out the functions of the Corporation as follows;

- a) to carry on a television broadcasting service within Sri Lanka and to promote and develop that service and maintain high standards in programming in the public interest;
- b) to register persons engaged in the production of television programs for broadcasting;
- c) to exercise supervision and control over television programs

- broadcast by the corporation;
- d) to exercise supervision and control over foreign and other television crews, producing television programs for export.
 - e) to exercise supervision and control over the use of video cassettes and the production of programme material on such cassettes for export;
 - f) to advise the Minister in respect of matters relating to television broadcasting; and
 - g) to exercise and perform such powers and duties in relation to television broadcasting as are conferred or imposed on it by or under the Act.

The Corporation consists of the following members, appointed by the Minister and subject to his general and special directions.

- a) Four members appointed by the Minister
- b) One member who represents the SLBC
- c) One member who represents the National Film Corporation
- d) One member who represents the Ministry of Education

The Minister must also appoint one of the members to be the Chairman of the Corporation. The Director General is the Chief Executive of the Corporation and is appointed by the Corporation and is charged with the direction of the business of the Corporation and the exercise, performance and discharge of its powers, duties and functions and the administrative control of employees of the Corporation.

Unlike radio which has three channels in English, Sinhala, and Tamil for domestic listeners, National Television has only one channel, so much so that a modicum of enforced viewing has been achieved as a result of the telecasting of programs in all three languages using the same channel. SLRC claims that this has a salutary effect especially in the light of the recent communal conflict Sri Lanka has been experiencing, because for the first time people have been seeing and appreciating cultural items of different communities which it is hoped would foster deeper understanding and mutual respect for each other.

Section 28 of the SLRC Act prohibits the issue of a broadcasting license, other than for the Corporation, unless it is issued by the Minister. The conditions for obtaining a license for a private broadcasting station are mostly at the discretion of the Minister, however there are conditions such as that the person applying for a license should have the necessary technical, financial and professional qualifications.

The Independent Television Network [ITN] commenced its transmission from a small shack in Pannipitiya on April 14th 1979, with a one kilowatt transmitter and a half completed 65ft. antenna mast. The

equipment of the maiden venture was barely minimal, consisting of video playback gear, telecine chain, and other accessories, all valued at Rs 3.3 million. Starting off as a privately owned independent enterprise, within two years it fell under the axe of the Business Undertakings Act and was taken over by the government. This was largely due to it being recognized as a failed business venture. The Government took it over and gave it to the SLBC to run. Thus today, ITN claims to be a Government Owned Business Undertaking of Independent Television Network and the operation is administered as part of Sri Lanka's sound broadcasting set up, i.e. the Sri Lanka Broadcasting Corporation.

ITN is managed by a Competent Authority, ^{or Managing Director} assisted by a General Manager and two Directors, one for Engineering and one for Administration and three heads of Sections for Finance, Commercial Operations and Programme Presentation respectively.

Thus both radio and television broadcasting in Sri Lanka are state monopolies. With respect to policies followed by Rupavahini and ITN, they are similar, if not identical to those of the SLBC. However at this point perhaps it should be stated that one must not underestimate the effectiveness of both radio and TV in terms of a communication channel. For instance according to a survey carried out in 1991, it was estimated that there are over 17 television sets per 1000 people, and, each one was watched by over 10 people. Unfortunately they both remain under state control.

Private TV and Radio Stations

Today the government seems to be facing a media explosion. Small as our economy is, there are already five TV channels operating in the country, and one offering a 24 hour service. In both radio and TV, the entertainment monopoly of the State Sector broadcasting systems have been broken. These channels have been incorporated as companies limited by guarantee, as per the Company regulations of Sri Lanka. Both the private radio stations, of which there are two and the five TV channels have been issued a license as per the provisions of the SLBC Act [section 44] and the SLRC Act [section 28]. The conditions precedent to the granting of license include provisions that the applicant must be possessed of the necessary technical, financial and professional qualifications as may reasonably be required for the purpose of establishing and maintaining a private broadcasting station. As these primarily deal with the entertainment facet of media broadcasting, its importance in relation to broadcasting policy is limited, especially as most of the programs are foreign or Western oriented.

In relation to the Television channels, the basis on which these licenses were issued included the stipulations that no local news would be broadcast unless it had been verified prior to broadcasting. Thus in respect of news broadcasts, if one is unable to get clearance from the Authorities concerned the Sri Lankan news element has to be blacked out. This created some problems with the BBC, who claimed that the basis of their agreement with MTV

[Maharajah Television, which incidentally had an agreement with the BBC to broadcast their world news bulletin] did not entail the editing of the news broadcast. Consequently, a compromise was reached, and whenever Sri Lanka was featured on the TV news broadcast, the whole telecast was not shown, thus appeasing both the Sri Lankan government and the BBC who could not complain of any parts of the telecast being edited when it was not shown at all.

The other TV station, Teleshan, deals purely with entertainment and has no news broadcasts at all.

ETV or Extra Terrestrial Vision, has a 24 hour broadcast via satellite. Thus as their news broadcasts are telecast direct without any prior recording and replaying, time does not permit obtaining prior approval from the Authorities concerned. Thus if news telecasts on ETV have a Sri Lankan component, that component is blacked out and the rest of the news is shown.

The radio stations do not have any news broadcasts, and deal purely with entertainment value programs.

In respect of entertainment programs however there are strict stipulations on language and the censoring of any scenes with a sexual slant, in keeping with section 3(2) of the SLBC Act and section 7 (2) of the SLRC Act. Both these have the identical provision which states that "nothing is included in any such programs which offends against good taste or decency or is likely to incite to crime or to lead to disorder or to offend any racial or religious susceptibilities or to be offensive to public feelings".

Lack of Policy

President Wijetunga has gone on record stating that the job of the electronic media was to popularize the Government's development policies. The new Minister of Information, Mr Tyrone Fernando, who spoke on the same occasion said the Government would not in any way restrict the freedom of the media. A clear case of Government confusion, the question being on how these two statements could be reconciled.

Both the SLBC and the SLRC Acts have a provision that states that "any news given in the programme (in whatever form) is presented with due accuracy and impartially and with due regard to the public interest" [section 29(c) SLRC Act]. This provision however has never been tested in a Court of Law. Therefore it cannot be considered as binding in the sense of judicial precedent. The side effect is that, as the news broadcasts have never been challenged, the State monopoly on the media operates, and the electronic media has been used as a pro-government vehicle. The Rupavahini was a little more reticent at the start, however the SLBC has always been used in broadcasting speeches and pro-government propaganda. The Rupavahini in the Presidential Campaign of 1988 continued their practice of reticence, with the result that once Mr Premadasa was

Director-General

elected President, the ~~Secretary~~ of Rupavahini was dismissed within 24 hours of his victory. Under the Premadasa regime, the Rupavahini broadcasts also followed the lead of the SLBC, and broadcast government propaganda, such as items on the Janasaviya programs and the creation of the network of 'Rural Republics' and the 200 garment factories. It could be argued that this area could fall under the category of broadcasting and development, and thereby the national electronic media is fulfilling its function of providing the opportunity for the government to place their policies before the people. However it would seem that the other elements of discussion and ultimately leaving the decision to the people were omitted from the arena.

Another issue is the lack of coverage of opposition leaders, opposition political statements and opposition politicians being interviewed on their manifestos and policy decisions. In fact there is a particular dearth of any kind of coverage of activity that is opposing the Government viewpoint or policy. For example, two recent incidents provide good evidence of this attitude. Firstly the Iranawila incident and secondly the Kandalama Hotel Project. Both these projects dealt with the building of a complex, hotel and/or broadcasting on what the public considered environmentally sacred ground. Despite many protest marches organised by both the Opposition parties as well as concerned citizen groups and religious leaders, the Kandalama Hotel has been built. However as the Nayaka Thera of the Dambulla Raja Maha Vihara stated "though the hotel has been built, our campaign is not over. We will continue the battle". In Iranawila the government had leased out land to an Australian Company to build a luxury tourist complex and to the US government to instal a VOA relay station. Although the Government subsequently bowed to pressure and canceled the hotel lease the VOA lease continued. The point here is that none of these protest marches, counter viewpoints have been aired on a factual reporting basis, and neither have they been made the subject of discussion either on radio or TV. Given that the electronic media with emphasis on radio as being the most effective and popular medium of communication in the Sri Lankan context, even more so than newspapers whose circulation is restricted due to cost, the literacy factor and most importantly the distribution factor. As it stands the distribution of newspapers is restricted to a large extent to the urban areas. Television is also restricted in terms of the cost factor and approximately 60% of television sets are found in the Western Province [this incidentally also happens to be the Province with the largest population, out of eight provinces in total]. Recent statistics have shown that of those listening to radio, more than 75% do so daily between 0100 - 0700 hours and 2000 - 2100 hours. Incidentally these are also the hours within which the major news bulletins are broadcast. Thus research has shown that the highest listenership has been for news broadcasts.

Another area where there has been a general lack of policy has been in relation to the prevalent ethnic crisis in Sri Lanka. Once again there has never been an open debate initiated by either the SLBC nor the SLRC on issues relating to the ethnic crisis.

The coverage of the war in the North East, has also been very sparse. Instead of attempting to create an atmosphere of consensus and general awareness of relevant issues, through debate, interviews etc, the Government in power seems to be operating on the policy principle that by giving coverage of the war, they were providing publicity to the Terrorists and seems to be wary or apprehensive of possible reactions and any information provided was mainly if not completely from a military point of view. Thus the SLBC provides military and government communiques on death tolls and military operations without providing the LTTE figures. The SLRC on the other hand has never covered the war, in the sense of showing pictures, until December 1984 where they showed pictures of the attack on the Chavakacheri Police Station. In 1987, when the Indo Lanka Accord was signed, the media was used. However the Opposition was not given access to air their views on the Accord. Instead there was a virtual bombardment of pro-accord statements by various persons, including politicians, religious leaders etc. In fact this incident was quite historic in that this was the first time a full time news team was stationed in Jaffna. However any coverage was carefully monitored in order to be government - friendly. For instance, on the occasion of the first and only rally where Prabhakaran made a public appearance in order to announce his acceptance of the Accord at the Suthumale temple, the government reports made no mention of the 100,000 people who were present at the rally. Peace talks with the LTTE have also never been aired or subject to any form of public discussion or debate.

In relation to the entertainment policy, there has been a blackout on kissing or any sort of sexual indiscretions. In addition, recently there has been a ban on all advertisement of meat products and alcohol and cigarettes. Furthermore there is a distinct cultural slant in all transmissions, both on Radio and TV. The predominant cultural and religious values that are portrayed however relate to the Buddhist, Sinhala culture. It is true that the Constitution of Sri Lanka requires that a special place be given to Buddhism, but it must be remembered that Sri Lanka is a multi ethnic, and multi religious society, with the Islamic religion, Hindu religion and all Christian sects being represented in addition to the Buddhist tradition. Given the current crisis state in Sri Lanka caused by ethnic factions, it is especially important that the electronic media emphasize the universal concepts of religion and help to nurture a society that is tolerant of differences without any illusionary claims relating to superiority in terms of race or religion.

SATELLITE BROADCASTING

The history of satellite broadcasting in Sri Lanka began with the installing of a dish-antenna on the roof of Dr Arthur C Clarke's residence, early in 1977. The State set up a ground station for satellite communication at Padukka in 1976. In the early days of Sri Lanka's exposure to Satellite Broadcasting, the main facilities available through communication satellites were international

telephone calls, radio signals and transmissions to and from news agencies. These travelled via satellite through the ground station at Padukka.

The phase of satellite communication started in earnest in 1982 with the establishment of Sri Lanka's national TV station [SLRC]. ITN, which started out in 1979 as a private sector venture and was later taken over by the State, projected a limited radius TV signal. Subsequently private sector organizations, especially five star hotels, acquired their own dish antennae, in order to receive whatever international TV signals and entertainment they could, for the benefit of their clients. Embassies and consulates also have their own communication satellite systems.

Home TVRO [TV receiver only] systems have begun to proliferate. There have been several instances in Sri Lanka, of satellite communication enthusiasts who put together rough and ready dish antennae generally constructed out of wire mesh used for hen coops.

In 1983, when television signals relayed through communication satellite were still a rarity in Sri Lanka, Dr Arthur C Clarke was gifted three giant dish antennas by Robert Cooper of the US. Of these the dish antenna that was installed in the Arthur C Clarke Center for Modern Technologies relayed CNN TV reports to the national TV Network, during the height of the Gulf War in 1991.

The history of satellite broadcasting entered yet another significant stage on the 21st of March 1983, when Sri Lanka's television station [Rupavahini] began to receive the Asia Vision TV News File. In the years 1991 and 1992, ITN expanded the footprint of its signal and began to transmit almost island wide. Furthermore, the private sector television stations regularly telecast programs relayed by BBC, CNN and Satellite Television Asia Region [STAR].

The private sector TV stations owe their license to a provision in the SLRC Act [section 28 (1) (2) and (3)]. MTV entered into an agreement with the BBC in respect of news telecast received via STAR TV, and the effects of this have been discussed above. ETV however is a different matter. Some would call this a blatant act of copyright, however ETV has done nothing in contravention of the existing laws of Sri Lanka. They have obtained a license as per section 28 of the SLRC Act, and have established a TV broadcasting station. They have tapped into the main satellite transmission of Star TV without any prior agreements with them and have consequently been threatened with an ex parte injunction on grounds of copyright.

There are no rules governing satellite transmission in Sri Lanka. In the light of the new developments relating to satellite transmissions and the inevitable accusations of infringement of copyright, it might be interesting to have a quick look at the relevant provisions in the Sri Lankan Code of Intellectual Property Act No 52 of 1979. This makes no specific mention of TV programs

being subject to rules of copyright. Furthermore according to section 9 of the Code, "news of the day published, broadcast or publicly communicated by any other means" is considered as 'works not protected'. Also section 13, the provision on 'fair use' can justify the transmission of broadcasts if used for example for educational purposes, current economic, political or religious topics, works of art, etc to the extent justified by the informatory purpose of any work, etc. A most important stipulation in this respect lies with section 16(2), which provides for a situation where "...any public broadcasting or television organization operating in and from Sri Lanka cannot agree with the owner of the copyright in any work which it wishes to transmit....it shall be entitled to proceed to such broadcasting or television even without the authorization of the owner, provided that it pays to the owner an equitable remuneration which amount shall be fixed by the Secretary to the Ministry in charge of the subject of culture". Section 22(c) provides for the local implementation of the international treaties for which Sri Lanka is a signatory. This states that "all works which by virtue of treaties entered into by Sri Lanka are to be protected..". Thus, on the face of it, it would seem that the future of satellite broadcasting in Sri Lanka would or should be safeguarded, at least in respect of the copyright provisions.

CONCLUSION

The obvious primary function of a national, state monopolized electronic media would involve providing the Government in power with the opportunity and means to place their policies before the people, and ideally to provide fora for discussion. Thus ultimately the consequence would be an informed decision, made with the consensus of the people. Therefore, use of the electronic media should not be limited to making it a convenient vehicle of propaganda. Instead its ultimate aim must be the dissemination of information. This would relate not only to government policy which might be seen as having a political slant, such as pre election news, economic policy and development projects, but would also entail items dealing with religious, ethnic, cultural and social issues.

As reported above the media system of Sri Lanka functions closely under State control. What we lack is a clearly articulated national policy on information, communication and media. In the absence of such a policy the State run media institutions are subject to directives from the Executive, to pressures implicit and explicit and tend as a result to officialise the information process, publicize government activity, resort to self censorship, and permit the partisan use of the electronic media to serve the interest of the regime. Whatever the party in power, the tendency has been manifest.

While journalists must have the freedom to report and the fullest possible facilities of access to information, it is equally

important that the mass media be responsible and responsive to the concerns of peoples and individuals, thus promoting the participation of the public in the elaboration of information. Often the media tend to regard the reader, listener or viewer as the object of the information process, a one-way street. He is treated as a passive recipient of a package of news and hopefully views, electronic images and messages. But he too has a right of expression and must be enabled to communicate through the media. The relative absence of that recognition results in the purveying of media opinion and not public opinion. Consequently there is an inadequate informed public discourse in the media. However a media system that functions closely under state control cannot credibly promote freedom of expression nor can it facilitate public access to information. Thus perhaps a compromise must be worked out in this respect, which if necessary entails the new legislation, such as a Freedom of Information Act.

Another ethical issue is related to the criticism that radio and television in their content coverage display an urban bias and seek to cater to the wants of the few at the expense of the many. (This criticism has been especially raised in relation to the Private TV and Radio stations).

Another knotty ethical issue relates to satellites and their growth in complexity as technology advances. Here the issue revolves around the satellite Broadcast programs received via satellite direct on the home video screen. When major TV stations derive programming via satellite, the State still has control over their ethical moral and political implications for local audiences. In other words the State still has the ability to determine the terms under which these should be used for broadcasting. However, when programs are received at home, direct via satellite broadcasting, not even a modicum of control can be exercised either by the State or by some other controlling body. Thus in the years to come, when 'TV receiver only' antennae proliferate, as they get progressively miniaturized and relatively inexpensive, the ethical issue is likely to be redundant. The Consumer will be as free to use these programs as Sound Broadcasting Programs received via Satellite. Thus in the near future, perhaps policy issues within a national context would be redundant and the concentration would have to be more regional based.