

Communication Development And Human Rights : Sri Lanka

By

Sinha Ratnatunga

3

Handwritten notes in the top right corner, including the number 2128 circled in a separate box.

2128

PROJECT : COMMUNICATION DEVELOPMENT AND HUMAN RIGHTS

SPONSORED BY : THE INSTITUTE OF SOCIAL STUDIES, THE HAGUE,
THE NETHERLANDS AND THE ASIAN MASS COMMUNICATION
RESEARCH AND INFORMATION CENTRE, SINGAPORE.

COUNTRY : SRI LANKA.

FROM : SINHA RATNATUNGA.

INTRODUCTION:

Ancient attitudes towards Human Rights were simply subjective. A jaundiced eye or prejudiced mind, or birth, determined the interpretation of Human Rights. It is not all that different nowadays where double-standards is the name of the game. That is possibly why modern thinking is moving towards internationally accepted principles of Human Rights.

Violations of Human Rights date back to the origin of Man. From time immemorial man has exploited man. With the growth of civilization so too did these violations grow. Colliseums were built for free-men to enjoy an evening watching slaves battle lions with their bare hands; the cotton-fields of America saw men traded like horses; native Red Indians in North and Latin America were banished into reserves; so too were the aborigenes of Australia.

Sri Lanka too, with a recorded history of over 2,500 years had its share of Human Rights violations. The Torture Culture is as old as the hills. The most common ~~fx~~ form of torture was to bend two palmyrah trees, tie the prisoner's one hand to one tree and the other to the other tree, and then cut the ropes at the same time. The slim tall tree would swiftly swing back tearing the prisoner in two.

Robert Knox, a British prisoner on the island during the 17th Century has recorded this along with two other forms of torture, one

the 'spike treatment' and ^{the other} to kill a prisoner by having an elephant stand on his chest.

But as civilisation progressed, so too did this Torture Culture progress. Now it is the 'civilised' electric shocks and third-degree methods; long-term detentions without trial etc.

Sri Lankan society for over two thousand years was built on the system of a Caste hierarchy. This was a hereditary lineage-like hand-me-down based on the trade one was born into. Social intercourse with other castes ^{was} ~~was~~ taboo.

Human Rights too depended then on ~~your~~ caste. Royalty, Nobility or commoner, common commoner etc. All lands belonged to the King who drew his 'royalty' from the peasant under a form of government known as the ~~RAJAKARIYA~~ 'Rajakariya system'.

Rights of individuals thus depended on ^{their} ~~your~~ caste which was ^a ~~was~~ natural inheritance at birth. Those classified into lower castes were for instance not allowed to be seated when others of a higher grouping were present. Some houses or religious temples were taboo and out-of-bounds. Eating together was strictly forbidden. In schools children sat on higher benches, lower stools or on the ground depending on their father's caste. Marrying out of caste courted disaster and banishment from the village.

This wicked system was omni-present even in this Century with traces of it ~~practised~~ practised even today. In the Tamil

populated Northern Province even today, the ~~Hinducaste~~ hierarchy perpetr^{ates} this system of the Right to Equality as we know the right not to be discriminated because of your birth. ^{There are separate wells from which the lower Castes can d} The 'Harijans', or the Children of God as the great Mahatma Gandhi called the lowest class so categor^{ized}, are not permitted into certain religious places of worship.

But if these ~~were~~ the negative aspects of Sri Lanka's ancient society, equally the country was totally void of slavery. The aim of the ancient Kings ^{was} ~~was~~ merely to reign and rule according to customs and traditions.

In 1505, the vagaries of wind and sail brought the first set of foreign invaders into the island - the Portuguese. In search of spices, the Portuguese introduced Cathol^{ic}ism into the Maritime Provinces of the island. Later the Dutch ousted the Portuguese in big-power contests of yore, and they began not ~~allowing~~ only growing cinnamon, but also building canals.

It ^{was} ~~was~~ the Dutch who introduced the Roman-Dutch Law, law of Roman origin but perfected in the Dutch Universities. They established a system of courts but maintained the customary laws ~~in~~ of the indigenous people.

Another super-power war took place and the British arrived and ousted the Dutch with superior fire-power. With the innate ability of the Sinhalese to stab each other in the back, the British conquered, for the first time, the entire Island.

The King of Sri Lanka was captured, and the King of England by 'prerogative' had sovereign power over the island. Then began the theory that 'the King can do no wrong'. Human rights of the subjects were those of 'subjects' but the Roman-Dutch law gave them the Right in tort and delict to contest the Crown's officers though it rarely happened.

The British, as Kenneth Kaunda said; 'took our lands and gave us the Bible'. Vast tracts of lands were taken over under a law the British called The Waste Lands Ordinance, and turned them into lush green carpets of tea plantations.

Indented labour was brought by sea, and then ^{by} foot from South India, the closest the island ever got to the introduction of slavery. The British expanded the judicial system and Englishmen manned the Benches. The language of the courts was English and many are the cases where subjects were tried and convicted but throughout the trial the accused did not understand a single word that was uttered.

But still, possibly the first Human Right of modern time was given to the people of Sri Lanka, even as a subjugated race, under section 34 of the British authored Criminal Procedure Code. This gave the Right to any person who was arrested by the Police that he be compulsorily produced before a judicial officer ~~within~~ within 24 hours of his or her arrest.

When the Bill of Rights in 1688, the American revolution in 1776 and the French revolution in 1789 were taking the world by storm establishing Rights of Man and Citizens and the prerogative of the King was abolished and elected Parliaments

became supreme bodies, Sri Lanka and her people were under the jackboot of Imperialism.

The British practised a divide and rule policy giving titles to local leaders and discriminating against those who were not Christians, particularly in recruitment to the Government service.

They oppressed the majority Sinhalese Buddhists and in 1915 drum-head court martial^s were established following a Sinhalese-Muslim riot and influential Sinhalese nationalist leaders were thrown into filthy jails. Others were shot by firing squad.

The inexorable currents of ~~his~~ history were nevertheless in motion. The Bolshevik revolution had just won for the ordinary workers of Russia certain Rights hitherto unknown during the Czar's rule. In nearby India, Gandhi had formed the Indian National Congress. He organised one of the most extra-ordinary liberation movements history has ever seen.

The shadow of that great Indian movement fell over Sri Lanka, and 'native gentlemen' clamouring for a say in the administration determined to prove that the elite corps of Englishmen had outlived ~~their~~ their stay. The one and only ~~demand~~ demand was the Right to Freedom and Liberty.

In 1931, the British granted limited self-rule and Universal Adult Franchise - the Right to Vote, was given to men and women over 21 years of age. This propelled Sri Lanka into the modern world where the people chose their leaders. In fact, the Right to Vote was given to the women of Sri Lanka only five years after the women of Britain themselves obtained this Right. The Sri Lankan women received this Right even before the women of France obtained theirs.

While the voters Rights were universal, a candidate to be eligible was required ~~XXXXXX~~ to have some qualifications of education and wealth as well as the ability to speak the Queen's English.

The caste system raised its ugly head once again at these elections in the early times and it was actually an election of voting your caste rather than casting your vote.

While World War II weakened Britain, ~~and~~ the freedom movements of India and Sri Lanka flourished. After 443 years, in 1948, Sri Lanka once again became a free country.

Independence saw many freedoms flower for the people of Sri Lanka. A well-organised labour movement under a Trotskyite party ensured that some of the advanced labour laws in the world got into the country's statute books. The Industrial Disputes Act; the Shop and Office Employees Act; Wages Boards

and Wages Ordinances; Labour Tribunals etc., gave the workers Rights unmatched by the ²Duties they had to also perform. In the vast tea plantations, the workers who did not have citizenship rights still had a potent trade union and its leader was always a member of the Legislature. Strikes were the order of the day in post-Independence Sri Lanka. The workers were showing off their Rights.

As
Le
Education spread to the villages and elitism was reduced. Wealth was ~~XXXXXXXXXX~~ no longer a qualification to be elected to Parliament. Casteism declined, but the racial drum was beaten by politicians now trying to share the cake of freedom. ...

This ~~XXXXXXXXXX~~ racial politiking led to the polarisation ^{of} ~~between~~ the races and new animosity between the Sinhalese and Tamils led to blood-shed before long. Human Rights was to take another turn in newly Independent Sri Lanka.

As old barriers broke down, new ones cropped up. Today no longer are all equal before the law. University admissions are on a District quota basis and there are already demands for recruitment to the public service on ethnic ~~XXXXXXXXXX~~ ratios. Distribution is on ethnic lines.

We have come a long way from Plato's concept of an Ideal Republic. The Immortal Plato spoke in ancient Greece of the Freedom of Man. Man was born free. It is still Humankind that places the ^{shackles} ~~shackles~~ of Bondage on the Human Race.

and political assassinations increasing over-time. Dissappearances are a common feature. And the Media, the watchdog of the Nation is watching with neither the bark or the bite.

The blame is two-fold. On the one-hand a powerful State muzzles the Media when the watchdog turns against the master. On the other hand, it is "mea culpa". The Media has been susceptible to partisan ~~reportage~~ reportage.

For instance, when the Government introduced the Prevention of Terrorism Act (PTA) a few years ago saying it was to eliminate terrorism ~~from~~ⁱⁿ the Tamil dominated North, the Sinhalese owned Press genuinely believed it was a good thing. None of the mass arrests, dissappearances nor the alleged excesses by the Armed Forces were ever reported. The columns were thrown open to news and views against Tamil terrorism, and thereby incited to an extent racial hatred on ~~the~~^{both} sides of the fence.

Now that the PTA has been extended to cover Sinhalese terrorism, the Media cries "foul" and urges the Government to ~~not~~ consider other methods of eliminating terrorism through social and economic methods.

~~Within~~ Within the last 15 years the violations of Human Rights as well as the development of these Rights have raced competitively with each other - alas, in two different directions.

While Human Rights is virtually on compulsory leave in some

parts of the country due to an insurgency and anarchist action, with the signing of the U.N. treaties and the nasty experiences of politicians once in Opposition, Human Rights as a modern concept universally accepted has definitely taken root in Sri Lanka.

We discuss below all these developments, if one may say, the two sides of the same coin; and the role of the Mass Media in the development and the suppression of these Rights.

Broad Chapter Heading: POSSESSING HUMAN RIGHTS.

The Rights of the Sri Lankan citizen is now enshrined in the Constitution of the Republic under three Chapters, the headings of which are; FUNDAMENTAL RIGHTS (Ch.III); LANGUAGE (Ch.IV); and DIRECTIVE PRINCIPLES OF STATE POLICY AND FUNDAMENTAL DUTIES (Ch.IV).

Section 121 (1) of the Constitution provides for "any citizen" to petition the Supreme Court on each and any Bill that has been presented to Parliament to examine its Constitutional validity. When a Bill was presented to grant autonomy to the Provinces, 45 citizens including a former Prime Minister petitioned the Supreme Court as did other ordinary citizens.

Chapter XIX provides yet another avenue for the citizen to seek redress on Fundamental Rights violations by petitioning the Ombudsman. There are, no doubt, drawbacks which are discussed later, yet, these are rights available to the citizen nevertheless.

It was in 1972 that most of the Rights provided for in the UN Human Rights Declaration and the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights were incorporated in the Constitution when Sri Lanka broke away from the British Monarchy and became a Republic. Unlike in Fiji recently, Sri Lanka did it the Constitutional and proper way.

But in 1972 these Rights were made justiciable only by way of writs and other methods that were available in the normal course of Administrative Law.

These Rights were included in the 1978 Constitution

g.2

with additional provisions such as the Right to Own Property. The Socialist Government that introduced the 1972 Constitution deliberately omitted the clause in order to introduce sweeping laws on Land reform which limited land ownership.

The framers of the new Constitution were also bold enough to make all these Rights justiciable via a simpler and quicker procedural methodology by which aggrieved citizens had access direct to the Supreme Court if any of his Rights were violated or there was an imminent threat to those Rights.

This undoubtedly revolutionised the development of Human rights in Sri Lanka giving the opportunity to any citizen of the country to go before the country's highest judicial body and seek redress. But there were impediments on the way.

One of them was the time period by which a citizen had to make his application. One Month. Secondly, the violators of these rights had to be an Executive or Administrative body, in short, the State. Thirdly, the cost factor, particularly for a citizen in a remote hamlet to travel to Colombo for the trial.

By and large however, the Supreme Court has also been sufficiently flexible and not been sitting with blinkers to the realities of the outside world. They have not been too narrow or technical in their interpretations and we see the courts even embracing State-owned Banks as part of the State apparatus.

It is here that the Media steps in. Given the security of quasi-privilege in reporting court proceedings, the Media relishes the freedom to publish any Fundamental Rights case - the petition, the answers and the proceedings along with the judgment in toto.

Judgments A

Judgments against the State are particularly popular with the independent press and with a people accustomed to criticising Governments.

Some of the more recent cases that received wide press coverage in all the languages of the local Media have been the torture of a suspect at a Police station in the suburbs; the verdict of a divisional bench on the compulsory retirement of a state officer, the recognition of a political party etc.

When ordinary people read these news items their awareness of their own Fundamental Rights grow. It cuts off social and political dissent from turning to violent agitation. They know that there is an avenue from which they can get redress from an increasingly powerful State machinery.

What they however may not know are the detailed aspects of the Law. The one-month rule often stumps them because in Sri Lanka, unlike in many western nations, the people think of court action as a last resort. Influence peddling, political or otherwise; even bribery are some of the preliminary methods of seeking redress.

The Issue of Notice by the Supreme Court alone is an effective safeguard against the oppression of the citizen by the State. In a recent application, a citizen petitioned through the Legal Aid scheme against his Member of Parliament alleging that his liquor license had been cancelled because a promised kick-back was not fulfilled. The very fact that the Court issued notice on the M.P. saw a hasty settlement and disposal of the case to avoid public exposure and scrutiny of the M.P.'s conduct.

Exposure by the press, clothed by the defence of quasi-privilege kept this M.P. in check which otherwise could

have been stifled with the draconian Parliament Powers and Privildges Act that almost prohibits criticism of parliamentarians sans absolute proof.

The Supreme Court has their own share of problems. If the one month rule limit the citizen, a two month rule by which to give their determination keep the Judges on their toes. With the growing popularity of these cases, the Courts often find other appeals being delayed - in itself a violation of another citizen's rights to speedy jsutice.

The table below gives a glimpse of the rapid growth of applications before the Courts. It is not specifically that Human Rights violations have increased, but the Media has helped play a very useful role in sending the message to all corners of the country.

<u>Year</u>	<u>No. of applications</u>	<u>Dismissed</u>	<u>Allowed</u>	<u>Withdrawn</u>	<u>Pending</u>
1979	16	15	-	1	-
1982	29	21	3	5	-
1983	23	21	1	1	-
1985	32	29	2	1	-
1986	85				
1987	73 (till 9 Nov.)				

Human Rights/Fundamental Rights were not, and are not available to all people inhabiting Sri Lanka. A clear distinction has been drawn between "Citizens" and "Persons", with certain rights granted to citizens not available to persons other than citizens. One such Right is the "Freedom of Expression, speech including Publication".

Pg. 5

In a country that had almost 300,000 people of recent Indian origin working in the vast tea and rubber plantations classified as "Stateless", this section of people were deprived these Constitutional guarantees.

The "Stateless" question was however resolved in 1986 and the Ceylon Workers' Congress, the major trade union that has a million members of these persons now have their own party organs which publish a host of periodicals on human rights conditions of these hewars of wood and drawers of water.

The biggest stumbling block to the full flowering of these Rights is still Section 18 (2) of the 1972 Constitution now found in Section 15 of the 1978 Constitution. These subject all these Rights to the interests of "national security"; "national economy"; "public order", and the like.

Increased acts of armed militancy against the State since early 1971 has forced Governments past and present to clamp down a state of emergency by invoking the Public Security Act for nearly 14 of the past 16 years.

This has the legal effect of over-riding, amending or suspending the provisions of any law, and the people and press of Sri Lanka have become so accustomed to it that it is now second nature.

These emergency powers may be deperate remedies to desperate situations. You cannot fight an armed insurgency with pop-guns and flowers. But what invariably has happened, and is happening is that almost unlimited powers of arrest and detention of people by the police has only transformed the Nation into a semi-police state.

During the 1970-77 period a major press, Independent

Newspapers Ltd., was sealed merely for being critical of the Government. People were locked up in chains to their beds at a notorious office down Paget Road in Colombo, a Criminal Justice Commission was set up dispensing with the Evidence Ordinance; Habeas Corpus applications turned to becoming Habeas Corpse applications. It was so bad that the Government was swept out of power and the new Government that was elected by massive popular support swore they would change all this.

Four months after assuming office President Junius Jayewardene told Government Agents;

" The other freedoms of democracy - of a free press, free meetings, of free opposition will also be preserved. There may be occasions when on general upheavals certain restrictions may have to be placed on these freedoms, but as you would realise, during the communal troubles we avoided using the powers under the Public Security Act and permitted all the freedoms, including the right of anybody arrested to go to court - freedom of speech, freedom of the press, to operate while under the existing law. So to curb the passions that were aroused among the people; and I think we were able to successfully avoid draconian powers under the Public Security Act. I trust that during the balance period of our being in office, we will be able to avoid using any of these powers, whatever the pressures that may be brought to bear upon us ".

It showed that the new Government was full of good intentions. Came the racial anti-Tamil riots of August 1977 and the Government (as mentioned by the President) scrupulously avoided using Emergency Regulations so that the uniformed men would not be given these sweeping powers that could be used

Pg. 7

against the Rights of citizens.

Hardly did an year pass, events overtook the desire of a well-meaning Government. Emergency had to be declared as Terrorism in all its menacing forms took hold of the Northern Jaffna Peninsula. First it was Emergency in the North and East, then spread to cover the whole country. A Prevention of Terrorism Act was enacted doing away with the Evidence Ordinance as the previous regime had done.

The all-too-familiar sight of mass arrests, long periods of detention and Belson Camps for detainees became the order of the day. Rule sans emergency faded into an impossible dream. And the words of a one-time Justice Minister that a "little bit of totalitarianism" was [^]sine-quo-non in a struggling democracy like Sri Lanka became indeed prophetic.

One may say that the UN Human Rights Declaration by Article 29 (2) itself subject the Rights and Freedoms of everyone, inter-alia, for "public order" but then one must be certain that the purpose and principles of the UN are not tinkered with in the process.

The wording of the Sri Lanka Constitution therefore has turned out to be idealistic sentiments rather than practical clauses. And the more the Government in office relies on these Emergency powers, the more the Constitution will turn out to be a 'mere scrap of paper'.

Both the 1972 and 1978 Constitutions provided for the "Freedom of speech, expression, including publication" as a Fundamental Right. Within an year a Press Council Law with jaws, not teeth to the State to be used against the free press was passed in 1973.

Pg. 8

Sten-gun carrying policemen stormed around mid-night of April 21, 1974 to Independent Newspapers press, in which I was then an insignificant reporter, and sealed the entire office under Emergency Regulations. For three long years the press was under lock and key and its journalists virtually on the streets.

In 1975 one of the country's largest newspaper groups, Lake House, was nationalised by an Act of Parliament. The private press moghuls were replaced by press commissars.

A strict Media censorship that was clamped for the 1971 insurgency was continued years after the shooting had stopped. Political meetings were banned and peaceful satyagrahas tear-gassed while the Rights of the people as enshrined in the Constitution became not only a mockery but a standing joke.

Unlike the Burbons of France, the new Government of 1977 learnt from history. They did not set about tackling the Media with the bludgeon and the rapier. They used more subtle methods with the equal effect. If they could not purchase the journalist with apartments and land, they cut Government advertising and imposed quotas on newsprint. They even froze overdraft facilities from State banks forcing the press barons to go on bended knees to the Minister of Finance. Some yielded, others refused to succumb. They preferred to "die on their feet rather than live on their knees".

Those who vehemently and vigorously opposed the Press Council Law whilst in opposition have allowed it to remain in the Statute Books of the country. It still hangs like a sword of damocles on the free and independent press.

But this is not to say that the Freedom of Expression and speech, including publication is non-existent.

Pg.9

It exists. Much of the blame for lack of investigative and responsible journalism must be taken by the Media itself. Very little training apart from on-the-job training is done. Background reading is the responsibility of the individual and with the escalating price of magazines and periodicals journalists cannot be expected to subscribe to such journals. The spirit and the spunk to expose gross violations of good government is hidden often in unnecessary fears. The lack of awareness of the defences provided by normal law in actions of civil defamation inhibit a bold and daring "publish and be damned approach" by the Media.

Governments on their part, particularly when in power for long periods get jittery at press criticism if not irritated. Accustomed to hosannas by stooges, criticism tends to be misunderstood, and imaginations running riot that an unfettered press is hounding them out of civic power.

Thus, the press falling back more and more on the legal safeguards provided in quasi-privilege on all reportage of Parliament and Court proceedings, to highlight the commissions and omissions of the State and those who manage it.

The man given Constitutional powers to investigate and report upon complaints on the infringement of "Fundamental Rights and other injustices by public officers and officers of public corporations, local authorities and other like institutions", in accordance with the law is the Parliamentary Commissioner for Administration or the Ombudsman.

The office of Ombudsman was a great advancement in the 1978 Constitution but again its functioning has been greatly curbed by the procedures that have knotted it to investigate

g.10.

nd report.

The procedure as it stands now permit the Ombudsman to inquire only into complaints that have a long process of filtering beginning with the Member of Parliament who must send the complaint to the Parliament Public Petitions Committee through the Secretary General.

It is only after the Petitions Committee has studied the complaint, and decided to forward it to the Ombudsman that the latter can go into the complaint. The complicated procedural angle is a tremendous deterrent to a citizen who otherwise could get prompt remedial measures given the chance to go direct to the Ombudsman.

The Sri Lanka Foundation, created by an Act of Parliament and protect and promote Human Rights has founded a Commission for the Elimination of Discrimination and Monitoring Fundamental Rights inquiring into complaints of discrimination basically defined in the Constitution and the UN Human Rights Declaration, and the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights, where Sri Lanka have been signatories to the treaties.

The objective of this Commission is to receive complaints and to mediate and conciliate through discussion and negotiation rather than adjudication, like in the Supreme Court.

This Commission has received a plethora of complaints trying like a tin of assorted biscuits. Most of the complaints involve round admission to schools; appointments; promotions and victimisation in transfers. Very few have been on racial grounds, the bulk coming as political victimisation.

But it is not run-on-the-mill stuff that come here

Pg. 11

Recently a middle-aged lady came up with a most unusual complaint. She said that somebody at night was violating her Human Rights. The embarrassed inquiring officer asked "Madame, and against whom is your complaint?". She said, "The Government". She insisted that some redress be obtained and a lot of gentle persuasion was required to tell the lady that a medical practitioner may be able to better assist her.

Parties unable to get redress can appeal to the Human Rights Commission presently headed by Dr. J. A. L. Cooray, a respected figure in the country and a committee member of the UN Human Rights Committee itself.

The problem with these inquiries is that little information get out to the Media or otherwise. Secrecy is at its height here. The argument that mediation and conciliation does not permit publicity, that it would inhibit others from coming forward is a convincing one, maybe. But one, or two cases ventilated in public with the consent of all parties would accelerate the spread of awareness of the work of the Commission for the Elimination of Discrimination and the Monitoring of Fundamental Rights, which despite the lack of Constitutional powers has the means to entertain complaints directly from any citizen.

Broad Chapter Heading: INFORMING ABOUT HUMAN RIGHTS

I have already dealt with some aspects of the Media, specially the printed press informing the people on Human Rights by coverage given to Supreme Court cases.

Television and Broadcasting are a little different in that they are State owned, and if I may say, stage managed. Unlike say the B.B.C. in London which is funded by the Foreign Office but managed by a fairly autonomous Board of Directors, the Sri Lanka Television and Broadcasting are by its very operations strongly influenced by Government policy and dictates getting its authority and directions from the Ministry of State which handles the Information portfolio.

As far as television is concerned, its introduction in the late 1970s brought forth exciting new vistas to the people of Sri Lanka. A private-owned Independent Television Network (ITN) and a Government owned Rupavahini Corporation introduced T.V. to Sri Lanka, one of the last country's in Asia to obtain it.

The Sri Lankan born owners of the private ITN had their working experience in America, but that very professional upbringing turned out to be their downfall. They forgot that Governments are run differently in this part of the World. That the freedom of the wild ass (absolute press freedom) does not exist in Sri Lanka. Within two years they fell under the axe of the Business Undertakings Act and was taken over by the Government. Today it bears the odd name of the Government Owned Business Undertaking of Independent

Pg.13

Television Network.

Today state run T.V. has little time for the promotion of Human Rights. A programme like "Sava Sangeetha" (Evening Musical) sponsored by the Sri Lanka Foundation where the promotion of cultural development and inter-racial harmony through music and dance is indeed rare fare

Both T.V. and Human Rights are relatively new concepts to Sri Lanka. On the one hand, gross violations of Human Rights of individuals and society by the State, mostly during the on-going ethnic insurgency were completely ignored, while similar violations by separatist guerrillas was given the widest possible publicity only falling short of rousing racial passions amongst the majority Sinhalese to have another bashing at the minority Tamils.

State television spearheaded the propaganda drive on behalf of the Government to expose the scores of cold-blooded murders committed against innocent civilians by the Tamil rebels by despatching via satellite film-tape to their global subscribers and thereafter selling tape to any world agency interested in background material. But quite naturally, the State would not have heard of any action by Government troops which may have contributed vastly to Human Rights violations.

In a state of war, the official Media does play a quasi-propaganda function and Sri Lanka's T.V. played a greater role than did the Information Department in projecting to the outside world the orgy of violence and mayhem let loose by the rebels, even if it meant one side of the story.

As a result of this propaganda exercise, Rupavahini has been the target of rebel anger. A relay station at high-

Pg.14

altitude Piduruthalagala near Nuware-Eliya was stormed by rebels one night and the attack was repulsed only after a night's fighting with the garrison stationed there. In October, 1987 following a Peace Accord, Rupavahini Corporation probably prematurely decided to provide the Jaffna citizenry with special programmes and bring in the spirit of peace once again to this tortured land. A four-member crew of technicians, all Sinhalese left for Tamil populated Jaffna, never to return alive. The last curtain fell on the Rupavahini bringing programmes to the people of Jaffna.

State Radio (SLBC) faces similar challenges. Identified as being the 'Voice of the Government', its staff and announcers are at the receiving end of anonymous telephone calls and letters and death threats. But oddly, at present these come from Sinhalese extremists. Orders have therefore gone out that news announcers refrain from using their names over the air-waves to avoid identification.

Why the Radio is challenged by the Sinhalese anarchists and the Rupvahini by the Tamil anarchists remains to be answered. The one important factor as far as Radio is concerned is that all surveys have repeatedly shown that Radio is still the most popular form of communication in Sri Lanka.

In the by-gone era, the village kiosk was the meeting place for villagers who would gather to hear news and other interesting programmes over the kiosk owner's radio. It was good business over tea and buns.

But gradually with the import of cheap radios and with local industrialists assembling radios those in the rural areas had access to a radio set. The kiosk owner too

Pg.15

had to change, and he invested in a small television set.

Even now they meet at the kiosk. And now it is to watch the mid-week movie or a tele-drama, and the news.

The radio now at home is often taken to the paddy fields or the working places and so, happens to be the most powerful Media for reaching the people, particularly the rural masses, the targetted power-base of the anarchists.

Devoid of their propaganda-role, Radio and Television admittedly play a very definite role in the dissemination of information. The promotion of Human Rights through quiz programmes and a programme on December 10 to mark UN Human Rights Day have alas, been the limited projection they have given in the field of Human Rights.

The Radio faces Government constraints in expanding its services especially in areas like Human Rights which programmes would pinch the Government necessarily.

Interviews of anyone with an anti-Government flavour will only bring disaster to the staff despite all the pontifications about freedom of expression. And as always, those in high office like to listen - and for the people to listen - to the soothing words of praise than the unpalatable truth.

T.V. can play a far more meaningful role in the promotion of Human Rights without unduly rubbing the wrong-side of the Government. One of the finest ways to project this is through tele-dramas, so popular with the masses of all races.

It is not an exaggeration to say that all life comes to a stand-still when a tele-drama is being telecast.

Sadly film-producers, mostly the elder ones, are still trying to kick the old habit of soppy themes and soap-operas

at revolve round a hero, a heroine and the villain - and the joker. There is an appreciable trend away from this and Rupavahini recently gave the young students from the Sri Lanka Law College opportunity to produce a tele-drama called "Yukthiya" (Justice) which portrayed the life of a prostitute, and in many ways the violations of her Rights to live in Society.

Through this strong theme emerged a message on Human Rights and more such programmes by these young producers, who would have done it for a lark, will go a long way in reaching wider audiences in an eminently popular manner.

Both Radio and T.V. had programmes recently for Elders Week and bringing forth to listeners and viewers the travails of old age helped create an awareness of respecting senior citizens. A Radio programme concluded by saying that the present generation should look after the elders "for the society we make for them today what we will have to inherit tomorrow".

Documentaries like these, and those on the Rights of Children on UN Universal Childrens Day (October 1) and religious programmes that espouse the need for respect of love and compassion of all Beings, reach the people in their own way.

Sometimes, too many programmes also have a tendency to over-kill. But generally, its effects have been beneficial in the promotion of Human Rights, not necessarily as specified in the UN Human Rights Declaration, but with the same purpose and objectives all the same.

The Sri Lanka Foundation has also helped in a big way to inform people of Human Rights. In collaboration with the Department of Education they have succeeded in including the teaching of Human Rights into the curriculum as part of the

Pg.17

subject of Social Studies.

The teaching of Human Rights begins in Year 6 with Rights and Duties of the Environment and its people and in the school community. This develops to the Motherland; Society, Peace, Freedom and Justice (Year 7); the growth of Human Rights in the World, Winning Rights and Freedoms (Year 8); Fundamental Rights (Year 9); the UN and the need for an International Organisation to protect Human Rights (Year 10) and finally the Protection of Human Rights through the Elimination of Discrimination, Equal Rights and Racialism (Year 11).

The Education Ministry however has no immediate plans to teach Human Rights as a separate subject in secondary schools. On the contrary, the thinking is to reduce the number of subjects at the lower grades rather than increase them in order that the student does not end up a book-oriented person.

The United Nations Educational Social and Cultural Organisation (UNESCO) gave some financial assistance for the promotion of Human Rights as a subject during the Carter Administration in the United States which prided itself in promoting Human Rights in other countries, but with the advent of the Reagan Administration and the eventual pull-out by the U.S. from UNESCO, the propagation of Human Rights also fell by the wayside.

The Human Rights Centre of the Sri Lanka Foundation has also made its contribution to informing on Human Rights. It has embarked on essay competitions and art competitions on the UN Declaration of Human Rights in schools as well as conducted Adult Education programmes thus germinating

p.18

seed of awareness and respect for Human Rights among the young as well as inculcating the concept among the older lot. The recommendations adopted by the 18th Session in Paris by UNESCO have been widely and largely adhered to in this respect.

Outside schools this Centre has done some spadework in dissemination by the publication of three books, i) Charter of the United Nations, ii) Declaration of Human Rights and iii) International covenants in English, Sinhalese and Tamil languages distributing them to schools, at seminars and to members of the public at no charge.

Posters have been printed on the UN Declaration of Human Rights in all three languages and distributed mainly to Police Stations and Government departments.

The UN Code of Conduct for Law Enforcement Officers has been translated in all three languages and distributed to police officers - worst culprits of Human Rights violations as well as to Armed Force personnel - increasingly thrust to deal with law and order situations; prison officers; Probation and Child Care officers; Judicial officers etc.,

An Organisation for the Promotion of Human Rights through Law Enforcement Agencies (ORPTLEA) was formed as an umbrella over the Human Rights Centre of the Sri Lanka Foundation, and they are set about organising seminars for law enforcement officers.

In collaboration with the Geneva-based International Committee of the Red Cross (ICRC) and the Asia Foundation, training programmes have been conducted for the Police and Armed Forces. We see some advancement in the dissemination of Human Rights materials outside the traditional Media by handpicking targeted persons for such dissemination rather than generalising like

Pg.19

the Media woulddo.

Pg. 20

Broad Chapter Heading: STATUS, TYPES OF VIOLATIONS

The brutal ethnic insurgency that has cost nearly 7,000 lives during the past four years has resulted in little RESPECT for Human Rights. Tit-for-tat attacks and revenge killings in a vicious cycle of violence threw to the winds all the ideals of the United Nations treaties.

According to Amnesty International's Report on Sri Lanka arbitrary killings of many "non-combatant Tamils" by Government Security Forces and "disappearances"; wide-spread torture and political detainees -both Sinhalese and Tamil; long-term detentions without charges or trial in Army camps and Police stations appear to have been the chief forms of Human Rights violations in Sri Lanka during this period.

Almost all these cases were a result of the Prevention of Terrorism Act and Emergency Regulations. This is the gigantic task that a Government has in Sri Lanka, bedevilled with young frustrated men and women who want to tear down the socio-economic and political fabric into smithereens with the backing of armed violence. Desperate situations require desperate remedies, even though these remedies may only make matters chronic.

The definition given by Amnesty International for "disappearance" is whenever there are reasonable grounds to believe that a person has been taken into custody by the authorities or with their connivance and the authorities deny that the victim is in their custody.

Pg. 21

In its latest report on "disappearances" and "torture" (May 1987), A.I. says 272 cases of disappearances were reported up to 20 April, 1987 and more than 3,000 cases of detention of both left wing Sinhalese groups and armed Tamil groups were reported.

They also said that there was wide-spread torture in Sri Lanka.

Answering A.I. allegations, Government says that all 272 "disappearances" have been replied and that A.I. have been urged to use the same yard-sticks by which they tested affidavits sent alleging these to judge the answers.

They further ask why citizens do not take advantage of the Courts both by way of Writs and Fundamental Rights applications. The courts have so far, been accepted all round as free of racial or other bias. Government refers to the case filed by Paul Mallanayagam, a one-time President of the Kalmunai Citizens Committee who filed an application on the grounds that he was falsely spreading rumours and was illegally detained.

The Supreme Court held that Nallanayagam, a Tamil was not given reasons for his arrest before a Magistrate within the period stipulated by law and that his Fundamental Rights had been violated.

Pg.22

The Attorney General's Department in Colombo complained that Amnesty International had a tendency to use small countries like Sri Lanka AS A Whipping Boy, and referred to the deafening silence maintained for months when the Indian Army launched major military offensives in Jaffna killing many innocent civilians and rendering thousands homeless, and mass arresting hundreds who were ironically released from detention camps by the Sri Lanka Government soon after the Peace Accord was signed.

They say that A.I. flooded the Attorney General's office in Colombo with sworn affidavits then, but not now.

During PTA trials in recent years several witnesses have given evidence of torture by the Sri Lanka Forces. While there is no denying that many such cases existed there also have been the case where witnesses have admitted under cross-examination to giving false evidence. One such case was a suspect who claimed he was tortured by pulling his shirt dramatically in court and showing what he claimed to be burn marks inflicted by soldiers. Later he admitted that these injuries were sustained by falling off a stolen 500 c.c. motor-cycle. (Kttimani Case).

The boat-load of Sri Lankan Tamils found off the coast of Newfoundland, Canada attracted world-wide publicity to the gross violations of Human Rights violations in Sri Lanka. Initially, these young Tamils said that they were refugees fleeing Army excesses in Sri Lanka. That received wide play

Pg. 23

via satellite to the four corners of the world. Average Sri Lankans were holding their heads in shame. Later, soon later, it was found that these boat people were part and parcel of a well organised racket originating in Hamburg, Germany.

Similarly at Heathrow airport, a plane-load of Tamils pulled down their pants despite the biting cold and asid they were running away from the atrocities in Jaffna. Later it was discovered that they were coming from Bangladesh and was part of a racket originating in Kuala Lumpur. The Malaysian was prompted to begin investigations.

These were people using international Media for public ~~opinion~~ opinion build ups on Human Rights violations in Sri Lanka that facilitate migration via political asylum to circumvent the tightened Immigration Procedures, of the western world.

Part of it, not all, is Economic asylum, not Political asylum.

"Disappearances" are a common complaint during a protracted guerrilla war. Government Forces have been more than angelic when dealing with armed opposition. Once a parade army, soldiers took time to know that they must learn to die, not only to kill.

But not all disappearances were by the Forces. Internecine rivalry amongst rebel groups; kangaroo court justice; kidnaps and forced recruitment also formed into disappearances.

Pg.24

But until normalcy is returned in the battle fields of the North and East, and a revision of the Electoral Lists are possible - maybe for the forthcoming Provincial Councils elections or the other elections; or a Census is taken there is every likelihood that compiling a relatively authentic list of "missing persons" is a distant dawn, an impossible dream.

Apart from these extra-ordinary circumstances prevailing in the North and East, and now spreading to the South, in somewhat peaceful surroundings, the Supreme Court in its role as defenders of the citizen's Fundamental Rights has gone into over 250 applications since the Rights were made justitiable in courts in 1978.

A sample of cases that have been brought before the courts illustrates a growing awareness - almost all of these were widely reported in the Media even though the actions may have failed.

* A person called Namasivayam, a minority Tamil, was arrested in Hatton and kept in detention by Police from 27.8.'86 to 3.10.'86 . He claimed that he was subjected to cruel treatment. He filed action under S.11 (Freedom from Torture) and S.13 (1) and (2) (Freedom from arbitrary arrest, detention and punishment) of the Constitution.

The Attorney General argued that the Police had reasonable suspicion that the suspect was a terrorist,

Pg. 25

but could not provide concrete evidence.

The court held that the suspect did not prove violation of S.11,13(1) but 13(2) was violated because Police did not give reasons for his arrest. Compensation of Rs.3,000 was awarded.

* A suspect was taken into custody in Chilaw for pasting posters on a public wall and detained. He filed action under S.12(2) (Discrimination); 13 (1) and 14 (1) (Freedom of speech).

The Attorney General said Emergency Regulations restricted these Fundamental Rights.

The court held by 3-2 majority that the arrest was illegal, but that the detention was legal. Rs.10,000 was awarded as damages. Two Judges however held that both arrest and detention were illegal and awarded Rs.25,000 as damages.

* A group of prominent citizens came to court under s.12 (Right to Equality) and said that they had formed a political party and that the Commissioner of Elections had not recognised them which disqualifies them from certain privileges of the law.

The court held that the Commissioner of Elections had erred in law and to recognise the Lanka Jathika Eksath Party.

* A citizen complained that he was tortured at the Panadura police station with third degree methods.

The court held that four police officers had tortured this citizen and ordered Rs.10,000 compensation.

* A sugar factory employee said he had been transferred and cited S.14(c) AND (d) (Freedom of Association to join a trade union). The corporation said the employee was transferred after a disciplinary inquiry.

The court held to disregard the inquiry, cancel the transfer

Pg.26

and hold a fresh inquiry.

* A 51 year old public servant was compulsorily retired. He cited S. 12(1) and 14 (1)(G) (Freedom of Occupation, Profession etc.) and the Minister of Public Administration and his Secretary were named as Respondents.

The court held by 6/3 against re-instatement. One of the Judges held strongly for re-instatement and awarded Rs. 300,000 as damages. All the Judges made strong references against the conduct of the Ministry Secretary, who they said mis-used his powers.

* In similar cases a pilot has been recruited to the national airline and a woman from a village settlement in war-torn East Sri Lanka was allowed to remain where she wanted under clauses for Right to Equality and Freedom of Movement respectively.

g. 27

These are basically the types of Human Rights violations in Sri Lanka, in a broad sense.

It is not that the Media has ignored these issues. Ad-hoc may be, but these are of less priority in comparison to the magnitude of say the colossal Refugee problem. Sinhalese, Tamils and Muslims have been driven out of their homes due to aerial bombardments and rebel attacks as ruthless as they come.

During the past four years the Media has given wide coverage to the question of Refugees, the hapless and inevitable victims of a terrible and gruesome war. These have taken much space of the printed press.

Sri Lanka has been turned into one huge refugee camp. Thousands are living without proper sanitation and habitation in schools and places of worship. Their plight is a sorry one. Many have seen their houses torched and their loved ones butchered. How can the Media turn a blind-eye to these pitiful incidents.

The Media has helped in rallying the more fortunate citizens to come to the assistance of their brothers and sisters. One newspaper group started a Relief Fund to both collect monies and to convey the message of the plight of these people. Voluntary organisations rely heavily on the Media for free publicity to appeal for medicines, clothing, food etc. The Media is a ready avenue for these purposes.

Pg. 28

During the 1983 race riots against the Tamils living in Colombo, the Sinhalese owned Media was equally forthcoming. but, unfortunately, when there were Tamil refugees who were victims of Sri Lanka Army operations, the Media maintained a deafening silence. But when the Indian Army started its operations there was a howl of condemnation.

As far as reports from overseas organisations are concerned, the Sri Lanka Media took a "hands off Sri Lanka" stance. They took it to mean foreign interference in the internal affairs of a sovereign state. The Government too was quick to denounce these groups like Amnesty International international & do-gooders. They even charged that A.I. in Sri Lanka was infested with card-carrying members of the Communist Party, a reference to the fact that its one-time President was the daughter of ~~XXXXXXXX~~ the late President of the Communist Party. They also branded them as global liberals and left wingers who idealised situations in some other country than their own forgetting that when in Opposition these same persons often quoted the reports published by these groups.

Editorially these groups were questioned by the Media about their silence when the rebels massacred innocent civilians; their silence of violations in some other countries -big countries; and how influential anti-Government lobbies did a full-time demolition job with sob stories far remote from truth and reality.

Pg. 29

As a result nobody went deep into the questions of torture or disappearances and other alleged Human Rights violations; no details were published and everything was set aside on the grounds that "All's fair in War".

Broad Chapter Heading: RESPECTING HUMAN RIGHTS

Some defenders of Human Rights like the Civil Rights Movement (CRM) have attempted to "protect and promote" the civil rights and liberties of the people at all times". A product of the 1971 insurgency in the south, the CRM was often quoted by the then Opposition only to be indexed when the Opposition came into power. The CRM is a "think tank" of eminent academicians and lawyers etc., which rely almost entirely on the Media for its message to get across to the country. Their frequent complaint is that the State owned Media often ignores them, or at best, twist their statements to comply with official policy.

Respecting Human Rights is a very difficult task in light of the bitter racial conflict that has gripped the country. Pride and prejudice; suspicions; superiority complexes; have all taken its toll, and the Media personnel have not been immune to these human feelings and weaknesses.

In schools, no longer do they play cops and robbers. The games they play are Sinhalese and Tamils. In such a terrible background expecting citizens to respect Human Rights of other citizens become far-fetched idealism.

In July, the Tamil people hated the Sinhalese because the Sinhalese dominated army was shelling Jaffna. Came the Peace Accord and the Indian army was welcomed with

garlands, murunga (drum-sticks) and kurumba (king-coconut). But the Indian army then began shelling Jaffna and the Tamils began saying that the Sinhalese were not THAT bad. So, hope is not lost that some reconciliation is possible between the two major races living in Sri Lanka.

The Media that supported the Sri Lanka Forces for attacking and shelling Jaffna did an about-turn and was critical of the Indians for attacking and shelling "our people".

I would personally go along to a great extent with the view that since 1983 when the insurgency broke out in all its ferocity that the Media could have played a constructive role in promoting humanitarian values and attitudes of tolerance and compassion. Of understanding of minority fears as well as majority fears. It could have helped sort out the complexes and suspicions people had with one another. This may have been achieved with a more hard-nosed approach to writing than allowing emotions take over. Investigations of social and political conditions which have given rise to the abuses of Human Rights were few and far between.

Very little reporting indeed have taken place at a period of deep crisis in Sri Lankan society, of sometimes unprecedented cruelty, human deprivation and suffering of all races. Human suffering knows no boundaries.

Both the State controlled Media and the privately owned Media responded hesitantly to this challenge. On the other hand by perpetuating and re-enforcing ethnic prejudices the Media may be culpable of contributing to a distortion of consciousness thereby aggravating our predicament.

An official censorship also made its unholy contribution to the dissemination of information that intended to cover-up military excesses. In a way, despite the fact that a war was on and the Forces could not take on more than one front, the badly handled censorship contributed to the crisis in making the Media wholly unbelievable and eroding its credibility at the very core. It made average Sri Lankans listen to overseas broadcast, and yet getting angry if the foreign correspondent gave in their view, a slant.

The censorship that covered up governmental lawlessness and exaggerated real terrorism made the rumour machine more powerful adding to distrust among races. This insidious and direct State control over dissemination of news at a time of crisis has proved to be disastrous. But every Government tend to lean on this by thinking that sweeping things under the carpet would ensure that the world at large does not see a dirty house.

Individual journalists have been direct victims of Human Rights violations themselves. The four technicians from the television who were killed by Tamil rebels claiming that the Armed Forces were violating their Human Rights is a

ample in double-speak*.

Recently a Tamil journalist was incarcerated by the State Criminal Investigations Department merely for publishing in a Colombo based newspaper an interview with a rebel leader. This displayed the predicament of the Media in this context. The Editor had to come down from Madras and speak to the President himself to have the journalist released.

Extremist groups have threatened the Media in a bid to control the Press. Colombo based newspapers have been burnt in Jaffna and only newspapers sympathetic to the rebels have the right to publish in that part of the country. In the South where the Sinhalese extremists are active, State agents have been sent death threats.

In one case a newspaper agent put up a notice "The sale of the House newspapers have been temporarily suspended". The next day, written in tar below that notice a message read; "Your death sentence has been temporarily suspended". That is how Human Rights are being respected in 1987 in Sri Lanka.

How much Sri Lanka can comply with UN Declarations on Human Rights and the other Covenants depends largely on its current socio-economic and political climate. Does the Right to self-determination for instance as provided for in Article

1(1) of the International Covenants ~~xxx~~ include the Right for a minority to secede? Does Article 10 (3) protecting children and young persons from economic and social exploitation mean that large, poor families must not have their young earning wages as coach-conductors or pavement-hawkers?

When there is a bloody insurgency, when it is the first man who shoots that lives to tell the tale, how does one interpret Article 6 of the International Covenant on Civil and Political Rights - "No one shall be arbitrarily deprived of his ~~right~~ life"? Does Article 20 that any propaganda for war be prohibited by law include propaganda for a separate state through armed conflict?

These are the strains in putting to practise the wonderful concepts of these UN treaties in a country like Sri Lanka. The Media cannot be divorced from the everyday politics of the State. If political leaders are chauvanistic so too will the Media follow suite.

One of the most recent arguments have been the right for the State (through Parliament) to deprive a citizen of his or her civic rights. This came to focus with all due publicity following the Government's move to deprive former Prime Minister, Ms. Sirimavo Bandaranaike of her civic rights after a Special Presidential Commission was set up and the ex-prime minister was found guilty of abusing her powers.

Defence attorneys asked for the definition of "abuse of

ower" and prosecutors said to look in the English dictionary.

he political fall-out appeared to be that Ms. Bandaranaike
as unable to contest nor canvass at the following Presidential
lections against the Government candidate. This smacked
n suspicion that the Inquiry had political undertones. This
aw still exists - the right to deprive a citizen of his or
er civic rights for A SPECIFIED PERIOD OF TIME.

he danger of these statutes is that future Governments can
o nonpolitical witch-hunts of its opponents under the cloak
fj judicial authority but which can see the emergence of
angerous new trends in victimising a citizen's Human Right
n pure and simple political grounds and considerations.

Several seminars have been organised by the Sri Lanka Foundtion to promote Human Rights among a cross-section of the people. The Boy Scout and Girl Guide Movemenst; Youth organisations and Community Developmment groups have been provided with literature as well as opportunities for practical lessons in the promotion of Human Rights.

Booklets have been printed making the law simpler for the layman, an indirect way of ensuring the layman is not exploited by the lawyer!

As mentioned earlier, the Media is culpable of fanning communal passions with editorial comment and pictures when possibly the need of the hour was restraint and understanding.

When the Government tries to impose its will and control the press it leads to other problems inherent in a censorship. When a press is allowed a free hand something else happens.

In Europe, the new age of respect for Human Rights emerged in a sense only after the two Great World Wars. Maybe in Sri Lanka, a new era of concern for Human Rights will emerge now. The physical presence of the Indian Army has unwittingly thrown enraged Sinhalese and Tamil together. They want to throw out an alien Army, like they were bound by the common desire for freedom during the colonial years.

Respect for Human Rights can well emerge like pheonix from the ashes of a four year old insurgency that has taken away 7,000 lives in Sri Lanka. It is not too late for the Mass Media to

forget the past and build anew! It is not too late
for it to play its role in fostering unity and respect for
Human Rights in the years to come.

A N N E X E S

1. Extracts from the Government Gazette of No.416 of August 22, 1986 giving regulations under the Sri Lanka Foundation Law for the creation of the Commission for the Elimination of Discrimination and Monitoring of Fundamental Rights.
2. The workings of the Commission for the Elimination of Discrimination and Monitoring of Fundamental Rights.
3. Booklet of the Law and Trust Society.
4. Syllabuses for the teaching of Human Rights in schools (grade 10 and 11).
5. Statement by Dr.H.W.Jayewardene,Q.C.,Leader of the Sri Lanka delegation to the U.N.Human Rights Commission,Geneva.Text of the Consensus Resolution adopted on the situation in Sri Lanka.
6. The Island newspaper of 25,September,1987 - sample coverage of a Fundamental Rights case taken up by the Supreme Court.
7. Sun newspaper of 25,September,1987 - the same case as reported in another newspaer.
8. Daily News newspaper of 24,)ctober,1987 - sample of coverage of a different case invloving the citizen's right to petition the Supreme Court.
9. Sun newspaper of 26,October,1987 - normal course of publicity given to promote information on Fundamental Rights.
10. Legal Aid newsletter
11. Pamphlet from the International Centre for Ethnic Studies.
12. Booklet provided to members of the Sri Lanka Police and Armed Forces in the Sinhalese language on the UN ~~Human Rights Declaration~~ *Code of Conduct for Law*
13. Copy of the Constitution of the Democratic Socialist Republic of Sri Lanka.
14. Amnesty International Report on Sri Lanka - Disappearnces and Torture.

16. Copy of the UN Human Rights Declaration printed and distributed by the Sri Lanka Foundation.
17. "JUSTICE", a magazine published by the Ministry of Justice which often reports on Fundamental Rights cases.

PERSONS INTERVIEWED FOR THIS PAPER:

1. DR.H.W.JAYEWARDENE, Queen's Counsel; President Emeritus Bar Association of Sri Lanka; Chairman, Sri Lanka Foundation; President, Organisation for Humna Rights Promotion through Law Enforcement Agencies; Leader of the Sri Lanka delegation to the U.N. Human Rights Commission, Geneva.
2. HON.RANIL WICKREMASINGHE, M.P., Minister of Education
3. MR.SAM WIJESINHA, Parliamentary Commissioner for Administration (Ombudsman).
4. DR.COLVIN R.DE SILVA, Former Minister of Constitutional Affairs; Leader of the Lanka Sama Samaja Party; Practising senior Attorney-at-Law.
5. DR.NEELAN THIRUCHELVAM, Director, International Centre for Ethnic Studies; Trustee, Law and Trust Society; ex-Member of Parliament of the Tamil United Liberation Front.
6. MR.LIVY WIJEMANNE, Chairman, Sri Lanka Broadcasting Corporation.
7. DR.ANURA GOONASEKERA, Director-General, Rupavahini (T.V.)
8. MR.SUNIL DE SILVA, Deputy Solicitor-General, Attorney General's Department.
9. MR.DESMOND FERNANDO, Secretary, Civil Rights Movement; Treasurer, Amnesty International (Sri Lanka).
10. MS.HIRANTHI ABEYGOONESEKERA, Legal Officer, Human Rights Centre
11. MR.RANJAN PERERA, Registrar, Supreme Court of Sri Lanka.
12. MR.ANTON FERNANDO, Chairman, Legal Aid Commission.
13. MR.E.A.G.DE SILVA, A.S. Director, Human Rights Centre, President Amnesty International (Sri Lanka)
14. DR.P.MEDDIS, Director, Sri Lanka Television Training Institute.

CONCLUSION:

In the island of Sri Lanka, events are un-folding with dramatic rapidity. No one appears to know the real truth for truth is almost always the first casualty of war. The question arises - could human lives, valuable property, human values and indeed humanity itself been better served if the Mass Media, both local and foreign, played a more important dynamic and objective role.

By this one does not mean that military excesses only be highlighted. Neither does it mean that guerrilla brutalities alone should be played up. ^{Should} ~~the~~ the ~~XXXXXXXXXX~~ Frankenstein laws like the Prevention of Terrorism Act be better evaluated rather than dismissed ^{ed} ~~it~~ it with ^h ~~h~~ a comment. It is a difficult task for the Media no doubt.

In retrospect, it appears that the Media both in Sri Lanka and specially in South India have played games with the ethnic crisis in Sri Lanka. When the Security Forces of Sri Lanka attacked Tamil civilians even if it were in the course of duty, the Sri Lankan national Media maintained a studied silence. This was however made up by the South Indian Media that never denounced the Terror dealers. Instead they painted a gory picture of the atrocities by the Sri Lankan Forces. Today the boot is very ^h ~~h~~ much on the other foot. India stands accused before the bar of the world for excesses against Tamil civilians in Sri Lanka and the roles of the Mass Media of both Sri Lanka and India have deftly reversed their roles. The butchers have become the gallant

fighters, and the freedom-fighters are now terrorists as the case may be.

Two wrongs do not make a right. The Media cannot start peddling parochial and petty causes ~~to~~ merely ^{to} increase circulation because before long the entire credibility of the Media as a whole becomes suspect before the eyes of everybody.

The international Media comprising mostly of "Running Johns" who arrive in a country like Sri Lanka at the first smell of blood, check into a five star hotel and begin filing ~~staxixmxx~~ stories straightaway to catch deadlines. Dramatising stories as they go along to beat competition there is little comprehension and a lot of exaggeration in the process.

The gory details of Human Rights violations are often taken out of context and sensationalised. This is the vital oxygen for the rebels and those who want to ride the wave by producing what they call are sworn affidavits, and soon the country is put on trial before the world community.

International Human Rights organisations by their very constitutions report only on State terrorism. As a result the Government of the day and the citizenry take the other extreme by rejecting these comments as being one-sided.

As corollary to Human Rights and Fundamental Rights is a citizen's Duties. Every citizen not only has Rights but Duties as well. The U.N. Declaration on Human Rights refers

to these Duties as much as the Sri Lankan Constitution does. All great religions that are practised in Sri Lanka emphasise on Duties more than Rights.

Rights give rise to demands. These demands can become agitational and at times violent. Duties are non-violent in approach. You cannot even think of Duties that are universally accepted in a militant manner.

The spread of Human Rights must therefore spread ~~in~~ with ~~xxx~~ through the inculcations of an Individual's Duties to others in society, i.e. to turn the search-light inward.

Today Sri Lankan political thought reflected in the mass Media is on the Rights of the minorities to have self-rule. The minorities say it is a justifiable demand. Some of them have even waged ~~in~~ war for it.

On the other hand, the majority Sinhalese say that it an un-justifiable demand. The Sinhalese dominated Media and the Tamil dominated Media are at each other's throats over the demand. Historians interpret history and distort history so much that history depends on what race you belong to.

That is why in a country like Sri Lanka, the demand for Rights often based on either Marxist thought or on accepted norms and standards of the economically developed world brings in its wake, sometimes, social and political expectations that the 18th poorest country in the world cannot meet.

5

The setting up of Provincial Governments on the one hand give those in the periphery the Right to run their own civil administration. But it also polarises the two main races in the country rather than intergrated them. In the backdrop of the Media's past in somewhat partisan ~~approach~~ approaches to issues on ethnic lines can Provincial Governments suspend the uniform set of standards known as the Paris Declaration of Minimum Human Rights standards in times of Emergency?

Some say Human Rights guarante~~e~~s like Freedom of Movement and Settlement as specified in Article 12 of the International Covenant ~~on~~ on Civil and Political Rights or the Right to Equality within the State; or still, the Right to an equal share of the resources of one's country and the Right to participate freely in the Government of one's ~~own~~ country, not just part of it, could be affected by the setting up of Provincial Governments in a tiny country like Sri Lanka.

Under the Provincial Governments scheme, Newspapers, books and printing presses will come under those provinces. The Media itself will get devolved in time to come, and we will see the emergence of provincial newspapers soon. Already Jaffna has entered this phase with several newspapers of their own.

Unfortunately the tight grip the separatist guerrillas have on these regional newspapers forbids them the Freedom of Expression. The freedom allowed to them is the freedom to ~~right~~

7

Minority communities often perceived that the wide coverage given by the Colombo-based Mass Media to the majority community's culture, language and religion as the imposition of alien values of the dominant community on them. As Dr. Anura Goonesekera, Director-General of Rupavahini says "It was in a way, a domestic form of cultural imperialism". The Mass Media therefore was, in many ways, responsible for a policy of dividing cultures rather than unifying them.

As a result many argue that de-massifying the Mass Media by having smaller newspapers, radio and T.V. stations the information closer to various communities hearts could be catered to.

Unfortunately, this is a tendency towards polarisation of a multi-ethnic nation-state. The creation of a one nation, one country ideal within a plural society will become more difficult when the Mass Media gets devolved under the present political context of Sri Lanka. But then is the answer to have more ~~space~~ space given in the national media to minority aspirations or to create a new liberal culture of mutual respect for races, languages and religions through the many common factors in these. As I feel the first will never happen or quite some time in the national Media, to promote the common factors of race, religion and language - and cultures through the Media would serve the nation better today.

This ~~study~~ ^{country} has devoted a lot of time and space to institutions outside the Mass Media in Sri Lanka because they play an extremely vital role in promoting Human Rights and to a great extent rely heavily on Media support to complement their services. One such institution is the Legal Aid Commission, (LAC).

This Commission ~~which~~ brings justice within the reach of the poor. Greatly hampered as they are due to financial reasons, the LAC gets an annual grant of Rupees 140,000 or US dollars 5,000. Peanuts. More than half the grant goes to pay salaries of minor staff and for administrative purposes.

Rupees 35 per day to maintain each of its 57,245 remand prisoners for ~~that~~ ^{the} year. On an average there are some 10,000 remand prisoners each day in jail, most of them remaining for their inability to pay their fines. On these calculations the State spends Rupees 350,000 per day on these prisoners - more than double the annual grant given to the LAC.

This is the lop-sidedness of things. The Media gives a six-monthly account of this at best, and nobody seems to otherwise care. There have been cases where remand prisoners have been incarcerated ~~for~~ for 8 years without trial until the LAC moved in. Newspapers went to town on the story. Everything ended there.

Article 9, 10 and 11 of the UN Declaration of Human Rights refer to arbitrary arrest, detention and detention and everyone's right to free trial, that everyone is presumed innocent until proved guilty. The LAC will tell you of hundreds of cases of people languishing in remand jails without trial.

The newly set up Law College Human Rights Society with some Media backing is ~~x~~ trying to interview these persons with guidance from the LAC. But the legal process appears unable to change the course of the miserable lives of these remand ~~XXXXXXXXXX~~ prisnors.

The result; frustrated and angry ~~XXXXXX~~ poor looking for other means of justice which is sadly reflected in the upward trend of the crime rate in this country. Today there is little respect for Human Rights of others by the ~~pop~~ people not accutomed to ^{receiving} ~~been given~~ the respect of their share of Human Rights.

The Media highlights ^{their} ~~there~~ brand of unlawful summary jsutice -political or otherwise- with little in-depth study ~~in~~ to the root~~s~~ causes behind these actions. The more one studies the problem, the more one sees the ineffectiveness of a proper Legal Aid scheme to reach out to the poor and ~~the~~ uninfluential; and the insensitiveness of those in the pedestals of power ~~is~~ surrounded by armed body-guards and "bounty-hunters" who enforce the "alw of the six-gun" so that such a scheme could be activated rather than squander monies elsewhere.

Given the direct and the insidious ~~XXXXXXXXXX~~ and subtle State manipulations of the Sri Lanka Mass Media from time to time, constitutionally protected instituttions like the Supreme Court or those that have the Government's blessings like the SriLanka Foundation have a greater resilience to survive.

opportunity. It is the Mass Media without a doubt that will play a vital role in fashioning these Rights in the future. It will be a duty that will be cast upon them which they will not be able to approach either with blinkers to the events of the outside world, both good and bad, nor ~~to~~ ~~approach~~ it with blinkers.