

# **Report on the National Conference on Disability Rights**

**held February 22-24, 2006  
at the BMICH, Colombo.**



**HUMAN RIGHTS COMMISSION OF SRI LANKA**

**March - 2006**

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No. 36, Kynsey Road, Colombo 08, Sri Lanka.  
Tele : 0094 -011 2694925, 2685980, 2685981  
Fax : 0094-011 2694924  
Hot Line : 0094-011 2689064  
E-mail: sechrc@sltnet.lk  
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## ***Human Rights Commission of Sri Lanka National Conference on Disability Rights***

*Sponsored by the Human Rights Commission of Sri Lanka and held at the BMICII from February 22-24, 2006, the National Conference on Disability Rights was indeed an important milestone for disability rights in Sri Lanka. It created tangible support for the notion that human rights are for all citizens.*

*The Conference brought together people who have disability both in their individual capacity and as representatives of their organizations; representatives of government, and of the corporate and civil society sectors (including NGOs in development and disability); as well as academics, researchers and trade unionists. All these groups came together as important partners who would contribute to the success of the National Conference.*

*The Conference raised awareness of the human rights of people who have disability, secured commitments by relevant stakeholders to the rights-based National Policy on Disability and to the necessity for legal frameworks for its effective implementation. It empowered people who have disability. It has also positioned Sri Lanka as a global leader in the area of disability rights policy and in the disability rights movement.*



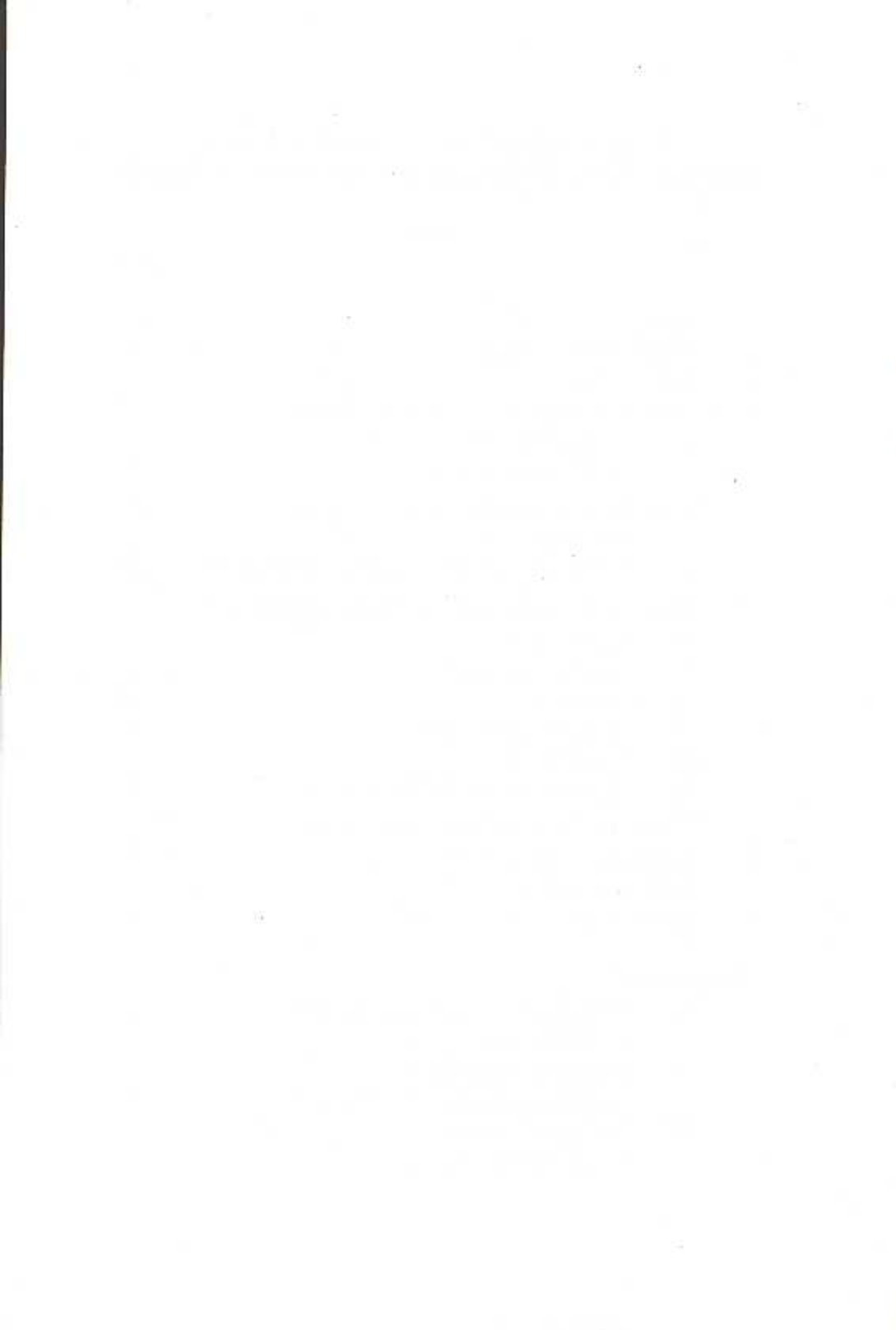
**Human Rights Commission of Sri Lanka**  
**Report on the National Conference on Disability Rights**

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## 1 Background:

In the arena of human rights both in Sri Lanka and globally, scant attention is paid to disability rights even at the present time. However a 3-year strategic plan formulated by the Human Rights Commission (HRC) in 2003 which sought to strengthen processes and systems in Sri Lanka towards the promotion and protection of human rights of particularly vulnerable groups among its citizens identified the area of disability rights as one of its major concerns. Other key areas for action identified in the strategic plan included rule of law, torture, internally displaced persons, child rights and protection and violence against women. In all these areas emphasis is on the reduction of discrimination and on economic and social rights.

Focussing its attention on disability, in September 2005 the Human Rights Commission of Sri Lanka entered into a dialogue with members of the disability movement. In partnership, the National Conference on Disability Rights was identified as an activity which would further the goals both of the HRC and of the Disability Movement for the promotion and protection of Disability Rights.

At a global level, a "Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities"<sup>1</sup> is currently being drafted by an Ad Hoc Committee appointed by the United Nations General Assembly.

In Sri Lanka, Conference planning at the outset took note of the fact that Sri Lanka has a Rights-based National Policy on Disability approved in 2003<sup>2</sup>. The Policy was initiated by the Ministry of Social Welfare and formulated through a representative and consultative process. It followed

<sup>1</sup> Draft Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities A/AC.265/2004/WG.1.

<sup>2</sup> National Policy on Disability, Ministry of Social Welfare, 2003



a socio-economic study to gather information on the situation of Sri Lanka's citizens who have disability<sup>3</sup>. The National Policy on Disability was used as the basic conference document.

The approval of the National Policy was followed up with the preparation of a Draft Disability Rights Bill, initiated again by the same Ministry. The Draft Bill was open to stakeholders and the general public for review. Their opinions and suggestions were taken into account in amending the draft. The legislation is consciously proactive with anti-discriminatory clauses and legal procedures for violations. The Disability, Rights Bill has now been approved by the Cabinet of Ministers and forwarded to the Legal Draftsman. It will finally be submitted to Parliament for enactment.

## **2. Conference Objectives**

The National Conference on Disability Rights was sponsored by the Human Rights Commission within its mandate to undertake public education programmes on human rights. It brought together representatives from major development, disability and related sectors. Through this forum the Conference sought to promote discussion on the implementation of approaches that will promote and protect the human rights of people who have disability as envisaged in Sri Lanka's National Policy on Disability.

The overall objectives of the National Conference were to raise the profile of disability rights in Sri Lanka, secure commitment to the National Policy on Disability and to advocate for the passage and enactment of the Disability Rights Bill.

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<sup>3</sup> Ibid

The National Conference aimed at obtaining the commitment of development and related sectors to the inclusion of people who have disability in their future actions on the basis of equity as citizens of equal worth. By doing so the Conference hoped to promote the institutionalization of disability rights in Sri Lanka's development and welfare policies, systems and processes.

Expected Conference outputs were:

- People who have disability and their organizations have increased awareness about their human rights
- Development and other related sectors conscientized on the human rights of people who have disability
- Development and other related sectors committed to the inclusion of people who have disability in their projects and programmes on the basis of equity
- Advocacy and lobbying for the enactment of the Disability Rights Bill

The immediate purpose of the conference was to get commitments from participating sectors about activities they can start to implement within the next year in support of the National Policy, with the long-term goal of mainstreaming disability in development.

### **3 Participants**

The Conference brought together people across all sectors of Sri Lankan society. They included key stakeholders and others who are specified in the National Policy as being partners in its implementation – people who have various types of disability as individuals and as representatives of their organizations and their advocates including parents and caregivers; those Government sectors that have the major responsibility of including disability in the mainstream of development - the Ministries of Social Services and Social

Welfare, Labour Relations and Employment, Vocational and Technical Education, Skills Development and Entrepreneurship Development, Poverty Alleviation, Education, Women, Youth Affairs and Sports, Health, Housing, and Transport. Other key public sectors and institutions were invited - for instance, all the larger employment creation programmes and skills training institutions and the Urban Development Authority. Representatives from the decentralized administration were invited to ensure that policy implementation reaches the grass-roots. The corporate sector and trade unions were invited because they are important partners in fulfilling the right to work. And because of their position as implementing partners, there were a significant number of representatives of Civil Society Organizations - NGOs in the development as well as disability sectors. Scholars, academics and representatives of research organizations who will play their part in maintaining the Policy as a dynamic and scientific rights-based instrument were present.

In selecting participants to be invited, criteria used ensured ethnic balance, gender equity and geographical representation. Participants were invited to participate in particular concurrent sessions, and were selected taking into consideration their areas of expertise and contributions they could make during the particular concurrent session.

A list of those invited to participate in the conference is in Annexure 01.

Two international disability rights activists accepted the invitation of the IIRC to address the inauguration and participate in conference proceedings. Ms. Anuradha Mohit is the Special Rapporteur on Disability at the National Human Rights Commission of India. She is also currently actively involved in the preparation of the draft International Convention on the Protection and Promotion of the Rights



and Dignity of Persons with Disabilities at the UN in New York.

Dr Sev Ozdowski has very recently completed a five-year appointment as Human Rights Commissioner and Acting Disability Discrimination Commissioner of the Human Rights and Equal Opportunity Commission of Australia. He has contributed extensively to the struggle for the betterment of human rights in Australia and internationally, and in particular those of marginalized groups.

#### **4 Conference Structure, Concurrent Sessions and Immediate Outputs**

The Conference was organized in 3 parts. An inauguration on February 22 served as an introduction to the conference (see 6 below), while an Interactive Forum on February 24 was held as an extension of the conference (see 7 below). The main part of the conference on February 23 was arranged as 6 concurrent sessions:

The six concurrent sessions dealt with the following topics to promote the inclusion of disability rights:

- I Employment creation
- II Skills development (vocational training)
- III Education (school, non-formal and higher education)
- IV Marginalized groups (women, children and elderly persons; users of mental health services as a cross-cutting group; and considering with all groups, the right to family and community life and marriage and sexuality)
- V Special issues related to particular groups: access to communication and sign language for those with hearing impairment; access to Braille and other assistive devices for those who have visual

impairment; access to the built environment; interventions required by those who have developmental disability and by people who have severe or multiple disability

- VI Other Areas of social exclusion, housing, transport, sports, social security schemes, and information communication technology

Youth who have disability, although also a marginalized group were not considered in Concurrent Session IV. Since their most urgent need was determined to be economic, they were included in Concurrent Sessions I and II.

The Conference schedule is in Annexure 02.

#### **4.1 Basis of Concurrent sessions:**

Concurrent sessions took into consideration the fact that people who have disability are marginalized because development interventions and actions do not include disability. Government, NGO and corporate sectors do not formally include disability in their projects and programmes and people who have disability are not included in decision-making.

Discussions were based on the socio-economic situation of people who have disability and the National Policy on Disability which addressed their needs. Deliberations sought to change marginalization through commitment to actions that will include people who have disability in the mainstream of development, and to their empowerment by involving them in decision-making processes.

##### ***4.1.1 Socio-economic situation of people who have disability***

A study of the socio-economic situation of people who have disability commissioned by the Ministry of Social Welfare<sup>4</sup> a few years ago made some startling revelations.

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<sup>4</sup> Op cit 2

Whereas the national unemployment rate at that time was said to be 10%, it was 84% for people who have disability. Of those who were fortunate enough to be employed, only 13 % were in the private sector while 29% had jobs in the Government sector and the largest number, 32% were in self-employment. So much for the universal "right to work" and to "free choice of employment" (Article 23 of the Universal Declaration of Human Rights<sup>5</sup>).

Where the "right to education" (Article 26<sup>6</sup>) is concerned, only 26% had completed their O'levels, 8% had reached the A' level, and only 1% had opportunity for higher education. Deviating from this study to the annual school census, the outstanding statistic is the rate of school "drop-outs" among children who have disability. In the year 2000-2001 while 50,788 children were reported to be in primary schools, 28,235 (56%) were in secondary school, and only an unbelievable 1277 (4.5%) were at collegiate level.

As well as the lack of educational opportunity another factor compounding the inability to find work is the lack of job skills. 86% had never had any vocational training.

The study indicated the level of poverty in which people who have disability must live their daily lives. 53% lived below the poverty line of Rs 3000/- per month, and 90% had incomes below Rs. 6000/- per month. The social consequences of this (and other factors) were that in a culture where going to the temple, mosque or church is largely a way of life, only 21% had ever participated in religious activities. In a society which places a high value on owning the house one lives in, only 14% of people who have disability could take pride in this. Further, only 6% had participated in social activities, 6% had enjoyed entertainment such as musical shows and cinema, and 14% had ever participated in Sports.

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<sup>5</sup> United Nations, Universal Declaration of Human Rights, 10 December 1948

<sup>6</sup> Ibid



The situation is even worse for women who have disability. Employment rates for women made clear severe gender disparities. Whereas the employment rate for men was 22%, it was 8% for women. The same is true of education. Whereas the National rates for boys and girls in schools was 49.9% and 50.1 % respectively, for children who have disability it was in a reverse ratio namely 2.78% for boys and 1.96% for girls.

#### *4.1.2 National Policy on Disability – an overview*

Policy formulation took into account not only the social and economic marginalization of people who have disability, but even more importantly, the factors that caused this situation. Causes stem largely from the failure of our society to recognize and respect diversity and to appreciate the contribution it makes to the enrichment of our own communities. Family and societal expectations and interpretations of "what is normal" assign whole groups of people to the backwaters, and people who have disability are a major group among those.

The Policy casts aside the view that Disability is synonymous with Abnormality. It takes the current and global view of disability as being a situation in which people who have some kind of health impairment find themselves in, largely due to the attitudes of Society. Such attitudes stem, for instance, from cultural and traditional beliefs and practices which have no foundation. Such attitudes which view, for instance, people who have disability as a lesser or as a different kind of human being. Such attitudes that cause families to protect their members who have disability from the stigmatizing outside world. Many Sri Lankans still believe that having a person who has disability at a wedding brings bad luck to the newly weds. Or that seeing a person who has disability as one steps out of one's home is an omen of ill fortune. Many turn away when they see an individual who looks and behaves "differently" just because an illness has



left that human being with some lasting consequence to her or his mind or body.

The Policy attempts to bring about a change in our own attitudes by looking at the abilities that people have and not at their disability. By regarding people who have disability as human beings of equal worth, as citizens of this country "who are equal before the law". This position of Equity is embodied in the Constitution of Sri Lanka and is in fact the first of five principles underlying the Policy. The others are that inclusion in the mainstream is a democratic right of all peoples; that all citizens of a country have an equal right to all services provided by its Government; that people who have disability and their families have an equal share in making decisions that affect themselves; and finally that all of us as members of society-at-large have a responsibility to bring these our fellow citizens into the mainstream of our society. These last 4 principles are all ratified by Sri Lanka in United Nations declarations and other instruments.

To actualize these principles the Policy is developed on the principle of Inclusion. The inclusion of people who have disability, whatever age or disability, in family and community life, in the mainstream of development and welfare programmes and actions, and through these, in the very fabric of our society.

Taking into account also that Sri Lanka is yet a developing country, the policy is careful to recommend strategies for policy implementation that are affordable within sectoral budgetary allocations for capital and recurrent expenditures. It reinforces the concept of rights as a sharing of resources, including financial resources, for the benefit of all citizens, and is therefore resource-based.

### *Content of Policy*

Through the socioeconomic study, people who have disability themselves decided their priorities and needs in terms of rights. Poverty alleviation was paramount among these priorities. Although poverty alleviation is more than just a matter of providing means to an adequate income, the first policy priorities are employment and skills development. Besides these of course inclusion in all poverty alleviation programmes run by the state, NGOs and the private sector. Other requisites for poverty alleviation such as education from pre-schools to universities, adequate health care, housing etc are all included in separate policy areas, of which there are 26 in total. Marginalized groups among those who have disability are given separate policy considerations – women, children, youth, elderly persons, those who have severe or multiple disability. The particular needs and rights of individuals who have different types of disability are also considered in separate sectoral policies – access to sign language, communication and information for those who have profound hearing loss, the use of the Braille system for those who cannot see, access to the built environment for wheelchair users and others and the particular needs of those who have developmental, severe and multiple disability.

To ensure holistic implementation that will reach the grass-roots, sectoral policies are included on community based rehabilitation, and for NGOS and for the private sector. Effective application is ensured through policies on research, legislation and implementation, monitoring and evaluation.

Partners in implementation are identified as being government (cross-sectoral), the National Council for Persons with Disability, people who have disability, their organizations and parents' groups, and civil society.

Value is added to the Policy through the way in which it was developed. This was a consultative process, with the Ministry of Social Welfare inviting the disability sector, various relevant Government sectors, NGOs, the private sector and UN agencies to provide inputs.

While previous definitions of disability focused on the biological or functional problem lying within the individual, current definitions focus on the situation a person finds herself or himself, in. The situation is influenced by the environment, by attitudes, and by cultural and traditional beliefs. The answer then lies in how each and every one of us must respond to these situations in whichever sector we work and in our daily lives, to bring people who have disability into the mainstream. This is the view that has been taken into account in the formulation of the National Policy.

## **4.2 Main Issues Addressed and Commitments Made**

While there are many pressing issues surrounding disability rights today, the National Conference focused its attention on the most urgent socio-economic considerations prioritized by people who have disability. These are employment, skills development, education, marginalized groups, special needs of particular disability groups and other broad areas of social exclusion.

The objective of each concurrent session was to obtain commitments to carry out specific activities towards the implementation of the National Policy within the particular sectoral policies related to the session.

Such commitments were to be rights-based and inclusive; they should consider implementation at different administrative levels, be practical, realistic and affordable, and take into account the needs of people who have different disabilities.

Not more than 5-8 commitments were expected from each session and they should be ones that could start to be implemented within the next year.



## (1) Employment

The working group discussed the concept of "Decent Work" which means productive work in conditions of freedom, equity, security and human dignity for men and women everywhere'. Individuals who have disability shared their experiences, particularly of instances where they faced discrimination and other obstacles when seeking employment. Participating sectors should take responsibility for expanding employment opportunities for youth and adults who have disability and take gender equity into account.

### Commitments:

- 1 The Department of Labour Relations and Employment and Trade Unions will take responsibility for including modules on the inclusion of workers who have disability and their right to decent work in Worker Education Programmes.
- 2 The National Youth Services Council (NYSC) will include young people who have disability in their annual youth camps which focus on career guidance
- 3 JobsNet will include people who have disability in their jobseeker registration programmes
- 4 JobsNet will seek the support of NGOs/DPOs to set up a network which will take responsibility for increasing awareness of available employment creation programmes
- 5 JobsNet together with the Employers Federation of Ceylon (EFC) will establish a network to promote coordination of job placement services

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<sup>7</sup> Decent work - the heart of social progress, ILO Director-General Juan Somavia  
[www.ilo.org](http://www.ilo.org)

- 6 EFC will canvas with their members to provide outsourcing work for people with disability.
- 7 EFC will seek the cooperation of their members to establish a programme of work experience for job seekers who have disability.
- 8 EFC and Trade Unions will lobby for incentives/tax concessions to be granted to employers who provide work opportunities to individuals who have disability.

## **(2) Skills Development**

Disability should not be a barrier to access skills development programmes. It was necessary to focus on an individual's abilities rather than disability when considering the suitability of that individual to enter a programme. Mainstream programmes and support services were called upon to make commitments to inclusion.

### Commitments:

- 1 Career Guidance Units of the Vocational Training Authority (VTA), the National Apprenticeship and Industrial Training Authority (NAITA) and the National Youth Services Council (NYSC), will conduct programmes for people who have disability through Disability Organizations.
- 2 VTA, NAITA and NYSC will take steps to promote the use of their Learning Resource Utilization Centres by jobseekers who have disability.
- 3 VTA, NAITA and NYSC will take steps to promote accessibility at their existing training centres for wheelchair users and others who have mobility disability.

- 4 VTA, NAITA and NYSC will open their Skills Development Loan Schemes to trainees who have disability.
- 5 VTA will supply screen radar software to selected Learning Resource Utilization Centres to be used by jobseekers who have disability.
- 6 Sarvodaya SEEDS will include people who have disability in their entrepreneurship training programmes.

### **(3) Education**

Sectoral policies and strategies for the education of children and young people who have disability in the National Policy are based on the 4 pillars of rights, equity, inclusion and empowerment. While some efforts have been made to extend educational opportunities to children who have disability, much more needs to be done to ensure their mainstreaming in education and in society. Children faced marginalization in the education process with respect to non-schooling, early leaving, gender disparities, poor quality of education and physical and social barriers.

#### Commitments:

1. The Ministry of Education and Provincial Departments of Education will make Attendance Committees functional for the implementation of compulsory education regulations to ensure participation of children who have disability.
2. The Ministry of Education and Provincial Departments of Education will strengthen the early detection in schools of children who have disability in collaboration with the Ministry of Health School Health Service.

- 3 The Ministry of Education and Provincial Departments of Education will monitor state/non state Special Schools to ensure quality education.
- 4 The Ministry of Education will appoint an inclusive education resource teacher per school, initially for 500 schools.
- 5 The National Institute of Education (NIE) together with the Ministry of Education will make the following changes related to Teacher Education.
  - a. Three National Colleges of Education will provide 2 + 1 year full time courses to produce inclusive education resource teachers
  - b. All other teacher-education course curricula in National Colleges of Education will include a module of 60 hours on inclusive education
  - c. All curricula which are related to inclusive education will be revitalized
- 6 The Open University of Sri Lanka will ensure that the Post-Graduate Diploma in Education, as well as the B. Ed and M Ed. Courses will provide a compulsory component on inclusive education.
- 7 The NIE together with the Ministry of Education will strengthen inclusive education components in in-service and continuing teacher education through the following measures;
  - a. Teacher Centres will conduct a five day orientation in inclusive education for all TC managers and teacher educators
  - b. A 5-day orientation module will be provided to all teachers by in-service advisors and specialist teachers



- 8 The NIE, through trained provincial and zonal trainers, will carry out a 3- day orientation course on inclusive education for school principals.
- 9 The University Grants Commission will make available additional funding to universities willing to admit students who have disability to make changes to meet the particular needs of such students.

#### **(4) Marginalized Groups**

Discussions concerning women focused on their economic marginalization and for the urgent need to ensure gender equity in development processes. For children, the importance of sharing in the benefits of Early Childhood Care and Development Programmes (ECCD) and in Early Childhood Education (ECE) was highlighted. Elderly persons faced problems in accessing health care, also faced economic marginalization and had increasing difficulty in enjoying home and family life. Sexual harassment and the need for freedom from abuse were cross-cutting issues with all these vulnerable groups.

#### Commitments:

##### Women who have disability

- 1 The Ministry of Social Services and Social Welfare will take steps to enforce Public Administration Circular No. 2488 and ensure gender equity in its implementation. This circular calls on the public sector to ensure that at least 3 % of employees are those who have disability. The Ministry will also call upon the private sector to follow it paying particular attention to gender equity.
- 2 The Ministry of Social Services and Social Welfare together with the Ministry for Women Empowerment and Child Development will carry out Capacity

Building of development practitioners regarding the inclusion of women who have disability in employment and in other development projects and programmes.

- 3 The Ministry of Social Services and Social Welfare will formulate regulations to ensure that women who have disability (such as sign language users) subject to sexual harassment have adequate access and consideration (such as through the use of interpreters) in all judicial procedures.
- 4 The Ministry for Women Empowerment and Child Development will collaborate with NGOs to provide training to police and judiciary on matters related to the sexual harassment of women and girl-children who have disability.

#### Children who have Disability

- 1 Government sectors and NGOs involved in Early Childhood Care and Development (ECCD) and Early Childhood Education (ECE) will ensure an inclusive environment.
- 2 The Open University of Sri Lanka (OUSL), National Institute of Education (NIE), and NGOs will take steps to make pre-school teacher training inclusive and to influence other institutions carrying out this activity to do the same.

#### Elderly persons who have disability

- 1 The Ministry of Health will take steps to ensure that Government hospitals will have geriatric wards with specific facilities for elders who have disability and for those elders who have mental health problems.
- 2 The Ministry of Social Services and Social Welfare will increase the public monthly allowance for elders who have disability to at least to Rs.500/-.

- 3 The Ministry of Social Services and Social Welfare in collaboration with the Ministry of Health and through the National Institute of Social Development (NISD) and relevant NGOs train caretakers to provide home visits for elders who have disability. The training will include mental health issues.

## **(5) Special Issues**

Whilst regulations have been enacted to ensure accessibility to the built environment, none exist concerning access to communication and information.

The working group therefore divided itself into two sub-groups – one to discuss access to communication and information and the needs of children who have developmental, severe and multiple disability in these areas, and the other to discuss issues related to ensuring access to the built environment.

### Commitments:

#### Access to Communication

1. The Ministry of Social Services and Social Welfare will take action to frame and have enacted Regulations on Access to Communication for the furtherance of rights of people who have communication disability.
2. The Ministry of Social Services and Social Welfare will communicate with the Ministry of Public Administration regarding the provision of incentives to encourage public servants to learn sign language, Braille and other alternative and augmentative forms of communication (AAC), especially to those in public service who require to use these communication forms in their routine work.

3. The Ministry of Social Services and Social Welfare will work with the Ministry of Finance to take action to formulate a system for granting exemptions from customs duty and value added tax (VAT) for assistive devices that are necessary to increase the independent living of people who have disability.
4. The Sri Lanka Council for the Blind (SLCB) will lobby through the National Council for Persons with Disabilities (NCPD) to have reviewed relevant existing legislation to determine if there are any clauses which discriminate against people who have disability and to take steps to have them repealed or amended.
5. The Sri Lanka Federation for the Deaf (SLCFD), Sri Lanka Council for the Blind (SLCB) and the Autism and Aspergers Association will lobby the Ministry of Education to increase facilities and resources for the training of educational personnel in the forms of communication and education methods important to provide all children who have disability with the best possible quality of education.

#### Access to the Built Environment

1. The Ministry of Social Services and Social Welfare will work with other relevant Ministries, the Urban Development Authority and provincial authorities to inform all stakeholders and train relevant technical officers on the implementation of the Regulations on Accessibility Standards.
2. The Ministry of Social Services and Social Welfare will set up a forum comprising of relevant government sectors, the DPO/NGO sector and the private sector to promote the implementation of accessibility regulations in built environments.



- 3 The National Council for Persons with Disabilities (NCPD) will monitor construction and re-construction activities to ensure that the regulations are being implemented.
- 4 The Ministry of Social Services and Social Welfare will work with the Ministry of Public Administration to adapt/reconstruct one accessible toilet as a model in each Divisional Secretariat Office.
- 5 The Ministry of Social Services and Social Welfare will work with the Ministry of Health to make sure that the services in each provincial/teaching hospital are made accessible to people who have disability

## **(6) Other Areas of Social Exclusion**

People who have disability have a significantly poorer quality of housing at present than the general population. Necessary but time-limited affirmative action will be taken to promote equity in this area and protect their right to adequate and accessible shelter. The National Policy recognizes the right of people who have disability to equity in social protection. Changes to public transport will be of tremendous advantage not only to people who have disability but also by far to the larger segment of our population, including elderly persons.

### Commitments:

#### Housing

- 1 The Ministry of Housing and Construction will take steps to ensure that
  - Five percent of houses in public housing schemes will be of accessible design
  - Housing subsidies currently provided to the poor will be extended to the poor who have disability



Concurrent Session



Concurrent Session



Participants Listening to Commitments



Concurrent Session Rapporteurs



## Transport

- 1 The NGO Practical Action (Intermediate Technology Development Group, ITDG) will identify the special transportation needs of people who have disability, collate information on guidelines that are available on the web and other sources, and make such information available to the National Council for People with Disabilities to facilitate the development of Regulations on Transportation.
- 2 The National Council for People with Disabilities (NCPD) will request relevant authorities to provide at least 2-3 buses which are disability-friendly on the main routes, especially routes to hospitals.
- 3 Also to provide at least one accessible carriage in mainline trains.

## Social Security

- 1 The National Council for People with Disabilities (NCPD) will propose to the Minister of Social Services and Social Welfare that in the provision of the social security grant of Rs. 3000 under the "Mahinda Chintanaya", priority will be given to unmarried females who have disability.

## **5. Conference Planning and Organization**

The Conference was conceptualized and planned by a Conference Planning Committee. It was organized by the Human Rights Commission with the support of the Conference Planning Committee.

The Planning Committee in visualizing the Conference adopted an innovative approach. It would not only be a participatory one, but also one in which the participants themselves will be the most important constituents of the Conference.

Simultaneous interpretation in the 3 streams (Sinhala, Tamil and English) was available for all plenary sessions including the inauguration and interactive session. "Whisper" interpretation was available to Sinhala and Tamil language users during concurrent sessions.

Throughout the conference sign language interpretation was available to sign language users. Conference documents were transcribed into the Braille medium and distributed to those who use the Braille system for reading and writing.

The right to use one's own language and mode of communication was thus ensured.

The Human Rights Commission sought the cooperation of the BMICH to improve accessibility to wheelchair users to BMICH facilities. The HRC appreciates the very positive response of the BMICH authorities and engineers for having this done in advance of the Conference.

Press releases by the HRC in the print and electronic media prior to the Conference resulted in an unforeseen level of interest and requests from the public to participate. This was an indication of the level of public awareness about disability rights created by the publicity given to the conference, meeting one of the conference goals. The number of participants invited was limited to 67 for logistic and other reasons. Chief among these was that the conference was planned as a participatory activity, and numbers therefore had to be kept within limits that would ensure maximum interaction and discussion within working groups.

Members of the Conference Planning Committee are listed in Annexure 03.

## **6. Conference Inauguration**

The inauguration of the Conference held on the evening of 22 February provided a backdrop to the conference deliberations which took place the following day. Special



Dr. Ozdowski Lighting the Lamp



Ms. Mohit Lighting the Lamp



invitees together with participants attended the inauguration, making up an audience of about 150 persons.

Dr. Radhika Coomaraswamy, Chairperson, HRC and Dr. Ameer Zainudeen, Member, HRC participated in the inauguration, as did the two international guest speakers, Ms. Anuradha Mohit, and Dr. Sev Ozdowski. Dr. Padmani Mendis, Chairperson of the Conference Planning Committee, proposed the Vote of Thanks. She explained the rationale underlying conference planning and structure.

*Dr. Radhika Coomaraswamy*

Welcoming guests and participants to the inauguration, Dr. Coomaraswamy said that the HRC decided to hold this National Conference as a step towards changing the situation and status of people who have disability in Sri Lanka. "We wanted to move away from social welfare to a rights framework for people with disability," said Dr. Coomaraswamy. "Rights bring with it a system of accountability for states and individuals who can find relief. Private enterprise and private persons which are important segments of society can violate these rights as well".

"The HRC feels that the core of human rights is human dignity, and we feel that this group of people be given full dignity and autonomy. The HRC will do as much as it can to push this agenda forward."

Dr. Coomaraswamy described how in many ways disability is looked at as abnormal, but at some point in all our lives we become disabled. "The problem," she said, "is what happens when it becomes permanent for some people and instead of sensitivity about this, we turn a blind eye"

War and conflict have given Sri Lanka a higher ratio per population than the international average of people with disability.

Dr. Coomaraswamy said that a comprehensive International Convention is currently being drafted at the UN in New York. "In the past people were denied legal rights, next came a framework of a welfare perspective. Today the draft International Convention has moved away from these approaches towards a rights-based approach".

*Dr. Ameer Zainudeen*

Dr. Zainudeen explained that the Human Rights Commission's 3-year strategic plan formulated in 2003 sought to strengthen processes and systems in Sri Lanka towards the promotion and protection of human rights of particularly vulnerable groups. "While issues such as the human rights of internally displaced peoples, torture, violence against women, and economic and social rights have all been addressed by the HRC, the human rights of people who have disability had not," said Dr. Zainudeen. "This National Conference is the outcome of the HRC's partnership with the disability rights movement to promote disability rights in Sri Lanka."

"The selection of participants was done with a lot of care and thought to meet several objectives. Following press announcements, we had an enormous number of requests from various people from the disability movement who wanted to participate in the Conference. However, we had to limit the numbers to a manageable one due to various logistic reasons".

Dr. Zainudeen then went on to explain what HRC expects and hopes for from the Conference. "As immediate outputs we will have commitments from all the participating sectors about activities that they can start implementing within the next year towards fulfilling the strategies listed in the National Policy. This we hope will get the Policy going. In the longer term these activities, we expect, will lead to actions that will institutionalize disability rights in the mainstream of Sri Lanka's development and welfare systems".

He went on to add that meanwhile the HRC hopes that the process of enactment of the Disability Rights Act would be completed soon to translate policy commitments into legislation. He congratulated the Ministry of Social Services and Social Welfare for this initiative. "We have ourselves looked at the Bill while it was in draft form and open to the general public, and have noted that without doubt it is an instrument that will promote and protect the rights of people who have disability in this country. All relevant rights are included for legislation. It takes into account principles which are important for disability, such as the concept of Universal Design and the principle of reasonable accommodation. The Act also provides for a body and a mechanism to ensure its implementation in the form of a Disability Rights Authority".

#### *International Guests*

Ms. Anuradha Mohit and Dr. Sev Ozdowski discussed current developments in international disability law and Australian disability rights law respectively.

Ms. Mohit lost her eyesight at age 10, but went on to receive two Master's degrees and lead the New Delhi division of the National Association for the Blind. She is presently Special Rapporteur on Disability for the National Human Rights Commission of India and also an Adjunct Professor with the Indira Gandhi National Open University. She is well known for her work on gender empowerment and ICT for the visually impaired.

Dr. Ozdowski just finished a five-year term as a Human Rights Commissioner and acting Disability Rights Commissioner of the Australian Human Rights and Equal Opportunities Commission. He has an LLM and PhD in the sociology of law.



*Ms. Anuradha Mohit*

Ms. Mohit, under the heading "Human Rights Perspective of Disability" focused her presentation on the evolution of disability rights and the current drafting of an International Convention on Disability Rights. She referred to the evolution of the Human Rights Approach through Charity, Bio-centric and Functional approaches. She expressed her honour and privilege at being invited to the conference as she admitted having always looked to Sri Lanka as a great source of good practice, information and knowledge.

"In the past, disability was looked at in terms of individual pathology, within a charity basis or using a bio-centric model," said Ms. Mohit. "In terms of charity, in place of rights for people with disability, people were given relief in the form of charity. The bio-centric model on the other hand provided rights that were determined on the basis of the characteristics and the shape of one's body. These rights were assessed versus others." For example, if the white man is the ideal, even a white female is inferior, as is a black man, "so this approach absolved the state of addressing this discrimination or inequality, because some people were just not considered equal. Women, minorities, and people with disability were considered abnormal and this stigma attached to people with disability led to their isolation from society or even confinement. This model has the deepest implication on the way the law looks at the rights of the disabled. When you look at our laws, one thing is clear: people with disability are not looked at as equal before the law, because they are not seen to be able to stand before the law."

The next step was a social pathology approach. First there was a functional model, which focused on providing specialized training and specialized equipment for people with disability. "Instead of eliminating discrimination, the focus was on compensation for the loss of sensory or other impairments through training, assistive devices etc. But the



problem was that there was no full entitlement to rights. Instead, rights were linked to people's capacity to negotiate environments. So if you cannot negotiate with the help of equipment, then no one is responsible but the person with the disability."

The new human rights model of disability looks at the systems and structures and the capacity of the individual to access the systems and structures. "This shift has enabled people with disability and human rights activists and defenders to embrace these rights."

"Rather than looking at sign language or Braille as a special allowance for deaf and for blind people, these languages must be considered in terms of language rights, to which all citizens have a right. Sign language is a language like any other, with its own idioms and expressions. Yet less than 30 countries in the world recognize sign language as the language of deaf people. Braille is really just another script used by millions of blind people all over the world. People who have legs can negotiate steps, but ramps are essential for people using wheelchairs. Yet ramps are seen as an additional feature because society has isolated people in wheelchairs for so long. Therefore ramps are seen as additional burden, while steps are not. This gap is created by society, but today we are finally filling that gap."

In terms of the International Convention, Ms. Mohit believes that the principle of non-discrimination will not take us very far because it cannot be ensured through prevention measures. "Instead we need affirmative action, especially in the transitory period; more than equal measures, positive action is required. A model beyond formal equality that embraces positive permanent measures is needed. For example, women or minorities need special measures temporarily, but people with disability need more permanent measures. Sign language is not special, but a permanent language. So the notion of special measures in international

law must be altered, and this will be a contribution of the disabled to the development of international human rights law."

*Dr. Sev Ozdowski*

Dr. Ozdowski described the situation of disability rights in Australia as an opportunity for Sri Lanka to use lessons learned and adapt models or ideas where possible. "In Australia," he said, "disability is an important part of human diversity and it is the government's responsibility to deliver to all persons in society equal programmes. In a recent census twenty-four percent of Australians identified themselves as having a disability, but it is probably higher since those with mental disability do not identify themselves that way out of stigma."

"People with disability are the most marginalized in society. When you look at access to education, employment, or housing, they are getting the wrong end of the stick. The Sri Lankan National Policy documents all these issues, and it is a good comprehensive document. But it is only the first step, and follow up with legislation, budgetary measures, and engagement of the issues on a political level are all needed."

According to Dr. Ozdowski, Australia takes a three pronged approach to disability: a good welfare net, a range of special measures and special assistance for those with disabilities, and a strong anti-discrimination law. "The definition of people with disability is very broad in Australia, and includes people with the HIV Aids virus or those suspected of having it. Discrimination is also defined very broadly and includes the family of people with disability who are protected against discrimination in education, public transport, sports, living accommodation, insurance, and employment."

The key criteria of the law is that first the person must meet inherent requirements. "A person must be qualified to attend university or do the job, and then the university or job must make reasonable adjustment. If there is too much cost, the school or employer can declare unjustifiable hardship. Also, exemptions can be granted for periods of time while adjustments are made."

The key implementation mechanisms include the ability of the Australian Human Rights Commission to conduct national inquiries about systemic discrimination. "These are powerful because they put the issue on the national agenda. It is an open process that can be a shaming exercise and put pressure on politicians to ensure compliance or change. Complaints can be launched by individuals and compensation can be awarded. If the Commission cannot make a determination, it will go to the courts." According to Dr. Ozdowski, forty-five percent of the complaints received by the Commission are in the area of disability rights. National disability standards are also used, and they are very specific regulations. Finally, action plans, which are voluntary and usually done by government departments and local governments, are important and have been found to work very well.

## **7 Interactive Forum**

As an extension of the Conference, an Interactive Forum on the Human Rights of People who have Disability was held on the morning of 24 February. 25 members of the Disability Movement were invited to participate in this Forum together with the two international guests, Ms Mohit and Dr. Ozdowski.

For individuals who have visual impairment, communication disability and mobility disability, for those who must live with the consequences of having had mental illness, and for parents, caregivers and others who work with



and for individuals with various types of disability, as well as for organizations that work in the field of disability, this was a unique opportunity to share experiences related to rights and gender inequity in the area of disability. It was also an opportunity to discuss these with the international guests.

Participants invited to participate in the Interactive Forum are listed in Annexure 04.

Facilitated by the Chief Editor of Young Asia Television, Mrs. Sharmini Boyle, the morning began with introductions by the participants who represented all ethnic groups and geographical regions across Sri Lanka. The objective of the forum was to increase awareness about disability rights among participants and participating organizations. During discussions answers emerged as to how these rights can best be taken forward by the disability movement in Sri Lanka.

With the availability of sign language interpretation and simultaneous interpretation in 3 streams as it was throughout the National Conference, all participants were able to contribute their ideas and share their concerns.

Participants narrowed the discussion to several key areas:

- Having to live with the social and economic consequences of mental illness and what the deprivation of their rights meant to them. Chief among them is the economic barrier - unavailability of job opportunities and access to skills development, coupled with the absence of any form of social security. The high costs of medicines adds to this. Since this illness often occurs in adolescents and youth, there is failure to gain admission to higher education. Community-based rehabilitation would alleviate many of their problems, particularly by bringing about a reduction in stigma and change in society's attitudes towards people who have this disability.



- Difficulties faced by people who have hearing impairment because they could not access their right to communication. This led to their social isolation and their inability to access their other rights. The situation was aggravated by the severe lack of sign language interpreters. Sign language interpreters must be trained as a matter of urgency to start the process of realizing the rights of people who have hearing impairment. Society-at-large was yet to recognize that sign language is the language of the Deaf Community.
- The poor quality of education available to children who have intellectual and other developmental disabilities as well as to those who have visual impairment and communication disability affects their right to the same quality of education available to non-disabled children.
- The lack of interventions available to children and young people who have intellectual and other developmental disabilities, and to those who have multiple and severe disability and whose rights are therefore significantly violated
- The right to information is denied not only to those who have communication disability but also to those who use Braille for reading and writing. More information and reading material must be made available in Braille.
- Transportation barriers which restricted social interactions, right to freedom of movement and to economic opportunities and affected particularly wheelchair users, others who have mobility disability as well those who have visual impairment.
- Especially difficult circumstances and lack of services and facilities in some parts of the country make it difficult for people who have any type of disability to access their rights. The situation in these areas is compounded by the locus of decision-making being

restricted too often to only Colombo, by bureaucratic procedures, and by the uncaring attitudes of public officials. More decentralization and mobilization of public officials for fulfilling disability rights was called for.

- The need to make the Policy and existing laws and regulations known to people who have disability throughout the country as a means of making them conscious about their rights. So also the need to make laws and regulations work effectively. And for the need for mechanisms to monitor the implementation of laws and regulations
- Women who have disability are not aware of their rights. Attitudes which view individuals who have disability as being helpless and require charity are emphasized in the case of women. Because of these attitudes women are also denied the right to make their own decisions. Stigma is so great that they are denied opportunities for marriage and of being parents.

Participants agreed that it was necessary for the Disability Movement to act collectively to overcome these barriers and negative situations.

Ms. Mohit and Dr. Ozdowski in their discussion with participants made the following contributions.

Dr. Ozdowski focused on a few key differences between Australia and Sri Lanka. "In regards to subject matter," said Dr. Ozdowski, "the difference between Australia and Sri Lanka, is that very few people mentioned employment this morning. But we need to ensure that people with disability can ensure decent living and this is an issue that needs to be addressed. In Australia, this is the most difficult issue to tackle. We have addressed access to buildings, transportation etc., but have had a hard time in employment."

He also spoke about the approach to disability rights. "Focus more on the rights based approach to which you are entitled. There is no if. For example, universities serve the whole of society, and there should be no if. It is your right to go to university and it is their responsibility to admit those who are ready to go. There is still too much focus by government on charity and good will. So focus instead on your right to full participation."

"We made progress not only because of strong NGOs, but the legislation equipped people with disability with a whole range of measures to challenge those who denied their rights or discriminated against them. They had to pay compensation, and then it changed. Look carefully at the legislation and ensure there are measures to advance your causes. Politicians have a lot of priorities, so you need to get to them and do public education campaigns. NGOs must take the main fight on this level."

Ms. Mohit identified a few areas of which she felt she could be supportive. First, linguistic rights of the deaf and access to communication and information. "Unless the right of linguistics is recognized and provided for, then the other rights mean nothing. In our region forms of communication are still evolving and modernizing, but what has not happened alongside are the regulations which determine the standards for the production of hardware and software by which the media and information is delivered. User standards do not take into account people with disabilities. But we are still in the game, and since this is evolving we are not too late. We can still get in. However, we must provide solutions ourselves! How to get over the problems is a big challenge and the onus lies on us."

"There is a political will around a society that wants to do something for people with disability, but often people do not know how to do it, and that information can only be given by people with disability. Their specific knowledge must be



shared with duty holders like government or the private sector. All regulations for distribution, production and service delivery are from the government so we need to make sure the augmentation of the regulations is there, and then it becomes public responsibility."

Secondly, she discussed the issue of mental health. "The disability movement must reach out to those with mental disability. It is heavily stigmatized and we have to be sympathetic to this group. Proactive effort towards involving them in all discussions and debates and efforts of rights articulation in society is the only way of making our movement inclusive and all encompassing. Friends, we need to do more than what we have done. A Change Enabler has to act as a real change enabler, not only an agent who can articulate what is needed, but also how that change can be brought about."

## **8 Conference Closing and Follow up**

The Conference emphasized that the concepts of equity, non-discrimination, and the promotion of the dignity and self-respect of people who have disability must be affirmatively adopted in Sri Lanka. This will ensure the promotion and protection of the human rights of people who have disability in the workplace, in educational institutions, and in social settings and interactions.

Ms. Kumudini Melanic, member of the National Forum of Visually Handicapped Women, thanked the HRC on behalf of the participants. She said this was the first time in Sri Lanka that the human rights of people who have disability had been discussed at a public forum. People who have disability, especially women, hoped for a positive outcome from this Conference.

Dr. Radhika Coomaraswamy bringing the National Conference to a close congratulated all who participated in



promoting its successful outputs and commitments. On behalf of the HRC, she said how proud she was to be part of a conference that determined what those in the disability rights movement deemed to be important at the practical level, "this success is only part of a process," she said, "and more needs to be done, including the enactment of the Disability Rights Bill."

While she noted that the current Commission's term will end on March 31, 2006, she and Dr. Ameer Zainudeen will identify what actions can be carried out to start working on the commitments right now. She also said that in the hand over letter to the new Commission, they will ask for another conference in one year's time to follow up and measure the progress of the commitments made at the National Conference.

### **Acknowledgement:**

The Human Rights Commission acknowledges the contributions of all those who participated in numerous ways to make a successful Conference. The HRC takes this opportunity to express to them their sincere appreciation.

Conference beneficiaries, at the same time, wish to thank the Human Rights Commission of Sri Lanka for this progressive initiative which has raised the profile of disability rights in our country. This Conference has brought disability rights to the forefront as a National issue. Not just as a National issue, but one that calls for action towards which the conference participants have made important commitments.

**HUMAN RIGHTS COMMISSION OF SRI LANKA**

No. 36, Kynsey Road, Colombo 08.

Tel : 0094 - 011 2694925, 2685980, 2685981

Fax : 0094 - 011 2694924

Hot Line : 0094 - 011 2689064

E-mail : [sechrc@sltnet.lk](mailto:sechrc@sltnet.lk) Web : [www.hrcsl.org](http://www.hrcsl.org)