



NEWSLETTER

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VISION

*To create a nation
with a rights
consciousness in
which the dignity
and rights of all
people are respected*

MISSION

*To be a centre of
excellence for
human rights
education and
research using a
multidisciplinary
approach*

New Head of CSHR

CSHR is pleased to welcome Prof. Ravindra Fernando as the new Acting Director who also previously headed CSHR from 2003-2010 and has been active in the field of human rights for many years.

Professor Ravindra Fernando an old boy of Ananda College, graduated from the University of Colombo in 1975.

Professor Fernando had his postgraduate training at Guy's Hospital medical school of the University of London.

Professor Fernando has served as a Senior Lecturer in Forensic Medicine in the Universities of London and Glasgow. He has also worked as a Consultant Forensic Pathologist in the Department of Forensic Pathology and Legal Medicine, the Medico Legal Centre, Sheffield, UK.



Professor Ravindra Fernando, Acting Director
MBBS, MD, FCCP, FCCGP, FRCP (Lond), FRCP (Glasgow), FRCP (Edin), FRCPath (UK), DMJ (Lond)

Head and Senior Professor of Forensic Medicine and Toxicology, Faculty of Medicine, University of Colombo

He was a Consultant Forensic Pathologist for the Home office of England and Wales, and the Crown Office, Scotland.

He has published several research papers and, is the author of 12 books.

Professor Fernando was also appointed as the Chairman of the National Dangerous Drugs Control Board and was a member of the Presidential Task Force on Child Abuse.

He has received numerous awards including

*Most Outstanding Citizen's
Award for Medicine and
Health Care*

“ Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms...”

- Preamble to the Universal Declaration of Human Rights, 1948

EXCELLENT SERVICE

“Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.”

—Article 26.2 of the Universal Declaration of Human Rights

“Because to take away a man's freedom of choice, even his freedom to make the wrong choice is to manipulate him as though he were a puppet and not a person.”
— Madeleine L'Engle

Former Director



Professor Sharya Scharenguivel, Professor of Law, University of Colombo

Professor Sharya Scharenguivel has served as the Acting/Director and Deputy Director of CSHR from 2003 to 2014. She had dedicated her fullest contribution towards the successes of CSHR during her tenure.

In addition, Professor Scharenguivel has been serving in many honorable positions such as member of the Law Commission of Sri Lanka, Committees on family law reform, which

seeks to improve the rights of women in marriage and divorce, Committee on Thesawalamai Reforms, Muslim Law Reforms, Reforms in Family Law and National Action Plan for Children.

We would like to express our heartfelt gratitude to Professor Sharya Scharenguivel for her remarkable service to CSHR and we wish her all the best for her future.

New Acting Deputy Director



**Ms S S M W Seneviratne
Acting Deputy Director**
LL.B. (Hons.)(University of Colombo), M.Phil (University of Colombo), Attorney-at-Law Senior Lecturer, Department of Public and International Law, Faculty of Law, University of Colombo

Ms Wasantha Seneviratne received her Bachelor of Laws Degree and Master of Philosophy Degree in Law in the area of International

Law from the University of Colombo.

She has spent a period of time as a study fellow at the Casten Centre for Human Rights and Humanitarian Law at Monash University, Australia.

At present, Ms Seneviratne coordinates courses in the Master of Laws programme in International Humanitarian Law conducted by the Faculty of Law, the Postgraduate Diploma in Human Rights and Masters in conducted by the Faculty of Graduate Studies of the University of Colombo. In addition, Ms Seneviratne is a member of the editorial panel of the Sri Lanka Journal of International Law, a refereed journal published

by the Faculty of Law of the University of Colombo.

She has published a number of research articles locally and internationally and written modules for CSHR. She has also designed curricula for the University of Moratuwa and Open University both at undergraduate and post-graduate levels.

Ms Seneviratne is a member of the editorial panel of experts involved in preparing school text books and Teacher Guides on subjects of Civic Education.

CSHR welcomes Ms Seneviratne as Acting Deputy Director.

“We must remember that intelligence is not enough. Intelligence plus character—that is the goal of true education. The complete education gives one not only power of concentration, but worthy objectives upon which to concentrate.”

— Martin Luther King Jr.

“In what terms should we think of these beings, nonhuman yet possessing so very many human-like characteristics? How should we treat them? Surely we should treat them with the same consideration and kindness as we show to other humans; and as we recognize human rights, so too should we recognize the rights of the great apes? Yes.”

— Jane Goodall

Inauguration of the Asia Pacific Master of Human Rights and Democratisation – MHRD – 2015



The inauguration of the second semester of the Asia Pacific Master of Human Rights and Democratisation (MHRD) (Regional Programme) was held on 23rd January 2015 at Senate Hall, University of Colombo.

Six foreign students (2 from Pakistan, 2 from Australia, 1 of South Korean origin and 1 from China) joined CSHR after completing their first semester at The University of Sydney. This is the fifth batch of students who are

following the regional Masters at the University of Colombo.

Ms Robyn Mudie, Australian High Commissioner was the Chief Guest, while Mr K Kanag-Isvaran, President's Counsel was the Guest of Honour at this event. High Commissioners and Ambassadors of countries which students were from also participated at the event. In addition to the Vice Chancellor of the University of Colombo,

teaching staff of the MHRD programme and CSHR staff also participated.

MHRD is a combined masters degree programme conducted in collaboration with The University of Sydney and 4 other partner Universities (University of Colombo – coordinated by CSHR; Kathmandu School of Law, Nepal; Gadj Mada University, Indonesia and Mahidol University, Thailand.) 6 international students have selected CSHR, University of Colombo to complete the regional semester.

The second semester of the Asia Pacific Master Degree in Human Rights and Democratisation is scheduled to end in September 2015.

To deny people their human rights is to challenge their very humanity – Nelson Mandela



Keynote address made at the MHRD Inauguration by the Guest of Honour, Mr K Kanag-Isvaran, President's Counsel



The Role of the Judiciary in upholding Democracy- Lessons from Sri Lanka

"I am honoured to have been invited to share with you my thoughts on the role of the Judiciary in upholding Democracy, and the lessons you can learn from the country's experience on the subject. Being participants in the Asia Pacific Masters Degree Programme on Human Rights and Democratisation 2014/2015, of the University of Colombo, you are at the commencement of a truly invigorating journey.

I invite you to treat it not as an end in itself - to embellish your C.V., perhaps, but as a means to energise, and take forward the values of democracy and human rights, for surely your future and the country's future would warrant it. The word 'Democracy' has several shades of meaning.

It is one of the most used terms of the political vocabulary.

Recall that the framers of our first Republican Constitution of 1972 sold it as a "Socialist Democracy". The second Republican Constitution of 1978, styles itself 'The Democratic Socialist Republic of Sri Lanka'! I have not the time to regale you with the difference between 'Socialist Democracy' and 'Democratic Socialism'!

Suffice it to say that both the Constitutions claimed to be Democratic.

So what is the magic in the word 'Democracy'?

Democracy is a vital concept. Through its trans-cultural dimension, it touches the very fundamentals of the life of human beings in society. Though it has given rise to much written comment and reflection, there is no agreement as to its precise definition.

One can, therefore, only talk about the principles of democracy.

Democracy is an universally recognized ideal as well as a goal, based on common values shared by peoples throughout the world community irrespective of cultural, political, social and economic differences.

It is a basic right of citizenship to be exercised under conditions of freedom, equality, transparency and responsibility, with due respect for the plurality of views and in the interest of the polity.

As an ideal, democracy aims essentially to preserve and promote the dignity and fundamental rights of the individual, and among others to achieve social justice and to create a climate that is favorable for peace.

Human rights, which you are going to master in the coming academic year, is also one of the inalienable fundamental rights to which a person is inherently entitled simply because she or he is a human being, regardless of their nation, location, language, religion, ethnic origin or any other status, eg, 'boat people'.

Human rights require empathy and the rule of law.

Human rights cannot be taken away except as a result of due process based on specific circumstances and require freedom from unlawful imprisonment, torture and execution.

Democracy, therefore, provides the natural environment for the protection and effective realisation of human rights.

However, the recognition, acceptance and enthronement of the basic principles of democracy and of human rights in a country's constitution by itself are meaningless, unless they are enforceable at law in the hands of an independent judiciary.

It is, therefore, imperative that one must move from a mere recognition of the basic principles of democracy and human rights to its realisation and enforcement.

Historical experience reveals that democracy cannot be attained without a system of government which divides power among the co-equal branches of power - the Executive, the Legislature and the Judiciary.

Under the First Republican Constitution of 1972 all three powers of the government - the Executive, the Legislature and the Judiciary - were vested in the National State Assembly, the Supreme instrument of state power. Article 5 of the First Republican Constitution provided as follows,

'The National State Assembly is the supreme instrument of State power of the Republic. The National State Assembly exercises—

(a) the legislative power of the People;
 (b) the executive power of the People, including the defence of Sri Lanka, through the President and the Cabinet of Ministers; and
 (c) the judicial power of the People through courts and other institutions created by law except in the case of matters relating to its powers and privileges, wherein the judicial power of the People may be exercised directly by the National State Assembly according to law.'

There is no separation of powers.

The Constitution of 1978 whilst preserving the republican character, recognized the theory of separation of powers and Article 4, mandated that

the legislative function should be exercised by the Legislature, executive function by the Executive, and judicial function only by the Courts.

Article 4 of the 1978 Constitution reads as follows,

'The Sovereignty of the People shall be exercised and enjoyed in the following manner:-

(a) the legislative power of the People shall be exercised by Parliament, consisting of elected representatives of the People and by the People at a Referendum;

(b) the executive power of the People, including the defence of Sri Lanka, shall be exercised by the President of the Republic elected by the People;

(c) the judicial power of the People shall be exercised by Parliament through courts, tribunals and institutions created and established, or recognised, by the Constitution, or created and established by law, except in regard to matters relating to the privileges, immunities and powers of Parliament and of its Members wherein the judicial power of the People may be exercised directly by Parliament according to law;'

In this we pass the test of democracy.

It is also vitally important in a democracy that the judiciary as a whole be impartial and independent to be able to realise the basic principles of democracy and to be the arbiter in power related conflicts between the state and the citizen.

Role of an independent judiciary is therefore a central component of any democracy, and is crucial for Rule of Law and human rights.

Judicial independence is composed of two foundations.

Firstly, every judge should be free to decide the matters before him without any improper influences, inducements,

or pressures, direct or indirect, from any quarter or for any reason, and, secondly, that the Judiciary is independent of the Executive, and the Legislature, and has jurisdiction, directly, or by way of review, over all issues of a judicial nature.

These two foundations are cumulative. Neither is sufficient by itself. Only together do the two guarantee the independence of the judiciary. These two foundations are the independence of the individual judge and the independence of the judicial branch.

Personal independence of a judge is a constitutional principle. It means that the judge is subject to no authority other than the law.

Institutional independence is also a crucial condition, because judge's personal independence is incomplete unless it is accompanied by the institutional independence of the Judicial branch, designed to ensure that the Judicial branch can fulfill its role in protecting the constitution and its values.

Personal independence and Institutional independence are protective walls which prevent the Legislature and Executive branches from influencing the way judges realize their role as

protectors of democracy and its core values.

You break these protective walls and the checks and balances mandated by the doctrine of separation of powers, you will have anarchy and the demise of the Rule of Law.

In Sri Lanka, the impeachment motion to remove the 43rd Chief Justice, brought to the fore, and underscored the importance of the role of the judiciary in upholding democracy. This sordid saga posed a severe threat to the continuity of democratic values and democracy itself in the country.

The 17th Amendment to the Constitution, which was introduced in the year 2001 establishing the independent institutions to conserve, secure and protect fundamental democratic values, was felled with one murderous swoop by the 18th Amendment to the Constitution in the year 2010 and reverted the country to the dark age I have not the time, in a ten minute presentation to go into the depths of this dark page of our history, or analyze its impact on the role of the judiciary, but it is a lesson to be learnt and remembered if institutionally independent to protect and safeguard democracy in Sri Lanka. However, all appears not to be lost. Just a few days ago the sanitizing warmth of the early breezes of democracy and the rule of law appears

to have been permitted to blow, flow and permeate into the body politic. Making you feel a little serendipitous! It is perhaps a harbinger to the full realization of the principles of democracy and of human rights and of a truly independent judiciary.

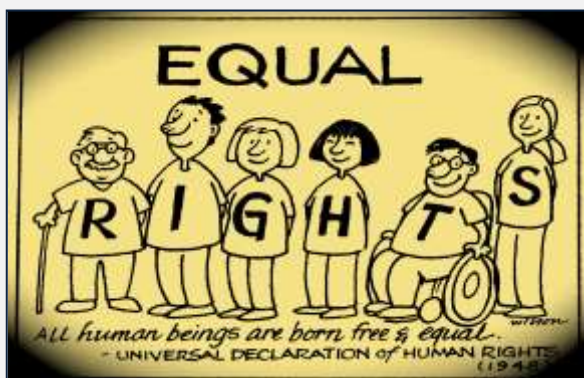
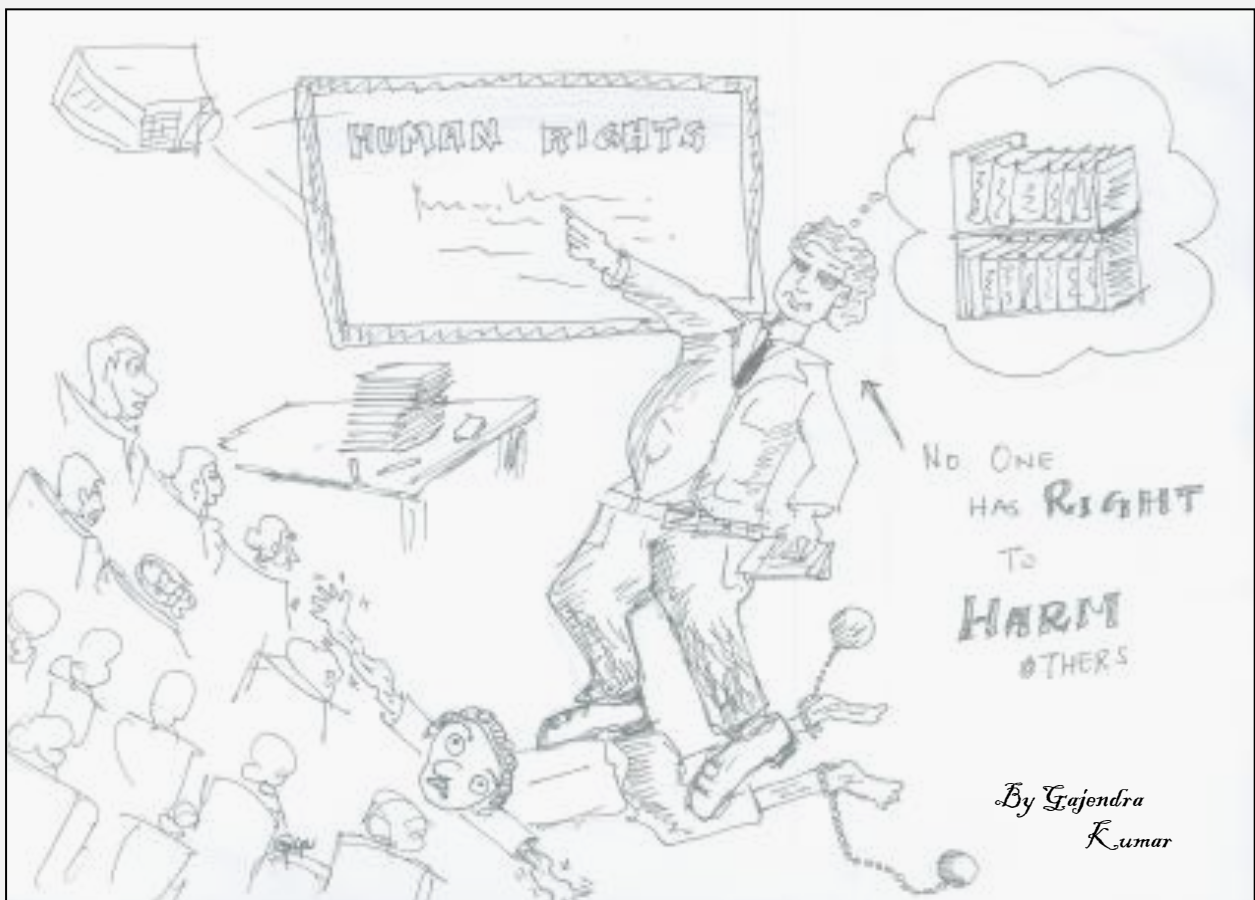
I wish this Programme of the University of Colombo and the students of the Masters Degree every success in your endeavours.

Thank you.

Human rights are not a privilege granted by the few, they are a liberty entitled to all, and human rights, by definition, include the rights of all humans, those in the dawn of life, the dusk of life, or the shadows of life.

Kay Granger

Creativity Unleashed



“The rights of every man are diminished when the rights of one man are threatened.”

— John F. Kennedy

Feature Article

Women's representation in Sri Lankan Political Institutions

- Nirosha Ruwanpathirana



The objective of this Article is to carry out a sociological analysis with regard to women's low representation in political institutions.

The constitution of Sri Lanka as showing all women have the right to equality. It states that 'No citizen shall be discriminated on the basis of race, religion, language, caste, sex, political opinion, place of birth or any other ways' [The Constitution of the Democratic Socialist Republic of Sri Lanka, 1978 12(2)]. According to this article of the constitution, we can realize that men and women in our society have equal political rights.

Sri Lankan women's representation in parliament and provincial councils has been below 10%. This low percentage has become an issue in Sri Lankan political institutions at the decision making level. Women's political participation is very low when compared with that of male representation.

There are many important advantages in women's political participation in Sri Lanka, where women will establish equal rights and equal opportunities for all, within which we can promote a democratic political system, peace building, good governance etc. as well as changing women's thinking patterns. By participating at decision making level, women will be able to change their lives and develop their leadership skills qualitatively. In addition, women's political participation in the political sector will give them more confidence to work with each other.

According to the Sri Lankan political context, we can see many reasons for women's low participation in the political sector. Some of these are the lack of political knowledge, experience and training, lack of good support from political parties and the community, violence against women, gender discrimination, character

assassination, lack of confidence in political leadership, financial issues, patriarchal society and cultural values, norms and taboos, and lack of a good political culture.

Therefore, both women and men are essential for achieving democracy, good governance and political consciousness in order to build a new political culture. Women in Sri Lanka are generally marginalised and exploited due to patriarchal cultural norms and attitudes of the past. Thus, enhancing women's political participation is an essential step in changing such a society, which is quite a challenge for all stakeholders. Therefore, now is the time for us to take necessary steps in enhancing and expanding women's political participation in Sri Lanka.



"Freedom means the supremacy of human rights everywhere. Our support goes to those who struggle to gain those rights and keep them. Our strength is our unity of purpose. To that high concept there can be no end save victory."
— Franklin D. Roosevelt

The only real prison is fear, and the only real freedom is freedom from fear.

"ALL CHILDREN SHOULD BE TAUGHT TO UNCONDITIONALLY ACCEPT, APPROVE, ADMIRE, APPRECIATE, FORGIVE, TRUST, AND ULTIMATELY, LOVE THEIR OWN PERSON."
— ASA DON BROWN

CSHR EDUCATIONAL PROGRAMMES

Distance Learning Diploma in Human Rights and Democracy (DLD HRD)

- The DLDHRD is offered in both Sinhala and Tamil mediums. The new batch for this course is expected to commence in June 2015
- The final examination for the DLD HRD 2013/14 batch and DLD Peace Studies batch is scheduled to be held on 16th May 2015
- The Diploma is designed for the people who are working at grassroot level, Human Rights activists and those who are interested in making a positive impact on the protection and promotion of Human Rights and Democracy in the wider society.

Advanced Certificate in Human Rights Approach to Prison Administration

This course was conducted for the second time in 2014 with 29 Prison Officers completing the course successfully. The certificate awards ceremony was held on 15 December 2014. The new batch for this course is expected to commence in recently.

Advanced Training Programmes on *Human Rights and Fundamental Rights, The Law and the Citizen and Human Rights and International Humanitarian Law*

- Advanced Training Programmes aim to enhance skills and capacity building of the people who are working in the private and public sector as well as university students.
- This year the Advanced Training Programme (ATP) on Human Rights and International Humanitarian Law (HR & IHL) is introduced to provide a basic knowledge on the subject area and to develop a system of appreciation of human beings, their individual dignity, rights and means of defending them and to motivate the study of human rights.

Closing date for ATPs is 20 April 2015.

E- Diploma in Human Rights

- 3 Face to face sessions were held in April, July and December 2014 with the participation of lecturers of the Faculty of Law.
- This course is expected to commence in June 2015.

YOU MUST NOT LOSE FAITH IN HUMANITY.

Humanity is an ocean; if a few drops of the ocean are dirty, the entire ocean does not become dirty.

MAHATMA GANDHI

Human Rights Programme for the Air Force

Three Day programmes on International Humanitarian Law and Human Rights are conducted for Junior Commanding Officers as a component of their Management Module. CSHR conducts 3 programmes per year for the Air Force.

The first programme for the year was conducted from 11th-13th March at the Faculty of Law, University of Colombo. 24 Junior Commanders participated in the programme, while resource persons were those who are experts in the relevant fields.



MHRD – International and Local

The Asia Pacific (Regional) Master of Human Rights and Democratisation is conducted in collaboration with the University of Sydney. CSHR also conducts a local Master of Human Rights and Democratisation. The 1st batch commenced their study in August 2014 with 14 local students enrolling for the programme. These students are presently reading for their second semester together with a batch of 6 foreign students. Most of the local students are employed with the AG's Department, NGOs and the private sector.



CSHR INFORMATION

Please contact us if you require further information relating to the CSHR E-newsletter. Your comments and feedback are greatly appreciated.

If you are interested in receiving the CSHR Newsletter
Please send an email to:
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RESOURCE CENTRE

Located at CSHR premises, Faculty of Law
University of Colombo

Open: Monday to Friday

8.30 am - 4.00 pm

Saturday: 9.00 am -12.30 pm

(Closed on Sundays and Public Holidays)

A Reference Facility with:

- ❖ Approximately 2975 books in Sinhala, Tamil and English (175 new books)
- ❖ 30 titles of journals, pamphlets, bulletins and newsletters
- ❖ UN, Amnesty International, ICRC and other reports
- ❖ Photocopy service available
- ❖ Database available online
- ❖ Donations
 - ✓ Books, Acts and past papers were donated by Law Faculty Students Union in 2012/13
 - ✓ 30 Books donated by Asia Foundation in 2015

COURSES CONDUCTED BY CSHR

- Distance Learning Diploma in Human Rights and Democracy
- E-Diploma in Human Rights
- Advanced Training Programme in Human Rights and Fundamental Rights
- Advanced Training Programme in The Law and the Citizen
- Advanced Training Programme in Human Rights and International Humanitarian Law
- Distance Learning Advanced Certificate in Human Rights Approach to Prison Administration
- Asia Pacific Masters Degree in Human Rights and Democratisation (in collaboration with the University of Sydney)