

2013



**LAW &
SOCIETY
TRUST
ANNUAL
REPORT**

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About the Law and Society Trust

Vision

“A society free from war, discrimination and social injustice and based upon human dignity for all”

Mission

“Improve respect for the universality, indivisibility and inter-dependence of human rights, thereby securing justice for all”.

The Law & Society Trust is a non-profit making organisation committed to improving public awareness on civil and political rights; social, economic and cultural rights and human rights in conflict. The Trust has played a leading role in promoting co-operation between government and society within South Asia on questions relating to human rights, democracy and minority protection and has participated in initiatives to develop a global intellectual and policy agenda.

LST works to fulfil its vision through utilising rights- based strategies in research, documentation and advocacy to promote the full realisation of the rule of law, justiciability of rights and public accountability.

The trust it enjoys within this community was built by implementing effective programmes, engaging in advocacy based on sound research and operating consistently in democratic spaces wherever they existed, to strengthen institutions and promote equal access and uphold good governance by persistent questioning, honesty and transparency.

The interventions have included rights education, advocacy and lobbying among several target groups; community-based organizations, duty bearers at the district and national levels, judges lawyers and opinion leaders. The knowledge gained through these efforts have shaped the strategies and informed the approaches followed in all the programmes.

The Law & Society Trust was founded in 1982 by the late Dr Neelan Tiruchelvam under the Trusts Ordinance; it was subsequently incorporated in 1992 under the Companies Act No. 17 of 1982 and given Registration No. N(A) 211. LST has since re-registered under the new Companies Act No.07 of 2007.

Goals and Objectives

“To ensure that the citizens of Sri Lanka enjoy the rights enshrined within the Constitution and to strengthen laws to facilitate the realisation of human rights”.

The Law & Society Trust promotes human rights, social justice and the rule of law, it carries out research and documentation and advocacy and utilizes the law to achieve social and economic transformation.

LSTs interventions include awareness-raising on the law and accountability of duty bearers, legal empowerment of war affected communities, rights education, advocacy and lobbying in support of law and policy reform. The target groups are community-based organizations working at the grassroots, duty bearers, at the community, district and national levels, judges, lawyers, activists and the media.

The knowledge gained through research inform the general public through, influenced policy recommendations, shaped the strategies and approaches and influenced internal decisions on programme development and resource allocation.

Specifically, LST through its three programming areas aims to;

- Increase awareness and understanding on human rights issues among public officials, civil society activists and the media
- Strengthen local administrative structures on laws and good governance
- Strengthen civil society actors working for human rights.
- Broaden and deepen the discourse and practice of human rights to include the right to development and social justice and rights within the development process.
- Increase networking and collaborations in the Asia region and especially South Asia

Board of Directors

LST's Board of Directors meets once in two months.

They are:

- Mr. R.K.W. Goonesekere (Chairman)
- Mr. Kanag Iswaran, PC (until March 2013)
- Dr. G. Uswatte-Aratchi
- Dr. Deepika Udagama
- Dr. Shivaji Felix
- Dr Harini Amarasuriya
- Mr. Jeffrey Alagaratnam

COMPANY SECRETARY

- Secretarius (private) Limited

AUDITORS

- SJMS Associates

2013

Shrinking civil society space; dwindling resources.

It was a difficult year for advocacy NGOs in general and human rights organizations in particular. Several organizations closed due to lack of funds while the suppression of dissent increased while the space for social activism and human rights shrank even further.

Peace and reconciliation initiatives spearheaded by NGOs without the active endorsement of the State failed to persuade war affected communities in the North and East that economic and social progress was within their reach and that they could look forward to a safe and secure future.

The lack of political will was a significant factor in the LLRC recommendations not being implemented while resettlement of IDPs was hampered by the unavailability of land and the loss of deeds and other documents. Domestic and gender based violence escalated in the South as well as the North; the growing numbers of child victims was a major concern. The lack of economic opportunities for women in the Vanni, who had been shut out of receiving formal education during the war increased the risk of sexual exploitation as low paying jobs as day labourers were inadequate to sustain themselves and their children.

The Prevention of Terrorism Act stayed in place and was used in the arrest and detention of people engaged in civic protests in the North and increasingly in the South.

Creeping militarisation gained in the south to add to the considerable advances already made in the north. Education, the restaurant trade, hotels, tourism, civil administration, law enforcement, farming, fishing and civil construction joined the growing list of the militarized. For many the military response to peaceful people protesting polluted water in Rathupaswela, which left three people dead, marked a new low point for civic protest in the south of Sri Lanka and became a unifier between communities in the North and South-- for a short while.

A Presidential Commission to inquire into enforced disappearances which occurred during the war was appointed and held sittings in Colombo, and the North, however families of the disappeared attempting to come to Colombo for handing over a petition about their loved ones

were stopped and turned around while another group of families were attacked in Trincomalee was attacked by para military forces on Human Rights Day.

Earlier, in March at the UN Human Rights Council a second resolution urging Sri Lanka to “Promote reconciliation and accountability” was passed. Nothing changed; the High Commissioner for Human Rights who visited Sri Lanka for five days in August, observed the breakdown in the rule of law and the increased authoritarian stance of the government.

Muslim religion and culture came under severe attack during this period; attacks on Hindu temples and Christian churches also escalated. The law enforcement authorities and the courts on many occasions failed to protect the rights of religious minorities who were victims of the attacks. These incidents which were condemned by the human rights community cast a shadow over efforts at reconciliation resulted in reducing the discourse on reconciliation to an exercise in cynicism.

LSTs dialogue with state actors as well as its programming in this period maintained the focus on human rights based approaches throughout the spectrum of interventions from conflict, post- conflict, return, resettlement and development.

Many challenges still remain in transforming project and programme level efforts to achieve the stated objective of securing human rights of all in the current context.

Programmes and Projects

Making links and building partnerships.

Evictions which do not follow established legal procedures and threats to the private ownership of land emerged as a serious factor affecting communities in both the North and South.

LSTs total programme is divided into three thematic areas; Civil and Political Rights, Economic, Social and Cultural Rights and Human Rights in Conflict. Interventions clustered under each programmatic area seek to build on activities and results of the past, strengthen connections already established and utilize knowledge gathered through past experiences.

LSTs initiative aims to address threats to the ownership of land which has emerged as a serious threat to peace and stability, promote resettlement and restitution of war affected people, support development with equity and build capacity of communities to engage in changes that affect them by improving awareness of their rights and legal protection available under the constitution. Networking and alliance building, national and international advocacy based on research and training of rights holders and duty bearers are envisaged to advance the core programmes.

Land ownership was an issue that cut across all three thematic areas and was in response to the growing threat of private and state land grabs and illegal evictions.

A positive trend this year was of different agencies coming together to form networks, share experiences and undertake collective advocacy as a strategy for sharing resources. Another development was the greater use of ICT. LST now has a blog spot which features content in three languages as well as a twitter account.

Civil and Political Rights

Land ownership

The **civil and political rights programme** using research findings on evictions and related threats to land ownership, undertook and completed a research study culminating in the formulation of justice based land laws and policies including a thorough compilation and analysis of laws, regulations and statutes in relation to land acquisitions/evictions from state lands buttressed by empirical data concerning arbitrary land grabs by the government,

The Research Report **Not This Good Earth** is based on the feedback and data obtained from provincial land officers and Land Commissioners on the implementation of land policies. Consultations were held in Badulla, Kandy, Tangalle, Trincomalee, Jaffna and (on special request of the Land Commissioners' Department) in Negombo and Nuwara Eliya. The report also contains an analysis of generally unknown Regulations on Compensation to be paid when lands are acquired throughout the country; analysis of generally unknown Circulars issued by the Lands Ministry impacting on Peoples' Rights and in some instances, contradicting the established law and an analysis of circulars specially applicable to the North and East.

The Civil and Political Rights programme also trained lawyers on land acquisitions carried out by the State

Minority Rights Research and Report Publication

The Judicial Mind in Sri Lanka: Responding to the Protection of Minority Rights , by Jayantha de Almeida Guneratne, Kishali Pinto- Jayawardena and Gehan Gunatileke English and Sinhala were published.

This report on minority rights and the judicial role analyzes the 1948 Constitution, 1972 Constitution and 1978 Constitution including comprehensive discussion of the Emergency regime with a historical background, coming up to recent changes in emergency law, notable cases and the continuation of impunity was completed and was well received by legal and academic circles.

Following several workshops held in the Kandy and Trincomalee Districts in November, particularly focusing on the issue of religious rights and attacks on minority places of worship, letters were drafted by local prayer centres and verbal appeals were made to the Divisional Secretaries of the areas, pleading that these actions were illegal. Two centres in Trincomalee and Walapane thereafter noted that the attacks ceased. As a result of these discussions, an entirely new Section to the book on Minority Rights was added.

Internationally, the report was used in strategizing and advocating with missions and US/UK/Swiss governments in run-up to 2014 sessions of the United Nations Human Rights Council. Segments from the book pertaining to religious rights and detention of Tamils under the emergency were used.

Economic, Social and Cultural Rights

The Rights Based Approach

The policy paper was produced by external consultants and along with the UN Declaration on the Right to Development will be translated to Sinhala and Tamil. However, further work is needed to create a document that advocates and promotes the Rights Based approaches. The Rights Based Approach is basically the realisation of equity, people's participation in decision making and non discrimination in the access to a myriad of development outputs, resources, and services. Acceptance of the benefits of this approach by development planners at the local and national level will form a major thrust in the **Economic, Social and Cultural Rights** programme in 2014.

Networks on Land strengthened and alliances built and expanded

LST participation in coordination meetings and campaigns of Land Forum network, as well as connecting LF with other networks (e.g. ESCR-Net) in which LST participates. As it was in the previous year LST was involved in activities promoting strong partnerships with international, national and district-level organisations for joint advocacy on land rights.

ESCR newsletter

ESCR newsletter created a platform for other civil society organizations and networks to communicate their opinions and share information on their campaigns on land rights. Through this document organisations and networks such as Future in Our Hands (FIOH), United Workers' Congress and PARL were able to publicize their land rights campaigns widely.

Four issues (March, June, October and December 2013) of trilingual newsletter on ESC rights violations, campaigns and updates disseminated in soft and printed copies <http://lawandsocietytrust.org/resources.html> at meetings of

Peoples Alliance for the Right to Land; by community-based organisations through Active Citizenship for Development Network of citizens forums in 6 districts; and in national and district-level civil society meetings. The mainstream national media is also targeted in the dissemination of the newsletter.

LST participated at the event organized by NAFSO and PARL to celebrate World Food Day on 14th October 2013. The activity was geared to strategizing against current challenges and mobilizing affected people in the Kalpitiya coastal area and the 14 islands against land grabbing in the area. “Building Community Resistance against Land Grabbing” - A Report entailing selected documented land grabbing cases from Indonesia, Sri Lanka, Pakistan, Malaysia and Philippines published by Pesticide Action Network (PAN) Asia and the Pacific was also launched on that day.

Advocacy

Submission on implementation of Lessons Learned and Reconciliation Commission recommendations on land, in advance of 22nd regular session of the UN Human Rights Council (Feb-March 2013),

Lobby of advocacy document with diplomatic missions and UN agencies in Colombo on 15 March 2013 while the data from the document was used in oral statement on Sri Lanka by FORUM-ASIA during 22nd HRC session

The **economic, social, cultural rights programme** is an active member of the People’s Alliance for Right to Land (PARL) network which works to strengthen community level initiatives against land grabbing and evictions; the ESCR newsletter published in three languages informs partner organizations on land related issues while research and advocacy on state budgets at national, provincial and district-level continues next year. The monitoring of the Human Rights Commission of Sri Lanka, as well as promoting respect for Tamil-language rights are two important activities.

Mega Development Projects of Hambantota: In Whose Interest?

A ten minute video with sub titles targeting viewers in all three languages was made and disseminated on the internet. This film was a supplement to the report on Hambantota and looks at the development-induced displacement and other negative impacts of the Mega Development process in Hambantota. It is planned to disseminate a limited number of DVDs containing the film among the organisations working on land rights as well. The English version has 397 views and the Tamil version 53 views by 21.10.2013: A member of the film crew who is a free lance journalist to the 'Ravaya' published two articles from the data gathered from the field visit: 'Before the salt dissolves' about residents of Mirijjavila who have lost their livelihoods and land due to the building of the new harbour and 'Magic in the Lamb Box' on the plight of the villagers of Aru bokka who have been resettled in 'Harbour village'

Migrant workers rights

LST has made submissions to UN treaty bodies and on the National Action Plan on the Protection and Promotion of Human Rights in Sri Lanka. It is also a founder-member of Migrant Forum Lanka that brings together trade unions, community-based-organisations and research and advocacy organisations committed to the human rights of migrant workers

The ESCR programme conducted with the Solidarity Centre on the status of Sri Lankan workers in the Maldives. The report **"Gilded Cage in an Ocean Paradise; Sri Lankan Labour Migration to the Maldives"** is available on the LST website.

Human Rights in Conflict Programme

LST's HRiC team with the support of its partner organizations provided training related to International Human Rights Law (IHRL), domestic and international protection mechanisms and reporting and documentation.

Legal Empowerment

Currently there are 2 two Legal Empowerment Officers / Lawyers in Mannar and Jaffna working to build community capacities to address human rights violations which occur in their own villages.

A number of cases have been solved and / or directed to other organizations including Legal Aid Commission, Home for Human Rights (HHR) and Centre for Human Rights and Development (CHRD) by LST's Legal Empowerment Officers / Lawyers.

IDPs who were resettled in the Mannar, who now face land issues were made aware of their legal rights and steps are being taken to file a civil case in the District Court to reclaim their lost properties.

The lawyer in Mannar is working to address illegal sand excavation in Aruvaukundu village located in the close proximity of Malwathu Oya in Nanattan DS Division with the support of Police officers, local government officials (DS officials) and local politicians.

A set of habeas corpus cases filed in the High Court of Vavuniya on August 26th 2013 and was reported in the daily paper Ceylon Today based in Colombo on 29th August 2013.

Two public awareness programmes on Land rights were conducted in Mannar in November to inform the public on ways of solving the problems. The matters discussed were: encroachment of lands by military and other citizens; land grabbing by the state under several names, Development, Archaeological area, sanctuary; land acquisition for industrial purposes; the failure to issue documents for seized lands.

Advice was provided to a group of citizens belonging to different ethnic groups who have a long running conflict based on all alleged favouritism practiced by officials

benefitting one group in the allocation of housing. Advice provided and in a few cases case filings were prepared on land grabbing by the state, the military and citizens with political power; the legal processes are ignored in these instances and in the case of illegal sand-mining in Mannar by people outside the district.

The training programmes provide information to social workers and activists on a variety of legal and rights issues; They also link people with officials and legal service providers, on whom they can draw on for help later.

HRD Training and Capacity Building for communities

Two training programmes were held in Vavuniya for 60 Human Rights Defenders in November and December. Both training programmes followed a holistic approach and included information on the judicial (legal) and administrative systems in place and domestic and International Human Rights laws and instruments.

The training contributed to increased awareness and understanding of fundamental rights, civil and political rights, economic, social cultural rights; and women's and children's rights, legal system, certain domestic laws and judicial and administrative institutions including information on how to prepare documentation for reporting violations to the National Human Rights Commission, and UN bodies.

A practicing attorney was contracted to cover the component on the legal system – Judicial and administrative remedies and certain domestic laws, including Prevention of Terrorism Act and Bail Act, so that a link was formed between the people and a lawyer to whom they could go to later. A lecturer from University of Jaffna – Vavuniya Campus covered the aspect of administrative system.

Forming partners with local and community based organizations is important for LST

Partnerships enabled LST to gather information on the human rights situation, organise training programmes, plan campaigns and assist people in need despite not having regional offices.

Partnerships and Networks

LST's partners namely ADT, NGO Consortium – Vavuniya and Child First – Vavuniya supported these programmes. Prior to the training programmes partner organizations were requested to identify the topics which would be useful for the HRDs in their work and the training curriculum was prepared accordingly.

HRiC conducted a mobile documentation clinic in Vavuniya District in collaboration with District Secretariat under the Legal Empowerment Programmes with the support of local HRDs who had been trained earlier and who belonged to a local organization **Child First**. Through this mobile clinic LST supported 416 under-privileged families who were able to obtain replacement documents. It was very much appreciated by the beneficiaries and the Divisional Secretariat.

Several organisations including Diakonia (partners in the East) Viluthukal, Organisation for Visual Progression (OVP), Transparency International, Asia Foundation and Jaffna Press Club showed interest in working with LST in 2014.

Initial level meeting with these organisations were held about collaborative work in the North as well as the East, for which Diakonia provided an additional grant.

As a result of these meetings a network was formed among various institutions including Association of the families searching for disappeared relatives, National Fisheries Solidarity Movement (NAFSO) – Mannar District, Alliance Development Trust (ADT), Media Resource and Training Centre of University of Jaffna (MRTC), Department of Law, University of Jaffna, Human Rights Commission of Sri Lanka – Jaffna Regional Office, Committee for Investigating Disappearances (CID), Families of Disappeared (FOD) and few other.

The HRC programme is a member of a coalition that's working to end enforced disappearances.

The Human Rights in Conflict Programme will continue to monitor and document violations of rights, support the right of displaced people to return and resettle while building community level knowledge of rights and legal remedies for rights protection. Linking people and CBOs with lawyers will be a component of the programme.

National Human Rights Institutions should recognize HRDs as individuals and groups with specific protection needs

Proposed research studies will deepen understanding of the role of the military in post war society and the lives of women living in close proximity to military camps. The findings will be shared with NGOs and INGOs who work in the North.

Monitoring, Documentation, Reporting and Communication

Several field visits to the North (Jaffna, Kilinochchi, Mannar and Mullaitivu) were conducted to network with individuals, CBOs, NGOs, journalists and HRDs to discuss overall human rights situation in the region and various issues identified such as land grabbing, enforced disappearance, Indian housing schemes.

Information gathered on disputes over state lands, housing schemes, enforced disappearances were shared with stakeholders, including the HRCSL Jaffna office and NGOs who work on issues such as transport problems, education issues. Information on the treatment of returned asylum seekers was shared with the Belgian Asylum Agency.

Monitoring the Human Rights Commission

Monitoring the Human Rights Commission of Sri Lanka is jointly undertaken by the ESCR and the HRiC programmes of LST. The report was written by ESCR while HRiC worked with the regional officers of the Human Rights Commission. HRCSL in the North to organise a focus group discussion in Kilinochchi on the role of Human Rights Commission of Sri Lanka in resolving the land issues/disputes in the region with the support of the HRCSL Regional Office – Jaffna.

HRiC attended the Asian NGO Network on National Human Rights Institutions' (ANNI) Regional Consultation on Engagement with the Asia Pacific Forum on National Human Rights Institutions (APF) in October 2013 in Doha, Qatar.

A challenge has been to collect old photographs as many families lost their treasured photographs during the conflict

Providing opportunities to interns to work alongside experienced professionals has been an important aspect of LSTs work from the inception.

Building a web archive on the disappeared from the 70s to the present

LST has begun building a web based archive on the disappeared, which attempt to humanise the disappeared by giving their stories of how they lived and how they were disappeared. The archive will picture stories and photographs of family groups with the disappeared person from the family album and the same grouping with showing the space where the disappeared person stood. The archive will feature disappeared from the 70's to the present and will eventually be in three languages. Thus far 20 stories have been collected.

The Internship Programme

Two interns were recruited from the Department of Law, University of Jaffna to assist the research team while the other worked with the Legal Empowerment Officer / Lawyer in Mullaituvu in handling cases and reporting incidents.

Both interns assisted the Programme Officer in updating the Rights Referral Directory, this Directory is central to the training of the HRD training and the Legal Empowerment Programme.

The Northern Muslims Project

Helping the resettlement and reintegration of the returning Muslims began in July, with a general mapping so that the project team could become familiar with the issues and concerns of the resettling families and neighbours

In July 2013, the Northern Muslim project commenced with a team of 5 staff -one project assistant per district, Vavuniya, Mannar, Mullaithivu and Jaffna (except in Killinochchi). The initial month was spent on identifying and training the project assistants who met the basic skills¹ required. The search for an assistant in Killinochchi continued until the end of November 2013.

The end of war in 2009 opened the possibility for Muslims to return to their places of origin. Indeed, all of them have not returned as they have established their lives in Puttalam or wherever they were displaced to. Two generations have been born while they were displaced. The northern Muslim identity could not be eliminated. Now, that the war is over and the places of their origins have become accessible to them, they have started to return. Yet, the return and resettlement has been fraught with challenges.

Strengthen Ethnic Harmony through Dialogue

The first such initiative to enhance ethnic harmony through dialogues was held in Mannar on 29 November 2013. Around 40 Muslims and Tamils both women and men in equal numbers, participated in a two hour discussion. The purpose of the discussion was to create a platform where members from the two communities could engage in a healthy dialogue. Approximately, 50 people (both women and men – Muslims and Tamils) participated in each district. There were mixed feelings of suffering, hurt, despair, betrayal, disappointments, empathy, and absolution.

Building Capacities for advocate for themselves

At the request of community members during the mapping exercise held at the beginning of the project, training on how to advocate for improving basic services was held.

¹ Refer see Annexure 1 for details

Publications

LST Review and The State of Human Rights

LST has completed publishing 09 issues of the **LST Review** including 2 double issues. These are:

1. **February** *Sri Lanka at the Universal Periodic Review of the United Nations - Submissions and Reflections* (containing documents and views on Sri Lanka's conformity with pledges made to the UN at the 2012 UPR session (Single Issue)
2. **March** *The Impeachment of Sri Lanka's Chief Justice - a Legal Critique* (contributor, Dr J de A Guneratne, PC - looking at the constitutional provisions and practical context of the impeachment of Sri Lanka's 43rd Chief Justice) (Single Issue)
3. **April –May** *Reducing the rule of law to rule by politics*, LST Review, double issue 306/307, 2013 (contributors, Kishali Pinto Jayawardena, Gehan Gunatileke and Prameetha Abeywickreme (Double issue)
4. **June** *Disability Rights* – Professor Fiona Campbell Adjunct Professor , Department of Disability Studies, Faculty of Medicine, University of Kelaniya, Ragama , Associate Professor Griffith Law School, Griffith University, Gold Coast, Australia. (Single Issue)
5. **July** *The writ of Amparo; proposing an alternative remedy to habeas corpus in SL*, Mary Ann Bayan, is a human rights lawyer from the Philippines who worked at LST under the Master in Human Rights and Democratisation, University of Sydney/ University of Colombo
6. **August 2013** - Growth with inequality: the political economy of neoliberalism in SL Issue 310

7. **September 2013** - A marionette of the State; Sri Lanka's Human Rights Commission during 2012. * LST Review issue 311
8. **October** - Nationalism and Self-determination; Power of provincial councils to utilise, administer and control state land (issue 312)
9. **Nov-Dec** - Remembering Sunila Abeysekera; Sexual and Gender based violence in Northern Sri Lanka and The State's power of 'eminent domain' vis a vis vulnerable communities. (Issue 313 & 314)

State of Human Rights Report

The SHR for 2013 is to a great extent focused on the recommendations of the LLRC. Five chapters were commissioned to writers with adequate expertise and experience on the following topics:

- Overview of the state of human rights 2011-2012
- Judicial Protection of Human Rights
- The National Human Rights Action Plan
- Implementation of the LLRC Recommendations on Resettlement
- Implementation of the LLRC Recommendation on
- Restitution and Reconciliation